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House of Representatives

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. EVERETT].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 22, 1996.

I hereby designate the Honorable Terry Everett to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, from whom comes every good and perfect gift, we offer our thanks for this new day and new opportunities. As we open our hearts to Your grace and heed Your Word, may we be transformed by the renewing of our minds and spirit, so all that which hinders or hurts is put aside and that which redeems and reforms and forgives remains with each of us. With gratitude and praise we offer these words of prayer together with the private petitions of our hearts, asking You to bless us and keep us this day and all the days long. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas [Mr. SMITH] come forward and lead the House in the Pledge of Allegiance.

Mr. SMITH of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1260. An act to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes.

S. Con. Res. 39. Concurrent resolution providing for the State of the Union Address by the President of the United States.

PERMISSION TO HAVE UNTIL MIDNIGHT, TO FILE CONFERENCE REPORT ON S. 1124, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. STUMP. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight tonight, to file a conference report on the Senate bill (S. 1124) National Defense Authorization Act for 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

JOINT SESSION OF CONGRESS—STATE OF THE UNION ADDRESS

The SPEAKER pro tempore laid before the House a Senate concurrent resolution (S. Con. Res. 39), which was read by the Clerk, as follows:

S. CON. RES. 39

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, January 23, 1996, at 9 p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

END CLINTON SNOW JOB

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, as Washington, DC, recently struggled to dig out from the worst blizzard in years, Americans from across the Nation began to see through the Clinton snow job.

Consider the thoughts of a constituent, friend, and relative, Linda Seeligson from San Antonio. She rightly fears that the President's opposition to entitlement reform and lower taxes will steal our children's future. She sees through the President's Mediscare tactics. And she resents the President's use of generational warfare to pit parents against children, employers against employees, and workers against retirees.

Millions of Americans agree. They reject the politics of envy and class warfare. They have real compassion for working families who must work longer to pay for big Government. They're tired of a welfare state paid for by the middle class. And they seek to

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replace this welfare state with an opportunity society built on personal responsibility.

Bill Clinton ran for office claiming to represent the people who do the work, pay the taxes, and raise the children. Americans like Linda Seeligson want a balanced budget, lower taxes, and less government.

And they want an end to the Clinton blizzard of more spending and higher taxes.

DEFAULT THREAT HINTED AT WAS WAY TO SETTLE BUDGET

(Mr. BENTSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, a week ago, the chairman of the Committee on the Budget, Mr. KASICH, said that the Republicans had abandoned the idea of shutting down the Government and defaulting on the national debt. But yesterday, my colleague from Texas, the majority leader, Mr. ARMEY, said that default on the debt was again a threat, right here on the front page of the New York Times and on every paper across this country.

Mr. Speaker, I guess it is a case of dumb and dumber. It was dumb to shut down the Government; it is dumber to default on the debt of the Government. My Republican friends say we are doing this budget that cuts Medicare and Medicaid to do it for our children and our grandchildren. But the Republican plan is to hurt homeowners and to leave our children and grandchildren with a mountain of bad debt.

KEEP THE SEC FUNDED

(Ms. LOFGREN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LOFGREN. Mr. Speaker, I have studied the materials about the Government shutdown that could happen this Friday. I'm worried about something nobody seems to be talking about—funding for the Securities and Exchange Commission.

I'm not an expert on the SEC; not many Members are. But, I know when the Stock Market crashed in 1929, it didn't do America much good. The SEC is supposed to keep that from happening again.

I have a letter from the SEC that says, ''in the event of a disruption in funding . . . we fear the protection of investors and capital formation could be seriously hampered and it would seriously compromise the SEC's ability to oversee the securities markets . . . and could hamper the agency's ability to react quickly in the event of a market disruption.''

The SEC would be unable to respond to requests for Commission action to facilitate capital raising, mergers and acquisitions, and tender offers. Initial public offerings couldn't move forward.

I represent Silicon Valley. How will America be improved if the high-tech, cutting-edge companies of Silicon Valley are stopped from raising Capital through IPO's?

We have 4 days to act—to fund the SEC at last year's level. Let's protect America's economy and get that job done tomorrow.

Mr. Speaker, I include for the RECORD the following material:

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, January 19, 1996.

Hon. HAROLD ROGERS,
Chairman, Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies, House of Representatives, Washington, DC.

DEAR CHAIRMAN ROGERS: We are writing to request your help in the upcoming negotiations for a new Continuing Resolution or appropriation action. We strongly urge you to support language that maintains the SEC's 1005 funding level of $297 million and maintains the fee rate at the current rate of 1/29th of one percent of the offering amount. In the event of a disruption in funding authority for the Securities and Exchange Commission, we fear the protection of investors and capital formation could be seriously hampered. In addition, the amount of money deposited into the U.S. Treasury from SEC filing fees would be reduced.

In our view, operating at this minimal emergency level would seriously compromise the SEC's ability to oversee the securities markets. The impact of a disruption in the SEC's funding authority would include:

No new investigations. Enforcement staff would be unable to open new cases. While emergency actions to freeze assets or otherwise protect assets would be permitted under the contingency plan, the agency's ability to detect developing situations which present imminent threat to investor assets would be impaired.

No work on existing investigations. Enforcement staff would have to cease ongoing investigative activity, except where appearances in court are required or investor funds are at active risk.

No review of corporate filings except in emergency situations. The normal processing of corporate filings by companies seeking to raise capital in the markets would be significantly impaired.

No regular examinations except in emergency situations. There are certain inspections that the SEC conducts regularly and continually; during a funding disruption, regular examinations and inspections of broker-dealers, investment companies, and investment advisers could not be performed. The absence of such reviews, in the worst case, could place the assets and retirement funds of investors at risk. The agency's ability to detect situations that present imminent threat to investor assets would be impaired.

No review of periodic filings. Quarterly and annual reports would not be reviewed. The assurance of adequate financial disclosure for investment decisions could be compromised.

Limited market oversight. A funding disruption would reduce market monitoring staffing to skeletal levels and could hamper the agency's ability to react quickly in the event of a market disruption. Regular inspections of stock exchanges and markets would cease.

No review of stock exchange (NYSE, AMEX, NASD, etc.) pending rule proposals except in emergency situations. The ability of exchanges to respond in a timely fashion to changing market conditions and to introduce new products will be hampered without SEC approval of their filings.

No transactional assistance except in emergency situations. The staff would not be able to respond to regular requests for exemptions or other necessary Commission action to facilitate capital raising activities, mergers and acquisition transactions, and tender offers.

During the government-wide shutdown which occurred November 14 through November 20, the fee rate for registration statements filed pursuant to Section 6(b) of the Securities Act of 1933 reverted to the statutory rate of 1/50th of one percent from its current rate of 1/29th of one percent. Had the fee rate not been restored to 1/29th of one percent in a subsequent continuing resolution, the U.S. Treasury would have lost approximately $30 million.

As you know, the SEC is funded through the Commerce-Justice-State (CJS) appropriations bill, which was vetoed by President Clinton on grounds unrelated to the SEC. The SEC portion of the CJS bill, however, is non-controversial. It would provide the SEC with funding at its fiscal 95 level of $297 million, and provide the SEC with authority to continue to collect securities fees to offset much of its appropriation.

The SEC is a very small agency that is charged with a very large mission: promoting the fairness, efficiency, and preeminence of our nation's securities markets. We are aware of the many challenges you face and difficult decisions you must make in the days ahead. We respectfully request that you seriously consider the SEC's funding.

Sincerely,

STEVEN M.H. WALLMAN,
Commissioner.

[From the San Jose Mercury, Jan. 6, 1996]

WHY SEC CLOSURE HURTS TECH FIRMS

(By Steve Kaufman)

The initial public stock offerings of 60 technology companies—including about 10 technology firms based in Silicon Valley—are in jeopardy because of the pending shutdown of the Securities and Exchange Commission next week.

U.S. Rep. Zoe Lofgren, D-San Jose, said Friday the SEC is among the agencies that have been omitted from a list of those that will get interim funding until the resolution of the federal budget impasse. The SEC, which regulates the U.S. financial markets, must approve IPOs.

IPOs are one of the hottest market segments. Some IPO experts said the freeze in IPOs could have a negative effect on the companies involved, even if it is short-lived. They are fast-growing companies in rapidly changing markets. Such companies may lose brief opportunities to market their products if they don't quickly collect the capital they expect from the public sale of their stock, experts said.

For a company competing in Internet software or in medical devices, for example, ''even a delay of a few weeks could mean lost market share and customers,'' said Kathy Smith, an analyst at Renaissance Capital, a Greenwich, Conn., institutional research firm that specializes in IPOs.

IPO watchers couldn't believe that the SEC plans to close, albeit temporarily. Because the nation's financial markets remain open, they said, its functions are essential. Smith said the closing, however brief, could damage the reputation of the U.S. markets as the most efficient and best regulated in the world.

''An SEC shutdown tells the world that maybe the U.S. financial markets aren't as dependable as it thought they were,'' Smith said.

According to Securities Data Co., a Newark, N.J., financial market research firm, 80 IPOs valued at $2.32 billion have been approved by the SEC and will begin to go public next week.

But Renaissance Capital added that 60 more IPOs—including 41 technology companies—are expected to go public in January and February and are in various stages of the SEC IPO approval process. Smith believes that all but one of these deals will be snagged by an SEC shutdown, which reportedly could occur toward the end of next week. In aggregate, these deals are valued at about $2 billion.

An SEC shutdown could affect the entire IPO market, not just the latest round of newcomers. But it is unclear whether that impact would be negative or positive.

It could be negative because a hot IPO market already has made investors nervous, IPO watchers say. Any unexpected problem could deflate interest in IPOs and conceivably pummel prices. ''The market could lose a lot of momentum—and at a time when a lot more deals are ready to roll out,'' said David Gleba, chairman of Ventureone Corp., a San Francisco venture capital research firm.

On the other hand, Gleba said, a pause in the IPO market might provide a needed break. The breather could reduce speculative froth and ultimately lengthen the life of this cycle. ''In the long term, this could actually turn out to be a positive,'' Gleba said.

Unlike others, Gleba was also ambivalent about the impact on delayed IPOs.

''Anything that risks getting money to grow your business is bad news,'' he said. On the other hand, he said, the timing of IPO deals has always been flexible, with no guarantee when deals will occur. Good IPO candidates are able to delay offerings by months, or even a year, an advantage because the stock market environment could change and no longer be favorable for an IPO.

HOUSE SHOULD ENACT A CLEAN DEBT CEILING

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, this House should enact a clean debt ceiling, and we should do it soon. The full faith and credit of the U.S. Government is not a political tool. It is one of the cornerstones of our economic stability. Its preservation is not a matter of politics; it is a matter of governance. It is one of the responsibilities that comes with being in the leadership in this House.

Over the last months, Members of this House insisted that Government shut down to force agreement on a balanced budget. We all saw the difficulties, inconveniences, waste, and other awful things that resulted. But the march of folly continues. Now there is talk of forcing default unless the majority's agenda is adopted.

There is no justification for this. This is an issue we agree on in substance. The long-term extension of the debt ceiling was contained in the reconciliation bill, and it is also the same number asked by the administration, $5.5 trillion. We should not be at this time teetering on the brink of default. We should not be playing games with this issue.

Mr. Speaker, I urge my colleagues to support a clean debt ceiling. Let us do it quickly and not to things that should not happen.

TIME FOR NEGOTIATION ON BUDGET

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, here is what Republican Budget Chairman JOHN KASICH said in November about the budget negotiations: ''Frankly, we don't ask for a lot. We ask for nothing more than a commitment to do this in a 7-year period. The priorities within that 7-year plan are negotiable.''

The President has done his part. He has given Republicans a 7-year balanced budget using their economic assumptions. But now, Republicans want to move the goalpost in the middle of the game.

Now, Mr. KASICH and his colleagues say they will not negotiate on the budget priorities. Mr. KASICH, keep your word and negotiate. For 220 years, that's how this democracy has worked. Let's make it work again. Government shutdowns, defaults on our debt—these tactics are an affront to democracy. It's time for people of good will from both parties to do what's best for our country. It's time to balance the budget while protecting Medicare, Medicaid, education, and the environment. The President's door is open.

TIDE OF PRO-LIFE BATTLE TURNING

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, what a pleasure to take the well of the House on this pro-life day. That is the mud of the White House lawn and the Ellipse, Mr. Speaker, you see on my shoes and on the trousers of the suit that I wore the day I nominated George Bush for President.

Following House rules here, because I just found out I cannot hold a little baby in my arms, here is Peg over here. Come here, Peg, just so I can use you as an A-frame.

This is Molly Christine Oona Dornan, number 10 BOB and Sally DORNAN grandchild; mommy Theresa doing well. She is 10 days old. She came a few days later than that Friday I said she was due any minute. That was a false alarm.

I now have five grandsons and five granddaughters and five grown wonderful kids. There is still a bachelor out there. God willing, there will be more to come. This little Molly O. Dornan is 10 days a person. But you know what I said to 75,000 pro-lifers today? We All know she was a person 20 days ago, 10 days before she was born, or 10 seconds or 10 minutes or 5 minutes, right up to the moment of conception.

We are going to win this pro-life battle, and the biggest battle is 288 days from today, putting a pro-life couple in the White House.

I yield back the balance of my time, and take little Molly in my arms again.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind the Member not to use others who are not Members as props on the floor.

BALANCED BUDGET PLAN DOES EXIST

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, first I would say congratulations to Grandpa DORNAN on his newest grandchild.

Mr. Speaker, as I was back home this last 2 weeks for the district work period, we had a lot of town hall meetings. I spoke with many other groups. For Mr. DORNAN's grandchild and other grandchildren and our children throughout this whole country, folks told me we need a balanced budget, we must have a balanced budget.

I say to my friends on this side of the aisle, there are actually three balanced budgets pending before the House that will meet the Congressional Budget Office requirement to balance the budget within 7 years. But of the three plans, what the voices from home told me is they need to balance the budget while protecting Medicare, education, and the environment. The plan the folks at home clearly supported was the plan that had the least amount of cuts in the Medicare programs. In fact, the folks back home are saying no tax breaks until we balance the budget.

So of those three plans, I hope we will look at those three plans in the next few weeks and actually in those three plans, let us look at the plan that has the least amount of cuts in Medicare, no cuts in education, that will protect our environment and balance the budget in 7 years. It can be done. That plan does exist.

HOUR OF MEETING ON TOMORROW

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. tomorrow for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT FROM TUESDAY, JANUARY 23, 1996, TO WEDNESDAY, JANUARY 24, 1996

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that when the House adjourns Tuesday, January 23, 1996, it adjourn to meet at noon on Wednesday, January 24, 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that the business in order on calendar Wednesday of this week may be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, January 10, 1996.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Wednesday, January 10, 1996 at 11:50 a.m. and said to contain a message from the President wherein he returns without his approval H.R. 4, the ''Personal Responsibility and Work Opportunity Act of 1995.''

With warm regards,

ROBIN H. CARLE,
Clerk, U.S. House of Representatives.

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1995—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–164)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 4, the ''Personal Responsibility and Work Opportunity Act of 1995.'' In disapproving H.R. 4, I am nevertheless determined to keep working with the Congress to enact real, bipartisan welfare reform. The current welfare system is broken and must be replaced, for the sake of the taxpayers who pay for it and the people who are trapped by it. But H.R. 4 does too little to move people from welfare to work. It is burdened with deep budget cuts and structural changes that fall short of real reform. I urge the Congress to work with me in good faith to produce a bipartisan welfare reform agreement that is tough on work and responsibility, but not tough on children and on parents who are responsible and who want to work.

The Congress and the Administration are engaged in serious negotiations toward a balanced budget that is consistent with our priorities—one of which is to ''reform welfare,'' as November's agreement between Republicans and Democrats made clear. Welfare reform must be considered in the context of other critical and related issues such as Medicaid and the Earned Income Tax Credit. Americans know we have to reform the broken welfare system, but they also know that welfare reform is about moving people from welfare to work, not playing budget politics.

The Administration has and will continue to set forth in detail our goals for reform and our objections to this legislation. The Administration strongly supported the Senate Democratic and House Democratic welfare reform bills, which ensured that States would have the resources and incentives to move people from welfare to work and that children would be protected. I strongly support time limits, work requirements, the toughest possible child support enforcement, and requiring minor mothers to live at home as a condition of assistance, and I am pleased that these central elements of my approach have been addressed in H.R. 4.

We remain ready at any moment to sit down in good faith with Republicans and Democrats in the Congress to work out an acceptable welfare reform plan that is motivated by the urgency of reform rather than by a budget plan that is contrary to America's values. There is a bipartisan consensus around the country on the fundamental elements of real welfare reform, and it would be a tragedy for this Congress to squander this historic opportunity to achieve it. It is essential for the Congress to address shortcomings in the legislation in the following areas:

—Work and Child Care: Welfare reform is first and foremost about work. H.R. 4 weakens several important work provisions that are vital to welfare reform's success. The final welfare reform legislation should provide sufficient child care to enable recipients to leave welfare for work; reward States for placing people in jobs; restore the guarantee of health coverage for poor families; require States to maintain their stake in moving people from welfare to work; and protect States and families in the event of economic downturn and population growth. In addition, the Congress should abandon efforts included in the budget reconciliation bill that would gut the Earned Income Tax Credit, a powerful work incentive that is enabling hundreds of thousands of families to choose work over welfare.

—Deep Budget Cuts and Damaging Structural Changes: H.R. 4 was designed to meet an arbitrary budget target rather than to achieve serious reform. The legislation makes damaging structural changes and deep budget cuts that would fall hardest on children and undermine States' ability to move people from welfare to work. We should work together to balance the budget and reform welfare, but the Congress should not use the words ''welfare reform'' as a cover to violate the Nation's values. Making $60 billion in budget cuts and massive structural changes in a variety of programs, including foster care and adoption assistance, help for disabled children, legal immigrants, food stamps, and school lunch is not welfare reform. The final welfare reform legislation should reduce the magnitude of these budget cuts and the sweep of structural changes that have little connection to the central goal of work-based reform. We must demand responsibility from young mothers and young fathers, not penalize children for their parents' mistakes. I am deeply committed to working with the Congress to reach bipartisan agreement on an acceptable welfare reform bill that addresses these and other concerns. We owe it to the people who sent us here not to let this opportunity slip away by doing the wrong thing or failing to act at all.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 9, 1996.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Mr. BUNNING of Kentucky. Mr. Speaker, I ask unanimous consent that the message together with the accompanying bill be referred to the Committee on Ways and Means.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–165)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of July 12, 1995, concerning the national emergency with respect to Libya that was declared in Executive Order No. 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50

U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c).

1. On January 3, 1996, I renewed for another year the national emergency with respect to Libya pursuant to IEEPA. This renewal extended the current comprehensive financial and trade embargo against Libya in effect since 1986. Under these sanctions, all trade with Libya is prohibited, and all assets owned or controlled by the Libyan government in the United States or in the possession or control of U.S. persons are blocked.

2. There has been one amendment to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the ''Regulations''), administered by the Office of Foreign Assets Control (FAC) of the Department of the Treasury, since my last report on July 12, 1995. The amendment (60 Fed. Reg. 37940–37941, July 25, 1995) added three hotels in Malta to appendix A, Organizations Determined to Be Within the Term ''Government of Libya'' (Specifically Designated Nationals (SDNs) of Libya). A copy of the amendment is attached to this report.

Pursuant to section 550.304(a) of the Regulations, FAC has determined that these entities designated as SDNs are owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya, or are agencies, instrumentalities, or entities of that government. By virtue of this determination, all property and interests in property of these entities that are in the United States or in the possession or control of U.S. persons are blocked. Further, U.S. persons are prohibited from engaging in transactions with these entities unless the transactions are licensed by FAC. The designations were made in consultation with the Department of State.

3. During the current 6-month period, FAC made numerous decisions with respect to applications for licenses to engage in transactions under the Regulations, issuing 54 licensing determinations—both approvals and denials. Consistent with FAC's ongoing scrutiny of banking transactions, the largest category of license approvals (20) concerned requests by Libyan and non-Libyan persons or entities to unblock transfers interdicted because of an apparent Government of Libya interest. A license was also issued to a local taxing authority to foreclose on a property owned by the Government of Libya for failure to pay property tax arrearages.

4. During the current 6-month period, FAC continued to emphasize to the international banking community in the United States the importance of identifying and blocking payments made on or behalf of Libya. The Office worked closely with the banks to implement new interdiction software systems to identify such payments. As a result, during the reporting period, more than 107 transactions potentially involving Libya, totaling more than $26.0 million, were interdicted. As of December 4, 23 of these transactions had been authorized for release, leaving a net amount of more than $24.6 million blocked.

Since my last report, FAC collected 27 civil monetary penalties totaling more than $119,500, for violations of the U.S. sanctions against Libya. Fourteen of the violations involved the failure of banks or credit unions to block funds transfers to Libyan-owned or -controlled banks. Two other penalties were received from corporations for export violations or violative payments to Libya for unlicensed trademark transactions. Eleven additional penalties were paid by U.S. citizens engaging in Libyan oilfield-related transactions while another 40 cases involving similar violations are in active penalty processing.

In November 1995, guilty verdicts were returned in two cases involving illegal exportation of U.S. goods to Libya. A jury in Denver, Colorado, found a Denver businessman guilty of violating the Regulations and IEEPA when he exported 50 trailers from the United States to Libya in 1991. A Houston, Texas, jury found three individuals and two companies guilty on charges of conspiracy and violating the Regulations and IEEPA for transactions relating to the 1992 shipment of oilfield equipment from the United States to Libya. Also in November, a Portland, Oregon, lumber company entered a two-count felony information plea agreement for two separate shipments of U.S.-origin lumber to Libya during 1993. These three actions were the result of lengthy criminal investigations begun in prior reporting periods. Several other investigations from prior reporting periods are continuing and new reports of violations are being pursued.

5. The expenses incurred by the Federal Government in the 6-month period from July 6, 1995, through January 5, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the Libyan national emergency are estimated at approximately $990,000. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

6. The policies and actions of the Government of Libya continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. In adopting UNSCR 883 in November 1993, the Security Council determined that the continued failure of the Government of Libya to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions of the Security Council in Resolutions 731 and 748, concerning the bombing of the Pan Am 103 and UTA 772 flights, constituted a threat to international peace and security. The United States will continue to coordinate its comprehensive sanctions enforcement efforts with those of other U.N. member states. We remain determined to ensure that the perpetrators of the terrorist acts against Pan Am 103 and UTA 772 are brought to justice. The families of the victims in the murderous Lockerbie bombing and other acts of Libyan terrorism deserve nothing less. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya fully and effectively, so long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 22, 1996.*

COMMUNICATION FROM THE HONORABLE MARTIN R. HOKE, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable MARTIN R. HOKE, Member of Congress:

CONGRESS OF THE UNITED STATES,
Washington, DC, January 3, 1996.

Hon. NEWT GINGRICH,
Speaker of the House,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Rule L (50) of the Rules of the House of Representatives, this is to formally notify you that Thomas B. Boutall of my district office in Fairview Park, Ohio, has been served with a subpoena that was issued by the Cuyahoga County Court of Common Pleas (Ohio) in the matter of *Nix* v. *Hill.*

After consultation with the Office of General Counsel, it has been determined that compliance with the subpoena is consistent with the precedents and privileges of the U.S. House of Representatives.

Very truly yours,

MARTIN R. HOKE,
Member of Congress.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota [Mr. POMEROY] is recognized for 5 minutes.

[Mr. POMEROY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

EFFECT OF DEFAULTING ON THE NATIONAL DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BENTSEN] is recognized for 5 minutes.

Mr. BENTSEN. Mr. Speaker, I am a new Member in this body and I am not

one who comes down to the well to speak often, but having read through the papers this weekend and particularly today, I have become quite alarmed as a new Member of this 104th Congress to see that once again the majority leader and the majority party are advocating that we should default on our national debt. That is something that the United States, unlike many countries, has never done.

Mr. Speaker, it is something, if we were to default on the Treasury debt, that would preclude us from making payments to Social Security recipients, would preclude us from making payments to veterans benefits, but perhaps even more alarming is it would cause a dramatic rise in interest rates across the United States, affecting homeowners, people who are trying to buy their first home, families, people who are trying to take out loans to buy a car, kids who are trying to take out loans to go to college.

Quite frankly, it would probably drive this country into a recession, hardly a wise economic policy of the new majority.

But, Mr. Speaker, when you combine that with what the majority is proposing at this point in time after we have come off of what effectively has been a 3-week recess or adjournment, it now appears the majority has decided that we should adjourn until February 26 after we adjourn this Thursday.

Mr. Speaker, I started thinking about all the legislation that has not passed in this 104th Congress. We still are in a budget crisis, we still have not passed a number of our appropriations bills. But then the list goes on. We have the bank modernization, which is stalled. We have telecommunications reform, which is stalled. We have Superfund, which is stalled. We have not even taken up the water resources bill. We have immigration reform, which is stalled. We have housing reform, which is stalled. There is no talk of health care reform. But my constituents still ask about it. We have the safe drinking water bill, which is stalled. We have the clean water bill, which is stalled. We have the farm bill, which has heretofore disappeared.

Now, Mr. Speaker, it would appear in this monumental Congress, after 40 years of being in the minority, that the new majority, the Republican majority, would do something about it. While I was not around when Harry Truman was president and talked about the 83d Congress back in the 1950's as the do-nothing Congress, it would appear what we have now is the failed 104th, the failed 104th, which is incapable of doing the Nation's business.

Ms. LOFGREN. Mr. Speaker, will the gentleman yield?

Mr. BENTSEN. I yield to the gentlewoman from California.

Ms. LOFGREN. Mr. Speaker, as the gentleman is aware, I mentioned earlier this afternoon my concern that the Securities and Exchange Commission is supposed to run out of money completely on Friday. I know the gentleman has a strong background in financial markets. I am wondering what is his point about the debt ceiling, defaulting on the debt while the Securities and Exchange Commission has to shut down. Would that be helpful to America's markets and the economy of not only America, but the world?

Mr. BENTSEN. Reclaiming my time, I thank the gentlewoman from California for commenting. The fact that under our system of finance the companies would not be able to go public and raise capital so they could create new jobs is ridiculous. We have an economic rebound going on, we have GDP growing at a rate of about 2 to 3 percent right now. What we want are companies raising capital, investing in their infrastructure and their human capital potential to create more jobs.

Yet this Congress, under the Republican majority, believes we ought to shut down the Securities and Exchange Commission, we ought to shut down contracts for large companies like Rockwell and others that are working on the space shuttle and the space station so people will get laid off; we ought to default on the national debt so interest rates go up, companies lay people off.

That is not an economic strategy, that is an economic disaster.

Ms. LOFGREN. Mr. Speaker, for a further question, I know that I was in local government for many years, a year ago I was sitting in a local government office, and I had the opportunity to speak to some of my former colleagues over this 3-week break period. They are having a very tough time putting their budget together, because they do not know what the Federal Government is going to do. So I know that had I been back where I was year ago, no way would they walk away and adjourn for a month's paid vacation without this job done.

But I am aware a year ago you were in the private sector in the business world. I am wondering, in the private sector employment, would a man in your position have taken a month's paid vacation with this amount of work done?

Mr. BENTSEN. Absolutely not. This is no way to run a country. This is certainly a revolution, but it is the wrong kind of revolution.

THE BUDGET AND THE ROLE OF GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, it greatly concerns me, and I believe it concerns most Americans, that we may face the prospect of not having a budget this year. As we consider the proper role of Government, let us not forget the natural dangers we face.

Over the past days and weeks, many of the Northeast have been held in the grip of inclement weather.

First, it was record-level snow that shut down the Government, without one Member of Congress being here. More recently, it was uncontrollable flooding that left many unable to function and caused one of our largest States, Pennsylvania, to make a public appeal for Federal intervention.

If nothing else proves that we need a Federal Government that works and works for all of us—it is nature's wrath that makes the point. I hope the pundits are wrong—I hope we will pass a budget that is not only cost efficient, but civil.

We have terrestrial problems that we cannot handle. We do not need to create more problems by functioning in a less than civil way and by failing to govern.

□ 1430

STATE OF THE UNION

The SPEAKER pro tempore (Mr. EVERETT). Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] in recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we are about to begin the business of the 104th Congress again, the second year of this session. Tomorrow we will hear the State of the Union Address from the President. I look forward to that State of the Union Address.

The State of the Union Address, I think, will point us the way for the immediate future. The State of the Union also might certainly size up where we are at this point. There are a lot of good things that can be cited in that State of the Union Address. A lot of great things have been accomplished by this President. The Union is in a much better state in many ways and the world is in a much better state in many ways than it was before he became President.

I take this opportunity to celebrate the liberation of Haiti. Haiti has a situation now which has moved like clockwork toward a permanent democracy. Everything that was promised by General Bertrand Aristide and his leadership has been allowed to unfold. Elections have been held.

President Aristide will be resigning, stepping down next month. President Aristide will be replaced by a president who has been elected by the people of Haiti. The entire hemisphere benefits from this stabilization of Haiti because it sent a message to all the other criminals who wanted to take over. All the criminal military regimes that might have wanted to raise their ugly heads and try to take over their governments from duly elected representatives have certainly not done so. We have a more stable hemisphere. We can look forward to have democracy expanding in this hemisphere as a result

of the courageous actions taken by this administration in Haiti.

Also, I want to pause at this point to congratulate General Bertrand Aristide on his wedding. He has recently gotten married, I think it was yesterday. I take time to do that because on this floor on many occasions I have cited the wonders of the intellect and the temperament of General Bertrand Aristide, and in many cases it may appear that he may be some kind of little god. I have cited the fact that the man speaks eight languages. I have cited his long campaign against the oppression in Haiti, how he was nearly killed three times, guns were pointed at his head on three different occasions.

I have cited wondrous things that have happened to him and wondrous things that he has made happen. I think his marriage brought out some facts that shows that he is after all quite human. The announcement of the marriage said he was 40 years old. For the first time I realized that he is much younger than I am, this man that has accomplished so much for his country and set such a shining example for democratic leadership in this hemisphere.

So we want to congratulate President Aristide and congratulate the people who belong to his Lavalas Party in Haiti. We hope that they will not flinch, that they will, regardless of the circumstances, go forward and insist that democracy, the principles of democracy on which this liberation was based, will be carried forward by that government.

I also think it is time to celebrate the world being better off because of this courageous President's leadership in Yugoslavia. In Bosnia things are almost going like clockwork. We certainly are happy to see that deadlines that were set are being met. The Army of the United States, the military of the United States is there to assist in making peace happen. There is a clear framework for peace, and that peace is going forward.

I am proud of the fact that our Army could have no more noble mission in Yugoslavia. They will be feeding the hungry. They will be aiding the sick. They will be clothing the naked. They will be helping to provide shelter for the homeless. I can think of no more noble mission for an army than that, no more noble mission for a nation. So they represent a great deal of what this Nation is all about, and we salute them for that. The state of the world is better, and we are proud of the fact that we had the leadership of a President who made that happen.

Nineteen ninety-six will be a tumultuous year. There is no way we can avoid that. We hope that the Government would get back on track, that the legislative process will be allowed to go forward as it has for all the years that this Nation has existed, that there would be an end to the abuse of power by the leadership of the Republicans in the Congress, that that abuse of power we thought had sort of played itself out and that the common sense of the American people had indicated that they were not impressed and indeed they were quite upset by this continual abuse of power that is reflected in the shutdowns of the Government to obtain legislative goals, legislative ends.

The shutdown was an attempt to blackmail the executive branch. That blackmail did not work. The American people with all of their common sense could clearly see that the blackmail was coming from one side and attempted to distort the democratic process. I think that the polls clearly show that the common sense of the American people has prevailed and that they clearly see what is happening. So I am shocked to hear that perhaps there may be a shutdown.

The shutdown this time may go even further than the previous shutdown. There may be another shutdown. This time it may lead to a default, the Government of the United States defaulting on its debts, on its obligations. A shutdown is abuse of power, and a large number of people have been hurt by that abuse of power. A large number of human beings out there who did not deserve to be hurt had to go through a whole holiday season with no checks or only one check, weekly pay, all kinds of things which mean a great deal to people who are on an income based on weekly wages or monthly wages.

They could not afford, they could not reach into a big bank account. They could not live off their investments. There are a whole lot of people in the Republican Party who do not understand this. But they created a whole lot of misery. People suffered. It is all right to suffer for a good purpose, but it was totally unnecessary.

In addition to this abuse of power causing such suffering, we are now going to cause a hemorrhaging of our economic system here in this country. A default will certainly have terrible consequences. A default is economic suicide. I hope that the leaders of the Republican Party who are now waving the threat of default in order to get more concessions will reconsider and let the debate go forward.

The Speaker has clearly stated that the objective of the Republicans in this House is to remake America. They want to try to remake America in 2 years. That is their goal. I think it is unfortunate that remaking America is a goal to begin with. I think it is more unfortunate that they are going to try to remake America in 2 years.

I do not think America needs to be remade. I think we have institutions, we have agencies, we have programs, we have a large number of things that could be improved. There ought to be a process of refining. There ought to be a process of adjusting. There ought to be a process of trimming, streamlining. There are a number of things that can go forward without having the kind of revolutionary proposal that is embodied in a call to remake America. But if that is the way it is, the Speaker has the power and the leadership of the House has the power to set the parameters and determine the environment that we have to exist in, and that is the way it is.

Let us go forward in 1996 and deal with the drive to remake America. Let us look at the vision of America projected by the Republicans who control the House of Representatives and the Senate. Let us look at the vision of America projected by the President. I think the President will project some of his vision of America in his State of the Union Address tomorrow. I think the President in his behavior, the way the President has handled the budget certainly is a projection of part of his vision of America. The President has stood fast and insisted that in this remaking of America we shall not dump overboard the poorest Americans, we shall not dump overboard the powerless Americans. We shall not dump overboard the helpless Americans like children.

I think we heard earlier, less than an hour ago, a message of the President vetoing the Personal Responsibility Act. The Personal Responsibility Act is one of the most misnamed acts we might consider in a long time.

The President vetoed it and said: I want welfare reform; I started it. The President started the movement for welfare reform. I may not agree with all of his proposals. I certainly do not agree with the proposals made by the Republican majority in this House, but welfare reform is needed; reform, refinement, adjustment, streamlining, elimination of ridiculous parts of the program, making it work more effective administratively.

There are a lot things we need in welfare reform that are going to go forward, and the President is committed to that and it will happen. But I thank the President for vetoing the bill that was sent to him because it is not welfare reform. It is a destruction of a program to help the poorest people in our Nation.

Why have we used a hammer to bang on the program that provides aid to families with dependent children? The welfare reform program that was sent to the President by the Republicans was a program that was most cruel to children. It was a program which sought to end and still seeks to end the entitlement for children, the entitlement that is built into a part of the Social Security law.

There is a lot of concern about, are we going to tamper with Social Security, is Congress going to tamper with Social Security? Are the Republicans going to tamper with Social Security? Is Social Security safe? The answer is no, because most people do not know it, but aid to families with dependent children is part of the Social Security Act. Medicare is part of the Social Security Act. Medicaid is part of the Social Security Act. They are all part of Social Security. The part of Social Security which helps the people on the

bottom, those who are deemed to be the least powerful, who are not voting, who do not vote, certainly, for Republicans when they do vote, that is the part that we have bludgeoned already with a hammer.

Aid to families with dependent children, $16 billion is the amount of money estimated for this program, aid to families with dependent children. That is less than we give to the farmers. The subsidies that go to farmers in various ways, cash subsidies, home mortgages and all kinds of various programs that go to farmers, those subsidies total far more than the aid to families with dependent children. The farmers do not have to pass a means test. People who get welfare, aid to families with dependent children, they must prove first that they need it. They must prove first that they are poor. So why are we bludgeoning them with a heavy hammer, when we refuse to touch these subsidies that farmers get who do not pass a means test? We tried to pass a bill on the floor of this House. I joined with the gentleman from New York [Mr. SCHUMER], on two occasions, a simple bill which said farmers who have income from whatever source of $100,000 or more per year should not qualify for the cash subsidy program. I think we got about 60 votes the first year we tried to pass that and about 57 or 58 the second time we tried to pass that. So the overwhelming sentiment, Democrats and Republicans, was do not touch the cash subsidies for the farmers whether they are in need of it or not. But let us go after the people on welfare. It is not because they are getting more than anybody else. It is not because they are unworthy really. It is because they have no power. It is because they do not vote for Republicans. It is because in too many cases they do not vote for anybody, and that is a message I hope that the people who are, the parents of those poor children who get the aid will understand.

In America, in the final analysis, you have a weapon. In the final analysis, the fact that you do not vote is the critical action that you take. By not acting, you act. So every person out there who is an adult responsible for receiving the benefits for children who are in the aid to families with dependent children, you owe it to the children, you are neglecting the children when you do not vote. You are neglecting the children when you do not participate in the political process. If you start voting and you vote blindly for anybody who gives you some kind of divergent argument, you are also neglectful of the children. Vote for the people who say that they are interested in children and back that up with their votes on programs like aid to families with dependent children.

I hope that as we go forward for the rest of 1996, there will be an election, you are aware of it, in November 1996. Before we get to November, of course, there are many other elections that are taking place. In Iowa, in New Hampshire, et cetera, this is an election year. So I hope that in this election year, we can continue to discuss the budget. I would like to see a budget agreement reached. I think the President has gone as far as he can go, however, I would not cry, if we do not reach one, if it is going to have to be reached at the expense of the people on the bottom and the President is going to have to give even more. I think the President has come a long way, and I am not happy and a lot of Democrats are not happy with the compromise that he has offered, which I think goes too far. But I admire him for stepping out there and trying to meet the Republicans halfway. I think he has gone more than halfway.

I hope that we do work out an agreement whereby we have a budget this year. The principle of a balanced budget, I do not agree with that, but it seems that most other people agree with it. So we will have a balanced budget.

I serve as the chairman of the Congressional Black Caucus alternative budget task force. We put a balanced budget on the floor of this House. We had to do it. In order to bring our budget and be able to discuss any of our ideas and our proposals, we had to come forward with a balanced budget. So we came forward with a balanced budget. The balanced budget we have submitted for the RECORD. It is in the RECORD.

We balanced the budget without cutting Medicaid. We balanced the budget without cutting Medicare. We balanced the budget and we increased education expenditures. We increased expenditures for job training. What we did was we cut defense, and that is a very reasonable proposition to cut defense, when the United States of America is spending more than all the other industrialized nations in the world put together, we are spending more than they are put together on defense. So it is possible to cut defense. This does not in any way hamper us in conducting noble missions like the liberation of Haiti or a mission to save the people of Bosnia from ethnic genocide.

There is still plenty of room for that, even if you cut the defense budget. So we cut the defense budget. But most of all we raised the tax burden of the corporations. We did two things. We closed corporate loopholes and we insisted that there be an increase in the taxes in certain places on corporations because corporations have steadily paid less and less of the income tax burden over the last 20 years. From 1943 to 1995, they have dropped from a corporate tax burden percentage of nearly 40 percent to a corporate tax burden now of about 11 percent, while individuals have gone up from their percentage of the tax burden being 27 percent to 48 or 49 percent in 1983, and now it is still as high as 44 percent. So we balanced the budget by implementing what I call revenue justice.

Let us have the revenue flow from the place where the most revenue is being generated. Corporations are making enormous profits. That sector of the economy is booming. Individuals and families are suffering. Their incomes have stagnated. They are not making as much in terms of real terms when you look at inflation as they were making 10 years ago. Minimum wages are far too low, way behind inflation. With all those factors under consideration, we hear tax cut. For families and individuals starting with the families and individuals at the bottom of the scale, in our Congressional Black Caucus budget we started at the bottom of the scale with families and individuals who are working families. We started by giving them some tax relief.

What is being proposed now by the Republicans is just the opposite. They are proposing to change the earned income tax credit which the Congressional Black Caucus fought very hard to expand 2 years ago. They want to change the earned income tax credit which means they are increasing the taxes on the poorest people. At the same time they want to give huge tax cuts for the richest people. They have their opinion. The Republicans in the House and Senate, they have a position. It is a clear position. I want to congratulate them for clearly enunciating and setting forth exactly what their vision of America is. They think America should provide more and more for the rich who have gotten more and more out of our economy over the past 20 years. They want to give them even more. They are clearly willing to state that. They are not hedging. They are not fudging. So there is a clear choice being presented to the American people.

I hope that we will keep our eyes on this process and keep the debate going. If they insist, if they want the tax cut at the same level that they have it, let us keep focused on that. Let us not back away from the argument about the level of taxes. Let us talk about the flat tax. Let us talk about the possibility of a national sales tax, value added tax. Let us talk about changing tax rates. Let us take a hard look at the tax policies across the board, because what has often happened in the 13 years that I have been here, I am in my 14th year, is that the tax policies and whatever dealt with taxes was discussed behind closed doors, was decided behind closed doors. They had some hearings and long lines of people would line up to go, and you could barely get into the Ways and Means meetings. And then when they made the final decision, of course, they had closed meetings.

Then they would come to the floor and you would have 1 or 2 hours to debate the most important issue in the country; that is, how are we going to get the revenues to run the fiscal affairs of the Nation. The shortest period of time to debate the most important topic.

I understand that one of my colleagues in the Democratic Party has proposed that special orders be taxed, that every Member who makes special orders should pay the cost of special orders, that whatever it costs to keep the staff here and the guards and the light bill, whatever, we should be charged that, each Member should have to pay that out of his budget.

My first reaction to that proposal—it came from a Democrat that I respect a great deal, it is not trivial. I understand her concern. My first reaction to that is that I would gladly, I would gladly advocate that there be no special orders of any kind if you will give every Member of Congress the right to speak for 5 minutes on any issue that is on the floor that they want to speak on. When the important issues come to this floor, if I had the right to speak for 5 minutes, I would surrender any other compensatory arrangements like 1-minutes and 5 minutes and 60 minutes, who needs it? The problem is that we are 435 Representatives of this Nation, people from across the Nation, and we seldom have a chance to speak on the most important issues. The 435 people in this House of Representatives spend less time talking on this floor than the 100 Members of the other body. The 100 Members of the other body spend more time debating on the floor than we spend for 435 Members in the House of Representatives.

The time is so tightly controlled. We have a Committee on Rules. And the amount of time spent on the floor here debating issues is in direct proportion to the importance of the issue as perceived by the leadership. If the leadership perceives an issue to be really important, they shorten the time greatly. You can check this with the records. This can be verified. It is not an empty statement that I am making.

On issues that they do not consider very important, we have open rules, unlimited debate. But never has a Ways and Means bill come to the floor in the 14 years that I have been here where there was an open rule, an unlimited debate.

If I had that privilege and that right to have at least 5 minutes to speak on a Ways and Means bill, at least 5 minutes to speak on a defense bill, by the time, if you have only 1 hour for each side, and there have been some times when there is only 30 minutes for each side, but if you have 1 hour for each side, by the time you get through the committee, the committee of jurisdiction and any Committee on Appropriations members who also relate to that particular item, the time is used up. If you are not on defense, if you are not on Ways and Means, on those important issues you cannot say, you cannot even get 1 minute. So those who propose that we eliminate special orders, I am with you if you will join me in a fight to guarantee the right of every Member of Congress, which it ought to be taken for granted, we are elected by the people, we should have 5 minutes, just 5 minutes on any issue that we deem to be important. If every one of the 435 Members want to speak for 5 minutes, I assure you if you look at the calendar, it will not lengthen the session of Congress. We have a lot of down time, a lot of waste of time where nobody is doing anything on this floor. The Senate spends more time, as I said before, on the floor than we spend here. The other body, in terms of per Member time on the floor, is way ahead of us. So I pause to say that that is very important.

I would like to have us keep our eyes on the budget/fiscal debate. Let us go forward and talk about taxes and where they come from. Let us talk about revenue. Let us go forward and talk about expenditures. Let us keep the debate going.

I would like to see a pledge to avoid lapsing into diversionary issues. As we look forward toward November 1996, let us not back away from a discussion of revenue, taxes, programs, budget cuts, balancing the budget, et cetera. Let us keep the debate going. It is a very complicated nation that we have. It is a complicated budget. These are complicated times. We should not try to oversimplify.

For the first time I think many Americans are getting some indication of what it is all about. For good or ill, regardless of whether you agree with the position taken by one party or another or one individual or another, the debate is very healthy. Can we keep this debate going? I hope we will.

I hope that the President's State of the Union Address tomorrow will be a statement which allows us to go forward and consider his vision of America and what America would look like when he remakes America, if he had the opportunity to remake America, versus the vision that is envisaged in the Contract With America that was set forth by the House Republicans. Beyond the Contract With America, the House Republicans have done a lot of things that are not in that contract. The attack on organized labor, the attack on workers safety, the refusal to even deal with minimum wages, all of that was not stated in the contract, but some terrible things have happened. But those are worthy items.

If you want to debate the budget and talk about the fact that the Republicans, because they could not get certain things through the authorization process, because they are frustrated by the fact that the Senate will not approve some of the measures that they have passed because they are not reasonable, because the Senate wants to stay closer to the common sense agenda of the American people so they have reverted to the appropriations process.

They do not like the fact that we have an agency called OSHA, which is responsible for the occupational health and safety of workers. They want OSHA out of business. They have made a compact with some of the worst kinds of business people who want to avoid having to meet their responsibilities to provide a safe workplace. Ten thousand workers died last year; 10,000 workers died in the workplace. We can debate about other workers who died as a result of conditions in the workplace. They contracted illnesses and then they died later or they had an accident and it led to complications and they died later. But on the job, on the job 10,000 workers died.

This is not a trivial matter. It is a critical matter. Yet because they do not want to disturb the business community, which unreasonably insists that OSHA is a bother, OSHA, the Occupational Safety and Health Administration has enough employees to inspect the businesses of America. And when you take the number of businesses of America that are in the category that need to be inspected and you divide that by the number of people who are employed by OSHA to do the inspections, it will take 87 years, given the number of employees that OSHA has before the budget cuts, it would take 87 years for each one of the business sites in America that are supposed to be inspected to be inspected by that group of inspectors, 87 years.

They are going to cut OSHA drastically. So that means that it will take 100 years to get around to inspecting each business. So the argument that the businesses are being harassed and OSHA is a regulatory burden and that an attempt to provide safe workplaces for workers results in empowering or hindering the economy, these arguments are ridiculous. But they go forward.

□ 1500

Let them keep proposing that and saying that we need to save money at the cost of risking more lives of workers. Let them say that between now and November. Let us keep that going. Let us debate it. You decide. Let the American people decide.

Let them continue to tell us that school lunch programs are not being cut; it is the rate of growth that is being decreased. Let them keep telling us that, and we will tell you that if you are cutting, putting money to cut the rate of growth of the program in dollar terms, you are not looking at the rate of growth in terms of youngsters, the number of children who are enrolled in school.

They ignore the fact that the number of children enrolled in school is increasing. You cannot cut the rate of growth of the program without reducing what is available for the children who are there unless you take into consideration the fact the number of children is increasing.

They tell us immigrant children should not be given free lunches and that the schools should go and search out the immigrant children and create an atmosphere of terror within certain schools while they search for immigrant children to deny them the school lunch program.

Let this debate go forward. It is about saving money on the one hand, but if you look at it closely, there is more to this than just saving money. There is more to this than just saving money; there are some attitudes.

I think President Clinton made it quite clear in his budget message. The President had a veto message, and then the President has also sent a message down with his new balanced budget. Let us look for a moment at what is happening here, and again, it is going to be a long year. It is going to be a long debate.

Please do not lose faith. Keep the faith. Keep listening, because this is all about the remaking of America; and your faith is involved here, your children's faith is involved here.

The President was accused of not being sincere about a balanced budget. He submitted a balanced budget one time and then he said, according to CBO estimates, it is $400 billion out of balance; over a 7-year period, the President is still spending $400 billion too much.

So the President has come back with a budget that balances in 7 years, and it also has a surplus at the end of the 7 years; and now we are being told that is totally unacceptable. We are going to shut down the Government because we do not like the way you balanced the budget.

Now, was the call to balance the budget in the beginning, when they asked the President to submit a balanced budget, did they say, submit a balanced budget that we like; submit a balanced budget that is good for America; submit a balanced budget that you like? The President submitted a balanced budget he thinks is good for America, and in his message he says the following: His balanced budget upholds our values, upholds America's values.

We want to balance the budget to limit the debt, the burden of debt on our children. We want to protect Medicare and Medicaid to honor our duty to our elderly, to people with disabilities and to children. We want to invest in education and training to honor our duty to our children and families. We want to protect the environment and public health so our children grow up in a clean and safe world. We want to reward work by not raising taxes on working families. We want to provide tax relief for middle-class families.

Now, that is the message that came back with the newly balanced budget of the President, which, as I said before, ends in 7 years with a surplus.

By the way, the Congressional Black Caucus alternative budget, which I put forth on the floor of the House, the Congressional Black Caucus alternative budget also had a surplus at the end of 7 years. We had a surplus of $16 billion at the end of 7 years. I told you we balanced our budget without cutting Medicaid, without cutting Medicare, and we increased the amount of money for job training and education, and we did this using assumptions and figures that were certified by the Congressional Budget Office.

The Republican majority would not let us bring the budget to the floor if we had not used assumptions that were set forth by the Congressional Budget Office. So we balanced the budget. The Congressional Black Caucus alternative budget is a long way from where the President is right now.

I am not happy with the President and the fact he is going to cut Medicare far more than we stated in the Congressional Black Caucus budget it should be cut. Let us forget about that. Later on there was a bill introduced by Democrats that said, OK, a commission study showed that there are problems with the Medicare program, and by the year 2002 you may have a real problem, so let us cut the budget by $90 billion. I think the study said it would be a problem of $89 billion.

This bill proposed cutting the budget by $90 billion over a 7-year period. The $90 billion cut would be focused on waste, streamlining more administrative efficiency, and cutting waste, $90 billion. The President is far beyond that $90 billion.

There is a group called the Blue Dogs who have a proposal that also goes beyond the $90 billion. The President does not please me by cutting more than $90 billion, but I congratulate him on making the effort. He is stretching as far as he can in order to accommodate and reach a compromise with the Republicans. But this compromise, this stretch, has not impressed the Republicans.

They say we are going to shut down the Government, and go even beyond shutting down the Government; we are going to tamper with the economy of the United States and maybe the economy of the world by going into default if you don't give us what we want.

Now, clearly, understand, you out there with your common sense, the American people should clearly understand the power that is being wielded here. The Republicans are saying, we will threaten to shut down the Government, we will throw the Nation into default if you do not give us what we want. And even after you do that, if you meet us part of the way, we are going to do something selective. We are going to reach in and provide funding for only those programs that we approve of; we are going to strangle, through the appropriations process, those we do not like.

We do not like funds for education. We have a cut. Republicans are proposing to cut Head Start about $300 million. They will reach in and strangle Head Start a little bit.

We do not like title I, which is the largest Federal program providing aid to elementary and secondary schools. Ninety percent of the school districts across America get some portion of the title I program. They do not like it, so they will reach in and strangle that by cutting it $1.1 billion. That is about 1/7th of the total. That is a huge cut; out of $7 billion, they are going to cut $1.1 billion.

So these are horrendous actions, but at least they obvious, open. The CIA is not involved here, so they are not hiding what they are doing. It is an open position. It is up to the American people to go forward and look at what they are doing and come to some conclusions.

They are not interested just in saving money or balancing the budget. The argument that every family balances its budget and so forth, the Nation therefore should balance its budget, that argument makes a lot of sense on the surface, but that is really not what it is all about.

In the first place, very few families balance their budget in a year. In a year's period, your family's budget is not balanced and you know that too. You have not paid for your home fully. Rich people can, but we are talking about 10 to 15 percent of Americans who can go out and pay cash for a car and cash for a condominium or for a house. That number of people is very much in the minority in America.

Most Americans have to get mortgages. Most Americans have to get loans to buy cars. So very few families have a balanced budget where exactly what they take in during a year is what they spend during a year. They have debts that are carried over, long-term investments and items, and it is just ridiculous to insist we have to have a balanced budget. But that is where we are.

I will not bore you anymore by explaining the weaknesses in the argument that we have to have a balanced budget. That is accepted. Let us start out, that that is an assumption.

Everybody now is basically agreed that we will have a balanced budget. The President has agreed that we will have a balanced budget. The President has moved to put forth a balanced budget which the Congressional Budget Office and the General Accounting Office and everybody who has to sign off, they all agree the numbers and assumptions are correct.

Nobody can accuse the President of not following the assumptions of the Congressional Budget Office regardless of whether they are sound or unsound or how uncomfortable the White House may feel about it. They have gone forward and done that. So, now, let the debate go forward and let the American people make judgments about the arguments that are being made.

The President says that his budget reflects the values of the American people. One of the latest polls taken, I think there was a poll taken by the Washington Post, which shows that 50 percent, according to the poll, 50 percent of the American people agree that the President's position is a sound position and they want to support that position. I think this was January 7, not too long ago. The poll finds that 50

percent approve of how Clinton is handling this dispute, and 22 percent approve of the way the Republicans are handling it. 50 percent.

So we are not talking about what Congressman OWENS and the Members of the Congressional Black Caucus, the members of the Progressive caucus, the liberal Democrats, we are not talking about their position at this point. We are talking about the position of the President, which is consistent with the position of 50 percent of the American people. They approve of his tremendous effort to stretch and meet the Republicans.

I just hope that he understands that they do not want him to go any further. I hope the President does not disappoint the American people by stretching further, because any further stretching would be disastrous, any further stretching. Because if you stretch further, what you are doing is abandoning the values of the American people and moving to the values of the Republican elite.

The Republicans do not value the same vital commitments in Medicaid. The Republicans want to eliminate the guarantee of quality nursing home care and meaningful health care benefits for older Americans. They want to eliminate it for individuals with disabilities. They want to eliminate it for pregnant women and poor children.

All this is not necessary to balance the budget, we are saying, but they want to do that. They want to leave a lot of their dirty work to the States. They want to say, well, let the States make the decisions. People have come up with this argument, of course, that States can do a better job. The closer you get to the people, the more likely you are to have effective government.

There is nothing in the history of government which shows that State governments are more effective than the Federal Government, or that local governments are more effective than the Federal Government. Some of the worst corruption and the worst mismanagement and the worst incompetency you find in America can be found at the local level.

In New York State right now, at this very moment, we have Governor Pataki, who sits in the Governor's mansion of New York, a Republican Governor, who has turned the State government into a clubhouse patronage meal. Never before in the history of New York State government has any Governor so blatantly used the treasury, used the State apparatus, the administration of government, to bolster partisan concerns.

He has openly said he will pick up certain parts of the government in the capital; Albany is the capital of New York State. He is going to move certain programs out of Albany into Poughkeepsie, where he lives, and into other areas where he got large amounts of votes.

This Republican Governor is not pretending to be a good-government advocate. He is openly doing this. He is openly allowing certain members of his cabinet who are responsible for certain contracts to solicit in fundraising.

There are all kinds of things happening that Democrats might have done, but they never were so blatant about it; and some things, Democrats have never done in New York City.

We have a Republican mayor, Mayor Giuliani, and we have had some strong mayors in the history of our city. One of the most famous ones, who was accused of being arrogant, many times he behaved like an emperor, he was a former Member of this House, Mayor Koch. But Mayor Koch insisted on a merit system for the selection of judges. Whether he liked it or not, there were judicial panels that appointed judges, and he lived with those appointments. He followed the recommendations of the panels.

Mayor Dinkins, who followed him, did the same thing, merit appointments.

And the newspapers, the good-government organizations, applauded all this. Along comes Mayor Giuliani, Republican mayor, and he ignores or challenges the findings of the judicial review panels and appoints two people, who, in the opinion of many of the judges, the legal people who sit on the judicial review panels, are not qualified. He boasts about it, and he is going to do more of it.

In New York City the remaking of government is already going forward, the harassment of people who want to get on welfare. If you apply for welfare, there are all kinds of extra roadblocks thrown in your way, so that if you want to cut the welfare rolls, one simple way to do it is to make the paperwork more difficult. No matter how poor you are, if I insist that I am not taking your application unless you sign on just the right line, unless you answer every question, unless every ''T'' is crossed, and every ''I'' is dotted, I can keep you off welfare for months just through those technicalities.

In other words, if you have a system of values where you do not want to feed the hungry, you do not want to provide housing for the homeless or clothe the naked, you are totally out of sync with the Judeo-Christian values of this Nation, then you can proceed at the local level even with present regulations in place.

At this moment, people are still entitled to Aid to Families with Dependent Children. They are still entitled. The entitlement has not been taken away yet. It has been proposed by the Republicans in this House; it has been passed by the Republicans in the Senate, and a lot of Democrats in the Senate voted for it. So entitlement probably is going to be gone this time next year; the people who are poor families with children qualifying for Aid to Families with Dependent Children will not have a Federal entitlement. That will probably be gone next year.

I fear that that is one of the concessions that the President will make. I hope he will not, but I fear that will be a concession he will make. But it is not gone yet. It is still there.

At the local government level in New York City, we have a mayor who has gone ahead and is already doing the kinds of dirty work you can expect once that entitlement is gone. He has taken it upon himself to come up with tricks and various means to keep people off the welfare roll and deny them even when they have great needs. So that process is going forward.

Medicaid. The Governor has proposed, and then he backed away, that the standards for nursing homes in New York be watered down, that the requirement that every nursing home has to take a certain percentage of poor people be eliminated. He has backed away temporarily, but those proposals are coming back, if the States are going to have an opportunity to administer Medicaid without the guarantees.

Let us understand States already administer these programs, localities already administer these programs. What they are trying to do is take away the Federal guarantees that if you are eligible, you should get it. They want to take away the Federal appeal procedures. They want to take away the Federal guidelines. They want to take away the Federal oversight. They want to be free to take taxpayers' money and use it the way they want to use it toward their own ends.

An example is being set by Mr. Pataki in New York State and Mr. Giuliani in New York City. Those are examples of the kind of thing you can look forward to: abuse of power, abuse of the poor, balancing the budget on the backs of the people who do not have political power.

So the President says the Republicans do not value these vital commitments, and between now and November 1996, November of this year, keep watching. Do not lose your gaze. Keep your eyes on the prize.

Where are the American values? Do they say, we want to cut Medicaid and leave the poorest people without health care, leave the people who are disabled without health care, leave pregnant women and poor children without health care? Are those American values?

In Medicare, the President says the Republicans want to charge 37 million Medicare recipients higher premiums and change the system so that it benefits the healthiest and wealthiest while allowing the traditional Medicare Program to wither on the vine. That is a quote from one of the great leaders of the Republican Party, even though it is not necessary to balance the budget.

The Republicans want to charge 37 million Medicare recipients higher premiums and change the system so that it benefits the healthiest and the wealthiest while leaving those who need it most in a state of stress. I know the stress because I get more questions in my district about Medicare and Medicaid than about any other programs.

People are feeling the stress already as they contemplate what is being proposed.

In education, the Republicans call for cuts in aid for smaller classrooms, cuts for Head Start. They call for cuts in basic skills and higher standards while ending the direct student loan program. What does the direct student loan program have to do with balancing the budget? Almost nothing. In fact, just the opposite. We will end up spending more money by ending the direct student loan program, but that is an activity which is offensive to the banking community, certain favorite communities that support the leadership, and they are out there making arguments that the student loan program, the direct student loan program is some kind of evil when it has obvious benefits.

Environment. They continually put the special interests over the environment and they want to take the environmental cop off the beat. These are Republican values versus American values.

The American people indicate that they are with the President. They are with the President. Let us keep our eyes on the two sets of values, the President's values versus the Republican values, as we go forward toward November 1996. Do not take your eyes off the prize. The budget debate, the fiscal debate, the tax debate, that is it; that is what we have to focus on.

I keep insisting that we ought to keep our eyes on the prize and Americans ought to welcome the opportunity to remake America or to refine America or to adjust America and make it a better America, because I know the surprise that is coming. The Republicans are planning to back away from these very important issues and move into diversionary tactics. They are going to try to ambush the voters with the usual diversionary issues.

What are the diversionary issues? Prayer in the schools, gun control, affirmative action, set-asides, voting rights, gays in the military. Those have nothing to do with the remaking of America in terms of fiscal and budget and tax issues, but they are going to switch to those and we have to be aware that as we go forward in 1996, these are very important issues.

Prayer in school is important. It is important to talk about guns. I am all in favor of more gun control. I understand the position of those who want less; I understand their position. I disagree with it thoroughly.

The murder rate has gone down in general, but among young people the murder rate, the rate of people being shot with guns, is dramatically increasing. So you have a young population using guns, and that young population is coming to the point where they are going to be a greater percentage of the overall population. So the decrease in crime we are watching now will be accompanied by an increase in crime later on as these young people using guns reach the critical teenage ages. That is where we are going.

So we have to keep our eyes on the prize and beware of the diversionary issues. We have to keep our eyes on the prize and not let introductions of arguments about people being subhuman be introduced.

I was shocked that one of our leaders commented on a brutal crime in Chicago, indicating that a woman would not have been murdered and had the baby ripped out of her stomach if it was not for the welfare culture. That really shocked me greatly. I did not see any connection between the welfare culture and a brutal crime like that.

There are a lot of brutal crimes taking place in our country and across the world where people are not on welfare. Immorality has nothing to do directly with whether or not a person is on welfare or not. Nobody has commented on the fact that Princess Diana and Prince Charles have chosen not only to commit adultery, but to go on television and discuss it. That is being done by people who have never been on welfare, and it is the kind of horror that there is no excuse for.

It is bad enough that people have sins, and all of us sin, but to go on television and parade your sins, especially when you know you are a role model. They are role models for people in Britain. They insist on having this royal family, and sometimes Americans envy the fact that Britain has a royal family and we do not; but I think that is one great example why we do not need a royal family.

But Americans use the Royal Family of Britain as role models. Children use them as role models. Princess Diana, I am sure a lot of teenage girls identify with her, and on and on it goes.

So if welfare determines people's morality and we must get rid of welfare in order to have people become more moral, then how does the Royal Family behave this way, and they have never been on welfare? They have never worked for a living either.

Maybe they have it too easy. Maybe we are talking about decadence at a level which may be something that sociologists and psychologists and psychiatrists can deal with, but I just do not see why that has any bearing.

We are going to be talking about morality. We are going to be talking about sin versus nonsin. We are going to be talking about Whitewater. Nobody wants to talk about the real crime involved in the savings and loan association debacle. We talk about Whitewater having something to do with the savings and loans crisis. Occasionally they mention that. Most people just think it was invented by the Clintons. The Clintons lost money on a savings and loan venture in Whitewater; they lost money.

Let us look at Silverado in Colorado. I have a whole book here. I am a student of the savings and loan swindle, because the savings and loan swindle was the greatest swindle in the history of civilization. In the economic history of civilization, nothing like this has ever happened before. And yet in America we do not even talk about it anymore. It is nearing a close, as far as the people who want to cover it up are concerned.

The greatest crime in terms of economic thievery was committed right here in this country through the savings and loan association swindle and the accompanying banks swindle.

Other banks that were not savings and loan associations did the same things, the misuse of the public trust. They took out deposits backed by the Federal Deposit Insurance Corporation, which meant that if anything happened, you, the taxpayer, stood behind it. They took that; they abused and misused that, and billions of dollars were lost. In fact, one estimate by Stanford University said we are talking about a loss of $500 billion, a cost to the taxpayers eventually of $500 billion.

There has been a process of going through the Resolution Trust Corporation and cleaning these things up, and negotiating out various arrangements, and it is all coming to a quiet close.

That is real criminality. That is real dishonesty. That is real thievery.

I have two reports. I read about them and I called for them. One is from the Department of Justice, Financial Institution Fraud, Special Report, Special Counsel for Financial Institution Fraud. That report I have looked at, am still looking at it.

Another is called ''Attacking Financial Institution Fraud.'' It is from the U.S. Department of Justice, the U.S. Office of the Attorney General. It is a report to Congress that is required.

As I look at both of these reports, what strikes me is that they are deliberately confusing. They deliberately do not ever state clear facts. It is very hard to find out exactly how much money have the American taxpayers had to pour into bailing out the savings and loan associations. It is very hard to find out exactly how much.

I know on the floor of this House, when we appropriate in one bill $50 billion for this, it is $70 billion for that, and yet they do not talk in those kinds of numbers here. They talk about bringing this whole thing to a close; and you are not talking about hundreds of billions, you are talking about a few billion here and a few million there, and I cannot make them add up.

They have deliberately not reported anything in a summary fashion. I am still studying these reports to find out more about one of the greatest swindles that ever took place.

So if we get into discussions of morality and discussions of swindling, if we are going to continue the Whitewater discussions, then I think it is only fair to talk about the savings and loan association swindle in all of its dimensions and talk about the Silverado, $2,286,901,934. That is the figure that they have said they ordered to

be recovered. We were talking about $150 billion. Why has only $2 billion been ordered to be recovered?

You will hear more about this later. This is the kind of morality discussion, if we are going to have a morality discussion, that we should get into.

But my final comment is, Mr. Speaker, let us keep our eyes on the prize, continue to focus on the budget, taxes, and expenditures. It is a discussion that the American people deserve.

CONFERENCE REPORT ON S. 1124

Mr. SPENCE submitted the following conference report and statement on the bill (S. 1124), to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–450)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1124), to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Defense Authorization Act for Fiscal Year 1996''.

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

(a) DIVISIONS.—This Act is organized into five divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Federal Acquisition Reform.

(5) Division E—Information Technology Management Reform.

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

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.
Sec. 4. Extension of time for submission of reports.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Reserve components.
Sec. 106. Defense Inspector General.
Sec. 107. Chemical demilitarization program.
Sec. 108. Defense health programs.

Subtitle B—Army Programs

Sec. 111. Procurement of OH–58D Armed Kiowa Warrior helicopters.
Sec. 112. Repeal of requirements for armored vehicle upgrades.
Sec. 113. Multiyear procurement of helicopters.
Sec. 114. Report on AH–64D engine upgrades.
Sec. 115. Requirement for use of previously authorized multiyear procurement authority for Army small arms procurement.

Subtitle C—Navy Programs

Sec. 131. Nuclear attack submarines.
Sec. 132. Research for advanced submarine technology.
Sec. 133. Cost limitation for Seawolf submarine program.
Sec. 134. Repeal of prohibition on backfit of Trident submarines.
Sec. 135. Arleigh Burke class destroyer program.
Sec. 136. Acquisition program for crash attenuating seats.
Sec. 137. T–39N trainer aircraft.
Sec. 138. Pioneer unmanned aerial vehicle program.

Subtitle D—Air Force Programs

Sec. 141. B–2 aircraft program.
Sec. 142. Procurement of B–2 bombers.
Sec. 143. MC–130H aircraft program.

Subtitle E—Chemical Demilitarization Program

Sec. 151. Repeal of requirement to proceed expeditiously with development of chemical demilitarization cryofracture facility at Tooele Army Depot, Utah.
Sec. 152. Destruction of existing stockpile of lethal chemical agents and munitions.
Sec. 153. Administration of chemical demilitarization program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic research and exploratory development.
Sec. 203. Modifications to Strategic Environmental Research and Development Program.
Sec. 204. Defense dual use technology initiative.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Space launch modernization.
Sec. 212. Tactical manned reconnaissance.
Sec. 213. Joint Advanced Strike Technology (JAST) program.
Sec. 214. Development of laser program.
Sec. 215. Navy mine countermeasures program.
Sec. 216. Space-based infrared system.
Sec. 217. Defense Nuclear Agency programs.
Sec. 218. Counterproliferation support program.
Sec. 219. Nonlethal weapons study.
Sec. 220. Federally funded research and development centers and university-affiliated research centers.
Sec. 221. Joint seismic program and global seismic network.
Sec. 222. Hydra–70 rocket product improvement program.
Sec. 223. Limitation on obligation of funds until receipt of electronic combat consolidation master plan.
Sec. 224. Report on reductions in research, development, test, and evaluation.
Sec. 225. Advanced Field Artillery System (Crusader).
Sec. 226. Demilitarization of conventional munitions, rockets, and explosives.
Sec. 227. Defense Airborne Reconnaissance program.

Subtitle C—Ballistic Missile Defense Act of 1995

Sec. 231. Short title.
Sec. 232. Findings.
Sec. 233. Ballistic Missile Defense policy.
Sec. 234. Theater Missile Defense architecture.
Sec. 235. Prohibition on use of funds to implement an international agreement concerning Theater Missile Defense systems.
Sec. 236. Ballistic Missile Defense cooperation with allies.
Sec. 237. ABM Treaty defined.
Sec. 238. Repeal of Missile Defense Act of 1991.

Subtitle D—Other Ballistic Missile Defense Provisions

Sec. 251. Ballistic Missile Defense program elements.
Sec. 252. Testing of Theater Missile Defense interceptors.
Sec. 253. Repeal of missile defense provisions.

Subtitle E—Miscellaneous Reviews, Studies, and Reports

Sec. 261. Precision-guided munitions.
Sec. 262. Review of C^4I by National Research Council.
Sec. 263. Analysis of consolidation of basic research accounts of military departments.
Sec. 264. Change in reporting period from calendar year to fiscal year for annual report on certain contracts to colleges and universities.
Sec. 265. Aeronautical research and test capabilities assessment.

Subtitle F—Other Matters

Sec. 271. Advanced lithography program.
Sec. 272. Enhanced fiber optic guided missile (EFOG–M) system.
Sec. 273. States eligible for assistance under Defense Experimental Program To Stimulate Competitive Research.
Sec. 274. Cruise missile defense initiative.
Sec. 275. Modification to university research initiative support program.
Sec. 276. Manufacturing technology program.
Sec. 277. Five-year plan for consolidation of defense laboratories and test and evaluation centers.
Sec. 278. Limitation on T–38 avionics upgrade program.
Sec. 279. Global Positioning System.
Sec. 280. Revision of authority for providing Army support for the National Science Center for Communications and Electronics.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Transfer from National Defense Stockpile Transaction Fund.
Sec. 305. Civil Air Patrol.

Subtitle B—Depot-Level Activities

Sec. 311. Policy regarding performance of depot-level maintenance and repair for the Department of Defense.
Sec. 312. Management of depot employees.
Sec. 313. Extension of authority for aviation depots and naval shipyards to engage in defense-related production and services.
Sec. 314. Modification of notification requirement regarding use of core logistics functions waiver.

Subtitle C—Environmental Provisions

Sec. 321. Revision of requirements for agreements for services under environmental restoration program.
Sec. 322. Addition of amounts creditable to Defense Environmental Restoration Account.
Sec. 323. Use of Defense Environmental Restoration Account.
Sec. 324. Revision of authorities relating to restoration advisory boards.
Sec. 325. Discharges from vessels of the Armed Forces.

Subtitle D—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 331. Operation of commissary system.
Sec. 332. Limited release of commissary stores sales information to manufacturers, distributors, and other vendors doing business with Defense Commissary Agency.
Sec. 333. Economical distribution of distilled spirits by nonappropriated fund instrumentalities.
Sec. 334. Transportation by commissaries and exchanges to overseas locations.
Sec. 335. Demonstration project for uniform funding of morale, welfare, and recreation activities at certain military installations.
Sec. 336. Operation of combined exchange and commissary stores.
Sec. 337. Deferred payment programs of military exchanges.
Sec. 338. Availability of funds to offset expenses incurred by Army and Air Force Exchange Service on account of troop reductions in Europe.
Sec. 339. Study regarding improving efficiencies in operation of military exchanges and other morale, welfare, and recreation activities and commissary stores.
Sec. 340. Repeal of requirement to convert ships' stores to nonappropriated fund instrumentalities.
Sec. 341. Disposition of excess morale, welfare, and recreation funds.
Sec. 342. Clarification of entitlement to use of morale, welfare, and recreation facilities by members of reserve components and dependents.

Subtitle E—Performance of Functions by Private-Sector Sources

Sec. 351. Competitive procurement of printing and duplication services.
Sec. 352. Direct vendor delivery system for consumable inventory items of Department of Defense.
Sec. 353. Payroll, finance, and accounting functions of the Department of Defense.
Sec. 354. Demonstration program to identify overpayments made to vendors.
Sec. 355. Pilot program on private operation of defense dependents' schools.
Sec. 356. Program for improved travel process for the Department of Defense.
Sec. 357. Increased reliance on private-sector sources for commercial products and services.

Subtitle F—Miscellaneous Reviews, Studies, and Reports

Sec. 361. Quarterly readiness reports.
Sec. 362. Restatement of requirement for semiannual reports to Congress on transfers from high-priority readiness appropriations.
Sec. 363. Report regarding reduction of costs associated with contract management oversight.
Sec. 364. Reviews of management of inventory control points and Material Management Standard System.
Sec. 365. Report on private performance of certain functions performed by military aircraft.
Sec. 366. Strategy and report on automated information systems of Department of Defense.

Subtitle G—Other Matters

Sec. 371. Codification of Defense Business Operations Fund.
Sec. 372. Clarification of services and property that may be exchanged to benefit the historical collection of the Armed Forces.
Sec. 373. Financial management training.
Sec. 374. Permanent authority for use of proceeds from the sale of certain lost, abandoned, or unclaimed property.
Sec. 375. Sale of military clothing and subsistence and other supplies of the Navy and Marine Corps.
Sec. 376. Personnel services and logistical support for certain activities held on military installations.
Sec. 377. Retention of monetary awards.
Sec. 378. Provision of equipment and facilities to assist in emergency response actions.
Sec. 379. Report on Department of Defense military and civil defense preparedness to respond to emergencies resulting from a chemical, biological, radiological, or nuclear attack.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Temporary variation in DOPMA authorized end strength limitations for active duty Air Force and Navy officers in certain grades.
Sec. 403. Certain general and flag officers awaiting retirement not to be counted.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserves.
Sec. 413. Counting of certain active component personnel assigned in support of reserve component training.
Sec. 414. Increase in number of members in certain grades authorized to serve on active duty in support of the Reserves.
Sec. 415. Reserves on active duty in support of cooperative threat reduction programs not to be counted.
Sec. 416. Reserves on active duty for military-to-military contacts and comparable activities not to be counted.

Subtitle C—Military Training Student Loads

Sec. 421. Authorization of training student loads.

Subtitle D—Authorization of Appropriations

Sec. 431. Authorization of appropriations for military personnel.
Sec. 432. Authorization for increase in active-duty end strengths.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Joint officer management.
Sec. 502. Retired grade for officers in grades above major general and rear admiral.
Sec. 503. Wearing of insignia for higher grade before promotion.
Sec. 504. Authority to extend transition period for officers selected for early retirement.
Sec. 505. Army officer manning levels.
Sec. 506. Authority for medical department officers other than physicians to be appointed as Surgeon General.
Sec. 507. Deputy Judge Advocate General of the Air Force.
Sec. 508. Authority for temporary promotions for certain Navy lieutenants with critical skills.
Sec. 509. Retirement for years of service of Directors of Admissions of Military and Air Force academies.

Subtitle B—Matters Relating to Reserve Components

Sec. 511. Extension of certain Reserve officer management authorities.
Sec. 512. Mobilization income insurance program for members of Ready Reserve.
Sec. 513. Military technician full-time support program for Army and Air Force reserve components.
Sec. 514. Revisions to Army Guard Combat Reform Initiative to include Army Reserve under certain provisions and make certain revisions.
Sec. 515. Active duty associate unit responsibility.
Sec. 516. Leave for members of reserve components performing public safety duty.
Sec. 517. Department of Defense funding for National Guard participation in joint disaster and emergency assistance exercises.

Subtitle C—Decorations and Awards

Sec. 521. Award of Purple Heart to persons wounded while held as prisoners of war before April 25, 1962.
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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

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

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

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

SEC. 4. EXTENSION OF TIME FOR SUBMISSION OF REPORTS.

In the case of any provision of this Act, or any amendment made by a provision of this Act, requiring the submission of a report to Congress (or any committee of Congress), that report shall be submitted not later than the later of—

(1) the date established for submittal of the report in such provision or amendment; or

(2) the date that is 45 days after the date of the enactment of this Act.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement for the Army as follows:

(1) For aircraft, $1,558,805,000.

(2) For missiles, $865,555,000.

(3) For weapons and tracked combat vehicles, $1,652,745,000.

(4) For ammunition, $1,093,991,000.

(5) For other procurement, $2,763,443,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement for the Navy as follows:

(1) For aircraft, $4,572,394,000.

(2) For weapons, including missiles and torpedoes, $1,659,827,000.

(3) For shipbuilding and conversion, $6,643,958,000.

(4) For other procurement, $2,414,771,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement for the Marine Corps in the amount of $458,947,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Navy and the Marine Corps in the amount of $430,053,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement for the Air Force as follows:

(1) For aircraft, $7,349,783,000.

(2) For missiles, $2,938,883,000.

(3) For ammunition, $343,848,000.

(4) For other procurement, $6,268,430,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1996 for Defense-wide procurement in the amount of $2,124,379,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $160,000,000.

(2) For the Air National Guard, $255,000,000.

(3) For the Army Reserve, $85,700,000.

(4) For the Naval Reserve, $67,000,000.

(5) For the Air Force Reserve, $135,600,000.

(6) For the Marine Corps Reserve, $73,700,000.

SEC. 106. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement for the Inspector General of the Department of Defense in the amount of $1,000,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1996 the amount of $672,250,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with

section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

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

SEC. 108. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $288,033,000.

Subtitle B—Army Programs

SEC. 111. PROCUREMENT OF OH–58D ARMED KIOWA WARRIOR HELICOPTERS.

The prohibition in section 133(a)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1383) does not apply to the obligation of funds in amounts not to exceed $140,000,000 for the procurement of not more than 20 OH–58D Armed Kiowa Warrior aircraft from funds appropriated for fiscal year 1996 pursuant to section 101.

SEC. 112. REPEAL OF REQUIREMENTS FOR ARMORED VEHICLE UPGRADES.

Subsection (j) of section 21 of the Arms Export Control Act (22 U.S.C. 2761) is repealed.

SEC. 113. MULTIYEAR PROCUREMENT OF HELICOPTERS.

The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into multiyear procurement contracts for procurement of the following:

(1) AH–64D Longbow Apache attack helicopters.

(2) UH–60 Black Hawk utility helicopters.

SEC. 114. REPORT ON AH–64D ENGINE UPGRADES.

No later than February 1, 1996, the Secretary of the Army shall submit to Congress a report on plans to procure T700–701C engine upgrade kits for Army AH–64D helicopters. The report shall include—

(1) a plan to provide for the upgrade of all Army AH–64D helicopters with T700–701C engine kits commencing in fiscal year 1996; and

(2) a detailed timeline and statement of funding requirements for the engine upgrade program described in paragraph (1).

SEC. 115. REQUIREMENT FOR USE OF PREVIOUSLY AUTHORIZED MULTIYEAR PROCUREMENT AUTHORITY FOR ARMY SMALL ARMS PROCUREMENT.

(a) REQUIREMENT.—The Secretary of the Army (subject to the provision of authority in an appropriations Act) shall enter into a multiyear procurement contract during fiscal year 1997 in accordance with section 115(b)(2) of the National Defense Authorization for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2681).

(b) TECHNICAL AMENDMENT.—Section 115(b)(1) of the National Defense Authorization for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2681) is amended by striking out ''2306(h)'' and inserting in lieu thereof ''2306b''.

Subtitle C—Navy Programs

SEC. 131. NUCLEAR ATTACK SUBMARINES.

(a) AMOUNTS AUTHORIZED.—(1) Of the amount authorized by section 102 to be appropriated for Shipbuilding and Conversion, Navy, for fiscal year 1996—

(A) $700,000,000 is available for construction of the third vessel (designated SSN–23) in the Seawolf attack submarine class, which shall be the final vessel in that class; and

(B) $804,498,000 is available for long-lead and advance construction and procurement of components for construction of the fiscal year 1998 and fiscal year 1999 submarines (previously designated by the Navy as the New Attack Submarine), of which—

(i) $704,498,000 shall be available for long-lead and advance construction and procurement for the fiscal year 1998 submarine, which shall be built by Electric Boat Division; and

(ii) $100,000,000 shall be available for long-lead and advance construction and procurement for the fiscal year 1999 submarine, which shall be built by Newport News Shipbuilding.

(2) Of the amount authorized by section 201(2), $10,000,000 shall be available only for participation of Newport News Shipbuilding in the design of the submarine previously designated by the Navy as the New Attack Submarine.

(b) COMPETITION, REPORT, AND BUDGET REVISION LIMITATIONS.—(1) Of the amounts specified in subsection (a)(1), not more than $200,000,000 may be obligated or expended until the Secretary of the Navy certifies in writing to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that procurement of nuclear attack submarines to be constructed beginning—

(A) after fiscal year 1999, or

(B) if four submarines are procured as provided for in the plan described in subsection (c), after fiscal year 2001,

will be under one or more contracts that are entered into after competition between potential competitors (as defined in subsection (k)) in which the Secretary solicits competitive proposals and awards the contract or contracts on the basis of price.

(2) Of the amounts specified in subsection (a)(1), not more than $1,000,000,000 may be obligated or expended until the Secretary of Defense, not later than March 15, 1996, accomplishes each of the following:

(A) Submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives in accordance with subsection (c) the plan required by that subsection for a program to produce a more capable, less expensive nuclear attack submarine than the submarine design previously designated by the Navy as the New Attack Submarine.

(B) Notwithstanding any other provision of law, or the funding level in the President's budget for each year after fiscal year 1996, the Under Secretary of Defense (Comptroller) shall incorporate the costs of the plan required by subsection (c) in the Future Years Defense Program (FYDP) even if the total cost of that Program exceeds the President's budget.

(C) Directs that the Under Secretary of Defense for Acquisition and Technology conduct oversight over the development and improvement of the nuclear attack submarine program of the Navy. Officials of the Department of the Navy exercising management oversight of the program shall report to the Under Secretary of Defense for Acquisition and Technology with respect to that program.

(c) PLAN FOR FISCAL YEAR 1998, 1999, 2000, AND 2001 SUBMARINES.—(1) The Secretary of Defense shall, not later than March 15, 1996, develop (and submit to the committees specified in subsection (b)(2)(A)) a detailed plan for development of a program that will lead to production of a more capable, less expensive submarine than the submarine previously designated as the New Attack Submarine.

(2) As part of such plan, the Secretary shall provide for a program for the design, development, and procurement of four nuclear attack submarines to be procured during fiscal years 1998 through 2001, the purpose of which shall be to develop and demonstrate new technologies that will result in each successive submarine of those four being a more capable and more affordable submarine than the submarine that preceded it. The program shall be structured so that—

(A) one of the four submarines is to be constructed with funds appropriated for each fiscal year from fiscal year 1998 through fiscal year 2001;

(B) in order to ensure flexibility for innovation, the fiscal year 1998 and the fiscal year 2000 submarines are to be constructed by the Electric Boat Division and the fiscal year 1999 and the fiscal year 2001 submarines are to be constructed by Newport News Shipbuilding;

(C) the design designated by the Navy for the submarine previously designated as the New Attack Submarine will be used as the base design by both contractors;

(D) each contractor shall be called upon to propose improvements, including design improvements, for each successive submarine as new and better technology is demonstrated and matures so that—

(i) each successive submarine is more capable and more affordable; and

(ii) the design for a future class of nuclear attack submarines will incorporate the latest, best, and most affordable technology; and

(E) the fifth and subsequent nuclear attack submarines to be built after the SSN–23 submarine shall be procured as required by subsection (b)(1).

(3) The plan under paragraph (1) shall—

(A) set forth a program to accomplish the design, development, and construction of the four submarines taking maximum advantage of a streamlined acquisition process, as provided under subsection (d);

(B) culminate in selection of a design for a next submarine for serial production not earlier than fiscal year 2003, with such submarine to be procured as required by subsection (b)(1);

(C) identify advanced technologies that are in various phases of research and development, as well as those that are commercially available off-the-shelf, that are candidates to be incorporated into the plan to design, develop, and procure the submarines;

(D) designate the fifth submarine to be procured as the lead ship in the next generation submarine class, unless the Secretary of the Navy, in consultation with the special submarine review panel described in subsection (f), determines that more submarines should be built before the design of the new class of submarines is fixed, in which case each such additional submarine shall be procured in the same manner as is required by subsection (b)(1); and

(E) identify the impact of the submarine program described in paragraph (1) on the remainder of the appropriation account known as ''Shipbuilding and Conversion, Navy'', as such impact relates to—

(i) force structure levels required by the October 1993 Department of Defense report entitled ''Report on the Bottom-Up Review'';

(ii) force structure levels required by the 1995 report on the Surface Ship Combatant Study that was carried out for the Department of Defense; and

(iii) the funding requirements for submarine construction, as a percentage of the total ship construction account, for each fiscal year throughout the FYDP.

(4) As part of such plan, the Secretary shall provide—

(A) cost estimates and schedules for developing new technologies that may be used to make submarines more capable and more affordable; and

(B) an analysis of significant risks associated with fielding the new technologies on the schedule proposed by the Secretary and significant increased risks that are likely to be incurred by accelerating that schedule.

(d) STREAMLINED ACQUISITION PROCESS.—The Secretary of Defense shall prescribe and

use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of the submarine program under this section.

(e) ANNUAL REVISIONS TO PLAN.—The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives an annual update to the plan required to be submitted under subsection (b). Each such update shall be submitted concurrent with the President's budget submission to Congress for each of fiscal years 1998 through 2002.

(f) SPECIAL SUBMARINE REVIEW PANEL.—(1) The plan under subsection (c) and each annual update under subsection (e) shall be reviewed by a special bipartisan congressional panel working with the Navy. The panel shall consist of three members of the Committee on Armed Services of the Senate, who shall be designated by the chairman of that committee, and three members of the Committee on National Security of the House of Representatives, who shall be designated by the chairman of that committee. The members of the panel shall be briefed by the Secretary of the Navy on the status of the submarine modernization program and the status of submarine-related research and development under this section.

(2) Not later than May 1 of each year, the panel shall report to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives on the panel's findings and recommendations regarding the progress of the Secretary in procuring a more capable, less expensive submarine. The panel may recommend any funding adjustments it believes appropriate to achieve this objective.

(g) LINKAGE OF FISCAL YEAR 1998 AND 1999 SUBMARINES.—Funds referred to in subsection (a)(1)(B) that are available for the fiscal year 1998 and fiscal year 1999 submarines under this section may not be expended during fiscal year 1996 for the fiscal year 1998 submarine (other than for design) unless funds are obligated or expended during such fiscal year for a contract in support of procurement of the fiscal year 1999 submarine.

(h) CONTRACTS AUTHORIZED.—The Secretary of the Navy is authorized, using funds available pursuant to paragraph (1)(B) of subsection (a), to enter into contracts with Electric Boat Division and Newport News Shipbuilding, and suppliers of components, during fiscal year 1996 for—

(1) the procurement of long-lead components for the fiscal year 1998 submarine and the fiscal year 1999 submarine under this section; and

(2) advance construction of such components and other components for such submarines.

(i) ADVANCED RESEARCH PROJECTS AGENCY DEVELOPMENT OF ADVANCED TECHNOLOGIES.—(1) Of the amount provided in section 201(4) for the Advanced Research Projects Agency, $100,000,000 is available only for development and demonstration of advanced technologies for incorporation into the submarines constructed as part of the plan developed under subsection (c). Such advanced technologies shall include the following:

(A) Electric drive.

(B) Hydrodynamic quieting.

(C) Ship control automation.

(D) Solid-state power electronics.

(E) Wake reduction technologies.

(F) Superconductor technologies.

(G) Torpedo defense technologies.

(H) Advanced control concept.

(I) Fuel cell technologies.

(J) Propulsors.

(2) The Director of the Advanced Research Projects Agency shall implement a rapid prototype acquisition strategy for both land-based and at-sea subsystem and system demonstrations of advanced technologies under paragraph (1). Such acquisition strategy shall be developed and implemented in concert with Electric Boat Division and Newport News Shipbuilding and the Navy.

(j) REFERENCES TO CONTRACTORS.—For purposes of this section—

(1) the contractor referred to as ''Electric Boat Division'' is the Electric Boat Division of the General Dynamics Corporation; and

(2) the contractor referred to as ''Newport News Shipbuilding'' is the Newport News Shipbuilding and Drydock Company.

(k) POTENTIAL COMPETITOR DEFINED.—For purposes of this section, the term ''potential competitor'' means any source to which the Secretary of the Navy has awarded, within 10 years before the date of the enactment of this Act, a contract or contracts to construct one or more nuclear attack submarines.

SEC. 132. RESEARCH FOR ADVANCED SUBMARINE TECHNOLOGY.

Of the amount appropriated for fiscal year 1996 for the National Defense Sealift Fund, $50,000,000 shall be available only for the Director of the Advanced Research Projects Agency for advanced submarine technology activities.

SEC. 133. COST LIMITATION FOR SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the SSN–21, SSN–22, and SSN–23 Seawolf class submarines may not exceed $7,223,659,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation after September 30, 1995.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 1995.

(c) REPEAL OF SUPERSEDED PROVISION.—Section 122 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2682) is repealed.

SEC. 134. REPEAL OF PROHIBITION ON BACKFIT OF TRIDENT SUBMARINES.

Section 124 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2683) is repealed.

SEC. 135. ARLEIGH BURKE CLASS DESTROYER PROGRAM.

(a) AUTHORIZATION FOR PROCUREMENT OF SIX VESSELS.—The Secretary of the Navy is authorized to construct six Arleigh Burke class destroyers in accordance with this section. Within the amount authorized to be appropriated pursuant to section 102(a)(3), $2,169,257,000 is authorized to be appropriated for construction (including advance procurement) for the Arleigh Burke class destroyers.

(b) CONTRACTS.—(1) The Secretary is authorized to enter into contracts in fiscal year 1996 for the construction of three Arleigh Burke class destroyers.

(2) The Secretary is authorized, in fiscal year 1997, to enter into contracts for the construction of the other three Arleigh Burke class destroyers covered by subsection (a), subject to the availability of appropriations for such destroyers.

(3) In awarding contracts for the six vessels covered by subsection (a), the Secretary shall continue the contract award pattern and sequence used by the Secretary for the procurement of Arleigh Burke class destroyers during fiscal years 1994 and 1995.

(4) A contract for construction of a vessel or vessels that is entered into in accordance with paragraph (1) shall include a clause that limits the liability of the Government to the contractor for any termination of the contract. The maximum liability of the Government under the clause shall be the amount appropriated for the vessel or vessels.

(c) USE OF AVAILABLE FUNDS.—(1) Subject to paragraph (2), the Secretary may take appropriate actions to use for full funding of a contract entered into in accordance with subsection (b)—

(A) any funds that, having been appropriated for shipbuilding and conversion programs of the Navy other than Arleigh Burke class destroyer programs pursuant to the authorization in section 102(a)(3), become excess to the needs of the Navy for such programs by reason of cost savings achieved for such programs;

(B) any unobligated funds that are available to the Secretary for shipbuilding and conversion for any fiscal year before fiscal year 1996; and

(C) any funds that are appropriated after the date of the enactment of the Department of Defense Appropriations Act, 1996, to complete the full funding of the contract.

(2) The Secretary may not, in the exercise of authority provided in subparagraph (A) or (B) of paragraph (1), obligate funds for a contract entered into in accordance with subsection (b) until 30 days after the date on which the Secretary submits to the congressional defense committees in writing a notification of the intent to obligate the funds. The notification shall set forth the source or sources of the funds and the amount of the funds from each such source that is to be so obligated.

SEC. 136. ACQUISITION PROGRAM FOR CRASH ATTENUATING SEATS.

(a) PROGRAM AUTHORIZED.—The Secretary of the Navy shall establish a program to procure for, and install in, H–53E military transport helicopters commercially developed, energy absorbing, crash attenuating seats that the Secretary determines are consistent with military specifications for seats for such helicopters.

(b) FUNDING.—To the extent provided in appropriations Acts, of the unobligated balance of amounts appropriated for the Legacy Resource Management Program pursuant to the authorization of appropriations in section 301(5) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2706), not more than $10,000,000 shall be available to the Secretary of the Navy, by transfer to the appropriate accounts, for carrying out the program authorized in subsection (a).

SEC. 137. T–39N TRAINER AIRCRAFT.

(a) LIMITATION.—The Secretary of the Navy may not enter into a contract, using funds appropriated for fiscal year 1996 for procurement of aircraft for the Navy, for the acquisition of the aircraft described in subsection (b) until 60 days after the date on which the Under Secretary of Defense for Acquisition and Technology submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives—

(1) an analysis of the proposed acquisition of such aircraft; and

(2) a certification that the proposed acquisition during fiscal year 1996 (A) is in the best interest of the Government, and (B) is the most cost effective means of meeting the requirements of the Navy for aircraft for use in the training of naval flight officers.

(b) COVERED AIRCRAFT.—Subsection (a) applies to certain T–39 trainer aircraft that as of November 1, 1995 (1) are used by the Navy under a lease arrangement for the training of

naval flight officers, and (2) are offered for sale to the Government.

SEC. 138. PIONEER UNMANNED AERIAL VEHICLE PROGRAM.

Not more than one-sixth of the amount appropriated pursuant to this Act for the activities and operations of the Unmanned Aerial Vehicle Joint Program Office (UAV–JPO), and none of the unobligated balances of funds appropriated for fiscal years before fiscal year 1996 for the activities and operations of such office, may be obligated until the Secretary of the Navy certifies to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that funds have been obligated to equip nine Pioneer Unmanned Aerial Vehicle systems with the Common Automatic Landing and Recovery System (CARS).

Subtitle D—Air Force Programs

SEC. 141. B–2 AIRCRAFT PROGRAM.

(a) REPEAL OF LIMITATIONS.—The following provisions of law are repealed:

(1) Section 151(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2339).

(2) Sections 131(c) and 131(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1569).

(3) Section 133(e) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2688).

(b) CONVERSION OF LIMITATION TO ANNUAL REPORT REQUIREMENT.—Section 112 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1373) is amended—

(1) by striking out subsection (a);

(2) by striking out the matter in subsection (b) preceding paragraph (1) and inserting in lieu thereof the following:

''(a) ANNUAL REPORTING REQUIREMENT.—Not later than March 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report that sets forth the finding of the Secretary (as of January 1 of such year) on each of the following matters:'';

(3) by striking out ''That'' in paragraphs (1), (2), (3), (4), and (5) and inserting in lieu thereof ''Whether'';

(4) in paragraph (1), by striking out ''latest'' and all that follows through ''100–180'' and inserting in lieu thereof ''Requirements Correlation Matrix found in the user-defined Operational Requirements Document (as contained in Attachment B to a letter from the Secretary of Defense to Congress dated October 14, 1993)'';

(5) in paragraph (3), by striking out ''congressional defense'';

(6) in paragraph (4), by striking out ''such certification to be submitted'';

(7) by adding at the end the following:

''(b) FIRST REPORT.—The Secretary shall submit the first annual report under subsection (a) not later than March 1, 1996.''; and

(8) by amending the section heading to read as follows:

''SEC. 112. ANNUAL REPORT ON B–2 BOMBER AIRCRAFT PROGRAM.''.

(c) REPEAL OF CONDITION ON OBLIGATION OF FUNDS IN ENHANCED BOMBER CAPABILITY FUND.—Section 133(d)(3) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2688) is amended by striking out ''If,'' and all that follows through ''bombers, the Secretary'' and inserting in lieu thereof ''The Secretary''.

SEC. 142. PROCUREMENT OF B–2 BOMBERS.

Of the amount authorized to be appropriated by section 103 for the B–2 bomber procurement program, not more than $279,921,000 may be obligated or expended before March 31, 1996.

SEC. 143. MC–130H AIRCRAFT PROGRAM.

The limitation on the obligation of funds for payment of an award fee and the procurement of contractor-furnished equipment for the MC–130H Combat Talon aircraft set forth in section 161(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1388) shall cease to apply upon determination by the Director of Operational Test and Evaluation (and submission of a certification of that determination to the congressional defense committees) that, based on the operational test and evaluation and the analysis conducted on that aircraft to the date of that determination, such aircraft is operationally effective and meets the needs of its intended users.

Subtitle E—Chemical Demilitarization Program

SEC. 151. REPEAL OF REQUIREMENT TO PROCEED EXPEDITIOUSLY WITH DEVELOPMENT OF CHEMICAL DEMILITARIZATION CRYOFRACTURE FACILITY AT TOOELE ARMY DEPOT, UTAH.

Subsection (a) of section 173 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1393) is repealed.

SEC. 152. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

(a) IN GENERAL.—The Secretary of Defense shall proceed with the program for destruction of the chemical munitions stockpile of the Department of Defense while maintaining the maximum protection of the environment, the general public, and the personnel involved in the actual destruction of the munitions. In carrying out such program, the Secretary shall use technologies and procedures that will minimize the risk to the public at each site.

(b) INITIATION OF DEMILITARIZATION OPERATIONS.—The Secretary of Defense may not initiate destruction of the chemical munitions stockpile stored at a site until the following support measures are in place:

(1) Support measures that are required by Department of Defense and Army chemical surety and security program regulations.

(2) Support measures that are required by the general and site chemical munitions demilitarization plans specific to that installation.

(3) Support measures that are required by the permits required by the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Clean Air Act (42 U.S.C. 7401 et seq.) for chemical munitions demilitarization operations at that installation, as approved by the appropriate State regulatory agencies.

(c) ASSESSMENT OF ALTERNATIVES.—(1) The Secretary of Defense shall conduct an assessment of the current chemical demilitarization program and of measures that could be taken to reduce significantly the total cost of the program, while ensuring maximum protection of the general public, the personnel involved in the demilitarization program, and the environment. The measures considered shall be limited to those that would minimize the risk to the public. The assessment shall be conducted without regard to any limitation that would otherwise apply to the conduct of such an assessment under any provision of law.

(2) The assessment shall be conducted in coordination with the National Research Council.

(3) Based on the results of the assessment, the Secretary shall develop appropriate recommendations for revision of the chemical demilitarization program.

(4) Not later than March 1, 1996, the Secretary of Defense shall submit to the congressional defense committees an interim report assessing the current status of the chemical stockpile demilitarization program, including the results of the Army's analysis of the physical and chemical integrity of the stockpile and implications for the chemical demilitarization program, and providing recommendations for revisions to that program that have been included in the budget request of the Department of Defense for fiscal year 1997. The Secretary shall submit to the congressional defense committees with the submission of the budget request of the Department of Defense for fiscal year 1998 a final report on the assessment conducted in accordance with paragraph (1) and recommendations for revision to the program, including an assessment of alternative demilitarization technologies and processes to the baseline incineration process and potential reconfiguration of the stockpile that should be incorporated in the program.

(d) ASSISTANCE FOR CHEMICAL WEAPONS STOCKPILE COMMUNITIES AFFECTED BY BASE CLOSURE.—(1) The Secretary of Defense shall review and evaluate issues associated with closure and reutilization of Department of Defense facilities co-located with continuing chemical stockpile and chemical demilitarization operations.

(2) The review shall include the following:

(A) An analysis of the economic impacts on these communities and the unique reuse problems facing local communities associated with ongoing chemical weapons programs.

(B) Recommendations of the Secretary on methods for expeditious and cost-effective transfer or lease of these facilities to local communities for reuse by those communities.

(3) The Secretary shall submit to the congressional defense committees a report on the review and evaluation under this subsection. The report shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 153. ADMINISTRATION OF CHEMICAL DEMILITARIZATION PROGRAM.

(a) TRAVEL FUNDING FOR MEMBERS OF CHEMICAL DEMILITARIZATION CITIZENS' ADVISORY COMMISSIONS.—Section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note) is amended to read as follows:

''(g) PAY AND EXPENSES.—Members of each commission shall receive no pay for their involvement in the activities of their commissions. Funds appropriated for the Chemical Stockpile Demilitarization Program may be used for travel and associated travel costs for Citizens' Advisory Commissioners, when such travel is conducted at the invitation of the Assistant Secretary of the Army (Research, Development, and Acquisition).''.

(b) QUARTERLY REPORT CONCERNING TRAVEL FUNDING FOR CITIZENS' ADVISORY COMMISSIONERS.—Section 1412(g) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(g)), is amended—

(1) by striking out ''(g) ANNUAL REPORT.—'' and inserting in lieu thereof ''(g) PERIODIC REPORTS.—'';

(2) in paragraph (2)—

(A) by striking out ''Each such report shall con- tain—'' and inserting in lieu thereof ''Each annual report shall contain—''

(B) in subparagraph (B)—

(i) by striking out ''and'' at the end of clause (iv);

(ii) by striking out the period at the end of clause (v) and inserting in lieu thereof ''; and''; and

(iii) by adding at the end the following:

''(vi) travel and associated travel costs for Citizens' Advisory Commissioners under section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note).'';

(3) by redesignating paragraph (3) as paragraph (4);

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

''(3) The Secretary shall transmit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives a quarterly report containing an accounting of all funds expended (during the quarter covered by the report) for travel and associated travel costs for Citizens' Advisory Commissioners under section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note). The quarterly report for the final quarter of the period covered by a report under paragraph (1) may be included in that report.''; and

(5) in paragraph (4), as redesignated by paragraph (3)—

(A) by striking out ''this subsection'' and inserting in lieu thereof ''paragraph (1)''; and

(B) by adding at the end the following: ''No quarterly report is required under paragraph (3) after the transmittal of the final report under paragraph (1).''.

(c) DIRECTOR OF PROGRAM.—Section 1412(e)(3) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(e)(3)), is amended by inserting ''or civilian equivalent'' after ''general officer''.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $4,737,581,000.

(2) For the Navy, $8,474,783,000.

(3) For the Air Force, $12,914,868,000.

(4) For Defense-wide activities, $9,693,180,000, of which—

(A) $251,082,000 is authorized for the activities of the Director, Test and Evaluation; and

(B) $22,587,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) FISCAL YEAR 1996.—Of the amounts authorized to be appropriated by section 201, $4,088,879,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term ''basic research and exploratory development'' means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. MODIFICATIONS TO STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

(a) COUNCIL MEMBERSHIP.—Section 2902(b) of title 10, United States Code, is amended—

(1) by striking out ''thirteen'' and inserting in lieu thereof ''12'';

(2) by striking out paragraph (3);

(3) by redesignating paragraphs (4), (5), (6), (7), (8), (9), and (10) as paragraphs (3), (4), (5), (6), (7), (8), and (9), respectively; and

(4) in paragraph (8), as redesignated, by striking out '', who shall be nonvoting members''.

(b) ANNUAL REPORT.—(1) Section 2902 of such title is amended in subsection (d)—

(A) by striking out paragraph (3) and inserting in lieu thereof the following:

''(3) To prepare an annual report that contains the following:

''(A) A description of activities of the strategic environmental research and development program carried out during the fiscal year before the fiscal year in which the report is prepared.

''(B) A general outline of the activities planned for the program during the fiscal year in which the report is prepared.

''(C) A summary of projects continued from the fiscal year before the fiscal year in which the report is prepared and projects expected to be started during the fiscal year in which the report is prepared and during the following fiscal year.''; and

(B) in paragraph (4), by striking out ''Federal Coordinating Council on Science, Engineering, and Technology'' and inserting in lieu thereof ''National Science and Technology Council''.

(2) Section 2902 of such title is further amended—

(A) by striking out subsections (f) and (h);

(B) by redesignating subsection (g) as subsection (f); and

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

''(g)(1) Not later than February 1 of each year, the Council shall submit to the Secretary of Defense the annual report prepared pursuant to subsection (d)(3).

''(2) Not later than March 15 of each year, the Secretary of Defense shall submit such annual report to Congress, along with such comments as the Secretary considers appropriate.''.

(3) The amendments made by this subsection shall apply with respect to the annual report prepared during fiscal year 1997 and each fiscal year thereafter.

(c) POLICIES AND PROCEDURES.—Section 2902(e) of such title is amended in paragraph (3) by striking out ''programs, particularly'' and all that follows through the end of the paragraph and inserting in lieu thereof ''programs;''.

(d) COMPETITIVE PROCEDURES.—Section 2903(c) of such title is amended—

(1) by striking out ''or'' after ''contracts'' and inserting in lieu thereof ''using competitive procedures. The Executive Director may enter into''; and

(2) by striking out ''law, except that'' and inserting in lieu thereof ''law. In either case,''.

(e) CONTINUATION OF EXPIRING AUTHORITY.—(1) Section 2903(d) of such title is amended in paragraph (2) by striking out the last sentence.

(2) The amendment made by paragraph (1) shall take effect as of September 29, 1995.

SEC. 204. DEFENSE DUAL USE TECHNOLOGY INITIATIVE.

(a) FISCAL YEAR 1996 AMOUNT.—Of the amount authorized to be appropriated in section 201(4), $195,000,000 shall be available for the defense dual use technology initiative conducted under chapter 148 of title 10, United States Code.

(b) AVAILABILITY OF FUNDS FOR EXISTING TECHNOLOGY REINVESTMENT PROJECTS.—The Secretary of Defense shall use amounts made available for the defense dual use technology initiative under subsection (a) only for the purpose of continuing or completing technology reinvestment projects that were initiated before October 1, 1995.

(c) NOTICE CONCERNING PROJECTS TO BE CARRIED OUT.—Of the amounts made available for the defense dual use technology initiative under subsection (a)—

(1) $145,000,000 shall be available for obligation only after the date on which the Secretary of Defense notifies the congressional defense committees regarding the defense reinvestment projects to be funded using such funds; and

(2) the remaining $50,000,000 shall be available for obligation only after the date on which the Secretary of Defense certifies to the congressional defense committees that the defense reinvestment projects to be funded using such funds have been determined by the Joint Requirements Oversight Council to be of significant military priority.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. SPACE LAUNCH MODERNIZATION.

(a) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated pursuant to the authorization in section 201(3), $50,000,000 shall be available for a competitive reusable rocket technology program.

(b) LIMITATION.—Funds made available pursuant to subsection (a)(1) may be obligated only to the extent that the fiscal year 1996 current operating plan of the National Aeronautics and Space Administration allocates at least an equal amount for its Reusable Space Launch program.

SEC. 212. TACTICAL MANNED RECONNAISSANCE.

(a) LIMITATION.—None of the amounts appropriated or otherwise made available pursuant to an authorization in this Act may be used by the Secretary of the Air Force to conduct research, development, test, or evaluation for a replacement aircraft, pod, or sensor payload for the tactical manned reconnaissance mission until the report required by subsection (b) is submitted to the congressional defense committees.

(b) REPORT.—The Secretary of the Air Force shall submit to the congressional defense committees a report setting forth in detail information about the manner in which the funds authorized by section 201 of this Act and section 201 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2690) are planned to be used during fiscal year 1996 for research, development, test, and evaluation for the Air Force tactical manned reconnaissance mission. At a minimum, the report shall include the sources, by program element, of the funds and the purposes for which the funds are planned to be used.

SEC. 213. JOINT ADVANCED STRIKE TECHNOLOGY (JAST) PROGRAM.

(a) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated pursuant to the authorizations in section 201, $200,156,000 shall be available for the Joint Advanced Strike Technology (JAST) program. Of that amount—

(1) $83,795,000 shall be available for program element 63800N in the budget of the Department of Defense for fiscal year 1996;

(2) $85,686,000 shall be available for program element 63800F in such budget; and

(3) $30,675,000 shall be available for program element 63800E in such budget.

(b) ADDITIONAL ALLOCATION.—Of the amounts made available under paragraphs (1), (2), and (3) of subsection (a)—

(1) $25,000,000 shall be available from the amount authorized to be appropriated pursuant to the authorization in section 201(2) for the conduct, during fiscal year 1996, of a 6-month program definition phase for the A/F117X, an F–117 fighter aircraft modified for use by the Navy as a long-range, medium attack aircraft; and

(2) $7,000,000 shall be available to provide for competitive engine concepts.

(c) LIMITATION.—Not more than 75 percent of the amount appropriated for the Joint Advanced Strike Technology program pursuant to the authorizations in section 201 may be obligated until a period of 30 days has expired after the report required by subsection (d) is submitted to the congressional defense committees.

(d) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report, in unclassified and classified forms, not later than March 1, 1996, that sets forth in detail the following information for the period 1997 through 2005:

(1) The total joint requirement, assuming the capability to successfully conduct two nearly simultaneous major regional contingencies, for the following:

(A) Numbers of bombers, tactical combat aircraft, and attack helicopters and the characteristics required of those aircraft in terms of capabilities, range, and low-observability.

(B) Surface- and air-launched standoff precision guided munitions.

(C) Cruise missiles.

(D) Ground-based systems, such as the Extended Range-Multiple Launch Rocket System and the Army Tactical Missile System (ATACMS), for joint warfighting capability.

(2) The warning time assumptions for two nearly simultaneous major regional contingencies, and the effects on future tactical attack/fighter aircraft requirements using other warning time assumptions.

(3) The requirements that exist for the Joint Advanced Strike Technology program that cannot be met by existing aircraft or by those in development.

SEC. 214. DEVELOPMENT OF LASER PROGRAM.

Of the amount authorized to be appropriated by section 201(2), $9,000,000 shall be used for the development by the Naval High Energy Laser Office of a continuous wave, superconducting radio frequency free electron laser program.

SEC. 215. NAVY MINE COUNTERMEASURES PROGRAM.

Section 216(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1317) is amended—

(1) by striking out ''Director, Defense Research and Engineering'' and inserting in lieu thereof ''Under Secretary of Defense for Acquisition and Technology''; and

(2) by striking out ''fiscal years 1995 through 1999'' and inserting in lieu thereof ''fiscal years 1996 through 1999''.

SEC. 216. SPACE-BASED INFRARED SYSTEM.

(a) PROGRAM BASELINE.—The Secretary of Defense shall establish a program baseline for the Space-Based Infrared System. Such baseline shall—

(1) include—

(A) program cost and an estimate of the funds required for development and acquisition activities for each fiscal year in which such activities are planned to be carried out;

(B) a comprehensive schedule with program milestones and exit criteria; and

(C) optimized performance parameters for each segment of an integrated space-based infrared system;

(2) be structured to achieve initial operational capability of the low earth orbit space segment (the Space and Missile Tracking System) in fiscal year 2003, with a first launch of Block I satellites in fiscal year 2002;

(3) ensure integration of the Space and Missile Tracking System into the architecture of the Space-Based Infrared System; and

(4) ensure that the performance parameters of all space segment components are selected so as to optimize the performance of the Space-Based Infrared System while minimizing unnecessary redundancy and cost.

(b) REPORT ON PROGRAM BASELINE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report, in classified and unclassified forms as necessary, on the program baseline established under subsection (a).

(c) ESTABLISHMENT OF PROGRAM ELEMENTS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 1996 (as submitted in the budget of the President under section 1105(a) of title 31, United States Code), the amount requested for the Space-Based Infrared System shall be set forth in accordance with the following program elements:

(1) Space Segment High.

(2) Space Segment Low (Space and Missile Tracking System).

(3) Ground Segment.

(d) FUNDING FOR FISCAL YEAR 1996.—Of the amounts authorized to be appropriated pursuant to section 201(3) for fiscal year 1996, or otherwise made available to the Department of Defense for fiscal year 1996, the following amounts shall be available for the Space-Based Infrared System:

(1) $265,744,000 for demonstration and validation, of which $249,824,000 shall be available for the Space and Missile Tracking System.

(2) $162,219,000 for engineering and manufacturing development, of which $9,400,000 shall be available for the Miniature Sensor Technology Integration program.

SEC. 217. DEFENSE NUCLEAR AGENCY PROGRAMS.

(a) AGENCY FUNDING.—Of the amounts authorized to be appropriated to the Department of Defense in section 201, $241,703,000 shall be available for the Defense Nuclear Agency.

(b) TUNNEL CHARACTERIZATION AND NEUTRALIZATION PROGRAM.—Of the amount made available under subsection (a), $3,000,000 shall be available for a tunnel characterization and neutralization program to be managed by the Defense Nuclear Agency as part of the counterproliferation activities of the Department of Defense.

(c) LONG-TERM RADIATION TOLERANT MICROELECTRONICS PROGRAM.—(1) Of the amount made available under subsection (a), $6,000,000 shall be available for the establishment of a long-term radiation tolerant microelectronics program to be managed by the Defense Nuclear Agency for the purposes of—

(A) providing for the development of affordable and effective hardening technologies and for incorporation of such technologies into systems;

(B) sustaining the supporting industrial base; and

(C) ensuring that a use of a nuclear weapon in regional threat scenarios does not interrupt or defeat the continued operability of systems of the Armed Forces exposed to the combined effects of radiation emitted by the weapon.

(2) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on how the long-term radiation tolerant microelectronics program is to be conducted and funded in the fiscal years after fiscal year 1996 that are covered by the future-years defense program submitted to Congress in 1995.

(d) THERMIONICS PROGRAM.—Of the amount made available under subsection (a), $10,000,000 shall be available for the thermionics program, to be managed by the Defense Nuclear Agency.

(e) ELECTROTHERMAL GUN TECHNOLOGY PROGRAM.—Of the amount made available under subsection (a), $4,000,000 shall be available for the electrothermal gun technology program of the Defense Nuclear Agency.

(f) COUNTERTERROR EXPLOSIVES RESEARCH PROGRAM.—Of the amount made available under subsection (a), $4,000,000 shall be available for the counterterror explosives research program of the Defense Nuclear Agency.

(g) TRANSFER OF UNOBLIGATED BALANCE.—The Secretary of Defense shall transfer to the Defense Nuclear Agency, to be available for the thermionics program, an amount not to exceed $12,000,000 from the unobligated balance of funds authorized and appropriated for research, development, test, and evaluation for fiscal year 1995 for the Air Force for the Advanced Weapons Program.

SEC. 218. COUNTERPROLIFERATION SUPPORT PROGRAM.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Defense under section 201(4), $138,237,000 shall be available for the Counterproliferation Support Program, of which $30,000,000 shall be available for a tactical antisatellite technologies program.

(b) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1996 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1845). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations transferred under the authority of this subsection may not exceed $50,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

SEC. 219. NONLETHAL WEAPONS STUDY.

(a) FINDINGS.—Congress finds the following:

(1) The role of the United States military in operations other than war has increased.

(2) Weapons and instruments that are nonlethal in application yet immobilizing could have widespread operational utility and application.

(3) The use of nonlethal weapons in operations other than war poses a number of important doctrine, legal, policy, and operations questions which should be addressed in a comprehensive and coordinated manner.

(4) The development of nonlethal technologies continues to spread across military and agency budgets.

(5) The Department of Defense should provide improved budgetary focus and management direction to the nonlethal weapons program.

(b) RESPONSIBILITY FOR DEVELOPMENT OF NONLETHAL WEAPONS TECHNOLOGY.—Not later than February 15, 1996, the Secretary of Defense shall assign centralized responsibility for development (and any other functional responsibility the Secretary considers appropriate) of nonlethal weapons technology to an existing office within the Office of the Secretary of Defense or to a military service as the executive agent.

(c) REPORT.—Not later than February 15, 1996, the Secretary of Defense shall submit to Congress a report setting forth the following:

(1) The name of the office or military service assigned responsibility for the nonlethal weapons program by the Secretary of Defense pursuant to subsection (b) and a discussion of the rationale for such assignment.

(2) The degree to which nonlethal weapons are required by more than one of the armed forces.

(3) The time frame for the development and deployment of such weapons.

(4) The appropriate role of the military departments and defense agencies in the development of such weapons.

(5) The military doctrine, legal, policy, and operational issues that must be addressed by the Department of Defense before such weapons achieve operational capability.

(d) AUTHORIZATION.—Of the amount authorized to be appropriated under section 201(4), $37,200,000 shall be available for nonlethal weapons programs and nonlethal technologies programs.

(e) DEFINITION.—For purposes of this section, the term ''nonlethal weapon'' means a weapon or instrument the effect of which on human targets is less than fatal.

SEC. 220. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS AND UNIVERSITY-AFFILIATED RESEARCH CENTERS.

(a) CENTERS COVERED.—Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1996 pursuant to an authorization of appropriations in section 201 may be obligated to procure work from a federally funded research and development center (in this section referred to as an ''FFRDC'') or a university-affiliated research center (in this section referred to as a ''UARC'') only in the case of a center named in the report required by subsection (b) and, in the case of such a center, only in an amount not in excess of the amount of the proposed funding level set forth for that center in such report.

(b) REPORT ON ALLOCATIONS FOR CENTERS.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report containing—

(A) the name of each FFRDC and UARC from which work is proposed to be procured for the Department of Defense for fiscal year 1996; and

(B) for each such center, the proposed funding level and the estimated personnel level for fiscal year 1996.

(2) The total of the proposed funding levels set forth in the report for all FFRDCs and UARCs may not exceed the amount set forth in subsection (d).

(c) LIMITATION PENDING SUBMISSION OF REPORT.—Not more than 15 percent of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1996 pursuant to an authorization of appropriations in section 201 for FFRDCs and UARCs may be obligated to procure work from an FFRDC or UARC until the Secretary of Defense submits the report required by subsection (b).

(d) FUNDING.—Of the amounts authorized to be appropriated by section 201, not more than a total of $1,668,850,000 may be obligated to procure services from the FFRDCs and UARCs named in the report required by subsection (b).

(e) AUTHORITY TO WAIVE FUNDING LIMITATION.—The Secretary of Defense may waive the limitation regarding the maximum funding amount that applies under subsection (a) to an FFRDC or UARC. Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the end of the 60-day period that begins on the date on which the notice is submitted to those committees, unless the Secretary determines that it is essential to the national security that funds be obligated for work at that center in excess of that limitation before the end of such period and notifies those committees of that determination and the reasons for the determination.

(f) FIVE-YEAR PLAN.—(1) The Secretary of Defense, in consultation with the Secretaries of the military departments, shall develop a five-year plan to reduce and consolidate the activities performed by FFRDCs and UARCs and establish a framework for the future workload of such centers.

(2) The plan shall—

(A) set forth the manner in which the Secretary of Defense could achieve by October 1, 2000, implementation by FFRDCs and UARCs of only those core activities, as defined by the Secretary, that require the unique capabilities and arrangements afforded by such centers; and

(B) include an assessment of the number of personnel needed in each FFRDC and UARC during each year over the five years covered by the plan.

(3) Not later than February 1, 1996, the Secretary of Defense shall submit to the congressional defense committees a report on the plan required by this subsection.

SEC. 221. JOINT SEISMIC PROGRAM AND GLOBAL SEISMIC NETWORK.

Of the amount authorized to be appropriated under section 201(3), $9,500,000 shall be available for fiscal year 1996 (in program element 61101F in the budget of the Department of Defense for fiscal year 1996) for continuation of the Joint Seismic Program and Global Seismic Network.

SEC. 222. HYDRA–70 ROCKET PRODUCT IMPROVEMENT PROGRAM.

(a) FUNDING AUTHORIZATION.—Of the amount authorized to be appropriated under section 201(1) for Other Missile Product Improvement Programs, $10,000,000 is authorized to be appropriated for a Hydra–70 rocket product improvement program and to be made available under such program for full qualification and operational platform certification of a Hydra–70 rocket described in subsection (b) for use on the Apache attack helicopter.

(b) HYDRA–70 ROCKET COVERED.—The Hydra–70 rocket referred to in subsection (a) is any Hydra–70 rocket that has as its propulsion component a 2.75-inch rocket motor that is a nondevelopmental item and uses a composite propellant.

(c) COMPETITION REQUIRED.—The Secretary of the Army shall conduct the product improvement program referred to in subsection (a) with full and open competition.

(d) SUBMISSION OF TECHNICAL DATA PACKAGE REQUIRED.—Upon the full qualification and operational platform certification of a Hydra–70 rocket as described in subsection (a), the contractor providing the rocket so qualified and certified shall submit the technical data package for the rocket to the Secretary of the Army. The Secretary shall use the technical data package in competitions for contracts for the procurement of Hydra–70 rockets described in subsection (b) for the Army.

(e) DEFINITIONS.—For purposes of this section, the terms ''full and open competition'' and ''nondevelopmental item'' have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SEC. 223. LIMITATION ON OBLIGATION OF FUNDS UNTIL RECEIPT OF ELECTRONIC COMBAT CONSOLIDATION MASTER PLAN.

(a) LIMITATION.—Not more than 75 percent of the amounts appropriated or otherwise made available pursuant to the authorization of appropriations in section 201 for test and evaluation program elements 65896A, 65864N, 65807F, and 65804D in the budget of the Department of Defense for fiscal year 1996 may be obligated until 14 days after the date on which the congressional defense committees receive the plan specified in subsection (b).

(b) PLAN.—The plan referred to in subsection (a) is the master plan for electronic combat consolidation described under Defense-Wide Programs under Research, Development, Test, and Evaluation in the Report of the Committee on Armed Services of the House of Representatives on H.R. 4301 (House Report 103–499), dated May 10, 1994.

SEC. 224. REPORT ON REDUCTIONS IN RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.

(a) REPORT REQUIREMENT.—Not later than March 15, 1996, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees a report that sets forth in detail the allocation of reductions for research, development, test, and evaluation described in subsection (b).

(b) DESCRIPTION OF REDUCTIONS.—The reductions for research, development, test, and evaluation covered by subsection (a) are the following Army, Navy, Air Force, and Defense-wide reductions, as required by the Department of Defense Appropriations Act, 1996:

(1) General reductions.

(2) Reductions to reflect savings from revised economic assumptions.

(3) Reductions to reflect the funding ceiling for defense federally funded research and development centers.

(4) Reductions for savings through improved management of contractor automatic data processing costs charged through indirect rates on Department of Defense acquisition contracts.

SEC. 225. ADVANCED FIELD ARTILLERY SYSTEM (CRUSADER).

(a) AUTHORITY TO USE FUNDS FOR ALTERNATIVE PROPELLANT TECHNOLOGIES.—During fiscal year 1996, the Secretary of the Army may use funds appropriated for the liquid propellant portion of the Advanced Field Artillery System (Crusader) program for fiscal year 1996 for alternative propellant technologies and integration of those technologies into the design of the Crusader if—

(1) the Secretary determines that the technical risk associated with liquid propellant will increase costs and delay the initial operational capability of the Crusader; and

(2) the Secretary notifies the congressional defense committees of the proposed use of the funds and the reasons for the proposed use of the funds.

(b) LIMITATION.—The Secretary of the Army may not spend funds for the liquid propellant portion of the Crusader program after August 15, 1996, unless—

(1) the report required by subsection (c) has been submitted by that date; and

(2) such report includes documentation of significant progress, as determined by the Secretary, toward meeting the objectives for the liquid propellant portion of the program, as set forth in the baseline description for the Crusader program and approved by the Office of the Secretary of Defense on January 4, 1995.

(c) REPORT REQUIRED.—Not later than August 1, 1996, the Secretary of the Army shall submit to the congressional defense committees a report containing documentation of the progress being made in meeting the objectives set forth in the baseline description for the Crusader program and approved by the Office of the Secretary of Defense on January 4, 1995. The report shall specifically address the progress being made toward meeting the following objectives:

(1) Establishment of breech and ignition design criteria for rate of fire for the cannon of the Crusader.

(2) Selection of a satisfactory ignition concept for the next prototype of the cannon.

(3) Selection, on the basis of modeling and simulation, of design concepts to prevent chamber piston reversals, and validation of the selected concepts by gun and mock chamber firings.

(4) Achievement of an understanding of the chemistry and physics of propellant burn resulting from the firing of liquid propellant into any target zone, and achievement, on the basis of modeling and simulation, of an ignition process that is predictable.

(5) Completion of an analysis of the management of heat dissipation for the full range of performance requirements for the cannon, completion of concept designs supported by that analysis, and proposal of such concept designs for engineering.

(6) Development, for integration into the next prototype of the cannon, of engineering designs to control pressure oscillations in the chamber of the cannon during firing.

(7) Completion of an assessment of the sensitivity of liquid propellant to contamination by various materials to which it may be exposed throughout the handling and operation of the cannon, and documentation of predictable reactions of contaminated or sensitized liquid propellant.

(d) ADDITIONAL MATTERS TO BE COVERED BY REPORT.—The report required by subsection (c) also shall contain the following:

(1) An assertion that all the known hazards associated with liquid propellant have been identified and are controllable to acceptable levels.

(2) An assessment of the technology for each component of the Crusader (the cannon, vehicle, and crew module), including, for each performance goal of the Crusader program (including the goal for total system weight), information about the maturity of the technology to achieve that goal, the maturity of the design of the technology, and the manner in which the design has been proven (for example, through simulation, bench testing, or weapon firing).

(3) An assessment of the cost of continued development of the Crusader after August 1, 1996, and the cost of each unit of the Crusader in the year the Crusader will be completed.

SEC. 226. DEMILITARIZATION OF CONVENTIONAL MUNITIONS, ROCKETS, AND EXPLOSIVES.

Of the amount appropriated pursuant to the authorization in section 201 for explosives demilitarization technology, $15,000,000 shall be available to establish an integrated program for the development and demonstration of conventional munitions and explosives demilitarization technologies that comply with applicable environmental laws for the demilitarization and disposal of unserviceable, obsolete, or nontreaty compliant munitions, rocket motors, and explosives.

SEC. 227. DEFENSE AIRBORNE RECONNAISSANCE PROGRAM.

(a) LIMITATION.—Not more than three percent of the total amount appropriated for research and development under the Defense Airborne Reconnaissance program pursuant to the authorizations of appropriations in section 201 may be obligated for systems engineering and technical assistance (SETA) contracts until—

(1) funds are obligated (out of such appropriated funds) for—

(A) the upgrade of U–2 aircraft senior year electro-optical reconnaissance sensors to the newest configuration; and

(B) the upgrade of the U–2 SIGINT system; and

(2) the Under Secretary of Defense for Acquisition and Technology submits the report required under subsection (b).

(b) REPORT ON U–2-RELATED UPGRADES.—(1) Not later than April 1, 1996, the Under Secretary of Defense for Acquisition and Technology shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on obligations of funds for upgrades relating to airborne reconnaissance by U–2 aircraft.

(2) The report shall set forth the specific purposes under the general purposes described in subparagraphs (A) and (B) of subsection (a)(1) for which funds have been obligated (as of the date of the report) and the amounts that have been obligated (as of such date) for those specific purposes.

Subtitle C—Ballistic Missile Defense Act of 1995

SEC. 231. SHORT TITLE.

This subtitle may be cited as the ''Ballistic Missile Defense Act of 1995''.

SEC. 232. FINDINGS.

Congress makes the following findings:

(1) The emerging threat that is posed to the national security interests of the United States by the proliferation of ballistic missiles is significant and growing, both in terms of numbers of missiles and in terms of the technical capabilities of those missiles.

(2) The deployment of ballistic missile defenses is a necessary, but not sufficient, element of a broader strategy to discourage both the proliferation of weapons of mass destruction and the proliferation of the means of their delivery and to defend against the consequences of such proliferation.

(3) The deployment of effective Theater Missile Defense systems can deter potential adversaries of the United States from escalating a conflict by threatening or attacking United States forces or the forces or territory of coalition partners or allies of the United States with ballistic missiles armed with weapons of mass destruction to offset the operational and technical advantages of the United States and its coalition partners and allies.

(4) United States intelligence officials have provided intelligence estimates to congressional committees that (A) the trend in missile proliferation is toward longer range and more sophisticated ballistic missiles, (B) North Korea may deploy an intercontinental ballistic missile capable of reaching Alaska or beyond within five years, and (C) although a new, indigenously developed ballastic missile threat to the continental United States is not foreseen within the next ten years, determined countries can acquire intercontinental ballistic missiles in the near future and with little warning by means other than indigenous development.

(5) The development and deployment by the United States and its allies of effective defenses against ballistic missiles of all ranges will reduce the incentives for countries to acquire such missiles or to augment existing missile capabilities.

(6) The concept of mutual assured destruction (based upon an offense-only form of deterrence), which is the major philosophical rationale underlying the ABM Treaty, is now questionable as a basis for stability in a multipolar world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

(7) The development and deployment of a National Missile Defense system against the threat of limited ballistic missile attacks—

(A) would strengthen deterrence at the levels of forces agreed to by the United States and Russia under the Strategic Arms Reduction Talks Treaty (START–I); and

(B) would further strengthen deterrence if reductions below the levels permitted under START–I should be agreed to and implemented in the future.

(8) The distinction made during the Cold War, based upon the technology of the time, between strategic ballistic missiles and nonstrategic ballistic missiles, which resulted in the distinction made in the ABM Treaty between strategic defense and nonstrategic defense, has become obsolete because of technological advancement (including the development by North Korea of long-range Taepo-Dong I and Taepo-Dong II missiles) and, therefore, that distinction in the ABM Treaty should be reviewed.

SEC. 233. BALLISTIC MISSILE DEFENSE POLICY.

It is the policy of the United States—

(1) to deploy affordable and operationally effective theater missile defenses to protect forward-deployed and expeditionary elements of the Armed Forces of the United States and to complement the missile defense capabilities of forces of coalition partners and of allies of the United States; and

(2) to seek a cooperative, negotiated transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 234. THEATER MISSILE DEFENSE ARCHITECTURE.

(a) ESTABLISHMENT OF CORE PROGRAM.—To implement the policy established in paragraph (1) of section 233, the Secretary of Defense shall restructure the core theater missile defense program to consist of the following systems, to be carried out so as to achieve the specified capabilities:

(1) The Patriot PAC–3 system, with a first unit equipped (FUE) during fiscal year 1998.

(2) The Navy Lower Tier (Area) system, with a user operational evaluation system (UOES) capability during fiscal year 1997 and an initial operational capability (IOC) during fiscal year 1999.

(3) The Theater High-Altitude Area Defense (THAAD) system, with a user operational evaluation system (UOES) capability not later than fiscal year 1998 and a first unit equipped (FUE) not later than fiscal year 2000.

(4) The Navy Upper Tier (Theater Wide) system, with a user operational evaluation system (UOES) capability during fiscal year 1999 and an initial operational capability (IOC) during fiscal year 2001.

(b) USE OF STREAMLINED ACQUISITION PROCEDURES.—The Secretary of Defense shall prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing and deploying the theater missile defense systems specified in subsection (a).

(c) INTEROPERABILITY AND SUPPORT OF CORE SYSTEMS.—To maximize effectiveness and flexibility of the systems comprising the core theater missile defense program, the Secretary of Defense shall ensure that those systems are integrated and complementary and are fully capable of exploiting external sensor and battle management support from systems such as—

(A) the Cooperative Engagement Capability (CEC) system of the Navy;

(B) airborne sensors; and

(C) space-based sensors (including, in particular, the Space and Missile Tracking System).

(d) FOLLOW-ON SYSTEMS.—(1) The Secretary of Defense shall prepare an affordable development plan for theater missile defense systems to be developed as follow-on systems to the core systems specified in subsection (a). The Secretary shall make the selection of a system for inclusion in the plan based on the capability of the system to satisfy military requirements not met by the systems in the

core program and on the capability of the system to use prior investments in technologies, infrastructure, and battle-management capabilities that are incorporated in, or associated with, the systems in the core program.

(2) The Secretary may not proceed with the development of a follow-on theater missile defense system beyond the Demonstration/Validation stage of development unless the Secretary designates that system as a part of the core program under this section and submits to the congressional defense committees notice of that designation. The Secretary shall include with any such notification a report describing—

(A) the requirements for the system and the specific threats that such system is designed to counter;

(B) how the system will relate to, support, and build upon existing core systems;

(C) the planned acquisition strategy for the system; and

(D) a preliminary estimate of total program cost for that system and the effect of development and acquisition of such system on Department of Defense budget projections.

(e) PROGRAM ACCOUNTABILITY REPORT.—(1) As part of the annual report of the Ballistic Missile Defense Organization required by section 224 of Public Law 101–189 (10 U.S.C. 2431 note), the Secretary of Defense shall describe the technical milestones, the schedule, and the cost of each phase of development and acquisition (together with total estimated program costs) for each core and follow-on theater missile defense program.

(2) As part of such report, the Secretary shall describe, with respect to each program covered in the report, any variance in the technical milestones, program schedule milestones, and costs for the program compared with the information relating to that program in the report submitted in the previous year and in the report submitted in the first year in which that program was covered.

(f) REPORTS ON TMD SYSTEM LIMITATIONS UNDER ABM TREATY.—(1) Whenever, after January 1, 1993, the Secretary of Defense issues a certification with respect to the compliance of a particular Theater Missile Defense system with the ABM Treaty, the Secretary shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a copy of such certification. Such transmittal shall be made not later than 30 days after the date on which such certification is issued, except that in the case of a certification issued before the date of the enactment of this Act, such transmittal shall be made not later than 60 days after the date of the enactment of this Act.

(2) If a certification under paragraph (1) is based on application of a policy concerning United States compliance with the ABM Treaty that differs from the policy described in section 235(b)(1), the Secretary shall include with the transmittal under that paragraph a report providing a detailed assessment of—

(A) how the policy applied differs from the policy described in section 235(b)(1); and

(B) how the application of that policy (rather than the policy described in section 235(b)(1)) will affect the cost, schedule, and performance of that system.

SEC. 235. PROHIBITION ON USE OF FUNDS TO IMPLEMENT AN INTERNATIONAL AGREEMENT CONCERNING THEATER MISSILE DEFENSE SYSTEMS.

(a) FINDINGS.—(1) Congress hereby reaffirms—

(A) the finding in section 234(a)(7) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1595; 10 U.S.C. 2431 note) that the ABM Treaty was not intended to, and does not, apply to or limit research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles, regardless of the capabilities of such missiles, unless those systems, system upgrades, or system components are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles; and

(B) the statement in section 232 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2700) that the United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution.

(2) Congress also finds that the demarcation standard described in subsection (b)(1) for compliance of a missile defense system, system upgrade, or system component with the ABM Treaty is based upon current technology.

(b) SENSE OF CONGRESS CONCERNING COMPLIANCE POLICY.—It is the sense of Congress that—

(1) unless a missile defense system, system upgrade, or system component (including one that exploits data from space-based or other external sensors) is flight tested in an ABM-qualifying flight test (as defined in subsection (e)), that system, system upgrade, or system component has not, for purposes of the ABM Treaty, been tested in an ABM mode nor been given capabilities to counter strategic ballistic missiles and, therefore, is not subject to any application, limitation, or obligation under the ABM Treaty; and

(2) any international agreement that would limit the research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles in a manner that would be more restrictive than the compliance criteria specified in paragraph (1) should be entered into only pursuant to the treaty making powers of the President under the Constitution.

(c) PROHIBITION ON FUNDING.—Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1996 may not be obligated or expended to implement an agreement, or any understanding with respect to interpretation of the ABM Treaty, between the United States and any of the independent states of the former Soviet Union entered into after January 1, 1995, that—

(1) would establish a demarcation between theater missile defense systems and anti-ballistic missile systems for purposes of the ABM Treaty; or

(2) would restrict the performance, operation, or deployment of United States theater missile defense systems.

(d) EXCEPTIONS.—Subsection (c) does not apply—

(1) to the extent provided by law in an Act enacted after this Act;

(2) to expenditures to implement that portion of any such agreement or understanding that implements the policy set forth in subsection (b)(1); or

(3) to expenditures to implement any such agreement or understanding that is approved as a treaty or by law.

(e) ABM-QUALIFYING FLIGHT TEST DEFINED.—For purposes of this section, an ABM-qualifying flight test is a flight test against a ballistic missile which, in that flight test, exceeds (1) a range of 3,500 kilometers, or (2) a velocity of 5 kilometers per second.

SEC. 236. BALLISTIC MISSILE DEFENSE COOPERATION WITH ALLIES.

It is in the interest of the United States to develop its own missile defense capabilities in a manner that will permit the United States to complement the missile defense capabilities developed and deployed by its allies and possible coalition partners. Therefore, the Congress urges the President—

(1) to pursue high-level discussions with allies of the United States and selected other states on the means and methods by which the parties on a bilateral basis can cooperate in the development, deployment, and operation of ballistic missile defenses;

(2) to take the initiative within the North Atlantic Treaty Organization to develop consensus in the Alliance for a timely deployment of effective ballistic missile defenses by the Alliance; and

(3) in the interim, to seek agreement with allies of the United States and selected other states on steps the parties should take, consistent with their national interests, to reduce the risks posed by the threat of limited ballistic missile attacks, such steps to include—

(A) the sharing of early warning information derived from sensors deployed by the United States and other states;

(B) the exchange on a reciprocal basis of technical data and technology to support both joint development programs and the sale and purchase of missile defense systems and components; and

(C) operational level planning to exploit current missile defense capabilities and to help define future requirements.

SEC. 237. ABM TREATY DEFINED.

For purposes of this subtitle, the term ''ABM Treaty'' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

SEC. 238. REPEAL OF MISSILE DEFENSE ACT OF 1991.

The Missile Defense Act of 1991 (10 U.S.C. 2431 note) is repealed.

Subtitle D—Other Ballistic Missile Defense Provisions

SEC. 251. BALLISTIC MISSILE DEFENSE PROGRAM ELEMENTS.

(a) ELEMENTS SPECIFIED.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 1996 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), the amount requested for activities of the Ballistic Missile Defense Organization shall be set forth in accordance with the following program elements:

(1) The Patriot system.

(2) The Navy Lower Tier (Area) system.

(3) The Theater High-Altitude Area Defense (THAAD) system.

(4) The Navy Upper Tier (Theater Wide) system.

(5) The Corps Surface-to-Air Missile (SAM) system.

(6) Other Theater Missile Defense Activities.

(7) National Missile Defense.

(8) Follow-On and Support Technologies.

(b) TREATMENT OF CORE THEATER MISSILE DEFENSE PROGRAMS.—Amounts requested for core theater missile defense programs specified in section 234 shall be specified in individual, dedicated program elements, and amounts appropriated for such programs shall be available only for activities covered by those program elements.

(c) BM/C³I PROGRAMS.—Amounts requested for programs, projects, and activities involving battle management, command, control, communications, and intelligence (BM/C³I) shall be included in the ''Other Theater Missile Defense Activities'' program element or the ''National Missile Defense'' program element, as determined on the basis of the primary objectives involved.

(d) MANAGEMENT AND SUPPORT.—Each program element shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.

SEC. 252. TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.

Subsection (a) of section 237 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1600) is amended to read as follows:

''(a) TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.—(1) The Secretary of Defense may not approve a theater missile defense interceptor program proceeding beyond the low-rate initial production acquisition stage until the Secretary certifies to the congressional defense committees that such program has successfully completed initial operational test and evaluation.

''(2) In order to be certified under paragraph (1) as having been successfully completed, the initial operational test and evaluation conducted with respect to an interceptors program must have included flight tests—

''(A) that were conducted with multiple interceptors and multiple targets in the presence of realistic countermeasures; and

''(B) the results of which demonstrate the achievement by the interceptors of the baseline performance thresholds.

''(3) For purposes of this subsection, the baseline performance thresholds with respect to a program are the weapons systems performance thresholds specified in the baseline description for the system established (pursuant to section 2435(a)(1) of title 10, United States Code) before the program entered the engineering and manufacturing development stage.

''(4) The number of flight tests described in paragraph (2) that are required in order to make the certification under paragraph (1) shall be a number determined by the Secretary of Defense to be sufficient for the purposes of this section.

''(5) The Secretary may augment live-fire testing to demonstrate weapons system performance goals for purposes of the certification under paragraph (1) through the use of modeling and simulation that is validated by ground and flight testing.''.

SEC. 253. REPEAL OF MISSILE DEFENSE PROVISIONS.

The following provisions of law are repealed:

(1) Section 222 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 613; 10 U.S.C. 2431 note).

(2) Section 225 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 614).

(3) Section 226 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1057; 10 U.S.C. 2431 note).

(4) Section 8123 of the Department of Defense Appropriations Act, 1989 (Public Law 100–463; 102 Stat. 2270–40).

(5) Section 8133 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1211).

(6) Section 234 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1595; 10 U.S.C. 2431 note).

(7) Section 242 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1603; 10 U.S.C. 2431 note).

(8) Section 235 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2701; 10 U.S.C. 221 note).

(9) Section 2609 of title 10, United States Code.

Subtitle E—Miscellaneous Reviews, Studies, and Reports

SEC. 261. PRECISION-GUIDED MUNITIONS.

(a) ANALYSIS REQUIRED.—The Secretary of Defense shall perform an analysis of the full range of precision-guided munitions in production and in research, development, test, and evaluation in order to determine the following:

(1) The numbers and types of precision-guided munitions that are needed to provide complementary capabilities against each target class.

(2) The feasibility of carrying out joint development and procurement of additional types of munitions by more than one of the Armed Forces.

(3) The feasibility of integrating a particular precision-guided munition on multiple service platforms.

(4) The economy and effectiveness of continuing the acquisition of—

(A) interim precision-guided munitions; or

(B) precision-guided munitions that, as a result of being procured in decreasing numbers to meet decreasing quantity requirements, have increased in cost per unit by more than 50 percent over the cost per unit for such munitions as of December 1, 1991.

(b) REPORT.—(1) Not later than April 15, 1996, the Secretary shall submit to Congress a report on the findings and other results of the analysis.

(2) The report shall include a detailed discussion of the process by which the Department of Defense—

(A) approves the development of new precision-guided munitions;

(B) avoids duplication and redundancy in the precision-guided munitions programs of the Army, Navy, Air Force, and Marine Corps;

(C) ensures rationality in the relationship between the funding plans for precision-guided munitions modernization for fiscal years following fiscal year 1996 and the costs of such modernization for those fiscal years; and

(D) identifies by name and function each person responsible for approving each new precision-guided munition for initial low-rate production.

(c) FUNDING LIMITATION.—Funds authorized to be appropriated by this Act may not be expended for research, development, test, and evaluation or procurement of interim precision-guided munitions after April 15, 1996, unless the Secretary of Defense has submitted the report under subsection (b).

(d) INTERIM PRECISION-GUIDED MUNITION DEFINED.—For purposes of subsection (c), a precision-guided munition is an interim precision-guided munition if the munition is being procured in fiscal year 1996, but funding is not proposed for additional procurement of the munition in the fiscal years after fiscal year 1996 that are covered by the future years defense program submitted to Congress in 1995 under section 221(a) of title 10, United States Code.

SEC. 262. REVIEW OF C⁴I BY NATIONAL RESEARCH COUNCIL.

(a) REVIEW BY NATIONAL RESEARCH COUNCIL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall request the National Research Council of the National Academy of Sciences to conduct a comprehensive review of current and planned service and defense-wide programs for command, control, communications, computers, and intelligence (C⁴I) with a special focus on cross-service and interservice issues.

(b) MATTERS TO BE ASSESSED IN REVIEW.—The review shall address the following:

(1) The match between the capabilities provided by current service and defense-wide C⁴I programs and the actual needs of users of these programs.

(2) The interoperability of service and defense-wide C⁴I systems that are planned to be operational in the future.

(3) The need for an overall defense-wide architecture for C⁴I.

(4) Proposed strategies for ensuring that future C⁴I acquisitions are compatible and interoperable with an overall architecture.

(5) Technological and administrative aspects of the C⁴I modernization effort to determine the soundness of the underlying plan and the extent to which it is consistent with concepts for joint military operations in the future.

(c) TWO-YEAR PERIOD FOR CONDUCTING REVIEW.—The review shall be conducted over the two-year period beginning on the date on which the National Research Council and the Secretary of Defense enter into a contract or other agreement for the conduct of the review.

(d) REPORTS.—(1) In the contract or other agreement for the conduct of the review, the Secretary of Defense shall provide that the National Research Council shall submit to the Department of Defense and Congress interim reports and progress updates on a regular basis as the review proceeds. A final report on the review shall set forth the findings, conclusions, and recommendations of the Council for defense-wide and service C⁴I programs and shall be submitted to the Committee on Armed Services of the Senate, the Committee on National Security of the House of Representatives, and the Secretary of Defense.

(2) To the maximum degree possible, the final report shall be submitted in unclassified form with classified annexes as necessary.

(e) INTERAGENCY COOPERATION WITH STUDY.—All military departments, defense agencies, and other components of the Department of Defense shall cooperate fully with the National Research Council in its activities in carrying out the review under this section.

(f) EXPEDITED PROCESSING OF SECURITY CLEARANCES FOR STUDY.—For the purpose of facilitating the commencement of the study under this section, the Secretary of Defense shall expedite to the fullest degree possible the processing of security clearances that are necessary for the National Research Council to conduct the study.

(g) FUNDING.—Of the amount authorized to be appropriated in section 201 for defense-wide activities, $900,000 shall be available for the study under this section.

SEC. 263. ANALYSIS OF CONSOLIDATION OF BASIC RESEARCH ACCOUNTS OF MILITARY DEPARTMENTS.

(a) ANALYSIS REQUIRED.—The Secretary of Defense shall conduct an analysis of the cost and effectiveness of consolidating the basic research accounts of the military departments. The analysis shall determine potential infrastructure savings and other benefits of co-locating and consolidating the management of basic research.

(b) DEADLINE.—On or before March 1, 1996, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the analysis conducted under subsection (a).

SEC. 264. CHANGE IN REPORTING PERIOD FROM CALENDAR YEAR TO FISCAL YEAR FOR ANNUAL REPORT ON CERTAIN CONTRACTS TO COLLEGES AND UNIVERSITIES.

Section 2361(c)(2) of title 10, United States Code, is amended—

(1) by striking out ''calendar year'' and inserting in lieu thereof ''fiscal year''; and

(2) by striking out ''the year after the year'' and inserting in lieu thereof ''the fiscal year after the fiscal year''.

SEC. 265. AERONAUTICAL RESEARCH AND TEST CAPABILITIES ASSESSMENT.

(a) FINDINGS.—Congress finds the following:

(1) It is in the Nation's long-term national security interests for the United States to maintain preeminence in the area of aeronautical research and test capabilities.

(2) Continued advances in aeronautical science and engineering are critical to sustaining the strategic and tactical air superiority of the United States and coalition forces, as well as United States economic security and international aerospace leadership.

(3) It is in the national security and economic interests of the United States and the budgetary interests of the Department of Defense for the department to encourage the establishment of active partnerships between the department and other Government agencies, academic institutions, and private industry to develop, maintain, and enhance aeronautical research and test capabilities.

(b) REVIEW.—The Secretary of Defense shall conduct a comprehensive review of the aeronautical research and test facilities and capabilities of the United States in order to assess the current condition of such facilities and capabilities.

(c) REPORT.—(1) Not later than March 1, 1996, the Secretary of Defense shall submit to the congressional defense committees a report setting forth in detail the findings of the review required by subsection (b).

(2) The report shall include the following:

(A) The options for providing affordable, operable, reliable, and responsive long-term aeronautical research and test capabilities for military and civilian purposes and for the organization and conduct of such capabilities within the Department or through shared operations with other Government agencies, academic institutions, and private industry.

(B) The projected costs of such options, including costs of acquisition and technical and financial arrangements (including the use of Government facilities for reimbursable private use).

(C) Recommendations on the most efficient and economic means of developing, maintaining, and continually modernizing aeronautical research and test capabilities to meet current, planned, and prospective military and civilian needs.

Subtitle F—Other Matters

SEC. 271. ADVANCED LITHOGRAPHY PROGRAM.

Section 216 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2693) is amended—

(1) in subsection (a), by striking out ''to help achieve'' and all that follows through the end of the subsection and inserting in lieu thereof ''to ensure that lithographic processes being developed by United States-owned companies or United States-incorporated companies operating in the United States will lead to superior performance electronics systems for the Department of Defense.'';

(2) in subsection (b), by adding at the end the following new paragraph:

''(3) The Director of the Defense Advanced Research Projects Agency may set priorities and funding levels for various technologies being developed for the ALP and shall consider funding recommendations made by the Semiconductor Industry Association as being advisory in nature.'';

(3) in subsection (c)—

(A) by inserting ''Defense'' before ''Advanced''; and

(B) by striking out ''ARPA'' both places it appears and inserting in lieu thereof ''DARPA''; and

(4) by adding at the end the following:

''(d) DEFINITIONS.—In this section:

''(1) The term 'United States-owned company' means a company the majority ownership or control of which is held by citizens of the United States.

''(2) The term 'United States-incorporated company' means a company that the Secretary of Defense finds is incorporated in the United States and has a parent company that is incorporated in a country—

''(A) that affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

''(B) that affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and

''(C) that affords adequate and effective protection for the intellectual property rights of United States-owned companies.''.

SEC. 272. ENHANCED FIBER OPTIC GUIDED MISSILE (EFOG–M) SYSTEM.

(a) LIMITATIONS.—(1) The Secretary of the Army may not obligate more than $280,000,000 (based on fiscal year 1995 constant dollars) to develop and deliver for test and evaluation by the Army the following items:

(A) 44 enhanced fiber optic guided test missiles.

(B) 256 fully operational enhanced fiber optic guided missiles.

(C) 12 fully operational fire units.

(2) The Secretary of the Army may not spend funds for the enhanced fiber optic guided missile (EFOG–M) system after September 30, 1998, if the items described in paragraph (1) have not been delivered to the Army by that date and at a cost not greater than the amount set forth in paragraph (1).

(3) The Secretary of the Army may not enter into an advanced development phase for the EFOG–M system unless—

(A) an advanced concept technology demonstration of the system has been successfully completed; and

(B) the Secretary certifies to the congressional defense committees that there is a requirement for the EFOG–M system that is supported by a cost and operational effectiveness analysis.

(b) GOVERNMENT-FURNISHED EQUIPMENT.—The Secretary of the Army shall ensure that all Government-furnished equipment that the Army agrees to provide under the contract for the EFOG–M system is provided to the prime contractor in accordance with the terms of the contract.

SEC. 273. STATES ELIGIBLE FOR ASSISTANCE UNDER DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

Subparagraph (A) of section 257(d)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2705; 10 U.S.C. 2358 note) is amended to read as follows:

''(A) the average annual amount of all Department of Defense obligations for science and engineering research and development that were in effect with institutions of higher education in the State for the three fiscal years preceding the fiscal year for which the designation is effective or for the last three fiscal years for which statistics are available is less than the amount determined by multiplying 60 percent times the amount equal to 1/50 of the total average annual amount of all Department of Defense obligations for science and engineering research and development that were in effect with institutions of higher education in the United States for such three preceding or last fiscal years, as the case may be (to be determined in consultation with the Secretary of Defense);''.

SEC. 274. CRUISE MISSILE DEFENSE INITIATIVE.

(a) IN GENERAL.—The Secretary of Defense shall undertake an initiative to coordinate and strengthen the cruise missile defense programs of the Department of Defense to ensure that the United States develops and deploys affordable and operationally effective defenses against existing and future cruise missile threats to United States military forces and operations.

(b) COORDINATION WITH BALLISTIC MISSILE DEFENSE EFFORTS.—In carrying out subsection (a), the Secretary shall ensure that, to the extent practicable, the cruise missile defense programs of the Department of Defense and the ballistic missile defense programs of the Department of Defense are coordinated with each other and that those programs are mutually supporting.

(c) DEFENSES AGAINST EXISTING AND NEAR-TERM CRUISE MISSILE THREATS.—As part of the initiative under subsection (a), the Secretary shall ensure that appropriate existing and planned air defense systems are upgraded to provide an affordable and operationally effective defense against existing and near-term cruise missile threats to United States military forces and operations.

(d) DEFENSES AGAINST ADVANCED CRUISE MISSILES.—As part of the initiative under subsection (a), the Secretary shall undertake a well-coordinated development program to support the future deployment of cruise missile defense systems that are affordable and operationally effective against advanced cruise missiles, including cruise missiles with low observable features.

(e) IMPLEMENTATION PLAN.—Not later than the date on which the President submits the budget for fiscal year 1997 under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees a detailed plan, in unclassified and classified forms, as necessary, for carrying out this section. The plan shall include an assessment of the following:

(1) The systems of the Department of Defense that currently have or could have cruise missile defense capabilities and existing programs of the Department of Defense to improve these capabilities.

(2) The technologies that could be deployed in the near- to mid-term to provide significant advances over existing cruise missile defense capabilities and the investments that would be required to ready those technologies for deployment.

(3) The cost and operational tradeoffs, if any, between (A) upgrading existing air and missile defense systems, and (B) accelerating follow-on systems with significantly improved capabilities against advanced cruise missiles.

(4) The organizational and management changes that would strengthen and further coordinate the cruise missile defense programs of the Department of Defense, including the disadvantages, if any, of implementing such changes.

(f) DEFINITION.—For the purposes of this section, the term ''cruise missile defense programs'' means the programs, projects, and activities of the military departments, the Advanced Research Projects Agency, and the Ballistic Missile Defense Organization

relating to development and deployment of defenses against cruise missiles.

SEC. 275. MODIFICATION TO UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Section 802 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1701) is amended—

(1) in subsections (a) and (b), by striking out ''shall'' both places it appears and inserting in lieu thereof ''may''; and

(2) in subsection (e), by striking out the sentence beginning with ''Such selection process''.

SEC. 276. MANUFACTURING TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Section 2525 of title 10, United States Code, is amended as follows:

(1) The heading is amended by striking out the second and third words.

(2) Subsection (a) is amended—

(A) by striking out ''Science and''; and

(B) by inserting after the first sentence the following: ''The Secretary shall use the joint planning process of the directors of the Department of Defense laboratories in establishing the program.''.

(3) Subsection (c) is amended—

(A) by inserting ''(1)'' after ''(c) EXECUTION.—''; and

(B) by adding at the end the following:

''(2) The Secretary shall seek, to the extent practicable, the participation of manufacturers of manufacturing equipment in the projects under the program.''.

(4) Subsection (d) is amended—

(A) in paragraph (2)—

(i) by striking out ''or'' at the end of subparagraph (A);

(ii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ''; or''; and

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

''(C) will be carried out by an institution of higher education.''; and

(B) by adding at the end the following new paragraphs:

''(3) At least 25 percent of the funds available for the program each fiscal year shall be used for awarding grants and entering into contracts, cooperative agreements, and other transactions on a cost-share basis under which the ratio of recipient cost to Government cost is two to one.

''(4) If the requirement of paragraph (3) cannot be met by July 15 of a fiscal year, the Under Secretary of Defense for Acquisition and Technology may waive the requirement and obligate the balance of the funds available for the program for that fiscal year on a cost-share basis under which the ratio of recipient cost to Government cost is less than two to one. Before implementing any such waiver, the Under Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives the reasons for the waiver.''.

(b) CLERICAL AMENDMENT.—The item relating to section 2525 in the table of sections at the beginning of subchapter IV of chapter 148 of title 10, United States Code, is amended to read as follows:

''2525. Manufacturing Technology Program.''.

SEC. 277. FIVE-YEAR PLAN FOR CONSOLIDATION OF DEFENSE LABORATORIES AND TEST AND EVALUATION CENTERS.

(a) FIVE-YEAR PLAN.—The Secretary of Defense, acting through the Vice Chief of Staff of the Army, the Vice Chief of Naval Operations, and the Vice Chief of Staff of the Air Force (in their roles as test and evaluation executive agent board of directors) shall develop a five-year plan to consolidate and restructure the laboratories and test and evaluation centers of the Department of Defense.

(b) OBJECTIVE.—The plan shall set forth the specific actions needed to consolidate the laboratories and test and evaluation centers into as few laboratories and centers as is practical and possible, in the judgment of the Secretary, by October 1, 2005.

(c) PREVIOUSLY DEVELOPED DATA REQUIRED TO BE USED.—In developing the plan, the Secretary shall use the following:

(1) Data and results obtained by the Test and Evaluation Joint Cross-Service Group and the Laboratory Joint Cross-Service Group in developing recommendations for the 1995 report of the Defense Base Closure and Realignment Commission.

(2) The report dated March 1994 on the consolidation and streamlining of the test and evaluation infrastructure, commissioned by the test and evaluation board of directors, along with all supporting data and reports.

(d) MATTERS TO BE CONSIDERED.—In developing the plan, the Secretary shall consider, at a minimum, the following:

(1) Consolidation of common support functions, including the following:

(A) Aircraft (fixed wing and rotary) support.

(B) Weapons support.

(C) Space systems support.

(D) Support of command, control, communications, computers, and intelligence.

(2) The extent to which any military construction, acquisition of equipment, or modernization of equipment is planned at the laboratories and centers.

(3) The encroachment on the laboratories and centers by residential and industrial expansion.

(4) The total cost to the Federal Government of continuing to operate the laboratories and centers.

(5) The cost savings and program effectiveness of locating laboratories and centers at the same sites.

(6) Any loss of expertise resulting from the consolidations.

(7) Whether any legislation is neccessary to provide the Secretary with any additional authority necessary to accomplish the downsizing and consolidation of the laboratories and centers.

(e) REPORT.—Not later than May 1, 1996, the Secretary of Defense shall submit to the congressional defense committees a report on the plan. The report shall include an identification of any additional legislation that the Secretary considers necessary in order for the Secretary to accomplish the downsizing and consolidation of the laboratories and centers.

(f) LIMITATION.—Of the amounts appropriated or otherwise made available pursuant to an authorization of appropriations in section 201 for the central test and evaluation investment development program, not more than 75 percent may be obligated before the report required by subsection (e) is submitted to Congress.

SEC. 278. LIMITATION ON T–38 AVIONICS UPGRADE PROGRAM.

(a) REQUIREMENT.—The Secretary of Defense shall ensure that, in evaluating proposals submitted in response to a solicitation issued for a contract for the T–38 Avionics Upgrade Program, the proposal of an entity may not be considered unless—

(1) in the case of an entity that conducts substantially all of its business in a foreign country, the foreign country provides equal access to similar contract solicitations in that country to United States entities; and

(2) in the case of an entity that conducts business in the United States but that is owned or controlled by a foreign government or by an entity incorporated in a foreign country, the foreign government or foreign country of incorporation provides equal access to similar contract solicitations in that country to United States entities.

(b) DEFINITION.—In this section, the term ''United States entity'' means an entity that is owned or controlled by persons a majority of whom are United States citizens.

SEC. 279. GLOBAL POSITIONING SYSTEM.

(a) CONDITIONAL PROHIBITION ON USE OF SELECTIVE AVAILABILITY FEATURE.—Except as provided in subsection (b), after May 1, 1996, the Secretary of Defense may not (through use of the feature known as ''selective availability'') deny access of non-Department of Defense users to the full capabilities of the Global Positioning System.

(b) PLAN.—Subsection (a) shall cease to apply upon submission by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of a plan for enhancement of the Global Positioning System that provides for—

(1) development and acquisition of effective capabilities to deny hostile military forces the ability to use the Global Positioning System without hindering the ability of United States military forces and civil users to have access to and use of the system, together with a specific date by which those capabilities could be operational; and

(2) development and acquisition of receivers for the Global Positioning System and other techniques for weapons and weapon systems that provide substantially improved resistance to jamming and other forms of electronic interference or disruption, together with a specific date by which those receivers and other techniques could be operational with United States military forces.

SEC. 280. REVISION OF AUTHORITY FOR PROVIDING ARMY SUPPORT FOR THE NATIONAL SCIENCE CENTER FOR COMMUNICATIONS AND ELECTRONICS.

(a) PURPOSE.—Subsection (b)(2) of section 1459 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 763) is amended by striking out ''to make available'' and all that follows and inserting in lieu thereof ''to provide for the management, operation, and maintenance of those areas in the national science center that are designated for use by the Army and to provide incidental support for the operation of those areas in the center that are designated for general use.''.

(b) AUTHORITY FOR SUPPORT.—Subsection (c) of such section is amended to read as follows:

''(c) NATIONAL SCIENCE CENTER.—(1) The Secretary may manage, operate, and maintain facilities at the center under terms and conditions prescribed by the Secretary for the purpose of conducting educational outreach programs in accordance with chapter 111 of title 10, United States Code.

''(2) The Foundation, or NSC Discovery Center, Incorporated, a nonprofit corporation of the State of Georgia, shall submit to the Secretary for review and approval all matters pertaining to the acquisition, design, renovation, equipping, and furnishing of the center, including all plans, specifications, contracts, sites, and materials for the center.''.

(c) AUTHORITY FOR ACCEPTANCE OF GIFTS AND FUNDRAISING.—Subsection (d) of such section is amended to read as follows:

''(d) GIFTS AND FUNDRAISING.—(1) Subject to paragraph (3), the Secretary may accept a conditional or unconditional donation of money or property that is made for the benefit of, or in connection with, the center.

''(2) Notwithstanding any other provision of law, the Secretary may endorse, promote, and assist the efforts of the Foundation and NSC Discovery Center, Incorporated, to obtain—

''(A) funds for the management, operation, and maintenance of the center; and

''(B) donations of exhibits, equipment, and other property for use in the center.

''(3) The Secretary may not accept a donation under this subsection that is made subject to—

''(A) any condition that is inconsistent with an applicable law or regulation; or

''(B) except to the extent provided in appropriations Acts, any condition that would necessitate an expenditure of appropriated funds.

''(4) The Secretary shall prescribe in regulations the criteria to be used in determining whether to accept a donation. The Secretary shall include criteria to ensure that acceptance of a donation does not establish an unfavorable appearance regarding the fairness and objectivity with which the Secretary or any other officer or employee of the Department of Defense performs official responsibilities and does not compromise or appear to compromise the integrity of a Government program or any official involved in that program.''.

(d) AUTHORIZED USES.—Such section is amended—

(1) by striking out subsection (f);

(2) by redesignating subsection (g) as subsection (f); and

(3) in paragraph (1) of subsection (f), as redesignated by paragraph (2), by inserting ''areas designated for use by the Army in'' after ''The Secretary may make''.

(e) ALTERNATIVE OF ADDITIONAL DEVELOPMENT AND MANAGEMENT.—Such section, as amended by subsection (d), is further amended by adding at the end the following:

''(g) ALTERNATIVE OR ADDITIONAL DEVELOPMENT AND MANAGEMENT OF THE CENTER.—(1) The Secretary may enter into an agreement with NSC Discovery Center, Incorporated, to develop, manage, and maintain a national science center under this section. In entering into an agreement with NSC Discovery Center, Incorporated, the Secretary may agree to any term or condition to which the Secretary is authorized under this section to agree for purposes of entering into an agreement with the Foundation.

''(2) The Secretary may exercise the authority under paragraph (1) in addition to, or instead of, exercising the authority provided under this section to enter into an agreement with the Foundation.''.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $18,746,695,000.

(2) For the Navy, $21,493,155,000.

(3) For the Marine Corps, $2,521,822,000.

(4) For the Air Force, $18,719,277,000.

(5) For Defense-wide activities, $9,910,476,000.

(6) For the Army Reserve, $1,129,191,000.

(7) For the Naval Reserve, $868,342,000.

(8) For the Marine Corps Reserve, $100,283,000.

(9) For the Air Force Reserve, $1,516,287,000.

(10) For the Army National Guard, $2,361,808,000.

(11) For the Air National Guard, $2,760,121,000.

(12) For the Defense Inspector General, $138,226,000.

(13) For the United States Court of Appeals for the Armed Forces, $6,521,000.

(14) For Environmental Restoration, Defense, $1,422,200,000.

(15) For Drug Interdiction and Counterdrug Activities, Defense-wide, $680,432,000.

(16) For Medical Programs, Defense, $9,876,525,000.

(17) For support for the 1996 Summer Olympics, $15,000,000.

(18) For Cooperative Threat Reduction programs, $300,000,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $50,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Business Operations Fund, $878,700,000.

(2) For the National Defense Sealift Fund, $1,024,220,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1996 from the Armed Forces Retirement Home Trust Fund the sum of $59,120,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) TRANSFER AUTHORITY.—To the extent provided in appropriations Acts, not more than $150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1996 in amounts as follows:

(1) For the Army, $50,000,000.

(2) For the Navy, $50,000,000.

(3) For the Air Force, $50,000,000.

(b) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

SEC. 305. CIVIL AIR PATROL.

Of the amounts authorized to be appropriated pursuant to this Act, there shall be made available to the Civil Air Patrol $24,500,000, of which $14,704,000 shall be made available for the Civil Air Patrol Corporation.

Subtitle B—Depot-Level Activities

SEC. 311. POLICY REGARDING PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR FOR THE DEPARTMENT OF DEFENSE.

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

(1) The Department of Defense does not have a comprehensive policy regarding the performance of depot-level maintenance and repair of military equipment.

(2) The absence of such a policy has caused the Congress to establish guidelines for the performance of such functions.

(3) It is essential to the national security of the United States that the Department of Defense maintain an organic capability within the department, including skilled personnel, technical competencies, equipment, and facilities, to perform depot-level maintenance and repair of military equipment in order to ensure that the Armed Forces of the United States are able to meet training, operational, mobilization, and emergency requirements without impediment.

(4) The organic capability of the Department of Defense to perform depot-level maintenance and repair of military equipment must satisfy known and anticipated core maintenance and repair requirements across the full range of peacetime and wartime scenarios.

(5) Although it is possible that savings can be achieved by contracting with private-sector sources for the performance of some work currently performed by Department of Defense depots, the Department of Defense has not determined the type or amount of work that should be performed under contract with private-sector sources nor the relative costs and benefits of contracting for the performance of such work by those sources.

(b) SENSE OF CONGRESS.—It is the sense of Congress that there is a compelling need for the Department of Defense to articulate known and anticipated core maintenance and repair requirements, to organize the resources of the Department of Defense to meet those requirements economically and efficiently, and to determine what work should be performed by the private sector and how such work should be managed.

(c) REQUIREMENT FOR POLICY.—Not later than March 31, 1996, the Secretary of Defense shall develop and report to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a comprehensive policy on the performance of depot-level maintenance and repair for the Department of Defense that maintains the capability described in section 2464 of title 10, United States Code.

(d) CONTENT OF POLICY.—In developing the policy, the Secretary of Defense shall do each of the following:

(1) Identify for each military department, with the concurrence of the Secretary of that military department, those depot-level maintenance and repair activities that are necessary to ensure the depot-level maintenance and repair capability as required by section 2464 of title 10, United States Code.

(2) Provide for performance of core depot-level maintenance and repair capabilities in facilities owned and operated by the United States.

(3) Provide for the core capabilities to include sufficient skilled personnel, equipment, and facilities that—

(A) is of the proper size (i) to ensure a ready and controlled source of technical competence and repair and maintenance capability necessary to meet the requirements of the National Military Strategy and other requirements for responding to mobilizations and military contingencies, and (ii) to provide for rapid augmentation in time of emergency; and

(B) is assigned sufficient workload to ensure cost efficiency and technical proficiency in time of peace.

(4) Address environmental liability.

(5) In the case of depot-level maintenance and repair workloads in excess of the workload required to be performed by Department of Defense depots, provide for competition for those workloads between public and private entities when there is sufficient potential for realizing cost savings based on adequate private-sector competition and technical capabilities.

(6) Address issues concerning exchange of technical data between the Federal Government and the private sector.

(7) Provide for, in the Secretary's discretion and after consultation with the Secretaries of the military departments, the transfer from one military department to another, in accordance with merit-based selection processes, workload that supports the core depot-level maintenance and repair capabilities in facilities owned and operated by the United States.

(8) Require that, in any competition for a workload (whether among private-sector sources or between depot-level activities of the Department of Defense and private-sector sources), bids are evaluated under a methodology that ensures that appropriate costs to the Government and the private sector are identified.

(9) Provide for the performance of maintenance and repair for any new weapons systems defined as core, under section 2464 of title 10, United States Code, in facilities owned and operated by the United States.

(e) CONSIDERATIONS.—In developing the policy, the Secretary shall take into consideration the following matters:

(1) The national security interests of the United States.

(2) The capabilities of the public depots and the capabilities of businesses in the private sector to perform the maintenance and repair work required by the Department of Defense.

(3) Any applicable recommendations of the Defense Base Closure and Realignment Commission that are required to be implemented under the Defense Base Closure and Realignment Act of 1990.

(4) The extent to which the readiness of the Armed Forces would be affected by a necessity to construct new facilities to accommodate any redistribution of depot-level maintenance and repair workloads that is made in accordance with the recommendation of the Defense Base Closure and Realignment Commission, under the Defense Base Closure and Realignment Act of 1990, that such workloads be consolidated at Department of Defense depots or private-sector facilities.

(5) Analyses of costs and benefits of alternatives, including a comparative analysis of—

(A) the costs and benefits, including any readiness implications, of any proposed policy to convert to contractor performance of depot-level maintenance and repair workloads where the workload is being performed by Department of Defense personnel; and

(B) the costs and benefits, including any readiness implications, of a policy to transfer depot-level maintenance and repair workloads among depots.

(f) REPEAL OF 60/40 REQUIREMENT AND REQUIREMENT RELATING TO COMPETITION.—(1) Sections 2466 and 2469 of title 10, United States Code, are repealed.

(2) The table of sections at the beginning of chapter 146 of such title is amended by striking out the items relating to sections 2466 and 2469.

(3) The amendments made by paragraphs (1) and (2) shall take effect on the date (after the date of the enactment of this Act) on which legislation is enacted that contains a provision that specifically states one of the following:

(A) ''The policy on the performance of depot-level maintenance and repair for the Department of Defense that was submitted by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives pursuant to section 311 of the National Defense Authorization Act for Fiscal Year 1996 is approved.''; or

(B) ''The policy on the performance of depot-level maintenance and repair for the Department of Defense that was submitted by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives pursuant to section 311 of the National Defense Authorization Act for Fiscal Year 1996 is approved with the following modifications:'' (with the modifications being stated in matter appearing after the colon).

(g) ANNUAL REPORT.—If legislation referred to in subsection (f)(3) is enacted, the Secretary of Defense shall, not later than March 1 of each year (beginning with the year after the year in which such legislation is enacted), submit to Congress a report that—

(1) specifies depot maintenance core capability requirements determined in accordance with the procedures established to comply with the policy prescribed pursuant to subsections (d)(2) and (d)(3);

(2) specifies the planned amount of workload to be accomplished by the depot-level activities of each military department in support of those requirements for the following fiscal year; and

(3) identifies the planned amount of workload, which—

(A) shall be measured by direct labor hours and by amounts to be expended; and

(B) shall be shown separately for each commodity group.

(h) REVIEW BY GENERAL ACCOUNTING OFFICE.—(1) The Secretary shall make available to the Comptroller General of the United States all information used by the Department of Defense in developing the policy under subsections (c) through (e) of this section.

(2) Not later than 45 days after the date on which the Secretary submits to Congress the report required by subsection (c), the Comptroller General shall transmit to Congress a report containing a detailed analysis of the Secretary's proposed policy as reported under such subsection.

(i) REPORT ON DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOAD.—Not later than March 31, 1996, the Secretary of Defense shall submit to Congress a report on the depot-level maintenance and repair workload of the Department of Defense. The report shall, to the maximum extent practicable, include the following:

(1) An analysis of the need for and effect of the requirement under section 2466 of title 10, United States Code, that no more than 40 percent of the depot-level maintenance and repair work of the Department of Defense be contracted for performance by non-Government personnel, including a description of the effect on military readiness and the national security resulting from that requirement and a description of any specific difficulties experienced by the Department of Defense as a result of that requirement.

(2) An analysis of the distribution during the five fiscal years ending with fiscal year 1995 of the depot-level maintenance and repair workload of the Department of Defense between depot-level activities of the Department of Defense and non-Government personnel, measured by direct labor hours and by amounts expended, and displayed, for that five-year period and for each year of that period, so as to show (for each military department (and separately for the Navy and Marine Corps)) such distribution.

(3) A projection of the distribution during the five fiscal years beginning with fiscal year 1997 of the depot-level maintenance and repair workload of the Department of Defense between depot-level activities of the Department of Defense and non-Government personnel, measured by direct labor hours and by amounts expended, and displayed, for that five-year period and for each year of that period, so as to show (for each military department (and separately for the Navy and Marine Corps)) such distribution that would be accomplished under a new policy as required under subsection (c).

(j) OTHER REVIEW BY GENERAL ACCOUNTING OFFICE.—(1) The Comptroller General of the United States shall conduct an independent audit of the findings of the Secretary of Defense in the report under subsection (i). The Secretary of Defense shall provide to the Comptroller General for such purpose all information used by the Secretary in preparing such report.

(2) Not later than 45 days after the date on which the Secretary of Defense submits to Congress the report required under subsection (i), the Comptroller General shall transmit to Congress a report containing a detailed analysis of the report submitted under that subsection.

SEC. 312. MANAGEMENT OF DEPOT EMPLOYEES.

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

''§ 2472. Management of depot employees

''(b) ANNUAL REPORT.—Not later than December 1 of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the number of employees employed and expected to be employed by the Department of Defense during that fiscal year to perform depot-level maintenance and repair of materiel. The report shall indicate whether that number is sufficient to perform the depot-level maintenance and repair functions for which funds are expected to be provided for that fiscal year for performance by Department of Defense employees.''.

(b) TRANSFER OF SUBSECTION.—Subsection (b) of section 2466 of title 10, United States Code, is transferred to section 2472 of such title, as added by subsection (a), redesignated as subsection (a), and inserted after the section heading.

(c) SUBMISSION OF INITIAL REPORT.—The report under subsection (b) of section 2472 of title 10, United States Code, as added by subsection (a), for fiscal year 1996 shall be submitted not later than March 15, 1996 (notwithstanding the date specified in such subsection).

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

''2472. Management of depot employees.''.

SEC. 313. EXTENSION OF AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1684) is amended by striking out ''September 30, 1995'' and inserting in lieu thereof ''September 30, 1996''.

SEC. 314. MODIFICATION OF NOTIFICATION REQUIREMENT REGARDING USE OF CORE LOGISTICS FUNCTIONS WAIVER.

Section 2464(b) of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following new paragraph:

''(3) A waiver under paragraph (2) may not take effect until the end of the 30-day period beginning on the date on which the Secretary submits a report on the waiver to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives.''.

Subtitle C—Environmental Provisions

SEC. 321. REVISION OF REQUIREMENTS FOR AGREEMENTS FOR SERVICES UNDER ENVIRONMENTAL RESTORATION PROGRAM.

(a) REQUIREMENTS.—(1) Section 2701(d) of title 10, United States Code, is amended to read as follows:

''(d) SERVICES OF OTHER AGENCIES.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary may enter into agreements on a reimbursable or other basis with any other

Federal agency, or with any State or local government agency, to obtain the services of the agency to assist the Secretary in carrying out any of the Secretary's responsibilities under this section. Services which may be obtained under this subsection include the identification, investigation, and cleanup of any off-site contamination resulting from the release of a hazardous substance or waste at a facility under the Secretary's jurisdiction.

''(2) LIMITATION ON REIMBURSABLE AGREEMENTS.—An agreement with an agency under paragraph (1) may not provide for reimbursement of the agency for regulatory enforcement activities.''.

(2)(A) Except as provided in subparagraph (B), the total amount of funds available for reimbursements under agreements entered into under section 2710(d) of title 10, United States Code, as amended by paragraph (1), in fiscal year 1996 may not exceed $10,000,000.

(B) The Secretary of Defense may pay in fiscal year 1996 an amount for reimbursements under agreements referred to in subparagraph (A) in excess of the amount specified in that subparagraph for that fiscal year if—

(i) the Secretary certifies to Congress that the payment of the amount under this subparagraph is essential for the management of the Defense Environmental Restoration Program under chapter 160 of title 10, United States Code; and

(ii) a period of 60 days has expired after the date on which the certification is received by Congress.

(b) REPORT ON SERVICES OBTAINED.—The Secretary of Defense shall include in the report submitted to Congress with respect to fiscal year 1998 under section 2706(a) of title 10, United States Code, information on the services, if any, obtained by the Secretary during fiscal year 1996 pursuant to each agreement on a reimbursable basis entered into with a State or local government agency under section 2701(d) of title 10, United States Code, as amended by subsection (a). The information shall include a description of the services obtained under each agreement and the amount of the reimbursement provided for the services.

SEC. 322. ADDITION OF AMOUNTS CREDITABLE TO DEFENSE ENVIRONMENTAL RESTORATION ACCOUNT.

Section 2703(e) of title 10, United States Code, is amended to read as follows:

''(e) AMOUNTS RECOVERED.—The following amounts shall be credited to the transfer account:

''(1) Amounts recovered under CERCLA for response actions of the Secretary.

''(2) Any other amounts recovered by the Secretary or the Secretary of the military department concerned from a contractor, insurer, surety, or other person to reimburse the Department of Defense for any expenditure for environmental response activities.''.

SEC. 323. USE OF DEFENSE ENVIRONMENTAL RESTORATION ACCOUNT.

(a) GOAL FOR CERTAIN DERA EXPENDITURES.—It shall be the goal of the Secretary of Defense to limit, by the end of fiscal year 1997, spending for administration, support, studies, and investigations associated with the Defense Environmental Restoration Account to 20 percent of the total funding for that account.

(b) REPORT.—Not later than April 1, 1996, the Secretary shall submit to Congress a report that contains specific, detailed information on—

(1) the extent to which the Secretary has attained the goal described in subsection (a) as of the date of the submission of the report; and

(2) if the Secretary has not attained such goal by such date, the actions the Secretary plans to take to attain the goal.

SEC. 324. REVISION OF AUTHORITIES RELATING TO RESTORATION ADVISORY BOARDS.

(a) REGULATIONS.—Paragraph (2) of subsection (d) of section 2705 of title 10, United States Code, is amended to read as follows:

''(2)(A) The Secretary shall prescribe regulations regarding the establishment, characteristics, composition, and funding of restoration advisory boards pursuant to this subsection.

''(B) The issuance of regulations under subparagraph (A) shall not be a precondition to the establishment of restoration advisory boards under this subsection.''.

(b) FUNDING FOR ADMINISTRATIVE EXPENSES.—Paragraph (3) of such subsection is amended to read as follows:

''(3) The Secretary may authorize the commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) to pay routine administrative expenses of a restoration advisory board established for that installation. Such payments shall be made from funds available under subsection (g).''.

(c) TECHNICAL ASSISTANCE.—Such section is further amended by striking out subsection (e) and inserting in lieu thereof the following new subsection (e):

''(e) TECHNICAL ASSISTANCE.—(1) The Secretary may, upon the request of the technical review committee or restoration advisory board for an installation, authorize the commander of the installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) to obtain for the committee or advisory board, as the case may be, from private sector sources technical assistance for interpreting scientific and engineering issues with regard to the nature of environmental hazards at the installation and the restoration activities conducted, or proposed to be conducted, at the installation. The commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) shall use funds made available under subsection (g) for obtaining assistance under this paragraph.

''(2) The commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) may obtain technical assistance under paragraph (1) for a technical review committee or restoration advisory board only if—

''(A) the technical review committee or restoration advisory board demonstrates that the Federal, State, and local agencies responsible for overseeing environmental restoration at the installation, and available Department of Defense personnel, do not have the technical expertise necessary for achieving the objective for which the technical assistance is to be obtained; or

''(B) the technical assistance—

''(i) is likely to contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the installation; and

''(ii) is likely to contribute to community acceptance of environmental restoration activities at the installation.''.

(d) FUNDING.—(1) Such section is further amended by adding at the end the following new subsection:

''(g) FUNDING.—The Secretary shall, to the extent provided in appropriations Acts, make funds available for administrative expenses and technical assistance under this section using funds in the following accounts:

''(1) In the case of a military installation not approved for closure pursuant to a base closure law, the Defense Environmental Restoration Account established under section 2703(a) of this title.

''(2) In the case of an installation approved for closure pursuant to such a law, the Department of Defense Base Closure Account 1990 established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).''.

(2)(A) Subject to subparagraph (B), the total amount of funds made available under section 2705(g) of title 10, United States Code, as added by paragraph (1), for fiscal year 1996 may not exceed $6,000,000.

(B) Amounts may not be made available under subsection (g) of such section 2705 after September 15, 1996, unless the Secretary of Defense publishes proposed final or interim final regulations required under subsection (d) of such section, as amended by subsection (a).

(e) DEFINITION.—Such section is further amended by adding after subsection (g) (as added by subsection (d)) the following new subsection:

''(h) DEFINITION.—In this section, the term 'base closure law' means the following:

''(1) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

''(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

''(3) Section 2687 of this title.''.

(f) REPORTS ON ACTIVITIES OF TECHNICAL REVIEW COMMITTEES AND RESTORATION ADVISORY BOARDS.—Section 2706(a)(2) of title 10, United States Code, is amended by adding at the end the following:

''(J) A statement of the activities, if any, including expenditures for administrative expenses and technical assistance under section 2705 of this title, of the technical review committee or restoration advisory board established for the installation under such section during the preceding fiscal year.''.

SEC. 325. DISCHARGES FROM VESSELS OF THE ARMED FORCES.

(a) PURPOSES.—The purposes of this section are to—

(1) enhance the operational flexibility of vessels of the Armed Forces domestically and internationally;

(2) stimulate the development of innovative vessel pollution control technology; and

(3) advance the development by the United States Navy of environmentally sound ships.

(b) UNIFORM NATIONAL DISCHARGE STANDARDS DEVELOPMENT.—Section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1322) is amended by adding at the end the following:

''(n) UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES.—

''(1) APPLICABILITY.—This subsection shall apply to vessels of the Armed Forces and discharges, other than sewage, incidental to the normal operation of a vessel of the Armed Forces, unless the Secretary of Defense finds that compliance with this subsection would not be in the national security interests of the United States.

''(2) DETERMINATION OF DISCHARGES REQUIRED TO BE CONTROLLED BY MARINE POLLUTION CONTROL DEVICES.—

''(A) IN GENERAL.—The Administrator and the Secretary of Defense, after consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and interested States, shall jointly determine the discharges incidental to the normal operation of a vessel of the Armed Forces for which it is reasonable and practicable to require use of a marine pollution control device to mitigate adverse impacts on the marine environment. Notwithstanding subsection (a)(1) of section 553

of title 5, United States Code, the Administrator and the Secretary of Defense shall promulgate the determinations in accordance with such section. The Secretary of Defense shall require the use of a marine pollution control device on board a vessel of the Armed Forces in any case in which it is determined that the use of such a device is reasonable and practicable.

''(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Administrator and the Secretary of Defense shall take into consideration—

''(i) the nature of the discharge;

''(ii) the environmental effects of the discharge;

''(iii) the practicability of using the marine pollution control device;

''(iv) the effect that installation or use of the marine pollution control device would have on the operation or operational capability of the vessel;

''(v) applicable United States law;

''(vi) applicable international standards; and

''(vii) the economic costs of the installation and use of the marine pollution control device.

''(3) PERFORMANCE STANDARDS FOR MARINE POLLUTION CONTROL DEVICES.—

''(A) IN GENERAL.—For each discharge for which a marine pollution control device is determined to be required under paragraph (2), the Administrator and the Secretary of Defense, in consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of State, the Secretary of Commerce, other interested Federal agencies, and interested States, shall jointly promulgate Federal standards of performance for each marine pollution control device required with respect to the discharge. Notwithstanding subsection (a)(1) of section 553 of title 5, United States Code, the Administrator and the Secretary of Defense shall promulgate the standards in accordance with such section.

''(B) CONSIDERATIONS.—In promulgating standards under this paragraph, the Administrator and the Secretary of Defense shall take into consideration the matters set forth in paragraph (2)(B).

''(C) CLASSES, TYPES, AND SIZES OF VESSELS.—The standards promulgated under this paragraph may—

''(i) distinguish among classes, types, and sizes of vessels;

''(ii) distinguish between new and existing vessels; and

''(iii) provide for a waiver of the applicability of the standards as necessary or appropriate to a particular class, type, age, or size of vessel.

''(4) REGULATIONS FOR USE OF MARINE POLLUTION CONTROL DEVICES.—The Secretary of Defense, after consultation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall promulgate such regulations governing the design, construction, installation, and use of marine pollution control devices on board vessels of the Armed Forces as are necessary to achieve the standards promulgated under paragraph (3).

''(5) DEADLINES; EFFECTIVE DATE.—

''(A) DETERMINATIONS.—The Administrator and the Secretary of Defense shall—

''(i) make the initial determinations under paragraph (2) not later than 2 years after the date of the enactment of this subsection; and

''(ii) every 5 years—

''(I) review the determinations; and

''(II) if necessary, revise the determinations based on significant new information.

''(B) STANDARDS.—The Administrator and the Secretary of Defense shall—

''(i) promulgate standards of performance for a marine pollution control device under paragraph (3) not later than 2 years after the date of a determination under paragraph (2) that the marine pollution control device is required; and

''(ii) every 5 years—

''(I) review the standards; and

''(II) if necessary, revise the standards, consistent with paragraph (3)(B) and based on significant new information.

''(C) REGULATIONS.—The Secretary of Defense shall promulgate regulations with respect to a marine pollution control device under paragraph (4) as soon as practicable after the Administrator and the Secretary of Defense promulgate standards with respect to the device under paragraph (3), but not later than 1 year after the Administrator and the Secretary of Defense promulgate the standards. The regulations promulgated by the Secretary of Defense under paragraph (4) shall become effective upon promulgation unless another effective date is specified in the regulations.

''(D) PETITION FOR REVIEW.—The Governor of any State may submit a petition requesting that the Secretary of Defense and the Administrator review a determination under paragraph (2) or a standard under paragraph (3), if there is significant new information, not considered previously, that could reasonably result in a change to the particular determination or standard after consideration of the matters set forth in paragraph (2)(B). The petition shall be accompanied by the scientific and technical information on which the petition is based. The Administrator and the Secretary of Defense shall grant or deny the petition not later than 2 years after the date of receipt of the petition.

''(6) EFFECT ON OTHER LAWS.—

''(A) PROHIBITION ON REGULATION BY STATES OR POLITICAL SUBDIVISIONS OF STATES.—Beginning on the effective date of—

''(i) a determination under paragraph (2) that it is not reasonable and practicable to require use of a marine pollution control device regarding a particular discharge incidental to the normal operation of a vessel of the Armed Forces; or

''(ii) regulations promulgated by the Secretary of Defense under paragraph (4);

except as provided in paragraph (7), neither a State nor a political subdivision of a State may adopt or enforce any statute or regulation of the State or political subdivision with respect to the discharge or the design, construction, installation, or use of any marine pollution control device required to control discharges from a vessel of the Armed Forces.

''(B) FEDERAL LAWS.—This subsection shall not affect the application of section 311 to discharges incidental to the normal operation of a vessel.

''(7) ESTABLISHMENT OF STATE NO-DISCHARGE ZONES.—

''(A) STATE PROHIBITION.—

''(i) IN GENERAL.—After the effective date of—

''(I) a determination under paragraph (2) that it is not reasonable and practicable to require use of a marine pollution control device regarding a particular discharge incidental to the normal operation of a vessel of the Armed Forces; or

''(II) regulations promulgated by the Secretary of Defense under paragraph (4);

if a State determines that the protection and enhancement of the quality of some or all of the waters within the State require greater environmental protection, the State may prohibit 1 or more discharges incidental to the normal operation of a vessel, whether treated or not treated, into the waters. No prohibition shall apply until the Administrator makes the determinations described in subclauses (II) and (III) of subparagraph (B)(i).

''(ii) DOCUMENTATION.—To the extent that a prohibition under this paragraph would apply to vessels of the Armed Forces and not to other types of vessels, the State shall document the technical or environmental basis for the distinction.

''(B) PROHIBITION BY THE ADMINISTRATOR.—

''(i) IN GENERAL.—Upon application of a State, the Administrator shall by regulation prohibit the discharge from a vessel of 1 or more discharges incidental to the normal operation of a vessel, whether treated or not treated, into the waters covered by the application if the Administrator determines that—

''(I) the protection and enhancement of the quality of the specified waters within the State require a prohibition of the discharge into the waters;

''(II) adequate facilities for the safe and sanitary removal of the discharge incidental to the normal operation of a vessel are reasonably available for the waters to which the prohibition would apply; and

''(III) the prohibition will not have the effect of discriminating against a vessel of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, of the vessel.

''(ii) APPROVAL OR DISAPPROVAL.—The Administrator shall approve or disapprove an application submitted under clause (i) not later than 90 days after the date on which the application is submitted to the Administrator. Notwithstanding clause (i)(II), the Administrator shall not disapprove an application for the sole reason that there are not adequate facilities to remove any discharge incidental to the normal operation of a vessel from vessels of the Armed Forces.

''(C) APPLICABILITY TO FOREIGN FLAGGED VESSELS.—A prohibition under this paragraph—

''(i) shall not impose any design, construction, manning, or equipment standard on a foreign flagged vessel engaged in innocent passage unless the prohibition implements a generally accepted international rule or standard; and

''(ii) that relates to the prevention, reduction, and control of pollution shall not apply to a foreign flagged vessel engaged in transit passage unless the prohibition implements an applicable international regulation regarding the discharge of oil, oily waste, or any other noxious substance into the waters.

''(8) PROHIBITION RELATING TO VESSELS OF THE ARMED FORCES.—After the effective date of the regulations promulgated by the Secretary of Defense under paragraph (4), it shall be unlawful for any vessel of the Armed Forces subject to the regulations to—

''(A) operate in the navigable waters of the United States or the waters of the contiguous zone, if the vessel is not equipped with any required marine pollution control device meeting standards established under this subsection; or

''(B) discharge overboard any discharge incidental to the normal operation of a vessel in waters with respect to which a prohibition on the discharge has been established under paragraph (7).

''(9) ENFORCEMENT.—This subsection shall be enforceable, as provided in subsections (j) and (k), against any agency of the United States responsible for vessels of the Armed Forces notwithstanding any immunity asserted by the agency.''.

(c) CONFORMING AMENDMENTS.—

(1) DEFINITIONS.—Section 312(a) of the Federal Water Pollution Control Act (33 U.S.C. 1322(a)) is amended—

(A) in paragraph (8)—

(i) by striking ''or''; and

(ii) by inserting ''or agency of the United States,'' after ''association,'';

(B) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(12) 'discharge incidental to the normal operation of a vessel'—

''(A) means a discharge, including—

''(i) graywater, bilge water, cooling water, weather deck runoff, ballast water, oil water separator effluent, and any other pollutant discharge from the operation of a marine propulsion system, shipboard maneuvering system, crew habitability system, or installed major equipment, such as an aircraft carrier elevator or a catapult, or from a protective, preservative, or absorptive application to the hull of the vessel; and

''(ii) a discharge in connection with the testing, maintenance, and repair of a system described in clause (i) whenever the vessel is waterborne; and

''(B) does not include—

''(i) a discharge of rubbish, trash, garbage, or other such material discharged overboard;

''(ii) an air emission resulting from the operation of a vessel propulsion system, motor driven equipment, or incinerator; or

''(iii) a discharge that is not covered by part 122.3 of title 40, Code of Federal Regulations (as in effect on the date of the enactment of subsection (n));

''(13) 'marine pollution control device' means any equipment or management practice, for installation or use on board a vessel of the Armed Forces, that is—

''(A) designed to receive, retain, treat, control, or discharge a discharge incidental to the normal operation of a vessel; and

''(B) determined by the Administrator and the Secretary of Defense to be the most effective equipment or management practice to reduce the environmental impacts of the discharge consistent with the considerations set forth in subsection (n)(2)(B); and

''(14) 'vessel of the Armed Forces' means—

''(A) any vessel owned or operated by the Department of Defense, other than a time or voyage chartered vessel; and

''(B) any vessel owned or operated by the Department of Transportation that is designated by the Secretary of the department in which the Coast Guard is operating as a vessel equivalent to a vessel described in subparagraph (A).''.

(2) ENFORCEMENT.—The first sentence of section 312(j) of the Federal Water Pollution Control Act (33 U.S.C. 1322(j)) is amended—

(A) by striking ''of this section or'' and inserting a comma; and

(B) by striking ''of this section shall'' and inserting '', or subsection (n)(8) shall''.

(3) OTHER DEFINITIONS.—Subparagraph (A) of the second sentence of section 502(6) of the Federal Water Pollution Control Act (33 U.S.C. 1362(6)) is amended by striking ''sewage from vessels'' and inserting ''sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces''.

(d) COOPERATION IN STANDARDS DEVELOPMENT.—The Administrator of the Environmental Protection Agency and the Secretary of Defense may, by mutual agreement, with or without reimbursement, provide for the use of information, reports, personnel, or other resources of the Environmental Protection Agency or the Department of Defense to carry out section 312(n) of the Federal Water Pollution Control Act (as added by subsection (b)), including the use of the resources—

(1) to determine—

(A) the nature and environmental effect of discharges incidental to the normal operation of a vessel of the Armed Forces;

(B) the practicability of using marine pollution control devices on vessels of the Armed Forces; and

(C) the effect that installation or use of marine pollution control devices on vessels of the Armed Forces would have on the operation or operational capability of the vessels; and

(2) to establish performance standards for marine pollution control devices on vessels of the Armed Forces.

Subtitle D—Commissaries and Nonappropriated Fund Instrumentalities

SEC. 331. OPERATION OF COMMISSARY SYSTEM.

(a) COOPERATION WITH OTHER ENTITIES.—Section 2482 of title 10, United States Code, is amended—

(1) in the section heading, by striking out ''**private**'';

(2) by inserting ''(a) PRIVATE OPERATION.—'' before ''Private persons''; and

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

''(b) CONTRACTS WITH OTHER AGENCIES AND INSTRUMENTALITIES.—(1) The Defense Commissary Agency, and any other agency of the Department of Defense that supports the operation of the commissary system, may enter into a contract or other agreement with another department, agency, or instrumentality of the Department of Defense or another Federal agency to provide services beneficial to the efficient management and operation of the commissary system.

''(2) A commissary store operated by a nonappropriated fund instrumentality of the Department of Defense shall be operated in accordance with section 2484 of this title. Subject to such section, the Secretary of Defense may authorize a transfer of goods, supplies, and facilities of, and funds appropriated for, the Defense Commissary Agency or any other agency of the Department of Defense that supports the operation of the commissary system to a nonappropriated fund instrumentality for the operation of a commissary store.''.

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 147 of such title is amended to read as follows:

''2482. Commissary stores: operation.''.

SEC. 332. LIMITED RELEASE OF COMMISSARY STORES SALES INFORMATION TO MANUFACTURERS, DISTRIBUTORS, AND OTHER VENDORS DOING BUSINESS WITH DEFENSE COMMISSARY AGENCY.

Section 2487(b) of title 10, United States Code, is amended in the second sentence by inserting before the period the following: ''unless the agreement is between the Defense Commissary Agency and a manufacturer, distributor, or other vendor doing business with the Agency and is restricted to information directly related to merchandise provided by that manufacturer, distributor, or vendor''.

SEC. 333. ECONOMICAL DISTRIBUTION OF DISTILLED SPIRITS BY NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) ECONOMICAL DISTRIBUTION.—Subsection (a)(1) of section 2488 of title 10, United States Code, is amended by inserting after ''most competitive source'' the following: ''and distributed in the most economical manner''.

(b) DETERMINATION OF MOST ECONOMICAL DISTRIBUTION METHOD.—Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

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

''(c)(1) In the case of covered alcoholic beverage purchases of distilled spirits, to determine whether a nonappropriated fund instrumentality of the Department of Defense provides the most economical method of distribution to package stores, the Secretary of Defense shall consider all components of the distribution costs incurred by the nonappropriated fund instrumentality, such as overhead costs (including costs associated with management, logistics, administration, depreciation, and utilities), the costs of carrying inventory, and handling and distribution costs.

''(2) If the use of a private distributor would subject covered alcoholic beverage purchases of distilled spirits to direct or indirect State taxation, a nonappropriated fund instrumentality shall be considered to be the most economical method of distribution regardless of the results of the determination under paragraph (1).

''(3) The Secretary shall use the agencies performing audit functions on behalf of the armed forces and the Inspector General of the Department of Defense to make determinations under this subsection.''.

SEC. 334. TRANSPORTATION BY COMMISSARIES AND EXCHANGES TO OVERSEAS LOCATIONS.

(a) IN GENERAL.—Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2643. Commissary and exchange services: transportation overseas

''The Secretary of Defense shall authorize the officials responsible for operation of commissaries and military exchanges to negotiate directly with private carriers for the most cost-effective transportation of commissary and exchange supplies by sea without relying on the Military Sealift Command or the Military Traffic Management Command. Section 2631 of this title, regarding the preference for vessels of the United States or belonging to the United States in the transportation of supplies by sea, shall apply to the negotiation of transportation contracts under the authority of this section.''.

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

''2643. Commissary and exchange services: transportation overseas.''.

SEC. 335. DEMONSTRATION PROJECT FOR UNIFORM FUNDING OF MORALE, WELFARE, AND RECREATION ACTIVITIES AT CERTAIN MILITARY INSTALLATIONS.

(a) DEMONSTRATION PROJECT REQUIRED.—(1) The Secretary of Defense shall conduct a demonstration project to evaluate the feasibility of using only nonappropriated funds to support morale, welfare, and recreation programs at military installations in order to facilitate the procurement of property and services for those programs and the management of employees used to carry out those programs.

(2) Under the demonstration project—

(A) procurements of property and services for programs referred to in paragraph (1) may be carried out in accordance with laws and regulations applicable to procurements paid for with nonappropriated funds; and

(B) appropriated funds available for such programs may be expended in accordance with laws applicable to expenditures of nonappropriated funds as if the appropriated funds were nonappropriated funds.

(3) The Secretary shall prescribe regulations to carry out paragraph (2). The regulations shall provide for financial management and accounting of appropriated funds expended in accordance with subparagraph (B) of such paragraph.

(b) COVERED MILITARY INSTALLATIONS.—The Secretary shall select not less than

three and not more than six military installations to participate in the demonstration project.

(c) PERIOD OF DEMONSTRATION PROJECT.—The demonstration project shall terminate not later than September 30, 1998.

(d) EFFECT ON EMPLOYEES.—For the purpose of testing fiscal accounting procedures, the Secretary may convert, for the duration of the demonstration project, the status of an employee who carries out a program referred to in subsection (a)(1) from the status of an employee paid by appropriated funds to the status of a nonappropriated fund instrumentality employee, except that such conversion may occur only—

(1) if the employee whose status is to be converted—

(A) is fully informed of the effects of such conversion on the terms and conditions of the employment of that employee for purposes of title 5, United States Code, and on the benefits provided to that employee under such title; and

(B) consents to such conversion; or

(2) in a manner which does not affect such terms and conditions of employment or such benefits.

(e) REPORTS.—(1) Not later than six months after the date of the enactment of this Act, the Secretary shall submit to Congress an interim report on the implementation of this section.

(2) Not later than December 31, 1998, the Secretary shall submit to Congress a final report on the results of the demonstration project. The report shall include a comparison of—

(A) the cost incurred under the demonstration project in using employees paid by appropriated funds together with nonappropriated fund instrumentality employees to carry out the programs referred to in subsection (a)(1); and

(B) an estimate of the cost that would have been incurred if only nonappropriated fund instrumentality employees had been used to carry out such programs.

SEC. 336. OPERATION OF COMBINED EXCHANGE AND COMMISSARY STORES.

(a) IN GENERAL.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2490a. Combined exchange and commissary stores

''(a) AUTHORITY.—The Secretary of Defense may authorize a nonappropriated fund instrumentality to operate a military exchange and a commissary store as a combined exchange and commissary store on a military installation.

''(b) LIMITATIONS.—(1) Not more than ten combined exchange and commissary stores may be operated pursuant to this section.

''(2) The Secretary may select a military installation for the operation of a combined exchange and commissary store under this section only if—

''(A) the installation is to be closed, or has been or is to be realigned, under a base closure law; or

''(B) a military exchange and a commissary store are operated at the installation by separate entities at the time of, or immediately before, such selection and it is not economically feasible to continue that separate operation.

''(c) OPERATION AT CARSWELL FIELD.—Combined exchange and commissary stores operated under this section shall include the combined exchange and commissary store that is operated at the Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field, Texas, under the authority provided in section 375 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2736).

''(d) ADJUSTMENTS AND SURCHARGES.—Adjustments to, and surcharges on, the sales price of a grocery food item sold in a combined exchange and commissary store under this section shall be provided for in accordance with the same laws that govern such adjustments and surcharges for items sold in a commissary store of the Defense Commissary Agency.

''(e) USE OF APPROPRIATED FUNDS.—(1) If a nonappropriated fund instrumentality incurs a loss in operating a combined exchange and commissary store at a military installation under this section as a result of the requirement set forth in subsection (d), the Secretary may authorize a transfer of funds available for the Defense Commissary Agency to the nonappropriated fund instrumentality to offset the loss.

''(2) The total amount of appropriated funds transferred during a fiscal year to support the operation of a combined exchange and commissary store at a military installation under this section may not exceed an amount that is equal to 25 percent of the amount of appropriated funds that was provided for the operation of the commissary store of the Defense Commissary Agency on that installation during the last full fiscal year of operation of that commissary store.

''(f) DEFINITIONS.—In this section:

''(1) The term 'nonappropriated fund instrumentality' means the Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

''(2) The term 'base closure law' has the meaning given such term by section 2667(g) of this title.''.

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

''2490a. Combined exchange and commissary stores.''.

(b) CONFORMING AMENDMENT.—Section 375 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2736) is amended by striking out '', until December 31, 1995,''.

SEC. 337. DEFERRED PAYMENT PROGRAMS OF MILITARY EXCHANGES.

(a) USE OF COMMERCIAL BANKING INSTITUTION.—(1) As soon as practicable after the date of the enactment of this Act, the Secretary of Defense shall seek to enter into an agreement with a commercial banking institution under which the institution agrees to finance and operate the deferred payment program of the Army and Air Force Exchange Service and the deferred payment program of the Navy Exchange Service Command. The Secretary shall use competitive procedures to enter into an agreement under this paragraph.

(2) In order to facilitate the transition of the operation of the programs referred to in paragraph (1) to commercial operation under an agreement described in that paragraph, the Secretary may initially limit the scope of any such agreement so as to apply to only one of the programs.

(b) REPORT.—Not later than December 31, 1995, the Secretary shall submit to Congress a report on the implementation of this section. The report shall also include an analysis of the impact of the deferred payment programs referred to in subsection (a)(1), including the impact of the default and collection procedures under such programs, on members of the Armed Forces and their families.

SEC. 338. AVAILABILITY OF FUNDS TO OFFSET EXPENSES INCURRED BY ARMY AND AIR FORCE EXCHANGE SERVICE ON ACCOUNT OF TROOP REDUCTIONS IN EUROPE.

Of funds authorized to be appropriated under section 301(5), not less than $70,000,000 shall be available to the Secretary of Defense for transfer to the Army and Air Force Exchange Service to offset expenses incurred by the Army and Air Force Exchange Service on account of reductions in the number of members of the United States Armed Forces assigned to permanent duty ashore in Europe.

SEC. 339. STUDY REGARDING IMPROVING EFFICIENCIES IN OPERATION OF MILITARY EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES AND COMMISSARY STORES.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study regarding the manner in which greater efficiencies can be achieved in the operation of—

(1) military exchanges;

(2) other instrumentalities of the United States under the jurisdiction of the Armed Forces which are conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces; and

(3) commissary stores.

(b) REPORT OF STUDY.—Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report describing the results of the study and containing such recommendations as the Secretary considers appropriate to implement options identified in the study to achieve the greater efficiencies referred to in subsection (a).

SEC. 340. REPEAL OF REQUIREMENT TO CONVERT SHIPS' STORES TO NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) REPEAL.—Section 371 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 7604 note) is amended—

(1) by striking out subsections (a) and (b); and

(2) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(b) INSPECTOR GENERAL REVIEW.—Not later than April 1, 1996, the Inspector General of the Department of Defense shall submit to Congress a report that reviews the report on the costs and benefits of converting to operation of Navy ships' stores by nonappropriated fund instrumentalities that the Navy Audit Agency prepared in connection with the postponement of the deadline for the conversion provided for in section 374(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2736).

SEC. 341. DISPOSITION OF EXCESS MORALE, WELFARE, AND RECREATION FUNDS.

Section 2219 of title 10, United States Code, is amended—

(1) in the first sentence, by striking out ''a military department'' and inserting in lieu thereof ''an armed force'';

(2) in the second sentence—

(A) by striking out '', department-wide''; and

(B) by striking out ''of the military department'' and inserting in lieu thereof ''for that armed force''; and

(3) by adding at the end the following: ''This section does not apply to the Coast Guard.''.

SEC. 342. CLARIFICATION OF ENTITLEMENT TO USE OF MORALE, WELFARE, AND RECREATION FACILITIES BY MEMBERS OF RESERVE COMPONENTS AND DEPENDENTS.

(a) IN GENERAL.—Section 1065 of title 10, United States Code, is amended to read as follows:

"§ 1065. Morale, welfare, and recreation retail facilities: use by members of reserve components and dependents

''(a) MEMBERS OF THE SELECTED RESERVE.—A member of the Selected Reserve in good standing (as determined by the Secretary concerned) shall be permitted to use MWR retail facilities on the same basis as members on active duty.

''(b) MEMBERS OF READY RESERVE NOT IN SELECTED RESERVE.—Subject to such regulations as the Secretary of Defense may prescribe, a member of the Ready Reserve (other than members of the Selected Reserve) may be permitted to use MWR retail facilities on the same basis as members serving on active duty.

''(c) RESERVE RETIREES UNDER AGE 60.—A member or former member of a reserve component under 60 years of age who, but for age, would be eligible for retired pay under chapter 1223 of this title shall be permitted to use MWR retail facilities on the same basis as members of the armed forces entitled to retired pay under any other provision of law.

''(d) DEPENDENTS.—(1) Dependents of a member who is permitted under subsection (a) or (b) to use MWR retail facilities shall be permitted to use such facilities on the same basis as dependents of members on active duty.

''(2) Dependents of a member who is permitted under subsection (c) to use MWR retail facilities shall be permitted to use such facilities on the same basis as dependents of members of the armed forces entitled to retired pay under any other provision of law.

''(e) MWR RETAIL FACILITY DEFINED.—In this section, the term 'MWR retail facilities' means exchange stores and other revenue-generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.''.

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 54 of such title is amended to read as follows:

''1065. Morale, welfare, and recreation retail facilities: use by members of reserve components and dependents.''.

Subtitle E—Performance of Functions by Private-Sector Sources

SEC. 351. COMPETITIVE PROCUREMENT OF PRINTING AND DUPLICATION SERVICES.

(a) REQUIREMENT FOR COMPETITIVE PROCUREMENT.—Except as provided in subsection (b), the Secretary of Defense shall, during fiscal year 1996 and consistent with the requirements of title 44, United States Code, competitively procure printing and duplication services from private-sector sources for the performance of at least 70 percent of the total printing and duplication requirements of the Defense Printing Service.

(b) EXCEPTION FOR CLASSIFIED INFORMATION.—The requirement of subsection (a) shall not apply to the procurement of services for printing and duplicating classified documents and information.

SEC. 352. DIRECT VENDOR DELIVERY SYSTEM FOR CONSUMABLE INVENTORY ITEMS OF DEPARTMENT OF DEFENSE.

(a) IMPLEMENTATION OF DIRECT VENDOR DELIVERY SYSTEM.—Not later than September 30, 1997, the Secretary of Defense shall, to the maximum extent practicable, implement a system under which consumable inventory items referred to in subsection (b) are delivered to military installations throughout the United States directly by the vendors of those items. The purpose for implementing the system is to reduce the expense and necessity of maintaining extensive warehouses for those items within the Department of Defense.

(b) COVERED ITEMS.—The items referred to in subsection (a) are the following:

(1) Food and clothing.

(2) Medical and pharmaceutical supplies.

(3) Automotive, electrical, fuel, and construction supplies.

(4) Other consumable inventory items the Secretary considers appropriate.

SEC. 353. PAYROLL, FINANCE, AND ACCOUNTING FUNCTIONS OF THE DEPARTMENT OF DEFENSE.

(a) PLAN FOR PRIVATE OPERATION OF CERTAIN FUNCTIONS.—(1) Not later than October 1, 1996, the Secretary of Defense shall submit to Congress a plan for the performance by private-sector sources of payroll functions for civilian employees of the Department of Defense other than employees paid from nonappropriated funds.

(2)(A) The Secretary shall implement the plan referred to in paragraph (1) if the Secretary determines that the cost of performance by private-sector sources of the functions referred to in that paragraph does not exceed the cost of performance of those functions by employees of the Federal Government.

(B) In computing the total cost of performance of such functions by employees of the Federal Government, the Secretary shall include the following:

(i) Managerial and administrative costs.

(ii) Personnel costs, including the cost of providing retirement benefits for such personnel.

(iii) Costs associated with the provision of facilities and other support by Federal agencies.

(C) The Defense Contract Audit Agency shall verify the costs computed for the Secretary under this paragraph by others.

(3) At the same time the Secretary submits the plan required by paragraph (1), the Secretary shall submit to Congress a report on other accounting and finance functions of the Department that are appropriate for performance by private-sector sources.

(b) PILOT PROGRAM FOR PRIVATE OPERATION OF NAFI FUNCTIONS.—(1) The Secretary shall carry out a pilot program to test the performance by private-sector sources of payroll and other accounting and finance functions of nonappropriated fund instrumentalities and to evaluate the extent to which cost savings and efficiencies would result from the performance of such functions by those sources.

(2) The payroll and other accounting and finance functions designated by the Secretary for performance by private-sector sources under the pilot program shall include at least one major payroll, accounting, or finance function.

(3) To carry out the pilot program, the Secretary shall enter into discussions with private-sector sources for the purpose of developing a request for proposals to be issued for performance by those sources of functions designated by the Secretary under paragraph (2). The discussions shall be conducted on a schedule that accommodates issuance of a request for proposals within 60 days after the date of the enactment of this Act.

(4) A goal of the pilot program is to reduce by at least 25 percent the total costs incurred by the Department annually for the performance of a function referred to in paragraph (2) through the performance of that function by a private-sector source.

(5) Before conducting the pilot program, the Secretary shall develop a plan for the program that addresses the following:

(A) The purposes of the program.

(B) The methodology, duration, and anticipated costs of the program, including the cost of an arrangement pursuant to which a private-sector source would receive an agreed-upon payment plus an additional negotiated amount not to exceed 50 percent of the dollar savings achieved in excess of the goal specified in paragraph (4).

(C) A specific citation to any provisions of law, rule, or regulation that, if not waived, would prohibit the conduct of the program or any part of the program.

(D) A mechanism to evaluate the program.

(E) A provision for all payroll, accounting, and finance functions of nonappropriated fund instrumentalities of the Department of Defense to be performed by private-sector sources, if determined advisable on the basis of a final assessment of the results of the program.

(6) The Secretary shall act through the Under Secretary of Defense (Comptroller) in the performance of the Secretary's responsibilities under this subsection.

(c) LIMITATION ON OPENING OF NEW OPERATING LOCATIONS FOR DEFENSE FINANCE AND ACCOUNTING SERVICE.—(1) Except as provided in paragraph (2), the Secretary may not establish a new operating location for the Defense Finance and Accounting Service during fiscal year 1996.

(2) The Secretary may establish a new operating location for the Defense Finance and Accounting Service if—

(A) for a new operating location that the Secretary planned before the date of the enactment of this Act to establish on or after that date, the Secretary reconsiders the need for establishing that new operating location; and

(B) for each new operating location, including a new operating location referred to in subparagraph (A)—

(i) the Secretary submits to Congress, as part of the report required by subsection (a)(4), an analysis of the need for establishing the new operating location; and

(ii) a period of 30 days elapses after the Congress receives the report.

(3) In this subsection, the term ''new operating location'' means an operating location that is not in operation on the date of the enactment of this Act, except that such term does not include an operating location for which, as of such date—

(A) the Secretary has established a date for the commencement of operations; and

(B) funds have been expended for the purpose of its establishment.

SEC. 354. DEMONSTRATION PROGRAM TO IDENTIFY OVERPAYMENTS MADE TO VENDORS.

(a) IN GENERAL.—The Secretary of Defense shall conduct a demonstration program to evaluate the feasibility of using private contractors to audit accounting and procurement records of the Department of Defense in order to identify overpayments made to vendors by the Department. The demonstration program shall be conducted for the Defense Logistics Agency and include the Defense Personnel Support Center.

(b) PROGRAM REQUIREMENTS.—(1) Under the demonstration program, the Secretary shall, by contract, provide for one or more persons to audit the accounting and procurement records of the Defense Logistics Agency that relate to (at least) fiscal years 1993, 1994, and 1995. The Secretary may enter into more than one contract under the program.

(2) A contract under the demonstration program shall require the contractor to use data processing techniques that are generally used in audits of private-sector records similar to the records audited under the contract.

(c) AUDIT REQUIREMENTS.—In conducting an audit under the demonstration program, a contractor shall compare Department of Defense purchase agreements (and related documents) with invoices submitted by vendors

under the purchase agreements. A purpose of the comparison is to identify, in the case of each audited purchase agreement, the following:

(1) Any payments to the vendor for costs that are not allowable under the terms of the purchase agreement or by law.

(2) Any amounts not deducted from the total amount paid to the vendor under the purchase agreement that should have been deducted from that amount on account of goods and services provided to the vendor by the Department.

(3) Duplicate payments.

(4) Unauthorized charges.

(5) Other discrepancies between the amount paid to the vendor and the amount actually due the vendor under the purchase agreement.

(d) BONUS PAYMENT.—To the extent provided for in a contract under the demonstration program, the Secretary may pay the contractor a bonus in addition to any other amount paid for performance of the contract. The amount of such bonus may not exceed the amount that is equal to 25 percent of all amounts recovered by the United States on the basis of information obtained as a result of the audit performed under the contract. Any such bonus shall be paid out of amounts made available pursuant to subsection (e).

(e) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated pursuant to section 301(5), not more than $5,000,000 shall be available for the demonstration program.

SEC. 355. PILOT PROGRAM ON PRIVATE OPERATION OF DEFENSE DEPENDENTS' SCHOOLS.

(a) PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program to evaluate the feasibility of using private contractors to operate schools of the defense dependents' education system established under section 1402(a) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(a)).

(b) SELECTION OF SCHOOL FOR PROGRAM.—If the Secretary conducts the pilot program, the Secretary shall select one school of the defense dependents' education system for participation in the program and provide for the operation of the school by a private contractor for not less than one complete school year.

(c) REPORT.—Not later than 30 days after the end of the first school year in which the pilot program is conducted, the Secretary shall submit to Congress a report on the results of the program. The report shall include the recommendation of the Secretary with respect to the extent to which other schools of the defense dependents' education system should be operated by private contractors.

SEC. 356. PROGRAM FOR IMPROVED TRAVEL PROCESS FOR THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—(1) The Secretary of Defense shall conduct a program to evaluate options to improve the Department of Defense travel process. To carry out the program, the Secretary shall compare the results of the tests conducted under subsection (b) to determine which travel process tested under such subsection is the better option to effectively manage travel of Department personnel.

(2) The program shall be conducted at not less than three and not more than six military installations, except that an installation may be the subject of only one test conducted under the program.

(3) The Secretary shall act through the Under Secretary of Defense (Comptroller) in the performance of the Secretary's responsibilities under this section.

(b) CONDUCT OF TESTS.—(1) The Secretary shall conduct a test at an installation referred to in subsection (a)(2) under which the Secretary—

(A) implements the changes proposed to be made with respect to the Department of Defense travel process by the task force on travel management that was established by the Secretary in July 1994;

(B) manages and uniformly applies that travel process (including the implemented changes) throughout the Department; and

(C) provides opportunities for private-sector sources to provide travel reservation services and credit card services to facilitate that travel process.

(2) The Secretary shall conduct a test at an installation referred to in subsection (a)(2) under which the Secretary—

(A) enters into one or more contracts with a private-sector source pursuant to which the private-sector source manages the Department of Defense travel process (except for functions referred to in subparagraph (B)), provides for responsive, reasonably priced services as part of the travel process, and uniformly applies the travel process throughout the Department; and

(B) provides for the performance by employees of the Department of only those travel functions, such as travel authorization, that the Secretary considers to be necessary to be performed by such employees.

(3) Each test required by this subsection shall begin not later than 60 days after the date of the enactment of this Act and end two years after the date on which it began. Each such test shall also be conducted in accordance with the guidelines for travel management issued for the Department by the Under Secretary of Defense (Comptroller).

(c) EVALUATION CRITERIA.—The Secretary shall establish criteria to evaluate the travel processes tested under subsection (b). The criteria shall, at a minimum, include the extent to which a travel process provides for the following:

(1) The coordination, at the time of a travel reservation, of travel policy and cost estimates with the mission which necessitates the travel.

(2) The use of fully integrated travel solutions envisioned by the travel reengineering report of the Department of Defense dated January 1995.

(3) The coordination of credit card data and travel reservation data with cost estimate data.

(4) The elimination of the need for multiple travel approvals through the coordination of such data with proposed travel plans.

(5) A responsive and flexible management information system that enables the Under Secretary of Defense (Comptroller) to monitor travel expenses throughout the year, accurately plan travel budgets for future years, and assess, in the case of travel of an employee on temporary duty, the relationship between the cost of the travel and the value of the travel to the accomplishment of the mission which necessitates the travel.

(d) PLAN FOR PROGRAM.—Before conducting the program, the Secretary shall develop a plan for the program that addresses the following:

(1) The purposes of the program, including the achievement of an objective of reducing by at least 50 percent the total cost incurred by the Department annually to manage the Department of Defense travel process.

(2) The methodology and anticipated cost of the program, including the cost of an arrangement pursuant to which a private-sector source would receive an agreed-upon payment plus an additional negotiated amount that does not exceed 50 percent of the total amount saved in excess of the objective specified in paragraph (1).

(3) A specific citation to any provision or law, rule, or regulation that, if not waived, would prohibit the conduct of the program or any part of the program.

(4) The evaluation criteria established pursuant to subsection (c).

(5) A provision for implementing throughout the Department the travel process determined to be the better option to effectively manage travel of Department personnel on the basis of a final assessment of the results of the program.

(e) REPORT.—After the first full year of the conduct of the tests required by subsection (b), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the implementation of the program. The report shall include an analysis of the evaluation criteria established pursuant to subsection (c).

SEC. 357. INCREASED RELIANCE ON PRIVATE-SECTOR SOURCES FOR COMMERCIAL PRODUCTS AND SERVICES.

(a) IN GENERAL.—The Secretary of Defense shall endeavor to carry out through a private-sector source any activity to provide a commercial product or service for the Department of Defense if—

(1) the product or service can be provided adequately through such a source; and

(2) an adequate competitive environment exists to provide for economical performance of the activity by such a source.

(b) APPLICABILITY.—(1) Subsection (a) shall not apply to any commercial product or service with respect to which the Secretary determines that production, manufacture, or provision of that product or service by the Government is necessary for reasons of national security.

(2) A determination under paragraph (1) shall be made in accordance with regulations prescribed under subsection (c).

(c) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. Such regulations shall be prescribed in consultation with the Director of the Office of Management and Budget.

(d) REPORT.—(1) The Secretary shall identify activities of the Department (other than activities specified by the Secretary pursuant to subsection (b)) that are carried out by employees of the Department to provide commercial-type products or services for the Department.

(2) Not later than April 15, 1996, the Secretary shall transmit to the congressional defense committees a report on opportunities for increased use of private-sector sources to provide commercial products and services for the Department.

(3) The report required by paragraph (2) shall include the following:

(A) A list of activities identified under paragraph (1) indicating, for each activity, whether the Secretary proposes to convert the performance of that activity to performance by private-sector sources and, if not, the reasons why.

(B) An assessment of the advantages and disadvantages of using private-sector sources, rather than employees of the Department, to provide commercial products and services for the Department that are not essential to the warfighting mission of the Armed Forces.

(C) A specification of all legislative and regulatory impediments to converting the performance of activities identified under paragraph (1) to performance by private-sector sources.

(D) The views of the Secretary on the desirability of terminating the applicability of OMB Circular A–76 to the Department.

(4) The Secretary shall carry out paragraph (1) in consultation with the Director of the Office of Management and Budget and the Comptroller General of the United States. In carrying out that paragraph, the Secretary shall consult with, and seek the

views of, representatives of the private sector, including organizations representing small businesses.

Subtitle F—Miscellaneous Reviews, Studies, and Reports

SEC. 361. QUARTERLY READINESS REPORTS.

(a) IN GENERAL.—(1) Chapter 22 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 452. Quarterly readiness reports

''(a) REQUIREMENT.—Not later than 30 days after the end of each calendar-year quarter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on military readiness. The report for any quarter shall be based on assessments that are provided during that quarter—

''(1) to any council, committee, or other body of the Department of Defense (A) that has responsibility for readiness oversight, and (B) the membership of which includes at least one civilian officer in the Office of the Secretary of Defense at the level of Assistant Secretary of Defense or higher;

''(2) by senior civilian and military officers of the military departments and the commanders of the unified and specified commands; and

''(3) as part of any regularly established process of periodic readiness reviews for the Department of Defense as a whole.

''(b) MATTERS TO BE INCLUDED.—Each such report shall—

''(1) specifically describe identified readiness problems or deficiencies and planned remedial actions; and

''(2) include the key indicators and other relevant data related to the identified problem or deficiency.

''(c) CLASSIFICATION OF REPORTS.—Reports under this section shall be submitted in unclassified form and may, as the Secretary determines necessary, also be submitted in classified form.''.

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

''452. Quarterly readiness reports.''.

(b) EFFECTIVE DATE.—Section 452 of title 10, United States Code, as added by subsection (a), shall take effect with the calendar-year quarter during which this Act is enacted.

SEC. 362. RESTATEMENT OF REQUIREMENT FOR SEMIANNUAL REPORTS TO CONGRESS ON TRANSFERS FROM HIGH-PRIORITY READINESS APPROPRIATIONS.

Section 361 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2732) is amended to read as follows:

"SEC. 361. SEMIANNUAL REPORTS TO CONGRESS ON TRANSFERS FROM HIGH-PRIORITY READINESS APPROPRIATIONS.

''(a) ANNUAL REPORTS.—During 1996 and 1997, the Secretary of Defense shall submit to the congressional defense committees a report on transfers during the preceding fiscal year from funds available for each budget activity specified in subsection (d) (hereinafter in this section referred to as 'covered budget activities'). The report each year shall be submitted not later than the date in that year on which the President submits the budget for the next fiscal year to Congress pursuant to section 1105 of title 31, United States Code.

''(b) MIDYEAR REPORTS.—On May 1 of each year specified in subsection (a), the Secretary of Defense shall submit to the congressional defense committees a report providing the same information, with respect to the first six months of the fiscal year in which the report is submitted, that is provided in reports under subsection (a) with respect to the preceding fiscal year.

''(c) MATTERS TO BE INCLUDED.—In each report under this section, the Secretary shall include for each covered budget activity the following:

''(1) A statement, for the period covered by the report, of—

''(A) the total amount of transfers into funds available for that activity;

''(B) the total amount of transfers from funds available for that activity; and

''(C) the net amount of transfers into, or out of, funds available for that activity.

''(2) A detailed explanation of the transfers into, and out of, funds available for that activity during the period covered by the report.

''(d) COVERED BUDGET ACTIVITIES.—The budget activities to which this section applies are the following:

''(1) The budget activity groups (known as 'subactivities') within the Operating Forces budget activity of the annual Operation and Maintenance, Army, appropriation that are designated as follows:

''(A) Combat Units.

''(B) Tactical Support.

''(C) Force-Related Training/Special Activities.

''(D) Depot Maintenance.

''(E) JCS Exercises.

''(2) The budget activity groups (known as 'subactivities') within the Operating Forces budget activity of the annual Operation and Maintenance, Navy, appropriation that are designated as follows:

''(A) Mission and Other Flight Operations.

''(B) Mission and Other Ship Operations.

''(C) Fleet Air Training.

''(D) Ship Operational Support and Training.

''(E) Aircraft Depot Maintenance.

''(F) Ship Depot Maintenance.

''(3) The budget activity groups (known as 'subactivities'), or other activity, within the Operating Forces budget activity of the annual Operation and Maintenance, Air Force, appropriation that are designated or otherwise identified as follows:

''(A) Primary Combat Forces.

''(B) Primary Combat Weapons.

''(C) Global and Early Warning.

''(D) Air Operations Training.

''(E) Depot Maintenance.

''(F) JCS Exercises.''.

SEC. 363. REPORT REGARDING REDUCTION OF COSTS ASSOCIATED WITH CONTRACT MANAGEMENT OVERSIGHT.

(a) REPORT REQUIRED.—Not later than April 1, 1996, the Comptroller General of the United States shall submit to Congress a report identifying methods to reduce the cost to the Department of Defense of management oversight of contracts in connection with major defense acquisition programs.

(b) MAJOR DEFENSE ACQUISITION PROGRAMS DEFINED.—For purposes of this section, the term ''major defense acquisition program'' has the meaning given that term in section 2430(a) of title 10, United States Code.

SEC. 364. REVIEWS OF MANAGEMENT OF INVENTORY CONTROL POINTS AND MATERIEL MANAGEMENT STANDARD SYSTEM.

(a) REVIEW OF CONSOLIDATION OF INVENTORY CONTROL POINTS.—(1) The Secretary of Defense shall conduct a review of the management by the Defense Logistics Agency of all inventory control points of the Department of Defense. In conducting the review, the Secretary shall examine the management and acquisition practices of the Defense Logistics Agency for inventory of repairable spare parts.

(2) Not later than March 31, 1996, the Secretary shall submit to the Comptroller General of the United States and the congressional defense committees a report on the results the review conducted under paragraph (1).

(b) REVIEW OF MATERIEL MANAGEMENT STANDARD SYSTEM.—(1) The Comptroller General of the United States shall conduct a review of the automated data processing system of the Department of Defense known as the Materiel Management Standard System.

(2) Not later than May 1, 1996, the Comptroller General shall submit to the congressional defense committees a report on the results of the review conducted under paragraph (1).

3SEC. 365. REPORT ON PRIVATE PERFORMANCE OF CERTAIN FUNCTIONS PERFORMED BY MILITARY AIRCRAFT.

(a) REPORT REQUIRED.—Not later than May 1, 1996, the Secretary of Defense shall submit to Congress a report on the feasibility of providing for the performance by private-sector sources of functions necessary to be performed to fulfill the requirements of the Department of Defense for air transportation of personnel and cargo.

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

(1) A cost-benefit analysis with respect to the performance by private-sector sources of functions described in subsection (a), including an explanation of the assumptions used in the cost-benefit analysis.

(2) An assessment of the issues raised by providing for such performance by means of a contract entered into with a private-sector source.

(3) An assessment of the issues raised by providing for such performance by means of converting functions described in subsection (a) to private ownership and operation, in whole or in part.

(4) A discussion of the requirements for the performance of such functions in order to fulfill the requirements referred to in subsection (a) during wartime.

(5) The effect on military personnel and facilities of using private-sector sources to fulfill the requirements referred to in such subsection.

(6) The performance by private-sector sources of any other military aircraft functions (such as non-combat inflight fueling of aircraft) the Secretary considers appropriate.

SEC. 366. STRATEGY AND REPORT ON AUTOMATED INFORMATION SYSTEMS OF DEPARTMENT OF DEFENSE.

(a) DEVELOPMENT OF STRATEGY.—The Secretary of Defense shall develop a strategy for the development or modernization of automated information systems for the Department of Defense.

(b) MATTERS TO CONSIDER.—In developing the strategy required under subsection (a), the Secretary shall consider the following:

(1) The use of performance measures and management controls.

(2) Findings of the Functional Management Review conducted by the Secretary.

(3) Program management actions planned by the Secretary.

(4) Actions and milestones necessary for completion of functional and economic analyses for—

(A) the Automated System for Transportation data;

(B) continuous acquisition and life cycle support;

(C) electronic data interchange;

(D) flexible computer integrated manufacturing;

(E) the Navy Tactical Command Support System; and

(F) the Defense Information System Network.

(5) Progress made by the Secretary in resolving problems with respect to the Defense

Information System Network and the Joint Computer-Aided Acquisition and Logistics Support System.

(6) Tasks identified in the review conducted by the Secretary of the Standard Installation/Division Personnel System-3.

(7) Such other matters as the Secretary considers appropriate.

(c) REPORT ON STRATEGY.—(1) Not later than April 15, 1996, the Secretary shall submit to Congress a report on the development of the strategy required under subsection (a).

(2) In the case of the Air Force Wargaming Center, the Air Force Command Exercise System, the Cheyenne Mountain Upgrade, the Transportation Coordinator Automated Command and Control Information Systems, and the Wing Command and Control Systems, the report required by paragraph (1) shall provide functional economic analyses and address waivers exercised for compelling military importance under section 381(d) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2739).

(3) The report required by paragraph (1) shall also include the following:

(A) A certification by the Secretary of the termination of the Personnel Electronic Record Management System or a justification for the continued need for such system.

(B) Findings of the Functional Management Review conducted by the Secretary and program management actions planned by the Secretary for—

(i) the Base Level System Modernization and the Sustaining Base Information System; and

(ii) the Standard Installation/Division Personnel System-3.

(C) An assessment of the implementation of migration systems and applications, including—

(i) identification of the systems and applications by functional or business area, specifying target dates for operation of the systems and applications;

(ii) identification of the legacy systems and applications that will be terminated;

(iii) the cost of and schedules for implementing the migration systems and applications; and

(iv) termination schedules.

(D) A certification by the Secretary that each information system that is subject to review by the Major Automated Information System Review Committee of the Department is cost-effective and supports the corporate information management goals of the Department, including the results of the review conducted for each such system by the Committee.

Subtitle G—Other Matters

SEC. 371. CODIFICATION OF DEFENSE BUSINESS OPERATIONS FUND.

(a) MANAGEMENT OF WORKING-CAPITAL FUNDS.—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2215 the following new section:

"§ 2216. Defense Business Operations Fund

''(a) MANAGEMENT OF WORKING-CAPITAL FUNDS AND CERTAIN ACTIVITIES.—The Secretary of Defense may manage the performance of the working-capital funds and industrial, commercial, and support type activities described in subsection (b) through the fund known as the Defense Business Operations Fund, which is established on the books of the Treasury. Except for the funds and activities specified in subsection (b), no other functions, activities, funds, or accounts of the Department of Defense may be managed or converted to management through the Fund.

''(b) FUNDS AND ACTIVITIES INCLUDED.—The funds and activities referred to in subsection (a) are the following:

''(1) Working-capital funds established under section 2208 of this title and in existence on December 5, 1991.

''(2) Those activities that, on December 5, 1991, were funded through the use of a working-capital fund established under that section.

''(3) The Defense Finance and Accounting Service.

''(4) The Defense Commissary Agency.

''(5) The Defense Reutilization and Marketing Service.

''(6) The Joint Logistics Systems Center.

''(c) SEPARATE ACCOUNTING, REPORTING, AND AUDITING OF FUNDS AND ACTIVITIES.—(1) The Secretary of Defense shall provide in accordance with this subsection for separate accounting, reporting, and auditing of funds and activities managed through the Fund.

''(2) The Secretary shall maintain the separate identity of each fund and activity managed through the Fund that (before the establishment of the Fund) was managed as a separate Fund or activity.

''(3) The Secretary shall maintain separate records for each function for which payment is made through the Fund and which (before the establishment of the Fund) was paid directly through appropriations, including the separate identity of the appropriation account used to pay for the performance of the function.

''(d) CHARGES FOR GOODS AND SERVICES PROVIDED THROUGH THE FUND.—(1) Charges for goods and services provided through the Fund shall include the following:

''(A) Amounts necessary to recover the full costs of the goods and services, whenever practicable, and the costs of the development, implementation, operation, and maintenance of systems supporting the wholesale supply and maintenance activities of the Department of Defense.

''(B) Amounts for depreciation of capital assets, set in accordance with generally accepted accounting principles.

''(C) Amounts necessary to recover the full cost of the operation of the Defense Finance Accounting Service.

''(2) Charges for goods and services provided through the Fund may not include the following:

''(A) Amounts necessary to recover the costs of a military construction project (as defined in section 2801(b) of this title), other than a minor construction project financed by the Fund pursuant to section 2805(c)(1) of this title.

''(B) Amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

''(C) Amounts necessary to recover the costs of functions designated by the Secretary of Defense as mission critical, such as ammunition handling safety, and amounts for ancillary tasks not directly related to the mission of the function or activity managed through the Fund.

''(3)(A) The Secretary of Defense may submit to a customer a bill for the provision of goods and services through the Fund in advance of the provision of those goods and services.

''(B) The Secretary shall submit to Congress a report on advance billings made pursuant to subparagraph (A)—

''(i) when the aggregate amount of all such billings after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 reaches $100,000,000; and

''(ii) whenever the aggregate amount of all such billings after the date of a preceding report under this subparagraph reaches $100,000,000.

''(C) Each report under subparagraph (B) shall include, for each such advance billing, the following:

''(i) An explanation of the reason for the advance billing.

''(ii) An analysis of the impact of the advance billing on readiness.

''(iii) An analysis of the impact of the advance billing on the customer so billed.

''(e) CAPITAL ASSET SUBACCOUNT.—(1) Amounts charged for depreciation of capital assets pursuant to subsection (d)(1)(B) shall be credited to a separate capital asset subaccount established within the Fund.

''(2) The Secretary of Defense may award contracts for capital assets of the Fund in advance of the availability of funds in the subaccount.

''(f) PROCEDURES FOR ACCUMULATION OF FUNDS.—The Secretary of Defense shall establish billing procedures to ensure that the balance in the Fund does not exceed the amount necessary to provide for the working capital requirements of the Fund, as determined by the Secretary.

''(g) PURCHASE FROM OTHER SOURCES.—The Secretary of Defense or the Secretary of a military department may purchase goods and services that are available for purchase from the Fund from a source other than the Fund if the Secretary determines that such source offers a more competitive rate for the goods and services than the Fund offers.

''(h) ANNUAL REPORTS AND BUDGET.—The Secretary of Defense shall annually submit to Congress, at the same time that the President submits the budget under section 1105 of title 31, the following:

''(1) A detailed report that contains a statement of all receipts and disbursements of the Fund (including such a statement for each subaccount of the Fund) for the fiscal year ending in the year preceding the year in which the budget is submitted.

''(2) A detailed proposed budget for the operation of the Fund for the fiscal year for which the budget is submitted.

''(3) A comparison of the amounts actually expended for the operation of the Fund for the fiscal year referred to in paragraph (1) with the amount proposed for the operation of the Fund for that fiscal year in the President's budget.

''(4) A report on the capital asset subaccount of the Fund that contains the following information:

''(A) The opening balance of the subaccount as of the beginning of the fiscal year in which the report is submitted.

''(B) The estimated amounts to be credited to the subaccount in the fiscal year in which the report is submitted.

''(C) The estimated amounts of outlays to be paid out of the subaccount in the fiscal year in which the report is submitted.

''(D) The estimated balance of the subaccount at the end of the fiscal year in which the report is submitted.

''(E) A statement of how much of the estimated balance at the end of the fiscal year in which the report is submitted will be needed to pay outlays in the immediately following fiscal year that are in excess of the amount to be credited to the subaccount in the immediately following fiscal year.

''(i) DEFINITIONS.—In this section:

''(1) The term 'capital assets' means the following capital assets that have a development or acquisition cost of not less than $50,000:

''(A) Minor construction projects financed by the Fund pursuant to section 2805(c)(1) of this title.

''(B) Automatic data processing equipment, software.

''(C) Equipment other than equipment described in subparagraph (B).

''(D) Other capital improvements.

''(2) The term 'Fund' means the Defense Business Operations Fund.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after

the item relating to section 2215 the following new item:

''2216. Defense Business Operations Fund.''.

(b) CONFORMING REPEALS.—The following provisions of law are hereby repealed:

(1) Subsections (b), (c), (d), and (e) of section 311 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 2208 note).

(2) Subsections (a) and (b) of section 333 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2208 note).

(3) Section 342 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 2208 note).

(4) Section 316 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 2208 note).

(5) Section 8121 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 10 U.S.C. 2208 note).

SEC. 372. CLARIFICATION OF SERVICES AND PROPERTY THAT MAY BE EXCHANGED TO BENEFIT THE HISTORICAL COLLECTION OF THE ARMED FORCES.

Section 2572(b)(1) of title 10, United States Code, is amended by striking out ''not needed by the armed forces'' and all that follows through the end of the paragraph and inserting in lieu thereof the following: ''not needed by the armed forces for any of the following items or services if such items or services directly benefit the historical collection of the armed forces:

''(A) Similar items held by any individual, organization, institution, agency, or nation.

''(B) Conservation supplies, equipment, facilities, or systems.

''(C) Search, salvage, or transportation services.

''(D) Restoration, conservation, or preservation services.

''(E) Educational programs.''.

SEC. 373. FINANCIAL MANAGEMENT TRAINING.

(a) LIMITATION.—The Secretary of Defense may enter into a capital lease for the establishment of a Department of Defense financial management training center no earlier than the date that is 30 days after the date on which the Secretary of Defense submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives, in accordance with subsection (b), a certification of the need for such a center and a report on financial management training for Department of Defense personnel.

(b) CERTIFICATION AND REPORT.—(1) The certification and report referred to in subsection (a) are the following:

(A) Certification by the Secretary of the need for such a center.

(B) A report, submitted with the certification, on financial management training for Department of Defense personnel.

(2) Any report under paragraph (1) shall contain the following:

(A) The Secretary's analysis of the requirements for providing financial management training for employees of the Department of Defense.

(B) The alternatives considered by the Secretary for meeting those requirements.

(C) A detailed plan for meeting those requirements.

(D) A financial analysis of the estimated short-term and long-term costs of carrying out the plan.

(3) If, upon completing the analysis referred to in paragraph (2)(A) and after considering alternatives as described in paragraph (2)(B), the Secretary determines to meet the requirements for providing financial management training for employees of the Department of Defense through establishment of a financial management training center, the Secretary—

(A) shall make the determination of the location of the center using a merit-based selection process; and

(B) shall include in the report under paragraph (1) a description of that merit-based selection process.

SEC. 374. PERMANENT AUTHORITY FOR USE OF PROCEEDS FROM THE SALE OF CERTAIN LOST, ABANDONED, OR UNCLAIMED PROPERTY.

(a) PERMANENT AUTHORITY.—Section 2575 of title 10 is amended—

(1) by striking out subsection (b) and inserting in lieu thereof the following:

''(b)(1) In the case of lost, abandoned, or unclaimed personal property found on a military installation, the proceeds from the sale of the property under this section shall be credited to the operation and maintenance account of that installation and used—

''(A) to reimburse the installation for any costs incurred by the installation to collect, transport, store, protect, or sell the property; and

''(B) to the extent that the amount of the proceeds exceeds the amount necessary for reimbursing all such costs, to support morale, welfare, and recreation activities under the jurisdiction of the armed forces that are conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces at such installation.

''(2) The net proceeds from the sale of other property under this section shall be covered into the Treasury as miscellaneous receipts.''; and

(2) by adding at the end the following:

''(d)(1) The owner (or heirs, next of kin, or legal representative of the owner) of personal property the proceeds of which are credited to a military installation under subsection (b)(1) may file a claim with the Secretary of Defense for the amount equal to the proceeds (less costs referred to in subparagraph (A) of such subsection). Amounts to pay the claim shall be drawn from the morale, welfare, and recreation account for the installation that received the proceeds.

''(2) The owner (or heirs, next of kin, or legal representative of the owner) may file a claim with the Comptroller General of the United States for proceeds covered into the Treasury under subsection (b)(2).

''(3) Unless a claim is filed under this subsection within 5 years after the date of the disposal of the property to which the claim relates, the claim may not be considered by a court, the Secretary of Defense (in the case of a claim filed under paragraph (1)), or the Comptroller General of the United States (in the case of a claim filed under paragraph (2)).''.

(b) REPEAL OF AUTHORITY FOR DEMONSTRATION PROGRAM.—Section 343 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1343) is repealed.

SEC. 375. SALE OF MILITARY CLOTHING AND SUBSISTENCE AND OTHER SUPPLIES OF THE NAVY AND MARINE CORPS.

(a) IN GENERAL.—(1) Chapter 651 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 7606. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices

''(a)(1) The Secretary of the Navy shall procure and sell, for cash or credit—

''(A) articles designated by the Secretary to members of the Navy and Marine Corps; and

''(B) items of individual clothing and equipment to members of the Navy and Marine Corps, under such restrictions as the Secretary may prescribe.

''(2) An account of sales on credit shall be kept and the amount due reported to the Secretary. Except for articles and items acquired through the use of working capital funds under section 2208 of this title, sales of articles shall be at cost, and sales of individual clothing and equipment shall be at average current prices, including overhead, as determined by the Secretary.

''(b) The Secretary shall sell subsistence supplies to members of other armed forces at the prices at which like property is sold to members of the Navy and Marine Corps.

''(c) The Secretary may sell serviceable supplies, other than subsistence supplies, to members of other armed forces for the buyers' use in the service. The prices at which the supplies are sold shall be the same prices at which like property is sold to members of the Navy and Marine Corps.

''(d) A person who has been discharged honorably or under honorable conditions from the Army, Navy, Air Force or Marine Corps and who is receiving care and medical treatment from the Public Health Service or the Department of Veterans Affairs may buy subsistence supplies and other supplies, except articles of uniform, at the prices at which like property is sold to members of the Navy and Marine Corps.

''(e) Under such conditions as the Secretary may prescribe, exterior articles of uniform may be sold to a person who has been discharged honorably or under honorable conditions from the Navy or Marine Corps, at the prices at which like articles are sold to members of the Navy or Marine Corps. This subsection does not modify sections 772 or 773 of this title.

''(f) Under regulations prescribed by the Secretary, payment for subsistence supplies shall be made in cash or by commercial credit.

''(g)(1) The Secretary may provide for the procurement and sale of stores designated by the Secretary to such civilian officers and employees of the United States, and such other persons, as the Secretary considers proper—

''(A) at military installations outside the United States; and

''(B) subject to paragraph (2), at military installations inside the United States where the Secretary determines that it is impracticable for those civilian officers, employees, and persons to obtain such stores from commercial enterprises without impairing the efficient operation of military activities.

''(2) Sales to civilian officers and employees inside the United States may be made under paragraph (1) only to civilian officers and employees residing within military installations.

''(h) Appropriations for subsistence of the Navy or Marine Corps may be applied to the purchase of subsistence supplies for sale to members of the Navy and Marine Corps on active duty for the use of such members and their families.''.

(2) The table of sections at the beginning of chapter 651 of such title is amended by adding at the end the following:

''7606. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices.''.

(b) CONFORMING AMENDMENTS FOR OTHER ARMED FORCES.—(1) Section 4621 of such title is amended—

(A) by striking out ''The branch, office, or officer designated by the Secretary of the Army'' in subsection (a) and inserting in lieu thereof ''The Secretary of the Army'';

(B) by striking out ''The branch, office, or officer designated by the Secretary'' both places it appears in subsections (b) and (c) and inserting in lieu thereof ''The Secretary''; and

(C) by inserting before the period at the end of subsection (f) the following: ''or by commercial credit''.

(2) Section 9621 of such title is amended—

(A) by striking out ''The Air Force shall'' in subsection (b) and inserting in lieu thereof ''The Secretary shall''; and

(B) by inserting before the period at the end of subsection (f) the following: ''or by commercial credit''.

SEC. 376. PERSONNEL SERVICES AND LOGISTICAL SUPPORT FOR CERTAIN ACTIVITIES HELD ON MILITARY INSTALLATIONS.

Section 2544 of title 10, United States Code, is amended—

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

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

''(g) In the case of a Boy Scout Jamboree held on a military installation, the Secretary of Defense may provide personnel services and logistical support at the military installation in addition to the support authorized under subsections (a) and (d).''.

SEC. 377. RETENTION OF MONETARY AWARDS.

(a) MONETARY AWARDS.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2610. Competitions for excellence: acceptance of monetary awards

''(a) ACCEPTANCE AUTHORIZED.—The Secretary of Defense may accept a monetary award given to the Department of Defense by a nongovernmental entity as a result of the participation of the Department in a competition carried out to recognize excellence or innovation in providing services or administering programs.

''(b) DISPOSITION OF AWARDS.—A monetary award accepted under subsection (a) shall be credited to one or more nonappropriated fund accounts supporting morale, welfare, and recreation activities for the command, installation, or other activity that is recognized for the award. Amounts so credited may be expended only for such activities.

''(c) INCIDENTAL EXPENSES.—Subject to such limitations as may be provided in appropriation Acts, appropriations available to the Department of Defense may be used to pay incidental expenses incurred by the Department to participate in a competition described in subsection (a) or to accept a monetary award under this section.

''(d) REGULATIONS AND REPORTING.—(1) The Secretary shall prescribe regulations to determine the disposition of monetary awards accepted under this section and the payment of incidental expenses under subsection (c).

''(2) At the end of each year, the Secretary shall submit to Congress a report for that year describing the disposition of monetary awards accepted under this section and the payment of incidental expenses under subsection (c).

''(e) TERMINATION.—The authority of the Secretary under this section shall expire two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.''.

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

''2610. Competitions for excellence: acceptance of monetary awards.''.

SEC. 378. PROVISION OF EQUIPMENT AND FACILITIES TO ASSIST IN EMERGENCY RESPONSE ACTIONS.

Section 372 of title 10, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Secretary of Defense''; and

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

''(b) EMERGENCIES INVOLVING CHEMICAL AND BIOLOGICAL AGENTS.—(1) In addition to equipment and facilities described in subsection (a), the Secretary may provide an item referred to in paragraph (2) to a Federal, State, or local law enforcement or emergency response agency to prepare for or respond to an emergency involving chemical or biological agents if the Secretary determines that the item is not reasonably available from another source.

''(2) An item referred to in paragraph (1) is any material or expertise of the Department of Defense appropriate for use in preparing for or responding to an emergency involving chemical or biological agents, including the following:

''(A) Training facilities.

''(B) Sensors.

''(C) Protective clothing.

''(D) Antidotes.''.

SEC. 379. REPORT ON DEPARTMENT OF DEFENSE MILITARY AND CIVIL DEFENSE PREPAREDNESS TO RESPOND TO EMERGENCIES RESULTING FROM A CHEMICAL, BIOLOGICAL, RADIOLOGICAL, OR NUCLEAR ATTACK.

(a) REPORT.—(1) Not later than March 1, 1996, the Secretary of Defense and the Secretary of Energy shall submit to Congress a joint report on the military and civil defense plans and programs of the Department of Defense to prepare for and respond to the effects of an emergency in the United States resulting from a chemical, biological, radiological, or nuclear attack on the United States (hereinafter in this section referred to as an ''attack-related civil defense emergency'').

(2) The report shall be prepared in consultation with the Director of the Federal Emergency Management Agency.

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

(1) A discussion of the military and civil defense plans and programs of the Department of Defense for preparing for and responding to an attack-related civil defense emergency arising from an attack of a type for which the Department of Defense has a primary responsibility to respond.

(2) A discussion of the military and civil defense plans and programs of the Department of Defense for preparing for and providing a response to an attack-related civil defense emergency arising from an attack of a type for which the Department of Defense has responsibility to provide a supporting response.

(3) A description of any actions, and any recommended legislation, that the Secretaries consider necessary for improving the preparedness of the Department of Defense to respond effectively to an attack-related civil defense emergency.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

(a) FISCAL YEAR 1996.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1996, as follows:

(1) The Army, 495,000, of which not more than 81,300 may be commissioned officers.

(2) The Navy, 428,340, of which not more than 58,870 may be commissioned officers.

(3) The Marine Corps, 174,000, of which not more than 17,978 may be commissioned officers.

(4) The Air Force, 388,200, of which not more than 75,928 may be commissioned officers.

(b) FLOOR ON END STRENGTHS.—(1) Chapter 39 of title 10, United States Code, is amended by adding at the end the following new section:

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

''(a) The end strengths specified in subsection (b) are the minimum strengths necessary to enable the armed forces to fulfill a national defense strategy calling for the United States to be able to successfully conduct two nearly simultaneous major regional contingencies.

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

''(1) For the Army, 495,000.

''(2) For the Navy, 395,000.

''(3) For the Marine Corps, 174,000.

''(4) For the Air Force, 381,000.

''(c) No funds appropriated to the Department of Defense may be used to implement a reduction of the active duty end strength for any of the armed forces for any fiscal year below the level specified in subsection (b) unless the Secretary of Defense submits to Congress notice of the proposed lower end strength levels and a justification for those levels. No action may then be taken to implement such a reduction for that fiscal year until the end of the six-month period beginning on the date of the receipt of such notice by Congress.

''(d) For a fiscal year for which the active duty end strength authorized by law pursuant to section 115(a)(1)(A) of this title for any of the armed forces is identical to the number applicable to that armed force under subsection (b), the Secretary of Defense may reduce that number by not more than 0.5 percent.

''(e) The number of members of the armed forces on active duty shall be counted for purposes of this section in the same manner as applies under section 115(a)(1) of this title.''.

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

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

(c) ACTIVE COMPONENT END STRENGTH FLEXIBILITY.—Section 115(c)(1) of title 10, United States Code, is amended by striking out ''0.5 percent'' and inserting in lieu thereof ''1 percent''.

SEC. 402. TEMPORARY VARIATION IN DOPMA AUTHORIZED END STRENGTH LIMITATIONS FOR ACTIVE DUTY AIR FORCE AND NAVY OFFICERS IN CERTAIN GRADES.

(a) AIR FORCE OFFICERS.—In the administration of the limitation under section 523(a)(1) of title 10, United States Code, for fiscal years 1996 and 1997, the numbers applicable to officers of the Air Force serving on active duty in the grades of major, lieutenant colonel, and colonel shall be the numbers set forth for that fiscal year in the following table (rather than the numbers determined in accordance with the table in that section):

Fiscal year:	Number of officers who may be serving on active duty in the grade of:		
	Major	Lieutenant colonel	Colonel
1996	15,566	9,876	3,609
1997	15,645	9,913	3,627

(b) NAVY OFFICERS.—In the administration of the limitation under section 523(a)(2) of title 10, United States Code, for fiscal years 1996 and 1997, the numbers applicable to officers of the Navy serving on active duty in the grades of lieutenant commander, commander, and captain shall be the numbers set forth for that fiscal year in the following

table (rather than the numbers determined in accordance with the table in that section):

Fiscal year:	Number of officers who may be serving on active duty in the grade of:		
	Lieutenant commander	Commander	Captain
1996	11,924	7,390	3,234
1997	11,732	7,297	3,188

SEC. 403. CERTAIN GENERAL AND FLAG OFFICERS AWAITING RETIREMENT NOT TO BE COUNTED.

(a) DISTRIBUTION OF OFFICERS ON ACTIVE DUTY IN GENERAL AND FLAG OFFICER GRADES.—Section 525 of title 10, United States Code, is amended by adding at the end the following new subsection:

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

(b) NUMBER OF OFFICERS ON ACTIVE DUTY IN GRADE OF GENERAL OR ADMIRAL.—Section 528(b) of such title is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

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

(c) CLARIFICATION.—Section 601(b) of such title is amended—

(1) in the matter preceding paragraph (1), by striking out ''of importance and responsibility designated'' and inserting in lieu thereof ''designated under subsection (a) or by law'';

(2) in paragraph (1), by striking out ''of importance and responsibility'';

(3) in paragraph (2), by striking out ''designating'' and inserting in lieu thereof ''designated under subsection (a) or by law''; and

(4) in paragraph (4), by inserting ''under subsection (a) or by law'' after ''designated''.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) FISCAL YEAR 1996.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1996, as follows:

(1) The Army National Guard of the United States, 373,000.

(2) The Army Reserve, 230,000.

(3) The Naval Reserve, 98,894.

(4) The Marine Corps Reserve, 42,274.

(5) The Air National Guard of the United States, 112,707.

(6) The Air Force Reserve, 73,969.

(7) The Coast Guard Reserve, 8,000.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary the end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component for a fiscal year shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

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

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1996, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 23,390.

(2) The Army Reserve, 11,575.

(3) The Naval Reserve, 17,587.

(4) The Marine Corps Reserve, 2,559.

(5) The Air National Guard of the United States, 10,066.

(6) The Air Force Reserve, 628.

SEC. 413. COUNTING OF CERTAIN ACTIVE COMPONENT PERSONNEL ASSIGNED IN SUPPORT OF RESERVE COMPONENT TRAINING.

Section 414(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 12001 note) is amended—

(1) by inserting ''(1)'' before ''The Secretary''; and

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

''(2) The Secretary of Defense may count toward the number of active component personnel required under paragraph (1) to be assigned to serve as advisers under the program under this section any active component personnel who are assigned to an active component unit (A) that was established principally for the purpose of providing dedicated training support to reserve component units, and (B) the primary mission of which is to provide such dedicated training support.''.

SEC. 414. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO SERVE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

(a) OFFICERS.—The table in section 12011(a) of title 10, United States Code, is amended to read as follows:

''Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,219	1,071	643	140
Lieutenant Colonel or Commander	1,524	520	672	90
Colonel or Navy Captain	412	188	274	30''.

(b) SENIOR ENLISTED MEMBERS.—The table in section 12012(a) of such title is amended to read as follows:

''Grade	Army	Navy	Air Force	Marine Corps
E–9	603	202	366	20
E–8	2,585	429	890	94''.

SEC. 415. RESERVES ON ACTIVE DUTY IN SUPPORT OF COOPERATIVE THREAT REDUCTION PROGRAMS NOT TO BE COUNTED.

Section 115(d) of title 10, United States Code, is amended by adding at the end the following:

''(8) Members of the Selected Reserve of the Ready Reserve on active duty for more that 180 days to support programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(b)).''.

SEC. 416. RESERVES ON ACTIVE DUTY FOR MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES NOT TO BE COUNTED.

Section 168 of title 10, United States Code, is amended—

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

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

''(f) ACTIVE DUTY END STRENGTHS.—(1) A member of a reserve component referred to in paragraph (2) shall not be counted for purposes of the following personnel strength limitations:

''(A) The end strength for active-duty personnel authorized pursuant to section 115(a)(1) of this title for the fiscal year in which the member carries out the activities referred to in paragraph (2).

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

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

''(2) A member of a reserve component referred to in paragraph (1) is any member on active duty under an order to active duty for 180 days or more who is engaged in activities authorized under this section.''.

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) IN GENERAL.—For fiscal year 1996, the components of the Armed Forces are authorized average military training loads as follows:

(1) The Army, 75,013.

(2) The Navy, 44,238.

(3) The Marine Corps, 26,095.

(4) The Air Force, 33,232.

(b) SCOPE.—The average military training student loads authorized for an armed force under subsection (a) apply to the active and reserve components of that armed force.

(c) ADJUSTMENTS.—The average military training student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Authorization of Appropriations

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1996 a total of $69,191,008,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1996.

SEC. 432. AUTHORIZATION FOR INCREASE IN ACTIVE-DUTY END STRENGTHS.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated to the Department of Defense for fiscal year 1996 for military personnel the sum of $112,000,000. Any amount appropriated pursuant to this section shall be allocated, in such manner as the Secretary of Defense prescribes, among appropriations for active-component military personnel for that fiscal year and shall be available only to increase the number of members of the Armed Forces on active duty during that fiscal year (compared to the number of members that would be on active duty but for such appropriation).

(b) EFFECT ON END STRENGTHS.—The end-strength authorizations in section 401 shall each be deemed to be increased by such number as necessary to take account of additional members of the Armed Forces authorized by the Secretary of Defense pursuant to subsection (a).

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. JOINT OFFICER MANAGEMENT.

(a) CRITICAL JOINT DUTY ASSIGNMENT POSITIONS.—Section 661(d)(2)(A) of title 10, United States Code, is amended by striking out ''1,000'' and inserting in lieu thereof ''800''.

(b) ADDITIONAL QUALIFYING JOINT SERVICE.—Section 664 of such title is amended by adding at the end the following:

''(i) JOINT DUTY CREDIT FOR CERTAIN JOINT TASK FORCE ASSIGNMENTS.—(1) In the case of an officer who completes service in a qualifying temporary joint task force assignment, the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, may (subject to the criteria prescribed under paragraph (4)) grant the officer—

''(A) credit for having completed a full tour of duty in a joint duty assignment; or

''(B) credit countable for determining cumulative service in joint duty assignments.

''(2)(A) For purposes of paragraph (1), a qualifying temporary joint task force assignment of an officer is a temporary assignment, any part of which is performed by the officer on or after the date of the enactment of this subsection—

''(i) to the headquarters staff of a United States joint task force that is part of a unified command or the United States element of the headquarters staff of a multinational force; and

''(ii) with respect to which the Secretary of Defense determines that service of the officer in that assignment is equivalent to that which would be gained by the officer in a joint duty assignment.

''(B) An officer may not be granted credit under this subsection unless the officer is recommended for such credit by the Chairman of the Joint Chiefs of Staff.

''(3) Credit under paragraph (1) (including a determination under paragraph (2)(A)(ii) and a recommendation under paragraph (2)(B) with respect to such credit) may be granted only on a case-by-case basis in the case of an individual officer.

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

''(A) For an officer to be credited as having completed a full tour of duty in a joint duty assignment, the length of the officer's service in the qualifying temporary joint task force assignment must meet the requirements of subsection (a) or (c).

''(B) For an officer to be credited with service for purposes of determining cumulative service in joint duty assignments, the officer must serve at least 90 consecutive days in the qualifying temporary joint task force assignment.

''(C) The service must be performed in support of a mission that is directed by the President or that is assigned by the President to United States forces in the joint task force involved.

''(D) The joint task force must be constituted or designated by the Secretary of Defense or by the commander of a combatant command or of another force.

''(E) The joint task force must conduct combat or combat-related operations in a unified action under joint or multinational command and control.

''(5) Officers for whom joint duty credit is granted pursuant to this subsection may not be taken into account for the purposes of any of the following provisions of this title: section 661(d)(1), section 662(a)(3), section 662(b), subsection (a) of this section, and paragraphs (7), (8), (9), (11), and (12) of section 667.

''(6) In the case of an officer credited with having completed a full tour of duty in a joint duty assignment pursuant to this subsection, the Secretary of Defense may waive the requirement in paragraph (1)(B) of section 661(c) of this title that the tour of duty in a joint duty assignment be performed after the officer completes a program of education referred to in paragraph (1)(A) of that section. The provisions of subparagraphs (C) and (D) of section 661(c)(3) of this title shall apply to such a waiver in the same manner as to a waiver under subparagraph (A) of that section.''.

(c) INFORMATION IN ANNUAL REPORT.—Section 667 of such title is amended by striking out paragraph (16) and inserting after paragraph (15) the following new paragraph (16):

''(16) The number of officers granted credit for service in joint duty assignments under section 664(i) of this title and—

''(A) of those officers—

''(i) the number of officers credited with having completed a tour of duty in a joint duty assignment; and

''(ii) the number of officers granted credit for purposes of determining cumulative service in joint duty assignments; and

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

(d) APPLICABILITY OF LIMITATION ON WAIVER AUTHORITY.—Section 661(c)(3) of such title is amended—

(1) in the third sentence of subparagraph (D), by striking out ''The total number'' and inserting in lieu thereof ''In the case of officers in grades below brigadier general and rear admiral (lower half), the total number''; and

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

''(E) There may not be more than 32 general and flag officers on active duty at the same time who were selected for the joint specialty while holding a general or flag officer grade and for whom a waiver was granted under this subparagraph.''.

(e) LENGTH OF SECOND JOINT TOUR.—Section 664 of such title is amended—

(1) in subsection (e)(2), by inserting after subparagraph (B) the following:

''(C) Service described in subsection (f)(6), except that no more than 10 percent of all joint duty assignments shown on the list published pursuant to section 668(b)(2)(A) of this title may be so excluded in any year.''; and

(2) in subsection (f)—

(A) in the matter preceding paragraph (1), by striking out ''completion of—'' and inserting in lieu thereof ''completion of any of the following:'';

(B) by striking out ''a'' at the beginning of paragraphs (1), (2), (4), and (5) and inserting in lieu thereof ''A'';

(C) by striking out ''cumulative'' in paragraph (3) and inserting in lieu thereof ''Cumulative'';

(D) by striking out the semicolon at the end of paragraphs (1), (2), and (3) and ''; or'' at the end of paragraph (4) and inserting in lieu thereof a period; and

(E) by adding at the end the following:

''(6) A second joint duty assignment that is less than the period required under subsection (a), but not less than two years, without regard to whether a waiver was granted for such assignment under subsection (b).''.

(f) TECHNICAL AMENDMENT.—Section 664(e)(1) of such title is amended by striking out ''(after fiscal year 1990)''.

SEC. 502. RETIRED GRADE FOR OFFICERS IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.

(a) APPLICABILITY OF TIME-IN-GRADE REQUIREMENTS.—Section 1370 of title 10, United States Code, is amended—

(1) in subsection (a)(2)(A), by striking out ''and below lieutenant general or vice admiral''; and

(2) in the first sentence of subsection (d)(2)(B), as added effective October 1, 1996, by section 1641 of the Reserve Officer Personnel Management Act (title XVI of Public Law 103–337; 108 Stat. 2968), by striking out ''and below lieutenant general or vice admiral''.

(b) RETIREMENT IN HIGHEST GRADE UPON CERTIFICATION OF SATISFACTORY SERVICE.—Subsection (c) of such section is amended to read as follows:

''(c) OFFICERS IN O–9 AND O–10 GRADES.—(1) An officer who is serving in or has served in the grade of general or admiral or lieutenant general or vice admiral may be retired in that grade under subsection (a) only after the Secretary of Defense certifies in writing to the President and Congress that the officer served on active duty satisfactorily in that grade.

''(2) In the case of an officer covered by paragraph (1), the three-year service-in-grade requirement in paragraph (2)(A) of subsection (a) may not be reduced or waived under that subsection—

''(A) while the officer is under investigation for alleged misconduct; or

''(B) while there is pending the disposition of an adverse personnel action against the officer for alleged misconduct.''.

(c) REPEAL OF SUPERSEDED PROVISIONS.—Sections 3962(a), 5034, 5043(c), and 8962(a) of such title are repealed.

(d) TECHNICAL AND CLERICAL AMENDMENTS.—(1) Sections 3962(b) and 8962(b) of such title are amended by striking out ''(b) Upon'' and inserting in lieu thereof ''Upon''.

(2) The table of sections at the beginning of chapter 505 of such title is amended by striking out the item relating to section 5034.

(e) EFFECTIVE DATE FOR AMENDMENT TO PROVISION TAKING EFFECT IN 1996.—The amendment made by subsection (a)(2) shall take effect on October 1, 1996, immediately after subsection (d) of section 1370 of title 10, United States Code, takes effect under section 1691(b)(1) of the Reserve Officer Personnel Management Act (108 Stat. 3026).

(f) PRESERVATION OF APPLICABILITY OF LIMITATION.—Section 1370(a)(2)(C) of title 10, United States Code, is amended by striking out ''The number of officers in an armed force in a grade'' and inserting in lieu thereof ''In the case of a grade below the grade of lieutenant general or vice admiral, the number of members of one of the armed forces in that grade''.

(g) STYLISTIC AMENDMENTS.—Section 1370 of title 10, United States Code, is further amended—

(1) in subsection (a), by striking out ''(a)(1)'' and inserting in lieu thereof ''(a) RULE FOR RETIREMENT IN HIGHEST GRADE HELD SATISFACTORILY.—(1)'';

(2) in subsection (b), by inserting ''RETIREMENT IN NEXT LOWER GRADE.—'' after ''(b)''; and

(3) in subsection (d), as added effective October 1, 1996, by section 1641 of the Reserve Officer Personnel Management Act (title XVI of Public Law 103–337; 108 Stat. 2968), by striking out ''(d)(1)'' and inserting in lieu thereof ''(d) RESERVE OFFICERS.—(1)''.

SEC. 503. WEARING OF INSIGNIA FOR HIGHER GRADE BEFORE PROMOTION.

(a) AUTHORITY AND LIMITATIONS.—(1) Chapter 45 of title 10, United States Code, is

amended by adding at the end the following new section:

"§ 777. Wearing of insignia of higher grade before promotion (frocking): authority; restrictions

''(a) AUTHORITY.—An officer who has been selected for promotion to the next higher grade may be authorized, under regulations and policies of the Department of Defense and subject to subsection (b), to wear the insignia for that next higher grade. An officer who is so authorized to wear the insignia of the next higher grade is said to be 'frocked' to that grade.

''(b) RESTRICTIONS.—An officer may not be authorized to wear the insignia for a grade as described in subsection (a) unless—

''(1) the Senate has given its advice and consent to the appointment of the officer to that grade; and

''(2) the officer is serving in, or has received orders to serve in, a position for which that grade is authorized.

''(c) BENEFITS NOT TO BE CONSTRUED AS ACCRUING.—(1) Authority provided to an officer as described in subsection (a) to wear the insignia of the next higher grade may not be construed as conferring authority for that officer to—

''(A) be paid the rate of pay provided for an officer in that grade having the same number of years of service as that officer; or

''(B) assume any legal authority associated with that grade.

''(2) The period for which an officer wears the insignia of the next higher grade under such authority may not be taken into account for any of the following purposes:

''(A) Seniority in that grade.

''(B) Time of service in that grade.

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

''(A) During fiscal years 1996 and 1997, 75.

''(B) During fiscal year 1998, 55.

''(C) After fiscal year 1998, 35.

''(2) The number of officers of an armed force on the active-duty list who are authorized as described in subsection (a) to wear the insignia for a grade to which a limitation on total number applies under section 523(a) of this title for a fiscal year may not exceed 1 percent of the total number provided for the officers in that grade in that armed force in the administration of the limitation under that section for that fiscal year.''.

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

''777. Wearing of insignia of higher grade before promotion (frocking): authority; restrictions.''.

(b) TEMPORARY VARIATION OF LIMITATIONS ON NUMBERS OF FROCKED OFFICERS.—In the administration of section 777(d)(2) of title 10, United States Code (as added by subsection (a)), the percent limitation applied under that section for fiscal year 1996 shall be 2 percent (instead of 1 percent).

(c) REPORT.—Not later than September 1, 1996, the Secretary of Defense shall submit to Congress a report providing the assessment of the Secretary on the practice, known as ''frocking'', of authorizing an officer who has been selected for promotion to the next higher grade to wear the insignia for that next higher grade. The report shall include the Secretary's assessment of the appropriate number, if any, of colonels and Navy captains to be eligible under section 777(d)(1) of title 10, United States Code (as added by subsection (a)), to wear the insignia for the grade of brigadier general or rear admiral (lower half).

SEC. 504. AUTHORITY TO EXTEND TRANSITION PERIOD FOR OFFICERS SELECTED FOR EARLY RETIREMENT.

(a) SELECTIVE RETIREMENT OF WARRANT OFFICERS.—Section 581 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(e) The Secretary concerned may defer for not more than 90 days the retirement of an officer otherwise approved for early retirement under this section in order to prevent a personal hardship to the officer or for other humanitarian reasons. Any such deferral shall be made on a case-by-case basis considering the circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.''.

(b) SELECTIVE EARLY RETIREMENT OF ACTIVE-DUTY OFFICERS.—Section 638(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(3) The Secretary concerned may defer for not more than 90 days the retirement of an officer otherwise approved for early retirement under this section or section 638a of this title in order to prevent a personal hardship to the officer or for other humanitarian reasons. Any such deferral shall be made on a case-by-case basis considering the circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.''.

SEC. 505. ARMY OFFICER MANNING LEVELS.

(a) IN GENERAL.—(1) Chapter 331 of title 10, United States Code, is amended by inserting after the table of sections the following new section:

"§ 3201. Officers on active duty: minimum strength based on requirements

''(a) The Secretary of the Army shall ensure that (beginning with fiscal year 1999) the strength at the end of each fiscal year of officers on active duty is sufficient to enable the Army to meet at least that percentage of the programmed manpower structure for officers for the active component of the Army that is provided for in the most recent Defense Planning Guidance issued by the Secretary of Defense.

''(b) The number of officers on active duty shall be counted for purposes of this section in the same manner as applies under section 115(a)(1) of this title.

''(c) In this section:

''(1) The term 'programmed manpower structure' means the aggregation of billets describing the full manpower requirements for units and organizations in the programmed force structure.

''(2) The term 'programmed force structure' means the set of units and organizations that exist in the current year and that is planned to exist in each future year under the then-current Future-Years Defense Program.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after ''Sec.'' the following new item:

''3201. Officers on active duty: minimum strength based on requirements.''.

(b) ASSISTANCE IN ACCOMPLISHING REQUIREMENT.—The Secretary of Defense shall provide to the Army sufficient personnel and financial resources to enable the Army to meet the requirement specified in section 3201 of title 10, United States Code, as added by subsection (a).

SEC. 506. AUTHORITY FOR MEDICAL DEPARTMENT OFFICERS OTHER THAN PHYSICIANS TO BE APPOINTED AS SURGEON GENERAL.

(a) SURGEON GENERAL OF THE ARMY.—The third sentence of section 3036(b) of title 10, United States Code, is amended by inserting after ''The Surgeon General'' the following: ''may be appointed from officers in any corps of the Army Medical Department and''.

(b) SURGEON GENERAL OF THE NAVY.—Section 5137 of such title is amended—

(1) in the first sentence of subsection (a), by striking out ''in the Medical Corps'' and inserting in lieu thereof ''in any corps of the Navy Medical Department''; and

(2) in subsection (b), by striking out ''in the Medical Corps'' and inserting in lieu thereof ''who is qualified to be the Chief of the Bureau of Medicine and Surgery''.

(c) SURGEON GENERAL OF THE AIR FORCE.—The first sentence of section 8036 of such title is amended by striking out ''designated as medical officers under section 8067(a) of this title'' and inserting in lieu thereof ''in the Air Force medical department''.

SEC. 507. DEPUTY JUDGE ADVOCATE GENERAL OF THE AIR FORCE.

(a) TENURE AND GRADE OF DEPUTY JUDGE ADVOCATE GENERAL.—Section 8037(d)(1) of such title is amended—

(1) in the second sentence, by striking out ''two years'' and inserting in lieu thereof ''four years''; and

(2) by striking out the last sentence and inserting in lieu thereof the following: ''An officer appointed as Deputy Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to any appointment to the position of Deputy Judge Advocate General of the Air Force that is made after the date of the enactment of this Act.

SEC. 508. AUTHORITY FOR TEMPORARY PROMOTIONS FOR CERTAIN NAVY LIEUTENANTS WITH CRITICAL SKILLS.

(a) EXTENSION OF AUTHORITY.—Subsection (f) of section 5721 of title 10, United States Code, is amended by striking out ''September 30, 1995'' and inserting in lieu thereof ''September 30, 1996''.

(b) LIMITATION.—Such section is further amended—

(1) by redesignating subsection (f), as amended by subsection (a), as subsection (g); and

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

''(f) LIMITATION ON NUMBER OF ELIGIBLE POSITIONS.—(1) An appointment under this section may only be made for service in a position designated by the Secretary of the Navy for purposes of this section. The number of positions so designated may not exceed 325.

''(2) Whenever the Secretary makes a change to the positions designated under paragraph (1), the Secretary shall submit notice of the change in writing to Congress.''.

(c) REPORT.—Not later than April 1, 1996, the Secretary of Defense shall submit to Congress a report providing the Secretary's assessment of that continuing need for the promotion authority under section 5721 of title 10, United States Code. The Secretary shall include in the report the following:

(1) The nature and grade structure of the positions for which such authority has been used.

(2) The cause or causes of the reported chronic shortages of qualified personnel in the required grade to fill the positions specified under paragraph (1).

(3) The reasons for the perceived inadequacy of the officer promotion system (including ''below-the-zone'' selections) to provide sufficient officers in the required grade to fill those positions.

(4) The extent to which a bonus program or some other program would be a more appropriate means of resolving the reported chronic shortages in engineering positions.

(d) CLERICAL AMENDMENTS.—Section 5721 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting ''PROMOTION AUTHORITY FOR CERTAIN OFFICER WITH CRITICAL SKILLS.—'' after ''(a)''.

(2) Subsection (b) is amended by inserting ''STATUS OF OFFICERS APPOINTED.—'' after ''(b)''.

(3) Subsection (c) is amended by inserting ''BOARD RECOMMENDATION REQUIRED.—'' after ''(c)''.

(4) Subsection (d) is amended by inserting ''ACCEPTANCE AND EFFECTIVE DATE OF APPOINTMENT.—'' after ''(d)''.

(5) Subsection (e) is amended by inserting ''TERMINATION OF APPOINTMENT.—'' after ''(e)''.

(6) Subsection (g), as redesignated by subsection (b)(1), is amended by inserting ''TERMINATION OF APPOINTMENT AUTHORITY.—'' after ''(g)''.

(e) EFFECTIVE DATE.—Subsection (f) of section 5721 of title 10, United States Code, as added by subsection (b)(2), shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act and shall apply to any appointment under that section after the end of such period.

SEC. 509. RETIREMENT FOR YEARS OF SERVICE OF DIRECTORS OF ADMISSIONS OF MILITARY AND AIR FORCE ACADEMIES.

(a) MILITARY ACADEMY.—(1) Section 3920 of title 10, United States Code, is amended to read as follows:

''§ 3920. More than thirty years: permanent professors and the Director of Admissions of the United States Military Academy

''(a) The Secretary of the Army may retire an officer specified in subsection (b) who has more than 30 years of service as a commissioned officer.

''(b) Subsection (a) applies in the case of the following officers:

''(1) Any permanent professor of the United States Military Academy.

''(2) The Director of Admissions of the United States Military Academy.''.

(2) The item relating to such section in the table of sections at the beginning of chapter 367 of such title is amended to read as follows:

''3920. More than thirty years: permanent professors and the Director of Admissions of the United States Military Academy.''.

(b) AIR FORCE ACADEMY.—(1) Section 8920 of title 10, United States Code, is amended to read as follows:

''§ 8920. More than thirty years: permanent professors and the Director of Admissions of the United States Air Force Academy

''(a) The Secretary of the Air Force may retire an officer specified in subsection (b) who has more than 30 years of service as a commissioned officer.

''(b) Subsection (a) applies in the case of the following officers:

''(1) Any permanent professor of the United States Air Force Academy.

''(2) The Director of Admissions of the United States Air Force Academy.''.

(2) The item relating to such section in the table of sections at the beginning of chapter 867 of such title is amended to read as follows:

''8920. More than thirty years: permanent professors and the Director of Admissions of the United States Air Force Academy.''.

Subtitle B—Matters Relating to Reserve Components

SEC. 511. EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT AUTHORITIES.

(a) GRADE DETERMINATION AUTHORITY FOR CERTAIN RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking out ''September 30, 1995'' and inserting in lieu thereof ''September 30, 1996''.

(b) PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS SERVING ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of title 10, United States Code, are each amended by striking out ''September 30, 1995'' and inserting in lieu thereof ''September 30, 1996''.

(c) YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360) is amended by striking out ''September 30, 1995'' and inserting in lieu thereof ''September 30, 1996''.

SEC. 512. MOBILIZATION INCOME INSURANCE PROGRAM FOR MEMBERS OF READY RESERVE.

(a) ESTABLISHMENT OF PROGRAM.—(1) Subtitle E of title 10, United States Code, is amended by inserting after chapter 1213 the following new chapter:

''CHAPTER 1214—READY RESERVE MOBILIZATION INCOME INSURANCE

''Sec.
''12521. Definitions.
''12522. Establishment of insurance program.
''12523. Risk insured.
''12524. Enrollment and election of benefits.
''12525. Benefit amounts.
''12526. Premiums.
''12527. Payment of premiums.
''12528. Reserve Mobilization Income Insurance Fund.
''12529. Board of Actuaries.
''12530. Payment of benefits.
''12531. Purchase of insurance.
''12532. Termination for nonpayment of premiums; forfeiture.

''§ 12521. Definitions

''In this chapter:

''(1) The term 'insurance program' means the Ready Reserve Mobilization Income Insurance Program established under section 12522 of this title.

''(2) The term 'covered service' means active duty performed by a member of a reserve component under an order to active duty for a period of more than 30 days which specifies that the member's service—

''(A) is in support of an operational mission for which members of the reserve components have been ordered to active duty without their consent; or

''(B) is in support of forces activated during a period of war declared by Congress or a period of national emergency declared by the President or Congress.

''(3) The term 'insured member' means a member of the Ready Reserve who is enrolled for coverage under the insurance program in accordance with section 12524 of this title.

''(4) The term 'Secretary' means the Secretary of Defense.

''(5) The term 'Department' means the Department of Defense.

''(6) The term 'Board of Actuaries' means the Department of Defense Education Benefits Board of Actuaries referred to in section 2006(e)(1) of this title.

''(7) The term 'Fund' means the Reserve Mobilization Income Insurance Fund established by section 12528(a) of this title.

''§ 12522. Establishment of insurance program

''(a) ESTABLISHMENT.—The Secretary shall establish for members of the Ready Reserve (including the Coast Guard Reserve) an insurance program to be known as the 'Ready Reserve Mobilization Income Insurance Program'.

''(b) ADMINISTRATION.—The insurance program shall be administered by the Secretary. The Secretary may prescribe in regulations such rules, procedures, and policies as the Secretary considers necessary or appropriate to carry out the insurance program.

''(c) AGREEMENT WITH SECRETARY OF TRANSPORTATION.—The Secretary and the Secretary of Transportation shall enter into an agreement with respect to the administration of the insurance program for the Coast Guard Reserve.

''§ 12523. Risk insured

''(a) IN GENERAL.—The insurance program shall insure members of the Ready Reserve against the risk of being ordered into covered service.

''(b) ENTITLEMENT TO BENEFITS.—(1) An insured member ordered into covered service shall be entitled to payment of a benefit for each month (and fraction thereof) of covered service that exceeds 30 days of covered service, except that no member may be paid under the insurance program for more than 12 months of covered service served during any period of 18 consecutive months.

''(2) Payment shall be based solely on the insured status of a member and on the period of covered service served by the member. Proof of loss of income or of expenses incurred as a result of covered service may not be required.

''§ 12524. Enrollment and election of benefits

''(a) ENROLLMENT.—(1) Except as provided in subsection (f), upon first becoming a member of the Ready Reserve, a member shall be automatically enrolled for coverage under the insurance program. An automatic enrollment of a member shall be void if within 60 days after first becoming a member of the Ready Reserve the member declines insurance under the program in accordance with the regulations prescribed by the Secretary.

''(2) Promptly after the insurance program is established, the Secretary shall offer to members of the reserve components who are then members of the Ready Reserve (other than members ineligible under subsection (f)) an opportunity to enroll for coverage under the insurance program. A member who fails to enroll within 60 days after being offered the opportunity shall be considered as having declined to be insured under the program.

''(3) A member of the Ready Reserve ineligible to enroll under subsection (f) shall be afforded an opportunity to enroll upon being released from active duty in accordance with regulations prescribed by the Secretary if the member has not previously had the opportunity to be enrolled under paragraph (1) or (2). A member who fails to enroll within 60 days after being afforded that opportunity shall be considered as having declined to be insured under the program.

''(b) ELECTION OF BENEFIT AMOUNT.—The amount of a member's monthly benefit under an enrollment shall be the basic benefit under subsection (a) of section 12525 of this title unless the member elects a different benefit under subsection (b) of such section within 60 days after first becoming a member of the Ready Reserve or within 60 days after being offered the opportunity to enroll, as the case may be.

''(c) ELECTIONS IRREVOCABLE.—(1) An election to decline insurance pursuant to paragraph (1) or (2) of subsection (a) is irrevocable.

''(2) The amount of coverage may not be increased after enrollment.

''(d) ELECTION TO TERMINATE.—A member may terminate an enrollment at any time.

''(e) INFORMATION TO BE FURNISHED.—The Secretary shall ensure that members referred to in subsection (a) are given a written explanation of the insurance program and are advised that they have the right to decline to be insured and, if not declined, to elect coverage for a reduced benefit or an enhanced benefit under subsection (b).

''(f) MEMBERS INELIGIBLE TO ENROLL.—Members of the Ready Reserve serving on active duty (or full-time National Guard duty) are not eligible to enroll for coverage under the insurance program. The Secretary may define any additional category of members of the Ready Reserve to be excluded from eligibility to purchase insurance under this chapter.

''§ 12525. Benefit amounts

''(a) BASIC BENEFIT.—The basic benefit for an insured member under the insurance program is $1,000 per month (as adjusted under subsection (d)).

''(b) REDUCED AND ENHANCED BENEFITS.—Under the regulations prescribed by the Secretary, a person enrolled for coverage under the insurance program may elect—

''(1) a reduced coverage benefit equal to one-half the amount of the basic benefit; or

''(2) an enhanced benefit in the amount of $1,500, $2,000, $2,500, $3,000, $3,500, $4,000, $4,500, or $5,000 per month (as adjusted under subsection (d)).

''(c) AMOUNT FOR PARTIAL MONTH.—The amount of insurance payable to an insured member for any period of covered service that is less than one month shall be determined by multiplying 1/30 of the monthly benefit rate for the member by the number of days of the covered service served by the member during such period.

''(d) ADJUSTMENT OF AMOUNTS.—(1) The Secretary shall determine annually the effect of inflation on benefits and shall adjust the amounts set forth in subsections (a) and (b)(2) to maintain the constant dollar value of the benefit.

''(2) If the amount of a benefit as adjusted under paragraph (1) is not evenly divisible by $10, the amount shall be rounded to the nearest multiple of $10, except that an amount evenly divisible by $5 but not by $10 shall be rounded to the next lower amount that is evenly divisible by $10.

''§ 12526. Premiums

''(a) ESTABLISHMENT OF RATES.—(1) The Secretary, in consultation with the Board of Actuaries, shall prescribe the premium rates for insurance under the insurance program.

''(2) The Secretary shall prescribe a fixed premium rate for each $1,000 of monthly insurance benefit. The premium amount shall be equal to the share of the cost attributable to insuring the member and shall be the same for all members of the Ready Reserve who are insured under the insurance program for the same benefit amount. The Secretary shall prescribe the rate on the basis of the best available estimate of risk and financial exposure, levels of subscription by members, and other relevant factors.

''(b) LEVEL PREMIUMS.—The premium rate prescribed for the first year of insurance coverage of an insured member shall be continued without change for subsequent years of insurance coverage, except that the Secretary, after consultation with the Board of Actuaries, may adjust the premium rate in order to fund inflation-adjusted benefit increases on an actuarially sound basis.

''§ 12527. Payment of premiums

''(a) METHODS OF PAYMENT.—(1) The monthly premium for coverage of a member under the insurance program shall be deducted and withheld from the insured member's pay for each month.

''(2) An insured member who does not receive pay on a monthly basis shall pay the Secretary directly the premium amount applicable for the level of benefits for which the member is insured.

''(b) ADVANCE PAY FOR PREMIUM.—The Secretary concerned may advance to an insured member the amount equal to the first insurance premium payment due under this chapter. The advance may be paid out of appropriations for military pay. An advance to a member shall be collected from the member either by deducting and withholding the amount from basic pay payable for the member or by collecting it from the member directly. No disbursing or certifying officer shall be responsible for any loss resulting from an advance under this subsection.

''(c) PREMIUMS TO BE DEPOSITED IN FUND.—Premium amounts deducted and withheld from the pay of insured members and premium amounts paid directly to the Secretary shall be credited monthly to the Fund.

''§ 12528. Reserve Mobilization Income Insurance Fund

''(a) ESTABLISHMENT.—There is established on the books of the Treasury a fund to be known as the 'Reserve Mobilization Income Insurance Fund', which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance the liabilities of the insurance program on an actuarially sound basis.

''(b) ASSETS OF FUND.—There shall be deposited into the Fund the following:

''(1) Premiums paid under section 12527 of this title.

''(2) Any amount appropriated to the Fund.

''(3) Any return on investment of the assets of the Fund.

''(c) AVAILABILITY.—Amounts in the Fund shall be available for paying insurance benefits under the insurance program.

''(d) INVESTMENT OF ASSETS OF FUND.—The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary of Defense required to meet current liabilities. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of Defense, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to the Fund.

''(e) ANNUAL ACCOUNTING.—At the beginning of each fiscal year, the Secretary, in consultation with the Board of Actuaries and the Secretary of the Treasury, shall determine the following:

''(1) The projected amount of the premiums to be collected, investment earnings to be received, and any transfers or appropriations to be made for the Fund for that fiscal year.

''(2) The amount for that fiscal year of any cumulative unfunded liability (including any negative amount or any gain to the Fund) resulting from payments of benefits.

''(3) The amount for that fiscal year (including any negative amount) of any cumulative actuarial gain or loss to the Fund.

''§ 12529. Board of Actuaries

''(a) ACTUARIAL RESPONSIBILITY.—The Board of Actuaries shall have the actuarial responsibility for the insurance program.

''(b) VALUATIONS AND PREMIUM RECOMMENDATIONS.—The Board of Actuaries shall carry out periodic actuarial valuations of the benefits under the insurance program and determine a premium rate methodology for the Secretary to use in setting premium rates for the insurance program. The Board shall conduct the first valuation and determine a premium rate methodology not later than six months after the insurance program is established.

''(c) EFFECTS OF CHANGED BENEFITS.—If at the time of any actuarial valuation under subsection (b) there has been a change in benefits under the insurance program that has been made since the last such valuation and such change in benefits increases or decreases the present value of amounts payable from the Fund, the Board of Actuaries shall determine a premium rate methodology, and recommend to the Secretary a premium schedule, for the liquidation of any liability (or actuarial gain to the Fund) resulting from such change and any previous such changes so that the present value of the sum of the scheduled premium payments (or reduction in payments that would otherwise be made) equals the cumulative increase (or decrease) in the present value of such benefits.

''(d) ACTUARIAL GAINS OR LOSSES.—If at the time of any such valuation the Board of Actuaries determines that there has been an actuarial gain or loss to the Fund as a result of changes in actuarial assumptions since the last valuation or as a result of any differences, between actual and expected experience since the last valuation, the Board shall recommend to the Secretary a premium rate schedule for the amortization of the cumulative gain or loss to the Fund resulting from such changes in assumptions and any previous such changes in assumptions or from the differences in actual and expected experience, respectively, through an increase or decrease in the payments that would otherwise be made to the Fund.

''(e) INSUFFICIENT ASSETS.—If at any time liabilities of the Fund exceed assets of the Fund as a result of members of the Ready Reserve being ordered to active duty as described in section 12521(2) of this title, and funds are unavailable to pay benefits completely, the Secretary shall request the President to submit to Congress a request for a special appropriation to cover the unfunded liability. If appropriations are not made to cover an unfunded liability in any fiscal year, the Secretary shall reduce the amount of the benefits paid under the insurance program to a total amount that does not exceed the assets of the Fund expected to accrue by the end of such fiscal year. Benefits that cannot be paid because of such a reduction shall be deferred and may be paid only after and to the extent that additional funds become available.

''(f) DEFINITION OF PRESENT VALUE.—The Board of Actuaries shall define the term 'present value' for purposes of this subsection.

''§ 12530. Payment of benefits

''(a) COMMENCEMENT OF PAYMENT.—An insured member who serves in excess of 30 days of covered service shall be paid the amount to which such member is entitled on a monthly basis beginning not later than one month after the 30th day of covered service.

''(b) METHOD OF PAYMENT.—The Secretary shall prescribe in the regulations the manner in which payments shall be made to the member or to a person designated in accordance with subsection (c).

''(c) DESIGNATED RECIPIENTS.—(1) A member may designate in writing another person (including a spouse, parent, or other person with an insurable interest, as determined in accordance with the regulations prescribed by the Secretary) to receive payments of insurance benefits under the insurance program.

''(2) A member may direct that payments of insurance benefits for a person designated under paragraph (1) be deposited with a bank or other financial institution to the credit of the designated person.

''(d) RECIPIENTS IN EVENT OF DEATH OF INSURED MEMBER.—Any insurance payable under the insurance program on account of a deceased member's period of covered service shall be paid, upon the establishment of a valid claim, to the beneficiary or beneficiaries which the deceased member designated in writing. If no such designation

has been made, the amount shall be payable in accordance with the laws of the State of the member's domicile.

"§ 12531. Purchase of insurance

''(a) PURCHASE AUTHORIZED.—The Secretary may, instead of or in addition to underwriting the insurance program through the Fund, purchase from one or more insurance companies a policy or policies of group insurance in order to provide the benefits required under this chapter. The Secretary may waive any requirement for full and open competition in order to purchase an insurance policy under this subsection.

''(b) ELIGIBLE INSURERS.—In order to be eligible to sell insurance to the Secretary for purposes of subsection (a), an insurance company shall—

''(1) be licensed to issue insurance in each of the 50 States and in the District of Columbia; and

''(2) as of the most recent December 31 for which information is available to the Secretary, have in effect at least one percent of the total amount of insurance that all such insurance companies have in effect in the United States.

''(c) ADMINISTRATIVE PROVISIONS.—(1) An insurance company that issues a policy for purposes of subsection (a) shall establish an administrative office at a place and under a name designated by the Secretary.

''(2) For the purposes of carrying out this chapter, the Secretary may use the facilities and services of any insurance company issuing any policy for purposes of subsection (a), may designate one such company as the representative of the other companies for such purposes, and may contract to pay a reasonable fee to the designated company for its services.

''(d) REINSURANCE.—The Secretary shall arrange with each insurance company issuing any policy for purposes of subsection (a) to reinsure, under conditions approved by the Secretary, portions of the total amount of the insurance under such policy or policies with such other insurance companies (which meet qualifying criteria prescribed by the Secretary) as may elect to participate in such reinsurance.

''(e) TERMINATION.—The Secretary may at any time terminate any policy purchased under this section.

"§ 12532. Termination for nonpayment of premiums; forfeiture

''(a) TERMINATION FOR NONPAYMENT.—The coverage of a member under the insurance program shall terminate without prior notice upon a failure of the member to make required monthly payments of premiums for two consecutive months. The Secretary may provide in the regulations for reinstatement of insurance coverage terminated under this subsection.

''(b) FORFEITURE.—Any person convicted of mutiny, treason, spying, or desertion, or who refuses to perform service in the armed forces or refuses to wear the uniform of any of the armed forces shall forfeit all rights to insurance under this chapter.''.

(2) The tables of chapters at the beginning of subtitle E, and at the beginning of part II of subtitle E, of title 10, United States Code, are amended by inserting after the item relating to chapter 1213 the following new item:

''1214. Ready Reserve Mobilization Income Insurance ..... 12521''.

(b) EFFECTIVE DATE.—The insurance program provided for in chapter 1214 of title 10, United States Code, as added by subsection (a), and the requirement for deductions and contributions for that program shall take effect on September 30, 1996, or on any earlier date declared by the Secretary and published in the Federal Register.

SEC. 513. MILITARY TECHNICIAN FULL-TIME SUPPORT PROGRAM FOR ARMY AND AIR FORCE RESERVE COMPONENTS.

(a) REQUIREMENT OF ANNUAL AUTHORIZATION OF END STRENGTH.—(1) Section 115 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(g) Congress shall authorize for each fiscal year the end strength for military technicians for each reserve component of the Army and Air Force. Funds available to the Department of Defense for any fiscal year may not be used for the pay of a military technician during that fiscal year unless the technician fills a position that is within the number of such positions authorized by law for that fiscal year for the reserve component of that technician. This subsection applies without regard to section 129 of this title.''.

(2) The amendment made by paragraph (1) does not apply with respect to fiscal year 1995.

(b) AUTHORIZATION FOR FISCAL YEARS 1996 AND 1997.—For each of fiscal years 1996 and 1997, the minimum number of military technicians, as of the last day of that fiscal year, for the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) Army National Guard, 25,500.

(2) Army Reserve, 6,630.

(3) Air National Guard, 22,906.

(4) Air Force Reserve, 9,802.

(c) ADMINISTRATION OF MILITARY TECHNICIAN PROGRAM.—(1) Chapter 1007 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 10216. Military technicians

''(a) PRIORITY FOR MANAGEMENT OF MILITARY TECHNICIANS.—(1) As a basis for making the annual request to Congress pursuant to section 115 of this title for authorization of end strengths for military technicians of the Army and Air Force reserve components, the Secretary of Defense shall give priority to supporting authorizations for dual status military technicians in the following high-priority units and organizations:

''(A) Units of the Selected Reserve that are scheduled to deploy no later than 90 days after mobilization.

''(B) Units of the Selected Reserve that are or will deploy to relieve active duty peacetime operations tempo.

''(C) Those organizations with the primary mission of providing direct support surface and aviation maintenance for the reserve components of the Army and Air Force, to the extent that the military technicians in such units would mobilize and deploy in a skill that is compatible with their civilian position skill.

''(2) For each fiscal year, the Secretary of Defense shall, for the high-priority units and organizations referred to in paragraph (1), seek to achieve a programmed manning level for military technicians that is not less than 90 percent of the programmed manpower structure for those units and organizations for military technicians for that fiscal year.

''(3) Military technician authorizations and personnel in high-priority units and organizations specified in paragraph (1) shall be exempt from any requirement (imposed by law or otherwise) for reductions in Department of Defense civilian personnel and shall only be reduced as part of military force structure reductions.

''(b) DUAL-STATUS REQUIREMENT.—The Secretary of Defense shall require the Secretary of the Army and the Secretary of the Air Force to establish as a condition of employment for each individual who is hired after the date of the enactment of this section as a military technician that the individual maintain membership in the Selected Reserve (so as to be a so-called 'dual-status' technician) and shall require that the civilian and military position skill requirements of dual-status military technicians be compatible. No Department of Defense funds may be spent for compensation for any military technician hired after the date of the enactment of this section who is not a member of the Selected Reserve, except that compensation may be paid for up to six months following loss of membership in the Selected Reserve if such loss of membership was not due to the failure to meet military standards.''.

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

''10216. Military technicians.''.

(d) REVIEW OF RESERVE COMPONENT MANAGEMENT HEADQUARTERS.—(1) The Secretary of Defense shall, within six months after the date of the enactment of this Act, undertake steps to reduce, consolidate, and streamline management headquarters operations of the reserve components. As part of those steps, the Secretary shall identify those military technicians positions in such headquarters operations that are excess to the requirements of those headquarters.

(2) Of the military technicians positions that are identified under paragraph (1), the Secretary shall reallocate up to 95 percent of the annual funding required to support those positions for the purpose of creating new positions or filling existing positions in the high-priority units and activities specified in section 10216(a) of title 10, United States Code, as added by subsection (c).

(e) ANNUAL DEFENSE MANPOWER REQUIREMENTS REPORT.—Section 115a of title 10, United States Code, is amended by adding at the end the following new subsection:

''(h) In each such report, the Secretary shall include a separate report on the Army and Air Force military technician programs. The report shall include a presentation, shown by reserve component and shown both as of the end of the preceding fiscal year and for the next fiscal year, of the following:

''(1) The number of military technicians required to be employed (as specified in accordance with Department of Defense procedures), the number authorized to be employed under Department of Defense personnel procedures, and the number actually employed.

''(2) Within each of the numbers under paragraph (1)—

''(A) the number applicable to a reserve component management headquarter organization; and

''(B) the number applicable to high-priority units and organizations (as specified in section 10216(a) of this title).

''(3) Within each of the numbers under paragraph (1), the numbers of military technicians who are not themselves members of a reserve component (so-called 'single-status' technicians), with a further display of such numbers as specified in paragraph (2).''.

SEC. 514. REVISIONS TO ARMY GUARD COMBAT REFORM INITIATIVE TO INCLUDE ARMY RESERVE UNDER CERTAIN PROVISIONS AND MAKE CERTAIN REVISIONS.

(a) PRIOR ACTIVE DUTY PERSONNEL.—Section 1111 of the Army National Guard Combat Readiness Reform Act of 1992 (title XI of Public Law 102–484) is amended—

(1) in the section heading, by striking out the first three words;

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

''(a) ADDITIONAL PRIOR ACTIVE DUTY OFFICERS.—The Secretary of the Army shall increase the number of qualified prior active-

duty officers in the Army National Guard by providing a program that permits the separation of officers on active duty with at least two, but less than three, years of active service upon condition that the officer is accepted for appointment in the Army National Guard. The Secretary shall have a goal of having not fewer than 150 officers become members of the Army National Guard each year under this section.

''(b) ADDITIONAL PRIOR ACTIVE DUTY ENLISTED MEMBERS.—The Secretary of the Army shall increase the number of qualified prior active-duty enlisted members in the Army National Guard through the use of enlistments as described in section 8020 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139). The Secretary shall enlist not fewer than 1,000 new enlisted members each year under enlistments described in that section.''; and

(3) by striking out subsections (d) and (e).

(b) SERVICE IN THE SELECTED RESERVE IN LIEU OF ACTIVE DUTY SERVICE FOR ROTC GRADUATES.—Section 1112(b) of such Act (106 Stat. 2537) is amended by striking out ''National Guard'' before the period at the end and inserting in lieu thereof ''Selected Reserve''.

(c) REVIEW OF OFFICER PROMOTIONS.—Section 1113 of such Act (106 Stat. 2537) is amended—

(1) in subsection (a), by striking out ''National Guard'' both places it appears and inserting in lieu thereof ''Selected Reserve''; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

''(b) COVERAGE OF SELECTED RESERVE COMBAT AND EARLY DEPLOYING UNITS.—(1) Subsection (a) applies to officers in all units of the Selected Reserve that are designated as combat units or that are designated for deployment within 75 days of mobilization.

''(2) Subsection (a) shall take effect with respect to officers of the Army Reserve, and with respect to officers of the Army National Guard in units not subject to subsection (a) as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996, at the end of the 90-day period beginning on such date of enactment.''.

(d) INITIAL ENTRY TRAINING AND NONDEPLOYABLE PERSONNEL.—Section 1115 of such Act (106 Stat. 2538) is amended—

(1) in subsections (a) and (b), by striking out ''National Guard'' each place it appears and inserting in lieu thereof ''Selected Reserve''; and

(2) in subsection (c)—

(A) by striking out ''a member of the Army National Guard enters the National Guard'' and inserting in lieu thereof ''a member of the Army Selected Reserve enters the Army Selected Reserve''; and

(B) by striking out ''from the Army National Guard''.

(e) ACCOUNTING OF MEMBERS WHO FAIL PHYSICAL DEPLOYABILITY STANDARDS.—Section 1116 of such Act (106 Stat. 2539) is amended by striking out ''National Guard'' each place it appears and inserting in lieu thereof ''Selected Reserve''.

(f) USE OF COMBAT SIMULATORS.—Section 1120 of such Act (106 Stat. 2539) is amended by inserting ''and the Army Reserve'' before the period at the end.

SEC. 515. ACTIVE DUTY ASSOCIATE UNIT RESPONSIBILITY.

(a) ASSOCIATE UNITS.—Subsection (a) of section 1131 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2540) is amended to read as follows:

''(a) ASSOCIATE UNITS.—The Secretary of the Army shall require—

''(1) that each ground combat maneuver brigade of the Army National Guard that (as determined by the Secretary) is essential for the execution of the National Military Strategy be associated with an active-duty combat unit; and

''(2) that combat support and combat service support units of the Army Selected Reserve that (as determined by the Secretary) are essential for the execution of the National Military Strategy be associated with active-duty units.''.

(b) RESPONSIBILITIES.—Subsection (b) of such section is amended—

(1) by striking out ''National Guard combat unit'' in the matter preceding paragraph (1) and inserting in lieu thereof ''National Guard unit or Army Selected Reserve unit that (as determined by the Secretary under subsection (a)) is essential for the execution of the National Military Strategy''; and

(2) by striking out ''of the National Guard unit'' in paragraphs (1), (2), (3), and (4) and inserting in lieu thereof ''of that unit''.

SEC. 516. LEAVE FOR MEMBERS OF RESERVE COMPONENTS PERFORMING PUBLIC SAFETY DUTY.

(a) ELECTION OF LEAVE TO BE CHARGED.—Subsection (b) of section 6323 of title 5, United States Code, is amended by adding at the end the following: ''Upon the request of an employee, the period for which an employee is absent to perform service described in paragraph (2) may be charged to the employee's accrued annual leave or to compensatory time available to the employee instead of being charged as leave to which the employee is entitled under this subsection. The period of absence may not be charged to sick leave.''.

(b) PAY FOR PERIOD OF ABSENCE.—Section 5519 of such title is amended by striking out ''entitled to leave'' and inserting in lieu thereof ''granted military leave''.

SEC. 517. DEPARTMENT OF DEFENSE FUNDING FOR NATIONAL GUARD PARTICIPATION IN JOINT DISASTER AND EMERGENCY ASSISTANCE EXERCISES.

Section 503(a) of title 32, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a)''; and

(2) by adding at the end the following:

''(2) Paragraph (1) includes authority to provide for participation of the National Guard in conjunction with the Army or the Air Force, or both, in joint exercises for instruction to prepare the National Guard for response to civil emergencies and disasters.''.

Subtitle C—Decorations and Awards

SEC. 521. AWARD OF PURPLE HEART TO PERSONS WOUNDED WHILE HELD AS PRISONERS OF WAR BEFORE APRIL 25, 1962.

(a) AWARD OF PURPLE HEART.—For purposes of the award of the Purple Heart, the Secretary concerned (as defined in section 101 of title 10, United States Code) shall treat a former prisoner of war who was wounded before April 25, 1962, while held as a prisoner of war (or while being taken captive) in the same manner as a former prisoner of war who is wounded on or after that date while held as a prisoner of war (or while being taken captive).

(b) STANDARDS FOR AWARD.—An award of the Purple Heart under subsection (a) shall be made in accordance with the standards in effect on the date of the enactment of this Act for the award of the Purple Heart to persons wounded on or after April 25, 1962.

(c) ELIGIBLE FORMER PRISONERS OF WAR.—A person shall be considered to be a former prisoner of war for purposes of this section if the person is eligible for the prisoner-of-war medal under section 1128 of title 10, United States Code.

SEC. 522. AUTHORITY TO AWARD DECORATIONS RECOGNIZING ACTS OF VALOR PERFORMED IN COMBAT DURING THE VIETNAM CONFLICT.

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

(1) The Ia Drang Valley (Pleiku) campaign, carried out by the Armed Forces in the Ia Drang Valley of Vietnam from October 23, 1965, to November 26, 1965, is illustrative of the many battles during the Vietnam conflict which pitted forces of the United States against North Vietnamese Army regulars and Viet Cong in vicious fighting.

(2) Accounts of those battles that have been published since the end of that conflict authoritatively document numerous and repeated acts of extraordinary heroism, sacrifice, and bravery on the part of members of the Armed Forces, many of which have never been officially recognized.

(3) In some of those battles, United States military units suffered substantial losses, with some units sustaining casualties in excess of 50 percent.

(4) The incidence of heavy casualties throughout the Vietnam conflict inhibited the timely collection of comprehensive and detailed information to support recommendations for awards recognizing acts of heroism, sacrifice, and bravery.

(5) Subsequent requests to the Secretaries of the military departments for review of award recommendations for such acts have been denied because of restrictions in law and regulations that require timely filing of such recommendations and documented justification.

(6) Acts of heroism, sacrifice, and bravery performed in combat by members of the Armed Forces deserve appropriate and timely recognition by the people of the United States.

(7) It is appropriate to recognize acts of heroism, sacrifice, or bravery that are belatedly, but properly, documented by persons who witnessed those acts.

(b) WAIVER OF TIME LIMITATIONS FOR RECOMMENDATIONS FOR AWARDS.—(1) Any decoration covered by paragraph (2) may be awarded, without regard to any time limit imposed by law or regulation for a recommendation for such award to any person for actions by that person in the Southeast Asia theater of operations while serving on active duty during the Vietnam era. The waiver of time limitations under this paragraph applies only in the case of awards for acts of valor for which a request for consideration is submitted under subsection (c).

(2) Paragraph (1) applies to any decoration (including any device in lieu of a decoration) that, during or after the Vietnam era and before the date of the enactment of this Act, was authorized by law or under regulations of the Department of Defense or the military department concerned to be awarded to members of the Armed Forces for acts of valor.

(c) REVIEW OF REQUESTS FOR CONSIDERATION OF AWARDS.—(1) The Secretary of each military department shall review each request for consideration of award of a decoration described in subsection (b) that are received by the Secretary during the one-year period beginning on the date of enactment of this Act.

(2) The Secretaries shall begin the review within 30 days after the date of the enactment of this Act and shall complete the review of each request for consideration not later than one year after the date on which the request is received.

(3) The Secretary may use the same process for carrying out the review as the Secretary uses for reviewing other recommendations for award of decorations to members of the Armed Forces under the Secretary's jurisdiction for valorous acts.

(d) REPORT.—(1) Upon completing the review of each such request under subsection (c), the Secretary shall submit a report on the review to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(2) The report shall include, with respect to each request for consideration received, the following information:

(A) A summary of the request for consideration.

(B) The findings resulting from the review.

(C) The final action taken on the request for consideration.

(e) DEFINITION.—For purposes of this section:

(1) The term ''Vietnam era'' has the meaning given that term in section 101 of title 38, United States Code.

(2) The term ''active duty'' has the meaning given that term in section 101 of title 10, United States Code.

SEC. 523. MILITARY INTELLIGENCE PERSONNEL PREVENTED BY SECRECY FROM BEING CONSIDERED FOR DECORATIONS AND AWARDS.

(a) WAIVER ON RESTRICTIONS OF AWARDS.—(1) Any decoration covered by paragraph (2) may be awarded, without regard to any time limit imposed by law or regulation for a recommendation for such award, to any person for an act, achievement, or service that the person performed in carrying out military intelligence duties during the period beginning on January 1, 1940, and ending on December 31, 1990.

(2) Paragraph (1) applies to any decoration (including any device in lieu of a decoration) that, during or after the period described in paragraph (1) and before the date of the enactment of this Act, was authorized by law or under the regulations of the Department of Defense or the military department concerned to be awarded to a person for an act, achievement, or service performed by that person while serving on active duty.

(b) REVIEW OF REQUESTS FOR CONSIDERATION OF AWARDS.—(1) The Secretary of each military department shall review each request for consideration of award of a decoration described in subsection (a) that is received by the Secretary during the one-year period beginning on the date of the enactment of this Act.

(2) The Secretaries shall begin the review within 30 days after the date of the enactment of this Act and shall complete the review of each request for consideration not later than one year after the date on which the request is received.

(3) The Secretary may use the same process for carrying out the review as the Secretary uses for reviewing other recommendations for awarding decorations to members of the Armed Forces under the Secretary's jurisdiction for acts, achievements, or service.

(c) REPORT.—(1) Upon completing the review of each such request under subsection (b), the Secretary shall submit a report on the review to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(2) The report shall include, with respect to each request for consideration reviewed, the following information:

(A) A summary of the request for consideration.

(B) The findings resulting from the review.

(C) The final action taken on the request for consideration.

(D) Administrative or legislative recommendations to improve award procedures with respect to military intelligence personnel.

(d) DEFINITION.—For purposes of this section, the term ''active duty'' has the meaning given such term in section 101 of title 10, United States Code.

SEC. 524. REVIEW REGARDING UPGRADING OF DISTINGUISHED-SERVICE CROSSES AND NAVY CROSSES AWARDED TO ASIAN-AMERICANS AND NATIVE AMERICAN PACIFIC ISLANDERS FOR WORLD WAR II SERVICE.

(a) REVIEW REQUIRED.—(1) The Secretary of the Army shall review the records relating to each award of the Distinguished-Service Cross, and the Secretary of the Navy shall review the records relating to each award of the Navy Cross, that was awarded to an Asian-American or a Native American Pacific Islander with respect to service as a member of the Armed Forces during World War II. The purpose of the review shall be to determine whether any such award should be upgraded to the Medal of Honor.

(2) If the Secretary concerned determines, based upon the review under paragraph (1), that such an upgrade is appropriate in the case of any person, the Secretary shall submit to the President a recommendation that the President award the Medal of Honor to that person.

(b) WAIVER OF TIME LIMITATIONS.—A Medal of Honor may be awarded to a person referred to in subsection (a) in accordance with a recommendation of the Secretary concerned under that subsection without regard to—

(1) section 3744, 6248, or 8744 of title 10, United States Code, as applicable; and

(2) any regulation or other administrative restriction on—

(A) the time for awarding the Medal of Honor; or

(B) the awarding of the Medal of Honor for service for which a Distinguished-Service Cross or Navy Cross has been awarded.

(c) DEFINITION.—For purposes of this section, the term ''Native American Pacific Islander'' means a Native Hawaiian and any other Native American Pacific Islander within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

SEC. 525. ELIGIBILITY FOR ARMED FORCES EXPEDITIONARY MEDAL BASED UPON SERVICE IN EL SALVADOR.

(a) IN GENERAL.—For the purpose of determining eligibility of members and former members of the Armed Forces for the Armed Forces Expeditionary Medal, the country of El Salvador during the period beginning on January 1, 1981 and ending on February 1, 1992, shall be treated as having been designated as an area and a period of time in which members of the Armed Forces participated in operations in significant numbers and otherwise met the general requirements for the award of that medal.

(b) INDIVIDUAL DETERMINATION.—The Secretary of the military department concerned shall determine whether individual members or former members of the Armed Forces who served in El Salvador during the period beginning on January 1, 1981 and ending on February 1, 1992 meet the individual service requirements for award of the Armed Forces Expeditionary Medal as established in applicable regulations. Such determinations shall be made as expeditiously as possible after the date of the enactment of this Act.

SEC. 526. PROCEDURE FOR CONSIDERATION OF MILITARY DECORATIONS NOT PREVIOUSLY SUBMITTED IN TIMELY FASHION.

(a) IN GENERAL.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1130. Consideration of proposals for decorations not previously submitted in timely fashion: procedures for review and recommendation

''(a) Upon request of a Member of Congress, the Secretary concerned shall review a proposal for the award or presentation of a decoration (or the upgrading of a decoration), either for an individual or a unit, that is not otherwise authorized to be presented or awarded due to limitations established by law or policy for timely submission of a recommendation for such award or presentation. Based upon such review, the Secretary shall make a determination as to the merits of approving the award or presentation of the decoration and the other determinations necessary to comply with subsection (b).

''(b) Upon making a determination under subsection (a) as to the merits of approving the award or presentation of the decoration, the Secretary concerned shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives and to the requesting member of Congress notice in writing of one of the following:

''(1) The award or presentation of the decoration does not warrant approval on the merits.

''(2) The award or presentation of the decoration warrants approval and a waiver by law of time restrictions prescribed by law is recommended.

''(3) The award or presentation of the decoration warrants approval on the merits and has been approved as an exception to policy.

''(4) The award or presentation of the decoration warrants approval on the merits, but a waiver of the time restrictions prescribed by law or policy is not recommended.

A notice under paragraph (1) or (4) shall be accompanied by a statement of the reasons for the decision of the Secretary.

''(c) Determinations under this section regarding the award or presentation of a decoration shall be made in accordance with the same procedures that apply to the approval or disapproval of the award or presentation of a decoration when a recommendation for such award or presentation is submitted in a timely manner as prescribed by law or regulation.

''(d) In this section:

''(1) The term 'Member of Congress' means—

''(A) a Senator; or

''(B) a Representative in, or a Delegate or Resident Commissioner to, Congress.

''(2) The term 'decoration' means any decoration or award that may be presented or awarded to a member or unit of the armed forces.''.

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

''1130. Consideration of proposals for decorations not previously submitted in timely fashion: procedures for review and recommendation.''.

Subtitle D—Officer Education Programs

PART I—SERVICE ACADEMIES

SEC. 531. REVISION OF SERVICE OBLIGATION FOR GRADUATES OF THE SERVICE ACADEMIES.

(a) MILITARY ACADEMY.—Section 4348(a)(2)(B) of title 10, United States Code, is amended by striking out ''six years'' and inserting in lieu thereof ''five years''.

(b) NAVAL ACADEMY.—Section 6959(a)(2)(B) of such title is amended by striking out ''six years'' and inserting in lieu thereof ''five years''.

(c) AIR FORCE ACADEMY.—Section 9348(a)(2)(B) of such title is amended by striking out ''six years'' and inserting in lieu thereof ''five years''.

(d) REQUIREMENT FOR REVIEW AND REPORT.—(1) The Secretary of Defense shall review the effects that each of various periods

of obligated active duty service for graduates of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy would have on the number and quality of the eligible and qualified applicants seeking appointment to such academies.

(2) Not later than April 1, 1996, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's findings under the review, together with any recommended legislation regarding the minimum periods of obligated active duty service for graduates of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

(e) APPLICABILITY.—The amendments made by this section apply to persons first admitted to the United States Military Academy, United States Naval Academy, and United States Air Force Academy after December 31, 1991.

SEC. 532. NOMINATIONS TO SERVICE ACADEMIES FROM COMMONWEALTH OF THE NORTHERN MARIANAS ISLANDS.

(a) MILITARY ACADEMY.—Section 4342(a) of title 10, United States Code, is amended by inserting after paragraph (9) the following new paragraph:

''(10) One cadet from the Commonwealth of the Northern Marianas Islands, nominated by the resident representative from the commonwealth.''.

(b) NAVAL ACADEMY.—Section 6954(a) of title 10, United States Code, is amended by inserting after paragraph (9) the following new paragraph:

''(10) One from the Commonwealth of the Northern Marianas Islands, nominated by the resident representative from the commonwealth.''.

(c) AIR FORCE ACADEMY.—Section 9342(a) of title 10, United States Code, is amended by inserting after paragraph (9) the following new paragraph:

''(10) One cadet from the Commonwealth of the Northern Marianas Islands, nominated by the resident representative from the commonwealth.''.

SEC. 533. REPEAL OF REQUIREMENT FOR ATHLETIC DIRECTOR AND NONAPPROPRIATED FUND ACCOUNT FOR THE ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Section 4357 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 403 of such title is amended by striking out the item relating to section 4357.

(b) UNITED STATES NAVAL ACADEMY.—Section 556 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2774) is amended by striking out subsections (b) and (e).

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Section 9356 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 903 of such title is amended by striking out the item relating to section 9356.

SEC. 534. REPEAL OF REQUIREMENT FOR PROGRAM TO TEST PRIVATIZATION OF SERVICE ACADEMY PREPARATORY SCHOOLS.

Section 536 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 4331 note) is repealed.

PART II—RESERVE OFFICER TRAINING CORPS

SEC. 541. ROTC ACCESS TO CAMPUSES.

(a) IN GENERAL.—Chapter 49 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 983. Institutions of higher education that prohibit Senior ROTC units: denial of Department of Defense grants and contracts

''(a) DENIAL OF DEPARTMENT OF DEFENSE GRANTS AND CONTRACTS.—(1) No funds appropriated or otherwise available to the Department of Defense may be made obligated by contract or by grant (including a grant of funds to be available for student aid) to any institution of higher education that, as determined by the Secretary of Defense, has an anti-ROTC policy and at which, as determined by the Secretary, the Secretary would otherwise maintain or seek to establish a unit of the Senior Reserve Officer Training Corps or at which the Secretary would otherwise enroll or seek to enroll students for participation in a unit of the Senior Reserve Officer Training Corps at another nearby institution of higher education.

''(2) In the case of an institution of higher education that is ineligible for Department of Defense grants and contracts by reason of paragraph (1), the prohibition under that paragraph shall cease to apply to that institution upon a determination by the Secretary that the institution no longer has an anti-ROTC policy.

''(b) NOTICE OF DETERMINATION.—Whenever the Secretary makes a determination under subsection (a) that an institution has an anti-ROTC policy, or that an institution previously determined to have an anti-ROTC policy no longer has such a policy, the Secretary—

''(1) shall transmit notice of that determination to the Secretary of Education and to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives; and

''(2) shall publish in the Federal Register notice of that determination and of the effect of that determination under subsection (a)(1) on the eligibility of that institution for Department of Defense grants and contracts.

''(c) SEMIANNUAL NOTICE IN FEDERAL REGISTER.—The Secretary shall publish in the Federal Register once every six months a list of each institution of higher education that is currently ineligible for Department of Defense grants and contracts by reason of a determination of the Secretary under subsection (a).

''(d) ANTI-ROTC POLICY.—In this section, the term 'anti-ROTC policy' means a policy or practice of an institution of higher education that—

''(1) prohibits, or in effect prevents, the Secretary of Defense from maintaining or establishing a unit of the Senior Reserve Officer Training Corps at that institution, or

''(2) prohibits, or in effect prevents, a student at that institution from enrolling in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.''.

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

''983. Institutions of higher education that prohibit Senior ROTC units: denial of Department of Defense grants and contracts.''.

SEC. 542. ROTC SCHOLARSHIPS FOR THE NATIONAL GUARD.

(a) CLARIFICATION OF RESTRICTION ON ACTIVE DUTY.—Paragraph (2) of section 2107(h) of title 10, United States Code, is amended by inserting ''full-time'' before ''active duty'' in the second sentence.

(b) REDESIGNATION OF ROTC SCHOLARSHIPS.—Such paragraph is further amended by inserting after the first sentence the following new sentence: ''A cadet designated under this paragraph who, having initially contracted for service as provided in subsection (b)(5)(A) and having received financial assistance for two years under an award providing for four years of financial assistance under this section, modifies such contract with the consent of the Secretary of the Army to provide for service as described in subsection (b)(5)(B), may be counted, for the year in which the contract is modified, toward the number of appointments required under the preceding sentence for financial assistance awarded for a period of four years.''.

SEC. 543. DELAY IN REORGANIZATION OF ARMY ROTC REGIONAL HEADQUARTERS STRUCTURE.

(a) DELAY.—The Secretary of the Army may not take any action to reorganize the regional headquarters and basic camp structure of the Reserve Officers Training Corps program of the Army until six months after the date on which the report required by subsection (d) is submitted.

(b) COST-BENEFIT ANALYSIS.—The Secretary of the Army shall conduct a comparative cost-benefit analysis of various options for the reorganization of the regional headquarters and basic camp structure of the Army ROTC program. As part of such analysis, the Secretary shall measure each reorganization option considered against a common set of criteria.

(c) SELECTION OF REORGANIZATION OPTION FOR IMPLEMENTATION.—Based on the findings resulting from the cost-benefit analysis under subsection (b) and such other factors as the Secretary considers appropriate, the Secretary shall select one reorganization option for implementation. The Secretary may select an option for implementation only if the Secretary finds that the cost-benefit analysis and other factors considered clearly demonstrate that such option, better than any other option considered—

(1) provides the structure to meet projected mission requirements;

(2) achieves the most significant personnel and cost savings;

(3) uses existing basic and advanced camp facilities to the maximum extent possible;

(4) minimizes additional military construction costs; and

(5) makes maximum use of the reserve components to support basic and advanced camp operations, thereby minimizing the effect of those operations on active duty units.

(d) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report describing the reorganization option selected under subsection (c). The report shall include the results of the cost-benefit analysis under subsection (b) and a detailed rationale for the reorganization option selected.

SEC. 544. DURATION OF FIELD TRAINING OR PRACTICE CRUISE REQUIRED UNDER THE SENIOR RESERVE OFFICERS' TRAINING CORPS PROGRAM.

Section 2104(b)(6)(A)(ii) of title 10, United States Code, is amended by striking out ''not less than six weeks' duration'' and inserting in lieu thereof ''a duration''.

SEC. 545. ACTIVE DUTY OFFICERS DETAILED TO ROTC DUTY AT SENIOR MILITARY COLLEGES TO SERVE AS COMMANDANT AND ASSISTANT COMMANDANT OF CADETS AND AS TACTICAL OFFICERS.

(a) IN GENERAL.—Chapter 103 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2111a. Detail of officers to senior military colleges

''(a) DETAIL OF OFFICERS TO SERVE AS COMMANDANT OR ASSISTANT COMMANDANT OF CADETS.—(1) Upon the request of a senior military college, the Secretary of Defense may

detail an officer on the active-duty list to serve as Commandant of Cadets at that college or (in the case of a college with an Assistant Commandant of Cadets) detail an officer on the active-duty list to serve as Assistant Commandant of Cadets at that college (but not both).

''(2) In the case of an officer detailed as Commandant of Cadets, the officer may, upon the request of the college, be assigned from among the Professor of Military Science, the Professor of Naval Science (if any), and the Professor of Aerospace Science (if any) at that college or may be in addition to any other officer detailed to that college in support of the program.

''(3) In the case of an officer detailed as Assistant Commandant of Cadets, the officer may, upon the request of the college, be assigned from among officers otherwise detailed to duty at that college in support of the program or may be in addition to any other officer detailed to that college in support of the program.

''(b) DESIGNATION OF OFFICERS AS TACTICAL OFFICERS.—Upon the request of a senior military college, the Secretary of Defense may authorize officers (other than officers covered by subsection (a)) who are detailed to duty as instructors at that college to act simultaneously as tactical officers (with or without compensation) for the Corps of Cadets at that college.

''(c) DETAIL OF OFFICERS.—The Secretary of a military department shall designate officers for detail to the program at a senior military college in accordance with criteria provided by the college. An officer may not be detailed to a senior military college without the approval of that college.

''(d) SENIOR MILITARY COLLEGES.—The senior military colleges are the following:

''(1) Texas A&M University.

''(2) Norwich College.

''(3) The Virginia Military Institute.

''(4) The Citadel.

''(5) Virginia Polytechnic Institute and State University.

''(6) North Georgia College.''.

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

''2111a. Detail of officers to senior military colleges.''.

Subtitle E—Miscellaneous Reviews, Studies, and Reports

SEC. 551. REPORT CONCERNING APPROPRIATE FORUM FOR JUDICIAL REVIEW OF DEPARTMENT OF DEFENSE PERSONNEL ACTIONS.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish an advisory committee to consider issues relating to the appropriate forum for judicial review of Department of Defense administrative personnel actions.

(b) MEMBERSHIP.—(1) The committee shall be composed of five members, who shall be appointed by the Secretary of Defense after consultation with the Attorney General and the Chief Justice of the United States.

(2) All members of the committee shall be appointed not later than 30 days after the date of the enactment of this Act.

(c) DUTIES.—The committee shall review, and provide findings and recommendations regarding, the following matters with respect to judicial review of administrative personnel actions of the Department of Defense:

(1) Whether the existing forum for such review through the United States district courts provides appropriate and adequate review of such actions.

(2) Whether jurisdiction to conduct judicial review of such actions should be established in a single court in order to provide a centralized review of such actions and, if so, in which court that jurisdiction should be vested.

(d) REPORT.—(1) Not later than December 15, 1996, the committee shall submit to the Secretary of Defense a report setting forth its findings and recommendations, including its recommendations pursuant to subsection (c).

(2) Not later than January 1, 1997, the Secretary of Defense, after consultation with the Attorney General, shall transmit the committee's report to Congress. The Secretary may include in the transmittal any comments on the report that the Secretary or the Attorney General consider appropriate.

(e) TERMINATION OF COMMITTEE.—The committee shall terminate 30 days after the date of the submission of its report to Congress under subsection (d)(2).

SEC. 552. COMPTROLLER GENERAL REVIEW OF PROPOSED ARMY END STRENGTH ALLOCATIONS.

(a) IN GENERAL.—During fiscal years 1996 through 2001, the Comptroller General of the United States shall analyze the plans of the Secretary of the Army for the allocation of assigned active component end strengths for the Army through the requirements process known as Total Army Analysis 2003 and through any subsequent similar requirements process of the Army that is conducted before 2002. The Comptroller General's analysis shall consider whether the proposed active component end strengths and planned allocation of forces for that period will be sufficient to implement the national military strategy. In monitoring those plans, the Comptroller General shall determine the extent to which the Army will be able during that period—

(1) to man fully the combat force based on the projected active component Army end strength for each of fiscal years 1996 through 2001;

(2) to meet the support requirements for the force and strategy specified in the report of the Bottom-Up Review, including requirements for operations other than war; and

(3) to streamline further Army infrastructure in order to eliminate duplication and inefficiencies and replace active duty personnel in overhead positions, whenever practicable, with civilian or reserve personnel.

(b) ACCESS TO DOCUMENTS, ETC.—The Secretary of the Army shall ensure that the Comptroller General is provided access, on a timely basis and in accordance with the needs of the Comptroller General, to all analyses, models, memoranda, reports, and other documents prepared or used in connection with the requirements process of the Army known as Total Army Analysis 2003 and any subsequent similar requirements process of the Army that is conducted before 2002.

(c) ANNUAL REPORT.—Not later than March 1 of each year through 2002, the Comptroller General shall submit to Congress a report on the findings and conclusions of the Comptroller General under this section.

SEC. 553. REPORT ON MANNING STATUS OF HIGHLY DEPLOYABLE SUPPORT UNITS.

(a) REPORT.—Not later than September 30, 1996, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the units of the Armed Forces under the Secretary's jurisdiction—

(1) that (as determined by the Secretary of the military department concerned) are high-priority support units that would deploy early in a contingency operation or other crisis; and

(2) that are, as a matter of policy, managed at less than 100 percent of their authorized strengths.

(b) MATTERS TO BE INCLUDED.—The Secretary shall include in the report—

(1) the number of such high-priority support units (shown by type of unit) that are so managed;

(2) the level of manning within such high-priority support units; and

(3) with respect to each such unit, either the justification for manning of less than 100 percent or the status of corrective action.

SEC. 554. REVIEW OF SYSTEM FOR CORRECTION OF MILITARY RECORDS.

(a) REVIEW OF PROCEDURES.—The Secretary of Defense shall review the system and procedures for the correction of military records used by the Secretaries of the military departments in the exercise of authority under section 1552 of title 10, United States Code, in order to identify potential improvements that could be made in the process for correcting military records to ensure fairness, equity, and (consistent with appropriate service to applicants) maximum efficiency. The Secretary may not delegate responsibility for the review to an officer or official of a military department.

(b) ISSUES REVIEWED.—In conducting the review, the Secretary shall consider (with respect to each Board for the Correction of Military Records) the following:

(1) The composition of the board and of the support staff for the board.

(2) Timeliness of final action.

(3) Independence of deliberations by the civilian board.

(4) The authority of the Secretary of the military department concerned to modify the recommendations of the board.

(5) Burden of proof and other evidentiary standards.

(6) Alternative methods for correcting military records.

(7) Whether the board should be consolidated with the Discharge Review Board of the military department.

(c) REPORT.—Not later than April 1, 1996, the Secretary of Defense shall submit a report on the results of the Secretary's review under this section to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The report shall contain the recommendations of the Secretary for improving the process for correcting military records in order to achieve the objectives referred to in subsection (a).

SEC. 555. REPORT ON THE CONSISTENCY OF REPORTING OF FINGERPRINT CARDS AND FINAL DISPOSITION FORMS TO THE FEDERAL BUREAU OF INVESTIGATION.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the consistency with which fingerprint cards and final disposition forms, as described in Criminal Investigations Policy Memorandum 10 issued by the Defense Inspector General on March 25, 1987, are reported by the Defense Criminal Investigative Organizations to the Federal Bureau of Investigation for inclusion in the Bureau's criminal history identification files. The report shall be prepared in consultation with the Director of the Federal Bureau of Investigation.

(b) MATTERS TO BE INCLUDED.—In the report, the Secretary shall—

(1) survey fingerprint cards and final disposition forms filled out in the past 24 months by each investigative organization;

(2) compare the fingerprint cards and final disposition forms filled out to all judicial and nonjudicial procedures initiated as a result of actions taken by each investigative service in the past 24 months;

(3) account for any discrepancies between the forms filled out and the judicial and nonjudicial procedures initiated;

(4) compare the fingerprint cards and final disposition forms filled out with the information held by the Federal Bureau of Investigation criminal history identification files;

(5) identify any weaknesses in the collection of fingerprint cards and final disposition forms and in the reporting of that information to the Federal Bureau of Investigation; and

(6) determine whether or not other law enforcement activities of the military services collect and report such information or, if not, should collect and report such information.

(c) SUBMISSION OF REPORT.—The report shall be submitted not later than one year after the date of the enactment of this Act.

(d) DEFINITION.—For the purposes of this section, the term ''criminal history identification files'', with respect to the Federal Bureau of Investigation, means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification and any other method of positive identification.

Subtitle F—Other Matters

SEC. 561. EQUALIZATION OF ACCRUAL OF SERVICE CREDIT FOR OFFICERS AND ENLISTED MEMBERS.

(a) ENLISTED SERVICE CREDIT.—Section 972 of title 10, United States Code, is amended—

(1) by inserting ''(a) ENLISTED MEMBERS REQUIRED TO MAKE UP TIME LOST.—'' before ''An enlisted member'';

(2) by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

''(3) is confined by military or civilian authorities for more than one day in connection with a trial, whether before, during, or after the trial; or''; and

(3) by redesignating paragraph (5) as paragraph (4).

(b) OFFICER SERVICE CREDIT.—Such section is further amended by adding at the end the following:

''(b) OFFICERS NOT ALLOWED SERVICE CREDIT FOR TIME LOST.—In the case of an officer of an armed force who after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996—

''(1) deserts;

''(2) is absent from his organization, station, or duty for more than one day without proper authority, as determined by competent authority;

''(3) is confined by military or civilian authorities for more than one day in connection with a trial, whether before, during, or after the trial; or

''(4) is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct; the period of such desertion, absence, confinement, or inability to perform duties may not be counted in computing, for any purpose other than basic pay under section 205 of title 37, the officer's length of service.''.

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

''§ 972. Members: effect of time lost

(2) The item relating to section 972 in the table of sections at the beginning of chapter 49 of such title is amended to read as follows:

''972. Members: effect of time lost.''.

(d) CONFORMING AMENDMENTS.—(1) Section 1405(c) is amended—

(A) by striking out ''MADE UP.—Time'' and inserting in lieu thereof ''MADE UP OR EXCLUDED.—(1) Time'';

(B) by striking out ''section 972'' and inserting in lieu thereof ''section 972(a)'';

(C) by inserting after ''of this title'' the following: '', or required to be made up by an enlisted member of the Navy, Marine Corps, or Coast Guard under that section with respect to a period of time after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995,''; and

(D) by adding at the end the following:

''(2) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.''.

(2) Chapter 367 of such title is amended—

(A) in section 3925(b), by striking out ''section 972'' and inserting in lieu thereof ''section 972(a)''; and

(B) by adding at the end of section 3926 the following new subsection:

''(e) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.''.

(3)(A) Chapter 571 of such title is amended by inserting after section 6327 the following new section:

''§ 6328. Computation of years of service: voluntary retirement

''(a) ENLISTED MEMBERS.—Time required to be made up under section 972(a) of this title after the date of the enactment of this section may not be counted in computing years of service under this chapter.

''(b) OFFICERS.—Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this chapter any time identified with respect to that officer under that section.''.

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6327 the following new item:

''6328. Computation of years of service: voluntary retirement.''.

(4) Chapter 867 of such title is amended—

(A) in section 8925(b), by striking out ''section 972'' and inserting in lieu thereof ''section 972(a)''; and

(B) by adding at the end of section 8926 the following new subsection:

''(d) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.''.

(e) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to any period of time covered by section 972 of title 10, United States Code, that occurs after that date.

SEC. 562. ARMY RANGER TRAINING.

(a) IN GENERAL.—(1) Chapter 401 of title 10, United States Code, is amended by inserting after section 4302 the following new section:

''§ 4303. Army Ranger training: instructor staffing; safety

''(a) LEVELS OF PERSONNEL ASSIGNED.—(1) The Secretary of the Army shall ensure that at all times the number of officers, and the number of enlisted members, permanently assigned to the Ranger Training Brigade (or other organizational element of the Army primarily responsible for ranger student training) are not less than 90 percent of the required manning spaces for officers, and for enlisted members, respectively, for that brigade.

''(2) In this subsection, the term 'required manning spaces' means the number of personnel spaces for officers, and the number of personnel spaces for enlisted members, that are designated in Army authorization documents as the number required to accomplish the missions of a particular unit or organization.

''(b) TRAINING SAFETY CELLS.—(1) The Secretary of the Army shall establish and maintain an organizational entity known as a 'safety cell' as part of the organizational elements of the Army responsible for conducting each of the three major phases of the Ranger Course. The safety cell in each different geographic area of Ranger Course training shall be comprised of personnel who have sufficient continuity and experience in that geographic area of such training to be knowledgeable of the local conditions year-round, including conditions of terrain, weather, water, and climate and other conditions and the potential effect on those conditions on Ranger student training and safety.

''(2) Members of each safety cell shall be assigned in sufficient numbers to serve as advisers to the officers in charge of the major phase of Ranger training and shall assist those officers in making informed daily 'go' and 'no-go' decisions regarding training in light of all relevant conditions, including conditions of terrain, weather, water, and climate and other conditions.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4302 the following new item:

''4303. Army Ranger training: instructor staffing; safety.''.

(b) ACCOMPLISHMENT OF REQUIRED MANNING LEVELS.—(1) If, as of the date of the enactment of this Act, the number of officers, and the number of enlisted members, permanently assigned to the Army Ranger Training Brigade are not each at (or above) the requirement specified in subsection (a) of section 4303 of title 10, United States Code, as added by subsection (a), the Secretary of the Army shall—

(A) take such steps as necessary to accomplish that requirement within 12 months after such date of enactment; and

(B) submit to Congress, not later than 90 days after such date of enactment, a plan to achieve and maintain that requirement.

(2) The requirement specified in subsection (a) of section 4303 of title 10, United States Code, as added by subsection (a), shall expire two years after the date (on or after the date of the enactment of this Act) on which the required manning levels referred to in paragraph (1) are first attained.

(c) GAO ASSESSMENT.—(1) Not later than one year the date of the enactment of this Act, the Comptroller General shall submit to Congress a report providing a preliminary assessment of the implementation and effectiveness of all corrective actions taken by the Army as a result of the February 1995 accident at the Florida Ranger Training Camp, including an evaluation of the implementation of the required manning levels established by subsection (a) of section 4303 of title 10, United States Code, as added by subsection (a).

(2) At the end of the two-year period specified in subsection (b)(2), the Comptroller General shall submit to Congress a report providing a final assessment of the matters covered in the preliminary report under paragraph (1). The report shall include the Comptroller General's recommendation as to the need to continue required statutory manning levels as specified in subsection (a) of section 4303 of title 10, United States Code, as added by subsection (a).

(d) SENSE OF CONGRESS.—In light of requirement that particularly dangerous training activities (such as Ranger training, Search, Evasion, Rescue, and Escape (SERE) training, SEAL training, and Airborne training) must be adequately manned and resourced to ensure safety and effective oversight, it is the sense of Congress—

(1) that the Secretary of Defense, in conjunction with the Secretaries of the military

departments, should review and, if necessary, enhance oversight of all such training activities; and

(2) that organizations similar to the safety cells required to be established for Army Ranger training in section 4303 of title 10, United States Code, as added by subsection (a), should (when appropriate) be used for all such training activities.

SEC. 563. SEPARATION IN CASES INVOLVING EXTENDED CONFINEMENT.

(a) SEPARATION.—(1)(A) Chapter 59 of title 10, United States Code, is amended by inserting after section 1166 the following new section:

"§ 1167. Members under confinement by sentence of court-martial: separation after six months confinement

''Except as otherwise provided in regulations prescribed by the Secretary of Defense, a member sentenced by a court-martial to a period of confinement for more than six months may be separated from the member's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the person has served in confinement for a period of six months.''.

(B) The table of sections at the beginning of chapter 59 of such title is amended by inserting after the item relating to section 1166 the following new item:

''1167. Members under confinement by sentence of court-martial: separation after six months confinement.''.

(2)(A) Chapter 1221 of title 10, United States Code, is amended by adding at the end the following:

"§ 12687. Reserves under confinement by sentence of court-martial: separation after six months confinement

''Except as otherwise provided in regulations prescribed by the Secretary of Defense, a Reserve sentenced by a court-martial to a period of confinement for more than six months may be separated from that Reserve's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the Reserve has served in confinement for a period of six months.''.

(B) The table of sections at the beginning of chapter 1221 of such title is amended by inserting at the end thereof the following new item:

''12687. Reserves under confinement by sentence of court-martial: separation after six months confinement.''.

(b) DROP FROM ROLLS.—(1) Section 1161(b) of title 10, United States Code, is amended by striking out ''or (2)'' and inserting in lieu thereof ''(2) who may be separated under section 1178 of this title by reason of a sentence to confinement adjudged by a court-martial, or (3)''.

(2) Section 12684 of such title is amended—

(A) by striking out ''or'' at the end of paragraph (1);

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

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

''(2) who may be separated under section 12687 of this title by reason of a sentence to confinement adjudged by a court-martial; or''.

SEC. 564. LIMITATIONS ON REDUCTIONS IN MEDICAL PERSONNEL.

(a) IN GENERAL.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 129b the following new section:

"§ 129c. Medical personnel: limitations on reductions

''(a) LIMITATION ON REDUCTION.—For any fiscal year, the Secretary of Defense may not make a reduction in the number of medical personnel of the Department of Defense described in subsection (b) unless the Secretary makes a certification for that fiscal year described in subsection (c).

''(b) COVERED REDUCTIONS.—Subsection (a) applies to a reduction in the number of medical personnel of the Department of Defense as of the end of a fiscal year to a number that is less than—

''(1) 95 percent of the number of such personnel at the end of the immediately preceding fiscal year; or

''(2) 90 percent of the number of such personnel at the end of the third fiscal year preceding the fiscal year.

''(c) CERTIFICATION.—A certification referred to in subsection (a) with respect to reductions in medical personnel of the Department of Defense for any fiscal year is a certification by the Secretary of Defense to Congress that—

''(1) the number of medical personnel being reduced is excess to the current and projected needs of the Department of Defense; and

''(2) such reduction will not result in an increase in the cost of health care services provided under the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of this title.

''(d) POLICY FOR IMPLEMENTING REDUCTIONS.—Whenever the Secretary of Defense directs that there be a reduction in the total number of military medical personnel of the Department of Defense, the Secretary shall require that the reduction be carried out so as to ensure that the reduction is not exclusively or disproportionatly borne by any one of the armed forces and is not exclusively or disproportionatly borne by either the active or the reserve components.

''(e) DEFINITION.—In this section, the term 'medical personnel' means—

''(1) the members of the armed forces covered by the term 'medical personnel' as defined in section 115a(g)(2) of this title; and

''(2) the civilian personnel of the Department of Defense assigned to military medical facilities.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 129b the following new item:

''129c. Medical personnel: limitations on reductions.''.

(b) SPECIAL TRANSITION RULE FOR FISCAL YEAR 1996.—For purposes of applying subsection (b)(1) of section 129c of title 10, United States Code, as added by subsection (a), during fiscal year 1996, the number against which the percentage limitation of 95 percent is computed shall be the number of medical personnel of the Department of Defense as of the end of fiscal year 1994 (rather than the number as of the end of fiscal year 1995).

(c) REPORT ON PLANNED REDUCTIONS.—(1) Not later than March 1, 1996, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for the reduction of the number of medical personnel of the Department of Defense over the five-year period beginning on October 1, 1996.

(2) The Secretary shall prepare the plan through the Assistant Secretary of Defense having responsibility for health affairs, who shall consult in the preparation of the plan with the Surgeon General of the Army, the Surgeon General of the Navy, and the Surgeon General of the Air Force.

(3) For purposes of this subsection, the term ''medical personnel of the Department of Defense'' shall have the meaning given the term ''medical personnel'' in section 129c(e) of title 10, United States Code, as added by subsection (a).

(d) REPEAL OF SUPERSEDED PROVISIONS OF LAW.—The following provisions of law are repealed:

(1) Section 711 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 115 note).

(2) Subsection (b) of section 718 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 115 note).

(3) Section 518 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 12001 note).

SEC. 565. SENSE OF CONGRESS CONCERNING PERSONNEL TEMPO RATES.

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

(1) Excessively high personnel tempo rates for members of the Armed Forces resulting from high-tempo unit operations degrades unit readiness and morale and eventually can be expected to adversely affect unit retention.

(2) The Armed Forces have begun to develop methods to measure and manage personnel tempo rates.

(3) The Armed Forces have attempted to reduce operations and personnel tempo for heavily tasked units by employing alternative capabilities and reducing tasking requirements.

(b) SENSE OF CONGRESS.—The Secretary of Defense should continue to enhance the knowledge within the Armed Forces of personnel tempo and to improve the techniques by which personnel tempo is defined and managed with a view toward establishing and achieving reasonable personnel tempo standards for all personnel, regardless of service, unit, or assignment.

SEC. 566. SEPARATION BENEFITS DURING FORCE REDUCTION FOR OFFICERS OF COMMISSIONED CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) SEPARATION BENEFITS.—Subsection (a) of section 3 of the Act of August 10, 1956 (33 U.S.C. 857a), is amended by adding at the end the following new paragraph:

''(15) Section 1174a, special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).''.

(b) TECHNICAL CORRECTIONS.—Such section is further amended—

(1) by striking out ''Coast and Geodetic Survey'' in subsections (a) and (b) and inserting in lieu thereof ''commissioned officer corps of the National Oceanic and Atmospheric Administration''; and

(2) in subsection (a), by striking out ''including changes in those rules made after the effective date of this Act'' in the matter preceding paragraph (1) and inserting in lieu thereof ''as those provisions are in effect from time to time''.

(c) TEMPORARY EARLY RETIREMENT AUTHORITY.—Section 4403 (other than subsection (f)) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the commissioned officer corps of the National Oceanic and Atmospheric Administration in the same manner and to the same extent as that section applies to the Department of Defense. The Secretary of Commerce shall implement the provisions of that section with respect to such commissioned officer corps and shall apply the provisions of that section to the provisions of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 relating to the retirement of members of such commissioned officer corps.

(d) EFFECTIVE DATE.—This section shall apply only to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration who are separated after September 30, 1995.

SEC. 567. DISCHARGE OF MEMBERS OF THE ARMED FORCES WHO HAVE THE HIV–1 VIRUS.

(a) IN GENERAL.—(1) Section 1177 of title 10, United States Code, is amended to read as follows:

"§ 1177. Members infected with HIV–1 virus: mandatory discharge or retirement

''(a) MANDATORY SEPARATION.—A member of the armed forces who is HIV-positive shall be separated. Such separation shall be made on a date determined by the Secretary concerned, which shall be as soon as practicable after the date on which the determination is made that the member is HIV-positive and not later than the last day of the sixth month beginning after such date.

''(b) FORM OF SEPARATION.—If a member to be separated under this section is eligible to retire under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged. The characterization of the service of the member shall be determined without regard to the determination that the member is HIV-positive.

''(c) DEFERRAL OF SEPARATION FOR MEMBERS IN 18-YEAR RETIREMENT SANCTUARY.—In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provision of law, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

''(d) SEPARATION TO BE CONSIDERED INVOLUNTARY.—A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.

''(e) ENTITLEMENT TO HEALTH CARE.—A member separated under this section shall be entitled to medical and dental care under chapter 55 of this title to the same extent and under the same conditions as a person who is entitled to such care under section 1074(b) of this title.

''(f) COUNSELING ABOUT AVAILABLE MEDICAL CARE.—A member to be separated under this section shall be provided information, in writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home of record or point of discharge at which the member may seek necessary medical care.

''(g) HIV-POSITIVE MEMBERS.—A member shall be considered to be HIV-positive for purposes of this section if there is serologic evidence that the member is infected with the virus known as Human Immunodeficiency Virus–1 (HIV–1), the virus most commonly associated with the acquired immune deficiency syndrome (AIDS) in the United States. Such serologic evidence shall be considered to exist if there is a reactive result given by an enzyme-linked immunosorbent assay (ELISA) serologic test that is confirmed by a reactive and diagnostic immunoelectrophoresis test (Western blot) on two separate samples. Any such serologic test must be one that is approved by the Food and Drug Administration.''.

(2) The item relating to such section in the table of sections at the beginning of chapter 59 of such title is amended to read as follows:

''1177. Members infected with HIV–1 virus: mandatory discharge or retirement.''.

(b) EFFECTIVE DATE.—Section 1177 of title 10, United States Code, as amended by subsection (a), applies with respect to members of the Armed Forces determined to be HIV-positive before, on, or after the date of the enactment of this Act. In the case of a member of the Armed Forces determined to be HIV-positive before such date, the deadline for separation of the member under subsection (a) of such section, as so amended, shall be determined from the date of the enactment of this Act (rather than from the date of such determination).

SEC. 568. REVISION AND CODIFICATION OF MILITARY FAMILY ACT AND MILITARY CHILD CARE ACT.

(a) IN GENERAL.—(1) Subtitle A of title 10, United States Code, is amended by inserting after chapter 87 the following new chapter:

"CHAPTER 88—MILITARY FAMILY PROGRAMS AND MILITARY CHILD CARE

''Subchapter	Sec.
''I. Military Family Programs	1781
''II. Military Child Care	1791

''SUBCHAPTER I—MILITARY FAMILY PROGRAMS

''Sec.
''1781. Office of Family Policy.
''1782. Surveys of military families.
''1783. Family members serving on advisory committees.
''1784. Employment opportunities for military spouses.
''1785. Youth sponsorship program.
''1786. Dependent student travel within the United States.
''1787. Reporting of child abuse.

"§ 1781. Office of Family Policy

''(a) ESTABLISHMENT.—There is in the Office of the Secretary of Defense an Office of Family Policy (hereinafter in this section referred to as the 'Office'). The Office shall be under the Assistant Secretary of Defense for Force Management and Personnel.

''(b) DUTIES.—The Office—

''(1) shall coordinate programs and activities of the military departments to the extent that they relate to military families; and

''(2) shall make recommendations to the Secretaries of the military departments with respect to programs and policies regarding military families.

''(c) STAFF.—The Office shall have not less than five professional staff members.

"§ 1782. Surveys of military families

''(a) AUTHORITY.—The Secretary of Defense may conduct surveys of members of the armed forces on active duty or in an active status, members of the families of such members, and retired members of the armed forces to determine the effectiveness of Federal programs relating to military families and the need for new programs.

''(b) RESPONSES TO BE VOLUNTARY.—Responses to surveys conducted under this section shall be voluntary.

''(c) FEDERAL RECORDKEEPING REQUIREMENTS.—With respect to such surveys, family members of members of the armed forces and reserve and retired members of the armed forces shall be considered to be employees of the United States for purposes of section 3502(3)(A)(i) of title 44.

"§ 1783. Family members serving on advisory committees

''A committee within the Department of Defense which advises or assists the Department in the performance of any function which affects members of military families and which includes members of military families in its membership shall not be considered an advisory committee under section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.) solely because of such membership.

"§ 1784. Employment opportunities for military spouses

''(a) AUTHORITY.—The President shall order such measures as the President considers necessary to increase employment opportunities for spouses of members of the armed forces. Such measures may include—

''(1) excepting, pursuant to section 3302 of title 5, from the competitive service positions in the Department of Defense located outside of the United States to provide employment opportunities for qualified spouses of members of the armed forces in the same geographical area as the permanent duty station of the members; and

''(2) providing preference in hiring for positions in nonappropriated fund activities to qualified spouses of members of the armed forces stationed in the same geographical area as the nonappropriated fund activity for positions in wage grade UA–8 and below and equivalent positions and for positions paid at hourly rates.

''(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations—

''(1) to implement such measures as the President orders under subsection (a);

''(2) to provide preference to qualified spouses of members of the armed forces in hiring for any civilian position in the Department of Defense if the spouse is among persons determined to be best qualified for the position and if the position is located in the same geographical area as the permanent duty station of the member;

''(3) to ensure that notice of any vacant position in the Department of Defense is provided in a manner reasonably designed to reach spouses of members of the armed forces whose permanent duty stations are in the same geographic area as the area in which the position is located; and

''(4) to ensure that the spouse of a member of the armed forces who applies for a vacant position in the Department of Defense shall, to the extent practicable, be considered for any such position located in the same geographic area as the permanent duty station of the member.

''(c) STATUS OF PREFERENCE ELIGIBLES.—Nothing in this section shall be construed to provide a spouse of a member of the armed forces with preference in hiring over an individual who is a preference eligible.

"§ 1785. Youth sponsorship program

''(a) REQUIREMENT.—The Secretary of Defense shall require that there be at each military installation a youth sponsorship program to facilitate the integration of dependent children of members of the armed forces into new surroundings when moving to that military installation as a result of a parent's permanent change of station.

''(b) DESCRIPTION OF PROGRAMS.—The program at each installation shall provide for involvement of dependent children of members presently stationed at the military installation and shall be directed primarily toward children in their preteen and teenage years.

"§ 1786. Dependent student travel within the United States

''Funds available to the Department of Defense for the travel and transportation of dependent students of members of the armed

forces stationed overseas may be obligated for transportation allowances for travel within or between the contiguous States.

"§ 1787. Reporting of child abuse

"(a) IN GENERAL.—The Secretary of Defense shall request each State to provide for the reporting to the Secretary of any report the State receives of known or suspected instances of child abuse and neglect in which the person having care of the child is a member of the armed forces (or the spouse of the member).

"(b) DEFINITION.—In this section, the term 'child abuse and neglect' has the meaning provided in section 3(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102).

"SUBCHAPTER II—MILITARY CHILD CARE

"Sec.
"1791. Funding for military child care.
"1792. Child care employees.
"1793. Parent fees.
"1794. Child abuse prevention and safety at facilities.
"1795. Parent partnerships with child development centers.
"1796. Subsidies for family home day care.
"1797. Early childhood education program.
"1798. Definitions.

"§ 1791. Funding for military child care

"It is the policy of Congress that the amount of appropriated funds available during a fiscal year for operating expenses for military child development centers and programs shall be not less than the amount of child care fee receipts that are estimated to be received by the Department of Defense during that fiscal year.

"§ 1792. Child care employees

"(a) REQUIRED TRAINING.—(1) The Secretary of Defense shall prescribe regulations implementing, a training program for child care employees. Those regulations shall apply uniformly among the military departments. Subject to paragraph (2), satisfactory completion of the training program shall be a condition of employment of any person as a child care employee.

"(2) Under those regulations, the Secretary shall require that each child care employee complete the training program not later than six months after the date on which the employee is employed as a child care employee.

"(3) The training program established under this subsection shall cover, at a minimum, training in the following:

"(A) Early childhood development.

"(B) Activities and disciplinary techniques appropriate to children of different ages.

"(C) Child abuse prevention and detection.

"(D) Cardiopulmonary resuscitation and other emergency medical procedures.

"(b) TRAINING AND CURRICULUM SPECIALISTS.—(1) The Secretary of Defense shall require that at least one employee at each military child development center be a specialist in training and curriculum development. The Secretary shall ensure that such employees have appropriate credentials and experience.

"(2) The duties of such employees shall include the following:

"(A) Special teaching activities at the center.

"(B) Daily oversight and instruction of other child care employees at the center.

"(C) Daily assistance in the preparation of lesson plans.

"(D) Assistance in the center's child abuse prevention and detection program.

"(E) Advising the director of the center on the performance of other child care employees.

"(3) Each employee referred to in paragraph (1) shall be an employee in a competitive service position.

"(c) COMPETITIVE RATES OF PAY.—For the purpose of providing military child development centers with a qualified and stable civilian workforce, employees at a military installation who are directly involved in providing child care and are paid from nonappropriated funds—

"(1) in the case of entry-level employees, shall be paid at rates of pay competitive with the rates of pay paid to other entry-level employees at that installation who are drawn from the same labor pool; and

"(2) in the case of other employees, shall be paid at rates of pay substantially equivalent to the rates of pay paid to other employees at that installation with similar training, seniority, and experience.

"(d) EMPLOYMENT PREFERENCE PROGRAM FOR MILITARY SPOUSES.—(1) The Secretary of Defense shall conduct a program under which qualified spouses of members of the armed forces shall be given a preference in hiring for the position of child care employee in a position paid from nonappropriated funds if the spouse is among persons determined to be best qualified for the position.

"(2) A spouse who is provided a preference under this subsection at a military child development center may not be precluded from obtaining another preference, in accordance with section 1794 of this title, in the same geographic area as the military child development center.

"(e) COMPETITIVE SERVICE POSITION DEFINED.—In this section, the term 'competitive service position' means a position in the competitive service, as defined in section 2102(a)(1) of title 5.

"§ 1793. Parent fees

"(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations establishing fees to be charged parents for the attendance of children at military child development centers. Those regulations shall be uniform for the military departments and shall require that, in the case of children who attend the centers on a regular basis, the fees shall be based on family income.

"(b) LOCAL WAIVER AUTHORITY.—The Secretary of Defense may provide authority to installation commanders, on a case-by-case basis, to establish fees for attendance of children at child development centers at rates lower than those prescribed under subsection (a) if the rates prescribed under subsection (a) are not competitive with rates at local non-military child development centers.

"§ 1794. Child abuse prevention and safety at facilities

"(a) CHILD ABUSE TASK FORCE.—The Secretary of Defense shall maintain a special task force to respond to allegations of widespread child abuse at a military installation. The task force shall be composed of personnel from appropriate disciplines, including, where appropriate, medicine, psychology, and childhood development. In the case of such allegations, the task force shall provide assistance to the commander of the installation, and to parents at the installation, in helping them to deal with such allegations.

"(b) NATIONAL HOTLINE.—(1) The Secretary of Defense shall maintain a national telephone number for persons to use to report suspected child abuse or safety violations at a military child development center or family home day care site. The Secretary shall ensure that such reports may be made anonymously if so desired by the person making the report. The Secretary shall establish procedures for following up on complaints and information received over that number.

"(2) The Secretary shall publicize the existence of the number.

"(c) ASSISTANCE FROM LOCAL AUTHORITIES.—The Secretary of Defense shall prescribe regulations requiring that, in a case of allegations of child abuse at a military child development center or family home day care site, the commander of the military installation or the head of the task force established under subsection (a) shall seek the assistance of local child protective authorities if such assistance is available.

"(d) SAFETY REGULATIONS.—The Secretary of Defense shall prescribe regulations on safety and operating procedures at military child development centers. Those regulations shall apply uniformly among the military departments.

"(e) INSPECTIONS.—The Secretary of Defense shall require that each military child development center be inspected not less often than four times a year. Each such inspection shall be unannounced. At least one inspection a year shall be carried out by a representative of the installation served by the center, and one inspection a year shall be carried out by a representative of the major command under which that installation operates.

"(f) REMEDIES FOR VIOLATIONS.—(1) Except as provided in paragraph (2), any violation of a safety, health, or child welfare law or regulation (discovered at an inspection or otherwise) at a military child development center shall be remedied immediately.

"(2) In the case of a violation that is not life threatening, the commander of the major command under which the installation concerned operates may waive the requirement that the violation be remedied immediately for a period of up to 90 days beginning on the date of the discovery of the violation. If the violation is not remedied as of the end of that 90-day period, the military child development center shall be closed until the violation is remedied. The Secretary of the military department concerned may waive the preceding sentence and authorize the center to remain open in a case in which the violation cannot reasonably be remedied within that 90-day period or in which major facility reconstruction is required.

"§ 1795. Parent partnerships with child development centers

"(a) PARENT BOARDS.—The Secretary of Defense shall require that there be established at each military child development center a board of parents, to be composed of parents of children attending the center. The board shall meet periodically with staff of the center and the commander of the installation served by the center for the purpose of discussing problems and concerns. The board, together with the staff of the center, shall be responsible for coordinating the parent participation program described in subsection (b).

"(b) PARENT PARTICIPATION PROGRAMS.—The Secretary of Defense shall require the establishment of a parent participation program at each military child development center. As part of such program, the Secretary of Defense may establish fees for attendance of children at such a center, in the case of parents who participate in the parent participation program at that center, at rates lower than the rates that otherwise apply.

"§ 1796. Subsidies for family home day care

"The Secretary of Defense may use appropriated funds available for military child care purposes to provide assistance to family home day care providers so that family home day care services can be provided to members of the armed forces at a cost comparable to the cost of services provided by military child development centers. The Secretary shall prescribe regulations for the provision of such assistance.

"§ 1797. Early childhood education program

"The Secretary of Defense shall require that all military child development centers

meet standards of operation necessary for accreditation by an appropriate national early childhood programs accrediting body.

"§ 1798. Definitions

''In this subchapter:

''(1) The term 'military child development center' means a facility on a military installation (or on property under the jurisdiction of the commander of a military installation) at which child care services are provided for members of the armed forces or any other facility at which such child care services are provided that is operated by the Secretary of a military department.

''(2) The term 'family home day care' means home-based child care services that are provided for members of the armed forces by an individual who (A) is certified by the Secretary of the military department concerned as qualified to provide those services, and (B) provides those services on a regular basis for compensation.

''(3) The term 'child care employee' means a civilian employee of the Department of Defense who is employed to work in a military child development center (regardless of whether the employee is paid from appropriated funds or nonappropriated funds).

''(4) The term 'child care fee receipts' means those nonappropriated funds that are derived from fees paid by members of the armed forces for child care services provided at military child development centers.''.

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 87 the following new item:

"88. Military Family Programs and Military Child Care ..... 1781".

(b) REPORT ON FIVE-YEAR DEMAND FOR CHILD CARE.—(1) Not later than the date of the submission of the budget for fiscal year 1997 pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on the expected demand for child care by military and civilian personnel of the Department of Defense during fiscal years 1997 through 2001.

(2) The report shall include—

(A) a plan for meeting the expected child care demand identified in the report; and

(B) an estimate of the cost of implementing that plan.

(3) The report shall also include a description of methods for monitoring family home day care programs of the military departments.

(c) PLAN FOR IMPLEMENTATION OF ACCREDITATION REQUIREMENT.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for carrying out the requirements of section 1787 of title 10, United States Code, as added by subsection (a). The plan shall be submitted not later than April 1, 1997.

(d) CONTINUATION OF DELEGATION OF AUTHORITY WITH RESPECT TO HIRING PREFERENCE FOR QUALIFIED MILITARY SPOUSES.—The provisions of Executive Order No. 12568, issued October 2, 1986 (10 U.S.C. 113 note), shall apply as if the reference in that Executive order to section 806(a)(2) of the Department of Defense Authorization Act of 1986 refers to section 1784 of title 10, United States Code, as added by subsection (a).

(e) REPEALER.—The following provisions of law are repealed:

(1) The Military Family Act of 1985 (title VIII of Public Law 99–145; 10 U.S.C. 113 note).

(2) The Military Child Care Act of 1989 (title XV of Public Law 101–189; 10 U.S.C. 113 note).

SEC. 569. DETERMINATION OF WHEREABOUTS AND STATUS OF MISSING PERSONS.

(a) PURPOSE.—The purpose of this section is to ensure that any member of the Armed Forces (and any Department of Defense civilian employee or contractor employee who serves with or accompanies the Armed Forces in the field under orders) who becomes missing or unaccounted for is ultimately accounted for by the United States and, as a general rule, is not declared dead solely because of the passage of time.

(b) IN GENERAL.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 75 the following new chapter:

"CHAPTER 76—MISSING PERSONS

''Sec.
''1501. System for accounting for missing persons.
''1502. Missing persons: initial report.
''1503. Actions of Secretary concerned; initial board inquiry.
''1504. Subsequent board of inquiry.
''1505. Further review.
''1506. Personnel files.
''1507. Recommendation of status of death.
''1508. Judicial review.
''1509. Preenactment, special interest cases.
''1510. Applicability to Coast Guard.
''1511. Return alive of person declared missing or dead.
''1512. Effect on State law.
''1513. Definitions.

"§ 1501. System for accounting for missing persons

''(a) OFFICE FOR MISSING PERSONNEL.—(1) The Secretary of Defense shall establish within the Office of the Secretary of Defense an office to have responsibility for Department of Defense policy relating to missing persons. Subject to the authority, direction, and control of the Secretary of Defense, the responsibilities of the office shall include—

''(A) policy, control, and oversight within the Department of Defense of the entire process for investigation and recovery related to missing persons (including matters related to search, rescue, escape, and evasion); and

''(B) coordination for the Department of Defense with other departments and agencies of the United States on all matters concerning missing persons.

''(2) In carrying out the responsibilities of the office established under this subsection, the head of the office shall be responsible for the coordination for such purposes within the Department of Defense among the military departments, the Joint Staff, and the commanders of the combatant commands.

''(3) The office shall establish policies, which shall apply uniformly throughout the Department of Defense, for personnel recovery (including search, rescue, escape, and evasion).

''(4) The office shall establish procedures to be followed by Department of Defense boards of inquiry, and by officials reviewing the reports of such boards, under this chapter.

''(b) UNIFORM DOD PROCEDURES.—(1) The Secretary of Defense shall prescribe procedures, to apply uniformly throughout the Department of Defense, for—

''(A) the determination of the status of persons described in subsection (c); and

''(B) for the systematic, comprehensive, and timely collection, analysis, review, dissemination, and periodic update of information related to such persons.

''(2) Such procedures may provide for the delegation by the Secretary of Defense of any responsibility of the Secretary under this chapter to the Secretary of a military department.

''(3) Such procedures shall be prescribed in a single directive applicable to all elements of the Department of Defense.

''(4) As part of such procedures, the Secretary may provide for the extension, on a case-by-case basis, of any time limit specified in section 1502, 1503, or 1504 of this title. Any such extension may not be for a period in excess of the period with respect to which the extension is provided. Subsequent extensions may be provided on the same basis.

''(c) COVERED PERSONS.—Section 1502 of this title applies in the case of the following persons:

''(1) Any member of the armed forces on active duty who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.

''(2) Any civilian employee of the Department of Defense, and any employee of a contractor of the Department of Defense, who serves with or accompanies the armed forces in the field under orders who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.

''(d) PRIMARY NEXT OF KIN.—The individual who is primary next of kin of any person prescribed in subsection (c) may for purposes of this chapter designate another individual to act on behalf of that individual as primary next of kin. The Secretary concerned shall treat an individual so designated as if the individual designated were the primary next of kin for purposes of this chapter. A designation under this subsection may be revoked at any time by the person who made the designation.

''(e) TERMINATION OF APPLICABILITY OF PROCEDURES WHEN MISSING PERSON IS ACCOUNTED FOR.—The provisions of this chapter relating to boards of inquiry and to the actions by the Secretary concerned on the reports of those boards shall cease to apply in the case of a missing person upon the person becoming accounted for or otherwise being determined to be in a status other than missing.

''(f) SECRETARY CONCERNED.—In this chapter, the term 'Secretary concerned' includes, in the case of a civilian employee of the Department of Defense or contractor of the Department of Defense, the Secretary of the military department or head of the element of the Department of Defense employing the employee or contracting with the contractor, as the case may be.

"§ 1502. Missing persons: initial report

''(a) PRELIMINARY ASSESSMENT AND RECOMMENDATION BY COMMANDER.—After receiving information that the whereabouts and status of a person described in section 1501(c) of this title is uncertain and that the absence of the person may be involuntary, the commander of the unit, facility, or area to or in which the person is assigned shall make a preliminary assessment of the circumstances. If, as a result of that assessment, the commander concludes that the person is missing, the commander shall—

''(1) recommend that the person be placed in a missing status; and

''(2) not later than 48 hours after receiving such information, transmit a report containing that recommendation to the theater component commander with jurisdiction over the missing person in accordance with procedures prescribed under section 1501(b) of this title.

''(b) TRANSMISSION THROUGH THEATER COMPONENT COMMANDER.—Upon reviewing a report under subsection (a) recommending that a person be placed in a missing status, the theater component commander shall ensure that all necessary actions are being taken,

and all appropriate assets are being used, to resolve the status of the missing person. Not later than 14 days after receiving the report, the theater component commander shall forward the report to the Secretary of Defense or the Secretary concerned in accordance with procedures prescribed under section 1501(b) of this title. The theater component commander shall include with such report a certification that all necessary actions are being taken, and all appropriate assets are being used, to resolve the status of the missing person.

''(c) SAFEGUARDING AND FORWARDING OF RECORDS.—A commander making a preliminary assessment under subsection (a) with respect to a missing person shall (in accordance with procedures prescribed under section 1501 of this title) safeguard and forward for official use any information relating to the whereabouts and status of the missing person that results from the preliminary assessment or from actions taken to locate the person. The theater component commander through whom the report with respect to the missing person is transmitted under subsection (b) shall ensure that all pertinent information relating to the whereabouts and status of the missing person that results from the preliminary assessment or from actions taken to locate the person is properly safeguarded to avoid loss, damage, or modification.

''§ 1503. Actions of Secretary concerned; initial board inquiry

''(a) DETERMINATION BY SECRETARY.—Upon receiving a recommendation under section 1502(b) of this title that a person be placed in a missing status, the Secretary receiving the recommendation shall review the recommendation and, not later than 10 days after receiving such recommendation, shall appoint a board under this section to conduct an inquiry into the whereabouts and status of the person.

''(b) INQUIRIES INVOLVING MORE THAN ONE MISSING PERSON.—If it appears to the Secretary who appoints a board under this section that the absence or missing status of two or more persons is factually related, the Secretary may appoint a single board under this section to conduct the inquiry into the whereabouts and status of all such persons.

''(c) COMPOSITION.—(1) A board appointed under this section to inquire into the whereabouts and status of a person shall consist of at least one individual described in paragraph (2) who has experience with and understanding of military operations or activities similar to the operation or activity in which the person disappeared.

''(2) An individual referred to in paragraph (1) is the following:

''(A) A military officer, in the case of an inquiry with respect to a member of the armed forces.

''(B) A civilian, in the case of an inquiry with respect to a civilian employee of the Department of Defense or of a contractor of the Department of Defense.

''(3) An individual may be appointed as a member of a board under this section only if the individual has a security clearance that affords the individual access to all information relating to the whereabouts and status of the missing persons covered by the inquiry.

''(4) A Secretary appointing a board under this subsection shall, for purposes of providing legal counsel to the board, assign to the board a judge advocate, or appoint to the board an attorney, who has expertise in the law relating to missing persons, the determination of death of such persons, and the rights of family members and dependents of such persons.

''(d) DUTIES OF BOARD.—A board appointed to conduct an inquiry into the whereabouts and status of a missing person under this section shall—

''(1) collect, develop, and investigate all facts and evidence relating to the disappearance or whereabouts and status of the person;

''(2) collect appropriate documentation of the facts and evidence covered by the board's investigation;

''(3) analyze the facts and evidence, make findings based on that analysis, and draw conclusions as to the current whereabouts and status of the person; and

''(4) with respect to each person covered by the inquiry, recommend to the Secretary who appointed the board that—

''(A) the person be placed in a missing status; or

''(B) the person be declared to have deserted, to be absent without leave, or (subject to the requirements of section 1507 of this title) to be dead.

''(e) BOARD PROCEEDINGS.—During the proceedings of an inquiry under this section, a board shall—

''(1) collect, record, and safeguard all facts, documents, statements, photographs, tapes, messages, maps, sketches, reports, and other information (whether classified or unclassified) relating to the whereabouts and status of each person covered by the inquiry;

''(2) gather information relating to actions taken to find the person, including any evidence of the whereabouts and status of the person arising from such actions; and

''(3) maintain a record of its proceedings.

''(f) COUNSEL FOR MISSING PERSON.—(1) The Secretary appointing a board to conduct an inquiry under this section shall appoint counsel to represent each person covered by the inquiry or, in a case covered by subsection (b), one counsel to represent all persons covered by the inquiry. Counsel appointed under this paragraph may be referred to as 'missing person's counsel' and represents the interests of the person covered by the inquiry (and not any member of the person's family or other interested parties).

''(2) To be appointed as a missing person's counsel, a person must—

''(A) have the qualifications specified in section 827(b) of this title (article 27(b) of the Uniform Code of Military Justice) for trial counsel or defense counsel detailed for a general court-martial;

''(B) have a security clearance that affords the counsel access to all information relating to the whereabouts and status of the person or persons covered by the inquiry; and

''(C) have expertise in the law relating to missing persons, the determination of the death of such persons, and the rights of family members and dependents of such persons.

''(3) A missing person's counsel—

''(A) shall have access to all facts and evidence considered by the board during the proceedings under the inquiry for which the counsel is appointed;

''(B) shall observe all official activities of the board during such proceedings;

''(C) may question witnesses before the board; and

''(D) shall monitor the deliberations of the board.

''(4) A missing person's counsel shall assist the board in ensuring that all appropriate information concerning the case is collected, logged, filed, and safeguarded.

''(5) A missing person's counsel shall review the report of the board under subsection (h) and submit to the Secretary concerned who appointed the board an independent review of that report. That review shall be made an official part of the record of the board.

''(g) ACCESS TO PROCEEDINGS.—The proceedings of a board during an inquiry under this section shall be closed to the public (including, with respect to the person covered by the inquiry, the primary next of kin, other members of the immediate family, and any other previously designated person of the person).

''(h) REPORT.—(1) A board appointed under this section shall submit to the Secretary who appointed the board a report on the inquiry carried out by the board. The report shall include—

''(A) a discussion of the facts and evidence considered by the board in the inquiry;

''(B) the recommendation of the board under subsection (d) with respect to each person covered by the report; and

''(C) disclosure of whether classified documents and information were reviewed by the board or were otherwise used by the board in forming recommendations under subparagraph (B).

''(2) A board shall submit a report under this subsection with respect to the inquiry carried out by the board not later than 30 days after the date of the appointment of the board to carry out the inquiry. The report may include a classified annex.

''(3) The Secretary of Defense shall prescribe procedures for the release of a report submitted under this subsection with respect to a missing person. Such procedures shall provide that the report may not be made public (except as provided for in subsection (j)) until one year after the date on which the report is submitted.

''(i) DETERMINATION BY SECRETARY.—(1) Not later than 30 days after receiving a report from a board under subsection (h), the Secretary receiving the report shall review the report.

''(2) In reviewing a report under paragraph (1), the Secretary shall determine whether or not the report is complete and free of administrative error. If the Secretary determines that the report is incomplete, or that the report is not free of administrative error, the Secretary may return the report to the board for further action on the report by the board.

''(3) Upon a determination by the Secretary that a report reviewed under this subsection is complete and free of administrative error, the Secretary shall make a determination concerning the status of each person covered by the report, including whether the person shall—

''(A) be declared to be missing;

''(B) be declared to have deserted;

''(C) be declared to be absent without leave; or

''(D) be declared to be dead.

''(j) REPORT TO FAMILY MEMBERS AND OTHER INTERESTED PERSONS.—Not later than 30 days after the date on which the Secretary concerned makes a determination of the status of a person under subsection (i), the Secretary shall take reasonable actions to—

''(1) provide to the primary next of kin, the other members of the immediate family, and any other previously designated person of the person—

''(A) an unclassified summary of the unit commander's report with respect to the person under section 1502(a) of this title; and

''(B) the report of the board (including the names of the members of the board) under subsection (h); and

''(2) inform each individual referred to in paragraph (1) that the United States will conduct a subsequent inquiry into the whereabouts and status of the person on or about one year after the date of the first official notice of the disappearance of the person, unless information becomes available sooner that may result in a change in status of the person.

''(k) TREATMENT OF DETERMINATION.—Any determination of the status of a missing person under subsection (i) shall be treated as

the determination of the status of the person by all departments and agencies of the United States.

"§ 1504. Subsequent board of inquiry

''(a) ADDITIONAL BOARD.—If information that may result in a change of status of a person covered by a determination under section 1503(i) of this title becomes available within one year after the date of the transmission of a report with respect to the person under section 1502(a)(2) of this title, the Secretary concerned shall appoint a board under this section to conduct an inquiry into the information.

''(b) DATE OF APPOINTMENT.—The Secretary concerned shall appoint a board under this section to conduct an inquiry into the whereabouts and status of a missing person on or about one year after the date of the transmission of a report concerning the person under section 1502(a)(2) of this title.

''(c) COMBINED INQUIRIES.—If it appears to the Secretary concerned that the absence or status of two or more persons is factually related, the Secretary may appoint one board under this section to conduct the inquiry into the whereabouts and status of such persons.

''(d) COMPOSITION.—(1) A board appointed under this section shall be composed of at least three members as follows:

''(A) In the case of a board that will inquire into the whereabouts and status of one or more members of the armed forces (and no civilians described in subparagraph (B)), the board shall be composed of officers having the grade of major or lieutenant commander or above.

''(B) In the case of a board that will inquire into the whereabouts and status of one or more civilian employees of the Department of Defense or contractors of the Department of Defense (and no members of the armed forces), the board shall be composed of—

''(i) not less than three employees of the Department of Defense whose rate of annual pay is equal to or greater than the rate of annual pay payable for grade GS–13 of the General Schedule under section 5332 of title 5; and

''(ii) such members of the armed forces as the Secretary considers advisable.

''(C) In the case of a board that will inquire into the whereabouts and status of both one or more members of the armed forces and one or more civilians described in subparagraph (B)—

''(i) the board shall include at least one officer described in subparagraph (A) and at least one employee of the Department of Defense described in subparagraph (B)(i); and

''(ii) the ratio of such officers to such employees on the board shall be roughly proportional to the ratio of the number of members of the armed forces who are subjects of the board's inquiry to the number of civilians who are subjects of the board's inquiry.

''(2) The Secretary concerned shall designate one member of a board appointed under this section as president of the board. The president of the board shall have a security clearance that affords the president access to all information relating to the whereabouts and status of each person covered by the inquiry.

''(3) One member of each board appointed under this subsection shall be an individual who—

''(A) has an occupational specialty similar to that of one or more of the persons covered by the inquiry; and

''(B) has an understanding of and expertise in the type of official activities that one or more such persons were engaged in at the time such person or persons disappeared.

''(4) The Secretary who appoints a board under this subsection shall, for purposes of providing legal counsel to the board, assign to the board a judge advocate, or appoint to the board an attorney, with the same qualifications as specified in section 1503(c)(4) of this title.

''(e) DUTIES OF BOARD.—A board appointed under this section to conduct an inquiry into the whereabouts and status of a person shall—

''(1) review the reports with respect to the person transmitted under section 1502(a)(2) of this title and submitted under section 1503(h) of this title;

''(2) collect and evaluate any document, fact, or other evidence with respect to the whereabouts and status of the person that has become available since the determination of the status of the person under section 1503 of this title;

''(3) draw conclusions as to the whereabouts and status of the person;

''(4) determine on the basis of the activities under paragraphs (1) and (2) whether the status of the person should be continued or changed; and

''(5) submit to the Secretary concerned a report describing the findings and conclusions of the board, together with a recommendation for a determination by the Secretary concerning the whereabouts and status of the person.

''(f) COUNSEL FOR MISSING PERSONS.—(1) When the Secretary concerned appoints a board to conduct an inquiry under this section, the Secretary shall appoint counsel to represent each person covered by the inquiry.

''(2) A person appointed as counsel under this subsection shall meet the qualifications and have the duties set forth in section 1503(f) of this title for a missing person's counsel appointed under that section.

''(3) The review of the report of a board on an inquiry that is submitted by such counsel shall be made an official part of the record of the board with respect to the inquiry.

''(g) ATTENDANCE OF FAMILY MEMBERS AND CERTAIN OTHER INTERESTED PERSONS AT PROCEEDINGS.—(1) With respect to any person covered by an inquiry under this section, the primary next of kin, other members of the immediate family, and any other previously designated person of the person may attend the proceedings of the board during the inquiry.

''(2) The Secretary concerned shall take reasonable actions to notify each individual referred to in paragraph (1) of the opportunity to attend the proceedings of a board. Such notice shall be provided not less than 60 days before the first meeting of the board.

''(3) An individual who receives notice under paragraph (2) shall notify the Secretary of the intent, if any, of that individual to attend the proceedings of the board not later than 21 days after the date on which the individual receives the notice.

''(4) Each individual who notifies the Secretary under paragraph (3) of the individual's intent to attend the proceedings of the board—

''(A) in the case of an individual who is the primary next of kin or the previously designated person, may attend the proceedings of the board with private counsel;

''(B) shall have access to the personnel file of the missing person, to unclassified reports, if any, of the board appointed under section 1503 of this title to conduct the inquiry into the whereabouts and status of the person, and to any other unclassified information or documents relating to the whereabouts and status of the person;

''(C) shall be afforded the opportunity to present information at the proceedings of the board that such individual considers to be relevant to those proceedings; and

''(D) subject to paragraph (5), shall be given the opportunity to submit in writing an objection to any recommendation of the board under subsection (i) as to the status of the missing person.

''(5)(A) Individuals who wish to file objections under paragraph (4)(D) to any recommendation of the board shall—

''(i) submit a letter of intent to the president of the board not later than 15 days after the date on which the recommendations are made; and

''(ii) submit to the president of the board the objections in writing not later than 30 days after the date on which the recommendations are made.

''(B) The president of a board shall include any objections to a recommendation of the board that are submitted to the president of the board under subparagraph (A) in the report of the board containing the recommendation under subsection (i).

''(6) An individual referred to in paragraph (1) who attends the proceedings of a board under this subsection shall not be entitled to reimbursement by the United States for any costs (including travel, lodging, meals, local transportation, legal fees, transcription costs, witness expenses, and other expenses) incurred by that individual in attending such proceedings.

''(h) AVAILABILITY OF INFORMATION TO BOARDS.—(1) In conducting proceedings in an inquiry under this section, a board may secure directly from any department or agency of the United States any information that the board considers necessary in order to conduct the proceedings.

''(2) Upon written request from the president of a board, the head of a department or agency of the United States shall release information covered by the request to the board. In releasing such information, the head of the department or agency shall—

''(A) declassify to an appropriate degree classified information; or

''(B) release the information in a manner not requiring the removal of markings indicating the classified nature of the information.

''(3)(A) If a request for information under paragraph (2) covers classified information that cannot be declassified, or if the classification markings cannot be removed before release from the information covered by the request, or if the material cannot be summarized in a manner that prevents the release of classified information, the classified information shall be made available only to the president of the board making the request and the counsel for the missing person appointed under subsection (f).

''(B) The president of a board shall close to persons who do not have appropriate security clearances the proceeding of the board at which classified information is discussed. Participants at a proceeding of a board at which classified information is discussed shall comply with all applicable laws and regulations relating to the disclosure of classified information. The Secretary concerned shall assist the president of a board in ensuring that classified information is not compromised through board proceedings.

''(i) RECOMMENDATION ON STATUS.—(1) Upon completion of an inquiry under this subsection, a board shall make a recommendation as to the current whereabouts and status of each missing person covered by the inquiry.

''(2) A board may not recommend under paragraph (1) that a person be declared dead unless in making the recommendation the board complies with section 1507 of this title.

''(j) REPORT.—A board appointed under this section shall submit to the Secretary concerned a report on the inquiry carried out by the board, together with the evidence considered by the board during the inquiry. The report may include a classified annex.

''(k) ACTIONS BY SECRETARY CONCERNED.—(1) Not later than 30 days after the receipt of a report from a board under subsection (j), the Secretary shall review—

''(A) the report;

''(B) the review of the report submitted to the Secretary under subsection (f)(3) by the counsel for each person covered by the report; and

''(C) the objections, if any, to the report submitted to the president of the board under subsection (g)(5).

''(2) In reviewing a report under paragraph (1) (including the objections described in subparagraph (C) of that paragraph), the Secretary concerned shall determine whether or not the report is complete and free of administrative error. If the Secretary determines that the report is incomplete, or that the report is not free of administrative error, the Secretary may return the report to the board for further action on the report by the board.

''(3) Upon a determination by the Secretary that a report reviewed under this subsection is complete and free of administrative error, the Secretary shall make a determination concerning the status of each person covered by the report.

''(l) REPORT TO FAMILY MEMBERS AND OTHER INTERESTED PERSONS.—Not later than 60 days after the date on which the Secretary concerned makes a determination with respect to a missing person under subsection (k), the Secretary shall—

''(1) provide the report reviewed by the Secretary in making the determination to the primary next of kin, the other members of the immediate family, and any other previously designated person of the person; and

''(2) in the case of a person who continues to be in a missing status, inform each individual referred to in paragraph (1) that the United States will conduct a further investigation into the whereabouts and status of the person as specified in section 1505 of this title.

''(m) TREATMENT OF DETERMINATION.—Any determination of the status of a missing person under subsection (k) shall supersede the determination of the status of the person under section 1503 of this title and shall be treated as the determination of the status of the person by all departments and agencies of the United States.

''§ 1505. Further review

''(a) SUBSEQUENT REVIEW.—The Secretary concerned shall conduct subsequent inquiries into the whereabouts and status of any person determined by the Secretary under section 1504 of this title to be in a missing status.

''(b) FREQUENCY OF SUBSEQUENT REVIEWS.—(1) In the case of a missing person who was last known to be alive or who was last suspected of being alive, the Secretary shall appoint a board to conduct an inquiry with respect to a person under this subsection—

''(A) on or about three years after the date of the initial report of the disappearance of the person under section 1502(a) of this title; and

''(B) not later than every three years thereafter.

''(2) In addition to appointment of boards under paragraph (1), the Secretary shall appoint a board to conduct an inquiry with respect to a missing person under this subsection upon receipt of information that could result in a change of status of the missing person. When the Secretary appoints a board under this paragraph, the time for subsequent appointments of a board under paragraph (1)(B) shall be determined from the date of the receipt of such information.

''(3) The Secretary is not required to appoint a board under paragraph (1) with respect to the disappearance of any person—

''(A) more than 30 years after the initial report of the disappearance of the missing person required by section 1502 of this title; or

''(B) if, before the end of such 30-year period, the missing person is accounted for.

''(c) ACTION UPON DISCOVERY OR RECEIPT OF INFORMATION.—(1) Whenever any United States intelligence agency or other element of the Government finds or receives information that may be related to a missing person, the information shall promptly be forwarded to the office established under section 1501 of this title.

''(2) Upon receipt of information under paragraph (1), the head of the office established under section 1501 of this title shall as expeditiously as possible ensure that the information is added to the appropriate case file for that missing person and notify (A) the designated missing person's counsel for that person, and (B) the primary next of kin and any previously designated person for the missing person of the existence of that information.

''(3) The head of the office established under section 1501 of this title, with the advice of the missing person's counsel notified under paragraph (2), shall determine whether the information is significant enough to require a board review under this section.

''(d) CONDUCT OF PROCEEDINGS.—If it is determined that such a board should be appointed, the appointment of, and activities before, a board appointed under this section shall be governed by the provisions of section 1504 of this title with respect to a board appointed under that section.

''§ 1506. Personnel files

''(a) INFORMATION IN FILES.—Except as provided in subsections (b), (c), and (d), the Secretary concerned shall, to the maximum extent practicable, ensure that the personnel file of a missing person contains all information in the possession of the United States relating to the disappearance and whereabouts and status of the person.

''(b) CLASSIFIED INFORMATION.—The Secretary concerned may withhold classified information from a personnel file under this section. If the Secretary concerned withholds classified information from a personnel file, the Secretary shall ensure that the file contains the following:

''(1) A notice that the withheld information exists.

''(2) A notice of the date of the most recent review of the classification of the withheld information.

''(c) PROTECTION OF PRIVACY.—The Secretary concerned shall maintain personnel files under this section, and shall permit disclosure of or access to such files, in accordance with the provisions of section 552a of title 5 and with other applicable laws and regulations pertaining to the privacy of the persons covered by the files.

''(d) PRIVILEGED INFORMATION.—(1) The Secretary concerned shall withhold from personnel files under this section, as privileged information, debriefing reports provided by missing persons returned to United States control which are obtained under a promise of confidentiality made for the purpose of ensuring the fullest possible disclosure of information.

''(2) If a debriefing report contains non-derogatory information about the status and whereabouts of a missing person other than the source of the debriefing report, the Secretary concerned shall prepare an extract of the non-derogatory information. That extract, following a review by the source of the debriefing report, shall be placed in the personnel file of the missing person in such a manner as to protect the identity of the source providing the information.

''(3) Whenever the Secretary concerned withholds a debriefing report from a personnel file under this subsection, the Secretary shall ensure that the file contains a notice that withheld information exists.

''(e) WRONGFUL WITHHOLDING.—Except as provided in subsections (a) through (d), any person who knowingly and willfully withholds from the personnel file of a missing person any information relating to the disappearance or whereabouts and status of a missing person shall be fined as provided in title 18 or imprisoned not more than one year, or both.

''(f) AVAILABILITY OF INFORMATION.—The Secretary concerned shall, upon request, make available the contents of the personnel file of a missing person to the primary next of kin, the other members of the immediate family, or any other previously designated person of the person.

''§ 1507. Recommendation of status of death

''(a) REQUIREMENTS RELATING TO RECOMMENDATION.—A board appointed under section 1503, 1504, or 1505 of this title may not recommend that a person be declared dead unless—

''(1) credible evidence exists to suggest that the person is dead;

''(2) the United States possesses no credible evidence that suggests that the person is alive; and

''(3) representatives of the United States—

''(A) have made a complete search of the area where the person was last seen (unless, after making a good faith effort to obtain access to such area, such representatives are not granted such access); and

''(B) have examined the records of the government or entity having control over the area where the person was last seen (unless, after making a good faith effort to obtain access to such records, such representatives are not granted such access).

''(b) SUBMITTAL OF INFORMATION ON DEATH.—If a board appointed under section 1503, 1504, or 1505 of this title makes a recommendation that a missing person be declared dead, the board shall include in the report of the board with respect to the person under that section the following:

''(1) A detailed description of the location where the death occurred.

''(2) A statement of the date on which the death occurred.

''(3) A description of the location of the body, if recovered.

''(4) If the body has been recovered and is not identifiable through visual means, a certification by a practitioner of an appropriate forensic science that the body recovered is that of the missing person.

''§ 1508. Judicial review

''(a) RIGHT OF REVIEW.—A person who is the primary next of kin (or the previously designated person) of a person who is the subject of a finding described in subsection (b) may obtain judicial review in a United States district court of that finding, but only on the basis of a claim that there is information that could affect the status of the missing person's case that was not adequately considered during the administrative review process under this chapter. Any such review shall be as provided in section 706 of title 5.

''(b) FINDINGS FOR WHICH JUDICIAL REVIEW MAY BE SOUGHT.—Subsection (a) applies to the following findings:

''(1) A finding by a board appointed under section 1504 or 1505 of this title that a missing person is dead.

''(2) A finding by a board appointed under section 1509 of this title that confirms that a missing person formerly declared dead is in fact dead.

''(c) SUBSEQUENT REVIEW.—Appeals from a decision of the district court shall be taken

to the appropriate United States court of appeals and to the Supreme Court as provided by law.

"§ 1509. Preenactment, special interest cases

''(a) REVIEW OF STATUS.—In the case of an unaccounted for person covered by section 1501(c) of this title who is described in subsection (b), if new information that could change the status of that person is found or received by a United States intelligence agency, by a Department of Defense agency, or by a person specified in section 1504(g) of this title, that information shall be provided to the Secretary of Defense with a request that the Secretary evaluate the information in accordance with sections 1505(c) and 1505(d) of this title.

''(b) CASES ELIGIBLE FOR REVIEW.—The cases eligible for review under this section are the following:

''(1) With respect to the Korean conflict, any unaccounted for person who was classified as a prisoner of war or as missing in action during that conflict and who (A) was known to be or suspected to be alive at the end of that conflict, or (B) was classified as missing in action and whose capture was possible.

''(2) With respect to the Cold War, any unaccounted for person who was engaged in intelligence operations (such as aerial 'ferret' reconnaissance missions over and around the Soviet Union and China) during the Cold War.

''(3) With respect to the Indochina war era, any unaccounted for person who was classified as a prisoner of war or as missing in action during the Indochina conflict.

''(c) SPECIAL RULE FOR PERSONS CLASSIFIED AS 'KIA/BNR'.—In the case of a person described in subsection (b) who was classified as 'killed in action/body not recovered', the case of that person may be reviewed under this section only if the new information referred to in subsection (a) is compelling.

''(d) DEFINITIONS.—In this section:

''(1) The term 'Korean conflict' means the period beginning on June 27, 1950, and ending on January 31, 1955.

''(2) The term 'Cold War' means the period beginning on September 2, 1945, and ending on August 21, 1991.

''(3) The term 'Indochina war era' means the period beginning on July 8, 1959, and ending on May 15, 1975.

"§ 1510. Applicability to Coast Guard

''(a) DESIGNATED OFFICER TO HAVE RESPONSIBILITY.—The Secretary of Transportation shall designate an officer of the Department of Transportation to have responsibility within the Department of Transportation for matters relating to missing persons who are members of the Coast Guard.

''(b) PROCEDURES.—The Secretary of Transportation shall prescribe procedures for the determination of the status of persons described in section 1501(c) of this title who are members of the Coast Guard and for the collection, analysis, review, and update of information on such persons. To the maximum extent practicable, the procedures prescribed under this section shall be similar to the procedures prescribed by the Secretary of Defense under section 1501(b) of this title.

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

''(a) PAY AND ALLOWANCES.—Any person (except for a person subsequently determined to have been absent without leave or a deserter) in a missing status or declared dead under subchapter VII of chapter 55 of title 5 or chapter 10 of title 37 or by a board appointed under this chapter who is found alive and returned to the control of the United States shall be paid for the full time of the absence of the person while given that status or declared dead under the law and regulations relating to the pay and allowances of persons returning from a missing status.

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

"§ 1512. Effect on State law

''(a) NONPREEMPTION OF STATE AUTHORITY.—Nothing in this chapter shall be construed to invalidate or limit the power of any State court or administrative entity, or the power of any court or administrative entity of any political subdivision thereof, to find or declare a person dead for purposes of such State or political subdivision.

''(b) STATE DEFINED.—In this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"§ 1513. Definitions

''In this chapter:

''(1) The term 'missing person' means—

''(A) a member of the Armed Forces on active duty who is in a missing status; or

''(B) a civilian employee of the Department of Defense or an employee of a contractor of the Department of Defense who serves with or accompanies the Armed Forces in the field under orders and who is in a missing status.

''(2) The term 'missing status' means the status of a missing person who is determined to be absent in a category of any of the following:

''(A) Missing.

''(B) Missing in action.

''(C) Interned in a foreign country.

''(D) Captured.

''(E) Beleaguered.

''(F) Besieged.

''(G) Detained in a foreign country against that person's will.

''(3) The term 'accounted for', with respect to a person in a missing status, means that—

''(A) the person is returned to United States control alive;

''(B) the remains of the person are recovered and, if not identifiable through visual means as those of the missing person, are identified as those of the missing person by a practitioner of an appropriate forensic science; or

''(C) credible evidence exists to support another determination of the person's status.

''(4) The term 'primary next of kin', in the case of a missing person, means the individual authorized to direct disposition of the remains of the person under section 1482(c) of this title.

''(5) The term 'member of the immediate family', in the case of a missing person, means the following:

''(A) The spouse of the person.

''(B) A natural child, adopted child, stepchild, or illegitimate child (if acknowledged by the person or parenthood has been established by a court of competent jurisdiction) of the person, except that if such child has not attained the age of 18 years, the term means a surviving parent or legal guardian of such child.

''(C) A biological parent of the person, unless legal custody of the person by the parent has been previously terminated by reason of a court decree or otherwise under law and not restored.

''(D) A brother or sister of the person, if such brother or sister has attained the age of 18 years.

''(E) Any other blood relative or adoptive relative of the person, if such relative was given sole legal custody of the person by a court decree or otherwise under law before the person attained the age of 18 years and such custody was not subsequently terminated before that time.

''(6) The term 'previously designated person', in the case of a missing person, means an individual designated by the person under section 655 of this title for purposes of this chapter.

''(7) The term 'classified information' means any information the unauthorized disclosure of which (as determined under applicable law and regulations) could reasonably be expected to damage the national security.

''(8) The term 'theater component commander' means, with respect to any of the combatant commands, an officer of any of the armed forces who (A) is commander of all forces of that armed force assigned to that combatant command, and (B) is directly subordinate to the commander of the combatant command.''.

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 75 the following new item:

''76. Missing Persons ..... 1501''.

(c) CONFORMING AMENDMENTS.—Chapter 10 of title 37, United States Code, is amended as follows:

(1) Section 555 is amended—

(A) in subsection (a), by striking out ''When a member'' and inserting in lieu thereof ''Except as provided in subsection (d), when a member''; and

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

''(d) This section does not apply in a case to which section 1502 of title 10 applies.''.

(2) Section 552 is amended—

(A) in subsection (a), by striking out ''for all purposes,'' in the second sentence of the matter following paragraph (2) and all that follows through the end of the sentence and inserting in lieu thereof ''for all purposes.'';

(B) in subsection (b), by inserting ''or under chapter 76 of title 10'' before the period at the end; and

(C) in subsection (e), by inserting ''or under chapter 76 of title 10'' after ''section 555 of this title''.

(3) Section 553 is amended—

(A) in subsection (f), by striking out ''the date the Secretary concerned receives evidence that'' and inserting in lieu thereof ''the date on which, in a case covered by section 555 of this title, the Secretary concerned receives evidence, or, in a case covered by chapter 76 of title 10, the Secretary concerned determines pursuant to that chapter, that''; and

(B) in subsection (g), by inserting ''or under chapter 76 of title 10'' after ''section 555 of this title''.

(4) Section 556 is amended—

(A) in subsection (a), by inserting after paragraph (7) the following:

''Paragraphs (1), (5), (6), and (7) only apply with respect to a case to which section 555 of this title applies.'';

(B) in subsection (b), by inserting '', in a case to which section 555 of this title applies,'' after ''When the Secretary concerned''; and

(C) in subsection (h)—

(i) in the first sentence, by striking out ''status'' and inserting in lieu thereof ''pay''; and

(ii) in the second sentence, by inserting ''in a case to which section 555 of this title applies'' after ''under this section''.

(d) DESIGNATION OF PERSONS HAVING INTEREST IN STATUS OF SERVICE MEMBERS.—(1) Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 655. Designation of persons having interest in status of a missing member

''(a) The Secretary concerned shall, upon the enlistment or appointment of a person in the armed forces, require that the person specify in writing the person or persons, if any, other than that person's primary next of kin or immediate family, to whom information on the whereabouts and status of the member shall be provided if such whereabouts and status are investigated under chapter 76 of this title. The Secretary shall periodically, and whenever the member is deployed as part of a contingency operation or in other circumstances specified by the Secretary, require that such designation be reconfirmed, or modified, by the member.

''(b) The Secretary concerned shall, upon the request of a member, permit the member to revise the person or persons specified by the member under subsection (a) at any time. Any such revision shall be in writing.''.

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

''655. Designation of persons having interest in status of a missing member.''.

(e) ACCOUNTING FOR CIVILIAN EMPLOYEE AND CONTRACTORS OF THE UNITED STATES.—(1) The Secretary of State shall carry out a comprehensive study of the provisions of subchapter VII of chapter 55 of title 5, United States Code (commonly referred to as the ''Missing Persons Act of 1942'') (5 U.S.C. 5561 et seq.) and any other law or regulation establishing procedures for the accounting for of civilian employees of the United States or contractors of the United States who serve with or accompany the Armed Forces in the field. The purpose of the study shall be to determine the means, if any, by which those procedures may be improved.

(2) The Secretary of State shall carry out the study required under paragraph (1) in consultation with the Secretary of Defense, the Secretary of Transportation, the Director of Central Intelligence, and the heads of such other departments and agencies of the United States as the President designates for that purpose.

(3) In carrying out the study, the Secretary of State shall examine the procedures undertaken when a civilian employee referred to in paragraph (1) becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for, including procedures for—

(A) search and rescue for the employee;

(B) determining the status of the employee;

(C) reviewing and changing the status of the employee;

(D) determining the rights and benefits accorded to the family of the employee; and

(E) maintaining and providing appropriate access to the records of the employee and the investigation into the status of the employee.

(4) Not later than one year after the date of the enactment of this Act, the Secretary of State shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the study carried out by the Secretary under this subsection. The report shall include the recommendations, if any, of the Secretary for legislation to improve the procedures covered by the study.

SEC. 570. ASSOCIATE DIRECTOR OF CENTRAL INTELLIGENCE FOR MILITARY SUPPORT.

Section 102 of the National Security Act of 1947 (50 U.S.C. 403) is amended by adding at the end the following:

''(e) In the event that neither the Director nor Deputy Director of Central Intelligence is a commissioned officer of the Armed Forces, a commissioned officer of the Armed Forces appointed to the position of Associate Director of Central Intelligence for Military Support, while serving in such position, shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the armed force of which such officer is a member.''.

Subtitle G—Support for Non-Department of Defense Activities

SEC. 571. REPEAL OF CERTAIN CIVIL-MILITARY PROGRAMS.

(a) REPEAL OF CIVIL-MILITARY COOPERATIVE ACTION PROGRAM.—The following provisions of law are repealed:

(1) Section 410 of title 10, United States Code.

(2) Section 1081(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 410 note).

(b) REPEAL OF RELATED PROVISION.—Section 1045 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 410 note), relating to a pilot outreach program to reduce demand for illegal drugs, is repealed.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 20 of title 10, United States Code, is amended—

(1) by striking out the table of subchapters after the chapter heading;

(2) by striking out the subchapter heading for subchapter I; and

(3) by striking out the subchapter heading for subchapter II and the table of sections following that subchapter heading.

SEC. 572. TRAINING ACTIVITIES RESULTING IN INCIDENTAL SUPPORT AND SERVICES FOR ELIGIBLE ORGANIZATIONS AND ACTIVITIES OUTSIDE THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—(1) Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2012. Support and services for eligible organizations and activities outside Department of Defense

''(a) AUTHORITY TO PROVIDE SERVICES AND SUPPORT.—Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may in accordance with this section authorize units or individual members of the armed forces under that Secretary's jurisdiction to provide support and services to non-Department of Defense organizations and activities specified in subsection (e), but only if—

''(1) such assistance is authorized by a provision of law (other than this section); or

''(2) the provision of such assistance is incidental to military training.

''(b) SCOPE OF COVERED ACTIVITIES SUBJECT TO SECTION.—This section does not—

''(1) apply to the provision by the Secretary concerned, under regulations prescribed by the Secretary of Defense, of customary community relations and public affairs activities conducted in accordance with Department of Defense policy; or

''(2) prohibit the Secretary concerned from encouraging members of the armed forces under the Secretary's jurisdiction to provide volunteer support for community relations activities under regulations prescribed by the Secretary of Defense.

''(c) REQUIREMENT FOR SPECIFIC REQUEST.—Assistance under subsection (a) may only be provided if—

''(1) the assistance is requested by a responsible official of the organization to which the assistance is to be provided; and

''(2) the assistance is not reasonably available from a commercial entity or (if so available) the official submitting the request for assistance certifies that the commercial entity that would otherwise provide such services has agreed to the provision of such services by the armed forces.

''(d) RELATIONSHIP TO MILITARY TRAINING.—(1) Assistance under subsection (a) may only be provided if the following requirements are met:

''(A) The provision of such assistance—

''(i) in the case of assistance by a unit, will accomplish valid unit training requirements; and

''(ii) in the case of assistance by an individual member, will involve tasks directly related to the specific military occupational specialty of the member.

''(B) The provision of such assistance will not adversely affect the quality of training or otherwise interfere with the ability of a member or unit of the armed forces to perform the military functions of the member or unit.

''(C) The provision of such assistance will not result in a significant increase in the cost of the training.

''(2) Subparagraph (A)(i) of paragraph (1) does not apply in a case in which the assistance to be provided consists primarily of military manpower and the total amount of such assistance in the case of a particular project does not exceed 100 man-hours.

''(e) ELIGIBLE ENTITIES.—The following organizations and activities are eligible for assistance under this section:

''(1) Any Federal, regional, State, or local governmental entity.

''(2) Youth and charitable organizations specified in section 508 of title 32.

''(3) Any other entity as may be approved by the Secretary of Defense on a case-by-case basis.

''(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the provision of assistance under this section. The regulations shall include the following:

''(1) Rules governing the types of assistance that may be provided.

''(2) Procedures governing the delivery of assistance that ensure, to the maximum extent practicable, that such assistance is provided in conjunction with, rather than separate from, civilian efforts.

''(3) Procedures for appropriate coordination with civilian officials to ensure that the assistance—

''(A) meets a valid need; and

''(B) does not duplicate other available public services.

''(4) Procedures to ensure that Department of Defense resources are not applied exclusively to the program receiving the assistance.

''(g) ADVISORY COUNCILS.—(1) The Secretary of Defense shall encourage the establishment of advisory councils at regional, State, and local levels, as appropriate, in order to obtain recommendations and guidance concerning assistance under this section from persons who are knowledgeable about regional, State, and local conditions and needs.

''(2) The advisory councils should include officials from relevant military organizations, representatives of appropriate local, State, and Federal agencies, representatives of civic and social service organizations, business representatives, and labor representatives.

''(3) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to such councils.

''(h) CONSTRUCTION OF PROVISION.—Nothing in this section shall be construed as authorizing—

''(1) the use of the armed forces for civilian law enforcement purposes or for response to natural or manmade disasters; or

''(2) the use of Department of Defense personnel or resources for any program, project, or activity that is prohibited by law.''.

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

''2012. Support and services for eligible organizations and activities outside Department of Defense.''.

SEC. 573. NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PILOT PROGRAM.

(a) TERMINATION.—The authority under subsection (a) of section 1091 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 32 U.S.C. 501 note) to carry out a pilot program under that section is hereby continued through the end of the 18-month period beginning on the date of the enactment of this Act and such authority shall terminate as of the end of that period.

(b) LIMITATION ON NUMBER OF PROGRAMS.—During the period beginning on the date of the enactment of this Act and ending on the termination of the pilot program under subsection (a), the number of programs carried out under subsection (d) of that section as part of the pilot program may not exceed the number of such programs as of September 30, 1995.

SEC. 574. TERMINATION OF FUNDING FOR OFFICE OF CIVIL-MILITARY PROGRAMS IN OFFICE OF THE SECRETARY OF DEFENSE.

No funds may be obligated or expended after the date of the enactment of this Act (1) for the office that as of the date of the enactment of this Act is designated, within the Office of the Assistant Secretary of Defense for Reserve Affairs, as the Office of Civil-Military Programs, or (2) for any other entity within the Office of the Secretary of Defense that has an exclusive or principal mission of providing centralized direction for activities under section 2012 of title 10, United States Code, as added by section 572.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1996.

(a) RESCISSION OF PRIOR SECTION 1009 ADJUSTMENT.—The adjustment made as of January 1, 1996, pursuant to section 4 of Executive order No. 12984 (issued December 28, 1995), in elements of compensation of members of the uniformed services pursuant to section 1009 of title 37, United States Code, is hereby rescinded.

(b) INCREASE IN BASIC PAY AND BAS.—The rates of basic pay and basic allowance for subsistence of members of the uniformed services, as in effect on December 31, 1995, are hereby increased by 2.4 percent.

(c) INCREASE IN BAQ.—The rates of basic allowance for quarters of members of the uniformed services, as in effect on December 31, 1995, are hereby increased by 5.2 percent.

(d) EFFECTIVE DATE.—This section shall take effect as of January 1, 1996.

SEC. 602. LIMITATION ON BASIC ALLOWANCE FOR SUBSISTENCE FOR MEMBERS RESIDING WITHOUT DEPENDENTS IN GOVERNMENT QUARTERS.

(a) PERCENTAGE LIMITATION.—Subsection (b) of section 402 of title 37, United States Code, is amended by adding after the last sentence the following new paragraph:

''(4) In the case of enlisted members of the Army, Navy, Air Force, or Marine Corps who, when present at their permanent duty station, reside without dependents in Government quarters, the Secretary concerned may not provide a basic allowance for subsistence to more than 12 percent of such members under the jurisdiction of the Secretary concerned. The Secretary concerned may exceed such percentage if the Secretary determines that compliance would increase costs to the Government, would impose financial hardships on members otherwise entitled to a basic allowance for subsistence, or would reduce the quality of life for such members. This paragraph shall not apply to members described in the first sentence when the members are not residing at their permanent duty station. The Secretary concerned shall achieve the percentage limitation specified in this paragraph as soon as possible after the date of the enactment of this paragraph, but in no case later than September 30, 1996.''.

(b) STYLISTIC AMENDMENTS.—Such subsection is further amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C);

(2) by inserting ''(1)'' after ''(b)'';

(3) by designating the text composed of the second, third, and fourth sentences as paragraph (2); and

(4) by designating the text composed of the fifth and sixth sentences as paragraph (3).

(c) CONFORMING AMENDMENTS.—(1) Subsection (e) of such section is amended—

(A) in paragraph (1), by striking out ''the third sentence of subsection (b)'' and inserting in lieu thereof ''subsection (b)(2)''; and

(B) in paragraph (2), by striking out ''subsection (b)'' and inserting in lieu thereof ''subsection (b)(2)''.

(2) Section 1012 of title 37, United States Code, is amended by striking out ''the last sentence of section 402(b)'' and inserting in lieu thereof ''section 402(b)(3)''.

(d) REPORT REQUIRED.—Not later than March 31, 1996, the Secretary of Defense shall submit to Congress a report identifying, for the Army, Navy, Air Force, and Marine Corps—

(1) the number of members who reside without dependents in Government quarters at their permanent duty stations and receive a basic allowance for subsistence under section 402 of title 37, United States Code;

(2) such number as a percentage of the total number of members who reside without dependents in Government quarters;

(3) a recommended maximum percentage of the members residing without dependents in Government quarters at their permanent duty station who should receive a basic allowance for subsistence; and

(4) the reasons such maximum percentage is recommended.

SEC. 603. ELECTION OF BASIC ALLOWANCE FOR QUARTERS INSTEAD OF ASSIGNMENT TO INADEQUATE QUARTERS.

(a) ELECTION AUTHORIZED.—Section 403(b) of title 37, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)'';

(2) by designating the second sentence as paragraph (2) and, as so designated, by striking out ''However, subject'' and inserting in lieu thereof ''Subject''; and

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

''(3) A member without dependents who is in pay grade E–6 and who is assigned to quarters of the United States that do not meet the minimum adequacy standards established by the Department of Defense for members in such pay grade, or to a housing facility under the jurisdiction of a uniformed service that does not meet such standards, may elect not to occupy such quarters or facility and instead to receive the basic allowance for quarters prescribed for the member's pay grade by this section.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1996.

SEC. 604. PAYMENT OF BASIC ALLOWANCE FOR QUARTERS TO MEMBERS IN PAY GRADE E–6 WHO ARE ASSIGNED TO SEA DUTY.

(a) PAYMENT AUTHORIZED.—Section 403(c)(2) of title 37, United States Code, is amended—

(1) in the first sentence, by striking out ''E–7'' and inserting in lieu thereof ''E–6''; and

(2) in the second sentence, by striking out ''E–6'' and inserting in lieu thereof ''E–5''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1996.

SEC. 605. LIMITATION ON REDUCTION OF VARIABLE HOUSING ALLOWANCE FOR CERTAIN MEMBERS.

(a) LIMITATION ON REDUCTION IN VHA.—(1) Subsection (c)(3) of section 403a of title 37, United States Code, is amended by adding at the end the following new sentence: ''However, so long as a member of a uniformed service retains uninterrupted eligibility to receive a variable housing allowance within an area and the member's certified housing costs are not reduced (as indicated by certifications provided by the member under subsection (b)(4)), the monthly amount of a variable housing allowance under this section for the member within that area may not be reduced as a result of systematic adjustments required by changes in housing costs within that area.''.

(2) The amendment made by paragraph (1) shall apply for fiscal years after fiscal year 1995.

(b) EFFECT ON TOTAL AMOUNT AVAILABLE FOR VHA.—Subsection (d)(3) of such section is amended by inserting after the first sentence the following new sentence: ''In addition, the total amount determined under paragraph (1) shall be adjusted to ensure that sufficient amounts are available to allow payment of any additional amounts of variable housing allowance necessary as a result of the requirements of the second sentence of subsection (c)(3).''.

(c) REPORT ON IMPLEMENTATION.—Not later than June 1, 1996, the Secretary of Defense shall submit to Congress a report describing the procedures to be used to implement the amendments made by this section and the costs of such amendments.

(d) RESOLVING VHA INADEQUACIES IN HIGH HOUSING COST AREAS.—If the Secretary of Defense determines that, despite the amendments made by this section, inadequacies exist in the provision of variable housing allowances under section 403a of title 37, United States Code, the Secretary shall submit to Congress a report containing a legislative proposal to address the inadequacies. The Secretary shall make the determination required by this subsection and submit the report, if necessary, not later than May 31, 1996.

SEC. 606. CLARIFICATION OF LIMITATION ON ELIGIBILITY FOR FAMILY SEPARATION ALLOWANCE.

Section 427(b)(4) of title 37, United States Code, is amended in the first sentence by inserting ''paragraph (1)(A) of'' after ''not entitled to an allowance under''.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. EXTENSION OF CERTAIN BONUSES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

(c) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

(d) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

(e) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(i) of title 37, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

SEC. 612. EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

SEC. 613. EXTENSION OF AUTHORITY RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out ''September 30, 1995,'' and inserting in lieu thereof ''September 30, 1997''.

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

(c) ENLISTMENT BONUSES FOR CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

(d) SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

(e) SPECIAL PAY FOR NUCLEAR QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

(f) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 1997''.

(g) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking out ''October 1, 1996'' and inserting in lieu thereof ''October 1, 1997''.

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking out ''October 1, 1996'' and inserting in lieu thereof ''October 1, 1997''.

(i) COVERAGE OF PERIOD OF LAPSED AGREEMENT AUTHORITY.—(1) In the case of an officer described in section 301b(b) of title 37, United States Code, who executes an agreement described in paragraph (2) during the 90-day period beginning on the date of the enactment of this Act, the Secretary concerned may treat the agreement for purposes of the retention bonus authorized under the agreement as having been executed and accepted on the first date on which the officer would have qualified for such an agreement had the amendment made by subsection (a) taken effect on October 1, 1995.

(2) An agreement referred to in this subsection is a service agreement with the Secretary concerned that is a condition for the payment of a retention bonus under section 301b of title 37, United States Code.

(3) For purposes of this subsection, the term ''Secretary concerned'' has the meaning given that term in section 101(5) of title 37, United States Code.

SEC. 614. CODIFICATION AND EXTENSION OF SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVES.

(a) SPECIAL PAY AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 302f the following new section:

''§ 302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties

''(a) SPECIAL PAY AUTHORIZED.—An officer of a reserve component of the armed forces described in subsection (b) who executes a written agreement under which the officer agrees to serve in the Selected Reserve of an armed force for a period of not less than one year nor more than three years, beginning on the date the officer accepts the award of special pay under this section, may be paid special pay at an annual rate not to exceed $10,000.

''(b) ELIGIBLE OFFICERS.—An officer referred to in subsection (a) is an officer in a health care profession who is qualified in a specialty designated by regulations as a critically short wartime specialty.

''(c) TIME FOR PAYMENT.—Special pay under this section shall be paid annually at the beginning of each twelve-month period for which the officer has agreed to serve.

''(d) REFUND REQUIREMENT.—An officer who voluntarily terminates service in the Selected Reserve of an armed force before the end of the period for which a payment was made to such officer under this section shall refund to the United States the full amount of the payment made for the period on which the payment was based.

''(e) INAPPLICABILITY OF DISCHARGE IN BANKRUPTCY.—A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person receiving special pay under the agreement from the debt arising under the agreement.

''(f) TERMINATION OF AGREEMENT AUTHORITY.—No agreement under this section may be entered into after September 30, 1997.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302f the following new item:

''302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties.''.

(b) CONFORMING AMENDMENT.—Section 303a of title 37, United States Code, is amended by striking out ''302, 302a, 302b, 302c, 302d, 302e,'' each place it appears and inserting in lieu thereof ''302 through 302g,''.

(c) CONFORMING REPEAL.—(1) Section 613 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 37 U.S.C. 302 note) is repealed.

(2) The provisions of section 613 of the National Defense Authorization Act, Fiscal Year 1989, as in effect on the day before the date of the enactment of this Act, shall continue to apply to agreements entered into under such section before such date.

SEC. 615. HAZARDOUS DUTY INCENTIVE PAY FOR WARRANT OFFICERS AND ENLISTED MEMBERS SERVING AS AIR WEAPONS CONTROLLERS.

(a) INCLUSION OF ADDITIONAL MEMBERS.—Subsection (a)(11) of section 301 of title 37, United States Code, is amended by striking out ''an officer (other than a warrant officer)'' and inserting in lieu thereof ''a member''.

(b) CALCULATION OF HAZARDOUS DUTY INCENTIVE PAY.—The table in subparagraph (A) of subsection (c)(2) of such section is amended to read as follows:

''Pay grade	Years of service as an air weapons controller							
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	
''O–7 and above	$200	$200	$200	$200	$200	$200	$200	
''O–6	225	250	300	325	350	350	350	
''O–5	200	250	300	325	350	350	350	
''O–4	175	225	275	300	350	350	350	
''O–3	125	156	188	206	350	350	350	
''O–2	125	156	188	206	250	300	300	
''O–1	125	156	188	206	250	250	250	
''W–4	200	225	275	300	325	325	325	
''W–3	175	225	275	300	325	325	325	
''W–2	150	200	250	275	325	325	325	
''W–1	100	125	150	175	325	325	325	
''E–9	200	225	250	275	300	300	300	
''E–8	200	225	250	275	300	300	300	
''E–7	175	200	225	250	275	275	275	
''E–6	156	175	200	225	250	250	250	
''E–5	125	156	175	188	200	200	200	
''E–4 and below	125	156	175	188	200	200	200	
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 25
''O–7 and above	$200	$200	$200	$200	$200	$200	$200	$110

''Pay grade	Years of service as an air weapons controller							
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	
''O–6	350	350	350	350	300	250	250	225
''O–5	350	350	350	350	300	250	250	225
''O–4	350	350	350	350	300	250	250	225
''O–3	350	350	350	300	275	250	225	200
''O–2	300	300	300	275	245	210	200	180
''O–1	250	250	250	245	210	200	180	150
''W–4	325	325	325	325	276	250	225	200
''W–3	325	325	325	325	325	250	225	200
''W–2	325	325	325	325	275	250	225	200
''W–1	325	325	325	325	275	250	225	200
''E–9	300	300	300	300	275	230	200	200
''E–8	300	300	300	300	265	230	200	200
''E–7	300	300	300	300	265	230	200	200
''E–6	300	300	300	300	265	230	200	200
''E–5	250	250	250	250	225	200	175	150
''E–4 and below	200	200	200	200	175	150	125	125''.

(c) CONFORMING AMENDMENTS.—Subsection (c)(2) of such section is further amended—

(1) by striking out ''an officer'' each place it appears and inserting in lieu thereof ''a member''; and

(2) by striking out ''the officer'' each place it appears and inserting in lieu thereof ''the member''.

SEC. 616. AVIATION CAREER INCENTIVE PAY.

(a) YEARS OF OPERATIONAL FLYING DUTIES REQUIRED.—Paragraph (4) of section 301a(a) of title 37, United States Code, is amended in the first sentence by striking out ''9'' and inserting in lieu thereof ''8''.

(b) EXERCISE OF WAIVER AUTHORITY.—Paragraph (5) of such section is amended by inserting after the second sentence the following new sentence: ''The Secretary concerned may not delegate the authority in the preceding sentence to permit the payment of incentive pay under this subsection.''.

SEC. 617. CLARIFICATION OF AUTHORITY TO PROVIDE SPECIAL PAY FOR NURSES.

Section 302c(d)(1) of title 37, United States Code, is amended—

(1) by striking out ''or'' after ''Air Force,''; and

(2) by inserting before the semicolon the following: '', an officer of the Nurse Corps of the Army or Navy, or an officer of the Air Force designated as a nurse''.

SEC. 618. CONTINUOUS ENTITLEMENT TO CAREER SEA PAY FOR CREW MEMBERS OF SHIPS DESIGNATED AS TENDERS.

Subparagraph (A) of section 305a(d)(1) of title 37, United States Code, is amended to read as follows:

''(A) while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and—

''(i) while serving on a ship the primary mission of which is accomplished while under way;

''(ii) while serving as a member of the off-crew of a two-crewed submarine; or

''(iii) while serving as a member of a tender-class ship (with the hull classification of submarine or destroyer); or''.

SEC. 619. INCREASE IN MAXIMUM RATE OF SPECIAL DUTY ASSIGNMENT PAY FOR ENLISTED MEMBERS SERVING AS RECRUITERS.

(a) SPECIAL MAXIMUM RATE FOR RECRUITERS.—Section 307(a) of title 37, United States Code, is amended by adding at the end the following new sentence: ''In the case of a member who is serving as a military recruiter and is eligible for special duty assignment pay under this subsection on account of such duty, the Secretary concerned may increase the monthly rate of special duty assignment pay for the member to not more than $375.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1996.

Subtitle C—Travel and Transportation Allowances

SEC. 621. REPEAL OF REQUIREMENT REGARDING CALCULATION OF ALLOWANCES ON BASIS OF MILEAGE TABLES.

Section 404(d)(1)(A) of title 37, United States Code, is amended by striking out '', based on distances established over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of Defense''.

SEC. 622. DEPARTURE ALLOWANCES.

(a) ELIGIBILITY WHEN EVACUATION AUTHORIZED BUT NOT ORDERED.—Section 405a(a) of title 37, United States Code, is amended by striking out ''ordered'' each place it appears and inserting in lieu thereof ''authorized or ordered''.

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply with respect to persons authorized or ordered to depart as described in section 405a(a) of title 37, United States Code, on or after October 1, 1995.

SEC. 623. TRANSPORTATION OF NONDEPENDENT CHILD FROM MEMBER'S STATION OVERSEAS AFTER LOSS OF DEPENDENT STATUS WHILE OVERSEAS.

Section 406(h)(1) of title 37, United States Code, is amended in the last sentence—

(1) by striking out ''who became 21 years of age'' and inserting in lieu thereof ''who, by reason of age or graduation from (or cessation of enrollment in) an institution of higher education, would otherwise cease to be a dependent of the member''; and

(2) by inserting ''still'' after ''shall''.

SEC. 624. AUTHORIZATION OF DISLOCATION ALLOWANCE FOR MOVES IN CONNECTION WITH BASE REALIGNMENTS AND CLOSURES.

(a) DISLOCATION ALLOWANCE AUTHORIZED.—Subsection (a) of section 407 of title 37, United States Code, is amended—

(1) by striking out ''or'' at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4)(B) and inserting in lieu thereof ''; or''; and

(3) by inserting after paragraph (4)(B) the following new paragraph:

''(5) the member is ordered to move in connection with the closure or realignment of a military installation and, as a result, the member's dependents actually move or, in the case of a member without dependents, the member actually moves.''.

(b) CONFORMING AMENDMENTS.—(1) The last sentence of such subsection is amended—

(A) by striking out ''clause (3) or (4)(B)'' and inserting in lieu thereof ''paragraph (3) or (4)(B)''; and

(B) by striking out ''clause (1)'' and inserting in lieu thereof ''paragraph (1) or (5)''.

(2) Subsection (b) of such section is amended—

(A) by striking out ''subsection (a)(3) or (a)(4)(B)'' in the first sentence and inserting in lieu thereof ''paragraph (3) or (4)(B) of subsection (a)''; and

(B) by striking out ''subsection (a)(1)'' in the second sentence and inserting in lieu thereof ''paragraph (1) or (5) of subsection (a)''.

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

SEC. 631. EFFECTIVE DATE FOR MILITARY RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEARS 1996, 1997, AND 1998.

(a) ADJUSTMENT OF EFFECTIVE DATES.—Subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended to read as follows:

''(B) SPECIAL RULES FOR FISCAL YEARS 1996 AND 1998.—

''(i) FISCAL YEAR 1996.—In the case of the increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1995, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be March 1996.

''(ii) FISCAL YEAR 1998.—In the case of the increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1997, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be September 1998.''.

(b) CONTINGENT ALTERNATIVE DATE FOR FISCAL YEAR 1998.—(1) If a civil service retiree cola that becomes effective during fiscal year 1998 becomes effective on a date other than the date on which a military retiree cola during that fiscal year is specified to become effective under subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, as amended by subsection (a), then the increase in military retired and retainer pay shall become payable as part of such retired and retainer pay effective on the same date on which such civil service retiree cola becomes effective (notwithstanding the date otherwise specified in such subparagraph (B)).

(2) Paragraph (1) does not apply with respect to the retired pay of a person retired under chapter 61 of title 10, United States Code.

(3) For purposes of this subsection:

(A) The term ''civil service retiree cola'' means an increase in annuities under the Civil Service Retirement System either under section 8340(b) of title 5, United States Code, or pursuant to a law providing a general increase in such annuities.

(B) The term ''military retiree cola'' means an adjustment in retired and retainer pay pursuant to section 1401a(b) of title 10, United States Code.

(c) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—Section 8114A(b) of Public Law 103–335 (108 Stat. 2648) is repealed.

SEC. 632. DENIAL OF NON-REGULAR SERVICE RETIRED PAY FOR RESERVES RECEIVING CERTAIN COURT-MARTIAL SENTENCES.

(a) IN GENERAL.—(1) Chapter 1223 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 12740. Eligibility: denial upon certain punitive discharges or dismissals

''A person who—

''(1) is convicted of an offense under the Uniform Code of Military Justice (chapter 47 of this title) and whose sentence includes death; or

''(2) is separated pursuant to sentence of a court-martial with a dishonorable discharge, a bad conduct discharge, or (in the case of an officer) a dismissal,

is not eligible for retired pay under this chapter.''.

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

''12740. Eligibility: denial upon certain punitive discharges or dismissals.''.

(b) EFFECTIVE DATE.—Section 12740 of title 10, United States Code, as added by subsection (a), shall apply with respect to court-martial sentences adjudged after the date of the enactment of this Act.

SEC. 633. REPORT ON PAYMENT OF ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES.

(a) STUDY REQUIRED.—(1) The Secretary of Defense shall conduct a study to determine the number of potential beneficiaries there would be if Congress were to enact authority for the Secretary of the military department concerned to pay an annuity to the qualified surviving spouse of each member of the Armed Forces who—

(A) died before March 21, 1974, and was entitled to retired or retainer pay on the date of death; or

(B) was a member of a reserve component who died during the period beginning on September 21, 1972, and ending on October 1, 1978, and at the time of death would have been entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that he was under 60 years of age.

(2) A qualified surviving spouse for purposes of paragraph (1) is a surviving spouse who has not remarried and who is not eligible for an annuity under section 4 of Public Law 92–425 (10 U.S.C. 1448 note).

(b) REQUIRED DETERMINATIONS.—As part of the study under subsection (a), the Secretary shall determine the following:

(1) The number of unremarried surviving spouses of deceased members and deceased former members of the Armed Forces referred to in subparagraph (A) of subsection (a)(1) who would be eligible for an annuity under authority described in such subsection.

(2) The number of unremarried surviving spouses of deceased members and deceased former members of reserve components referred to in subparagraph (B) of subsection (a)(1) who would be eligible for an annuity under authority described in such subsection.

(3) The number of persons in each group of unremarried former spouses described in paragraphs (1) and (2) who are receiving a widow's insurance benefit or a widower's insurance benefit under title II of the Social Security Act on the basis of employment of a deceased member or deceased former member referred to in subsection (a)(1).

(c) REPORT.—Not later than March 1, 1996, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the results of the study under this section. The Secretary shall include in the report a recommendation on the amount of the annuity that should be authorized to be paid under any authority described in subsection (a)(1), together with a recommendation on whether the annuity should be adjusted annually to offset increases in the cost of living.

SEC. 634. PAYMENT OF BACK QUARTERS AND SUBSISTENCE ALLOWANCES TO WORLD WAR II VETERANS WHO SERVED AS GUERRILLA FIGHTERS IN THE PHILIPPINES.

(a) IN GENERAL.—The Secretary of the military department concerned shall pay, upon request, to an individual described in subsection (b) the amount determined with respect to that individual under subsection (c).

(b) COVERED INDIVIDUALS.—A payment under subsection (a) shall be made to any individual who as a member of the Armed Forces during World War II—

(1) was captured on the Island of Bataan in the territory of the Philippines by Japanese forces;

(2) participated in the Bataan Death March;

(3) escaped from captivity; and

(4) served as a guerrilla fighter in the Philippines during the period from January 1942 through February 1945.

(c) AMOUNT TO BE PAID.—The amount of a payment under subsection (a) shall be the amount of quarters and subsistence allowance which accrued to an individual described in subsection (b) during the period specified in paragraph (4) of subsection (b) and which was not paid to that individual. The Secretary shall apply interest compounded at the three-month Treasury bill rate.

(d) PAYMENT TO SURVIVORS.—In the case of any individual described in subsection (b) who is deceased, payment under this section with respect to that individual shall be made to that individual's nearest surviving relative, as determined by the Secretary concerned.

SEC. 635. AUTHORITY FOR RELIEF FROM PREVIOUS OVERPAYMENTS UNDER MINIMUM INCOME WIDOWS PROGRAM.

(a) AUTHORITY.—The Secretary of Defense may waive recovery by the United States of any overpayment by the United States described in subsection (b). In the case of any such waiver, any debt to the United States arising from such overpayment is forgiven.

(b) COVERED OVERPAYMENTS.—Subsection (a) applies in the case of an overpayment by the United States that—

(1) was made before the date of the enactment of this Act under section 4 of Public Law 92–425 (10 U.S.C. 1448 note); and

(2) is attributable to failure by the Department of Defense to apply the eligibility provisions of subsection (a) of such section in the case of the person to whom the overpayment was made.

SEC. 636. TRANSITIONAL COMPENSATION FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES SEPARATED FOR DEPENDENT ABUSE.

(a) COVERAGE OF PROGRAM.—Subsection (a) of section 1059 of title 10, United States Code, is amended by adding at the end the following: ''Upon establishment of such a program, the program shall apply in the case of each such member described in subsection (b) who is under the jurisdiction of the Secretary establishing the program.''.

(b) CLARIFICATION OF PAYMENT TO DEPENDENTS OF MEMBERS NOT DISCHARGED.—Subsection (d) of such section is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking out ''any case of a separation from active duty as described in subsection (b)'' and inserting in lieu thereof ''the case of any individual described in subsection (b)''; and

(B) by striking ''former member'' and inserting in lieu thereof ''individual'';

(2) in paragraph (1)—

(A) by striking out ''former member'' and inserting in lieu thereof ''individual''; and

(B) by striking out ''member'' and inserting in lieu thereof ''individual'';

(3) in paragraph (2), by striking out ''former member'' both places it appears and inserting in lieu thereof ''individual described in subsection (b)'';

(4) in paragraph (3), by striking out ''former member'' and inserting in lieu thereof ''individual described in subsection (b)''; and

(5) in paragraph (4), by striking out ''member'' both places it appears and inserting in lieu thereof ''individual described in subsection (b)''.

(c) EFFECTIVE DATE.—Section 554(b) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 1059 note) is amended—

(1) in paragraph (1), by striking out ''on or after the date of the enactment of this Act'' and inserting in lieu thereof ''after November 29, 1993''; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

''(2) Payments of transitional compensation under that section in the case of any person eligible to receive payments under that section shall be made for each month after November 1993 for which that person may be paid transitional compensation in accordance with that section.''.

Subtitle E—Other Matters

SEC. 641. PAYMENT TO SURVIVORS OF DECEASED MEMBERS FOR ALL LEAVE ACCRUED.

(a) INAPPLICABILITY OF 60-DAY LIMITATION.—Section 501(d) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking out the third sentence; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

''(2) The limitations in the second sentence of subsection (b)(3), subsection (f), and the second sentence of subsection (g) shall not apply with respect to a payment made under this subsection.''.

(b) CONFORMING AMENDMENT.—Section 501(f) of such title is amended by striking out '', (d),'' in the first sentence.

SEC. 642. REPEAL OF REPORTING REQUIREMENTS REGARDING COMPENSATION MATTERS.

(a) REPORT ON TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS.—(1) Section 406 of title 37, United States Code, is amended—

(A) by striking out subsection (i); and

(B) by redesignating subsections (j), (k), (l), (m), and (n) as subsections (i), (j), (k), (l), and (m), respectively.

(2) Section 2634(d) of title 10, United States Code, is amended by striking out ''section 406(l) of title 37'' and inserting in lieu thereof ''section 406(k) of title 37''.

(b) ANNUAL REVIEW OF PAY AND ALLOWANCES.—Section 1008(a) of title 37, United States Code, is amended by striking out the second sentence.

(c) REPORT ON QUADRENNIAL REVIEW OF ADJUSTMENTS IN COMPENSATION.—Section 1009(f) of such title is amended by striking out ''of this title,'' and all that follows through the period at the end and inserting in lieu thereof ''of this title.''.

SEC. 643. RECOUPMENT OF ADMINISTRATIVE EXPENSES IN GARNISHMENT ACTIONS.

(a) IN GENERAL.—Subsection (j) of section 5520a of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

''(2) Such regulations shall provide that an agency's administrative costs incurred in executing legal process to which the agency is subject under this section shall be deducted from the amount withheld from the pay of the employee concerned pursuant to the legal process.''.

(b) INVOLUNTARY ALLOTMENTS OF PAY OF MEMBERS OF THE UNIFORMED SERVICES.—Subsection (k) of such section is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

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

''(3) Regulations under this subsection may also provide that the administrative costs incurred in establishing and maintaining an involuntary allotment be deducted from the amount withheld from the pay of the member of the uniformed services concerned pursuant to such regulations.''.

(c) DISPOSITION OF AMOUNTS WITHHELD FOR ADMINISTRATIVE EXPENSES.—Such section is further amended by adding at the end the following:

''(l) The amount of an agency's administrative costs deducted under regulations prescribed pursuant to subsection (j)(2) or (k)(3) shall be credited to the appropriation, fund, or account from which such administrative costs were paid.''.

SEC. 644. REPORT ON EXTENDING TO JUNIOR NONCOMMISSIONED OFFICERS PRIVILEGES PROVIDED FOR SENIOR NONCOMMISSIONED OFFICERS.

(a) REPORT REQUIRED.—Not later than February 1, 1996, the Secretary of Defense shall submit to Congress a report containing the determinations of the Secretary regarding whether, in order to improve the working conditions of noncommissioned officers in pay grades E–5 and E–6, any of the privileges afforded noncommissioned officers in any of the pay grades above E–6 should be extended to noncommissioned officers in pay grades E–5 and E–6.

(b) SPECIFIC RECOMMENDATION REGARDING ELECTION OF BAS.—The Secretary shall include in the report a determination on whether noncommissioned officers in pay grades E–5 and E–6 should be afforded the same privilege as noncommissioned officers in pay grades above E–6 to elect to mess separately and receive the basic allowance for subsistence.

(c) ADDITIONAL MATTERS.—The report shall also contain a discussion of the following matters:

(1) The potential costs of extending additional privileges to noncommissioned officers in pay grades E–5 and E–6.

(2) The effects on readiness that would result from extending the additional privileges.

(3) The options for extending the privileges on an incremental basis over an extended period.

(d) RECOMMENDED LEGISLATION.—The Secretary shall include in the report any recommended legislation that the Secretary considers necessary in order to authorize extension of a privilege as determined appropriate under subsection (a).

SEC. 645. STUDY REGARDING JOINT PROCESS FOR DETERMINING LOCATION OF RECRUITING STATIONS.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study regarding the feasibility of—

(1) using a joint process among the Armed Forces for determining the location of recruiting stations and the number of military personnel required to operate such stations; and

(2) basing such determinations on market research and analysis conducted jointly by the Armed Forces.

(b) REPORT.—Not later than March 31, 1996, the Secretary of Defense shall submit to Congress a report describing the results of the study. The report shall include a recommended method for measuring the efficiency of individual recruiting stations, such as cost per accession or other efficiency standard, as determined by the Secretary.

SEC. 646. AUTOMATIC MAXIMUM COVERAGE UNDER SERVICEMEN'S GROUP LIFE INSURANCE.

Effective April 1, 1996, section 1967 of title 38, United States Code, is amended—

(1) in subsections (a) and (c), by striking out ''$100,000'' each place it appears and inserting in lieu thereof in each instance ''$200,000'';

(2) by striking out subsection (e); and

(3) by redesignating subsection (f) as subsection (e).

SEC. 647. TERMINATION OF SERVICEMEN'S GROUP LIFE INSURANCE FOR MEMBERS OF THE READY RESERVE WHO FAIL TO PAY PREMIUMS.

(a) AUTHORITY.—Section 1969(a)(2) of title 38, United States Code, is amended—

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

(2) by adding at the end the following:

''(B) If an individual who is required pursuant to subparagraph (A) to make a direct remittance of costs to the Secretary concerned fails to make the required remittance within 60 days of the date on which such remittance is due, such individual's insurance with respect to which such remittance is required shall be terminated by the Secretary concerned. Such termination shall be made by written notice to the individual's official address and shall be effective 60 days after the date of such notice. Such termination of insurance may be vacated if, before the effective date of termination, the individual remits all amounts past due for such insurance and demonstrates to the satisfaction of the Secretary concerned that the failure to make timely remittances was justifiable.''.

(b) CONFORMING AMENDMENT.—Section 1968(a) is amended by inserting ''(or discontinued pursuant to section 1969(a)(2)(B) of this title)'' in the matter preceding paragraph (1) after ''upon the written request of the insured''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1996.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

SEC. 701. MODIFICATION OF REQUIREMENTS REGARDING ROUTINE PHYSICAL EXAMINATIONS AND IMMUNIZATIONS UNDER CHAMPUS.

Section 1079(a) of title 10, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

''(2) consistent with such regulations as the Secretary of Defense may prescribe regarding the content of health promotion and disease prevention visits, the schedule of pap smears and mammograms, and the types and schedule of immunizations—

''(A) for dependents under six years of age, both health promotion and disease prevention visits and immunizations may be provided; and

''(B) for dependents six years of age or older, health promotion and disease prevention visits may be provided in connection with immunizations or with diagnostic or preventive pap smears and mammograms;''.

SEC. 702. CORRECTION OF INEQUITIES IN MEDICAL AND DENTAL CARE AND DEATH AND DISABILITY BENEFITS FOR CERTAIN RESERVES.

(a) MEDICAL AND DENTAL CARE.—Section 1074a(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

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

(b) RECOVERY, CARE, AND DISPOSITION OF REMAINS.—Section 1481(a)(2) of title 10, United States Code, is amended—

(1) in subparagraph (C), by striking out ''or'' at the end of the subparagraph;

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph:

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

(c) ENTITLEMENT TO BASIC PAY.—(1) Subsection (g)(1) of section 204 of title 37, United States Code, is amended—

(A) in subparagraph (B), by striking out ''or'' at the end of the subparagraph;

(B) in subparagraph (C), by striking out the period at the end of the subparagraph and inserting in lieu thereof ''; or''; and

(C) by inserting after subparagraph (C) the following new subparagraph:

''(D) in line of duty while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence.''.

(2) Subsection (h)(1) of such section is amended—

(A) in subparagraph (B), by striking out ''or'' at the end of the subparagraph;

(B) in subparagraph (C), by striking out the period at the end of the subparagraph and inserting in lieu thereof ''; or''; and

(C) by inserting after subparagraph (C) the following new subparagraph:

''(D) in line of duty while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence.''.

(d) COMPENSATION FOR INACTIVE-DUTY TRAINING.—Section 206(a)(3) of title 37, United States Code, is amended—

(1) in subparagraph (A), by striking out ''or'' at the end of clause (ii);

(2) in subparagraph (B), by striking out the period at the end of the subparagraph and inserting in lieu thereof ''; or''; and

(3) by inserting after subparagraph (B) the following new subparagraph:

''(C) in line of duty while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence.''.

SEC. 703. MEDICAL CARE FOR SURVIVING DEPENDENTS OF RETIRED RESERVES WHO DIE BEFORE AGE 60.

(a) CHANGE IN ELIGIBILITY REQUIREMENTS.—Paragraph (2) of section 1076(b) of title 10, United States Code, is amended—

(1) by striking out ''death (A) would'' and inserting in lieu thereof ''death would''; and

(2) by striking out '', and (B) had elected to participate in the Survivor Benefit Plan established under subchapter II of chapter 73 of this title''.

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

(1) in the matter following paragraph (2), by striking out ''clause (2)'' the first place it appears and inserting in lieu thereof ''paragraph (2)''; and

(2) by striking out the second sentence.

SEC. 704. MEDICAL AND DENTAL CARE FOR MEMBERS OF THE SELECTED RESERVE ASSIGNED TO EARLY DEPLOYING UNITS OF THE ARMY SELECTED RESERVE.

(a) ANNUAL MEDICAL AND DENTAL SCREENINGS AND CARE.—Section 1074a of title 10, United States Code, is amended—

(1) in subsection (c), by striking out ''this section'' and inserting in lieu thereof ''subsection (b)''; and

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

''(d)(1) The Secretary of the Army shall provide to members of the Selected Reserve of the Army who are assigned to units scheduled for deployment within 75 days after mobilization the following medical and dental services:

''(A) An annual medical screening.

''(B) For members who are over 40 years of age, a full physical examination not less often than once every two years.

''(C) An annual dental screening.

''(D) The dental care identified in an annual dental screening as required to ensure that a member meets the dental standards required for deployment in the event of mobilization.

''(2) The services provided under this subsection shall be provided at no cost to the member.''.

(b) CONFORMING REPEALS.—Sections 1117 and 1118 of the Army National Guard Combat Readiness Reform Act of 1992 (title XI of Public Law 102–484; 10 U.S.C. 3077 note) are repealed.

SEC. 705. DENTAL INSURANCE FOR MEMBERS OF THE SELECTED RESERVE.

(a) PROGRAM AUTHORIZATION.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1076a the following new section:

''§ 1076b. Selected Reserve dental insurance

''(a) AUTHORITY TO ESTABLISH PLAN.—The Secretary of Defense shall establish a dental insurance plan for members of the Selected Reserve of the Ready Reserve. The plan shall provide for voluntary enrollment and for premium sharing between the Department of Defense and the members enrolled in the plan. The plan shall be administered under regulations prescribed by the Secretary of Defense.

''(b) PREMIUM SHARING.—(1) A member enrolling in the dental insurance plan shall pay a share of the premium charged for the insurance coverage. The member's share may not exceed $25 per month.

''(2) The Secretary of Defense may reduce the monthly premium required to be paid by enlisted members under paragraph (1) if the Secretary determines that the reduction is appropriate in order to assist enlisted members to participate in the dental insurance plan.

''(3) A member's share of the premium for coverage by the dental insurance plan shall be deducted and withheld from the basic pay payable to the member for inactive duty training and from the basic pay payable to the member for active duty.

''(4) The Secretary of Defense shall pay the portion of the premium charged for coverage of a member under the dental insurance plan that exceeds the amount paid by the member.

''(c) BENEFITS AVAILABLE UNDER THE PLAN.—The dental insurance plan shall provide benefits for basic dental care and treatment, including diagnostic services, preventative services, basic restorative services, and emergency oral examinations.

''(d) TERMINATION OF COVERAGE.—The coverage of a member by the dental insurance plan shall terminate on the last day of the month in which the member is discharged, transfers to the Individual Ready Reserve, Standby Reserve, or Retired Reserve, or is ordered to active duty for a period of more than 30 days.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1076a the following:

''1076b. Selected Reserve dental insurance.''.

(b) IMPLEMENTATION.—Beginning not later than October 1, 1996, the Secretary of Defense shall offer members of the Selected Reserve the opportunity to enroll in the dental insurance plan required under section 1076b of title 10, United States Code (as added by subsection (a)). During fiscal year 1996, the Secretary shall collect such information and complete such planning and other preparations as are necessary to offer and administer the dental insurance plan by that date. The activities undertaken by the Secretary under this subsection during fiscal year 1996 may include—

(1) surveys; and

(2) tests, in not more than three States, of a dental insurance plan or alternative dental insurance plans meeting the requirements of section 1076b of title 10, United States Code.

SEC. 706. PERMANENT AUTHORITY TO CARRY OUT SPECIALIZED TREATMENT FACILITY PROGRAM.

Section 1105 of title 10, United States Code, is amended by striking out subsection (h).

Subtitle B—TRICARE Program

SEC. 711. DEFINITION OF TRICARE PROGRAM.

For purposes of this subtitle, the term ''TRICARE program'' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

SEC. 712. PRIORITY USE OF MILITARY TREATMENT FACILITIES FOR PERSONS ENROLLED IN MANAGED CARE INITIATIVES.

Section 1097(c) of title 10, United States Code, is amended in the third sentence by striking out ''However, the Secretary may'' and inserting in lieu thereof ''Notwithstanding the preferences established by sections 1074(b) and 1076 of this title, the Secretary shall''.

SEC. 713. STAGGERED PAYMENT OF ENROLLMENT FEES FOR TRICARE PROGRAM.

Section 1097(e) of title 10, United States Code, is amended by adding at the end the following new sentence: ''Without imposing additional costs on covered beneficiaries who participate in contracts for health care services under this section or health care plans offered under section 1099 of this title, the Secretary shall permit such covered beneficiaries to pay, on a quarterly basis, any enrollment fee required for such participation.''.

SEC. 714. REQUIREMENT OF BUDGET NEUTRALITY FOR TRICARE PROGRAM TO BE BASED ON ENTIRE PROGRAM.

(a) CHANGE IN BUDGET NEUTRALITY REQUIREMENTS.—Subsection (c) of section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 1073 note) is amended—

(1) by striking out ''each managed health care initiative that includes the option'' and inserting in lieu thereof ''the TRICARE program''; and

(2) by striking out ''covered beneficiaries who enroll in the option'' and inserting in lieu thereof ''members of the uniformed services and covered beneficiaries who participate in the TRICARE program''.

(b) ADDITION OF DEFINITION OF TRICARE PROGRAM.—Subsection (d) of such section is amended to read as follows:

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

''(1) The term 'covered beneficiary' means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

''(2) The term 'TRICARE program' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.''.

SEC. 715. TRAINING IN HEALTH CARE MANAGEMENT AND ADMINISTRATION FOR TRICARE LEAD AGENTS.

(a) PROVISION OF TRAINING.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall implement a professional educational program to provide appropriate training in health care management and administration—

(1) to each commander of a military medical treatment facility of the Department of Defense who is selected to serve as a lead agent to coordinate the delivery of health care by military and civilian providers under the TRICARE program; and

(2) to appropriate members of the support staff of the treatment facility who will be responsible for daily operation of the TRICARE program.

(b) REPORT ON IMPLEMENTATION.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report describing the professional educational program implemented pursuant to this section.

SEC. 716. PILOT PROGRAM OF INDIVIDUALIZED RESIDENTIAL MENTAL HEALTH SERVICES.

(a) PROGRAM REQUIRED.—(1) During fiscal year 1996, the Secretary of Defense, in consultation with the other administering Secretaries under chapter 55 of title 10, United States Code, shall implement a pilot program to provide residential and wraparound services to children described in paragraph (2) who are in need of mental health services. The Secretary shall implement the pilot program for an initial period of at least two years in a military health care region in which the TRICARE program has been implemented.

(2) A child shall be eligible for selection to participate in the pilot program if the child is a dependent (as described in subparagraph (D) or (I) of section 1072(2) of title 10, United States Code) who—

(A) is eligible for health care under section 1079 or 1086 of such title; and

(B) has a serious emotional disturbance that is generally regarded as amenable to treatment.

(b) WRAPAROUND SERVICES DEFINED.—For purposes of this section, the term ''wraparound services'' means individualized mental health services that are provided principally to allow a child to remain in the family home or other least-restrictive and least-costly setting, but also are provided as an aftercare planning service for children who have received acute or residential care. Such term includes nontraditional mental health services that will assist the child to be maintained in the least-restrictive and least-costly setting.

(c) PILOT PROGRAM AGREEMENT.—Under the pilot program the Secretary of Defense shall enter into one or more agreements that require a mental health services provider under the agreement—

(1) to provide wraparound services to a child described in subsection (a)(2);

(2) to continue to provide such services as needed during the period of the agreement even if the child moves to another location within the same TRICARE program region during that period; and

(3) to share financial risk by accepting as a maximum annual payment for such services a case-rate reimbursement not in excess of the amount of the annual standard CHAMPUS residential treatment benefit payable (as determined in accordance with section 8.1 of chapter 3 of volume II of the CHAMPUS policy manual).

(d) REPORT.—Not later than March 1, 1998, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the program carried out under this section. The report shall contain—

(1) an assessment of the effectiveness of the program; and

(2) the Secretary's views regarding whether the program should be implemented throughout the military health care system.

SEC. 717. EVALUATION AND REPORT ON TRICARE PROGRAM EFFECTIVENESS.

(a) EVALUATION REQUIRED.—The Secretary of Defense shall arrange for an on-going evaluation of the effectiveness of the TRICARE program in meeting the goals of increasing the access of covered beneficiaries under chapter 55 of title 10, United States Code, to health care and improving the quality of health care provided to covered beneficiaries, without increasing the costs incurred by the Government or covered beneficiaries. The evaluation shall specifically address—

(1) the impact of the TRICARE program on military retirees with regard to access, costs, and quality of health care services; and

(2) identify noncatchment areas in which the health maintenance organization option of the TRICARE program is available or is proposed to become available.

(b) ENTITY TO CONDUCT EVALUATION.—The Secretary may use a federally funded research and development center to conduct the evaluation required by subsection (a).

(c) ANNUAL REPORT.—Not later than March 1, 1997, and each March 1 thereafter, the Secretary shall submit to Congress a report describing the results of the evaluation under subsection (a) during the preceding year.

SEC. 718. SENSE OF CONGRESS REGARDING ACCESS TO HEALTH CARE UNDER TRICARE PROGRAM FOR COVERED BENEFICIARIES WHO ARE MEDICARE ELIGIBLE.

(a) FINDINGS.—Congress finds the following:

(1) Medical care provided in facilities of the uniformed services is generally less expensive to the Federal Government than the same care provided at Government expense in the private sector.

(2) Covered beneficiaries under the military health care provisions of chapter 55, United States Code, who are eligible for medicare under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) deserve health care options that empower them to choose the health plan that best fits their needs.

(b) SENSE OF CONGRESS.—In light of the findings specified in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense should develop a program to ensure that such covered beneficiaries who reside in a region in which the TRICARE program has been implemented continue to have adequate access to health care services after the implementation of the TRICARE program; and

(2) as a means of ensuring such access, the budget for fiscal year 1997 submitted by the President under section 1105 of title 31, United States Code, should provide for reimbursement by the Health Care Financing Administration to the Department of Defense for health care services provided to such covered beneficiaries in medical treatment facilities of the Department of Defense.

Subtitle C—Uniformed Services Treatment Facilities

SEC. 721. DELAY OF TERMINATION OF STATUS OF CERTAIN FACILITIES AS UNIFORMED SERVICES TREATMENT FACILITIES.

Section 1252(e) of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d(e)) is amended by striking out ''December 31, 1996'' in the first sentence and inserting in lieu thereof ''September 30, 1997''.

SEC. 722. LIMITATION ON EXPENDITURES TO SUPPORT UNIFORMED SERVICES TREATMENT FACILITIES.

Subsection (f) of section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d), is amended to read as follows:

''(f) LIMITATION ON EXPENDITURES.—The total amount of expenditures by the Secretary of Defense to carry out this section and section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c), for fiscal year 1996 may not exceed $300,000,000, adjusted by the Secretary to reflect the inflation factor used by the Department of Defense for such fiscal year.''.

SEC. 723. APPLICATION OF CHAMPUS PAYMENT RULES IN CERTAIN CASES.

Section 1074 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) The Secretary of Defense may require, by regulation, a private CHAMPUS provider to apply the CHAMPUS payment rules (subject to any modifications considered appropriate by the Secretary) in imposing charges for health care that the private CHAMPUS provider provides to a member of the uniformed services who is enrolled in a health care plan of a facility deemed to be a facility of the uniformed services under section 911(a) of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c(a)) when the health care is provided outside the catchment area of the facility.

''(2) In this subsection:

''(A) The term 'private CHAMPUS provider' means a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services.

''(B) The term 'CHAMPUS payment rules' means the payment rules referred to in subsection (c).

''(3) The Secretary of Defense shall prescribe regulations under this subsection after consultation with the other administering Secretaries.''.

SEC. 724. APPLICATION OF FEDERAL ACQUISITION REGULATION TO PARTICIPATION AGREEMENTS WITH UNIFORMED SERVICES TREATMENT FACILITIES.

(a) Section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1587) is amended—

(1) in the second sentence of paragraph (1), by striking out ''A participation agreement'' and inserting in lieu thereof ''Except as provided in paragraph (4), a participation agreement'';

(2) by redesignating paragraph (4) as paragraph (6); and

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

''(4) APPLICATION OF FEDERAL ACQUISITION REGULATION.—On and after the date of the enactment of this paragraph, Uniformed Services Treatment Facilities and any participation agreement between Uniformed Services Treatment Facilities and the Secretary of Defense shall be subject to the Federal Acquisition Regulation issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) notwithstanding any provision to the contrary in such a participation agreement. The requirements regarding competition in the Federal Acquisition Regulation shall apply with regard to the negotiation of any new participation agreement between the Uniformed Services Treatment Facilities and the Secretary of Defense under this subsection or any other provision of law.''.

(b) SENSE OF CONGRESS.—(1) Congress finds that the Uniformed Services Treatment Facilities provide quality health care to the 120,000 Department of Defense beneficiaries enrolled in the Uniformed Services Family Health Plan provided by these facilities.

(2) In light of such finding, it is the sense of Congress that the Uniformed Services Family Health Plan provided by the Uniformed Services Treatment Facilities should not be terminated for convenience under provisions of the Federal Acquisition Regulation by the Secretary of Defense before the expiration of the current participation agreements.

(3) For purposes of this subsection, the term ''Uniformed Services Treatment Facility'' means a facility deemed to be a facility of the uniformed services by virtue of section 911(a) of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c(a)).

SEC. 725. DEVELOPMENT OF PLAN FOR INTEGRATING UNIFORMED SERVICES TREATMENT FACILITIES IN MANAGED CARE PROGRAMS OF DEPARTMENT OF DEFENSE.

Section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1587) is amended by inserting after paragraph (4), as added by section 722, the following new paragraph:

''(5) PLAN FOR INTEGRATING FACILITIES.—(A) The Secretary of Defense shall develop a plan under which Uniformed Services Treatment Facilities could be included, before the expiration date of the participation agreements entered into under this section, in the exclusive health care provider networks established by the Secretary for the geographic regions in which the facilities are located. The Secretary shall address in the plan the feasibility of implementing the managed care plan of the Uniformed Services Treatment Facilities, known as Option II, on a mandatory basis for all USTF Medicare-eligible beneficiaries and the potential cost savings to the Military Health Care Program that could be achieved under such option.

''(B) The Secretary shall submit the plan developed under this paragraph to Congress not later than March 1, 1996.

''(C) The plan developed under this paragraph shall be consistent with the requirements specified in paragraph (4). If the plan is not submitted to Congress by the expiration date of the participation agreements entered into under this section, the participation agreements shall remain in effect, at the option of the Uniformed Services Treatment Facilities, until the end of the 180-day period beginning on the date the plan is finally submitted.

''(D) For purposes of this paragraph, the term 'USTF Medicare-eligible beneficiaries' means covered beneficiaries under chapter 55 of title 10, United States Code, who are enrolled in a managed health plan offered by the Uniformed Services Treatment Facilities and entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).''.

SEC. 726. EQUITABLE IMPLEMENTATION OF UNIFORM COST SHARING REQUIREMENTS FOR UNIFORMED SERVICES TREATMENT FACILITIES.

(a) TIME FOR FEE IMPLEMENTATION.—The uniform managed care benefit fee and copayment schedule developed by the Secretary of Defense for use in all managed care initiatives of the military health service system, including the managed care program of the Uniformed Services Treatment Facilities, shall be extended to the managed care program of a Uniformed Services Treatment Facility only after the later of—

(1) the implementation of the TRICARE regional program covering the service area of the Uniformed Services Treatment Facility; or

(2) October 1, 1996.

(b) SUBMISSION OF ACTUARIAL ESTIMATES.—Paragraph (2) of subsection (a) shall operate as a condition on the extension of the uniform managed care benefit fee and copayment schedule to the Uniformed Services Treatment Facilities only if the Uniformed Services Treatment Facilities submit to the Comptroller General of the United States, within 30 days after the date of the enactment of this Act, actuarial estimates in support of their contention that the extension of such fees and copayments will have an adverse effect on the operation of the Uniformed Services Treatment Facilities and the enrollment of participants.

(c) EVALUATION.—(1) Except as provided in paragraph (2), not later than 90 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress the results of an evaluation of the effect on the Uniformed Services Treatment Facilities of the extension of the uniform benefit fee and copayment schedule to the Uniformed Services Treatment Facilities. The evaluation shall include an examination of whether the benefit fee and copayment schedule may—

(A) cause adverse selection of enrollees;

(B) be inappropriate for a fully at-risk program similar to civilian health maintenance organizations; or

(C) result in an enrolled population dissimilar to the general beneficiary population.

(2) The Comptroller General shall not be required to prepare or submit the evaluation under paragraph (1) if the Uniformed Services Treatment Facilities fail to satisfactorily comply with subsection (b), as determined by the Comptroller General.

SEC. 727. ELIMINATION OF UNNECESSARY ANNUAL REPORTING REQUIREMENT REGARDING UNIFORMED SERVICES TREATMENT FACILITIES.

Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d), is amended by striking out subsection (d).

Subtitle D—Other Changes to Existing Laws Regarding Health Care Management

SEC. 731. MAXIMUM ALLOWABLE PAYMENTS TO INDIVIDUAL HEALTH-CARE PROVIDERS UNDER CHAMPUS.

(a) MAXIMUM PAYMENT.—Subsection (h) of section 1079 of title 10, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

''(1) Payment for a charge for services by an individual health care professional (or other noninstitutional health care provider) for which a claim is submitted under a plan contracted for under subsection (a) may not exceed the lesser of—

''(A) the amount equivalent to the 80th percentile of billed charges made for similar services in the same locality during the base period; or

''(B) an amount determined to be appropriate, to the extent practicable, in accordance with the same reimbursement rules as apply to payments for similar services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).''.

(b) COMPARISON TO MEDICARE PAYMENTS.—Such subsection is further amended by adding at the end the following new paragraph:

''(3) For the purposes of paragraph (1)(B), the appropriate payment amount shall be determined by the Secretary of Defense, in consultation with the other administering Secretaries.''.

(c) EXCEPTIONS AND LIMITATIONS.—Such subsection is further amended by inserting after paragraph (3), as added by subsection (b), the following new paragraphs:

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

''(5) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to establish limitations (similar to the limitations established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)) on beneficiary liability for charges of an individual health care professional (or other noninstitutional health care provider).''.

(d) CONFORMING AMENDMENT.—Paragraph (2) of such subsection is amended by striking out ''paragraph (1)'' and inserting in lieu thereof ''paragraph (1)(A)''.

(e) REPORT ON EFFECT OF AMENDMENTS.—Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report analyzing the effect of the amendments made by this section on the ability or willingness of individual health care professionals and other noninstitutional health care providers to participate in the Civilian Health and Medical Program of the Uniformed Services.

SEC. 732. NOTIFICATION OF CERTAIN CHAMPUS COVERED BENEFICIARIES OF LOSS OF CHAMPUS ELIGIBILITY.

Section 1086(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(4) The administering Secretaries shall develop a mechanism by which persons described in paragraph (1) who satisfy only the criteria specified in subparagraphs (A) and (B) of paragraph (2), but not subparagraph (C) of such paragraph, are promptly notified of their ineligibility for health benefits under this section. In developing the notification mechanism, the administering Secretaries shall consult with the administrator of the Health Care Financing Administration.''.

SEC. 733. PERSONAL SERVICES CONTRACTS FOR MEDICAL TREATMENT FACILITIES OF THE COAST GUARD.

(a) CONTRACTING AUTHORITY.—Section 1091(a) of title 10, United States Code, is amended—

(1) by inserting after ''Secretary of Defense'' the following: '', with respect to medical treatment facilities of the Department of Defense, and the Secretary of Transportation, with respect to medical treatment facilities of the Coast Guard when the Coast Guard is not operating as a service in the Navy,''; and

(2) by striking out ''medical treatment facilities of the Department of Defense'' and inserting in lieu thereof ''such facilities''.

(b) RATIFICATION OF EXISTING CONTRACTS.—Any exercise of authority under section 1091 of title 10, United States Code, to enter into a personal services contract on behalf of the Coast Guard before the effective date of the amendments made by subsection (a) is hereby ratified.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of October 1, 1995.

SEC. 734. IDENTIFICATION OF THIRD-PARTY PAYER SITUATIONS.

Section 1095 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(k)(1) To improve the administration of this section and sections 1079(j)(1) and 1086(d) of this title, the Secretary of Defense, in consultation with the other administering Secretaries, may prescribe regulations providing for the collection of information regarding insurance, medical service, or health plans of third-party payers held by covered beneficiaries.

''(2) The collection of information under regulations prescribed under paragraph (1) shall be conducted in the same manner as is provided in section 1862(b)(5) of the Social Security Act (42 U.S.C. 1395y(b)(5)). The Secretary may provide for obtaining from the Commissioner of Social Security employment information comparable to the information provided to the Administrator of the Health Care Financing Administration pursuant to such section. Such regulations may require the mandatory disclosure of Social Security account numbers for all covered beneficiaries.

''(3) The Secretary may disclose relevant employment information collected under this subsection to fiscal intermediaries or other designated contractors.

''(4) The Secretary may provide for contacting employers of covered beneficiaries to obtain group health plan information comparable to the information authorized to be obtained under section 1862(b)(5)(C) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)). Notwithstanding clause (iii) of such section, clause (ii) of such section regarding the imposition of civil money penalties shall apply to the collection of information under this paragraph.

''(5) Information obtained under this subsection may not be disclosed for any purpose other than to carry out the purpose of this section and sections 1079(j)(1) and 1086(d) of this title.''.

SEC. 735. REDESIGNATION OF MILITARY HEALTH CARE ACCOUNT AS DEFENSE HEALTH PROGRAM ACCOUNT AND TWO-YEAR AVAILABILITY OF CERTAIN ACCOUNT FUNDS.

(a) REDESIGNATION.—Section 1100 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out ''Military Health Care Account'' and inserting in lieu thereof ''Defense Health Program Account''; and

(B) by striking out ''the Civilian Health and Medical Program of the Uniformed Services'' and inserting in lieu thereof ''medical and health care programs of the Department of Defense''; and

(2) in subsection (b)—

(A) by striking out ''entering into a contract'' and inserting in lieu thereof ''conducting programs and activities under this chapter, including contracts entered into''; and

(B) by inserting a comma after ''title''.

(b) TWO YEAR AVAILABILITY OF CERTAIN APPROPRIATIONS.—Subsection (a)(2) of such section is amended to read as follows:

''(2) Of the total amount appropriated for a fiscal year for programs and activities carried out under this chapter, the amount equal to three percent of such total amount shall remain available for obligation until the end of the following fiscal year.''.

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

(1) by striking out subsections (c), (d), and (f); and

(2) by redesignating subsection (e) as subsection (c).

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

''§ 1100. Defense Health Program Account''.

(2) The item relating to such section in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

''1100. Defense Health Program Account.''.

SEC. 736. EXPANSION OF FINANCIAL ASSISTANCE PROGRAM FOR HEALTH-CARE PROFESSIONALS IN RESERVE COMPONENTS TO INCLUDE DENTAL SPECIALTIES.

Section 16201(b) of title 10, United States Code, is amended—

(1) in the subsection heading, by inserting ''AND DENTISTS'' after ''PHYSICIANS'';

(2) in paragraph (1)(A), by inserting ''or dental school'' after ''medical school'';

(3) in paragraphs (1)(B) and (2)(B), by inserting ''or dental officer'' after ''medical officer''; and

(4) in paragraph (1)(C), by striking out ''physicians in a medical specialty'' and inserting in lieu thereof ''physicians or dentists in a medical or dental specialty''.

SEC. 737. APPLICABILITY OF LIMITATION ON PRICES OF PHARMACEUTICALS PROCURED FOR COAST GUARD.

(a) INCLUSION OF COAST GUARD.—Section 8126(b) of title 38, United States Code, is amended by adding at the end the following new paragraph:

''(4) The Coast Guard.''.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 603 of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4971).

SEC. 738. RESTRICTION ON USE OF DEPARTMENT OF DEFENSE FACILITIES FOR ABORTIONS.

(a) IN GENERAL.—Section 1093 of title 10, United States Code, is amended—

(1) by inserting ''(a) RESTRICTION ON USE OF FUNDS.—'' before ''Funds available''; and

(2) by adding at the end the following:

''(b) RESTRICTION ON USE OF FACILITIES.—No medical treatment facility or other facility of the Department of Defense may be used to perform an abortion except where the life of the mother would be endangered if the fetus were carried to term or in a case in which the pregnancy is the result of an act of rape or incest.''.

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

''§ 1093. Performance of abortions: restrictions''.

(2) The item relating to such section in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

''1093. Performance of abortions: restrictions.''.

Subtitle E—Other Matters

SEC. 741. TRISERVICE NURSING RESEARCH.

(a) PROGRAM AUTHORIZED.—Chapter 104 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2116. Military nursing research

''(a) DEFINITIONS.—In this section:

''(1) The term 'military nursing research' means research on the furnishing of care and services by nurses in the armed forces.

''(2) The term 'TriService Nursing Research Program' means the program of military nursing research authorized under this section.

''(b) PROGRAM AUTHORIZED.—The Secretary of Defense may establish at the University a program of military nursing research.

''(c) TRISERVICE RESEARCH GROUP.—The TriService Nursing Research Program shall be administered by a TriService Nursing Research Group composed of Army, Navy, and Air Force nurses who are involved in military nursing research and are designated by the Secretary concerned to serve as members of the group.

''(d) DUTIES OF GROUP.—The TriService Nursing Research Group shall—

''(1) develop for the Department of Defense recommended guidelines for requesting, reviewing, and funding proposed military nursing research projects; and

''(2) make available to Army, Navy, and Air Force nurses and Department of Defense officials concerned with military nursing research—

''(A) information about nursing research projects that are being developed or carried out in the Army, Navy, and Air Force; and

''(B) expertise and information beneficial to the encouragement of meaningful nursing research.

''(e) RESEARCH TOPICS.—For purposes of this section, military nursing research includes research on the following issues:

''(1) Issues regarding how to improve the results of nursing care and services provided in the armed forces in time of peace.

''(2) Issues regarding how to improve the results of nursing care and services provided in the armed forces in time of war.

''(3) Issues regarding how to prevent complications associated with battle injuries.

''(4) Issues regarding how to prevent complications associated with the transporting of patients in the military medical evacuation system.

''(5) Issues regarding how to improve methods of training nursing personnel.

''(6) Clinical nursing issues, including such issues as prevention and treatment of child abuse and spouse abuse.

''(7) Women's health issues.

''(8) Wellness issues.

''(9) Preventive medicine issues.

''(10) Home care management issues.

''(11) Case management issues.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 104 of such title is amended by adding at the end the following:

''2116. Military nursing research.''.

SEC. 742. TERMINATION OF PROGRAM TO TRAIN MILITARY PSYCHOLOGISTS TO PRESCRIBE PSYCHOTROPIC MEDICATIONS.

(a) TERMINATION.—Not later than June 30, 1997, the Secretary of Defense shall terminate the demonstration pilot program for training military psychologists in the prescription of psychotropic medications, which is referred to in section 8097 of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1897).

(b) PROHIBITION ON ADDITIONAL ENROLLEES PENDING TERMINATION.—After the date of the enactment of this Act, the Secretary of Defense may not enroll any new participants for the demonstration pilot program described in subsection (a).

(c) EFFECT ON CURRENT PARTICIPANTS.—The requirement to terminate the demonstration pilot program described in subsection (a) shall not be construed to affect the training or utilization of military psychologists in the prescription of psychotropic medications who are participating in the demonstration pilot program on the date of the enactment of this Act or who have completed such training before that date.

(d) EVALUATION.—As soon as possible after the date of the enactment of this Act, but not later than April 1, 1997, the Comptroller General of the United States shall submit to Congress a report evaluating the success of the demonstration pilot program described in subsection (a). The report shall include—

(1) a cost-benefit analysis of the program;

(2) a discussion of the utilization requirements under the program; and

(3) recommendations regarding—

(A) whether the program should be extended so as to continue to provide training to military psychologists in the prescription of psychotropic medications; and

(B) any modifications that should be made in the manner in which military psychologists are trained and used to prescribe psychotropic medications so as to improve the training provided under the program, if the program is extended.

SEC. 743. WAIVER OF COLLECTION OF PAYMENTS DUE FROM CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.

(a) AUTHORITY TO WAIVE COLLECTION.—The administering Secretaries may waive the collection of payments otherwise due from a person described in subsection (b) as a result of the receipt by the person of health benefits under section 1086 of title 10, United States Code, after the termination of the person's eligibility for such benefits.

(b) PERSONS ELIGIBLE FOR WAIVER.—A person shall be eligible for relief under subsection (a) if the person—

(1) is a person described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;

(2) in the absence of such paragraph, would have been eligible for health benefits under such section; and

(3) at the time of the receipt of such benefits, satisfied the criteria specified in subparagraphs (A) and (B) of paragraph (2) of such subsection.

(c) EXTENT OF WAIVER AUTHORITY.—The authority to waive the collection of payments pursuant to this section shall apply with regard to health benefits provided under section 1086 of title 10, United States Code, to persons described in subsection (b) during the period beginning on January 1, 1967, and ending on the later of—

(1) the termination date of any special enrollment period provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) specifically for such persons; and

(2) July 1, 1996.

(d) DEFINITIONS.—For purposes of this section, the term ''administering Secretaries'' has the meaning given such term in section 1072(3) of title 10, United States Code.

SEC. 744. DEMONSTRATION PROGRAM TO TRAIN MILITARY MEDICAL PERSONNEL IN CIVILIAN SHOCK TRAUMA UNITS.

(a) DEMONSTRATION PROGRAM.—(1) Not later than April 1, 1996, the Secretary of Defense shall implement a demonstration program to evaluate the feasibility of providing shock trauma training for military medical personnel through one or more public or nonprofit hospitals. The Secretary shall carry out the program pursuant to an agreement with such hospitals.

(2) Under the agreement with a hospital, the Secretary shall assign military medical personnel participating in the demonstration program to temporary duty in shock trauma units operated by the hospitals that are parties to the agreement.

(3) The agreement shall require, as consideration for the services provided by military medical personnel under the agreement, that the hospital provide appropriate care to members of the Armed Forces and to other persons whose care in the hospital would otherwise require reimbursement by the Secretary. The value of the services provided by the hospitals shall be at least equal to the value of the services provided by military medical personnel under the agreement.

(b) TERMINATION OF PROGRAM.—The authority of the Secretary of Defense to conduct the demonstration program under this section, and any agreement entered into under the demonstration program, shall expire on March 31, 1998.

(c) REPORT AND EVALUATION OF PROGRAM.—(1) Not later than March 1 of each year in which the demonstration program is conducted under this section, the Secretary of Defense shall submit to Congress a report describing the scope and activities of the demonstration program during the preceding year.

(2) Not later than May 1, 1998, the Comptroller General of the United States shall submit to Congress a report evaluating the effectiveness of the demonstration program in providing shock trauma training for military medical personnel.

SEC. 745. STUDY REGARDING DEPARTMENT OF DEFENSE EFFORTS TO DETERMINE APPROPRIATE FORCE LEVELS OF WARTIME MEDICAL PERSONNEL.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to evaluate the reasonableness of the models used by each military department for determining the appropriate wartime force level for medical personnel in the department. The study shall include the following:

(1) An assessment of the modeling techniques used by each department.

(2) An analysis of the data used in the models to identify medical personnel requirements.

(3) An identification of the ability of the models to integrate personnel of reserve components to meet department requirements.

(4) An evaluation of the ability of the Secretary of Defense to integrate the various modeling efforts into a comprehensive, coordinated plan for obtaining the optimum force level for wartime medical personnel.

(b) REPORT OF STUDY.—Not later than June 30, 1996, the Comptroller General shall report to Congress on the results of the study conducted under subsection (a).

SEC. 746. REPORT ON IMPROVED ACCESS TO MILITARY HEALTH CARE FOR COVERED BENEFICIARIES ENTITLED TO MEDICARE.

Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report evaluating the feasibility, costs, and consequences for the military health care system of improving access to the system for covered beneficiaries under chapter 55 of title 10, United States Code, who have limited access to military medical treatment facilities and are ineligible for the Civilian Health and Medical Program of the Uniformed Services under section 1086(d)(1) of such title. The alternatives that the Secretary shall consider to improve access for such covered beneficiaries shall include—

(1) whether CHAMPUS should serve as a second payer for covered beneficiaries who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); and

(2) whether such covered beneficiaries should be offered enrollment in the Federal Employees Health Benefits program under chapter 89 of title 5, United States Code.

SEC. 747. REPORT ON EFFECT OF CLOSURE OF FITZSIMONS ARMY MEDICAL CENTER, COLORADO, ON PROVISION OF CARE TO MILITARY PERSONNEL, RETIRED MILITARY PERSONNEL, AND THEIR DEPENDENTS.

(a) EFFECT OF CLOSURE ON MEMBERS EXPERIENCING HEALTH DIFFICULTIES ASSOCIATED WITH PERSIAN GULF SYNDROME.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report that—

(1) assesses the effects of the closure of Fitzsimons Army Medical Center, Colorado, on the capability of the Department of Defense to provide appropriate and adequate health care to members and former members of the Armed Forces who suffer from undiagnosed illnesses (or combination of illnesses) as a result of service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf conflict; and

(2) describes the plans of the Secretary of Defense and the Secretary of the Army to ensure that adequate and appropriate health care is provided to such members for such illnesses (or combination of illnesses).

(b) EFFECT OF CLOSURE ON OTHER COVERED BENEFICIARIES.—The report required by subsection (a) shall also include—

(1) an assessment of the effects of the closure of Fitzsimons Army Medical Center on the capability of the Department of Defense to provide appropriate and adequate health care to the dependents of members and former members of the Armed Forces and retired members and their dependents who currently obtain care at the medical center; and

(2) a description of the plans of the Secretary of Defense and the Secretary of the Army to ensure that adequate and appropriate health care is provided to such persons, as called for in the recommendations of the Secretary of Defense for the closure of Fitzsimons Army Medical Center.

SEC. 748. SENSE OF CONGRESS ON CONTINUITY OF HEALTH CARE SERVICES FOR COVERED BENEFICIARIES ADVERSELY AFFECTED BY CLOSURES OF MILITARY MEDICAL TREATMENT FACILITIES.

(a) FINDINGS.—Congress finds the following:

(1) Military installations selected for closure in the 1991 and 1993 rounds of the base closure process will soon close.

(2) Additional military installations have been selected for closure in the 1995 round of the base closure process.

(3) Some of the military installations selected for closure include military medical treatment facilities.

(4) As a result of these base closures, tens of thousands of covered beneficiaries under chapter 55 of title 10, United States Code, who reside in the vicinity of such installations will be left without immediate access to military medical treatment facilities.

(b) SENSE OF CONGRESS.—In light of the findings specified in subsection (a), it is the sense of Congress that the Secretary of Defense should take all appropriate steps necessary to ensure the continuation of medical and pharmaceutical benefits for covered beneficiaries adversely affected by the closure of military installations.

SEC. 749. STATE RECOGNITION OF MILITARY ADVANCE MEDICAL DIRECTIVES.

(a) REQUIREMENT FOR RECOGNITION BY STATES.—(1) Chapter 53 of title 10, United States Code, is amended by inserting after section 1044b the following new section:

''§ 1044c. Advance medical directives of members and dependents: requirement for recognition by States

''(a) INSTRUMENTS TO BE GIVEN LEGAL EFFECT WITHOUT REGARD TO STATE LAW.—An advance medical directive executed by a person eligible for legal assistance—

''(1) is exempt from any requirement of form, substance, formality, or recording that is provided for advance medical directives under the laws of a State; and

''(2) shall be given the same legal effect as an advance medical directive prepared and executed in accordance with the laws of the State concerned.

''(b) ADVANCE MEDICAL DIRECTIVES.—For purposes of this section, an advance medical directive is any written declaration that—

''(1) sets forth directions regarding the provision, withdrawal, or withholding of life-prolonging procedures, including hydration and sustenance, for the declarant whenever the declarant has a terminal physical condition or is in a persistent vegetative state; or

''(2) authorizes another person to make health care decisions for the declarant, under circumstances stated in the declaration, whenever the declarant is incapable of making informed health care decisions.

''(c) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed by the Secretary concerned, an advance medical directive prepared by an attorney authorized to provide legal assistance shall contain a statement that sets forth the provisions of subsection (a).

''(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to an advance medical directive that does not include a statement described in that paragraph.

''(d) STATES NOT RECOGNIZING ADVANCE MEDICAL DIRECTIVES.—Subsection (a) does not make an advance medical directive enforceable in a State that does not otherwise recognize and enforce advance medical directives under the laws of the State.

''(e) DEFINITIONS.—In this section:

''(1) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

''(2) The term 'person eligible for legal assistance' means a person who is eligible for legal assistance under section 1044 of this title.

''(3) The term 'legal assistance' means legal services authorized under section 1044 of this title.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1044b the following:

''1044c. Advance medical directives of members and dependents: requirement for recognition by States.''.

(b) EFFECTIVE DATE.—Section 1044c of title 10, United States Code, shall take effect on the date of the enactment of this Act and shall apply to advance medical directives referred to in that section that are executed before, on, or after that date.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Reform

SEC. 801. INAPPLICABILITY OF LIMITATION ON EXPENDITURE OF APPROPRIATIONS TO CONTRACTS AT OR BELOW SIMPLIFIED ACQUISITION THRESHOLD.

Section 2207 of title 10, United States Code, is amended—

(1) by inserting ''(a)'' before ''Money appropriated''; and

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

''(b) This section does not apply to a contract that is for an amount not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).''.

SEC. 802. AUTHORITY TO DELEGATE CONTRACTING AUTHORITY.

(a) REPEAL OF DUPLICATIVE AUTHORITY AND RESTRICTION.—Section 2356 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of title 10, United States Code, is amended by striking out the item relating to section 2356.

SEC. 803. CONTROL IN PROCUREMENTS OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS.

(a) REPEAL.—Section 2383 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2383.

SEC. 804. FEES FOR CERTAIN TESTING SERVICES.

Section 2539b(c) of title 10, United States Code, is amended by inserting ''and indirect'' after ''recoup the direct'' in the second sentence.

SEC. 805. COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES.

Section 2364 of title 10, United States Code, is amended—

(1) in subsection (b)(5), by striking out ''milestone O, milestone I, and milestone II'' and inserting in lieu thereof ''acquisition program''; and

(2) in subsection (c), by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

''(2) The term 'acquisition program decision' has the meaning prescribed by the Secretary of Defense in regulations.''.

SEC. 806. ADDITION OF CERTAIN ITEMS TO DOMESTIC SOURCE LIMITATION.

(a) LIMITATION.—(1) Paragraph (3) of section 2534(a) of title 10, United States Code, is amended to read as follows:

''(3) COMPONENTS FOR NAVAL VESSELS.—(A) The following components:

''(i) Air circuit breakers.

''(ii) Welded shipboard anchor and mooring chain with a diameter of four inches or less.

''(iii) Vessel propellers with a diameter of six feet or more.

''(B) The following components of vessels, to the extent they are unique to marine applications: gyrocompasses, electronic navigation chart systems, steering controls, pumps, propulsion and machinery control systems, and totally enclosed lifeboats.''.

(2) Subsection (b) of section 2534 of such title is amended by adding at the end the following:

''(3) MANUFACTURER OF VESSEL PROPELLERS.—In the case of a procurement of vessel propellers referred to in subsection (a)(3)(A)(ii), the manufacturer of the propellers meets the requirements of this subsection only if—

''(A) the manufacturer meets the requirements set forth in paragraph (1); and

''(B) all castings incorporated into such propellers are poured and finished in the United States.''.

(3) Paragraph (1) of section 2534(c) of such title is amended to read as follows:

''(1) COMPONENTS FOR NAVAL VESSELS.—Subsection (a) does not apply to a procurement of spare or repair parts needed to support components for naval vessels produced or manufactured outside the United States.''.

(4) Section 2534 of such title is amended by adding at the end the following new subsection:

''(h) IMPLEMENTATION OF NAVAL VESSEL COMPONENT LIMITATION.—In implementing subsection (a)(3)(B), the Secretary of Defense—

''(1) may not use contract clauses or certifications; and

''(2) shall use management and oversight techniques that achieve the objective of the subsection without imposing a significant management burden on the Government or the contractor involved.''.

(5) Subsection (a)(3)(B) of section 2534 of title 10, United States Code, as amended by paragraph (1), shall apply only to contracts entered into after March 31, 1996.

(b) EXTENSION OF LIMITATION RELATING TO BALL BEARINGS AND ROLLER BEARINGS.—Section 2534(c)(3) of such title is amended by striking out ''October 1, 1995'' and inserting in lieu thereof ''October 1, 2000''.

(c) TERMINATION OF VESSEL PROPELLER LIMITATION.—Section 2534(c) of such title is amended by adding at the end the following new paragraph:

''(4) VESSEL PROPELLERS.—Subsection (a)(3)(A)(iii) and this paragraph shall cease to be effective on the date occurring two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.''.

(d) INAPPLICABILITY OF SIMPLIFIED ACQUISITION LIMITATION TO CONTRACTS FOR BALL BEARINGS AND ROLLER BEARINGS.—Section 2534(g) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' before ''This section''; and

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

''(2) Paragraph (1) does not apply to contracts for items described in subsection (a)(5) (relating to ball bearings and roller bearings), notwithstanding section 33 of the Office of Federal Procurement Policy Act (41 U.S.C. 429).''.

SEC. 807. ENCOURAGEMENT OF USE OF LEASING AUTHORITY.

(a) IN GENERAL.—(1) Section 2401a of title 10, United States Code, is amended—

(A) by inserting before ''The Secretary of Defense'' the following subsection heading: ''(b) LIMITATION ON CONTRACTS WITH TERMS OF 18 MONTHS OR MORE.—'';

(B) by inserting after the section heading the following:

''(a) LEASING OF COMMERCIAL VEHICLES AND EQUIPMENT.—The Secretary of Defense may use leasing in the acquisition of commercial vehicles and equipment whenever the Secretary determines that leasing of such vehicles is practicable and efficient.''; and

(C) by amending the section heading to read as follows:

''§ 2401a. Lease of vehicles, equipment, vessels, and aircraft''.

(2) The item relating to section 2401a in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

''2401a. Lease of vehicles, equipment, vessels, and aircraft.''.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth changes in legislation that would be required to facilitate the use of leasing in the acquisition of equipment by the Department of Defense.

(c) PILOT PROGRAM.—(1) The Secretary of the Army may conduct a pilot program for leasing commercial utility cargo vehicles in accordance with this subsection.

(2) Under the pilot program—

(A) the Secretary may trade existing commercial utility cargo vehicles of the Army for credit against the costs of leasing new replacement commercial utility cargo vehicles for the Army;

(B) the quantities and trade-in value of commercial utility cargo vehicles to be traded in shall be subject to negotiation between the Secretary and the lessors of the new replacement commercial utility cargo vehicles;

(C) the lease agreement for a new commercial utility cargo vehicle may be executed with or without an option to purchase at the end of the lease period;

(D) the lease period for a new commercial utility cargo vehicle may not exceed the warranty period for the vehicle; and

(E) up to 40 percent of the validated requirement for commercial utility cargo vehicles may be satisfied by leasing such vehicles, except that one or more options for satisfying the remainder of the validated requirement may be provided for and exercised (subject to the requirements of paragraph (6)).

(3) In awarding contracts under the pilot program, the Secretary shall comply with section 2304 of title 10, United States Code.

(4) The pilot program may not be commenced until—

(A) the Secretary submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report that contains the plans of the Secretary for implementing the program and that sets forth in detail the savings in operating and support costs expected to be derived from retiring older commercial utility cargo vehicles, as compared to the expected costs of leasing newer commercial utility cargo vehicles; and

(B) a period of 30 calendar days has elapsed after submission of such report.

(5) Not later than one year after the date on which the first lease under the pilot program is entered into, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the status of the pilot program. Such report shall be based on at least six months of experience in operating the pilot program.

(6) The Secretary may exercise an option provided for under paragraph (2) only after a period of 60 days has elapsed after the submission of the report.

(7) No lease of commercial utility cargo vehicles may be entered into under the pilot program after September 30, 2000.

SEC. 808. COST REIMBURSEMENT RULES FOR INDIRECT COSTS ATTRIBUTABLE TO PRIVATE SECTOR WORK OF DEFENSE CONTRACTORS.

(a) DEFENSE CAPABILITY PRESERVATION AGREEMENT.—The Secretary of Defense may enter into an agreement, to be known as a ''defense capability preservation agreement'', with a defense contractor under which the cost reimbursement rules described in subsection (b) shall be applied. Such an agreement may be entered into in any case in which the Secretary determines that the application of such cost reimbursement rules would facilitate the achievement of the policy objectives set forth in section 2501(b) of title 10, United States Code.

(b) COST REIMBURSEMENT RULES.—(1) The cost reimbursement rules applicable under an agreement entered into under subsection (a) are as follows:

(A) The Department of Defense shall, in determining the reimbursement due a contractor for its indirect costs of performing a defense contract, allow the contractor to allocate indirect costs to its private sector work only to the extent of the contractor's allocable indirect private sector costs, subject to subparagraph (C).

(B) For purposes of subparagraph (A), the allocable indirect private sector costs of a contractor are those costs of the contractor that are equal to the sum of—

(i) the incremental indirect costs attributable to such work; and

(ii) the amount by which the revenue attributable to such private sector work exceeds the sum of—

(I) the direct costs attributable to such private sector work; and

(II) the incremental indirect costs attributable to such private sector work.

(C) The total amount of allocable indirect private sector costs for a contract in any year of the agreement may not exceed the amount of indirect costs that a contractor would have allocated to its private sector work during that year in accordance with the contractor's established accounting practices.

(2) The cost reimbursement rules set forth in paragraph (1) may be modified by the Secretary of Defense if the Secretary of Defense determines that modifications are appropriate to the particular situation to facilitate achievement of the policy set forth in section 2501(b) of title 10, United States Code.

(c) IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall establish application procedures and procedures for expeditious consideration of defense capability preservation agreements as authorized by this section.

(d) CONTRACTS COVERED.—An agreement entered into with a contractor under subsection (a) shall apply to each Department of Defense contract with the contractor in effect on the date on which the agreement is entered into and each Department of Defense contract that is awarded to the contractor during the term of the agreement.

(e) REPORTS.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth—

(1) the number of applications received and the number of applications approved for defense capability preservation agreements; and

(2) any changes to the authority in this section that the Secretary recommends to further facilitate the policy set forth in section 2501(b) of title 10, United States Code.

SEC. 809. SUBCONTRACTS FOR OCEAN TRANSPORTATION SERVICES.

Notwithstanding any other provision of law, neither section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)) nor section 2631 of title 10, United States Code, shall be included before May 1, 1996, on any list promulgated under section 34(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 430(b)).

SEC. 810. PROMPT RESOLUTION OF AUDIT RECOMMENDATIONS.

Section 6009 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3367) is amended to read as follows:

"SEC. 6009. PROMPT MANAGEMENT DECISIONS AND IMPLEMENTATION OF AUDIT RECOMMENDATIONS.

''(a) MANAGEMENT DECISIONS.—(1) The head of a Federal agency shall make management decisions on all findings and recommendations set forth in an audit report of the inspector general of the agency within a maximum of six months after the issuance of the report.

''(2) The head of a Federal agency shall make management decisions on all findings and recommendations set forth in an audit report of any auditor from outside the Federal Government within a maximum of six months after the date on which the head of the agency receives the report.

''(b) COMPLETION OF FINAL ACTION.—The head of a Federal agency shall complete final action on each management decision required with regard to a recommendation in an inspector general's report under subsection (a)(1) within 12 months after the date of the inspector general's report. If the head of the agency fails to complete final action with regard to a management decision within the 12-month period, the inspector general concerned shall identify the matter in each of the inspector general's semiannual reports pursuant to section 5(a)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) until final action on the management decision is completed.''.

SEC. 811. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SUBCONTRACTING PLANS.

(a) REVISION OF AUTHORITY.—Subsection (a) of section 834 of National Defense Authorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

''(1) The Secretary of Defense shall establish a test program under which contracting activities in the military departments and the Defense Agencies are authorized to undertake one or more demonstration projects to determine whether the negotiation and administration of comprehensive subcontracting plans will reduce administrative burdens on contractors while enhancing opportunities provided under Department of Defense contracts for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. In selecting the contracting activities to undertake demonstration projects, the Secretary shall take such action as is necessary to ensure that a broad range of the supplies and services acquired by the Department of Defense are included in the test program.''.

(b) COVERED CONTRACTORS.—Subsection (b) of such section is amended by striking out paragraph (3) and inserting in lieu thereof the following:

''(3) A Department of Defense contractor referred to in paragraph (1) is, with respect to a comprehensive subcontracting plan negotiated in any fiscal year, a business concern that, during the immediately preceding fiscal year, furnished the Department of Defense with supplies or services (including professional services, research and development services, and construction services) pursuant to at least three Department of Defense contracts having an aggregate value of at least $5,000,000.''.

(c) TECHNICAL AMENDMENTS.—Such section is amended—

(1) by striking out subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

SEC. 812. PROCUREMENT OF ITEMS FOR EXPERIMENTAL OR TEST PURPOSES.

Section 2373(b) of title 10, United States Code, is amended by inserting ''only'' after ''applies'' in the second sentence.

SEC. 813. USE OF FUNDS FOR ACQUISITION OF DESIGNS, PROCESSES, TECHNICAL DATA, AND COMPUTER SOFTWARE.

Section 2386(3) of title 10, United States Code, is amended to read as follows:

''(3) Design and process data, technical data, and computer software.''.

SEC. 814. INDEPENDENT COST ESTIMATES FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

Section 2434(b)(1)(A) of title 10, United States Code, is amended to read as follows:

''(A) be prepared—

''(i) by an office or other entity that is not under the supervision, direction, or control of the military department, Defense Agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program; or

''(ii) if the decision authority for the program has been delegated to an official of a military department, Defense Agency, or other component of the Department of Defense, by an office or other entity that is not directly responsible for carrying out the development or acquisition of the program; and''.

SEC. 815. CONSTRUCTION, REPAIR, ALTERATION, FURNISHING, AND EQUIPPING OF NAVAL VESSELS.

(a) APPLICABILITY OF CERTAIN LAW.—Chapter 633 of title 10, United States Code, is amended by inserting after section 7297 the following:

"§ 7299. Contracts: applicability of Walsh-Healey Act

''Each contract for the construction, alteration, furnishing, or equipping of a naval vessel is subject to the Walsh-Healey Act (41 U.S.C. 35 et seq.) unless the President determines that this requirement is not in the interest of national defense.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7297 the following:

''7299. Contracts: applicability of Walsh-Healey Act.''.

Subtitle B—Other Matters

SEC. 821. PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

(a) FUNDING.—Of the amount authorized to be appropriated under section 301(5), $12,000,000 shall be available for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts made available pursuant to subsection (a), $600,000 shall be available for fiscal year 1996 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

SEC. 822. DEFENSE FACILITY-WIDE PILOT PROGRAM.

(a) AUTHORITY TO CONDUCT DEFENSE FACILITY-WIDE PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program, to be known as the ''defense facility-wide pilot program'', for the purpose of determining the potential for increasing the efficiency and effectiveness of the acquisition process in facilities by using commercial practices on a facility-wide basis.

(b) DESIGNATION OF PARTICIPATING FACILITIES.—(1) Subject to paragraph (2), the Secretary may designate up to two facilities as participants in the defense facility-wide pilot program.

(2) The Secretary may designate for participation in the pilot program only those facilities that are authorized to be so designated in a law authorizing appropriations for national defense programs that is enacted after the date of the enactment of this Act.

(c) SCOPE OF PROGRAM.—At a facility designated as a participant in the pilot program, the pilot program shall consist of the following:

(1) All contracts and subcontracts for defense supplies and services that are performed at the facility.

(2) All Department of Defense contracts and all subcontracts under Department of Defense contracts performed elsewhere that

the Secretary determines are directly and substantially related to the production of defense supplies and services at the facility and are necessary for the pilot program.

(d) CRITERIA FOR DESIGNATION OF PARTICIPATING FACILITIES.—The Secretary shall establish criteria for selecting a facility for designation as a participant in the pilot program. In developing such criteria, the Secretary shall consider the following:

(1) The number of existing and anticipated contracts and subcontracts performed at the facility—

(A) for which contractors are required to provide certified cost or pricing data pursuant to section 2306a of title 10, United States Code; and

(B) which are administered with the application of cost accounting standards under section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)).

(2) The relationship of the facility to other organizations and facilities performing under contracts with the Department of Defense and subcontracts under such contracts.

(3) The impact that the participation of the facility under the pilot program would have on competing domestic manufacturers.

(4) Such other factors as the Secretary considers appropriate.

(e) NOTIFICATION.—(1) The Secretary shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a written notification of each facility proposed to be designated by the Secretary for participation in the pilot program.

(2) The Secretary shall include in the notification regarding a facility designated for participation in the program a management plan addressing the following:

(A) The proposed treatment of research and development contracts or subcontracts to be performed at the facility during the pilot program.

(B) The proposed treatment of the cost impact of the use of commercial practices on the award and administration of contracts and subcontracts performed at the facility.

(C) The proposed method for reimbursing the contractor for existing and new contracts.

(D) The proposed method for measuring the performance of the facility for meeting the management goals of the Secretary.

(E) Estimates of the annual amount and the total amount of the contracts and subcontracts covered under the pilot program.

(3)(A) The Secretary shall ensure that the management plan for a facility provides for attainment of the following objectives:

(i) A significant reduction of the cost to the Government for programs carried out at the facility.

(ii) A reduction of the schedule associated with programs carried out at the facility.

(iii) An increased use of commercial practices and procedures for programs carried out at the facility.

(iv) Protection of a domestic manufacturer competing for contracts at such facility from being placed at a significant competitive disadvantage by the participation of the facility in the pilot program.

(B) The management plan for a facility shall also require that all or substantially all of the contracts to be awarded and performed at the facility after the designation of that facility under subsection (b), and all or substantially all of the subcontracts to be awarded under those contracts and performed at the facility after the designation, be—

(i) for the production of supplies or services on a firm-fixed price basis;

(ii) awarded without requiring the contractors or subcontractors to provide certified cost or pricing data pursuant to section 2306a of title 10, United States Code; and

(iii) awarded and administered without the application of cost accounting standards under section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)).

(f) EXEMPTION FROM CERTAIN REQUIREMENTS.—In the case of a contract or subcontract that is to be performed at a facility designated for participation in the defense facility-wide pilot program and that is subject to section 2306a of title 10, United States Code, or section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)), the Secretary of Defense may exempt such contract or subcontract from the requirement to obtain certified cost or pricing data under such section 2306a or the requirement to apply mandatory cost accounting standards under such section 26(f) if the Secretary determines that the contract or subcontract—

(1) is within the scope of the pilot program (as described in subsection (c)); and

(2) is fairly and reasonably priced based on information other than certified cost and pricing data.

(g) SPECIAL AUTHORITY.—The authority provided under subsection (a) includes authority for the Secretary of Defense—

(1) to apply any amendment or repeal of a provision of law made in this Act to the pilot program before the effective date of such amendment or repeal; and

(2) to apply to a procurement of items other than commercial items under such program—

(A) the authority provided in section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430) to waive a provision of law in the case of commercial items, and

(B) any exception applicable under this Act or the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) (or an amendment made by a provision of either Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

(h) APPLICABILITY.—(1) Subsections (f) and (g) apply to the following contracts, if such contracts are within the scope of the pilot program at a facility designated for the pilot program under subsection (b):

(A) A contract that is awarded or modified during the period described in paragraph (2).

(B) A contract that is awarded before the beginning of such period, that is to be performed (or may be performed), in whole or in part, during such period, and that may be modified as appropriate at no cost to the Government.

(2) The period referred to in paragraph (1), with respect to a facility designated under subsection (b), is the period that—

(A) begins 45 days after the date of the enactment of the Act authorizing the designation of that facility in accordance with paragraph (2) of such subsection; and

(B) ends on September 30, 2000.

(i) COMMERCIAL PRACTICES ENCOURAGED.—With respect to contracts and subcontracts within the scope of the defense facility-wide pilot program, the Secretary of Defense may, to the extent the Secretary determines appropriate and in accordance with applicable law, adopt commercial practices in the administration of contracts and subcontracts. Such commercial practices may include the following:

(1) Substitution of commercial oversight and inspection procedures for Government audit and access to records.

(2) Incorporation of commercial oversight, inspection, and acceptance procedures.

(3) Use of alternative dispute resolution techniques (including arbitration).

(4) Elimination of contract provisions authorizing the Government to make unilateral changes to contracts.

SEC. 823. TREATMENT OF DEPARTMENT OF DEFENSE CABLE TELEVISION FRANCHISE AGREEMENTS.

Not later than 180 days after the date of the enactment of this Act, the chief judge of the United States Court of Federal Claims shall transmit to Congress a report containing an advisory opinion on the following two questions:

(1) Is it within the power of the executive branch to treat cable television franchise agreements for the construction, installation, or capital improvement of cable television systems at military installations of the Department of Defense as contracts under part 49 of the Federal Acquisition Regulation without violating title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.)?

(2) If the answer to the question in paragraph (1) is in the affirmative, is the executive branch required by law to so treat such franchise agreements?

SEC. 824. EXTENSION OF PILOT MENTOR-PROTEGE PROGRAM.

Section 831(j)(1) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended by striking out ''1995'' and inserting in lieu thereof ''1996''.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

SEC. 901. ORGANIZATION OF THE OFFICE OF THE SECRETARY OF DEFENSE.

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

(1) The statutory provisions that as of the date of the enactment of this Act govern the organization of the Office of the Secretary of Defense have evolved from enactment of a number of executive branch legislative proposals and congressional initiatives over a period of years.

(2) The May 1995 report of the congressionally mandated Commission on Roles and Missions of the Armed Forces included a number of recommendations relating to the Office of the Secretary of Defense.

(3) The Secretary of Defense has decided to create a special Department task force and to conduct other reviews to review many of the Commission's recommendations.

(4) The Secretary of Defense has decided to institute a 5 percent per year reduction of civilian personnel assigned to the Office of the Secretary of Defense, including the Washington Headquarters Service and the Defense Support Activities, for the period from fiscal year 1996 through fiscal year 2001.

(5) Over the ten-year period from 1986 through 1995, defense spending in real dollars has been reduced by 34 percent and military end-strengths have been reduced by 28 percent. During the same period, the number of civilian employees of the Office of the Secretary of Defense has increased by 22 percent.

(6) To achieve greater efficiency and to revalidate the role and mission of the Office of the Secretary of Defense, a comprehensive review of the organizations and functions of that Office and of the personnel needed to carry out those functions is required.

(b) REVIEW.—The Secretary of Defense shall conduct a further review of the organizations and functions of the Office of the Secretary of Defense, including the Washington Headquarters Service and the Defense Support Activities, and the personnel needed to carry out those functions. The review shall include the following:

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

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

(3) An assessment of the advantages and disadvantages of the use of political appointees to fill the positions of the various Under Secretaries of Defense, Assistant Secretaries of Defense, and Deputy Under Secretaries of Defense.

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

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

(6) An assessment of the appropriate number of positions referred to in paragraph (3) and of Deputy Assistant Secretaries of Defense.

(7) An assessment of whether some or any of the functions currently performed by the Office of Humanitarian and Refugee Affairs are more properly or effectively performed by another agency of Government or elsewhere within the Department of Defense.

(8) An assessment of the efficacy of the Joint Requirements Oversight Council and whether it is advisable or necessary to establish a statutory charter for this organization.

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

(10) An assessment of the appropriate size, number, and functional responsibilities of the Defense Agencies and other Department of Defense support organizations.

(c) REPORT.—Not later than March 1, 1996, the Secretary of Defense shall submit to the congressional defense committees a report containing —

(1) his findings and conclusions resulting from the review under subsection (b); and

(2) a plan for implementing resulting recommendations, including proposals for legislation (with supporting rationale) that would be required as a result of the review.

(d) PERSONNEL REDUCTION.—(1) Effective October 1, 1999, the number of OSD personnel may not exceed 75 percent of the number of OSD personnel as of October 1, 1994.

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

(3) In carrying out reductions in the number of personnel assigned to, or employed in, the Office of the Department of Defense in order to comply with paragraph (1), the Secretary may not reassign functions solely in order to evade the requirement contained in that paragraph.

(4) If the Secretary of Defense determines, and certifies to Congress, that the limitation in paragraph (1) would adversely affect United States national security, the limitation under paragraph (1) shall be applied by substituting ''80 percent'' for ''75 percent''.

SEC. 902. REDUCTION IN NUMBER OF ASSISTANT SECRETARY OF DEFENSE POSITIONS.

(a) REDUCTION.—Section 138(a) of title 10, United States Code, is amended by striking out ''eleven'' and inserting in lieu thereof ''ten''.

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking out ''(11)'' after ''Assistant Secretaries of Defense'' and inserting in lieu thereof ''(10)''.

SEC. 903. DEFERRED REPEAL OF VARIOUS STATUTORY POSITIONS AND OFFICES IN OFFICE OF THE SECRETARY OF DEFENSE.

(a) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 31, 1997.

(b) TERMINATION OF SPECIFICATION BY LAW OF ASD POSITIONS.—Subsection (b) of section 138 of title 10, United States Code, is amended to read as follows:

''(b) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.''.

(c) REPEAL OF CERTAIN OSD PRESIDENTIAL APPOINTMENT POSITIONS.—The following sections of chapter 4 of such title are repealed:

(1) Section 133a, relating to the Deputy Under Secretary of Defense for Acquisition and Technology.

(2) Section 134a, relating to the Deputy Under Secretary of Defense for Policy.

(3) Section 134a, relating to the Director of Defense Research and Engineering.

(4) Section 142, relating to the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.

(d) DIRECTOR OF MILITARY RELOCATION ASSISTANCE PROGRAMS.—Section 1056 of such title is amended by striking out subsection (d).

(e) CONFORMING AMENDMENTS RELATING TO REPEAL OF VARIOUS OSD POSITIONS.—Chapter 4 of such title is further amended—

(1) in section 131(b)—

(A) by striking out paragraphs (6) and (8); and

(B) by redesignating paragraphs (7), (9), (10), and (11), as paragraphs (6), (7), (8), and (9), respectively;

(2) in section 138(d), by striking out ''the Under Secretaries of Defense, and the Director of Defense Research and Engineering'' and inserting in lieu thereof ''and the Under Secretaries of Defense''; and

(3) in the table of sections at the beginning of the chapter, by striking out the items relating to sections 133a, 134a, 137, 139, and 142.

(f) CONFORMING AMENDMENTS RELATING TO REPEAL OF SPECIFICATION OF ASD POSITIONS.—

(1) Section 176(a)(3) of title 10, United States Code, is amended—

(A) by striking out ''Assistant Secretary of Defense for Health Affairs'' and inserting in lieu thereof ''official in the Department of Defense with principal responsibility for health affairs''; and

(B) by striking out ''Chief Medical Director of the Department of Veterans Affairs'' and inserting in lieu thereof ''Under Secretary for Health of the Department of Veterans Affairs''.

(2) Section 1216(d) of such title is amended by striking out ''Assistant Secretary of Defense for Health Affairs'' and inserting in lieu thereof ''official in the Department of Defense with principal responsibility for health affairs''.

(3) Section 1587(d) of such title is amended by striking out ''Assistant Secretary of Defense for Manpower and Logistics'' and inserting in lieu thereof ''official in the Department of Defense with principal responsibility for personnel and readiness''.

(4) The text of section 10201 of such title is amended to read as follows:

''The official in the Department of Defense with responsibility for overall supervision of reserve component affairs of the Department of Defense is the official designated by the Secretary of Defense to have that responsibility.''.

(5) Section 1211(b)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (P.L. 100–180; 101 Stat 1155; 10 U.S.C. 167 note) is amended by striking out ''the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict'' and inserting in lieu thereof ''the official designated by the Secretary of Defense to have principal responsibility for matters relating to special operations and low intensity conflict''.

(g) REPEAL OF MINIMUM NUMBER OF SENIOR STAFF FOR SPECIFIED ASSISTANT SECRETARY OF DEFENSE.—Section 355 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1540) is repealed.

SEC. 904. REDESIGNATION OF THE POSITION OF ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY.

(a) IN GENERAL.—(1) Section 142 of title 10, United States Code, is amended—

(A) by striking out the section heading and inserting in lieu thereof the following:

''§ 142. Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs'';

(B) in subsection (a), by striking out ''Assistant to the Secretary of Defense for Atomic Energy'' and inserting in lieu thereof ''Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs''; and

(C) by striking out subsection (b) and inserting in lieu thereof the following:

''(b) The Assistant to the Secretary shall—

''(1) advise the Secretary of Defense on nuclear energy, nuclear weapons, and chemical and biological defense;

''(2) serve as the Staff Director of the Nuclear Weapons Council established by section 179 of this title; and

''(3) perform such additional duties as the Secretary may prescribe.''.

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

''142. Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.''.

(b) CONFORMING AMENDMENTS.—(1) Section 179(c)(2) of title 10, United States Code, is amended by striking out ''The Assistant to the Secretary of Defense for Atomic Energy'' and inserting in lieu thereof ''The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs''.

(2) Section 5316 of title 5, United States Code, is amended by striking out ''The Assistant to the Secretary of Defense for Atomic Energy, Department of Defense.'' and inserting in lieu thereof the following:

''Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, Department of Defense.''.

SEC. 905. JOINT REQUIREMENTS OVERSIGHT COUNCIL.

(a) IN GENERAL.—(1) Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 181. Joint Requirements Oversight Council

''(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Joint Requirements Oversight Council in the Department of Defense.

''(b) MISSION.—In addition to other matters assigned to it by the President or Secretary of Defense, the Joint Requirements Oversight Council shall—

''(1) assist the Chairman of the Joint Chiefs of Staff in identifying and assessing the priority of joint military requirements (including existing systems and equipment) to meet the national military strategy;

''(2) assist the Chairman in considering alternatives to any acquisition program that has been identified to meet military requirements by evaluating the cost, schedule, and performance criteria of the program and of the identified alternatives; and

''(3) as part of its mission to assist the Chairman in assigning joint priority among existing and future programs meeting valid requirements, ensure that the assignment of such priorities conforms to and reflects resource levels projected by the Secretary of Defense through defense planning guidance.

''(c) COMPOSITION.—(1) The Joint Requirements Oversight Council is composed of—

''(A) the Chairman of the Joint Chiefs of Staff, who is the chairman of the Council;

''(B) an Army officer in the grade of general;

''(C) a Navy officer in the grade of admiral;

''(D) an Air Force officer in the grade of general; and

''(E) a Marine Corps officer in the grade of general.

''(2) Members of the Council, other than the Chairman of the Joint Chiefs of Staff, shall be selected by the Chairman of the Joint Chiefs of Staff, after consultation with the Secretary of Defense, from officers in the grade of general or admiral, as the case may be, who are recommended for such selection by the Secretary of the military department concerned.

''(3) The functions of the Chairman of the Joint Chiefs of Staff as chairman of the Council may only be delegated to the Vice Chairman of the Joint Chiefs of Staff.''.

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

''181. Joint Requirements Oversight Council.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 31, 1997.

SEC. 906. RESTRUCTURING OF DEPARTMENT OF DEFENSE ACQUISITION ORGANIZATION AND WORKFORCE.

(a) RESTRUCTURING REPORT.—Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report on the acquisition organization and workforce of the Department of Defense. The report shall include—

(1) the plan described in subsection (b); and

(2) the assessment of streamlining and restructuring options described in subsection (c).

(b) PLAN FOR RESTRUCTURING.—(1) The Secretary shall include in the report under subsection (a) a plan on how to restructure the current acquisition organization of the Department of Defense in a manner that would enable the Secretary to accomplish the following:

(A) Reduce the number of military and civilian personnel assigned to, or employed in, acquisition organizations of the Department of Defense (as defined by the Secretary) by 25 percent over a period of five years, beginning on October 1, 1995.

(B) Eliminate duplication of functions among existing acquisition organizations of the Department of Defense.

(C) Maximize opportunity for consolidation among acquisition organizations of the Department of Defense to reduce management overhead.

(2) In the report, the Secretary shall also identify any statutory requirement or congressional directive that inhibits any proposed restructuring plan or reduction in the size of the defense acquisition organization.

(3) In designing the plan under paragraph (1), the Secretary shall give full consideration to the process efficiencies expected to be achieved through the implementation of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355), the Federal Acquisition Reform Act of 1995 (division D of this Act), and other ongoing initiatives to increase the use of commercial practices and reduce contract overhead in the defense procurement system.

(c) ASSESSMENT OF SPECIFIED RESTRUCTURING OPTIONS.—The Secretary shall include in the report under subsection (a) a detailed assessment of each of the following options for streamlining and restructuring the existing defense acquisition organization, together with a specific recommendation as to whether each such option should be implemented:

(1) Consolidation of certain functions of the Defense Contract Audit Agency and the Defense Contract Management Command.

(2) Contracting for performance of a significant portion of the workload of the Defense Contract Audit Agency and other Defense Agencies that perform acquisition functions.

(3) Consolidation or selected elimination of Department of Defense acquisition organizations.

(4) Any other defense acquisition infrastructure streamlining or restructuring option the Secretary may determine.

(d) REDUCTION OF ACQUISITION WORKFORCE.—(1) The Secretary of Defense shall accomplish reductions in defense acquisition personnel positions during fiscal year 1996 so that the total number of such personnel as of October 1, 1996, is less than the total number of such personnel as of October 1, 1995, by at least 15,000.

(2) For purposes of this subsection, the term ''defense acquisition personnel'' means military and civilian personnel assigned to, or employed in, acquisition organizations of the Department of Defense (as specified in Department of Defense Instruction numbered 5000.58 dated January 14, 1992) with the exception of personnel who possess technical competence in trade-skill maintenance and repair positions involved in performing depot maintenance functions.

SEC. 907. REPORT ON NUCLEAR POSTURE REVIEW AND ON PLANS FOR NUCLEAR WEAPONS MANAGEMENT IN EVENT OF ABOLITION OF DEPARTMENT OF ENERGY.

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress a report concerning the nuclear weapons complex. The report shall set forth—

(1) the Secretary's views on the effectiveness of the Department of Energy in managing the nuclear weapons complex, including the fulfillment of the requirements for nuclear weapons established for the Department of Energy in the Nuclear Posture Review; and

(2) the Secretary's recommended plan for the incorporation into the Department of Defense of the national security programs of the Department of Energy if the Department of Energy should be abolished and those programs be transferred to the Department of Defense.

(b) DEFINITION.—For purposes of this section, the term ''Nuclear Posture Review'' means the Department of Defense Nuclear Posture Review as contained in the report entitled ''Report of the Secretary of Defense to the President and the Congress'', dated February 19, 1995, or in subsequent such reports.

(c) SUBMISSION OF REPORT.—The report under subsection (a) shall be submitted not later than March 15, 1996.

SEC. 908. REDESIGNATION OF ADVANCED RESEARCH PROJECTS AGENCY.

(a) REDESIGNATION.—The agency in the Department of Defense known as the Advanced Research Projects Agency shall after the date of the enactment of this Act be designated as the Defense Advanced Research Projects Agency.

(b) REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States or in any provision of this Act to the Advanced Research Projects Agency shall be considered to be a reference to the Defense Advanced Research Projects Agency.

Subtitle B—Financial Management

SEC. 911. TRANSFER AUTHORITY REGARDING FUNDS AVAILABLE FOR FOREIGN CURRENCY FLUCTUATIONS.

(a) TRANSFERS TO MILITARY PERSONNEL ACCOUNTS AUTHORIZED.—Section 2779 of title 10, United States Code, is amended by adding at the end the following:

''(c) TRANSFERS TO MILITARY PERSONNEL ACCOUNTS.—The Secretary of Defense may transfer funds to military personnel appropriations for a fiscal year out of funds available to the Department of Defense for that fiscal year under the appropriation 'Foreign Currency Fluctuations, Defense'.''.

(b) REVISION AND CODIFICATION OF AUTHORITY FOR TRANSFERS TO FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—Section 2779 of such title, as amended by subsection (a), is further amended by adding at the end the following:

''(d) TRANSFERS TO FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—(1) The Secretary of Defense may transfer to the appropriation 'Foreign Currency Fluctuations, Defense' unobligated amounts of funds appropriated for operation and maintenance and unobligated amounts of funds appropriated for military personnel.

''(2) Any transfer from an appropriation under paragraph (1) shall be made not later than the end of the second fiscal year following the fiscal year for which the appropriation is provided.

''(3) Any transfer made pursuant to the authority provided in this subsection shall be limited so that the amount in the appropriation 'Foreign Currency Fluctuations, Defense' does not exceed $970,000,000 at the time the transfer is made.''.

(c) CONDITIONS OF AVAILABILITY FOR TRANSFERRED FUNDS.—Section 2779 of such title, as amended by subsection (b), is further amended by adding at the end the following:

''(e) CONDITIONS OF AVAILABILITY FOR TRANSFERRED FUNDS.—Amounts transferred under subsection (c) or (d) shall be merged with and be available for the same purposes and for the same period as the appropriations to which transferred.''.

(d) REPEAL OF SUPERSEDED PROVISIONS.—(1) Section 767A of Public Law 96–527 (94 Stat. 3093) is repealed.

(2) Section 791 of the Department of Defense Appropriation Act, 1983 (enacted in section 101(c) of Public Law 97–377; 96 Stat. 1865) is repealed.

(e) TECHNICAL AMENDMENTS.—Section 2779 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out ''(a)(1)'' and inserting in lieu thereof ''(a) TRANSFERS BACK TO FOREIGN CURRENCY FLUCTUATIONS APPROPRIATION.—(1)'';

(2) in subsection (a)(2), by striking out ''2d fiscal year'' and inserting in lieu thereof ''second fiscal year''; and

(3) in subsection (b), by striking out ''(b)(1)'' and inserting in lieu thereof ''(b) FUNDING FOR LOSSES IN MILITARY CONSTRUCTION AND FAMILY HOUSING.—(1)''.

(f) EFFECTIVE DATE.—Subsections (c) and (d) of section 2779 of title 10, United States Code, as added by subsections (a) and (b), and the repeals made by subsection (d), shall apply only with respect to amounts appropriated for a fiscal year after fiscal year 1995.

SEC. 912. DEFENSE MODERNIZATION ACCOUNT.

(a) ESTABLISHMENT AND USE.—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2215 the following new section:

"§ 2216. Defense Modernization Account

''(a) ESTABLISHMENT.—There is established in the Treasury an account to be known as the 'Defense Modernization Account'.

''(b) TRANSFERS TO ACCOUNT.—(1)(A) Upon a determination by the Secretary of a military department or the Secretary of Defense with respect to Defense-wide appropriations accounts of the availability and source of funds described in subparagraph (B), that Secretary may transfer to the Defense Modernization Account during any fiscal year any amount of funds available to the Secretary described in that subparagraph. Such funds may be transferred to that account only after the Secretary concerned notifies the congressional defense committees in writing of the amount and source of the proposed transfer.

''(B) This subsection applies to the following funds available to the Secretary concerned:

''(i) Unexpired funds in appropriations accounts that are available for procurement and that, as a result of economies, efficiencies, and other savings achieved in carrying out a particular procurement, are excess to the requirements of that procurement.

''(ii) Unexpired funds that are available during the final 30 days of a fiscal year for support of installations and facilities and that, as a result of economies, efficiencies, and other savings, are excess to the requirements for support of installations and facilities.

''(C) Any transfer under subparagraph (A) shall be made under regulations prescribed by the Secretary of Defense.

''(2) Funds referred to in paragraph (1) may not be transferred to the Defense Modernization Account if—

''(A) the funds are necessary for programs, projects, and activities that, as determined by the Secretary, have a higher priority than the purposes for which the funds would be available if transferred to that account; or

''(B) the balance of funds in the account, after transfer of funds to the account, would exceed $1,000,000,000.

''(3) Amounts credited to the Defense Modernization Account shall remain available for transfer until the end of the third fiscal year that follows the fiscal year in which the amounts are credited to the account.

''(4) The period of availability of funds for expenditure provided for in sections 1551 and 1552 of title 31 may not be extended by transfer into the Defense Modernization Account.

''(c) SCOPE OF USE OF FUNDS.—Funds transferred to the Defense Modernization Account from funds appropriated for a military department, Defense Agency, or other element of the Department of Defense shall be available in accordance with subsections (f) and (g) only for transfer to funds available for that military department, Defense Agency, or other element.

''(d) AUTHORIZED USE OF FUNDS.—Funds available from the Defense Modernization Account pursuant to subsection (f) or (g) may be used for the following purposes:

''(1) For increasing, subject to subsection (e), the quantity of items and services procured under a procurement program in order to achieve a more efficient production or delivery rate.

''(2) For research, development, test, and evaluation and for procurement necessary for modernization of an existing system or of a system being procured under an ongoing procurement program.

''(e) LIMITATIONS.—(1) Funds in the Defense Modernization Account may not be used to increase the quantity of an item or services procured under a particular procurement program to the extent that doing so would—

''(A) result in procurement of a total quantity of items or services in excess of—

''(i) a specific limitation provided by law on the quantity of the items or services that may be procured; or

''(ii) the requirement for the items or services as approved by the Joint Requirements Oversight Council and reported to Congress by the Secretary of Defense; or

''(B) result in an obligation or expenditure of funds in excess of a specific limitation provided by law on the amount that may be obligated or expended, respectively, for that procurement program.

''(2) Funds in the Defense Modernization Account may not be used for a purpose or program for which Congress has not authorized appropriations.

''(3) Funds may not be transferred from the Defense Modernization Account in any year for the purpose of—

''(A) making an expenditure for which there is no corresponding obligation; or

''(B) making an expenditure that would satisfy an unliquidated or unrecorded obligation arising in a prior fiscal year.

''(f) TRANSFER OF FUNDS.—(1) The Secretary of Defense may transfer funds in the Defense Modernization Account to appropriations available for purposes set forth in subsection (d).

''(2) Funds in the Defense Modernization Account may not be transferred under paragraph (1) until 30 days after the date on which the Secretary concerned notifies the congressional defense committees in writing of the amount and purpose of the proposed transfer.

''(3) The total amount of transfers from the Defense Modernization Account during any fiscal year under this subsection may not exceed $500,000,000.

''(g) AVAILABILITY OF FUNDS BY APPROPRIATION.—In addition to transfers under subsection (f), funds in the Defense Modernization Account may be made available for purposes set forth in subsection (d) in accordance with the provisions of appropriations Acts, but only to the extent authorized in an Act other than an appropriations Act.

''(h) SECRETARY TO ACT THROUGH COMPTROLLER.—The Secretary of Defense shall carry out this section through the Under Secretary of Defense (Comptroller), who shall be authorized to implement this section through the issuance of any necessary regulations, policies, and procedures after consultation with the General Counsel and Inspector General of the Department of Defense.

''(i) QUARTERLY REPORTS.—(1) Not later than 15 days after the end of each calendar quarter, the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) a report on the Defense Modernization Account. Each such report shall set forth the following:

''(A) The amount and source of each credit to the account during that quarter.

''(B) The amount and purpose of each transfer from the account during that quarter.

''(C) The balance in the account at the end of the quarter and, of such balance, the amount attributable to transfers to the account from each Secretary concerned.

''(2) The committees referred to in paragraph (1) are the congressional defense committees and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

''(j) DEFINITIONS.—In this section:

''(1) The term 'Secretary concerned' includes the Secretary of Defense with respect to Defense-wide appropriations accounts.

''(2) The term 'unexpired funds' means funds appropriated for a definite period that remain available for obligation.

''(3) The term 'congressional defense committees' means—

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

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

(2) The table of sections at the beginning of chapter 131 of such title is amended by inserting after the item relating to section 2215 the following new item:

''2216. Defense Modernization Account.''.

(b) EFFECTIVE DATE.—Section 2216 of title 10, United States Code (as added by subsection (a)), shall apply only to funds appropriated for fiscal years after fiscal year 1995.

(c) EXPIRATION OF AUTHORITY AND ACCOUNT.—(1) The authority under section 2216(b) of title 10, United States Code (as added by subsection (a)), to transfer funds into the Defense Modernization Account terminates at the close of September 30, 2003.

(2) Three years after the termination date specified in paragraph (1), the Defense Modernization Account shall be closed and any remaining balance in the account shall be canceled and thereafter shall not be available for any purpose.

(d) GAO REVIEWS.—(1) The Comptroller General of the United States shall conduct two reviews of the administration of the Defense Modernization Account. In each review, the Comptroller General shall assess the operations and benefits of the account.

(2) Not later than March 1, 2000, the Comptroller General shall—

(A) complete the first review; and

(B) submit to the specified committees of Congress an initial report on the administration and benefits of the Defense Modernization Account.

(3) Not later than March 1, 2003, the Comptroller General shall—

(A) complete the second review; and

(B) submit to the specified committees of Congress a final report on the administration and benefits of the Defense Modernization Account.

(4) Each such report shall include any recommended legislation regarding the account that the Comptroller General considers appropriate.

(5) For purposes of this subsection, the term ''specified committees of Congress'' means the congressional committees referred to in section 2216(i)(2) of title 10, United States Code, as added by subsection (a).

SEC. 913. DESIGNATION AND LIABILITY OF DISBURSING AND CERTIFYING OFFICIALS.

(a) DISBURSING OFFICIALS.—(1) Section 3321(c) of title 31, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

''(2) The Department of Defense.''.

(2) Section 2773 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking out ''With the approval of a Secretary of a military department when the Secretary considers it necessary, a disbursing official of the military department'' and inserting in lieu thereof ''Subject to paragraph (3), a disbursing official of the Department of Defense''; and

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

''(3) A disbursing official may make a designation under paragraph (1) only with the

approval of the Secretary of Defense or, in the case of a disbursing official of a military department, the Secretary of that military department.''; and

(B) in subsection (b)(1), by striking out ''any military department'' and inserting in lieu thereof ''the Department of Defense''.

(b) DESIGNATION OF MEMBERS OF THE ARMED FORCES TO HAVE AUTHORITY TO CERTIFY VOUCHERS.—Section 3325(b) of title 31, United States Code, is amended to read as follows:

''(b) In addition to officers and employees referred to in subsection (a)(1)(B) of this section as having authorization to certify vouchers, members of the armed forces under the jurisdiction of the Secretary of Defense may certify vouchers when authorized, in writing, by the Secretary to do so.''.

(c) CONFORMING AMENDMENTS.—(1) Section 1012 of title 37, United States Code, is amended by striking out ''Secretary concerned'' both places it appears and inserting in lieu thereof ''Secretary of Defense''.

(2) Section 1007(a) of title 37, United States Code, is amended by striking out ''Secretary concerned'' and inserting in lieu thereof ''Secretary of Defense, or upon the denial of relief of an officer pursuant to section 3527 of title 31''.

(3)(A) Section 7863 of title 10, United States Code, is amended—

(i) in the first sentence, by striking out ''disbursements of public moneys or'' and ''the money was paid or''; and

(ii) in the second sentence, by striking out ''disbursement or''.

(B)(i) The heading of such section is amended to read as follows:

''§ 7863. Disposal of public stores by order of commanding officer''.

(ii) The item relating to such section in the table of sections at the beginning of chapter 661 of such title is amended to read as follows:

''7863. Disposal of public stores by order of commanding officer.''.

(4) Section 3527(b)(1) of title 31, United States Code, is amended—

(A) by striking out ''a disbursing official of the armed forces'' and inserting in lieu thereof ''an official of the armed forces referred to in subsection (a)'';

(B) by striking out ''records,'' and inserting in lieu thereof ''records, or a payment described in section 3528(a)(4)(A) of this title,'';

(C) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), and realigning such clauses four ems from the left margin;

(D) by inserting before clause (i), as so redesignated, the following:

''(A) in the case of a physical loss or deficiency—'';

(E) in clause (iii), as so redesignated, by striking out the period at the end and inserting in lieu thereof ''; or''; and

(F) by adding at the end the following:

''(B) in the case of a payment described in section 3528(a)(4)(A) of this title, the Secretary of Defense or the Secretary of the appropriate military department, after taking a diligent collection action, finds that the criteria of section 3528(b)(1) of this title are satisfied.''.

(5) Section 3528 of title 31, United States Code, is amended by striking out subsection (d).

SEC. 914. FISHER HOUSE TRUST FUNDS.

(a) ESTABLISHMENT.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2221. Fisher House trust funds

''(a) ESTABLISHMENT.—The following trust funds are established on the books of the Treasury:

''(1) The Fisher House Trust Fund, Department of the Army.

''(2) The Fisher House Trust Fund, Department of the Air Force.

''(b) INVESTMENT.—Funds in the trust funds may be invested in securities of the United States. Earnings and gains realized from the investment of funds in a trust fund shall be credited to the trust fund.

''(c) USE OF FUNDS.—(1) Amounts in the Fisher House Trust Fund, Department of the Army, that are attributable to earnings or gains realized from investments shall be available for the operation and maintenance of Fisher houses that are located in proximity to medical treatment facilities of the Army.

''(2) Amounts in the Fisher House Trust Fund, Department of the Air Force, that are attributable to earnings or gains realized from investments shall be available for the operation and maintenance of Fisher houses that are located in proximity to medical treatment facilities of the Air Force.

''(3) The use of funds under this section is subject to section 1321(b)(2) of title 31.

''(d) FISHER HOUSE DEFINED.—In this section, the term 'Fisher house' means a housing facility that—

''(1) is located in proximity to a medical treatment facility of the Army or the Air Force; and

''(2) is available for residential use on a temporary basis by patients at such facilities, members of the family of such patients, and others providing the equivalent of familial support for such patients.''.

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

''2221. Fisher House trust funds.''.

(b) CORPUS OF TRUST FUNDS.—(1) The Secretary of the Treasury shall—

(A) close the accounts established with the funds that were required by section 8019 of Public Law 102–172 (105 Stat. 1175) and section 9023 of Public Law 102–396 (106 Stat. 1905) to be transferred to an appropriated trust fund; and

(B) transfer the amounts in such accounts to the Fisher House Trust Fund, Department of the Army, established by subsection (a)(1) of section 2221 of title 10, United States Code, as added by subsection (a).

(2) The Secretary of the Air Force shall transfer to the Fisher House Trust Fund, Department of the Air Force, established by subsection (a)(2) of section 2221 of title 10, United States Code (as added by section (a)), all amounts in the accounts for Air Force installations and other facilities that, as of the date of the enactment of this Act, are available for operation and maintenance of Fisher houses (as defined in subsection (d) of such section 2221).

(c) CONFORMING AMENDMENTS.—Section 1321 of title 31, United States Code, is amended—

(1) by adding at the end of subsection (a) the following:

''(92) Fisher House Trust Fund, Department of the Army.

''(93) Fisher House Trust Fund, Department of the Air Force.''; and

(2) in subsection (b)—

(A) by inserting ''(1)'' after ''(b)'';

(B) in the second sentence, by striking out ''Amounts accruing to these funds (except to the trust fund 'Armed Forces Retirement Home Trust Fund')'' and inserting in lieu thereof ''Except as provided in paragraph (2), amounts accruing to these funds'';

(C) by striking out the third sentence; and

(D) by adding at the end the following:

''(2) Expenditures from the following trust funds may be made only under annual appropriations and only if the appropriations are specifically authorized by law:

''(A) Armed Forces Retirement Home Trust Fund.

''(B) Fisher House Trust Fund, Department of the Army.

''(C) Fisher House Trust Fund, Department of the Air Force.''.

(d) REPEAL OF SUPERSEDED PROVISIONS.—The following provisions of law are repealed:

(1) Section 8019 of Public Law 102–172 (105 Stat. 1175).

(2) Section 9023 of Public Law 102–396 (106 Stat. 1905).

(3) Section 8019 of Public Law 103–139 (107 Stat. 1441).

(4) Section 8017 of Public Law 103–335 (108 Stat. 2620; 10 U.S.C. 1074 note).

SEC. 915. LIMITATION ON USE OF AUTHORITY TO PAY FOR EMERGENCY AND EXTRAORDINARY EXPENSES.

Section 127 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

''(c)(1) Funds may not be obligated or expended in an amount in excess of $500,000 under the authority of subsection (a) or (b) until the Secretary of Defense has notified the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives of the intent to obligate or expend the funds, and—

''(A) in the case of an obligation or expenditure in excess of $1,000,000, 15 days have elapsed since the date of the notification; or

''(B) in the case of an obligation or expenditure in excess of $500,000, but not in excess of $1,000,000, 5 days have elapsed since the date of the notification.

''(2) Subparagraph (A) or (B) of paragraph (1) shall not apply to an obligation or expenditure of funds otherwise covered by such subparagraph if the Secretary of Defense determines that the national security objectives of the United States will be compromised by the application of the subparagraph to the obligation or expenditure. If the Secretary makes a determination with respect to an obligation or expenditure under the preceding sentence, the Secretary shall immediately notify the committees referred to in paragraph (1) that such obligation or expenditure is necessary and provide any relevant information (in classified form, if necessary) jointly to the chairman and ranking minority member (or their designees) of such committees.

''(3) A notification under paragraph (1) and information referred to in paragraph (2) shall include the amount to be obligated or expended, as the case may be, and the purpose of the obligation or expenditure.''.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1996 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than

the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. INCORPORATION OF CLASSIFIED ANNEX.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the committee on conference to accompany the bill H.R. 1530 of the One Hundred Fourth Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

SEC. 1003. IMPROVED FUNDING MECHANISMS FOR UNBUDGETED OPERATIONS.

(a) REVISION OF FUNDING MECHANISM.—(1) Section 127a of title 10, United States Code, is amended to read as follows:

"§ 127a. Operations for which funds are not provided in advance: funding mechanisms

''(a) IN GENERAL.—(1) The Secretary of Defense shall use the procedures prescribed by this section with respect to any operation specified in paragraph (2) that involves—

''(A) the deployment (other than for a training exercise) of elements of the Armed Forces for a purpose other than a purpose for which funds have been specifically provided in advance; or

''(B) the provision of humanitarian assistance, disaster relief, or support for law enforcement (including immigration control) for which funds have not been specifically provided in advance.

''(2) This section applies to—

''(A) any operation the incremental cost of which is expected to exceed $50,000,000; and

''(B) any other operation the expected incremental cost of which, when added to the expected incremental costs of other operations that are currently ongoing, is expected to result in a cumulative incremental cost of ongoing operations of the Department of Defense in excess of $100,000,000.

Any operation the incremental cost of which is expected not to exceed $10,000,000 shall be disregarded for the purposes of subparagraph (B).

''(3) Whenever an operation to which this section applies is commenced or subsequently becomes covered by this section, the Secretary of Defense shall designate and identify that operation for the purposes of this section and shall promptly notify Congress of that designation (and of the identification of the operation).

''(4) This section does not provide authority for the President or the Secretary of Defense to carry out any operation, but establishes mechanisms for the Department of Defense by which funds are provided for operations that the armed forces are required to carry out under some other authority.

''(b) WAIVER OF REQUIREMENT TO REIMBURSE SUPPORT UNITS.—(1) The Secretary of Defense shall direct that, when a unit of the Armed Forces participating in an operation described in subsection (a) receives services from an element of the Department of Defense that operates through the Defense Business Operations Fund (or a successor fund), such unit of the Armed Forces may not be required to reimburse that element for the incremental costs incurred by that element in providing such services, notwithstanding any other provision of law or any Government accounting practice.

''(2) The amounts which but for paragraph (1) would be required to be reimbursed to an element of the Department of Defense (or a fund) shall be recorded as an expense attributable to the operation and shall be accounted for separately.

''(c) TRANSFER AUTHORITY.—(1) Whenever there is an operation of the Department of Defense described in subsection (a), the Secretary of Defense may transfer amounts described in paragraph (3) to accounts from which incremental expenses for that operation were incurred in order to reimburse those accounts for those incremental expenses. Amounts so transferred shall be merged with and be available for the same purposes as the accounts to which transferred.

''(2) The total amount that the Secretary of Defense may transfer under the authority of this section in any fiscal year is $200,000,000.

''(3) Transfers under this subsection may only be made from amounts appropriated to the Department of Defense for any fiscal year that remain available for obligation, other than amounts within any operation and maintenance appropriation that are available for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

''(4) The authority provided by this subsection is in addition to any other authority provided by law authorizing the transfer of amounts available to the Department of Defense. However, the Secretary may not use any such authority under another provision of law for a purpose described in paragraph (1) if there is authority available under this subsection for that purpose.

''(5) The authority provided by this subsection to transfer amounts may not be used to provide authority for an activity that has been denied authorization by Congress.

''(6) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

''(d) REPORT UPON DESIGNATION OF AN OPERATION.—Within 45 days after the Secretary of Defense identifies an operation pursuant to subsection (a)(2), the Secretary of Defense shall submit to Congress a report that sets forth the following:

''(1) The manner by which the Secretary proposes to obtain funds for the cost to the United States of the operation, including a specific discussion of how the Secretary proposes to restore balances in—

''(A) the Defense Business Operations Fund (or a successor fund), or

''(B) the accounts from which the Secretary transfers funds under the authority of subsection (c), to the levels that would have been anticipated but for the provisions of subsection (c).

''(2) If the operation is described in subsection (a)(1)(B), a justification why the budgetary resources of another department or agency of the Federal Government, instead of resources of the Department of Defense, are not being used for carrying out the operation.

''(3) The objectives of the operation.

''(4) The estimated duration of the operation and of any deployment of armed forces personnel in such operation.

''(5) The estimated incremental cost of the operation to the United States.

''(6) The exit criteria for the operation and for the withdrawal of the elements of the armed forces involved in the operation.

''(e) LIMITATIONS.—(1) The Secretary may not restore balances in the Defense Business Operations Fund through increases in rates charged by that fund in order to compensate for costs incurred and not reimbursed due to subsection (b).

''(2) The Secretary may not restore balances in the Defense Business Operations Fund or any other fund or account through the use of unobligated amounts in an operation and maintenance appropriation that are available within that appropriation for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

''(f) SUBMISSION OF REQUESTS FOR SUPPLEMENTAL APPROPRIATIONS.—It is the sense of Congress that whenever there is an operation described in subsection (a), the President should, not later than 90 days after the date on which notification is provided pursuant to subsection (a)(3), submit to Congress a request for the enactment of supplemental appropriations for the then-current fiscal year in order to provide funds to replenish the Defense Business Operations Fund or any other fund or account of the Department of Defense from which funds for the incremental expenses of that operation were derived under this section and should, as necessary, submit subsequent requests for the enactment of such appropriations.

''(g) INCREMENTAL COSTS.—For purposes of this section, incremental costs of the Department of Defense with respect to an operation are the costs of the Department that are directly attributable to the operation (and would not have been incurred but for the operation). Incremental costs do not include the cost of property or services acquired by the Department that are paid for by a source outside the Department or out of funds contributed by such a source.

''(h) RELATIONSHIP TO WAR POWERS RESOLUTION.—This section may not be construed as altering or superseding the War Powers Resolution. This section does not provide authority to conduct any military operation.

''(i) GAO COMPLIANCE REVIEWS.—The Comptroller General of the United States shall from time to time, and when requested by a committee of Congress, conduct a review of the defense funding structure under this section to determine whether the Department of Defense is complying with the requirements and limitations of this section.''.

(2) The item relating to section 127a in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

''127a. Operations for which funds are not provided in advance: funding mechanisms.''.

(b) EFFECTIVE DATE.—The amendment to section 127a of title 10, United States Code, made by subsection (a) shall take effect on the date of the enactment of this Act and

shall apply to any operation of the Department of Defense that is in effect on or after that date, whether such operation is begun before, on, or after such date of enactment. In the case of an operation begun before such date, any reference in such section to the commencement of such operation shall be treated as referring to the effective date under the preceding sentence.

SEC. 1004. OPERATION PROVIDE COMFORT.

(a) AUTHORIZATION OF AMOUNTS AVAILABLE.—Within the total amounts authorized to be appropriated in titles III and IV, there is hereby authorized to be appropriated for fiscal year 1996 for costs associated with Operation Provide Comfort—

(1) $136,300,000 for operation and maintenance costs; and

(2) $7,000,000 for incremental military personnel costs.

(b) REPORT.—Not more than $70,000,000 of the amount appropriated under subsection (a) may be obligated until the Secretary of Defense submits to the congressional defense committees a report on Operation Provide Comfort which includes the following:

(1) A detailed presentation of the projected costs to be incurred by the Department of Defense for Operation Provide Comfort during fiscal year 1996, together with a discussion of missions and functions expected to be performed by the Department as part of that operation during that fiscal year.

(2) A detailed presentation of the projected costs to be incurred by other departments and agencies of the Federal Government participating in or providing support to Operation Provide Comfort during fiscal year 1996.

(3) A discussion of available options to reduce the involvement of the Department of Defense in those aspects of Operation Provide Comfort that are not directly related to the military mission of the Department of Defense.

(4) A plan establishing an exit strategy for United States involvement in, and support for, Operation Provide Comfort.

(c) OPERATION PROVIDE COMFORT.—For purposes of this section, the term ''Operation Provide Comfort'' means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Provide Comfort.

SEC. 1005. OPERATION ENHANCED SOUTHERN WATCH.

(a) AUTHORIZATION OF AMOUNTS AVAILABLE.—Within the total amounts authorized to be appropriated in titles III and IV, there is hereby authorized to be appropriated for fiscal year 1996 for costs associated with Operation Enhanced Southern Watch—

(1) $433,400,000 for operation and maintenance costs; and

(2) $70,400,000 for incremental military personnel costs.

(b) REPORT.—(1) Of the amounts specified in subsection (a), not more than $250,000,000 may be obligated until the Secretary of Defense submits to the congressional defense committees a report designating Operation Enhanced Southern Watch, or significant elements thereof, as a forward presence operation for which funding should be budgeted as part of the annual defense budget process in the same manner as other activities of the Armed Forces involving forward presence or forward deployed forces.

(2) The report shall set forth the following:

(A) The expected duration and annual costs of the various elements of Operation Enhanced Southern Watch.

(B) Those elements of Operation Enhanced Southern Watch that are semi-permanent in nature and should be budgeted in the future as part of the annual defense budget process in the same manner as other activities of the Armed Forces involving forward presence or forward deployed forces.

(C) The political and military objectives associated with Operation Enhanced Southern Watch.

(D) The contributions (both in-kind and actual) by other nations to the costs of conducting Operation Enhanced Southern Watch.

(c) OPERATION ENHANCED SOUTHERN WATCH.—For purposes of this section, the term ''Operation Enhanced Southern Watch'' means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Enhanced Southern Watch.

SEC. 1006. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1995 DEFENSE APPROPRIATIONS.

(a) AUTHORITY.—The amounts described in subsection (b) may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1995 defense appropriations.

(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1995 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1995 defense authorizations.

(c) DEFINITIONS.—For the purposes of this section:

(1) FISCAL YEAR 1995 DEFENSE APPROPRIATIONS.—The term ''fiscal year 1995 defense appropriations'' means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1995 in the Department of Defense Appropriations Act, 1995 (Public Law 103–335).

(2) FISCAL YEAR 1995 DEFENSE AUTHORIZATIONS.—The term ''fiscal year 1995 defense authorizations'' means amounts authorized to be appropriated for the Department of Defense for fiscal year 1995 in the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

SEC. 1007. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1995.

(a) ADJUSTMENT TO PREVIOUS AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 1995 in the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in title I of the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Public Law 104–6; 109 Stat. 73).

(b) NEW AUTHORIZATION.—The appropriation provided in section 104 of such Act (109 Stat. 79) is hereby authorized.

SEC. 1008. AUTHORIZATION REDUCTIONS TO REFLECT SAVINGS FROM REVISED ECONOMIC ASSUMPTIONS.

(a) REDUCTION.—The total amount authorized to be appropriated in titles I, II, and III of this Act is hereby reduced by $832,000,000 to reflect savings from revised economic assumptions. Such reduction shall be made from accounts in those titles as follows:

Operation and Maintenance, Army, $54,000,000.

Operation and Maintenance, Navy, $80,000,000.

Operation and Maintenance, Marine Corps, $9,000,000.

Operation and Maintenance, Air Force, $51,000,000.

Operation and Maintenance, Defense-Wide, $36,000,000.

Operation and Maintenance, Army Reserve, $4,000,000.

Operation and Maintenance, Navy Reserve, $4,000,000.

Operation and Maintenance, Marine Corps Reserve, $1,000,000.

Operation and Maintenance, Air Force Reserve, $3,000,000.

Operation and Maintenance, Army National Guard, $7,000,000.

Operation and Maintenance, Air National Guard, $7,000,000.

Drug Interdiction and Counter-Drug Activities, Defense, $5,000,000.

Environmental Restoration, Defense, $11,000,000.

Overseas Humanitarian, Disaster, and Civic Aid, $1,000,000.

Former Soviet Union Threat Reduction, $2,000,000.

Defense Health Program, $51,000,000.

Aircraft Procurement, Army, $9,000,000.

Missile Procurement, Army, $5,000,000.

Procurement of Weapons and Tracked Combat Vehicles, Army, $10,000,000.

Procurement of Ammunition, Army, $6,000,000.

Other Procurement, Army, $17,000,000.

Aircraft Procurement, Navy, $29,000,000.

Weapons Procurement, Navy, $13,000,000.

Shipbuilding and Conversion, Navy, $42,000,000.

Other Procurement, Navy, $18,000,000.

Procurement, Marine Corps, $4,000,000.

Aircraft Procurement, Air Force, $50,000,000.

Missile Procurement, Air Force, $29,000,000.

Other Procurement, Air Force, $45,000,000.

Procurement, Defense-Wide, $16,000,000.

Chemical Agents and Munitions Destruction, Defense, $5,000,000.

Research, Development, Test and Evaluation, Army, $20,000,000.

Research, Development, Test and Evaluation, Navy, $50,000,000.

Research, Development, Test and Evaluation, Air Force, $79,000,000.

Research, Development, Test and Evaluation, Defense-Wide, $57,000,000.

Research, Development, Test and Evaluation, Defense, $2,000,000.

(b) REDUCTIONS TO BE APPLIED PROPORTIONALLY.—Reductions under this section shall be applied proportionally to each budget activity, activity group, and subactivity group and to each program, project, and activity within each account.

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. IOWA CLASS BATTLESHIPS.

(a) RETURN TO NAVAL VESSEL REGISTER.—The Secretary of the Navy shall list on the Naval Vessel Register, and maintain on such register, at least two of the Iowa-class battleships that were stricken from the register in February 1995.

(b) SUPPORT.—The Secretary shall retain the existing logistical support necessary for support of at least two operational Iowa class battleships in active service, including technical manuals, repair and replacement parts, and ordnance.

(c) SELECTION OF SHIPS.—The Secretary shall select for listing on the Naval Vessel Register under subsection (a) Iowa class battleships that are in good material condition and can provide adequate fire support for an amphibious assault.

(d) REPLACEMENT FIRE-SUPPORT CAPABILITY.—(1) If the Secretary of the Navy makes a certification described in paragraph (2), the requirements of subsections (a) and (b) shall terminate, effective 60 days after the date of the submission of such certification.

(2) A certification referred to in paragraph (1) is a certification submitted by the Secretary of the Navy in writing to the Committee on Armed Services of the Senate and the

Committee on National Security of the House of Representatives that the Navy has within the fleet an operational surface fire-support capability that equals or exceeds the fire-support capability that the Iowa class battleships listed on the Naval Vessel Register pursuant to subsection (a) would, if in active service, be able to provide for Marine Corps amphibious assaults and operations ashore.

SEC. 1012. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) TRANSFERS BY GRANT.—The Secretary of the Navy is authorized to transfer on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) frigates of the Oliver Hazard Perry class to other countries as follows:

(1) To the Government of Bahrain, the guided missile frigate Jack Williams (FFG 24).

(2) To the Government of Egypt, the frigate Copeland (FFG 25).

(3) To the Government of Turkey, the frigates Clifton Sprague (FFG 16) and Antrim (FFG 20).

(b) TRANSFERS BY LEASE OR SALE.—The Secretary of the Navy is authorized to transfer on a lease basis under section 61 of the Arms Export Control Act (22 U.S.C. 2796) or on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) frigates of the Oliver Hazard Perry class to other countries as follows:

(1) To the Government of Egypt, the frigate Duncan (FFG 10).

(2) To the Government of Oman, the guided missile frigate Mahlon S. Tisdale (FFG 27).

(3) To the Government of Turkey, the frigate Flatley (FFG 21).

(4) To the Government of the United Arab Emirates, the guided missile frigate Gallery (FFG 26).

(c) FINANCING FOR TRANSFERS BY LEASE.—Section 23 of the Arms Export Control Act (22 U.S.C. 2763) may be used to provide financing for any transfer by lease under subsection (b) in the same manner as if such transfer were a procurement by the recipient nation of a defense article.

(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by subsection (a) or (b) shall be charged to the recipient.

(e) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under subsection (a) and under subsection (b) shall expire at the end of the two-year period beginning on the date of the enactment of this Act, except that a lease entered into during that period under any provision of subsection (b) may be renewed.

(f) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—The Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(g) PROHIBITION ON CERTAIN TRANSFERS OF VESSELS ON GRANT BASIS.—(1) Section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) is amended by adding at the end the following new subsection:

''(g) PROHIBITION ON CERTAIN TRANSFERS OF VESSELS ON GRANT BASIS.—(1) The President may not transfer on a grant basis under this section a vessel that is in excess of 3,000 tons or that is less than 20 years of age.

''(2) If the President determines that it is in the national security interests of the United States to transfer a particular vessel on a grant basis under this section, the President may request that Congress enact legislation exempting the transfer from the prohibition in paragraph (1).''.

(2) The amendment made by paragraph (1) shall apply with respect to the transfer of a vessel on or after the date of the enactment of this Act (other than a vessel the transfer of which is authorized by subsection (a) or by law before the date of the enactment of this Act).

SEC. 1013. CONTRACT OPTIONS FOR LMSR VESSELS.

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

(1) A requirement for the Department of the Navy to acquire 19 large, medium-speed, roll-on/roll-off (LMSR) vessels was established by the Secretary of Defense in the Mobility Requirements Study conducted after the Persian Gulf War pursuant to section 909 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1623) and was revalidated by the Secretary of Defense in the report entitled ''Mobility Requirements Study Bottom-Up Review Update'', submitted to Congress in April 1995.

(2) The Strategic Sealift Program is a vital element of the national military strategy calling for the Nation to be able to fight and win two nearly simultaneous major regional contingencies.

(3) The Secretary of the Navy has entered into contracts with shipyards covering acquisition of a total of 17 such LMSR vessels, of which five are vessel conversions and 12 are new construction vessels. Under those contracts, the Secretary has placed orders for the acquisition of 11 vessels and has options for the acquisition of six more, all of which would be new construction vessels. The options allow the Secretary to place orders for one vessel to be constructed at each of two shipyards for award before December 31, 1995, December 31, 1996, and December 31, 1997, respectively.

(4) Acquisition of an additional two such LMSR vessels, for a total of 19 vessels (the requirement described in paragraph (1)) would contribute to preservation of the industrial base of United States shipyards capable of building auxiliary and sealift vessels.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Navy should plan for, and budget to provide for, the acquisition as soon as possible of a total of 19 large, medium-speed, roll-on/roll-off (LMSR) vessels (the number determined to be required in the Mobility Requirements Study referred to in subsection (a)(1)), rather than only 17 such vessels (the number of vessels under contract as of May 1995).

(c) ADDITIONAL NEW CONSTRUCTION CONTRACT OPTION.—The Secretary of the Navy should negotiate with each of the two shipyards holding new construction contracts referred to in subsection (a)(3) (Department of the Navy contracts numbered N00024–93–C–2203 and N00024–93–C–2205) for an option under each such contract for construction of one additional such LMSR vessel, with such option to be available to the Secretary for exercise during 1995, 1996, or 1997, subject to the availability of funds authorized and appropriated for such purpose. Nothing in this subsection shall be construed to preclude the Secretary of the Navy from competing the award of the two options between the two shipyards holding new construction contracts referred to in subsection (a)(3).

(d) REPORT.—The Secretary of the Navy shall submit to the congressional defense committees, by March 31, 1996, a report stating the intentions of the Secretary regarding the acquisition of options for the construction of two additional LMSR vessels as described in subsection (c).

SEC. 1014. NATIONAL DEFENSE RESERVE FLEET.

(a) AVAILABILITY OF NATIONAL DEFENSE SEALIFT FUND.—Section 2218 of title 10, United States Code, is amended—

(1) in subsection (c)(1)—

(A) by striking out ''only for—'' in the matter preceding subparagraph (A) and inserting in lieu thereof ''only for the following purposes:'';

(B) by capitalizing the first letter of the first word of subparagraphs (A), (B), (C), and (D);

(C) by striking out the semicolon at the end of subparagraphs (A) and (B) and inserting in lieu thereof a period;

(D) by striking out ''; and'' at the end of subparagraph (C) and inserting in lieu thereof a period; and

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

''(E) Expenses for maintaining the National Defense Reserve Fleet under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the costs of acquisition of vessels for, and alteration and conversion of vessels in (or to be placed in), the fleet, but only for vessels built in United States shipyards.''; and

(2) in subsection (i), by inserting ''(other than subsection (c)(1)(E))'' after ''Nothing in this section''.

(b) CLARIFICATION OF EXEMPTION OF NDRF VESSELS FROM RETROFIT REQUIREMENT.—Section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744) is amended by adding at the end the following new subsection:

''(e) Vessels in the National Defense Reserve Fleet are exempt from the provisions of section 3703a of title 46, United States Code.''.

(c) AUTHORITY TO USE NATIONAL DEFENSE SEALIFT FUND TO CONVERT TWO VESSELS.—Of the amount authorized to be appropriated in section 302 for fiscal year 1996 for the National Defense Sealift Fund under section 2218 of title 10, United States Code, not more than $20,000,000 shall be available for conversion work on the following two roll-on/roll-off vessels, which were acquired by the Maritime Administration during fiscal year 1995:

(1) M/V Cape Knox (ON–1036323).

(2) M/V Cape Kennedy (ON–1036324).

SEC. 1015. NAVAL SALVAGE FACILITIES.

Chapter 637 of title 10, United States Code, is amended to read as follows:

''CHAPTER 637—SALVAGE FACILITIES

''Sec.

''7361. Authority to provide for necessary salvage facilities.

''7362. Acquisition and transfer of vessels and equipment.

''7363. Settlement of claims.

''7364. Disposition of receipts.

''§ 7361. Authority to provide for necessary salvage facilities

''(a) AUTHORITY.—The Secretary of the Navy may provide, by contract or otherwise, necessary salvage facilities for public and private vessels.

''(b) COORDINATION WITH SECRETARY OF TRANSPORTATION.—The Secretary shall submit to the Secretary of Transportation for comment each proposed contract for salvage facilities that affects the interests of the Department of Transportation.

''(c) LIMITATION.—The Secretary of the Navy may enter into a term contract under subsection (a) only if the Secretary determines that available commercial salvage facilities are inadequate to meet the requirements of national defense.

''(d) PUBLIC NOTICE.—The Secretary may not enter into a contract under subsection (a) until the Secretary has provided public notice of the intent to enter into such a contract.

"§ 7362. Acquisition and transfer of vessels and equipment

''(a) AUTHORITY.—The Secretary of the Navy may acquire or transfer for operation by private salvage companies such vessels and equipment as the Secretary considers necessary.

''(b) AGREEMENT ON USE.—Before any salvage vessel or salvage gear is transferred by the Secretary to a private party, the private party must agree in writing with the Secretary that the vessel or gear will be used to support organized offshore salvage facilities for a period of as many years as the Secretary considers appropriate.

''(c) REFERENCE TO AUTHORITY TO ADVANCE FUNDS FOR IMMEDIATE SALVAGE OPERATIONS.—For authority for the Secretary of the Navy to advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations, see section 2307(g)(2) of this title.

"§ 7363. Settlement of claims

''The Secretary of the Navy may settle any claim by the United States for salvage services rendered by the Department of the Navy and may receive payment of any such claim.

"§ 7364. Disposition of receipts

''Amounts received under this chapter shall be credited to appropriations for maintaining naval salvage facilities. However, any amount received under this chapter in any fiscal year in excess of naval salvage costs incurred by the Navy during that fiscal year shall be deposited into the general fund of the Treasury.''.

SEC. 1016. VESSELS SUBJECT TO REPAIR UNDER PHASED MAINTENANCE CONTRACTS.

(a) IN GENERAL.—The Secretary of the Navy shall ensure that any vessel that is covered by the contract referred to in subsection (b) remains covered by that contract, regardless of the operating command to which the vessel is subsequently assigned, unless the vessel is taken out of service for the Department of the Navy.

(b) COVERED CONTRACT.—The contract referred to in subsection (a) is the contract entered into before the date of the enactment of this Act for the phased maintenance of AE class ships.

SEC. 1017. CLARIFICATION OF REQUIREMENTS RELATING TO REPAIRS OF VESSELS.

Section 7310(a) of title 10, United States Code, is amended by inserting ''or Guam'' after ''the United States'' the second place it appears.

SEC. 1018. SENSE OF CONGRESS CONCERNING NAMING OF AMPHIBIOUS SHIPS.

It is the sense of Congress that the Secretary of the Navy—

(1) should name the vessel to be designated LHD–7 as the U.S.S. Iwo Jima; and

(2) should name the vessel to be designated LPD–17, and each subsequent ship of the LPD–17 class, after a Marine Corps battle or a member of the Marine Corps.

SEC. 1019. SENSE OF CONGRESS CONCERNING NAMING OF NAVAL VESSEL.

It is the sense of Congress that the Secretary of the Navy should name an appropriate ship of the United States Navy the U.S.S. Joseph Vittori, in honor of Marine Corporal Joseph Vittori (1929–1951) of Beverly, Massachusetts, who was posthumously awarded the Medal of Honor for actions against the enemy in Korea on September 15–16, 1951.

SEC. 1020. TRANSFER OF RIVERINE PATROL CRAFT.

(a) AUTHORITY TO TRANSFER VESSEL.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, the Secretary of the Navy may transfer a vessel described in subsection (b) to Tidewater Community College, Portsmouth, Virginia, for scientific and educational purposes.

(b) VESSEL.—The authority under subsection (a) applies in the case of a riverine patrol craft of the U.S.S. Swift class.

(c) LIMITATION.—The transfer authorized by subsection (a) may be made only if the Secretary determines that the vessel to be transferred is of no further use to the United States for national security purposes.

(d) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

Subtitle C—Counter-Drug Activities

SEC. 1021. REVISION AND CLARIFICATION OF AUTHORITY FOR FEDERAL SUPPORT OF DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES OF THE NATIONAL GUARD.

(a) FUNDING ASSISTANCE AUTHORIZED.—Subsection (a) of section 112 of title 32, United States Code, is amended to read as follows:

''(a) FUNDING ASSISTANCE.—The Secretary of Defense may provide funds to the Governor of a State who submits to the Secretary a State drug interdiction and counter-drug activities plan satisfying the requirements of subsection (c). Such funds shall be used for—

''(1) the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses, as authorized by State law, of personnel of the National Guard of that State used, while not in Federal service, for the purpose of drug interdiction and counter-drug activities;

''(2) the operation and maintenance of the equipment and facilities of the National Guard of that State used for the purpose of drug interdiction and counter-drug activities; and

''(3) the procurement of services and leasing of equipment for the National Guard of that State used for the purpose of drug interdiction and counter-drug activities.''.

(b) REORGANIZATION OF SECTION.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (h);

(2) by redesignating subsection (d) as subsection (g) and transferring that subsection to appear before subsection (h), as redesignated by paragraph (1); and

(3) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively.

(c) STATE DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES PLAN.—Subsection (c) of such section, as redesignated by subsection (b)(3), is amended—

(1) in the matter preceding paragraph (1), by striking out ''A plan referred to in subsection (a)'' and inserting in lieu thereof ''A State drug interdiction and counter-drug activities plan'';

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

(3) in paragraph (3)—

(A) by striking out ''annual training'' and inserting in lieu thereof ''training'';

(B) by striking out the period at the end and inserting in lieu thereof a semicolon; and

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

''(4) include a certification by the Attorney General of the State (or, in the case of a State with no position of Attorney General, a civilian official of the State equivalent to a State attorney general) that the use of the National Guard of the State for the activities proposed under the plan is authorized by, and is consistent with, State law; and

''(5) certify that the Governor of the State or a civilian law enforcement official of the State designated by the Governor has determined that any activities included in the plan that are carried out in conjunction with Federal law enforcement agencies serve a State law enforcement purpose.''.

(d) EXAMINATION OF STATE PLAN.—Subsection (d) of such section, as redesignated by subsection (b)(3), is amended—

(1) in paragraph (1)—

(A) by striking out ''subsection (b)'' and inserting in lieu thereof ''subsection (c)''; and

(B) by inserting after ''Before funds are provided to the Governor of a State under this section'' the following: ''and before members of the National Guard of that State are ordered to full-time National Guard duty as authorized in subsection (b)''; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking out ''subsection (b)'' and inserting in lieu thereof ''subsection (c)''; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

''(B) pursuant to the plan submitted for a previous fiscal year, funds were provided to the State in accordance with subsection (a) or personnel of the National Guard of the State were ordered to perform full-time National Guard duty in accordance with subsection (b).''.

(e) USE OF PERSONNEL PERFORMING FULL-TIME NATIONAL GUARD DUTY.—Such section is further amended by inserting after subsection (a) the following new subsection (b):

''(b) USE OF PERSONNEL PERFORMING FULL-TIME NATIONAL GUARD DUTY.—Under regulations prescribed by the Secretary of Defense, personnel of the National Guard of a State may, in accordance with the State drug interdiction and counter-drug activities plan referred to in subsection (c), be ordered to perform full-time National Guard duty under section 502(f) of this title for the purpose of carrying out drug interdiction and counter-drug activities.''.

(f) END STRENGTH LIMITATION.—Such section is further amended by inserting after subsection (e) the following new subsection (f):

''(f) END STRENGTH LIMITATION.—(1) Except as provided in paragraph (2), at the end of a fiscal year there may not be more than 4000 members of the National Guard—

''(A) on full-time National Guard duty under section 502(f) of this title to perform drug interdiction or counter-drug activities pursuant to an order to duty for a period of more than 180 days; or

''(B) on duty under State authority to perform drug interdiction or counter-drug activities pursuant to an order to duty for a period of more than 180 days with State pay and allowances being reimbursed with funds provided under subsection (a)(1).

''(2) The Secretary of Defense may increase the end strength authorized under paragraph (1) by not more than 20 percent for any fiscal year if the Secretary determines that such an increase is necessary in the national security interests of the United States.''.

(g) DEFINITIONS.—Subsection (h) of such section, as redesignated by subsection (b)(1), is amended by striking out paragraph (1) and inserting in lieu thereof the following:

''(1) The term 'drug interdiction and counter-drug activities', with respect to the National Guard of a State, means the use of National Guard personnel in drug interdiction and counter-drug law enforcement activities authorized by the law of the State and requested by the Governor of the State.''.

(h) TECHNICAL AMENDMENTS.—Subsection (e) of such section is amended—

(1) in paragraph (1), by striking out ''sections 517 and 524'' and inserting in lieu thereof ''sections 12011 and 12012''; and

(2) in paragraph (2), by striking out ''the Committees on Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

Subtitle D—Civilian Personnel

SEC. 1031. MANAGEMENT OF DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL.

Section 129 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out ''man-year constraint or limitation'' and inserting in lieu thereof ''constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees''; and

(B) by adding at the end the following new sentence: ''The Secretary of Defense and the Secretaries of the military departments may not be required to make a reduction in the number of full-time equivalent positions in the Department of Defense unless such reduction is necessary due to a reduction in funds available to the Department or is required under a law that is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 and that refers specifically to this subsection.'';

(2) in subsection (b)(2), by striking out ''any end-strength'' and inserting in lieu thereof ''any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees''; and

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

''(d) With respect to each budget activity within an appropriation for a fiscal year for operations and maintenance, the Secretary of Defense shall ensure that there are employed during that fiscal year employees in the number and with the combination of skills and qualifications that are necessary to carry out the functions within that budget activity for which funds are provided for that fiscal year.''.

SEC. 1032. CONVERSION OF MILITARY POSITIONS TO CIVILIAN POSITIONS.

(a) CONVERSION REQUIREMENT.—(1) By September 30, 1997, the Secretary of Defense shall convert at least 10,000 military positions to civilian positions.

(2) At least 3,000 of the military positions converted to satisfy the requirement of paragraph (1) shall be converted to civilian positions not later than September 30, 1996.

(3) In this subsection:

(A) The term ''military position'' means a position that, as of the date of the enactment of this Act, is authorized to be filled by a member of the Armed Forces on active duty.

(B) The term ''civilian position'' means a position that is required to be filled by a civilian employee of the Department of Defense.

(b) IMPLEMENTATION PLAN.—Not later than March 31, 1996, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for the implementation of subsection (a).

SEC. 1033. ELIMINATION OF 120-DAY LIMITATION ON DETAILS OF CERTAIN EMPLOYEES.

(a) ELIMINATION OF LIMITATION.—Subsection (b) of section 3341 of title 5, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) The 120-day limitation in paragraph (1) for details and renewals of details does not apply to the Department of Defense in the case of a detail—

''(A) made in connection with the closure or realignment of a military installation pursuant to a base closure law or an organizational restructuring of the Department as part of a reduction in the size of the armed forces or the civilian workforce of the Department; and

''(B) in which the position to which the employee is detailed is eliminated on or before the date of the closure, realignment, or restructuring.

''(c) For purposes of this section—

''(1) the term 'base closure law' means—

''(A) section 2687 of title 10;

''(B) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); and

''(C) the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); and

''(2) the term 'military installation'—

''(A) in the case of an installation covered by section 2687 of title 10, has the meaning given such term in subsection (e)(1) of such section;

''(B) in the case of an installation covered by the Act referred to in subparagraph (B) of paragraph (1), has the meaning given such term in section 209(6) of such Act; and

''(C) in the case of an installation covered by the Act referred to in subparagraph (C) of that paragraph, has the meaning given such term in section 2910(4) of such Act.''.

(b) APPLICABILITY.—The amendments made by subsection (a) apply to details made before the date of the enactment of this Act but still in effect on that date and details made on or after that date.

SEC. 1034. AUTHORITY FOR CIVILIAN EMPLOYEES OF DEPARTMENT OF DEFENSE TO PARTICIPATE VOLUNTARILY IN REDUCTIONS IN FORCE.

Section 3502 of title 5, United States Code, is amended by adding at the end the following:

''(f)(1) The Secretary of Defense or the Secretary of a military department may—

''(A) release in a reduction in force an employee who volunteers for the release even though the employee is not otherwise subject to release in the reduction in force under the criteria applicable under the other provisions of this section; and

''(B) for each employee voluntarily released in the reduction in force under subparagraph (A), retain an employee in a similar position who would otherwise be released in the reduction in force under such criteria.

''(2) A voluntary release of an employee in a reduction in force pursuant to paragraph (1) shall be treated as an involuntary release in the reduction in force.

''(3) An employee with critical knowledge and skills (as defined by the Secretary concerned) may not participate in a voluntary release under paragraph (1) if the Secretary concerned determines that such participation would impair the performance of the mission of the Department of Defense or the military department concerned.

''(4) The regulations prescribed under this section shall incorporate the authority provided in this subsection.

''(5) The authority under paragraph (1) may not be exercised after September 30, 1996.''.

SEC. 1035. AUTHORITY TO PAY SEVERANCE PAYMENTS IN LUMP SUMS.

Section 5595 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) In the case of an employee of the Department of Defense who is entitled to severance pay under this section, the Secretary of Defense or the Secretary of the military department concerned may, upon application by the employee, pay the total amount of the severance pay to the employee in one lump sum.

''(2)(A) If an employee paid severance pay in a lump sum under this subsection is reemployed by the Government of the United States or the government of the District of Columbia at such time that, had the employee been paid severance pay in regular pay periods under subsection (b), the payments of such pay would have been discontinued under subsection (d) upon such reemployment, the employee shall repay to the Department of Defense (for the military department that formerly employed the employee, if applicable) an amount equal to the amount of severance pay to which the employee was entitled under this section that would not have been paid to the employee under subsection (d) by reason of such reemployment.

''(B) The period of service represented by an amount of severance pay repaid by an employee under subparagraph (A) shall be considered service for which severance pay has not been received by the employee under this section.

''(C) Amounts repaid to an agency under this paragraph shall be credited to the appropriation available for the pay of employees of the agency for the fiscal year in which received. Amounts so credited shall be merged with, and shall be available for the same purposes and the same period as, the other funds in that appropriation.

''(3) If an employee fails to repay to an agency an amount required to be repaid under paragraph (2)(A), that amount is recoverable from the employee as a debt due the United States.

''(4) This subsection applies with respect to severance pay payable under this section for separations taking effect on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 and before October 1, 1999.''.

SEC. 1036. CONTINUED HEALTH INSURANCE COVERAGE.

Section 8905a(d)(4) of title 5, United States Code, is amended—

(1) in subparagraph (A), by inserting '', or a voluntary separation from a surplus position,'' after ''an involuntary separation from a position''; and

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

''(C) For the purpose of this paragraph, 'surplus position' means a position which is identified in pre-reduction-in-force planning as no longer required, and which is expected to be eliminated under formal reduction-in-force procedures.''.

SEC. 1037. REVISION OF AUTHORITY FOR APPOINTMENTS OF INVOLUNTARILY SEPARATED MILITARY RESERVE TECHNICIANS.

(a) REVISION OF AUTHORITY.—Section 3329 of title 5, United States Code, as added by section 544 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2415), is amended—

(1) in subsection (b), by striking out ''be offered'' and inserting in lieu thereof ''be provided placement consideration in a position described in subsection (c) through a priority placement program of the Department of Defense''; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

''(c)(1) The position for which placement consideration shall be provided to a former military technician under subsection (b) shall be a position—

''(A) in either the competitive service or the excepted service;

''(B) within the Department of Defense; and

''(C) in which the person is qualified to serve, taking into consideration whether the

employee in that position is required to be a member of a reserve component of the armed forces as a condition of employment.

''(2) To the maximum extent practicable, the position shall also be in a pay grade or other pay classification sufficient to ensure that the rate of basic pay of the former military technician, upon appointment to the position, is not less than the rate of basic pay last received by the former military technician for technician service before separation.''.

(b) TECHNICAL AND CLERICAL AMENDMENTS.—(1) The section 3329 of title 5, United States Code, that was added by section 4431 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2719) is redesignated as section 3330 of such title.

(2) The table of sections at the beginning of chapter 33 of such title is amended by striking out the item relating to section 3329, as added by section 4431(b) of such Act (106 Stat. 2720), and inserting in lieu thereof the following new item:

''3330. Government-wide list of vacant positions.''.

SEC. 1038. WEARING OF UNIFORM BY NATIONAL GUARD TECHNICIANS.

(a) REQUIREMENT.—Section 709(b) of title 32, United States Code, is amended to read as follows:

''(b) Except as prescribed by the Secretary concerned, a technician employed under subsection (a) shall, while so employed—

''(1) be a member of the National Guard;

''(2) hold the military grade specified by the Secretary concerned for that position; and

''(3) wear the uniform appropriate for the member's grade and component of the armed forces while performing duties as a technician.''.

(b) UNIFORM ALLOWANCES FOR OFFICERS.—Section 417 of title 37, United States Code, is amended by adding at the end the following:

''(d)(1) For purposes of sections 415 and 416 of this title, a period for which an officer of an armed force, while employed as a National Guard technician, is required to wear a uniform under section 709(b) of title 32 shall be treated as a period of active duty (other than for training).

''(2) A uniform allowance may not be paid, and uniforms may not be furnished, to an officer under section 1593 of title 10 or section 5901 of title 5 for a period of employment referred to in paragraph (1) for which an officer is paid a uniform allowance under section 415 or 416 of this title.''.

(c) CLOTHING OR ALLOWANCES FOR ENLISTED MEMBERS.—Section 418 of title 37, United States Code, is amended—

(1) by inserting ''(a)'' before ''The President''; and

(2) by adding at the end the following:

''(b) In determining the quantity and kind of clothing or allowances to be furnished pursuant to regulations prescribed under this section to persons employed as National Guard technicians under section 709 of title 32, the President shall take into account the requirement under subsection (b) of such section for such persons to wear a uniform.

''(c) A uniform allowance may not be paid, and uniforms may not be furnished, under section 1593 of title 10 or section 5901 of title 5 to a person referred to in subsection (b) for a period of employment referred to in that subsection for which a uniform allowance is paid under section 415 or 416 of this title.''.

SEC. 1039. MILITARY LEAVE FOR MILITARY RESERVE TECHNICIANS FOR CERTAIN DUTY OVERSEAS.

Section 6323 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) A military reserve technician described in section 8401(30) is entitled at such person's request to leave without loss of, or reduction in, pay, leave to which such person is otherwise entitled, credit for time or service, or performance or efficiency rating for each day, not to exceed 44 workdays in a calendar year, in which such person is on active duty without pay, as authorized pursuant to section 12315 of title 10, under section 12301(b) or 12301(d) of title 10 (other than active duty during a war or national emergency declared by the President or Congress) for participation in noncombat operations outside the United States, its territories and possessions.

''(2) An employee who requests annual leave or compensatory time to which the employee is otherwise entitled, for a period during which the employee would have been entitled upon request to leave under this subsection, may be granted such annual leave or compensatory time without regard to this section or section 5519.''.

SEC. 1040. PERSONNEL ACTIONS INVOLVING EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) CLARIFICATION OF DEFINITION OF NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEE.—Subsection (a)(1) of section 1587 of title 10, United States Code, is amended by adding at the end the following new sentence: ''Such term includes a civilian employee of a support organization within the Department of Defense or a military department, such as the Defense Finance and Accounting Service, who is paid from nonappropriated funds on account of the nature of the employee's duties.''.

(b) DIRECT REPORTING OF VIOLATIONS.—Subsection (e) of such section is amended in the second sentence by inserting before the period the following: ''and to permit the reporting of alleged violations of subsection (b) directly to the Inspector General of the Department of Defense''.

(c) TECHNICAL AMENDMENT.—Subsection (a)(1) of such section is further amended by striking out ''Navy Resale and Services Support Office'' and inserting in lieu thereof ''Navy Exchange Service Command''.

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

''§ 1587. Employees of nonappropriated fund instrumentalities: reprisals''.

(2) The item relating to such section in the table of sections at the beginning of chapter 81 of such title is amended to read as follows:

''1587. Employees of nonappropriated fund instrumentalities: reprisals.''.

SEC. 1041. COVERAGE OF NONAPPROPRIATED FUND EMPLOYEES UNDER AUTHORITY FOR FLEXIBLE AND COMPRESSED WORK SCHEDULES.

Paragraph (2) of section 6121 of title 5, United States Code, is amended to read as follows:

''(2) 'employee' has the meaning given the term in subsection (a) of section 2105 of this title, except that such term also includes an employee described in subsection (c) of that section;''.

SEC. 1042. LIMITATION ON PROVISION OF OVERSEAS LIVING QUARTERS ALLOWANCES FOR NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEES.

(a) CONFORMING ALLOWANCE TO ALLOWANCES FOR OTHER CIVILIAN EMPLOYEES.—Subject to subsection (b), an overseas living quarters allowance paid from nonappropriated funds and provided to a nonappropriated fund instrumentality employee after the date of the enactment of this Act may not exceed the amount of a quarters allowance provided under subchapter III of chapter 59 of title 5 to a similarly situated civilian employee of the Department of Defense paid from appropriated funds.

(b) APPLICATION TO CERTAIN CURRENT EMPLOYEES.—In the case of a nonappropriated fund instrumentality employee who, as of the date of the enactment of this Act, receives an overseas living quarters allowance under any other authority, subsection (a) shall apply to such employee only after the earlier of—

(1) September 30, 1997; or

(2) the date on which the employee otherwise ceases to be eligible for such an allowance under such other authority.

(c) NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEE DEFINED.—For purposes of this section, the term ''nonappropriated fund instrumentality employee'' has the meaning given such term in section 1587(a)(1) of title 10, United States Code.

SEC. 1043. ELECTIONS RELATING TO RETIREMENT COVERAGE.

(a) IN GENERAL.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8347(q) of title 5, United States Code, is amended—

(A) in paragraph (1)—

(i) by striking ''of the Department of Defense or the Coast Guard'' in the matter before subparagraph (A); and

(ii) by striking ''3 days'' and inserting ''1 year''; and

(B) in paragraph (2)(C)—

(i) by striking ''3 days'' and inserting ''1 year''; and

(ii) by striking ''in the Department of Defense or the Coast Guard, respectively,''.

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8461(n) of title 5, United States Code, is amended—

(A) in paragraph (1)—

(i) by striking ''of the Department of Defense or the Coast Guard'' in the matter before subparagraph (A); and

(ii) by striking ''3 days'' and inserting ''1 year''; and

(B) in paragraph (2)(C)—

(i) by striking ''3 days'' and inserting ''1 year''; and

(ii) by striking ''in the Department of Defense or the Coast Guard, respectively,''.

(b) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Office of Personnel Management (and each of the other administrative authorities, within the meaning of subsection (c)(2)(C)(iii)) shall prescribe any regulations (or make any modifications in existing regulations) necessary to carry out this section and the amendments made by this section, including regulations to provide for the notification of individuals who may be affected by the enactment of this section. All regulations (and modifications to regulations) under the preceding sentence shall take effect on the same date.

(c) APPLICABILITY; RELATED PROVISIONS.—

(1) PROSPECTIVE RULES.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to moves occurring on or after the effective date of the regulations under subsection (b). Moves occurring on or after the date of the enactment of this Act and before the effective date of such regulations shall be subject to applicable provisions of title 5, United States Code, disregarding the amendments made by this section, except that any individual making an election pursuant to this sentence shall be ineligible to make an election otherwise allowable under paragraph (2).

(2) RETROACTIVE RULES.—

(A) IN GENERAL.—The regulations under subsection (b) shall include provisions for the application of sections 8347(q) and 8461(n)

of title 5, United States Code, as amended by this section, with respect to any individual who, at any time after December 31, 1965, and before the effective date of such regulations, moved between positions in circumstances that would have qualified such individual to make an election under the provisions of such section 8347(q) or 8461(n), as so amended, if such provisions had then been in effect.

(B) DEADLINE; RELATED PROVISIONS.—An election pursuant to this paragraph—

(i) shall be made within 1 year after the effective date of the regulations under subsection (b), and

(ii) shall have the same force and effect as if it had been timely made at the time of the move,

except that no such election may be made by any individual—

(I) who has previously made, or had an opportunity to make, an election under section 8347(q) or 8461(n) of title 5, United States Code (as in effect before being amended by this section); however, this subclause shall not be considered to render an individual ineligible, based on an opportunity arising out of a move occurring during the period described in the second sentence of paragraph (1), if no election has in fact been made by such individual based on such move;

(II) who has not, since the move on which eligibility for the election is based, remained continuously subject (disregarding any break in service of less than 3 days) to CSRS or FERS or both seriatim (if the move was from a NAFI position) or any retirement system (or 2 or more such systems seriatim) established for employees described in section 2105(c) of such title (if the move was to a NAFI position); or

(III) if such election would be based on a move to the Civil Service Retirement System from a retirement system established for employees described in section 2105(c) of such title.

(C) TRANSFERS OF CONTRIBUTIONS.—

(i) IN GENERAL.—If an individual makes an election under this paragraph to be transferred back to a retirement system in which such individual previously participated (in this section referred to as the ''previous system''), all individual contributions (including interest) and Government contributions to the retirement system in which such individual is then currently participating (in this section referred to as the ''current system''), excluding those made to the Thrift Savings Plan or any other defined contribution plan, which are attributable to periods of service performed since the move on which the election is based, shall be paid to the fund, account, or other repository for contributions made under the previous system. For purposes of this section, the term ''current system'' shall be considered also to include any retirement system (besides the one in which the individual is participating at the time of making the election) in which such individual previously participated since the move on which the election is based.

(ii) CONDITION SUBSEQUENT RELATING TO REPAYMENT OF LUMP-SUM CREDIT.—In the case of an individual who has received such individual's lump-sum credit (within the meaning of section 8401(19) of title 5, United States Code, or a similar payment) from such individual's previous system, the payment described in clause (i) shall not be made (and the election to which it relates shall be ineffective) unless such lump-sum credit is redeposited or otherwise paid at such time and in such manner as shall be required under applicable regulations. Regulations to carry out this clause shall include provisions for the computation of interest (consistent with section 8334(e) (2) and (3) of title 5, United States Code), if no provisions for such computation otherwise exist.

(iii) CONDITION SUBSEQUENT RELATING TO DEFICIENCY IN PAYMENTS RELATIVE TO AMOUNTS NEEDED TO ENSURE THAT BENEFITS ARE FULLY FUNDED.—

(I) IN GENERAL.—Except as provided in subclause (II), the payment described in clause (i) shall not be made (and the election to which it relates shall be ineffective) if the actuarial present value of the future benefits that would be payable under the previous system with respect to service performed by such individual after the move on which the election under this paragraph is based and before the effective date of the election, exceeds the total amounts required to be transferred to the previous system under the preceding provisions of this subparagraph with respect to such service, as determined by the authority administering such previous system (in this section referred to as the ''administrative authority'').

(II) PAYMENT OF DEFICIENCY.—A determination of a deficiency under this clause shall not render an election ineffective if the individual pays or arranges to pay, at a time and in a manner satisfactory to such administrative authority, the full amount of the deficiency described in subclause (I).

(D) ALTERNATIVE ELECTION FOR AN INDIVIDUAL THEN PARTICIPATING IN FERS.—

(i) APPLICABILITY.—This subparagraph applies with respect to any individual who—

(I) is then currently participating in FERS; and

(II) would then otherwise be eligible to make an election under subparagraphs (A) through (C) of this paragraph, determined disregarding the matter in subclause (I) of subparagraph (B) before the first semicolon therein.

(ii) ELECTION.—An individual described in clause (i) may, instead of making an election for which such individual is otherwise eligible under this paragraph, elect to have all prior qualifying NAFI service of such individual treated as creditable service for purposes of any annuity under FERS payable out of the Civil Service Retirement and Disability Fund.

(iii) QUALIFYING NAFI SERVICE.—For purposes of this subparagraph, the term ''qualifying NAFI service'' means any service which, but for this subparagraph, would be creditable for purposes of any retirement system established for employees described in section 2105(c) of title 5, United States Code.

(iv) SERVICE CEASES TO BE CREDITABLE FOR NAFI RETIREMENT SYSTEM PURPOSES.—Any qualifying NAFI service that becomes creditable for FERS purposes by virtue of an election made under this subparagraph shall not be creditable for purposes of any retirement system referred to in clause (iii).

(v) CONDITIONS.—An election under this subparagraph shall be subject to requirements, similar to those set forth in subparagraph (C), to ensure that—

(I) appropriate transfers of individual and Government contributions are made to the Civil Service Retirement and Disability Fund; and

(II) the actuarial present value of future benefits under FERS attributable to service made creditable by such election is fully funded.

(E) ALTERNATIVE ELECTION FOR AN INDIVIDUAL THEN PARTICIPATING IN A NAFI RETIREMENT SYSTEM.—

(i) APPLICABILITY.—This subparagraph applies with respect to any individual who—

(I) is then currently participating in any retirement system established for employees described in section 2105(c) of title 5, United States Code (in this subparagraph referred to as a ''NAFI retirement system''); and

(II) would then otherwise be eligible to make an election under subparagraphs (A) through (C) of this paragraph (determined disregarding the matter in subclause (I) of subparagraph (B) before the first semicolon therein) based on a move from FERS.

(ii) ELECTION.—An individual described in clause (i) may, instead of making an election for which such individual is otherwise eligible under this paragraph, elect to have all prior qualifying FERS service of such individual treated as creditable service for purposes of determining eligibility for benefits under a NAFI retirement system, but not for purposes of computing the amount of any such benefits except as provided in clause (v)(II).

(iii) QUALIFYING FERS SERVICE.—For purposes of this subparagraph, the term ''qualifying FERS service'' means any service which, but for this subparagraph, would be creditable for purposes of the Federal Employees' Retirement System.

(iv) SERVICE CEASES TO BE CREDITABLE FOR PURPOSES OF FERS.—Any qualifying FERS service that becomes creditable for NAFI purposes by virtue of an election made under this subparagraph shall not be creditable for purposes of the Federal Employees' Retirement System.

(v) FUNDING REQUIREMENTS.—

(I) IN GENERAL.—Except as provided in subclause (II), nothing in this section or in any other provision of law or any other authority shall be considered to require any payment or transfer of monies in order for an election under this subparagraph to be effective.

(II) CONTRIBUTION REQUIRED ONLY IF INDIVIDUAL ELECTS TO HAVE SERVICE MADE CREDITABLE FOR COMPUTATION PURPOSES AS WELL.—Under regulations prescribed by the appropriate administrative authority, an individual making an election under this subparagraph may further elect to have the qualifying FERS service made creditable for computation purposes under a NAFI retirement system, but only if the individual pays or arranges to pay, at a time and in a manner satisfactory to such administrative authority, the amount necessary to fully fund the actuarial present value of future benefits under the NAFI retirement system attributable to the qualifying FERS service.

(3) INFORMATION.—The regulations under subsection (b) shall include provisions under which any individual—

(A) shall, upon request, be provided information or assistance in determining whether such individual is eligible to make an election under paragraph (2) and, if so, the exact amount of any payment which would be required of such individual in connection with any such election; and

(B) may seek any other information or assistance relating to any such election.

(d) CREDITABILITY OF NAFI SERVICE FOR RIF PURPOSES.—

(1) IN GENERAL.—Clause (ii) of section 3502(a)(C) of title 5, United States Code, is amended by striking ''January 1, 1987'' and inserting ''January 1, 1966''.

(2) EFFECTIVE DATE.—Notwithstanding any provision of subsection (c), the amendment made by paragraph (1) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply with respect to any reduction in force carried out on or after such date.

SEC. 1044. EXTENSION OF TEMPORARY AUTHORITY TO PAY CIVILIAN EMPLOYEES WITH RESPECT TO THE EVACUATION FROM GUANTANAMO, CUBA.

(a) EXTENSION OF AUTHORITY.—The Secretary of Defense may, until the end of January 31, 1996, and without regard to the time limitations specified in subsection (a) of section 5523 of title 5, United States Code, make

payments under the provisions of such section from funds available for the pay of civilian personnel in the case of employees, or an employee's dependents or immediate family, evacuated from Guantanamo Bay, Cuba, pursuant to the August 26, 1994 order of the Secretary. This section shall take effect as of October 1, 1995, and shall apply with respect to payments made for periods occurring on or after that date.

(b) MONTHLY REPORT.—On the first day of each month beginning after the date of the enactment of this Act and ending before March 1996, the Secretary of the Navy shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report regarding the payment of employees pursuant to subsection (a). Each such report shall include, for the month preceding the month in which the report is transmitted, a statement of the following:

(1) The number of the employees paid pursuant to such section.

(2) The positions of employment of the employees.

(3) The number and location of the employees' dependents and immediate families.

(4) The actions taken by the Secretary to eliminate the conditions which necessitated the payments.

Subtitle E—Miscellaneous Reporting Requirements

SEC. 1051. REPORT ON FISCAL YEAR 1997 BUDGET SUBMISSION REGARDING GUARD AND RESERVE COMPONENTS.

(a) REPORT.—The Secretary of Defense shall submit to the congressional defense committees, at the same time that the President submits the budget for fiscal year 1997 under section 1105(a) of title 31, United States Code, a report on amounts requested in that budget for the Guard and Reserve components.

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

(1) A description of the anticipated effect that the amounts requested (if approved by Congress) will have to enhance the capabilities of each of the Guard and Reserve components.

(2) A listing, with respect to each such component, of each of the following:

(A) The amount requested for each major weapon system for which funds are requested in the budget for that component.

(B) The amount requested for each item of equipment (other than a major weapon system) for which funds are requested in the budget for that component.

(C) The amount requested for each military construction project, together with the location of each such project, for which funds are requested in the budget for that component.

(c) INCLUSION OF INFORMATION IN NEXT FYDP.—The Secretary of Defense shall specifically display in the next future-years defense program (or program revision) submitted to Congress after the date of the enactment of this Act the amounts programmed for procurement of equipment and for military construction for each of the Guard and Reserve components.

(d) DEFINITION.—For purposes of this section, the term ''Guard and Reserve components'' means the following:

(1) The Army Reserve.

(2) The Army National Guard of the United States.

(3) The Naval Reserve.

(4) The Marine Corps Reserve.

(5) The Air Force Reserve.

(6) The Air National Guard of the United States.

SEC. 1052. REPORT ON DESIRABILITY AND FEASIBILITY OF PROVIDING AUTHORITY FOR USE OF FUNDS DERIVED FROM RECOVERED LOSSES RESULTING FROM CONTRACTOR FRAUD.

(a) REPORT.—Not later than April 1, 1996, the Secretary of Defense shall submit to Congress a report on the desirability and feasibility of authorizing by law the retention and use by the Department of Defense of a specified portion (not to exceed three percent) of amounts recovered by the Government during any fiscal year from losses and expenses incurred by the Department of Defense as a result of contractor fraud at military installations.

(b) MATTERS TO BE INCLUDED.—The report shall include the views of the Secretary of Defense regarding—

(1) the degree to which such authority would create enhanced incentives for the discovery, investigation, and resolution of contractor fraud at military installations; and

(2) the appropriate allocation for funds that would be available for expenditure pursuant to such authority.

SEC. 1053. REPORT OF NATIONAL POLICY ON PROTECTING THE NATIONAL INFORMATION INFRASTRUCTURE AGAINST STRATEGIC ATTACKS.

Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress a report setting forth the results of a review of the national policy on protecting the national information infrastructure against strategic attacks. The report shall include the following:

(1) A description of the national policy and architecture governing the plans for establishing procedures, capabilities, systems, and processes necessary to perform indications, warning, and assessment functions regarding strategic attacks by foreign nations, groups, or individuals, or any other entity against the national information infrastructure.

(2) An assessment of the future of the National Communications System (NCS), which has performed the central role in ensuring national security and emergency preparedness communications for essential United States Government and private sector users, including a discussion of—

(A) whether there is a Federal interest in expanding or modernizing the National Communications System in light of the changing strategic national security environment and the revolution in information technologies; and

(B) the best use of the National Communications System and the assets and experience it represents as an integral part of a larger national strategy to protect the United States against a strategic attack on the national information infrastructure.

SEC. 1054. REPORT ON DEPARTMENT OF DEFENSE BOARDS AND COMMISSIONS.

(a) STUDY.—The Secretary of Defense shall conduct a study of the boards and commissions described in subsection (c). As part of such study, the Secretary shall determine, with respect to each such board or commission that received support from the Department of Defense during fiscal year 1995, whether that board or commission merits continued support from the Department.

(b) REPORT.—Not later than April 1, 1996, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the results of the study. The report shall include the following:

(1) A list of each board and commission described in subsection (c) that received support from the Department of Defense during fiscal year 1995.

(2) With respect to the boards and commissions specified on the list under paragraph (1)—

(A) a list of each such board or commission concerning which the Secretary determined under subsection (a) that continued support from the Department of Defense is merited; and

(B) a list of each such board or commission concerning which the Secretary determined under subsection (a) that continued support from the Department if not merited.

(3) For each board and commission specified on the list under paragraph (2)(A), a description of—

(A) the purpose of the board or commission;

(B) the nature and cost of the support provided by the Department to the board or commission during fiscal year 1995;

(C) the nature and duration of the support that the Secretary proposes to provide to the board or commission;

(D) the anticipated cost to the Department of providing such support; and

(E) a justification of the determination that the board or commission merits the continued support of the Department.

(4) For each board and commission specified on the list under paragraph (2)(B), a description of—

(A) the purpose of the board or commission;

(B) the nature and cost of the support provided by the Department to the board or commission during fiscal year 1995; and

(C) a justification of the determination that the board or commission does not merit the continued support of the Department.

(c) COVERED BOARDS AND COMMISSIONS.—Subsection (a) applies to any board or commission (including any board or commission authorized by law) that operates within or for the Department of Defense and that—

(1) provides only policy-making assistance or advisory services for the Department; or

(2) carries out only activities that are not routine activities, on-going activities, or activities necessary to the routine, on-going operations of the Department.

(d) SUPPORT DEFINED.—For purposes of this section, the term ''support'' includes the provision of any of the following:

(1) Funds.

(2) Equipment, materiel, or other assets.

(3) Services of personnel.

SEC. 1055. DATE FOR SUBMISSION OF ANNUAL REPORT ON SPECIAL ACCESS PROGRAMS.

Section 119(a) of title 10, United States Code, is amended by striking out ''February 1'' and inserting in lieu thereof ''March 1''.

Subtitle F—Repeal of Certain Reporting and Other Requirements and Authorities

SEC. 1061. REPEAL OF MISCELLANEOUS PROVISIONS OF LAW.

(a) VOLUNTEERS INVESTING IN PEACE AND SECURITY PROGRAM.—(1) Chapter 89 of title 10, United States Code, is repealed.

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of such title are each amended by striking out the item relating to chapter 89.

(b) SECURITY AND CONTROL OF SUPPLIES.—(1) Chapter 171 of such title is repealed.

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are each amended by striking out the item relating to chapter 171.

(c) ANNUAL AUTHORIZATION OF MILITARY TRAINING STUDENT LOADS.—Section 115 of such title is amended—

(1) in subsection (a), by striking out paragraph (3);

(2) in subsection (b)—

(A) by inserting ''or'' at the end of paragraph (1);

(B) by striking out ''; or'' at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking out paragraph (3); and

(3) by striking out subsection (f).

(d) PORTIONS OF ANNUAL MANPOWER REQUIREMENTS REPORT.—Section 115a of such title is amended—

(1) in subsection (b)(2), by striking out subparagraph (C);

(2) by striking out subsection (d);

(3) by redesignating subsection (e) as subsection (d) and striking out paragraphs (4) and (5) thereof;

(4) by striking out subsection (f); and

(5) by redesignating subsection (g) as subsection (e).

(e) OBSOLETE AUTHORITY FOR PAYMENT OF STIPENDS FOR MEMBERS OF CERTAIN ADVISORY COMMITTEES AND BOARDS OF VISITORS OF SERVICE ACADEMIES.—(1) The second sentence of each of sections 173(b) and 174(b) of such title is amended to read as follows: ''Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.''.

(2) Sections 4355(h), 6968(h), and 9355(h) of such title are amended by striking out ''is entitled to not more than $5 a day and''.

(f) ANNUAL BUDGET INFORMATION CONCERNING RECRUITING COSTS.—(1) Section 227 of such title is repealed.

(2) The table of sections at the beginning of chapter 9 of such title is amended by striking out the item relating to section 227.

(g) EXPIRED AUTHORITY RELATING TO PEACEKEEPING ACTIVITIES.—(1) Section 403 of such title is repealed.

(2) The table of sections at the beginning of subchapter I of chapter 20 of such title is amended by striking out the item relating to section 403.

(h) PROCUREMENT OF GASOHOL FOR DEPARTMENT OF DEFENSE MOTOR VEHICLES.—(1) Subsection (a) of section 2398 of such title is repealed.

(2) Such section is further amended—

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

(B) in subsection (b), as so redesignated, by striking out ''subsection (b)'' and inserting in lieu thereof ''subsection (a)''.

(i) REQUIREMENT OF NOTICE OF CERTAIN DISPOSALS AND GIFTS BY SECRETARY OF NAVY.—Section 7545 of such title is amended—

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

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

(j) ANNUAL REPORT ON BIOLOGICAL DEFENSE RESEARCH PROGRAM.—(1) Section 2370 of such title is repealed.

(2) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to such section.

(k) REPORTS AND NOTIFICATIONS RELATING TO CHEMICAL AND BIOLOGICAL AGENTS.—Subsection (a) of section 409 of Public Law 91–121 (50 U.S.C. 1511) is repealed.

(l) ANNUAL REPORT ON BALANCED TECHNOLOGY INITIATIVE.—Subsection (e) of section 211 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1394) is repealed.

(m) REPORT ON ENVIRONMENTAL RESTORATION COSTS FOR INSTALLATIONS TO BE CLOSED UNDER 1990 BASE CLOSURE LAW.—Section 2827 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 2687 note) is amended by striking out subsection (b).

(n) LIMITATION ON AMERICAN DIPLOMATIC FACILITIES IN GERMANY.—Section 1432 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1833) is repealed.

SEC. 1062. REPORTS REQUIRED BY TITLE 10, UNITED STATES CODE.

(a) ANNUAL REPORT ON RELOCATION ASSISTANCE PROGRAMS.—Section 1056 of title 10, United States Code, is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(b) NOTICE OF SALARY INCREASES FOR FOREIGN NATIONAL EMPLOYEES.—Section 1584 of such title is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out ''(a) WAIVER OF EMPLOYMENT RESTRICTIONS FOR CERTAIN PERSONNEL.—''.

(c) NOTICE REGARDING CONTRACTS PERFORMED FOR PERIODS EXCEEDING 10 YEARS.—(1) Section 2352 of such title is repealed.

(2) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2352.

(d) REPORT ON LOW-RATE PRODUCTION UNDER NAVAL VESSEL AND MILITARY SATELLITE PROGRAMS.—Section 2400(c) of such title is amended—

(1) by striking out paragraph (2); and

(2) in paragraph (1)—

(A) by striking out ''(1)''; and

(B) by redesignating clauses (A) and (B) as clauses (1) and (2), respectively.

(e) REPORT ON WAIVERS OF PROHIBITION ON EMPLOYMENT OF FELONS.—Section 2408(a)(3) of such title is amended by striking out the second sentence.

(f) REPORT ON DETERMINATION NOT TO DEBAR FOR FRAUDULENT USE OF LABELS.—Section 2410f(a) of such title is amended by striking out the second sentence.

(g) NOTICE OF MILITARY CONSTRUCTION CONTRACTS ON GUAM.—Section 2864(b) of such title is amended by striking out ''after the 21-day period'' and all that follows through ''determination''.

SEC. 1063. REPORTS REQUIRED BY DEFENSE AUTHORIZATION AND APPROPRIATIONS ACTS.

(a) PUBLIC LAW 99–661 REQUIREMENT FOR REPORT ON FUNDING FOR NICARAGUAN DEMOCRATIC RESISTANCE.—Section 1351 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3995; 10 U.S.C. 114 note) is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out ''(a) LIMITATION.—''.

(b) ANNUAL REPORT ON OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY ACCOUNT.—Section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION MASTER PLAN.—Section 829 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1444; 10 U.S.C. 2192 note) is repealed.

(d) REPORT REGARDING HEATING FACILITY MODERNIZATION AT KAISERSLAUTERN.—Section 8008 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1438), is amended by inserting ''but without regard to the notification requirement in subsection (b)(2) of such section,'' after ''section 2690 of title 10, United States Code,''.

SEC. 1064. REPORTS REQUIRED BY OTHER PROVISIONS OF LAW.

(a) REQUIREMENT UNDER ARMS EXPORT CONTROL ACT FOR QUARTERLY REPORT ON PRICE AND AVAILABILITY ESTIMATES.—Section 28 of the Arms Export Control Act (22 U.S.C. 2768) is repealed.

(b) ANNUAL REPORT ON NATIONAL SECURITY AGENCY EXECUTIVE PERSONNEL.—Section 12(a) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking out paragraph (5).

(c) REPORTS CONCERNING CERTAIN FEDERAL CONTRACTING AND FINANCIAL TRANSACTIONS.—Section 1352 of title 31, United States Code, is amended—

(1) in subsection (b)(6)(A), by inserting ''(other than the Secretary of Defense and Secretary of a military department)'' after ''The head of each agency''; and

(2) in subsection (d)(1), by inserting ''(other than in the case of the Department of Defense or a military department)'' after ''paragraph (3) of this subsection''.

(d) ANNUAL REPORT ON WATER RESOURCES PROJECT AGREEMENTS.—Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(e) ANNUAL REPORT ON CONSTRUCTION OF TENNESSEE-TOMBIGBEE WATERWAY.—Section 185 of the Water Resources Development Act of 1976 (33 U.S.C. 544c) is amended by striking out the second sentence.

(f) ANNUAL REPORT ON MONITORING OF NAVY HOME PORT WATERS.—Section 7 of the Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2406) is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

Subtitle G—Department of Defense Education Programs

SEC. 1071. CONTINUATION OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) POLICY.—Congress reaffirms—

(1) the prohibition set forth in subsection (a) of section 922 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2829; 10 U.S.C. 2112 note) regarding closure of the Uniformed Services University of the Health Sciences; and

(2) the expression of the sense of Congress set forth in subsection (b) of such section regarding the budgetary commitment to continuation of the university.

(b) PERSONNEL STRENGTH.—During the five-year period beginning on October 1, 1995, the personnel staffing levels for the Uniformed Services University of the Health Services may not be reduced below the personnel staffing levels for the university as of October 1, 1993.

(c) BUDGETARY COMMITMENT TO CONTINUATION.—It is the sense of Congress that the Secretary of Defense should budget for the operation of the Uniformed Services University of the Health Sciences during fiscal year 1997 at a level at least equal to the level of operations conducted at the University during fiscal year 1995.

SEC. 1072. ADDITIONAL GRADUATE SCHOOLS AND PROGRAMS AT UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) ADDITIONAL SCHOOLS AND PROGRAMS.—Subsection (h) of section 2113 of title 10, United States Code, is amended to read as follows:

''(h) The Secretary of Defense may establish the following educational programs at the University:

''(1) Postdoctoral, postgraduate, and technological institutes.

''(2) A graduate school of nursing.

''(3) Other schools or programs that the Secretary determines necessary in order to operate the University in a cost-effective manner.''.

(b) CONFORMING AMENDMENTS TO REFLECT ADVISORY NATURE OF BOARD OF REGENTS.—(1) Section 2112(b) of such title is amended by

striking out ‘‘, upon recommendation of the Board of Regents,’’.

(2) Section 2113 of such title is amended—

(A) in subsection (a)—

(i) by striking out ‘‘a Board of Regents (hereinafter in this chapter referred to as the ‘Board’)’’ in the first sentence and inserting in lieu thereof ‘‘the Secretary of Defense’’; and

(ii) by inserting after the first sentence the following new sentence: ‘‘To assist the Secretary in an advisory capacity, there is a Board of Regents for the University.’’;

(B) in subsection (d), by striking out ‘‘Board’’ the first place it appears and inserting in lieu thereof ‘‘Secretary’’;

(C) in subsection (e), by striking out ‘‘of Defense’’;

(D) in subsection (f)(1), by striking out ‘‘of Defense’’;

(E) in subsection (g)—

(i) by striking out ‘‘Board is authorized to’’ in the first sentence and inserting in lieu thereof ‘‘Secretary may’’;

(ii) by striking out ‘‘Board is also authorized to’’ in the third sentence and inserting in lieu thereof ‘‘Secretary may’’; and

(iii) by striking out ‘‘Board may also, subject to the approval of the Secretary of Defense,’’ in the fifth sentence and inserting in lieu thereof ‘‘Secretary may’’; and

(F) by striking out ‘‘Board’’ each place it appears in subsections (f), (i), and (j) and inserting in lieu thereof ‘‘Secretary’’.

(3) Section 2114(e)(1) of such title is amended by striking out ‘‘Board, upon approval of the Secretary of Defense,’’ and inserting in lieu thereof ‘‘Secretary of Defense’’.

(c) CLERICAL AMENDMENTS.—(1) The heading of section 2113 of such title is amended to read as follows:

‘‘§ 2113. Administration of University’’.

(2) The item relating to such section in the table of sections at the beginning of chapter 104 of such title is amended to read as follows:

‘‘2113. Administration of University.’’.

SEC. 1073. FUNDING FOR ADULT EDUCATION PROGRAMS FOR MILITARY PERSONNEL AND DEPENDENTS OUTSIDE THE UNITED STATES.

Of amounts appropriated pursuant to section 301, $600,000 shall be available to carry out adult education programs, consistent with the Adult Education Act (20 U.S.C. 1201 et seq.), for the following:

(1) Members of the Armed Forces who are serving in locations—

(A) that are outside the United States; and

(B) for which amounts are not required to be allotted under section 313(b) of such Act (20 U.S.C. 1201b(b)).

(2) The dependents of such members.

SEC. 1074. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 1996.—(1) Of the amounts authorized to be appropriated in section 301(5)—

(A) $30,000,000 shall be available for providing educational agencies assistance (as defined in paragraph (4)(A)) to local educational agencies; and

(B) $5,000,000 shall be available for making educational agencies payments (as defined in paragraph (4)(B)) to local educational agencies.

(2) Not later than June 30, 1996, the Secretary of Defense shall—

(A) notify each local educational agency that is eligible for educational agencies assistance for fiscal year 1996 of that agency’s eligibility for such assistance and the amount of such assistance for which that agency is eligible; and

(B) notify each local educational agency that is eligible for an educational agencies payment for fiscal year 1996 of that agency’s eligibility for such payment and the amount of the payment for which that agency is eligible.

(3) The Secretary of Defense shall disburse funds made available under subparagraphs (A) and (B) of paragraph (1) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to paragraph (2).

(4) In this section:

(A) The term ‘‘educational agencies assistance’’ means assistance authorized under subsection (b) of section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 238 note).

(B) The term ‘‘educational agencies payments’’ means payments authorized under subsection (d) of that section, as amended by subsection (d).

(b) SPECIAL RULE FOR 1994 PAYMENTS.—The Secretary of Education shall not consider any payment to a local educational agency by the Department of Defense, that is available to such agency for current expenditures and used for capital expenses, as funds available to such agency for purposes of making a determination for fiscal year 1994 under section 3(d)(2)(B)(i) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on September 30, 1994).

(c) REDUCTION IN IMPACT THRESHOLD.—Subsection (c)(1) of section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 238 note) is amended—

(1) by striking out ‘‘30 percent’’ and inserting in lieu thereof ‘‘20 percent’’; and

(2) by striking out ‘‘counted under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 238)’’ and inserting in lieu thereof ‘‘counted under section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a))’’.

(d) ADJUSTMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—Subsection (d) of section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 28 U.S.C. 238 note) is amended to read as follows:

‘‘(d) ADJUSTMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—To assist communities in making adjustments resulting from reductions in the size of the Armed Forces, the Secretary of Defense shall, in consultation with the Secretary of Education, make payments to local educational agencies that, during the period between the end of the school year preceding the fiscal year for which the payments are authorized and the beginning of the school year immediately preceding that school year, had an overall reduction of not less than 20 percent in the number of military dependent students as a result of the closure or realignment of military installations.’’.

(e) EXTENSION OF REPORTING REQUIREMENT.—Subsection (e)(1) of section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 238 note) is amended by striking out ‘‘and 1995’’ and inserting in lieu thereof ‘‘1995, and 1996’’.

(f) PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.—Subsection (f) of section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) is amended—

(1) in paragraph (2)—

(A) in the matter preceding clause (i) of subparagraph (A), by striking ‘‘only if such agency’’ and inserting ‘‘if such agency is eligible for a supplementary payment in accordance with subparagraph (B) or such agency’’; and

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

‘‘(D) A local educational agency shall only be eligible to receive additional assistance under this subsection if the Secretary determines that—

‘‘(i) such agency is exercising due diligence in availing itself of State and other financial assistance; and

‘‘(ii) the eligibility of such agency under State law for State aid with respect to the free public education of children described in subsection (a)(1) and the amount of such aid are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount of such aid, with respect to the free public education of other children in the State.’’; and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting ‘‘(other than any amount received under paragraph (2)(B))’’ after ‘‘subsection’’;

(ii) in subclause (I) of clause (i), by striking ‘‘or the average per-pupil expenditure of all the States’’;

(iii) by amending clause (ii) to read as follows:

‘‘(ii) The Secretary shall next multiply the amount determined under clause (i) by the total number of students in average daily attendance at the schools of the local educational agency.’’; and

(iv) by amending clause (iii) to read as follows:

‘‘(iii) The Secretary shall next subtract from the amount determined under clause (ii) all funds available to the local educational agency for current expenditures, but shall not so subtract funds provided—

‘‘(I) under this Act; or

‘‘(II) by any department or agency of the Federal Government (other than the Department) that are used for capital expenses.’’; and

(B) by amending subparagraph (B) to read as follows:

‘‘(B) SPECIAL RULE.—With respect to payments under this subsection for a fiscal year for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of payments under this subsection shall be equal to—

‘‘(i) the product of—

‘‘(I) the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State; multiplied by

‘‘(II) the number of students described in subparagraph (A) or (B) of subsection (a)(1) for such agency; minus

‘‘(ii) the amount of payments such agency receives under subsections (b) and (d) for such year.’’.

(g) CURRENT YEAR DATA.—Paragraph (4) of section 8003(f) of such Act (20 U.S.C. 7703(f)) is amended to read as follows:

‘‘(4) CURRENT YEAR DATA.—For purposes of providing assistance under this subsection the Secretary—

‘‘(A) shall use student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

‘‘(B) shall derive the per pupil expenditure amount for such year for the local educational agency’s comparable school districts by increasing or decreasing the per pupil expenditure data for the second fiscal year preceding the fiscal year for which the determination is made by the same percentage increase or decrease reflected between the per pupil expenditure data for the fourth fiscal year preceding the fiscal year for which the determination is made and the per

pupil expenditure data for such second year.''.

(h) TECHNICAL AMENDMENTS TO CORRECT REFERENCES TO REPEALED LAW.—Section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 238 note) is amended—

(1) in subsection (e)(2)—

(A) in subparagraph (C), by inserting after ''et seq.),'' the following: ''title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.),''; and

(B) in subparagraph (D)(iii), by striking out ''under subsections (a) and (b) of section 3 of such Act (20 U.S.C. 238)''; and

(2) in subsection (h)—

(A) in paragraph (1), by striking out ''section 14101 of the Elementary and Secondary Education Act of 1965'' and inserting in lieu thereof ''section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9))''; and

(B) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

''(3) The term 'State' means each of the 50 States and the District of Columbia.''.

SEC. 1075. SHARING OF PERSONNEL OF DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT SCHOOLS AND DEFENSE DEPENDENTS' EDUCATION SYSTEM.

Section 2164(e) of title 10, United States Code, is amended by adding at the end the following:

''(4)(A) The Secretary may, without regard to the provisions of any law relating to the number, classification, or compensation of employees—

''(i) transfer employees from schools established under this section to schools in the defense dependents' education system in order to provide the services referred to in subparagraph (B) to such system; and

''(ii) transfer employees from such system to schools established under this section in order to provide such services to those schools.

''(B) The services referred to in subparagraph (A) are the following:

''(i) Administrative services.

''(ii) Logistical services.

''(iii) Personnel services.

''(iv) Such other services as the Secretary considers appropriate.

''(C) Transfers under this paragraph shall extend for such periods as the Secretary considers appropriate. The Secretary shall provide appropriate compensation for employees so transferred.

''(D) The Secretary may provide that the transfer of an employee under this paragraph occur without reimbursement of the school or system concerned.

''(E) In this paragraph, the term 'defense dependents' education system' means the program established and operated under section 1402(a) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(a)).''.

SEC. 1076. INCREASE IN RESERVE COMPONENT MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE ALLOWANCE WITH RESPECT TO SKILLS OR SPECIALTIES FOR WHICH THERE IS A CRITICAL SHORTAGE OF PERSONNEL.

Section 16131 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(j)(1) In the case of a person who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the rate of the educational assistance allowance applicable to that person to such rate in excess of the rate prescribed under subparagraphs (A) through (D) of subsection (b)(1) as the Secretary of Defense considers appropriate, but the amount of any such increase may not exceed $350 per month.

''(2) In the case of a person who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, who is eligible for educational benefits under chapter 30 (other than section 3012) of title 38 and who meets the eligibility criteria specified in subparagraphs (A) and (B) of section 16132(a)(1) of this title, the Secretary concerned may increase the rate of the educational assistance allowance applicable to that person to such rate in excess of the rate prescribed under section 3015 of title 38 as the Secretary of Defense considers appropriate, but the amount of any such increase may not exceed $350 per month.

''(3) The authority provided by paragraphs (1) and (2) shall be exercised by the Secretaries concerned under regulations prescribed by the Secretary of Defense.''.

SEC. 1077. DATE FOR ANNUAL REPORT ON RESERVE COMPONENT MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PROGRAM.

Section 16137 of title 10, United States Code, is amended by striking out ''December 15 of each year'' and inserting in lieu thereof ''March 1 of each year''.

SEC. 1078. SCOPE OF EDUCATION PROGRAMS OF COMMUNITY COLLEGE OF THE AIR FORCE.

(a) LIMITATION TO MEMBERS OF THE AIR FORCE.—Section 9315(a)(1) of title 10, United States Code, is amended by striking out ''for enlisted members of the armed forces'' and inserting in lieu thereof ''for enlisted members of the Air Force''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to enrollments in the Community College of the Air Force after March 31, 1996.

SEC. 1079. AMENDMENTS TO EDUCATION LOAN REPAYMENT PROGRAMS.

(a) GENERAL EDUCATION LOAN REPAYMENT PROGRAM.—Section 2171(a)(1) of title 10, United States Code, is amended—

(1) by striking out ''or'' at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or''.

(b) EDUCATION LOAN REPAYMENT PROGRAM FOR ENLISTED MEMBERS OF SELECTED RESERVE WITH CRITICAL SPECIALTIES.—Section 16301(a)(1) of such title is amended—

(1) by striking out ''or'' at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or''.

(c) EDUCATION LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONS OFFICERS SERVING IN SELECTED RESERVE WITH WARTIME CRITICAL MEDICAL SKILL SHORTAGES.—Section 16302(a) of such title is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5) respectively; and

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

''(2) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or''.

Subtitle H—Other Matters

SEC. 1081. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, DEFENSE REINVESTMENT, AND DEFENSE CONVERSION PROGRAMS.

(a) NATIONAL SECURITY OBJECTIVES FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—(1) Section 2501 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out ''DEFENSE POLICY'' in the subsection heading and inserting in lieu thereof ''NATIONAL SECURITY''; and

(ii) by striking out paragraph (5);

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

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

(2) The heading of such section is amended to read as follows:

''§ 2501. National security objectives concerning national technology and industrial base''.

(b) NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE COUNCIL.—Section 2502(c) of such title is amended—

(1) in paragraph (1), by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

''(B) programs for achieving such national security objectives; and'';

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(c) MODIFICATION OF DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS PROGRAM.—Section 2511 of such title is amended to read as follows:

''§ 2511. Defense dual-use critical technology program

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program to further the national security objectives set forth in section 2501(a) of this title by encouraging and providing for research, development, and application of dual-use critical technologies. The Secretary may make grants, enter into contracts, or enter into cooperative agreements and other transactions pursuant to section 2371 of this title in furtherance of the program. The Secretary shall identify projects to be conducted as part of the program.

''(b) ASSISTANCE AUTHORIZED.—The Secretary of Defense may provide technical and other assistance to facilitate the achievement of the purposes of projects conducted under the program. In providing such assistance, the Secretary shall make available, as appropriate for the work to be performed, equipment and facilities of Department of Defense laboratories (including the scientists and engineers at those laboratories) for purposes of projects selected by the Secretary.

''(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The total amount of funds provided by the Federal Government for a project conducted under the program may not exceed 50 percent of the total cost of the project. However, the Secretary of Defense may agree to a project in which the total amount of funds provided by the Federal Government exceeds 50 percent if the Secretary determines the project is particularly meritorious, but the project would not otherwise have sufficient non-Federal funding or in-kind contributions.

''(2) The Secretary may prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a project conducted under the program for the purpose of calculating the share of the project costs that has been or is being undertaken by such participants. In such regulations, the Secretary may authorize a participant that is a small business

concern to use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of project activities. Any such funds so used may be considered in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity percentage contribution in the project from non-Federal sources.

''(3) The Secretary shall consider a project proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated project costs. Upon the selection of a project proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the project from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated project costs, the Secretary shall revoke the selection of the project proposal submitted by the small business concern.

''(d) SELECTION PROCESS.—Competitive procedures shall be used in the conduct of the program.

''(e) SELECTION CRITERIA.—The criteria for the selection of projects under the program shall include the following:

''(1) The extent to which the proposed project advances and enhances the national security objectives set forth in section 2501(a) of this title.

''(2) The technical excellence of the proposed project.

''(3) The qualifications of the personnel proposed to participate in the research activities of the proposed project.

''(4) An assessment of timely private sector investment in activities to achieve the goals and objectives of the proposed project other than through the project.

''(5) The potential effectiveness of the project in the further development and application of each technology proposed to be developed by the project for the national technology and industrial base.

''(6) The extent of the financial commitment of eligible firms to the proposed project.

''(7) The extent to which the project does not unnecessarily duplicate projects undertaken by other agencies.

''(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the purposes of this section.''.

(d) FEDERAL DEFENSE LABORATORY DIVERSIFICATION PROGRAM.—Section 2519 of such title is amended—

(1) in subsection (b), by striking out ''referred to in section 2511(b) of this title''; and

(2) in subsection (f), by striking out ''section 2511(f)'' and inserting in lieu thereof ''section 2511(e)''.

(e) MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.—Subsection (b) of section 2525 of such title is amended to read as follows:

''(b) PURPOSE OF PROGRAM.—The Secretary of Defense shall use the program—

''(1) to provide centralized guidance and direction (including goals, milestones, and priorities) to the military departments and the Defense Agencies on all matters relating to manufacturing technology;

''(2) to direct the development and implementation of Department of Defense plans, programs, projects, activities, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment;

''(3) to improve the manufacturing quality, productivity, technology, and practices of businesses and workers providing goods and services to the Department of Defense;

''(4) to promote dual-use manufacturing processes;

''(5) to disseminate information concerning improved manufacturing improvement concepts, including information on such matters as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts;

''(6) to sustain and enhance the skills and capabilities of the manufacturing work force;

''(7) to promote high-performance work systems (with development and dissemination of production technologies that build upon the skills and capabilities of the work force), high levels of worker education and training; and

''(8) to ensure appropriate coordination between the manufacturing technology programs and industrial preparedness programs of the Department of Defense and similar programs undertaken by other departments and agencies of the Federal Government or by the private sector.''.

(f) REPEAL OF VARIOUS ASSISTANCE PROGRAMS.—Sections 2512, 2513, 2520, 2521, 2522, 2523, and 2524 of such title are repealed.

(g) REPEAL OF MILITARY-CIVILIAN INTEGRATION AND TECHNOLOGY TRANSFER ADVISORY BOARD.—Section 2516 of such title is repealed.

(h) REPEAL OF OBSOLETE DEFINITIONS.—Section 2491 of such title is amended—

(1) by striking out paragraphs (11) and (12); and

(2) by redesignating paragraphs (13), (14), (15), and (16) as paragraphs (11) (12), (13), and (14), respectively.

(i) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of subchapter II of chapter 148 of such title is amended by striking out the item relating to section 2501 and inserting in lieu thereof the following new item:

''2501. National security objectives concerning national technology and industrial base.''.

(2) The table of sections at the beginning of subchapter III of such chapter is amended—

(A) by striking out the item relating to section 2511 and inserting in lieu thereof the following new item:

''2511. Defense dual-use critical technology program.''; and

(B) by striking out the items relating to sections 2512, 2513, 2516, and 2520.

(3) The table of sections at the beginning of subchapter IV of such chapter is amended by striking out the items relating to sections 2521, 2522, 2523, and 2524.

SEC. 1082. AMMUNITION INDUSTRIAL BASE.

(a) REVIEW OF AMMUNITION PROCUREMENT PROGRAMS.—The Secretary of Defense shall carry out a review of the programs of the Department of Defense for the procurement of ammunition. The review shall include the Department of Defense management of ammunition procurement programs, including the procedures of the Department for the planning for, budgeting for, administration, and carrying out of such programs. The Secretary shall begin the review not later than 30 days after the date of the enactment of this Act.

(b) MATTERS TO BE REVIEWED.—The review under subsection (a) shall include an assessment of the following:

(1) The practicability and desirability of (A) continuing to use centralized procurement practices (through a single executive agent) for the procurement of ammunition required by the Armed Forces, and (B) using such centralized procurement practices for the procurement of all such ammunition.

(2) The capability of the ammunition production facilities of the Government to meet the requirements of the Armed Forces for procurement of ammunition.

(3) The practicability and desirability of converting those ammunition production facilities to ownership or operation by private sector entities.

(4) The practicability and desirability of integrating the budget planning for the procurement of ammunition among the Armed Forces.

(5) The practicability and desirability of establishing an advocate within the Department of Defense for matters relating to the ammunition industrial base, with such an advocate to be responsible for—

(A) establishing the quantity and price of ammunition procured by the Armed Forces; and

(B) establishing and implementing policy to ensure the continuing capability of the ammunition industrial base in the United States to meet the requirements of the Armed Forces.

(6) The practicability and desirability of providing information on the ammunition procurement practices of the Armed Forces to Congress through a single source.

(c) REPORT.—Not later than April 1, 1996, the Secretary shall submit to the congressional defense committees a report on the review carried out under subsection (a). The report shall include the following:

(1) The results of the review.

(2) A discussion of the methodologies used in carrying out the review.

(3) An assessment of various methods of ensuring the continuing capability of the ammunition industrial base of the United States to meet the requirements of the Armed Forces.

(4) Recommendations of means (including legislation) of implementing those methods in order to ensure such continuing capability.

SEC. 1083. POLICY CONCERNING EXCESS DEFENSE INDUSTRIAL CAPACITY.

No funds appropriated pursuant to an authorization of appropriations in this Act may be used for capital investment in, or the development and construction of, a Government-owned, Government-operated defense industrial facility unless the Secretary of Defense certifies to the Congress that no similar capability or minimally used capacity exists in any other Government-owned, Government-operated defense industrial facility.

SEC. 1084. SENSE OF CONGRESS CONCERNING ACCESS TO SECONDARY SCHOOL STUDENT INFORMATION FOR RECRUITING PURPOSES.

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

(1) the States (with respect to public schools) and entities operating private secondary schools should not have a policy of denying, or otherwise effectively preventing, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to any secondary school or access to students at any secondary school equal to that of other employers; or

(B) access to directory information pertaining to students at secondary schools equal to that of other employers (other than in a case in which an objection has been raised as described in paragraph (2)); and

(2) any State, and any entity operating a private secondary school, that releases directory information secondary school students should—

(A) give public notice of the categories of such information to be released; and

(B) allow a reasonable period after such notice has been given for a student or (in the case of an individual younger than 18 years of age) a parent to inform the school that any or all of such information should not be released without obtaining prior consent from the student or the parent, as the case may be.

(b) REPORT ON DOD PROCEDURES.—Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report on Department of Defense procedures for determining if and when a State or an entity operating a private secondary school has denied or prevented access to students or information as described in subsection (a)(1).

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

(1) The term ''directory information'' means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and (if available) the most recent previous educational program enrolled in by the student.

(2) The term ''student'' means an individual enrolled in any program of education who is 17 years of age or older.

SEC. 1085. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, THE VIETNAM ERA, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note) is amended—

(1) in subsection (b)(3)(A), by striking out ''cannot be located after a reasonable effort.'' and inserting in lieu thereof ''cannot be located by the Secretary of Defense—

''(i) in the case of a person missing from the Vietnam era, after a reasonable effort; and

''(ii) in the case of a person missing from the Korean Conflict or Cold War, after a period of 90 days from the date on which any record or other information referred to in paragraph (2) is received by the Department of Defense for disclosure review from the Archivist of the United States, the Library of Congress, or the Joint United States-Russian Commission on POW/MIAs.''; and

(2) in subsection (c)(1), by striking out ''not later than September 30, 1995'' and inserting in lieu thereof ''not later than January 2, 1996''.

SEC. 1086. OPERATIONAL SUPPORT AIRLIFT AIRCRAFT FLEET.

(a) SUBMITTAL OF JCS REPORT ON AIRCRAFT.—Not later than February 1, 1996, the Secretary of Defense shall submit to Congress the report that, as of the date of the enactment of this Act, is in preparation by the Chairman of the Joint Chiefs of Staff on operational support airlift aircraft.

(b) CONTENT OF REPORT.—(1) The report referred to in subsection (a) shall contain findings and recommendations on the following:

(A) Requirements for the modernization and safety of the operational support airlift aircraft fleet.

(B) The disposition of aircraft that would be excess to that fleet upon fulfillment of the requirements referred to in subparagraph (A).

(C) Plans and requirements for the standardization of the fleet, including plans and requirements for the provision of a single manager for all logistical support and operational requirements.

(D) Central scheduling of all operational support airlift aircraft.

(E) Needs of the Department for helicopter support in the National Capital Region, including the acceptable uses of that support.

(2) In preparing the report, the Chairman of the Joint Chiefs of Staff shall take into account the recommendation of the Commission on Roles and Missions of the Armed Forces to reduce the size of the operational support airlift aircraft fleet.

(c) REGULATIONS.—(1) Upon completion of the report referred to in subsection (a), the Secretary shall prescribe regulations, consistent with the findings and recommendations set forth in the report, for the operation, maintenance, disposition, and use of operational support airlift aircraft.

(2) The regulations shall, to the maximum extent practicable, provide for, and encourage the use of, commercial airlines in lieu of the use of such aircraft.

(3) The regulations shall apply uniformly throughout the Department.

(4) The regulations shall not require exclusive use of such aircraft for any particular class of government personnel.

(d) REDUCTIONS IN FLYING HOURS.—(1) The Secretary shall ensure that the number of hours flown during fiscal year 1996 by operational support airlift aircraft does not exceed the number equal to 85 percent of the number of hours flown during fiscal year 1995 by operational support airlift aircraft.

(2) The Secretary should ensure that the number of hours flown in the National Capital Region during fiscal year 1996 by helicopters of the operational support airlift aircraft fleet does not exceed the number equal to 85 percent of the number of hours flown in the National Capital Region during fiscal year 1995 by helicopters of the operational support airlift aircraft fleet.

(e) RESTRICTION ON AVAILABILITY OF FUNDS.—Of the funds appropriated pursuant to section 301 for the operation and use of operational support airlift aircraft, not more than 50 percent is available for obligation until the Secretary submits to Congress the report referred to in subsection (a).

(f) DEFINITIONS.—In this section:

(1) The term ''operational support airlift aircraft'' means aircraft of the Department of Defense designated within the Department as operational support airlift aircraft.

(2) The term ''National Capital Region'' has the meaning given such term in section 2674(f)(2) of title 10, United States Code.

SEC. 1087. CIVIL RESERVE AIR FLEET.

Section 9512 of title 10, United States Code, is amended by striking out ''full Civil Reserve Air Fleet'' in subsections (b)(2) and (e) and inserting in lieu thereof ''Civil Reserve Air Fleet''.

SEC. 1088. DAMAGE OR LOSS TO PERSONAL PROPERTY DUE TO EMERGENCY EVACUATION OR EXTRAORDINARY CIRCUMSTANCES.

(a) SETTLEMENT OF CLAIMS OF PERSONNEL.—Section 3721(b)(1) of title 31, United States Code, is amended by inserting after the first sentence the following: ''If, however, the claim arose from an emergency evacuation or from extraordinary circumstances, the amount settled and paid under the authority of the preceding sentence may exceed $40,000, but may not exceed $100,000.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to claims arising before, on, or after the date of the enactment of this Act.

(c) REPRESENTMENTS OF PREVIOUSLY PRESENTED CLAIMS.—(1) A claim under subsection (b) of section 3721 of title 31, United States Code, that was settled under such section before the date of the enactment of this Act may be represented under such section, as amended by subsection (a), to the head of the agency concerned to recover the amount equal to the difference between the actual amount of the damage or loss and the amount settled and paid under the authority of such section before the date of the enactment of this Act, except that—

(A) the claim shall be represented in writing within two years after the date of the enactment of this Act;

(B) a determination of the actual amount of the damage or loss shall have been made by the head of the agency concerned pursuant to settlement of the claim under the authority of such section before the date of the enactment of this Act;

(C) the claimant shall have proof of the determination referred to in subparagraph (B); and

(D) the total of all amounts paid in settlement of the claim under the authority of such section may not exceed $100,000.

(2) Subsection (k) of such section shall not apply to bar representment of a claim described in paragraph (1), but shall apply to such a claim that is represented and settled under that section after the date of the enactment of this Act.

SEC. 1089. AUTHORITY TO SUSPEND OR TERMINATE COLLECTION ACTIONS AGAINST DECEASED MEMBERS.

Section 3711 of title 31, United States Code, is amended by adding at the end the following:

''(g)(1) The Secretary of Defense may suspend or terminate an action by the Secretary or by the Secretary of a military department under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, or Marine Corps if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

''(2) In this subsection, the term 'active duty' has the meaning given that term in section 101 of title 10.''.

SEC. 1090. CHECK CASHING AND EXCHANGE TRANSACTIONS FOR DEPENDENTS OF UNITED STATES GOVERNMENT PERSONNEL.

(a) AUTHORITY TO CARRY OUT TRANSACTIONS.—Subsection (b) of section 3342 of title 31, United States Code, is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

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

''(3) a dependent of personnel of the Government, but only—

''(A) at a United States installation at which adequate banking facilities are not available; and

''(B) in the case of negotiation of negotiable instruments, if the dependent's sponsor authorizes, in writing, the presentation of negotiable instruments to the disbursing official for negotiation.''.

(b) PAY OFFSET.—Subsection (c) of such section is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

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

''(3) The amount of any deficiency resulting from cashing a check for a dependent under subsection (b)(3), including any charges assessed against the disbursing official by a financial institution for insufficient funds to pay the check, may be offset from the pay of the dependent's sponsor.''.

(c) DEFINITIONS.—Such section is further amended by adding at the end the following:

''(e) Regulations prescribed under subsection (d) shall include regulations that define the terms 'dependent' and 'sponsor' for the purposes of this section. In the regulations, the term 'dependent', with respect to a member of a uniformed service, shall have the meaning given that term in section 401 of title 37.''.

SEC. 1091. DESIGNATION OF NATIONAL MARITIME CENTER.

(a) DESIGNATION OF NATIONAL MARITIME CENTER.—The NAUTICUS building, located at one Waterside Drive, Norfolk, Virginia, shall be known and designated as the ''National Maritime Center''.

(b) REFERENCE TO NATIONAL MARITIME CENTER.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the ''National Maritime Center''.

SEC. 1092. SENSE OF CONGRESS REGARDING HISTORIC PRESERVATION OF MIDWAY ISLANDS.

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

(1) September 2, 1995, marks the 50th anniversary of the United States victory over Japan in World War II.

(2) The Battle of Midway proved to be the turning point in the war in the Pacific, as United States Navy forces inflicted such severe losses on the Imperial Japanese Navy during the battle that the Imperial Japanese Navy never again took the offensive against United States or allied forces.

(3) During the Battle of Midway, an outnumbered force of the United States Navy, consisting of 29 ships and other units of the Armed Forces under the command of Admiral Nimitz and Admiral Spruance, out-maneuvered and out-fought 350 ships of the Imperial Japanese Navy.

(4) It is in the public interest to erect a memorial to the Battle of Midway that is suitable to express the enduring gratitude of the American people for victory in the battle and to inspire future generations of Americans with the heroism and sacrifice of the members of the Armed Forces who achieved that victory.

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

(1) the Midway Islands and the surrounding seas deserve to be memorialized;

(2) the historic structures related to the Battle of Midway should be maintained, in accordance with the National Historic Preservation Act (16 U.S.C. 470–470t), and subject to the availability of appropriations for that purpose.

(3) appropriate access to the Midway Islands by survivors of the Battle of Midway, their families, and other visitors should be provided in a manner that ensures the public health and safety on the Midway Islands and the conservation of the natural resources of those islands in accordance with existing Federal law.

SEC. 1093. SENSE OF SENATE REGARDING FEDERAL SPENDING.

It is the sense of the Senate that in pursuit of a balanced Federal budget, Congress should exercise fiscal restraint, particularly in authorizing spending not requested by the executive branch and in proposing new programs.

SEC. 1094. EXTENSION OF AUTHORITY FOR VESSEL WAR RISK INSURANCE.

Section 1214 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1294), is amended by striking ''June 30, 1995'' and inserting in lieu thereof ''June 30, 2000''.

TITLE XI—UNIFORM CODE OF MILITARY JUSTICE

SEC. 1101. SHORT TITLE.

This title may be cited as the ''Military Justice Amendments of 1995''.

SEC. 1102. REFERENCES TO UNIFORM CODE OF MILITARY JUSTICE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

Subtitle A—Offenses

SEC. 1111. REFUSAL TO TESTIFY BEFORE COURT-MARTIAL.

Section 847(b) (article 47(b)) is amended—

(1) in the first sentence, by inserting ''indictment or'' after ''shall be tried on''; and

(2) in the second sentence, by striking out ''shall be'' and all that follows and inserting in lieu thereof ''shall be fined or imprisoned, or both, at the court's discretion.''.

SEC. 1112. FLIGHT FROM APPREHENSION.

(a) IN GENERAL.—Section 895 (article 95) is amended to read as follows:

''§ 895. Art. 95. Resistance, flight, breach of arrest, and escape

''Any person subject to this chapter who—

''(1) resists apprehension;

''(2) flees from apprehension;

''(3) breaks arrest; or

''(4) escapes from custody or confinement;

shall be punished as a court-martial may direct.''.

(b) CLERICAL AMENDMENT.—The item relating to section 895 (article 95) in the table of sections at the beginning of subchapter X is amended to read as follows:

''895. Art. 95. Resistance, flight, breach of arrest, and escape.''.

SEC. 1113. CARNAL KNOWLEDGE.

(a) GENDER NEUTRALITY.—Subsection (b) of section 920 (article 120) is amended to read as follows:

''(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a person—

''(1) who is not that person's spouse; and

''(2) who has not attained the age of sixteen years;

is guilty of carnal knowledge and shall be punished as a court-martial may direct.''.

(b) MISTAKE OF FACT.—Such section (article) is further amended by adding at the end the following new subsection:

''(d)(1) In a prosecution under subsection (b), it is an affirmative defense that—

''(A) the person with whom the accused committed the act of sexual intercourse had at the time of the alleged offense attained the age of twelve years; and

''(B) the accused reasonably believed that that person had at the time of the alleged offense attained the age of sixteen years.

''(2) The accused has the burden of proving a defense under paragraph (1) by a preponderance of the evidence.''.

Subtitle B—Sentences

SEC. 1121. EFFECTIVE DATE FOR FORFEITURES OF PAY AND ALLOWANCES AND REDUCTIONS IN GRADE BY SENTENCE OF COURT-MARTIAL.

(a) EFFECTIVE DATE OF SPECIFIED PUNISHMENTS.—Subsection (a) of section 857 (article 57) is amended to read as follows:

''(a)(1) Any forfeiture of pay or allowances or reduction in grade that is included in a sentence of a court-martial takes effect on the earlier of—

''(A) the date that is 14 days after the date on which the sentence is adjudged; or

''(B) the date on which the sentence is approved by the convening authority.

''(2) On application by an accused, the convening authority may defer a forfeiture of pay or allowances or reduction in grade that would otherwise become effective under paragraph (1)(A) until the date on which the sentence is approved by the convening authority. Such a deferment may be rescinded at any time by the convening authority.

''(3) A forfeiture of pay or allowances shall be applicable to pay and allowances accruing on and after the date on which the sentence takes effect.

''(4) In this subsection, the term 'convening authority', with respect to a sentence of a court-martial, means any person authorized to act on the sentence under section 860 of this title (article 60).''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to a case in which a sentence is adjudged by a court-martial on or after the first day of the first month that begins at least 30 days after the date of the enactment of this Act.

SEC. 1122. REQUIRED FORFEITURE OF PAY AND ALLOWANCES DURING CONFINEMENT.

(a) EFFECT OF PUNITIVE SEPARATION OR CONFINEMENT FOR MORE THAN SIX MONTHS.—(1) Subchapter VIII is amended by inserting after section 858a (article 58a) the following:

''§ 858b. Art. 58b. Sentences: forfeiture of pay and allowances during confinement

''(a)(1) A court-martial sentence described in paragraph (2) shall result in the forfeiture of pay and allowances due that member during any period of confinement or parole. The forfeiture pursuant to this section shall take effect on the date determined under section 857(a) of this title (article 57(a)) and may be deferred as provided in that section. The pay and allowances forfeited, in the case of a general court-martial, shall be all pay and allowances due that member during such period and, in the case of a special court-martial, shall be two-thirds of all pay and allowances due that member during such period.

''(2) A sentence covered by this section is any sentence that includes—

''(A) confinement for more than six months or death; or

''(B) confinement for six months or less and a dishonorable or bad-conduct discharge or dismissal.

''(b) In a case involving an accused who has dependents, the convening authority or other person acting under section 860 of this title (article 60) may waive any or all of the forfeitures of pay and allowances required by subsection (a) for a period not to exceed six months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.

''(c) If the sentence of a member who forfeits pay and allowances under subsection (a) is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in subsection (a)(2), the member shall be paid the pay and allowances which the member would have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.''.

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

''858b. 58b. Sentences: forfeiture of pay and allowances during confinement.''.

(b) APPLICABILITY.—The section (article) added by the amendment made by subsection (a)(1) shall apply to a case in which a sentence is adjudged by a court-martial on or after the first day of the first month that begins at least 30 days after the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—(1) Section 804 of title 37, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 15 of such title is amended by striking out the item relating to section 804.

SEC. 1123. DEFERMENT OF CONFINEMENT.

(a) DEFERMENT.—Subchapter VIII is amended—

(1) by inserting after subsection (c) of section 857 (article 57) the following:

"§ 857a. Art. 57a. Deferment of sentences";

(2) by redesignating the succeeding two subsections as subsection (a) and (b);

(3) in subsection (b), as redesignated by paragraph (2), by striking out ''postpone'' and inserting in lieu thereof ''defer''; and

(4) by inserting after subsection (b), as redesignated by paragraph (2), the following:

''(c) In any case in which a court-martial sentences a person to confinement and the sentence to confinement has been ordered executed, but in which review of the case under section 867(a)(2) of this title (article 67(a)(2)) is pending, the Secretary concerned may defer further service of the sentence to confinement while that review is pending.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 857 (article 57) the following new item:

''857a. 57a. Deferment of sentences.''.

Subtitle C—Pretrial and Post-Trial Actions

SEC. 1131. ARTICLE 32 INVESTIGATIONS.

Section 832 (article 32) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) If evidence adduced in an investigation under this article indicates that the accused committed an uncharged offense, the investigating officer may investigate the subject matter of that offense without the accused having first been charged with the offense if the accused—

''(1) is present at the investigation;

''(2) is informed of the nature of each uncharged offense investigated; and

''(3) is afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b).''.

SEC. 1132. SUBMISSION OF MATTERS TO THE CONVENING AUTHORITY FOR CONSIDERATION.

Section 860(b)(1) (article 60(b)(1)) is amended by inserting after the first sentence the following: ''Any such submission shall be in writing.''.

SEC. 1133. COMMITMENT OF ACCUSED TO TREATMENT FACILITY BY REASON OF LACK OF MENTAL CAPACITY OR MENTAL RESPONSIBILITY.

(a) APPLICABLE PROCEDURES.—(1) Subchapter IX is amended by inserting after section 876a (article 76a) the following:

"§ 876b. Art. 76b. Lack of mental capacity or mental responsibility: commitment of accused for examination and treatment

''(a) PERSONS INCOMPETENT TO STAND TRIAL.—(1) In the case of a person determined under this chapter to be presently suffering from a mental disease or defect rendering the person mentally incompetent to the extent that the person is unable to understand the nature of the proceedings against that person or to conduct or cooperate intelligently in the defense of the case, the general court-martial convening authority for that person shall commit the person to the custody of the Attorney General.

''(2) The Attorney General shall take action in accordance with section 4241(d) of title 18.

''(3) If at the end of the period for hospitalization provided for in section 4241(d) of title 18, it is determined that the committed person's mental condition has not so improved as to permit the trial to proceed, action shall be taken in accordance with section 4246 of such title.

''(4)(A) When the director of a facility in which a person is hospitalized pursuant to paragraph (2) determines that the person has recovered to such an extent that the person is able to understand the nature of the proceedings against the person and to conduct or cooperate intelligently in the defense of the case, the director shall promptly transmit a notification of that determination to the Attorney General and to the general court-martial convening authority for the person. The director shall send a copy of the notification to the person's counsel.

''(B) Upon receipt of a notification, the general court-martial convening authority shall promptly take custody of the person unless the person covered by the notification is no longer subject to this chapter. If the person is no longer subject to this chapter, the Attorney General shall take any action within the authority of the Attorney General that the Attorney General considers appropriate regarding the person.

''(C) The director of the facility may retain custody of the person for not more than 30 days after transmitting the notifications required by subparagraph (A).

''(5) In the application of section 4246 of title 18 to a case under this subsection, references to the court that ordered the commitment of a person, and to the clerk of such court, shall be deemed to refer to the general court-martial convening authority for that person. However, if the person is no longer subject to this chapter at a time relevant to the application of such section to the person, the United States district court for the district where the person is hospitalized or otherwise may be found shall be considered as the court that ordered the commitment of the person.

''(b) PERSONS FOUND NOT GUILTY BY REASON OF LACK OF MENTAL RESPONSIBILITY.—(1) If a person is found by a court-martial not guilty only by reason of lack of mental responsibility, the person shall be committed to a suitable facility until the person is eligible for release in accordance with this section.

''(2) The court-martial shall conduct a hearing on the mental condition in accordance with subsection (c) of section 4243 of title 18. Subsections (b) and (d) of that section shall apply with respect to the hearing.

''(3) A report of the results of the hearing shall be made to the general court-martial convening authority for the person.

''(4) If the court-martial fails to find by the standard specified in subsection (d) of section 4243 of title 18 that the person's release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect—

''(A) the general court-martial convening authority may commit the person to the custody of the Attorney General; and

''(B) the Attorney General shall take action in accordance with subsection (e) of section 4243 of title 18.

''(5) Subsections (f), (g), and (h) of section 4243 of title 18 shall apply in the case of a person hospitalized pursuant to paragraph (4)(B), except that the United States district court for the district where the person is hospitalized shall be considered as the court that ordered the person's commitment.

''(c) GENERAL PROVISIONS.—(1) Except as otherwise provided in this subsection and subsection (d)(1), the provisions of section 4247 of title 18 apply in the administration of this section.

''(2) In the application of section 4247(d) of title 18 to hearings conducted by a court-martial under this section or by (or by order of) a general court-martial convening authority under this section, the reference in that section to section 3006A of such title does not apply.

''(d) APPLICABILITY.—(1) The provisions of chapter 313 of title 18 referred to in this section apply according to the provisions of this section notwithstanding section 4247(j) of title 18.

''(2) If the status of a person as described in section 802 of this title (article 2) terminates while the person is, pursuant to this section, in the custody of the Attorney General, hospitalized, or on conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, the provisions of this section establishing requirements and procedures regarding a person no longer subject to this chapter shall continue to apply to that person notwithstanding the change of status.''.

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 876a (article 76a) the following:

''876b. 76b. Lack of mental capacity or mental responsibility: commitment of accused for examination and treatment.''.

(b) CONFORMING AMENDMENT.—Section 802 (article 2) is amended by adding at the end the following new subsection:

''(e) The provisions of this section are subject to section 876b(d)(2) of this title (article 76b(d)(2)).''.

(c) EFFECTIVE DATE.—Section 876b of title 10, United States Code (article 76b of the Uniform Code of Military Justice), as added by subsection (a), shall take effect at the end of the six-month period beginning on the date of the enactment of this Act and shall apply with respect to charges referred to courts-martial after the end of that period.

Subtitle D—Appellate Matters

SEC. 1141. APPEALS BY THE UNITED STATES.

(a) APPEALS RELATING TO DISCLOSURE OF CLASSIFIED INFORMATION.—Section 862(a)(1) (article 62(a)(1)) is amended to read as follows:

''(a)(1) In a trial by court-martial in which a military judge presides and in which a punitive discharge may be adjudged, the United States may appeal the following (other than an order or ruling that is, or that amounts to, a finding of not guilty with respect to the charge or specification):

''(A) An order or ruling of the military judge which terminates the proceedings with respect to a charge or specification.

''(B) An order or ruling which excludes evidence that is substantial proof of a fact material in the proceeding.

''(C) An order or ruling which directs the disclosure of classified information.

''(D) An order or ruling which imposes sanctions for nondisclosure of classified information.

''(E) A refusal of the military judge to issue a protective order sought by the United States to prevent the disclosure of classified information.

''(F) A refusal by the military judge to enforce an order described in subparagraph (E) that has previously been issued by appropriate authority.''.

(b) DEFINITIONS.—Section 801 (article 1) is amended by inserting after paragraph (14) the following new paragraphs:

''(15) The term 'classified information' means (A) any information or material that has been determined by an official of the United States pursuant to law, an Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security, and (B) any restricted data, as defined in section 11(y) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

''(16) The term 'national security' means the national defense and foreign relations of the United States.''.

SEC. 1142. REPEAL OF TERMINATION OF AUTHORITY FOR CHIEF JUSTICE OF THE UNITED STATES TO DESIGNATE ARTICLE III JUDGES FOR TEMPORARY SERVICE ON COURT OF APPEALS FOR THE ARMED FORCES.

Subsection (i) of section 1301 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 942 note) is repealed.

Subtitle E—Other Matters

SEC. 1151. ADVISORY COMMITTEE ON CRIMINAL LAW JURISDICTION OVER CIVILIANS ACCOMPANYING THE ARMED FORCES IN TIME OF ARMED CONFLICT.

(a) ESTABLISHMENT.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense and the Attorney General shall jointly appoint an advisory committee to review and make recommendations concerning the appropriate forum for criminal jurisdiction over civilians accompanying the Armed Forces in the field outside the United States in time of armed conflict.

(b) MEMBERSHIP.—The committee shall be composed of at least five individuals, including experts in military law, international law, and Federal civilian criminal law. In making appointments to the committee, the Secretary and the Attorney General shall ensure that the members of the committee reflect diverse experiences in the conduct of prosecution and defense functions.

(c) DUTIES.—The committee shall do the following:

(1) Review historical experiences and current practices concerning the use, training, discipline, and functions of civilians accompanying the Armed Forces in the field.

(2) Based upon such review and other information available to the committee, develop specific recommendations concerning the advisability and feasibility of establishing United States criminal law jurisdiction over persons who as civilians accompany the Armed Forces in the field outside the United States during time of armed conflict not involving a war declared by Congress, including whether such jurisdiction should be established through any of the following means (or a combination of such means depending upon the degree of the armed conflict involved):

(A) Establishing court-martial jurisdiction over such persons.

(B) Extending the jurisdiction of the Article III courts to cover such persons.

(C) Establishing an Article I court to exercise criminal jurisdiction over such persons.

(3) Develop such additional recommendations as the committee considers appropriate as a result of the review.

(d) REPORT.—(1) Not later than December 15, 1996, the advisory committee shall transmit to the Secretary of Defense and the Attorney General a report setting forth its findings and recommendations, including the recommendations required under subsection (c)(2).

(2) Not later than January 15, 1997, the Secretary of Defense and the Attorney General shall jointly transmit the report of the advisory committee to Congress. The Secretary and the Attorney General may include in the transmittal any joint comments on the report that they consider appropriate, and either such official may include in the transmittal any separate comments on the report that such official considers appropriate.

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

(1) The term ''Article I court'' means a court established under Article I of the Constitution.

(2) The term ''Article III court'' means a court established under Article III of the Constitution.

(f) TERMINATION OF COMMITTEE.—The advisory committee shall terminate 30 days after the date on which the report of the committee is submitted to Congress under subsection (d)(2).

SEC. 1152. TIME AFTER ACCESSION FOR INITIAL INSTRUCTION IN THE UNIFORM CODE OF MILITARY JUSTICE.

Section 937(a)(1) (article 137(a)(1)) is amended by striking out ''within six days'' and inserting in lieu thereof ''within fourteen days''.

SEC. 1153. TECHNICAL AMENDMENT.

Section 866(f) (article 66(f)) is amended by striking out ''Courts of Military Review'' both places it appears and inserting in lieu thereof ''Courts of Criminal Appeals''.

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

SEC. 1201. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) IN GENERAL.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in subsection (b).

(b) SPECIFIED PROGRAMS.—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons and their delivery vehicles.

(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

(3) Programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise.

(4) Programs to expand military-to-military and defense contacts.

SEC. 1202. FISCAL YEAR 1996 FUNDING ALLOCATIONS.

(a) IN GENERAL.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For elimination of strategic offensive weapons in Russia, Ukraine, Belarus, and Kazakhstan, $90,000,000.

(2) For weapons security in Russia, $42,500,000.

(3) For the Defense Enterprise Fund, $0.

(4) For nuclear infrastructure elimination in Ukraine, Belarus, and Kazakhstan, $35,000,000.

(5) For planning and design of a storage facility for Russian fissile material, $29,000,000.

(6) For planning and design of a chemical weapons destruction facility in Russia, $73,000,000.

(7) For activities designated as Defense and Military Contacts/General Support/Training in Russia, Ukraine, Belarus, and Kazakhstan, $10,000,000.

(8) For activities designated as Other Assessments/Support $20,500,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph, but not in excess of 115 percent of that amount. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(c) REIMBURSEMENT OF PAY ACCOUNTS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs may be transferred to military personnel accounts for reimbursement of those accounts for the amount of pay and allowances paid to reserve component personnel for service while engaged in any activity under a Cooperative Threat Reduction program.

SEC. 1203. PROHIBITION ON USE OF FUNDS FOR PEACEKEEPING EXERCISES AND RELATED ACTIVITIES WITH RUSSIA.

None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs may be obligated or expended for the purpose of conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

SEC. 1204. REVISION TO AUTHORITY FOR ASSISTANCE FOR WEAPONS DESTRUCTION.

Section 211 of Public Law 102–228 (22 U.S.C. 2551 note) is amended by adding at the end the following new subsection:

''(c) As part of a transmission to Congress under subsection (b) of a certification that a proposed recipient of United States assistance under this title is committed to carrying out the matters specified in each of paragraphs (1) through (6) of that subsection, the President shall include a statement setting forth, in unclassified form (together with a classified annex if necessary), the determination of the President, with respect to each such paragraph, as to whether that proposed recipient is at that time in fact carrying out the matter specified in that paragraph.''.

SEC. 1205. PRIOR NOTICE TO CONGRESS OF OBLIGATION OF FUNDS.

(a) ANNUAL REQUIREMENT.—(1) Not less than 15 days before any obligation of any funds appropriated for any fiscal year for a program specified under section 1201 as a Cooperative Threat Reduction program, the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) a report on that proposed obligation for that program for that fiscal year.

(2) The congressional committees referred to in paragraph (1) are the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

(B) The Committee on National Security, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

(b) MATTERS TO BE SPECIFIED IN REPORTS.—Each such report shall specify—

(1) the activities and forms of assistance for which the Secretary of Defense plans to obligate funds;

(2) the amount of the proposed obligation; and

(3) the projected involvement (if any) of any department or agency of the United States (in addition to the Department of Defense) and of the private sector of the United States in the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds.

SEC. 1206. REPORT ON ACCOUNTING FOR UNITED STATES ASSISTANCE.

(a) REPORT.—(1) The Secretary of Defense shall submit to Congress an annual report on

the efforts made by the United States (including efforts through the use of audits, examinations, and on-site inspections) to ensure that assistance provided under Cooperative Threat Reduction programs is fully accounted for and that such assistance is being used for its intended purposes.

(2) A report shall be submitted under this section not later than January 31 of each year until the Cooperative Threat Reduction programs are completed.

(b) INFORMATION TO BE INCLUDED.—Each report under this section shall include the following:

(1) A list of cooperative threat reduction assistance that has been provided before the date of the report.

(2) A description of the current location of the assistance provided and the current condition of such assistance.

(3) A determination of whether the assistance has been used for its intended purpose.

(4) A description of the activities planned to be carried out during the next fiscal year to ensure that cooperative threat reduction assistance provided during that fiscal year is fully accounted for and is used for its intended purpose.

(c) COMPTROLLER GENERAL ASSESSMENT.—Not later than 30 days after the date on which a report of the Secretary under subsection (a) is submitted to Congress, the Comptroller General of the United States shall submit to Congress a report giving the Comptroller General's assessment of the report and making any recommendations that the Comptroller General considers appropriate.

SEC. 1207. LIMITATION ON ASSISTANCE TO NUCLEAR WEAPONS SCIENTISTS OF FORMER SOVIET UNION.

Amounts appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs may not be obligated for any program established primarily to assist nuclear weapons scientists in states of the former Soviet Union until 30 days after the date on which the Secretary of Defense certifies in writing to Congress that the funds to be obligated will not be used (1) to contribute to the modernization of the strategic nuclear forces of such states, or (2) for research, development, or production of weapons of mass destruction.

SEC. 1208. LIMITATION RELATING TO OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF RUSSIA.

(a) LIMITATION.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs that is available for the purpose stated in section 1202(a)(6), $60,000,000 may not be obligated or expended until the President submits to Congress either a certification as provided in subsection (b) or a certification as provided in subsection (c).

(b) CERTIFICATION WITH RESPECT TO OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF RUSSIA.—A certification under this subsection is a certification by the President of each of the following:

(1) That Russia is in compliance with its obligations under the Biological Weapons Convention.

(2) That Russia has agreed with the United States and the United Kingdom on a common set of procedures to govern visits by officials of the United States and United Kingdom to military biological facilities of Russia, as called for under the Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992.

(3) That visits by officials of the United States and United Kingdom to the four declared military biological facilities of Russia have occurred.

(c) ALTERNATIVE CERTIFICATION.—A certification under this subsection is a certification by the President that the President is unable to make a certification under subsection (b).

(d) USE OF FUNDS UPON ALTERNATIVE CERTIFICATION.—If the President makes a certification under subsection (c), the $60,000,000 specified in subsection (a)—

(1) shall not be available for the purpose stated in section 1202(a)(6); and

(2) shall be available for activities in Ukraine, Kazakhstan, and Belarus—

(A) for the elimination of strategic offensive weapons (in addition to the amount specified in section 1202(a)(1)); and

(B) for nuclear infrastructure elimination (in addition to the amount specified in section 1202(a)(4)).

SEC. 1209. LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION FACILITY.

(a) LIMITATION.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs that is available for planning and design of a chemical weapons destruction facility, not more than one-half of such amount may be obligated or expended until the President certifies to Congress the following:

(1) That the United States and Russia have completed a joint laboratory study to determine the feasibility of an appropriate technology for destruction of chemical weapons of Russia.

(2) That Russia is making reasonable progress, with the assistance of the United States (if necessary), toward the completion of a comprehensive implementation plan for managing and funding the dismantlement and destruction of Russia's chemical weapons stockpile.

(3) That the United States and Russia have made substantial progress toward resolution, to the satisfaction of the United States, of outstanding compliance issues under the 1989 Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement.

(b) DEFINITIONS.—In this section:

(1) The term ''1989 Wyoming Memorandum of Understanding'' means the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(2) The term ''1990 Bilateral Destruction Agreement'' means the Agreement between the United States of America and the Union of Soviet Socialist Republics on destruction and nonproduction of chemical weapons and on measures to facilitate the multilateral convention on banning chemical weapons signed on June 1, 1990.

TITLE XIII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Peacekeeping Provisions

SEC. 1301. LIMITATION ON USE OF DEPARTMENT OF DEFENSE FUNDS FOR UNITED STATES SHARE OF COSTS OF UNITED NATIONS PEACEKEEPING ACTIVITIES.

(a) IN GENERAL.—Chapter 20 of title 10, United States Code, is amended by inserting after section 404, the following new section:

''§ 405. Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation

''(a) PROHIBITION ON USE OF FUNDS.—Funds available to the Department of Defense may not be used to make a financial contribution (directly or through another department or agency of the United States) to the United Nations—

''(1) for the costs of a United Nations peacekeeping activity; or

''(2) for any United States arrearage to the United Nations.

''(b) APPLICATION OF PROHIBITION.—The prohibition in subsection (a) applies to voluntary contributions, as well as to contributions pursuant to assessment by the United Nations for the United States share of the costs of a peacekeeping activity.''.

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

''405. Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation.''.

Subtitle B—Humanitarian Assistance Programs

SEC. 1311. OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID PROGRAMS.

(a) COVERED PROGRAMS.—For purposes of section 301 and other provisions of this Act, programs of the Department of Defense designated as Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs are the programs provided by sections 401, 402, 404, 2547, and 2551 of title 10, United States Code.

(b) GAO REPORT.—Not later than March 1, 1996, the Comptroller General of the United States shall provide to the congressional defense committees a report on—

(1) existing funding mechanisms available to cover the costs associated with the Overseas Humanitarian, Disaster, and Civic Assistance activities through funds provided to the Department of State or the Agency for International Development, and

(2) if such mechanisms do not exist, actions necessary to institute such mechanisms, including any changes in existing law or regulations.

SEC. 1312. HUMANITARIAN ASSISTANCE.

Section 2551 of title 10, United States Code, is amended—

(1) by striking out subsections (b) and (c);

(2) by redesignating subsection (d) as subsection (b);

(3) by striking out subsection (e) and inserting in lieu thereof the following:

''(c) STATUS REPORTS.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (f) an annual report on the provision of humanitarian assistance pursuant to this section for the prior fiscal year. The report shall be submitted each year at the time of the budget submission by the President for the next fiscal year.

''(2) Each report required by paragraph (1) shall cover all provisions of law that authorize appropriations for humanitarian assistance to be available from the Department of Defense for the purposes of this section.

''(3) Each report under this subsection shall set forth the following information regarding activities during the previous fiscal year:

''(A) The total amount of funds obligated for humanitarian relief under this section.

''(B) The number of scheduled and completed transportation missions for purposes of providing humanitarian assistance under this section.

''(C) A description of any transfer of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of this title. The description shall include the date of the transfer, the entity to whom the transfer is made, and the quantity of items transferred.'';

(4) by redesignating subsection (f) as subsection (d) and in that subsection striking

out ''the Committees on'' and all that follows through ''House of Representatives of the'' and inserting in lieu thereof ''the congressional committees specified in subsection (f) and the Committees on Appropriations of the Senate and House of Representatives of the'';

(5) by redesignating subsection (g) as subsection (e); and

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

''(f) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsections (c)(1) and (d) are the following:

''(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

''(2) The Committee on National Security and the Committee on International Relations of the House of Representatives.''.

SEC. 1313. LANDMINE CLEARANCE PROGRAM.

(a) INCLUSION IN GENERAL HUMANITARIAN ASSISTANCE PROGRAM.—Subsection (e) of section 401 of title 10, United States Code, is amended—

(1) by striking out ''means—'' and inserting in lieu thereof ''means:'';

(2) by revising the first word in each of paragraphs (1) through (4) so that the first letter of such word is upper case;

(3) by striking out the semicolon at the end of paragraphs (1) and (2) and inserting in lieu thereof a period;

(4) by striking out ''; and'' at the end of paragraph (3) and inserting in lieu thereof a period; and

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

''(5) Detection and clearance of landmines, including activities relating to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines.''.

(b) LIMITATION ON LANDMINE ASSISTANCE BY MEMBERS OF ARMED FORCES.—Subsection (a) of such section is amended by adding at the end the following new paragraph:

''(4) The Secretary of Defense shall ensure that no member of the Armed Forces, while providing assistance under this section that is described in subsection (e)(5)—

''(A) engages in the physical detection, lifting, or destroying of landmines (unless the member does so for the concurrent purpose of supporting a United States military operation); or

''(B) provides such assistance as part of a military operation that does not involve the Armed Forces.''.

(c) REPEAL.—Section 1413 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2913; 10 U.S.C. 401 note) is repealed.

Subtitle C—Arms Exports and Military Assistance

SEC. 1321. DEFENSE EXPORT LOAN GUARANTEES.

(a) ESTABLISHMENT OF PROGRAM.—(1) Chapter 148 of title 10, United States Code, is amended by adding at the end the following new subchapter:

''SUBCHAPTER VI—DEFENSE EXPORT LOAN GUARANTEES

''Sec.
''2540. Establishment of loan guarantee program.
''2540a. Transferability.
''2540b. Limitations.
''2540c. Fees charged and collected.
''2540d. Definitions.

''§ 2540. Establishment of loan guarantee program

''(a) ESTABLISHMENT.—In order to meet the national security objectives in section 2501(a) of this title, the Secretary of Defense shall establish a program under which the Secretary may issue guarantees assuring a lender against losses of principal or interest, or both principal and interest, arising out of the financing of the sale or long-term lease of defense articles, defense services, or design and construction services to a country referred to in subsection (b).

''(b) COVERED COUNTRIES.—The authority under subsection (a) applies with respect to the following countries:

''(1) A member nation of the North Atlantic Treaty Organization (NATO).

''(2) A country designated as of March 31, 1995, as a major non-NATO ally pursuant to section 2350a(i)(3) of this title.

''(3) A country in Central Europe that, as determined by the Secretary of State—

''(A) has changed its form of national government from a nondemocratic form of government to a democratic form of government since October 1, 1989; or

''(B) is in the process of changing its form of national government from a nondemocratic form of government to a democratic form of government.

''(4) A noncommunist country that was a member nation of the Asia Pacific Economic Cooperation (APEC) as of October 31, 1993.

''(c) AUTHORITY SUBJECT TO PROVISIONS OF APPROPRIATIONS.—The Secretary may guarantee a loan under this subchapter only to such extent or in such amounts as may be provided in advance in appropriations Acts.

''§ 2540a. Transferability

''A guarantee issued under this subchapter shall be fully and freely transferable.

''§ 2540b. Limitations

''(a) TERMS AND CONDITIONS OF LOAN GUARANTEES.—In issuing a guarantee under this subchapter for a medium-term or long-term loan, the Secretary may not offer terms and conditions more beneficial than those that would be provided to the recipient by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

''(b) LOSSES ARISING FROM FRAUD OR MISREPRESENTATION.—No payment may be made under a guarantee issued under this subchapter for a loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

''(c) NO RIGHT OF ACCELERATION.—The Secretary of Defense may not accelerate any guaranteed loan or increment, and may not pay any amount, in respect of a guarantee issued under this subchapter, other than in accordance with the original payment terms of the loan.

''§ 2540c. Fees charged and collected

''(a) EXPOSURE FEES.—The Secretary of Defense shall charge a fee (known as 'exposure fee') for each guarantee issued under this subchapter.

''(b) AMOUNT OF EXPOSURE FEE.—To the extent that the cost of the loan guarantees under this subchapter is not otherwise provided for in appropriations Acts, the fee imposed under subsection (a) with respect to a loan guarantee shall be fixed in an amount that is sufficient to meet potential liabilities of the United States under the loan guarantee.

''(c) PAYMENT TERMS.—The fee under subsection (a) for each guarantee shall become due as the guarantee is issued. In the case of a guarantee for a loan which is disbursed incrementally, and for which the guarantee is correspondingly issued incrementally as portions of the loan are disbursed, the fee shall be paid incrementally in proportion to the amount of the guarantee that is issued.

''(d) ADMINISTRATIVE FEES.—The Secretary of Defense shall charge a fee for each guarantee issued under this subchapter to reflect the additional administrative costs of the Department of Defense that are directly attributable to the administration of the program under this subchapter. Such fees shall be credited to a special account in the Treasury. Amounts in the special account shall be available, to the extent and in amounts provided in appropriations Acts, for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under this subchapter.

''§ 2540d. Definitions

''In this subchapter:

''(1) The terms 'defense article', 'defense services', and 'design and construction services' have the meanings given those terms in section 47 of the Arms Export Control Act (22 U.S.C. 2794).

''(2) The term 'cost', with respect to a loan guarantee, has the meaning given that term in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a).''.

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

''VI. Defense Export Loan Guarantees ..... 2540''.

(b) REPORT.—Not later than two years after the date of the enactment of this Act, the President shall submit to Congress a report on the loan guarantee program established pursuant to section 2540 of title 10, United States Code, as added by subsection (a). The report shall include—

(1) an analysis of the costs and benefits of the loan guarantee program; and

(2) any recommendations for modification of the program that the President considers appropriate, including—

(A) any recommended addition to the list of countries for which a guarantee may be issued under the program; and

(B) any proposed legislation necessary to authorize a recommended modification.

(c) FIRST YEAR COSTS.—The Secretary of Defense shall make available, from amounts appropriated to the Department of Defense for fiscal year 1996 for operations and maintenance, such amounts as may be necessary, not to exceed $500,000, for the expenses of the Department of Defense during fiscal year 1996 that are directly attributable to the administration of the defense export loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code, as added by subsection (a).

(d) REPLENISHMENT OF OPERATIONS AND MAINTENANCE ACCOUNTS FOR FIRST YEAR COSTS.—The Secretary of Defense shall, using funds in the special account referred to in section 2540c(d) of title 10, United States Code (as added by subsection (b)), replenish operations and maintenance accounts for amounts expended from such accounts for expenses referred to in subsection (c).

SEC. 1322. NATIONAL SECURITY IMPLICATIONS OF UNITED STATES EXPORT CONTROL POLICY.

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

(1) Export controls remain an important element of the national security policy of the United States.

(2) It is in the national security interest that United States export control policy be effective in preventing the transfer, to potential adversaries or combatants of the United States, of technology that threatens the national security or defense of the United States.

(3) It is in the national security interest that the United States monitor aggressively the export of militarily critical technology in order to prevent its diversion to potential adversaries or combatants of the United States.

(4) The Department of Defense relies increasingly on commercial and dual-use technologies, products, and processes to support United States military capabilities and economic strength.

(5) The maintenance of the military advantage of the United States depends on effective export controls on dual-use items and technologies that are critical to the military capabilities of the Armed Forces.

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

(1) the Secretary of Defense should evaluate license applications for the export of militarily critical commodities the export of which is controlled for national security reasons if those commodities are to be exported to certain countries of concern;

(2) the Secretary of Defense should identify the dual-use items and technologies that are critical to the military capabilities of the Armed Forces, including the military use made of such items and technologies;

(3) upon identification by the Secretary of Defense of the dual-use items and technologies referred to in paragraph (2), the President should ensure effective export controls or use unilateral export controls on dual-use items and technologies that are critical to the military capabilities of the Armed Forces (regardless of the availability of such items or technologies overseas) with respect to the countries that—

(A) pose a threat to the national security interests of the United States; and

(B) are not members in good standing of bilateral or multilateral agreements to which the United States is a party on the use of such items and technologies; and

(4) the President, upon recommendation of the Secretary of Defense, should ensure effective controls on the re-export by other countries of dual-use items and technologies that are critical to the military capabilities of the Armed Forces.

(c) ANNUAL REPORT.—(1) Not later than December 1 of each year through 1999, the President shall submit to the committees specified in paragraph (4) a report on the effect of the export control policy of the United States on the national security interests of the United States.

(2) The report shall include the following:

(A) A list setting forth each country determined by the Secretary of Defense, the intelligence community, and other appropriate agencies to be a rogue nation or potential adversary or combatant of the United States.

(B) For each country so listed, a list of—

(i) the categories of items that the United States currently prohibits for export to the country;

(ii) the categories of items that may be exported from the United States with an individual license, and in such cases, any licensing conditions normally required and the policy grounds used for approvals and denials; and

(iii) the categories of items that may be exported under a general license designated ''G-DEST''.

(C) For each category of items listed under subparagraph (B)—

(i) a statement whether a prohibition, control, or licensing requirement on a category of items is imposed pursuant to an international multilateral agreement or is unilateral;

(ii) a statement whether a prohibition, control, or licensing requirement on a category of items is imposed by the other members of an international agreement or is unilateral;

(iii) when the answer under either clause (i) or clause (ii) is unilateral, a statement concerning the efforts being made to ensure that the prohibition, control, or licensing requirement is made multilateral; and

(iv) a statement on what impact, if any, a unilateral prohibition is having, or would have, on preventing the rogue nation or potential adversary from attaining the items in question for military purposes.

(D) A description of United States policy on sharing satellite imagery that has military significance and a discussion of the criteria for determining the imagery that has that significance.

(E) A description of the relationship between United States policy on the export of space launch vehicle technology and the Missile Technology Control Regime.

(F) An assessment of United States efforts to support the inclusion of additional countries in the Missile Technology Control Regime.

(G) An assessment of the ongoing efforts made by potential participant countries in the Missile Technology Control Regime to meet the guidelines established by the Missile Technology Control Regime.

(H) A discussion of the history of the space launch vehicle programs of other countries, including a discussion of the military origins and purposes of such programs and the current level of military involvement in such programs.

(3) The President shall submit the report in unclassified form, but may include a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on National Security and the Committee on International Relations of the House of Representatives.

(5) For purposes of this subsection, the term ''Missile Technology Control Regime'' means the policy statement announced on April 16, 1987, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan to restrict sensitive missile-relevant transfers based on the Missile Technology Control Regime Annex, and any amendment thereto.

SEC. 1323. DEPARTMENT OF DEFENSE REVIEW OF EXPORT LICENSES FOR CERTAIN BIOLOGICAL PATHOGENS.

(a) DEPARTMENT OF DEFENSE REVIEW.—Any application to the Secretary of Commerce for a license for the export of a class 2, class 3, or class 4 biological pathogen to a country identified to the Secretary under subsection (c) as a country that is known or suspected to have a biological weapons program shall be referred to the Secretary of Defense for review. The Secretary of Defense shall notify the Secretary of Commerce within 15 days after receipt of an application under the preceding sentence whether the export of such biological pathogen pursuant to the license would be contrary to the national security interests of the United States.

(b) DENIAL OF LICENSE IF CONTRARY TO NATIONAL SECURITY INTEREST.—A license described in subsection (a) shall be denied by the Secretary of Commerce if it is determined that the export of such biological pathogen to that country would be contrary to the national security interests of the United States.

(c) IDENTIFICATION OF COUNTRIES KNOWN OR SUSPECTED TO HAVE A PROGRAM TO DEVELOP OFFENSIVE BIOLOGICAL WEAPONS.—(1) The Secretary of Defense shall determine, for the purposes of this section, those countries that are known or suspected to have a program to develop offensive biological weapons. Upon making such determination, the Secretary shall provide to the Secretary of Commerce a list of those countries.

(2) The Secretary of Defense shall update the list under paragraph (1) on a regular basis. Whenever a country is added to or deleted from such list, the Secretary shall notify the Secretary of Commerce.

(3) Determination under this subsection of countries that are known or suspected to have a program to develop offensive biological weapons shall be made in consultation with the Secretary of State and the intelligence community.

(d) DEFINITION.—For purposes of this section, the term ''class 2, class 3, or class 4 biological pathogen'' means any biological pathogen that is characterized by the Centers for Disease Control as a class 2, class 3, or class 4 biological pathogen.

SEC. 1324. ANNUAL REPORTS ON IMPROVING EXPORT CONTROL MECHANISMS AND ON MILITARY ASSISTANCE.

(a) JOINT REPORTS BY SECRETARIES OF STATE AND COMMERCE.—Not later than April 1 of each of 1996 and 1997, the Secretary of State and the Secretary of Commerce shall submit to Congress a joint report, prepared in consultation with the Secretary of Defense, relating to United States export-control mechanisms. Each such report shall set forth measures to be taken to strengthen United States export-control mechanisms, including—

(1) steps being taken by each Secretary (A) to share on a regular basis the export licensing watchlist of that Secretary's department with the other Secretary, and (B) to incorporate the export licensing watchlist data received from the other Secretary into the watchlist of that Secretary's department;

(2) steps being taken by each Secretary to incorporate into the watchlist of that Secretary's department similar data from systems maintained by the Department of Defense and the United States Customs Service; and

(3) a description of such further measures to be taken to strengthen United States export-control mechanisms as the Secretaries consider to be appropriate.

(b) REPORTS BY INSPECTORS GENERAL.—(1) Not later than April 1 of each of 1996 and 1997, the Inspector General of the Department of State and the Inspector General of the Department of Commerce shall each submit to Congress a report providing that official's evaluation of the effectiveness during the preceding year of the export licensing watchlist screening process of that official's department. The reports shall be submitted in both a classified and unclassified version.

(2) Each report of an Inspector General under paragraph (1) shall (with respect to that official's department)—

(A) set forth the number of export licenses granted to parties on the export licensing watchlist;

(B) set forth the number of end-use checks performed with respect to export licenses granted to parties on the export licensing watchlist the previous year;

(C) assess the screening process used in granting an export license when an applicant is on the export licensing watchlist; and

(D) assess the extent to which the export licensing watchlist contains all relevant information and parties required by statute or regulation.

(c) ANNUAL MILITARY ASSISTANCE REPORT.—The Foreign Assistance Act of 1961 is amended by inserting after section 654 (22 U.S.C. 2414) the following new section:

''SEC. 655. ANNUAL REPORT ON MILITARY ASSISTANCE, MILITARY EXPORTS, AND MILITARY IMPORTS.

''(a) REPORT REQUIRED.—Not later than February 1 of each of 1996 and 1997, the President shall transmit to Congress a report concerning military assistance authorized or furnished for the fiscal year ending the previous September 30.

''(b) INFORMATION RELATING TO MILITARY ASSISTANCE AND MILITARY EXPORTS.—Each

such report shall show the aggregate dollar value and quantity of defense articles (including excess defense articles) and defense services, and of military education and training, authorized or furnished by the United States to each foreign country and international organization. The report shall specify, by category, whether those articles and services, and that education and training, were furnished by grant under chapter 2 or chapter 5 of part II of this Act or by sale under chapter 2 of the Arms Export Control Act or were authorized by commercial sale licensed under section 38 of the Arms Export Control Act.

''(c) INFORMATION RELATING TO MILITARY IMPORTS.—Each such report shall also include the total amount of military items of non-United States manufacture that were imported into the United States during the fiscal year covered by the report. The report shall show the country of origin, the type of item being imported, and the total amount of items.''.

SEC. 1325. REPORT ON PERSONNEL REQUIREMENTS FOR CONTROL OF TRANSFER OF CERTAIN WEAPONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Energy shall submit to the committees of Congress referred to in subsection (c) of section 1154 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1761) the report required under subsection (a) of that section. The Secretary of Defense and the Secretary of Energy shall include with the report an explanation of the failure of such Secretaries to submit the report in accordance with such subsection (a) and with all other previous requirements for the submittal of the report.

Subtitle D—Burdensharing and Other Cooperative Activities Involving Allies and NATO

SEC. 1331. ACCOUNTING FOR BURDENSHARING CONTRIBUTIONS.

(a) AUTHORITY TO MANAGE CONTRIBUTIONS IN LOCAL CURRENCY, ETC.—Subsection (b) of section 2350j of title 10, United States Code, is amended to read as follows:

''(b) ACCOUNTING.—Contributions accepted under subsection (a) which are not related to security assistance may be accepted, managed, and expended in dollars or in the currency of the host nation (or, in the case of a contribution from a regional organization, in the currency in which the contribution was provided). Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (c). The Secretary of Defense shall establish a separate account for such purpose for each country or regional organization from which such contributions are accepted under subsection (a).''.

(b) CONFORMING AMENDMENT.—Subsection (d) of such section is amended by striking out ''credited under subsection (b) to an appropriation account of the Department of Defense'' and inserting in lieu thereof ''placed in an account established under subsection (b)''.

(c) TECHNICAL AMENDMENT.—Such section is further amended—

(1) in subsection (e)(1), by striking out ''a report to the congressional defense committees'' and inserting in lieu thereof ''to the congressional committees specified in subsection (g) a report''; and

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

''(g) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (e)(1) are—

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

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

SEC. 1332. AUTHORITY TO ACCEPT CONTRIBUTIONS FOR EXPENSES OF RELOCATION WITHIN HOST NATION OF UNITED STATES ARMED FORCES OVERSEAS.

(a) IN GENERAL.—(1) Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2350k. Relocation within host nation of elements of armed forces overseas

''(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense may accept contributions from any nation because of or in support of the relocation of elements of the armed forces from or to any location within that nation. Such contributions may be accepted in dollars or in the currency of the host nation. Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (b). The Secretary shall establish a separate account for such purpose for each country from which such contributions are accepted.

''(b) USE OF CONTRIBUTIONS.—The Secretary may use a contribution accepted under subsection (a) only for payment of costs incurred in connection with the relocation concerning which the contribution was made. Those costs include the following:

''(1) Design and construction services, including development and review of statements of work, master plans and designs, acquisition of construction, and supervision and administration of contracts relating thereto.

''(2) Transportation and movement services, including packing, unpacking, storage, and transportation.

''(3) Communications services, including installation and deinstallation of communications equipment, transmission of messages and data, and rental of transmission capability.

''(4) Supply and administration, including acquisition of expendable office supplies, rental of office space, budgeting and accounting services, auditing services, secretarial services, and translation services.

''(5) Personnel costs, including salary, allowances and overhead of employees whether full-time or part-time, temporary or permanent (except for military personnel), and travel and temporary duty costs.

''(6) All other clearly identifiable expenses directly related to relocation.

''(c) METHOD OF CONTRIBUTION.—Contributions may be accepted in any of the following forms:

''(1) Irrevocable letter of credit issued by a financial institution acceptable to the Treasurer of the United States.

''(2) Drawing rights on a commercial bank account established and funded by the host nation, which account is blocked such that funds deposited cannot be withdrawn except by or with the approval of the United States.

''(3) Cash, which shall be deposited in a separate trust fund in the United States Treasury pending expenditure and which shall accrue interest in accordance with section 9702 of title 31.

''(d) ANNUAL REPORT TO CONGRESS.—Not later than 30 days after the end of each fiscal year, the Secretary shall submit to Congress a report specifying—

''(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

''(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended.''.

(2) The table of sections at the beginning of subchapter II of chapter 138 of such title is amended by adding at the end the following new item:

''2350k. Relocation within host nation of elements of armed forces overseas.''.

(b) EFFECTIVE DATE.—Section 2350k of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act and shall apply to contributions for relocation of elements of the Armed Forces in or to any nation received on or after such date.

SEC. 1333. REVISED GOAL FOR ALLIED SHARE OF COSTS FOR UNITED STATES INSTALLATIONS IN EUROPE.

Section 1304(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2890) is amended—

(1) by inserting ''(1)'' after ''so that''; and

(2) by inserting before the period at the end the following: '', and (2) by September 30, 1997, those nations have assumed 42.5 percent of such costs''.

SEC. 1334. EXCLUSION OF CERTAIN FORCES FROM EUROPEAN END STRENGTH LIMITATION.

(a) EXCLUSION OF MEMBERS PERFORMING DUTIES UNDER MILITARY-TO-MILITARY CONTACT PROGRAM.—Paragraph (3) of section 1002(c) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) is amended to read as follows:

''(3) For purposes of this subsection, the following members of the Armed Forces are excluded in calculating the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO:

''(A) Members assigned to permanent duty ashore in Iceland, Greenland, and the Azores.

''(B) Members performing duties in Europe for more than 179 days under a military-to-military contact program under section 168 of title 10, United States Code.''.

SEC. 1335. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO ORGANIZATIONS.

Section 2350b(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting ''or a NATO organization'' after ''a participant (other than the United States)''; and

(2) in paragraph (2), by striking out ''a cooperative project'' and inserting in lieu thereof ''such a cooperative project or a NATO organization''.

SEC. 1336. SUPPORT SERVICES FOR THE NAVY AT THE PORT OF HAIFA, ISRAEL.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should promptly seek to undertake such actions as are necessary—

(1) to ensure that suitable port services are available to the Navy at the Port of Haifa, Israel; and

(2) to ensure the availability to the Navy of suitable services at that port in light of the continuing increase in commercial activities at the port.

(b) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report on the availablity of port services for the Navy in the eastern Mediterranean Sea region. The report shall specify—

(1) the services required by the Navy when calling at the port of Haifa, Israel; and

(2) the availability of those services at ports elsewhere in the region.

Subtitle E—Other Matters

SEC. 1341. PROHIBITION ON FINANCIAL ASSISTANCE TO TERRORIST COUNTRIES.

(a) PROHIBITION.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following:

''§ 2249a. Prohibition on providing financial assistance to terrorist countries

''(a) PROHIBITION.—Funds available to the Department of Defense may not be obligated or expended to provide financial assistance to—

''(1) any country with respect to which the Secretary of State has made a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 App. 2405(j));

''(2) any country identified in the latest report submitted to Congress under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), as providing significant support for international terrorism; or

''(3) any other country that, as determined by the President—

''(A) grants sanctuary from prosecution to any individual or group that has committed an act of international terrorism; or

''(B) otherwise supports international terrorism.

''(b) WAIVER.—(1) The President may waive the application of subsection (a) to a country if the President determines—

''(A) that it is in the national security interests of the United States to do so; or

''(B) that the waiver should be granted for humanitarian reasons.

''(2) The President shall—

''(A) notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives at least 15 days before the waiver takes effect; and

''(B) publish a notice of the waiver in the Federal Register.

''(c) DEFINITION.—In this section, the term 'international terrorism' has the meaning given that term in section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)).''.

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

''2249a. Prohibition on providing financial assistance to terrorist countries.''.

SEC. 1342. JUDICIAL ASSISTANCE TO THE INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA AND TO THE INTERNATIONAL TRIBUNAL FOR RWANDA.

(a) SURRENDER OF PERSONS.—

(1) APPLICATION OF UNITED STATES EXTRADITION LAWS.—Except as provided in paragraphs (2) and (3), the provisions of chapter 209 of title 18, United States Code, relating to the extradition of persons to a foreign country pursuant to a treaty or convention for extradition between the United States and a foreign government, shall apply in the same manner and extent to the surrender of persons, including United States citizens, to—

(A) the International Tribunal for Yugoslavia, pursuant to the Agreement Between the United States and the International Tribunal for Yugoslavia; and

(B) the International Tribunal for Rwanda, pursuant to the Agreement Between the United States and the International Tribunal for Rwanda.

(2) EVIDENCE ON HEARINGS.—For purposes of applying section 3190 of title 18, United States Code, in accordance with paragraph (1), the certification referred to in that section may be made by the principal diplomatic or consular officer of the United States resident in such foreign countries where the International Tribunal for Yugoslavia or the International Tribunal for Rwanda may be permanently or temporarily situated.

(3) PAYMENT OF FEES AND COSTS.—(A) The provisions of the Agreement Between the United States and the International Tribunal for Yugoslavia and of the Agreement Between the United States and the International Tribunal for Rwanda shall apply in lieu of the provisions of section 3195 of title 18, United States Code, with respect to the payment of expenses arising from the surrender by the United States of a person to the International Tribunal for Yugoslavia or the International Tribunal for Rwanda, respectively, or from any proceedings in the United States relating to such surrender.

(B) The authority of subparagraph (A) may be exercised only to the extent and in the amounts provided in advance in appropriations Acts.

(4) NONAPPLICABILITY OF THE FEDERAL RULES.—The Federal Rules of Evidence and the Federal Rules of Criminal Procedure do not apply to proceedings for the surrender of persons to the International Tribunal for Yugoslavia or the International Tribunal for Rwanda.

(b) ASSISTANCE TO FOREIGN AND INTERNATIONAL TRIBUNALS AND TO LITIGANTS BEFORE SUCH TRIBUNALS.—Section 1782(a) of title 28, United States Code, is amended by inserting in the first sentence after ''foreign or international tribunal'' the following: '', including criminal investigations conducted before formal accusation''.

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

(1) INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA.—The term ''International Tribunal for Yugoslavia'' means the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia, as established by United Nations Security Council Resolution 827 of May 25, 1993.

(2) INTERNATIONAL TRIBUNAL FOR RWANDA.—The term ''International Tribunal for Rwanda'' means the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, as established by United Nations Security Council Resolution 955 of November 8, 1994.

(3) AGREEMENT BETWEEN THE UNITED STATES AND THE INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA.—The term ''Agreement Between the United States and the International Tribunal for Yugoslavia'' means the Agreement on Surrender of Persons Between the Government of the United States and the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Law in the Territory of the Former Yugoslavia, signed at The Hague, October 5, 1994.

(4) AGREEMENT BETWEEN THE UNITED STATES AND THE INTERNATIONAL TRIBUNAL FOR RWANDA.—The term ''Agreement between the United States and the International Tribunal for Rwanda'' means the Agreement on Surrender of Persons Between the Government of the United States and the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, signed at The Hague, January 24, 1995.

SEC. 1343. SEMIANNUAL REPORTS CONCERNING UNITED STATES-PEOPLE'S REPUBLIC OF CHINA JOINT DEFENSE CONVERSION COMMISSION.

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to Congress a semiannual report on the United States-People's Republic of China Joint Defense Conversion Commission. Each such report shall include the following:

(1) A description of the extent to which the activities conducted in, through, or as a result of the Commission could have directly or indirectly assisted, or may directly or indirectly assist, the military modernization efforts of the People's Republic of China.

(2) A discussion of the activities and operations of the Commission, including—

(A) United States funding;

(B) a listing of participating United States officials;

(C) specification of meeting dates and locations (prospective and retrospective);

(D) summary of discussions; and

(E) copies of any agreements reached.

(3) A discussion of the relationship between the ''defense conversion'' activities of the People's Republic of China and its defense modernization efforts.

(4) A discussion of the extent to which United States business activities pursued, or proposed to be pursued, under the imprimatur of the Commission, or the importation of western technology in general, contributes to the modernization of China's military industrial base, including any steps taken by the United States or by United States commercial entities to safeguard the technology or intellectual property rights associated with any materials or information transferred.

(5) An assessment of the benefits derived by the United States from its participation in the Commission, including whether or to what extent United States participation in the Commission has resulted or will result in the following:

(A) Increased transparency in the current and projected military budget and doctrine of the People's Republic of China.

(B) Improved behavior and cooperation by the People's Republic of China in the areas of missile and nuclear proliferation.

(C) Increased transparency in the plans of the People's Republic of China's for nuclear and missile force modernization and testing.

(6) Efforts undertaken by the Secretary of Defense to—

(A) establish a list of enterprises controlled by the People's Liberation Army, including those which have been successfully converted to produce products solely for civilian use; and

(B) provide estimates of the total revenues of those enterprises.

(7) A description of current or proposed mechanisms for improving the ability of the United States to track the flow of revenues from the enterprises specified on the list established under paragraph (6)(A).

(b) SUBMITTAL OF REPORTS.—A report shall be submitted under subsection (a) not later than August 1 of each year with respect to the first six months of that year and shall be submitted not later than February 1 of each year with respect to the last six months of the preceding year. The first report under such subsection shall be submitted not less than 60 days after the date of the enactment of this Act and shall apply with respect to the six-month period preceding the date of the enactment of this Act.

(c) FINAL REPORT UPON TERMINATION OF COMMISSION.—Upon the termination of the United States-People's Republic of China Joint Defense Conversion Commission, the

Secretary of Defense shall submit a final report under this section covering the period from the end of the period covered by the last such report through the termination of the Commission, and subsection (a) shall cease to apply after the submission of such report.

TITLE XIV—ARMS CONTROL MATTERS

SEC. 1401. REVISION OF DEFINITION OF LANDMINE FOR PURPOSES OF LANDMINE EXPORT MORATORIUM.

Section 1423(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1832) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in subparagraph (C), as so redesignated, by striking out ''by remote control or'';

(3) by inserting ''(1)'' before ''For purposes of''; and

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

''(2) The term does not include command detonated antipersonnel land mines (such as the M18A1 'Claymore' mine).''.

SEC. 1402. REPORTS ON MORATORIUM ON USE BY ARMED FORCES OF ANTI-PERSONNEL LANDMINES.

Not later than April 30 of each of 1996, 1997, and 1998, the Chairman of the Joint Chiefs of Staff shall submit to the congressional defense committees a report on the projected effects of a moratorium on the defensive use of antipersonnel mines and antitank mines by the Armed Forces. The report shall include a discussion of the following matters:

(1) The extent to which current doctrine and practices of the Armed Forces on the defensive use of antipersonnel mines and antitank mines adhere to applicable international law.

(2) The effects that a moratorium would have on the defensive use of the current United States inventory of remotely delivered, self-destructing antitank systems, antipersonnel mines, and antitank mines.

(3) The reliability of the self-destructing antipersonnel mines and self-destructing antitank mines of the United States.

(4) The cost of clearing the antipersonnel minefields currently protecting Naval Station Guantanamo Bay, Cuba, and other United States installations.

(5) The cost of replacing antipersonnel mines in such minefields with substitute systems such as the Claymore mine, and the level of protection that would be afforded by use of such a substitute.

(6) The extent to which the defensive use of antipersonnel mines and antitank mines by the Armed Forces is a source of civilian casualties around the world, and the extent to which the United States, and the Department of Defense particularly, contributes to alleviating the illegal and indiscriminate use of such munitions.

(7) The extent to which the threat to the security of United States forces during operations other than war and combat operations would increase as a result of such a moratorium.

SEC. 1403. EXTENSION AND AMENDMENT OF COUNTER-PROLIFERATION AUTHORITIES.

(a) ONE-YEAR EXTENSION OF PROGRAM.—Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102–484; 22 U.S.C. 5859a) is amended—

(1) in subsection (a), by striking out ''during fiscal years 1994 and 1995'';

(2) in subsection (e)(1), by striking out ''fiscal years 1994 and 1995'' and inserting in lieu thereof ''a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect''; and

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

''(f) TERMINATION OF AUTHORITY.—The authority of the Secretary of Defense to provide assistance under this section terminates at the close of fiscal year 1996.''.

(b) PROGRAM AUTHORITIES.—(1) Subsections (b)(2) and (d)(3) of such section are amended by striking out ''the On-Site Inspection Agency'' and inserting in lieu thereof ''the Department of Defense''.

(2) Subsection (c)(3) of such section is amended by striking out ''will be counted'' and all that follows and inserting in lieu thereof ''will be counted as discretionary spending in the national defense budget function (function 050).''.

(c) AMOUNT OF ASSISTANCE.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by striking out ''for fiscal year 1994'' the first place it appears and all that follows through the period at the end of the second sentence and inserting in lieu thereof ''for any fiscal year shall be derived from amounts made available to the Department of Defense for that fiscal year.''; and

(B) by striking out ''referred to in this paragraph''; and

(2) in paragraph (3)—

(A) by striking out ''may not exceed'' and all that follows through ''1995''; and

(B) by inserting before the period at the end the following: '', may not exceed $25,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, or $15,000,000 for fiscal year 1996''.

SEC. 1404. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, unless and until the START II Treaty enters into force, the Secretary of Defense should not take any action to retire or dismantle, or to prepare to retire or dismantle, any of the following strategic nuclear delivery systems:

(1) B-52H bomber aircraft.

(2) Trident ballistic missile submarines.

(3) Minuteman III intercontinental ballistic missiles.

(4) Peacekeeper intercontinental ballistic missiles.

(b) LIMITATION ON USE OF FUNDS.—Funds available to the Department of Defense may not be obligated or expended during fiscal year 1996 for retiring or dismantling, or for preparing to retire or dismantle, any of the strategic nuclear delivery systems specified in subsection (a).

SEC. 1405. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING TREATY VIOLATIONS.

(a) REAFFIRMATION OF PRIOR FINDINGS CONCERNING THE KRASNOYARSK RADAR.—Congress, noting its previous findings with respect to the large phased-array radar of the Soviet Union known as the ''Krasnoyarsk radar'' stated in paragraphs (1) through (4) of section 902(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1135) (and reaffirmed in section 1006(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1543)), hereby reaffirms those findings as follows:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(b) FURTHER REFERENCE TO 1987 CONGRESSIONAL STATEMENTS.—Congress further notes that in section 902 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1135) Congress also—

(1) noted that the President had certified that the Krasnoyarsk radar was an unequivocal violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) stated it to be the sense of the Congress that the Soviet Union was in violation of its legal obligation under that treaty.

(c) FURTHER REFERENCE TO 1989 CONGRESSIONAL STATEMENTS.—Congress further notes that in section 1006(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1543) Congress also—

(1) again noted that in 1987 the President declared that radar to be a clear violation of the 1972 Anti-Ballistic Missile Treaty and noted that on October 23, 1989, the Foreign Minister of the Soviet Union conceded that the Krasnoyarsk radar is a violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) stated it to be the sense of the Congress that the Soviet Union should dismantle the Krasnoyarsk radar expeditiously and without conditions and that until such radar was completely dismantled it would remain a clear violation of the 1972 Anti-Ballistic Missile Treaty.

(d) ADDITIONAL FINDINGS.—Congress also finds, with respect to the Krasnoyarsk radar, that retired Soviet General Y.V. Votintsev, Director of the Soviet National Air Defense Forces from 1967 to 1985, has publicly stated—

(1) that he was directed by the Chief of the Soviet General staff to locate the large phased-array radar at Krasnoyarsk despite the recognition by Soviet authorities that the location of such a radar at that location would be a clear violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) that Marshal D.F. Ustinov, Soviet Minister of Defense, threatened to relieve from duty any Soviet officer who continued to object to the construction of a large-phased array radar at Krasnoyarsk.

(e) SENSE OF CONGRESS CONCERNING SOVIET TREATY VIOLATIONS.—It is the sense of Congress that the government of the Soviet Union intentionally violated its legal obligations under the 1972 Anti-Ballistic Missile Treaty in order to advance its national security interests.

(f) SENSE OF CONGRESS CONCERNING COMPLIANCE BY RUSSIA WITH ARMS CONTROL OBLIGATIONS.—In light of subsections (a) through (e), it is the sense of Congress that the United States should remain vigilant in ensuring compliance by Russia with its arms control obligations and should, when pursuing future arms control agreements with Russia, bear in mind violations of arms control obligations by the Soviet Union.

SEC. 1406. SENSE OF CONGRESS ON RATIFICATION OF CHEMICAL WEAPONS CONVENTION AND START II TREATY.

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

(1) Proliferation of chemical or nuclear weapons materials poses a danger to United States national security, and the threat or use of such materials by terrorists would directly threaten United States citizens at home and abroad.

(2) Events such as the March 1995 terrorist release of a chemical nerve agent in the Tokyo subway, the threatened use of chemical weapons during the 1991 Persian Gulf War, and the widespread use of chemical weapons during the Iran-Iraq War of the 1980's are all potent reminders of the menace posed by chemical weapons, of the fact that the threat of chemical weapons is not sufficiently addressed, and of the need to outlaw the development, production, and possession of chemical weapons.

(3) The Chemical Weapons Convention negotiated and signed by President Bush would make it more difficult for would-be proliferators, including terrorists, to acquire or use chemical weapons, if ratified and fully implemented, as signed, by all signatories.

(4) United States military authorities, including Chairman of the Joint Chiefs of Staff General John Shalikashvili, have stated that United States military forces will deter and respond to chemical weapons threats with a robust chemical defense and an overwhelming superior conventional response, as demonstrated in the Persian Gulf War, and have testified in support of the ratification of the Chemical Weapons Convention.

(5) The United States intelligence community has testified that the Convention will provide new and important sources of information, through regular data exchanges and routine and challenge inspections, to improve the ability of the United States to assess the chemical weapons status in countries of concern.

(6) The Convention has not entered into force for lack of the requisite number of ratifications.

(7) Russia has signed the Convention, but has not yet ratified it.

(8) There have been reports by Russian sources of continued Russian production and testing of chemical weapons, including a statement by a spokesman of the Russian Ministry of Defense on December 5, 1994, that ''We cannot say that all chemical weapons production and testing has stopped altogether.''.

(9) The Convention will impose a legally binding obligation on Russia and other nations that possess chemical weapons and that ratify the Convention to cease offensive chemical weapons activities and to destroy their chemical weapons stockpiles and production facilities.

(10) The United States must be prepared to exercise fully its rights under the Convention, including the request of challenge inspections when warranted, and to exercise leadership in pursuing punitive measures against violators of the Convention, when warranted.

(11) The United States should strongly encourage full implementation at the earliest possible date of the terms and conditions of the United States-Russia bilateral chemical weapons destruction agreement signed in 1990.

(12) The START II Treaty negotiated and signed by President Bush would help reduce the danger of potential proliferators, including terrorists, acquiring nuclear warheads and materials, and would contribute to United States-Russian bilateral efforts to secure and dismantle nuclear warheads, if ratified and fully implemented as signed by both parties.

(13) It is in the national security interest of the United States to take effective steps to make it more difficult for proliferators or would-be terrorists to obtain chemical or nuclear materials for use in weapons.

(14) The President has urged prompt Senate action on, and advice and consent to ratification of, the START II Treaty and the Chemical Weapons Convention.

(15) The Chairman of the Joint Chiefs of Staff has testified to Congress that ratification and full implementation of both treaties by all parties is in the United States national interest and has strongly urged prompt Senate advice and consent to their ratification.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States, Russia, and all other parties to the START II Treaty and the Chemical Weapons Convention should promptly ratify and fully implement, as negotiated, both treaties.

SEC. 1407. IMPLEMENTATION OF ARMS CONTROL AGREEMENTS.

(a) FUNDING.—Of the amounts appropriated pursuant to authorizations in sections 102, 103, 104, 201, and 301, the Secretary of Defense may use an amount not to exceed $239,941,000 for implementing arms control agreements to which the United States is a party.

(b) LIMITATION.—(1) Funds made available pursuant to subsection (a) for the costs of implementing an arms control agreement may not (except as provided in paragraph (2)) be used to reimburse expenses incurred by any other party to the agreement for which (without regard to any executive agreement or any policy not part of an arms control agreement)—

(A) the other party is responsible under the terms of the arms control agreement; and

(B) the United States has no responsibility under the agreement.

(2) The limitation in paragraph (1) does not apply to a use of funds to carry out an arms control expenses reimbursement policy of the United States described in subsection (c).

(c) COVERED ARMS CONTROL EXPENSES REIMBURSEMENT POLICIES.—Subsection (b)(2) applies to a policy of the United States to reimburse expenses incurred by another party to an arms control agreement if—

(1) the policy does not modify any obligation imposed by the arms control agreement;

(2) the President—

(A) issued or approved the policy before the date of the enactment of this Act; or

(B) entered into an agreement on the policy with the government of another country or approved an agreement on the policy entered into by an official of the United States and the government of another country; and

(3) the President has notified the designated congressional committees of the policy or the policy agreement (as the case may be), in writing, at least 30 days before the date on which the President issued or approved the policy or has entered into or approved the policy agreement.

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

(1) The term ''arms control agreement'' means an arms control treaty or other form of international arms control agreement.

(2) The term ''executive agreement'' means an international agreement entered into by the President that is not authorized by law or entered into as a Treaty to which the Senate has given its advice and consent to ratification.

(3) The term ''designated congressional committees'' means the following:

(A) The Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

(B) The Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives.

SEC. 1408. IRAN AND IRAQ ARMS NONPROLIFERATION.

(a) SANCTIONS AGAINST TRANSFERS OF PERSONS.—Section 1604(a) of the Iran–Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484; 50 U.S.C. 1701 note) is amended by inserting ''to acquire chemical, biological, or nuclear weapons or'' before ''to acquire''.

(b) SANCTIONS AGAINST TRANSFERS OF FOREIGN COUNTRIES.—Section 1605(a) of such Act is amended by inserting ''to acquire chemical, biological, or nuclear weapons or'' before ''to acquire''.

(c) CLARIFICATION OF UNITED STATES ASSISTANCE.—Subparagraph (A) of section 1608(7) of such Act is amended to read as follows:

''(A) any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), other than urgent humanitarian assistance or medicine;''.

(d) NOTIFICATION OF CERTAIN WAIVERS UNDER MTCR PROCEDURES.—Section 73(e)(2) of the Arms Export Control Act (22 U.S.C. 2797b(e)(2)) is amended—

(1) by striking out ''the Congress'' and inserting in lieu thereof ''the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives''; and

(2) by striking out ''20 working days'' and inserting in lieu thereof ''45 working days''.

TITLE XV—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1501. AMENDMENTS RELATED TO RESERVE OFFICER PERSONNEL MANAGEMENT ACT.

(a) PUBLIC LAW 103–337.—The Reserve Officer Personnel Management Act (title XVI of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337)) is amended as follows:

(1) Section 1624 (108 Stat. 2961) is amended—

(A) by striking out ''641'' and all that follows through ''(2)'' and inserting in lieu thereof ''620 is amended''; and

(B) by redesignating as subsection (d) the subsection added by the amendment made by that section.

(2) Section 1625 (108 Stat. 2962) is amended by striking out ''Section 689'' and inserting in lieu thereof ''Section 12320''.

(3) Section 1626(1) (108 Stat. 2962) is amended by striking out ''(W–5)'' in the second quoted matter therein and inserting in lieu thereof '', W–5,''.

(4) Section 1627 (108 Stat. 2962) is amended by striking out ''Section 1005(b)'' and inserting in lieu thereof ''Section 12645(b)''.

(5) Section 1631 (108 Stat. 2964) is amended—

(A) in subsection (a), by striking out ''Section 510'' and inserting in lieu thereof ''Section 12102''; and

(B) in subsection (b), by striking out ''Section 591'' and inserting in lieu thereof ''Section 12201''.

(6) Section 1632 (108 Stat. 2965) is amended by striking out ''Section 593(a)'' and inserting in lieu thereof ''Section 12203(a)''.

(7) Section 1635(a) (108 Stat. 2968) is amended by striking out ''section 1291'' and inserting in lieu thereof ''section 1691(b)''.

(8) Section 1671 (108 Stat. 3013) is amended—

(A) in subsection (b)(3), by striking out ''512, and 517'' and inserting in lieu thereof ''and 512''; and

(B) in subsection (c)(2), by striking out the comma after ''861'' in the first quoted matter therein.

(9) Section 1684(b) (108 Stat. 3024) is amended by striking out ''section 14110(d)'' and inserting in lieu thereof ''section 14111(c)''.

(b) SUBTITLE E OF TITLE 10.—Subtitle E of title 10, United States Code, is amended as follows:

(1) The tables of chapters preceding part I and at the beginning of part IV are amended by striking out ''Repayments'' in the item

relating to chapter 1609 and inserting in lieu thereof ''Repayment Programs''.

(2)(A) The heading for section 10103 is amended to read as follows:

''§ 10103. Basic policy for order into Federal service''.

(B) The item relating to section 10103 in the table of sections at the beginning of chapter 1003 is amended to read as follows:

''10103. Basic policy for order into Federal service.''.

(3) The table of sections at the beginning of chapter 1005 is amended by striking out the third word in the item relating to section 10142.

(4) The table of sections at the beginning of chapter 1007 is amended—

(A) by striking out the third word in the item relating to section 10205; and

(B) by capitalizing the initial letter of the sixth word in the item relating to section 10211.

(5) The table of sections at the beginning of chapter 1011 is amended by inserting ''Sec.'' at the top of the column of section numbers.

(6) Section 10507 is amended—

(A) by striking out ''section 124402(b)'' and inserting in lieu thereof ''section 12402(b)''; and

(B) by striking out ''Air Forces'' and inserting in lieu thereof ''Air Force''.

(7)(A) Section 10508 is repealed.

(B) The table of sections at the beginning of chapter 1011 is amended by striking out the item relating to section 10508.

(8) Section 10542 is amended by striking out subsection (d).

(9) Section 12004(a) is amended by striking out ''active-status'' and inserting in lieu thereof ''active status''.

(10) Section 12012 is amended by inserting ''**the**'' in the section heading before the penultimate word.

(11)(A) The heading for section 12201 is amended to read as follows:

''§ 12201. Reserve officers: qualifications for appointment''.

(B) The item relating to that section in the table of sections at the beginning of chapter 1205 is amended to read as follows:

''12201. Reserve officers: qualifications for appointment.''.

(12)(A) The heading for section 12209 is amended to read as follows:

''§ 12209. Officer candidates: enlisted Reserves''.

(B) The heading for section 12210 is amended to read as follows:

''§ 12210. Attending Physician to the Congress: reserve grade while so serving''.

(13)(A) The headings for sections 12211, 12212, 12213, and 12214 are amended by inserting ''**the**'' after ''**National Guard of**''

(B) The table of sections at the beginning of chapter 1205 is amended by inserting ''the'' in the items relating to sections 12211, 12212, 12213, and 12214 after ''National Guard of''.

(14) Section 12213(a) is amended by striking out ''section 593'' and inserting in lieu thereof ''section 12203''.

(15) The table of sections at the beginning of chapter 1207 is amended by striking out ''promotions'' in the item relating to section 12243 and inserting in lieu thereof ''promotion''.

(16) The table of sections at the beginning of chapter 1209 is amended—

(A) in the item relating to section 12304, by striking out the colon and inserting in lieu thereof a semicolon; and

(B) in the item relating to section 12308, by striking out the second, third, and fourth words.

(17) Section 12307 is amended by striking out ''Ready Reserve'' in the second sentence and inserting in lieu thereof ''Retired Reserve''.

(18)(A) The table of sections at the beginning of chapter 1211 is amended by inserting ''the'' in the items relating to sections 12401, 12402, 12403, and 12404 after ''Army and Air National Guard of''.

(B) The headings for sections 12402, 12403, and 12404 are amended by inserting ''**the**'' after ''**Army and Air National Guard of**''

(19) Section 12407(b) is amended—

(A) by striking out ''of those jurisdictions'' and inserting in lieu thereof ''State''; and

(B) by striking out ''jurisdictions'' and inserting in lieu thereof ''States''.

(20) Section 12731(f) is amended by striking out ''the date of the enactment of this subsection'' and inserting in lieu thereof ''October 5, 1994,''.

(21) Section 12731a(c)(3) is amended by inserting a comma after ''Defense Conversion''.

(22) Section 14003 is amended by inserting ''**lists**'' in the section heading immediately before the colon.

(23) The table of sections at the beginning of chapter 1403 is amended by striking out ''selection board'' in the item relating to section 14105 and inserting in lieu thereof ''promotion board''.

(24) The table of sections at the beginning of chapter 1405 is amended—

(A) in the item relating to section 14307, by striking out ''Numbers'' and inserting in lieu thereof ''Number'';

(B) in the item relating to section 14309, by striking out the colon and inserting in lieu thereof a semicolon; and

(C) in the item relating to section 14314, by capitalizing the initial letter of the antepenultimate word.

(25) Section 14315(a) is amended by striking out ''a Reserve officer'' and inserting in lieu thereof ''a reserve officer''.

(26) Section 14317(e) is amended—

(A) by inserting ''OFFICERS ORDERED TO ACTIVE DUTY IN TIME OF WAR OR NATIONAL EMERGENCY.—'' after ''(e)''; and

(B) by striking out ''section 10213 or 644'' and inserting in lieu thereof ''section 123 or 10213''.

(27) The table of sections at the beginning of chapter 1407 is amended—

(A) in the item relating to section 14506, by inserting ''reserve'' after ''Marine Corps and''; and

(B) in the item relating to section 14507, by inserting ''reserve'' after ''Removal from the''; and

(C) in the item relating to section 14509, by inserting ''in grades'' after ''reserve officers''.

(28) Section 14501(a) is amended by inserting ''OFFICERS BELOW THE GRADE OF COLONEL OR NAVY CAPTAIN.—'' after ''(a)''.

(29) The heading for section 14506 is amended by inserting a comma after ''**Air Force**''.

(30) Section 14508 is amended by striking out ''this'' after ''from an active status under'' in subsections (c) and (d).

(31) Section 14515 is amended by striking out ''inactive status'' and inserting in lieu thereof ''inactive-status''.

(32) Section 14903(b) is amended by striking out ''chapter'' and inserting in lieu thereof ''title''.

(33) The table of sections at the beginning of chapter 1606 is amended in the item relating to section 16133 by striking out ''limitations'' and inserting in lieu thereof ''limitation''.

(34) Section 16132(c) is amended by striking out ''section'' and inserting in lieu thereof ''sections''.

(35) Section 16135(b)(1)(A) is amended by striking out ''section 2131(a)'' and inserting in lieu thereof ''section 16131(a)''.

(36) Section 18236(b)(1) is amended by striking out ''section 2233(e)'' and inserting in lieu thereof ''section 18233(e)''.

(37) Section 18237 is amended—

(A) in subsection (a), by striking out ''section 2233(a)(1)'' and inserting in lieu thereof ''section 18233(a)(1)''; and

(B) in subsection (b), by striking out ''section 2233(a)'' and inserting in lieu thereof ''section 18233(a)''.

(c) OTHER PROVISIONS OF TITLE 10.—Effective as of December 1, 1994 (except as otherwise expressly provided), and as if included as amendments made by the Reserve Officer Personnel Management Act (title XVI of Public Law 103–360) as originally enacted, title 10, United States Code, is amended as follows:

(1) Section 101(d)(6)(B)(i) is amended by striking out ''section 175'' and inserting in lieu thereof ''section 10301''.

(2) Section 114(b) is amended by striking out ''chapter 133'' and inserting in lieu thereof ''chapter 1803''.

(3) Section 115(d) is amended—

(A) in paragraph (1), by striking out ''section 673'' and inserting in lieu thereof ''section 12302'';

(B) in paragraph (2), by striking out ''section 673b'' and inserting in lieu thereof ''section 12304''; and

(C) in paragraph (3), by striking out ''section 3500 or 8500'' and inserting in lieu thereof ''section 12406''.

(4) Section 123(a) is amended—

(A) by striking out ''281, 592, 1002, 1005, 1006, 1007, 1374, 3217, 3218, 3219, 3220, 3352(a) (last sentence),'', ''5414, 5457, 5458, 5506,'', and ''8217, 8218, 8219,''; and

(B) by striking out ''and 8855'' and inserting in lieu thereof ''8855, 10214, 12003, 12004, 12005, 12007, 12202, 12213(a) (second sentence), 12642, 12645, 12646, 12647, 12771, 12772, and 12773''.

(5) Section 582(1) is amended by striking out ''section 672(d)'' in subparagraph (B) and ''section 673b'' in subparagraph (D) and inserting in lieu thereof ''section 12301(d)'' and ''section 12304'', respectively.

(6) Section 641(1)(B) is amended by striking out ''10501'' and inserting in lieu thereof ''10502, 10505, 10506(a), 10506(b), 10507''.

(7) The table of sections at the beginning of chapter 39 is amended by striking out the items relating to sections 687 and 690.

(8) Sections 1053(a)(1) and 1064 are amended by striking out ''chapter 67'' and inserting in lieu thereof ''chapter 1223''.

(9) Section 1063(a)(1) is amended by striking out ''section 1332(a)(2)'' and inserting in lieu thereof ''section 12732(a)(2)''.

(10) Section 1074b(b)(2) is amended by striking out ''section 673c'' and inserting in lieu thereof ''section 12305''.

(11) Section 1076(b)(2)(A) is amended by striking out ''before the effective date of the Reserve Officer Personnel Management Act'' and inserting in lieu thereof ''before December 1, 1994''.

(12) Section 1176(b) is amended by striking out ''section 1332'' in the matter preceding paragraph (1) and in paragraphs (1) and (2) and inserting in lieu thereof ''section 12732''.

(13) Section 1208(b) is amended by striking out ''section 1333'' and inserting in lieu thereof ''section 12733''.

(14) Section 1209 is amended by striking out ''section 1332'', ''section 1335'', and ''chapter 71'' and inserting in lieu thereof ''section 12732'', ''section 12735'', and ''section 12739'', respectively.

(15) Section 1407 is amended—

(A) in subsection (c)(1) and (d)(1), by striking out ''section 1331'' and inserting in lieu thereof ''section 12731''; and

(B) in the heading for paragraph (1) of subsection (d), by striking out ''CHAPTER 67'' and inserting in lieu thereof ''CHAPTER 1223''.

(16) Section 1408(a)(5) is amended by striking out ''section 1331'' and inserting in lieu thereof ''section 12731''.

(17) Section 1431(a)(1) is amended by striking out ''section 1376(a)'' and inserting in lieu thereof ''section 12774(a)''.

(18) Section 1463(a)(2) is amended by striking out ''chapter 67'' and inserting in lieu thereof ''chapter 1223''.

(19) Section 1482(f)(2) is amended by inserting ''section'' before ''12731 of this title''.

(20) The table of sections at the beginning of chapter 533 is amended by striking out the item relating to section 5454.

(21) Section 2006(b)(1) is amended by striking out ''chapter 106 of this title'' and inserting in lieu thereof ''chapter 1606 of this title''.

(22) Section 2121(c) is amended by striking out ''section 3353, 5600, or 8353'' and inserting in lieu thereof ''section 12207'', effective on the effective date specified in section 1691(b)(1) of Public Law 103–337.

(23) Section 2130a(b)(3) is amended by striking out ''section 591'' and inserting in lieu thereof ''section 12201''.

(24) The table of sections at the beginning of chapter 337 is amended by striking out the items relating to section 3351 and 3352.

(25) Sections 3850, 6389(c), 6391(c), and 8850 are amended by striking out ''section 1332'' and inserting in lieu thereof ''section 12732''.

(26) Section 5600 is repealed, effective on the effective date specified in section 1691(b)(1) of Public Law 103–337.

(27) Section 5892 is amended by striking out ''section 5457 or section 5458'' and inserting in lieu thereof ''section 12004 or section 12005''.

(28) Section 6410(a) is amended by striking out ''section 1005'' and inserting in lieu thereof ''section 12645''.

(29) The table of sections at the beginning of chapter 837 is amended by striking out the items relating to section 8351 and 8352.

(30) Section 8360(b) is amended by striking out ''section 1002'' and inserting in lieu thereof ''section 12642''.

(31) Section 8380 is amended by striking out ''section 524'' in subsections (a) and (b) and inserting in lieu thereof ''section 12011''.

(32) Sections 8819(a), 8846(a), and 8846(b) are amended by striking out ''sections 1005 and 1006'' and inserting in lieu thereof ''sections 12645 and 12646''.

(33) Section 8819 is amended by striking out ''section 1005'' and ''section 1006'' and inserting in lieu thereof ''section 12645'' and ''section 12646'', respectively.

(d) CROSS REFERENCES IN OTHER DEFENSE LAWS.—

(1) Section 337(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2717) is amended by inserting before the period at the end the following: ''or who after November 30, 1994, transferred to the Retired Reserve under section 10154(2) of title 10, United States Code, without having completed the years of service required under section 12731(a)(2) of such title for eligibility for retired pay under chapter 1223 of such title''.

(2) Section 525 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190, 105 Stat. 1363) is amended by striking out ''section 690'' and inserting in lieu thereof ''section 12321''.

(3) Subtitle B of title XLIV of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 12681 note) is amended—

(A) in section 4415, by striking out ''section 1331a'' and inserting in lieu thereof ''section 12731a'';

(B) in subsection 4416—

(i) in subsection (a), by striking out ''section 1331'' and inserting in lieu thereof ''section 12731'';

(ii) in subsection (b)—

(I) by inserting ''or section 12732'' in paragraph (1) after ''under that section''; and

(II) by inserting ''or 12731(a)'' in paragraph (2) after ''section 1331(a)'';

(iii) in subsection (e)(2), by striking out ''section 1332'' and inserting in lieu thereof ''section 12732''; and

(iv) in subsection (g), by striking out ''section 1331a'' and inserting in lieu thereof ''section 12731a''; and

(C) in section 4418—

(i) in subsection (a), by striking out ''section 1332'' and inserting in lieu thereof ''section 12732''; and

(ii) in subsection (b)(1)(A), by striking out ''section 1333'' and inserting in lieu thereof ''section 12733''.

(4) Title 37, United States Code, is amended—

(A) in section 302f(b), by striking out ''section 673c of title 10'' in paragraphs (2) and (3)(A) and inserting in lieu thereof ''section 12305 of title 10''; and

(B) in section 433(a), by striking out ''section 687 of title 10'' and inserting in lieu thereof ''section 12319 of title 10''.

(e) CROSS REFERENCES IN OTHER LAWS.—

(1) Title 14, United States Code, is amended—

(A) in section 705(f), by striking out ''600 of title 10'' and inserting in lieu thereof ''12209 of title 10''; and

(B) in section 741(c), by striking out ''section 1006 of title 10'' and inserting in lieu thereof ''section 12646 of title 10''.

(2) Title 38, United States Code, is amended—

(A) in section 3011(d)(3), by striking out ''section 672, 673, 673b, 674, or 675 of title 10'' and inserting in lieu thereof ''section 12301, 12302, 12304, 12306, or 12307 of title 10'';

(B) in sections 3012(b)(1)(B)(iii) and 3701(b)(5)(B), by striking out ''section 268(b) of title 10'' and inserting in lieu thereof ''section 10143(a) of title 10'';

(C) in section 3501(a)(3)(C), by striking out ''section 511(d) of title 10'' and inserting in lieu thereof ''section 12103(d) of title 10''; and

(D) in section 4211(4)(C), by striking out ''section 672(a), (d), or (g), 673, or 673b of title 10'' and inserting in lieu thereof ''section 12301(a), (d), or (g), 12302, or 12304 of title 10''.

(3) Section 702(a)(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 592(a)(1)) is amended—

(A) by striking out ''section 672 (a) or (g), 673, 673b, 674, 675, or 688 of title 10'' and inserting in lieu thereof ''section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12307 of title 10''; and

(B) by striking out ''section 672(d) of such title'' and inserting in lieu thereof ''section 12301(d) of such title''.

(4) Section 463A of the Higher Education Act of 1965 (20 U.S.C. 1087cc–1) is amended in subsection (a)(10) by striking out ''(10 U.S.C. 2172)'' and inserting in lieu thereof ''(10 U.S.C. 16302)''.

(5) Section 179 of the National and Community Service Act of 1990 (42 U.S.C. 12639) is amended in subsection (a)(2)(C) by striking out ''section 216(a) of title 5'' and inserting in lieu thereof ''section 10101 of title 10''.

(f) EFFECTIVE DATES.—

(1) Section 1636 of the Reserve Officer Personnel Management Act shall take effect on the date of the enactment of this Act.

(2) The amendments made by sections 1672(a), 1673(a) (with respect to chapters 541 and 549), 1673(b)(2), 1673(b)(4), 1674(a), and 1674(b)(7) shall take effect on the effective date specified in section 1691(b)(1) of the Reserve Officer Personnel Management Act (notwithstanding section 1691(a) of such Act).

(3) The amendments made by this section shall take effect as if included in the Reserve Officer Personnel Management Act as enacted on October 5, 1994.

SEC. 1502. AMENDMENTS TO REFLECT NAME CHANGE OF COMMITTEE ON ARMED SERVICES OF THE HOUSE OF REPRESENTATIVES.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Sections 503(b)(5), 520a(d), 526(d)(1), 619a(h)(2), 806a(b), 838(b)(7), 946(c)(1)(A), 1098(b)(2), 2313(b)(4), 2361(c)(1), 2371(h), 2391(c), 2430(b), 2432(b)(3)(B), 2432(c)(2), 2432(h)(1), 2667(d)(3), 2672a(b), 2687(b)(1), 4342(g), 7307(b)(1)(A), and 9342(g) are amended by striking out ''Committees on Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

(2) Sections 178(c)(1)(A), 942(e)(5), 2350f(c), 7426(e), 7431(a), 7431(b)(1), 7431(c), 7438(b), 12302(b), 18235(a), and 18236(a) are amended by striking out ''Committees on Armed Services of the Senate and the House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

(3) Section 113(j)(1) is amended by striking out ''Committees on Armed Services and Committees on Appropriations of the Senate and'' and inserting in lieu thereof ''Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the''.

(4) Section 119(g) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

''(1) the Committee on Armed Services and the Committee on Appropriations, and the Defense Subcommittee of the Committee on Appropriations, of the Senate; and

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

(5) Section 127(c) is amended by striking out ''Committees on Armed Services and Appropriations of the Senate and'' and inserting in lieu thereof ''Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of''.

(6) Section 135(e) is amended—

(A) by inserting ''(1)'' after ''(e)'';

(B) by striking out ''the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives are each'' and inserting in lieu thereof ''each congressional committee specified in paragraph (2) is''; and

(C) by adding at the end the following:

''(2) The committees referred to in paragraph (1) are—

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

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

(7) Section 179(e) is amended by striking out ''to the Committees on Armed Services and Appropriations of the Senate and'' and inserting in lieu thereof ''to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the''.

(8) Sections 401(d) and 402(d) are amended by striking out ''submit to the'' and all that

follows through ''Foreign Affairs'' and inserting in lieu thereof ''submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations''.

(9) Section 2367(d)(2) is amended by striking out ''the Committees on Armed Services and the Committees on Appropriations of the Senate and'' and inserting in lieu thereof ''the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the''.

(10) Sections 2306b(g), 2801(c)(4), and 18233a(a)(1) are amended by striking out ''the Committees on Armed Services and on Appropriations of the Senate and'' and inserting in lieu thereof ''the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the''.

(11) Section 1599(e)(2) is amended—

(A) in subparagraph (A), by striking out ''The Committees on Armed Services and Appropriations'' and inserting in lieu thereof ''The Committee on National Security, the Committee on Appropriations,''; and

(B) in subparagraph (B), by striking out ''The Committees on Armed Services and Appropriations'' and inserting in lieu thereof ''The Committee on Armed Services, the Committee on Appropriations,''.

(12) Sections 4355(a)(3), 6968(a)(3), and 9355(a)(3) are amended by striking out ''Armed Services'' and inserting in lieu thereof ''National Security''.

(13) Section 1060(d) is amended by striking out ''Committee on Armed Services and the Committee on Foreign Affairs'' and inserting in lieu thereof ''Committee on National Security and the Committee on International Relations''.

(14) Section 2215 is amended—

(A) by inserting ''(a) CERTIFICATION REQUIRED.—'' at the beginning of the text of the section;

(B) by striking out ''to the Committees'' and all that follows through ''House of Representatives'' and inserting in lieu thereof ''to the congressional committees specified in subsection (b)''; and

(C) by adding at the end the following:

''(b) CONGRESSIONAL COMMITTEES.—The committees referred to in subsection (a) are—

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

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

(15) Section 2218 is amended—

(A) in subsection (j), by striking out ''the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives'' and inserting in lieu thereof ''the congressional defense committees''; and

(B) by adding at the end of subsection (k) the following new paragraph:

''(4) The term 'congressional defense committees' means—

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

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

(16) Section 2342(b) is amended—

(A) in the matter preceding paragraph (1), by striking out ''section—'' and inserting in lieu thereof ''section unless—'';

(B) in paragraph (1), by striking out ''unless''; and

(C) in paragraph (2), by striking out ''notifies the'' and all that follows through ''House of Representatives'' and inserting in lieu thereof ''the Secretary submits to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives notice of the intended designation''.

(17) Section 2350a(f)(2) is amended by striking out ''submit to the Committees'' and all that follows through ''House of Representatives'' and inserting in lieu thereof ''submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives''.

(18) Section 2366 is amended—

(A) in subsection (d), by striking out ''the Committees on Armed Services and on Appropriations of the Senate and House of Representatives'' and inserting in lieu thereof ''the congressional defense committees''; and

(B) by adding at the end of subsection (e) the following new paragraph:

''(7) The term 'congressional defense committees' means—

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

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

(19) Section 2399(h)(2) is amended by striking out ''means'' and all the follows and inserting in lieu thereof the following: ''means—

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

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

(20) Section 2401(b)(1) is amended—

(A) in subparagraph (B), by striking out ''the Committees on Armed Services and on Appropriations of the Senate and'' and inserting in lieu thereof ''the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committees on Appropriations of the''; and

(B) in subparagraph (C), by striking out ''the Committees on Armed Services and on Appropriations of the Senate and House of Representatives'' and inserting in lieu thereof ''those committees''.

(21) Section 2403(e) is amended—

(A) by inserting ''(1)'' before ''Before making'';

(B) by striking out ''shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives'' and inserting in lieu thereof ''shall submit to the congressional committees specified in paragraph (2) notice''; and

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

''(2) The committees referred to in paragraph (1) are—

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

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

(22) Section 2515(d) is amended—

(A) by striking out ''REPORTING'' and all that follows through ''same time'' and inserting in lieu thereof ''ANNUAL REPORT.—(1) The Secretary of Defense shall submit to the congressional committees specified in paragraph (2) an annual report on the activities of the Office. The report shall be submitted each year at the same time''; and

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

''(2) The committees referred to in paragraph (1) are—

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

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

(23) Section 2662 is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking out ''the Committees on Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''; and

(ii) in the matter following paragraph (6), by striking out ''to be submitted to the Committees on Armed Services of the Senate and House of Representatives'';

(B) in subsection (b), by striking out ''shall report annually to the Committees on Armed Services of the Senate and the House of Representatives'' and inserting in lieu thereof ''shall submit annually to the congressional committees named in subsection (a) a report'';

(C) in subsection (e), by striking out ''the Committees on Armed Services of the Senate and the House of Representatives'' and inserting in lieu thereof ''the congressional committees named in subsection (a)''; and

(D) in subsection (f), by striking out ''the Committees on Armed Services of the Senate and the House of Representatives shall'' and inserting in lieu thereof ''the congressional committees named in subsection (a) shall''.

(24) Section 2674(a) is amended—

(A) in paragraph (2), by striking out ''Committees on Armed Services of the Senate and the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives'' and inserting in lieu thereof ''congressional committees specified in paragraph (3)''; and

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

''(3) The committees referred to in paragraph (2) are—

''(A) the Committee on Armed Services and the Committee on Environment and Public Works of the Senate; and

''(B) the Committee on National Security and the Committee on Transportation and Infrastructure of the House of Representatives.''.

(25) Section 2813(c) is amended by striking out ''Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives'' and inserting in lieu thereof ''appropriate committees of Congress''.

(26) Sections 2825(b)(1) and 2832(b)(2) are amended by striking out ''Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives'' and inserting in lieu thereof ''appropriate committees of Congress''.

(27) Section 2865(e)(2) and 2866(c)(2) are amended by striking out ''Committees on Armed Services and Appropriations of the Senate and House of Representatives'' and inserting in lieu thereof ''appropriate committees of Congress''.

(28)(A) Section 7434 of such title is amended to read as follows:

''§ 7434. Annual report to congressional committees

''Not later than October 31 of each year, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the

production from the naval petroleum reserves during the preceding calendar year.''.

(B) The item relating to such section in the table of contents at the beginning of chapter 641 is amended to read as follows:

''7434. Annual report to congressional committees.''.

(b) TITLE 37, UNITED STATES CODE.—Sections 301b(i)(2) and 406(i) of title 37, United States Code, are amended by striking out ''Committees on Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

(c) ANNUAL DEFENSE AUTHORIZATION ACTS.—

(1) The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended in sections 2922(b) and 2925(b) (10 U.S.C. 2687 note) by striking out ''Committees on Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

(2) The National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended—

(A) in section 326(a)(5) (10 U.S.C. 2301 note) and section 1304(a) (10 U.S.C. 113 note), by striking out ''Com- mittees on Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''; and

(B) in section 1505(e)(2)(B) (22 U.S.C. 5859a), by striking out ''the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce'' and inserting in lieu thereof ''the Committee on National Security, the Committee on Appropriations, the Committee on International Relations, and the Committee on Commerce''.

(3) Section 1097(a)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 22 U.S.C. 2751 note) is amended by striking out ''the Committees on Armed Services and Foreign Affairs'' and inserting in lieu thereof ''the Committee on National Security and the Committee on International Relations''.

(4) The National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) is amended as follows:

(A) Section 402(a) and section 1208(b)(3) (10 U.S.C. 1701 note) are amended by striking out ''Committees on Armed Services of the Senate and the House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

(B) Section 1403 (50 U.S.C. 404b) is amended—

(i) in subsection (a), by striking out ''the Committees on'' and all that follows through ''each year'' and inserting in lieu thereof ''the congressional committees specified in subsection (d) each year''; and

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

''(d) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following:

''(1) The Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

''(2) The Committee on National Security, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.''.

(C) Section 1457 (50 U.S.C. 404c) is amended—

(i) in subsection (a), by striking out ''shall submit to the'' and all that follows through ''each year'' and inserting in lieu thereof ''shall submit to the congressional committees specified in subsection (d) each year'';

(ii) in subsection (c)—

(I) by striking out ''(1) Except as provided in paragraph (2), the President'' and inserting in lieu thereof ''The President''; and

(II) by striking out paragraph (2); and

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

''(d) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following:

''(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

''(2) The Committee on National Security and the Committee on International Relations of the House of Representatives.''.

(D) Section 2921 (10 U.S.C. 2687 note) is amended—

(i) in subsection (e)(3)(A), by striking out ''the Committee on Armed Services, the Committee on Appropriations, and the Defense Subcommittees'' and inserting in lieu thereof ''the Committee on National Security, the Committee on Appropriations, and the National Security Subcommittee''; and

(ii) in subsection (g)(2), by striking out ''the Committee on Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

(5) Section 613(h)(1) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 37 U.S.C. 302 note), is amended by striking out ''the Committees on Armed Services of the Senate and the House of Representatives'' and inserting in lieu thereof ''the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

(6) Section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 50 U.S.C. 1521), is amended in subsections (b)(4) and (k)(2), by striking out ''Committees on Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

(7) Section 1002(d) of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 22 U.S.C. 1928 note), is amended by striking out ''the Committees on Armed Services of the Senate and the House of Representatives'' and inserting in lieu thereof ''the Committee on Armed Services of the Senate, the Committee on National Security of the House of Representatives''.

(8) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d), is amended—

(A) in subsection (d), by striking out ''Committees on Appropriations and on Armed Services of the Senate and the House of Representatives'' and inserting in lieu thereof ''Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on National Security of the House of Representatives''; and

(B) in subsection (e), by striking out ''Committees on Appropriations and on Armed Services of the Senate and the House of Representatives'' and inserting in lieu thereof ''congressional committees specified in subsection (d)''.

(d) BASE CLOSURE LAW.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended as follows:

(1) Sections 2902(e)(2)(B)(ii) and 2908(b) are amended by striking out ''Armed Services'' the first place it appears and inserting in lieu thereof ''National Security''.

(2) Section 2910(2) is amended by striking out ''the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives'' and inserting in lieu thereof ''the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives''.

(e) NATIONAL DEFENSE STOCKPILE.—The Strategic and Critical Materials Stock Piling Act is amended—

(1) in section 6(d) (50 U.S.C. 98e(d))—

(A) in paragraph (1), by striking out ''Committees on Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''; and

(B) in paragraph (2), by striking out ''the Committees on Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''such congressional committees''; and

(2) in section 7(b) (50 U.S.C. 98f(b)), by striking out ''Committees on Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

(f) OTHER DEFENSE-RELATED PROVISIONS.—

(1) Section 8125(g)(2) of the Department of Defense Appropriations Act, 1989 (Public Law 100–463; 10 U.S.C. 113 note), is amended by striking out ''Committees on Appropriations and Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on National Security of the House of Representatives''.

(2) Section 9047A of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 10 U.S.C. 2687 note), is amended by striking out ''the Committees on Appropriations and Armed Services of the House of Representatives and the Senate'' and inserting in lieu thereof ''the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on National Security of the House of Representatives''.

(3) Section 3059(c)(1) of the Defense Drug Interdiction Assistance Act (subtitle A of title III of Public Law 99–570; 10 U.S.C. 9441 note) is amended by striking out ''Committees on Appropriations and on Armed Services of the Senate and the House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives''.

(4) Section 7606(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100–690; 10 U.S.C. 9441 note) is amended by striking out ''Committees on Appropriations and the Committee on Armed Services of the Senate and the House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives''.

(5) Section 104(d)(5) of the National Security Act of 1947 (50 U.S.C. 403–4(d)(5)) is amended by striking out ''Committees on

Armed Services of the Senate and House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

(6) Section 8 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in subsection (b)(3), by striking out ''Committees on Armed Services and Government Operations'' and inserting in lieu thereof ''Committee on National Security and the Committee on Government Reform and Oversight'';

(B) in subsection (b)(4), by striking out ''Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives'' and inserting in lieu thereof ''congressional committees specified in paragraph (3)'';

(C) in subsection (f)(1), by striking out ''Committees on Armed Services and Government Operations'' and inserting in lieu thereof ''Committee on National Security and the Committee on Government Reform and Oversight''; and

(D) in subsection (f)(2), by striking out ''Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives'' and inserting in lieu thereof ''congressional committees specified in paragraph (1)''.

(7) Section 204(h)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(3)) is amended by striking out ''Committees on Armed Services of the Senate and of the House of Representatives'' and inserting in lieu thereof ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives''.

SEC. 1503. MISCELLANEOUS AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) SUBTITLE A.—Subtitle A of title 10, United States Code, is amended as follows:

(1) Section 113(i)(2)(B) is amended by striking out ''the five years covered'' and all that follows through ''section 114(g)'' and inserting in lieu thereof ''the period covered by the future-years defense program submitted to Congress during that year pursuant to section 221''.

(2) Section 136(c) is amended by striking out ''Comptroller'' and inserting in lieu thereof ''Under Secretary of Defense (Comptroller)''.

(3) Section 526 is amended—

(A) in subsection (a), by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

''(1) For the Army, 302.

''(2) For the Navy, 216.

''(3) For the Air Force, 279.'';

(B) by striking out subsection (b);

(C) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d);

(D) in subsection (b), as so redesignated, by striking out ''that are applicable on and after October 1, 1995''; and

(E) in paragraph (2)(B) of subsection (c), as redesignated by subparagraph (C), is amended—

(i) by striking out ''the'' after ''in the'';

(ii) by inserting ''to'' after ''reserve component, or''; and

(iii) by inserting ''than'' after ''in a grade other''.

(4) Section 528(a) is amended by striking out ''after September 30, 1995,''.

(5) Section 573(a)(2) is amended by striking out ''active duty list'' and inserting in lieu thereof ''active-duty list''.

(6) Section 661(d)(2) is amended—

(A) in subparagraph (B), by striking out ''Until January 1, 1994'' and all that follows through ''each position so designated'' and inserting in lieu thereof ''Each position designated by the Secretary under subparagraph (A)'';

(B) in subparagraph (C), by striking out ''the second sentence of''; and

(C) by striking out subparagraph (D).

(7) Section 706(c)(1) is amended by striking out ''section 4301 of title 38'' and inserting in lieu thereof ''chapter 43 of title 38''.

(8) Section 1059 is amended by striking out ''subsection (j)'' in subsections (c)(2) and (g)(3) and inserting in lieu thereof ''subsection (k)''.

(9) Section 1060a(f)(2)(B) is amended by striking out ''(as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))'' and inserting in lieu thereof '', as determined in accordance with the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)''.

(10) Section 1151 is amended—

(A) in subsection (b), by striking out ''(20 U.S.C. 2701 et seq.)'' in paragraphs (2)(A) and (3)(A) and inserting in lieu thereof ''(20 U.S.C. 6301 et seq.)''; and

(B) in subsection (e)(1)(B), by striking out ''not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995'' and inserting in lieu thereof ''not later than October 5, 1995''.

(11) Section 1152(g)(2) is amended by striking out ''not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995'' and inserting in lieu thereof ''not later than April 3, 1994,''.

(12) Section 1177(b)(2) is amended by striking out ''provison of law'' and inserting in lieu thereof ''provision of law''.

(13) The heading for chapter 67 is amended by striking out ''**NONREGULAR**'' and inserting in lieu thereof ''**NON-REGULAR**''.

(14) Section 1598(a)(2)(A) is amended by striking out ''2701'' and inserting in lieu thereof ''6301''.

(15) Section 1745(a) is amended by striking out ''section 4107(d)'' both places it appears and inserting in lieu thereof ''section 4107(b)''.

(16) Section 1746(a) is amended—

(A) by striking out ''(1)'' before ''The Secretary of Defense''; and

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(17) Section 2006(b)(2)(B)(ii) is amended by striking out ''section 1412 of such title'' and inserting in lieu thereof ''section 3012 of such title''.

(18) Section 2011(a) is amended by striking out ''TO'' and inserting in lieu thereof ''TO''.

(19) Section 2194(e) is amended by striking out ''(20 U.S.C. 2891(12))'' and inserting in lieu thereof ''(20 U.S.C. 8801)''.

(20) Sections 2217(b) and 2220(a)(2) are amended by striking out ''Comptroller of the Department of Defense'' and inserting in lieu thereof ''Under Secretary of Defense (Comptroller)''.

(21) Section 2401(c)(2) is amended by striking out ''pursuant to'' and all that follows through ''September 24, 1983,''.

(22) Section 2410f(b) is amended by striking out ''For purposes of'' and inserting in lieu thereof ''In''.

(23) Section 2410j(a)(2)(A) is amended by striking out ''2701'' and inserting in lieu thereof ''6301''.

(24) Section 2457(e) is amended by striking out ''title III of the Act of March 3, 1933 (41 U.S.C. 10a),'' and inserting in lieu thereof ''the Buy American Act (41 U.S.C. 10a)''.

(25) Section 2465(b)(3) is amended by striking out ''under contract'' and all that follows through the period and inserting in lieu thereof ''under contract on September 24, 1983.''.

(26) Section 2471(b) is amended—

(A) in paragraph (2), by inserting ''by'' after ''as determined''; and

(B) in paragraph (3), by inserting ''of'' after ''arising out''.

(27) Section 2524(e)(4)(B) is amended by inserting a comma before ''with respect to''.

(28) The heading of section 2525 is amended by capitalizing the initial letter of the second, fourth, and fifth words.

(29) Chapter 152 is amended by striking out the table of subchapters at the beginning and the headings for subchapters I and II.

(30) Section 2534(c) is amended by capitalizing the initial letter of the third and fourth words of the subsection heading.

(31) The table of sections at the beginning of subchapter I of chapter 169 is amended by adding a period at the end of the item relating to section 2811.

(b) OTHER SUBTITLES.—Subtitles B, C, and D of title 10, United States Code, are amended as follows:

(1) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out ''Comptroller of the Department of Defense'' and inserting in lieu thereof ''Under Secretary of Defense (Comptroller)''.

(2) Section 6241 is amended by inserting ''or'' at the end of paragraph (2).

(3) Section 6333(a) is amended by striking out the first period after ''section 1405'' in formula C in the table under the column designated ''Column 2''.

(4) The item relating to section 7428 in the table of sections at the beginning of chapter 641 is amended by striking out ''Agreement'' and inserting in lieu thereof ''Agreements''.

(5) The item relating to section 7577 in the table of sections at the beginning of chapter 649 is amended by striking out ''Officers'' and inserting in lieu thereof ''officers''.

(6) The center heading for part IV in the table of chapters at the beginning of subtitle D is amended by inserting a comma after ''SUPPLY''.

SEC. 1504. MISCELLANEOUS AMENDMENTS TO ANNUAL DEFENSE AUTHORIZATION ACTS.

(a) PUBLIC LAW 103–337.—Effective as of October 5, 1994, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) is amended as follows:

(1) Section 322(1) (108 Stat. 2711) is amended by striking out ''SERVICE'' in both sets of quoted matter and inserting in lieu thereof ''SERVICES''.

(2) Section 531(g)(2) (108 Stat. 2758) is amended by inserting ''item relating to section 1034 in the'' after ''The''.

(3) Section 541(c)(1) is amended—

(A) in subparagraph (B), by inserting a comma after ''chief warrant officer''; and

(B) in the matter after subparagraph (C), by striking out ''this''.

(4) Section 721(f)(2) (108 Stat. 2806) is amended by striking out ''revaluated'' and inserting in lieu thereof ''reevaluated''.

(5) Section 722(d)(2) (108 Stat. 2808) is amended by striking out ''National Academy of Science'' and inserting in lieu thereof ''National Academy of Sciences''.

(6) Section 904(d) (108 Stat. 2827) is amended by striking out ''subsection (c)'' the first place it appears and inserting in lieu thereof ''subsection (b)''.

(7) Section 1202 (108 Stat. 2882) is amended—

(A) by striking out ''(title XII of Public Law 103–60'' and inserting in lieu thereof ''(title XII of Public Law 103–160''; and

(B) in paragraph (2), by inserting ''in the first sentence'' before ''and inserting in lieu thereof''.

(8) Section 1312(a)(2) (108 Stat. 2894) is amended by striking out ''adding at the end''

and inserting in lieu thereof ''inserting after the item relating to section 123a''.

(9) Section 2813(c) (108 Stat. 3055) is amended by striking out ''above paragraph (1)'' both places it appears and inserting in lieu thereof ''preceding subparagraph (A)''.

(b) PUBLIC LAW 103–160.—The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended in section 1603(d) (22 U.S.C. 2751 note)—

(1) in the matter preceding paragraph (1), by striking out the second comma after ''Not later than April 30 of each year'';

(2) in paragraph (4), by striking out ''contributes'' and inserting in lieu thereof ''contribute''; and

(3) in paragraph (5), by striking out ''is'' and inserting in lieu thereof ''are''.

(c) PUBLIC LAW 102–484.—The National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended as follows:

(1) Section 326(a)(5) (106 Stat. 2370; 10 U.S.C. 2301 note) is amended by inserting ''report'' after ''each''.

(2) Section 3163(1)(E) is amended by striking out ''paragraphs (1) through (4)'' and inserting in lieu thereof ''subparagraphs (A) through (D)''.

(3) Section 4403(a) (10 U.S.C. 1293 note) is amended by striking out ''through 1995'' and inserting in lieu thereof ''through fiscal year 1999''.

(d) PUBLIC LAW 102–190.—Section 1097(d) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1490) is amended by striking out ''the Federal Republic of Germany, France'' and inserting in lieu thereof ''France, Germany''.

SEC. 1505. MISCELLANEOUS AMENDMENTS TO OTHER LAWS.

(a) OFFICER PERSONNEL ACT OF 1947.—Section 437 of the Officer Personnel Act of 1947 is repealed.

(b) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) in section 8171—

(A) in subsection (a), by striking out ''903(3)'' and inserting in lieu thereof ''903(a)'';

(B) in subsection (c)(1), by inserting ''section'' before ''39(b)''; and

(C) in subsection (d), by striking out ''(33 U.S.C. 18 and 21, respectively)'' and inserting in lieu thereof ''(33 U.S.C. 918 and 921)'';

(2) in sections 8172 and 8173, by striking out ''(33 U.S.C. 2(2))'' and inserting in lieu thereof ''(33 U.S.C. 902(2))''; and

(3) in section 8339(d)(7), by striking out ''Court of Military Appeals'' and inserting in lieu thereof ''Court of Appeals for the Armed Forces''.

(c) PUBLIC LAW 90–485.—Effective as of August 13, 1968, and as if included therein as originally enacted, section 1(6) of Public Law 90–485 (82 Stat. 753) is amended—

(1) by striking out the close quotation marks after the end of clause (4) of the matter inserted by the amendment made by that section; and

(2) by adding close quotation marks at the end.

(d) TITLE 37, UNITED STATES CODE.—Section 406(b)(1)(E) of title 37, United States Code, is amended by striking out ''of this paragraph''.

(e) BASE CLOSURE LAWS.—(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(A) in section 2905(b)(1)(C), by striking out ''of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g))'' and inserting in lieu thereof ''to dispose of surplus property for public airports under sections 47151 through 47153 of title 49, United States Code'';

(B) in section 2906(d)(1), by striking out ''section 204(b)(4)(C)'' and inserting in lieu thereof ''section 204(b)(7)(C)''; and

(C) in section 2910—

(i) by designating the second paragraph (10), as added by section 2(b) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421; 108 Stat. 4352), as paragraph (11); and

(ii) in such paragraph, as so designated, by striking out ''section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4))'' and inserting in lieu thereof ''section 501(i)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(i)(4))''.

(2) Section 2921(d)(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out ''section 204(b)(4)(C)'' and inserting in lieu thereof ''section 204(b)(7)(C)''.

(3) Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(A) in subsection (b)(1)(C), by striking out ''of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g))'' and inserting in lieu thereof ''to dispose of surplus property for public airports under sections 47151 through 47153 of title 49, United States Code''; and

(B) in subsection (b)(7)(A)(i), by striking out ''paragraph (3)'' and inserting in lieu thereof ''paragraphs (3) through (6)''.

(f) PUBLIC LAW 103–421.—Section 2(e)(5) of Public Law 103–421 (108 Stat. 4354) is amended—

(1) by striking out ''(A)'' after ''(5)''; and

(2) by striking out ''clause'' in subparagraph (B)(iv) and inserting in lieu thereof ''clauses''.

(g) ATOMIC ENERGY ACT.—Section 123a. of the Atomic Energy Act (42 U.S.C. 2153a.) is amended by striking out ''144b., or 144d.'' and inserting '', 144b., or 144d.''.

SEC. 1506. COORDINATION WITH OTHER AMENDMENTS.

For purposes of applying amendments made by provisions of this Act other than provisions of this title, this title shall be treated as having been enacted immediately before the other provisions of this Act.

TITLE XVI—CORPORATION FOR THE PROMOTION OF RIFLE PRACTICE AND FIREARMS SAFETY

SEC. 1601. SHORT TITLE.

This title may be cited as the ''Corporation for the Promotion of Rifle Practice and Firearms Safety Act''.

Subtitle A—Establishment and Operation of Corporation

SEC. 1611. ESTABLISHMENT OF THE CORPORATION.

(a) ESTABLISHMENT.—There is established a private, nonprofit corporation to be known as the ''Corporation for the Promotion of Rifle Practice and Firearms Safety'' (in this title referred to as the ''Corporation'').

(b) PRIVATE, NONPROFIT STATUS.—(1) The Corporation shall not be considered to be a department, agency, or instrumentality of the Federal Government. An officer or employee of the Corporation shall not be considered to be an officer or employee of the Federal Government.

(2) The Corporation shall be operated in a manner and for purposes that qualify the Corporation for exemption from taxation under section 501(a) of the Internal Revenue Code of 1986 as an organization described in section 501(c)(3) of such Code.

(c) BOARD OF DIRECTORS.—(1) The Corporation shall have a Board of Directors consisting of not less than nine members.

(2) The Board of Directors may adopt bylaws, policies, and procedures for the Corporation and may take any other action that the Board of Directors considers necessary for the management and operation of the Corporation.

(3) Each member of the Board of Directors shall serve for a term of two years. Members of the Board of Directors are eligible for reappointment.

(4) A vacancy on the Board of Directors shall be filled by a majority vote of the remaining members of the Board.

(5) The Secretary of the Army shall appoint the initial Board of Directors. Four of the members of the initial Board of Directors, to be designated by the Secretary at the time of appointment, shall (notwithstanding paragraph (3)) serve for a term of one year.

(d) DIRECTOR OF CIVILIAN MARKSMANSHIP.—(1) The Board of Directors shall appoint an individual to serve as the Director of Civilian Marksmanship.

(2) The Director shall be responsible for the performance of the daily operations of the Corporation and the functions described in section 1612.

SEC. 1612. CONDUCT OF CIVILIAN MARKSMANSHIP PROGRAM.

(a) FUNCTIONS.—The Corporation shall have responsibility for the overall supervision, oversight, and control of the Civilian Marksmanship Program, pursuant to the transfer of the program under subsection (d), including the performance of the following:

(1) The instruction of citizens of the United States in marksmanship.

(2) The promotion of practice and safety in the use of firearms, including the conduct of matches and competitions in the use of those firearms.

(3) The award to competitors of trophies, prizes, badges, and other insignia.

(4) The provision of security and accountability for all firearms, ammunition, and other equipment under the custody and control of the Corporation.

(5) The issue, loan, or sale of firearms, ammunition, supplies, and appliances under section 1614.

(6) The procurement of necessary supplies, appliances, clerical services, other related services, and labor to carry out the Civilian Marksmanship Program.

(b) PRIORITY FOR YOUTH ACTIVITIES.—In carrying out the Civilian Marksmanship Program, the Corporation shall give priority to activities that benefit firearms safety, training, and competition for youth and that reach as many youth participants as possible.

(c) ACCESS TO SURPLUS PROPERTY.—(1) The Corporation may obtain surplus property and supplies from the Defense Reutilization Marketing Service to carry out the Civilian Marksmanship Program.

(2) Any transfer of property and supplies to the Corporation under paragraph (1) shall be made without cost to the Corporation.

(d) TRANSFER OF CIVILIAN MARKSMANSHIP PROGRAM TO CORPORATION.—(1) The Secretary of the Army shall provide for the transition of the Civilian Marksmanship Program, as defined in section 4308(e) of title 10, United States Code (as such section was in effect on the day before the date of the enactment of this Act), from conduct by the Department of the Army to conduct by the Corporation. The transition shall be completed not later than September 30, 1996.

(2) To carry out paragraph (1), the Secretary shall provide such assistance and take such action as is necessary to maintain the viability of the program and to maintain the security of firearms, ammunition, and other property that are transferred or reserved for transfer to the Corporation under section 1615, 1616, or 1621.

SEC. 1613. ELIGIBILITY FOR PARTICIPATION IN CIVILIAN MARKSMANSHIP PROGRAM.

(a) CERTIFICATION REQUIREMENT.—(1) Before a person may participate in any activity sponsored or supported by the Corporation, the person shall be required to certify by affidavit the following:

(A) The person has not been convicted of any Federal or State felony or violation of section 922 of title 18, United States Code.

(B) The person is not a member of any organization that advocates the violent overthrow of the United States Government.

(2) The Director of Civilian Marksmanship may require any person to attach to the person's affidavit a certification from the appropriate State or Federal law enforcement agency for purposes of paragraph (1)(A).

(b) INELIGIBILITY RESULTING FROM CERTAIN CONVICTIONS.—A person who has been convicted of a Federal or State felony or a violation of section 922 of title 18, United States Code, shall not be eligible to participate in any activity sponsored or supported by the Corporation through the Civilian Marksmanship Program.

(c) AUTHORITY TO LIMIT PARTICIPATION.—The Director of Civilian Marksmanship may limit participation as necessary to ensure—

(1) quality instruction in the use of firearms;

(2) the safety of participants; and

(3) the security of firearms, ammunition, and equipment.

SEC. 1614. ISSUANCE, LOAN, AND SALE OF FIREARMS AND AMMUNITION BY THE CORPORATION.

(a) ISSUANCE AND LOAN.—For purposes of training and competition, the Corporation may issue or loan, with or without charges to recover administrative costs, caliber .22 rimfire and caliber .30 surplus rifles, caliber .22 and .30 ammunition, air rifles, targets, and other supplies and appliances necessary for activities related to the Civilian Marksmanship Program to the following:

(1) Organizations affiliated with the Corporation that provide training in the use of firearms to youth.

(2) The Boy Scouts of America.

(3) 4–H Clubs.

(4) Future Farmers of America.

(5) Other youth-oriented organizations.

(b) SALES.—(1) The Corporation may sell at fair market value caliber .22 rimfire and caliber .30 surplus rifles, caliber .22 and .30 ammunition, air rifles, repair parts, and accouterments to organizations affiliated with the Corporation that provide training in the use of firearms.

(2) Subject to subsection (e), the Corporation may sell at fair market value caliber .22 rimfire and caliber .30 surplus rifles, ammunition, targets, repair parts and accouterments, and other supplies and appliances necessary for target practice to citizens of the United States over 18 years of age who are members of a gun club affiliated with the Corporation. In addition to any other requirement, the Corporation shall establish procedures to obtain a criminal records check of the person with appropriate Federal and State law enforcement agencies.

(c) LIMITATIONS ON SALES.—(1) The Corporation may not offer for sale any repair part designed to convert any firearm to fire in a fully automatic mode.

(2) The Corporation may not sell rifles, ammunition, or any other item available for sale to individuals under the Civilian Marksmanship Program to a person who has been convicted of a felony or a violation of section 922 of title 18, United States Code.

(d) OVERSIGHT AND ACCOUNTABILITY.—The Corporation shall be responsible for ensuring adequate oversight and accountability of all firearms issued or loaned under this section. The Corporation shall prescribe procedures for the security of issued or loaned firearms in accordance with Federal, State, and local laws.

(e) APPLICABILITY OF OTHER LAW.—(1) Subject to paragraph (2), sales under subsection (b)(2) are subject to applicable Federal, State, and local laws.

(2) Paragraphs (1), (2), (3), and (5) of section 922(a) of title 18, United States Code, do not apply to the shipment, transportation, receipt, transfer, sale, issuance, loan, or delivery by the Corporation of any item that the Corporation is authorized to issue, loan, sell, or receive under this title.

SEC. 1615. TRANSFER OF FIREARMS AND AMMUNITION FROM THE ARMY TO THE CORPORATION.

(a) TRANSFERS REQUIRED.—The Secretary of the Army shall, in accordance with subsection (b), transfer to the Corporation all firearms and ammunition that on the day before the date of the enactment of this Act are under the control of the Director of the Civilian Marksmanship Program, including—

(1) all firearms on loan to affiliated clubs and State associations;

(2) all firearms in the possession of the Civilian Marksmanship Support Detachment; and

(3) all M–1 Garand and caliber .22 rimfire rifles stored at Anniston Army Depot, Anniston, Alabama.

(b) TIME FOR TRANSFER.—The Secretary shall transfer firearms and ammunition under subsection (a) as and when necessary to enable the Corporation—

(1) to issue or loan such items in accordance with section 1614(a); or

(2) to sell such items to purchasers in accordance with section 1614(b).

(c) PARTS.—The Secretary may make available to the Corporation any part from a rifle designated to be demilitarized in the inventory of the Department of the Army.

(d) VESTING OF TITLE IN TRANSFERRED ITEMS.—Title to an item transferred to the Corporation under this section shall vest in the Corporation—

(1) upon the issuance of the item to a recipient eligible under section 1614(a) to receive the item; or

(2) immediately before the Corporation delivers the item to a purchaser of the item in accordance with a contract for a sale of the item that is authorized under section 1614(b).

(e) COSTS OF TRANSFERS.—Any transfer of firearms, ammunition, or parts to the Corporation under this section shall be made without cost to the Corporation, except that the Corporation shall assume the cost of preparation and transportation of firearms and ammunition transferred under this section.

SEC. 1616. RESERVATION BY THE ARMY OF FIREARMS AND AMMUNITION FOR THE CORPORATION.

(a) RESERVATION OF FIREARMS AND AMMUNITION.—The Secretary of the Army shall reserve for the Corporation the following:

(1) All firearms referred to in section 1615(a).

(2) Ammunition for such firearms.

(3) All M–16 rifles used to support the small arms firing school that are held by the Department of the Army on the date of the enactment of this Act.

(4) Any parts from, and accessories and accouterments for, surplus caliber .30 and caliber .22 rimfire rifles.

(b) STORAGE OF FIREARMS AND AMMUNITION.—Firearms stored at Anniston Army Depot, Anniston, Alabama, before the date of the enactment of this Act and used for the Civilian Marksmanship Program shall remain at that facility, or another storage facility designated by the Secretary of the Army, without cost to the Corporation, until the firearms are issued, loaned, or sold by, or otherwise transferred to, the Corporation.

(c) LIMITATION ON DEMILITARIZATION OF M–1 RIFLES.—After the date of the enactment of this Act, the Secretary may not demilitarize any M–1 Garand rifle in the inventory of the Army unless that rifle is determined by the Defense Logistics Agency to be unserviceable.

(d) EXCEPTION FOR TRANSFERS TO FEDERAL AND STATE AGENCIES FOR COUNTERDRUG PURPOSES.—The requirement specified in subsection (a) does not supersede the authority provided in section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 372 note).

SEC. 1617. ARMY LOGISTICAL SUPPORT FOR THE PROGRAM.

(a) LOGISTICAL SUPPORT.—The Secretary of the Army shall provide logistical support to the Civilian Marksmanship Program and for competitions and other activities conducted by the Corporation. The Corporation shall reimburse the Secretary for incremental direct costs incurred in providing such support. Such reimbursements shall be credited to the appropriations account of the Department of the Army that is charged to provide such support.

(b) RESERVE COMPONENT PERSONNEL.—The Secretary shall provide, without cost to the Corporation, for the use of members of the National Guard and Army Reserve to support the National Matches as part of the performance of annual training pursuant to titles 10 and 32, United States Code.

(c) USE OF DEPARTMENT OF DEFENSE FACILITIES FOR NATIONAL MATCHES.—The National Matches may continue to be held at those Department of Defense facilities at which the National Matches were held before the date of the enactment of this Act.

(d) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

SEC. 1618. GENERAL AUTHORITIES OF THE CORPORATION.

(a) DONATIONS AND FEES.—(1) The Corporation may solicit, accept, hold, use, and dispose of donations of money, property, and services received by gift, devise, bequest, or otherwise.

(2) The Corporation may impose, collect, and retain such fees as are reasonably necessary to cover the direct and indirect costs of the Corporation to carry out the Civilian Marksmanship Program.

(3) Amounts collected by the Corporation under the authority of this subsection, including the proceeds from the sale of firearms, ammunition, targets, and other supplies and appliances, may be used only to support the Civilian Marksmanship Program.

(b) CORPORATE SEAL.—The Corporation may adopt, alter, and use a corporate seal, which shall be judicially noticed.

(c) CONTRACTS.—The Corporation may enter into contracts, leases, agreements, or other transactions.

(d) OBLIGATIONS AND EXPENDITURES.—The Corporation may determine the character of, and necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid and may incur, allow, and pay such obligations and expenditures.

(e) RELATED AUTHORITY.—The Corporation may take such other actions as are necessary or appropriate to carry out the authority provided in this section.

SEC. 1619. DISTRIBUTION OF CORPORATE ASSETS IN EVENT OF DISSOLUTION.

(a) DISTRIBUTION.—If the Corporation dissolves, then—

(1) upon the dissolution of the Corporation, title to all firearms stored at Anniston Army

Depot, Anniston, Alabama, on the date of the dissolution, all M–16 rifles that are transferred to the Corporation under section 1615(a)(2), that are referred to in section 1616(a)(3), or that are otherwise under the control of the Corporation, and all trophies received by the Corporation from the National Board for the Promotion of Rifle Practice as of such date, shall vest in the Secretary of the Army, and the Secretary shall have the immediate right to the possession of such items;

(2) assets of the Corporation, other than assets described in paragraph (1), may be distributed by the Corporation to an organization that—

(A) is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 as an organization described in section 501(c)(3) of such Code; and

(B) performs functions similar to the functions described in section 1612(a); and

(3) all assets of the Corporation that are not distributed pursuant to paragraphs (1) and (2) shall be sold, and the proceeds from the sale of such assets shall be deposited in the Treasury.

(b) PROHIBITION.—Assets of the Corporation that are distributed pursuant to the authority of subsection (a) may not be distributed to an individual.

Subtitle B—Transitional Provisions

SEC. 1621. TRANSFER OF FUNDS AND PROPERTY TO THE CORPORATION.

(a) FUNDS.—(1) On the date of the submission of a certification in accordance with section 1623 or, if earlier, October 1, 1996, the Secretary of the Army shall transfer to the Corporation—

(A) the amounts that are available to the National Board for the Promotion of Rifle Practice from sales programs and fees collected in connection with competitions sponsored by the Board; and

(B) all funds that are in the nonappropriated fund account known as the National Match Fund.

(2) The funds transferred under paragraph (1)(A) shall be used to carry out the Civilian Marksmanship Program.

(3) Transfers under paragraph (1)(B) shall be made without cost to the Corporation.

(b) PROPERTY.—The Secretary of the Army shall, as soon as practicable, transfer to the Corporation the following:

(1) All automated data equipment, all other office equipment, targets, target frames, vehicles, and all other property under the control of the Director of Civilian Marksmanship and the Civilian Marksmanship Support Detachment on the day before the date of the enactment of this Act (other than property to which section 1615(a) applies).

(2) Title to property under the control of the National Match Fund on such day.

(3) All supplies and appliances under the control of the Director of the Civilian Marksmanship Program on such day.

(c) OFFICES.—The Corporation may use the office space of the Office of the Director of Civilian Marksmanship until the date on which the Secretary of the Army completes the transfer of the Civilian Marksmanship Program to the Corporation. The Corporation shall assume control of the leased property occupied as of the date of the enactment of this Act by the Civilian Marksmanship Support Detachment, located at the Erie Industrial Park, Port Clinton, Ohio.

(d) COSTS OF TRANSFERS.—Any transfer of items to the Corporation under this section shall be made without cost to the Corporation.

SEC. 1622. CONTINUATION OF ELIGIBILITY FOR CERTAIN CIVIL SERVICE BENEFITS FOR FORMER FEDERAL EMPLOYEES OF CIVILIAN MARKSMANSHIP PROGRAM.

(a) CONTINUATION OF ELIGIBILITY.—Notwithstanding any other provision of law, a Federal employee who is employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation and is offered employment by the Corporation as part of the transition described in section 1612(d) may, if the employee becomes employed by the Corporation, continue to be eligible during continuous employment with the Corporation for the Federal health, retirement, and similar benefits (including life insurance) for which the employee would have been eligible had the employee continued to be employed by the Department of Defense. The employer's contribution for such benefits shall be paid by the Corporation.

(b) REGULATIONS.—The Director of the Office of Personnel Management shall prescribe regulations to carry out subsection (a).

SEC. 1623. CERTIFICATION OF COMPLETION OF TRANSITION.

(a) CERTIFICATION REQUIREMENT.—Upon completion of the appointment of the Board of Directors for the Corporation under section 1611(c)(5) and of the transition required under section 1612(d), the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a certification of the completion of such actions.

(b) PUBLICATION OF CERTIFICATION.—The Secretary shall take such actions as are necessary to ensure that the certification is published in the Federal Register promptly after the submission of the certification under subsection (a).

SEC. 1624. REPEAL OF AUTHORITY FOR CONDUCT OF CIVILIAN MARKSMANSHIP PROGRAM BY THE ARMY.

(a) REPEALS.—(1) Sections 4307, 4308, 4310, and 4311 of title 10, United States Code, are repealed.

(2) The table of sections at the beginning of chapter 401 of such title is amended by striking out the items relating to sections 4307, 4308, 4310, and 4311.

(b) CONFORMING AMENDMENTS.—(1) Section 4313 of title 10, United States Code, is amended—

(A) by striking out subsection (b); and

(B) in subsection (a)—

(i) by striking out ''(a) JUNIOR COMPETITORS.—'' and inserting in lieu thereof ''(a) ALLOWANCES FOR PARTICIPATION OF JUNIOR COMPETITORS.—''; and

(ii) in paragraph (3), by striking out ''(3) For the purposes of this subsection'' and inserting in lieu thereof ''(b) JUNIOR COMPETITOR DEFINED.—For the purposes of subsection (a)''.

(2) Section 4316 of such title is amended by striking out '', including fees charged and amounts collected pursuant to subsections (b) and (c) of section 4308,''.

(3) Section 925(a)(2)(A) of title 18, United States Code, is amended by inserting after ''section 4308 of title 10'' the following: ''before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) the date on which the Secretary of the Army submits a certification in accordance with section 1623; or

(2) October 1, 1996.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Military Construction Authorization Act for Fiscal Year 1996''.

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Fort Rucker	$5,900,000
	Redstone Arsenal	$5,000,000
Arizona	Fort Huachuca	$16,000,000
California	Fort Irwin	$25,500,000
	Presidio of San Francisco	$3,000,000
Colorado	Fort Carson	$30,850,000
District of Columbia.	Fort McNair	$13,500,000
Georgia	Fort Benning	$37,900,000
	Fort Gordon	$5,750,000
	Fort Stewart	$8,400,000
Hawaii	Schofield Barracks	$30,000,000
Kansas	Fort Riley	$7,000,000
Kentucky	Fort Campbell	$10,000,000
	Fort Knox	$5,600,000
New Jersey	Picatinny Arsenal	$5,500,000
New Mexico	White Sands Missile Range	$2,050,000
New York	Fort Drum	$8,800,000
	United States Military Academy	$8,300,000
	Watervliet Arsenal	$680,000
North Carolina	Fort Bragg	$29,700,000
Oklahoma	Fort Sill	$14,300,000
South Carolina	Naval Weapons Station, Charleston	$25,700,000
	Fort Jackson	$32,000,000
Texas	Fort Hood	$32,500,000
	Fort Bliss	$56,900,000
	Fort Sam Houston	$7,000,000
Virginia	Fort Eustis	$16,400,000
Washington	Fort Lewis	$32,100,000
CONUS Classified	Classified Location	$1,900,000
	Total:	$478,230,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Korea	Camp Casey	$4,150,000
	Camp Hovey	$13,500,000
	Camp Pelham	$5,600,000
	Camp Stanley	$6,800,000
	Yongsan	$4,500,000
Overseas Classified	Classified Location	$48,000,000
Worldwide	Host Nation Support	$20,000,000
	Total:	$102,550,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation	Purpose	Amount
Kentucky	Fort Knox	150 units	$19,000,000
New York	United States Military Academy, West Point	119 units	$16,500,000
Virginia	Fort Lee	135 units	$19,500,000
Washington	Fort Lewis	84 units	$10,800,000
		Total:	$65,800,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $2,000,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing in an amount not to exceed $48,856,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Subject to subsection (c), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1995, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,147,427,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $478,230,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $102,550,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $9,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $34,194,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $116,656,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,337,596,000.

(6) For the Homeowners Assistance Program, as authorized by section 2832 of title 10, United States Code, $75,586,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $6,385,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), and, in the case of the project described in section 2204(b)(2), other amounts appropriated pursuant to authorizations enacted after this Act for that project, the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
California	Marine Corps Air-Ground Combat Center, Twentynine Palms	$2,490,000
	Marine Corps Base, Camp Pendleton	$27,584,000
	Naval Command, Control, and Ocean Surveillance Center, San Diego	$3,170,000
	Naval Air Station, Lemoore	$7,600,000
	Naval Air Station, North Island	$99,150,000
	Naval Air Warfare Center Weapons Division, China Lake	$3,700,000
	Naval Air Warfare Center Weapons Division, Point Mugu	$1,300,000
	Naval Construction Batallion Center, Port Hueneme	$16,700,000
	Naval Station, San Diego	$19,960,000
Florida	Naval School Explosive Ordinance Disposal, Eglin Air Force Base	$16,150,000
	Naval Technical Training Center, Corry Station, Pensacola	$2,565,000
Georgia	Strategic Weapons Facility, Atlantic, Kings Bay	$2,450,000
Hawaii	Honolulu Naval Computer and Telecommunications Area, Master Station Eastern Pacific	$1,980,000
	Intelligence Center Pacific, Pearl Harbor	$2,200,000
	Naval Submarine Base, Pearl Harbor	$22,500,000
Illinois	Naval Training Center, Great Lakes	$12,440,000
Indiana	Crane Naval Surface Warfare Center	$3,300,000
Maryland	Naval Academy, Annapolis	$3,600,000
New Jersey	Naval Air Warfare Center Aircraft Division, Lakehurst	$1,700,000
North Carolina	Marine Corps Air Station, Cherry Point	$11,430,000
	Marine Corps Air Station, New River	$14,650,000
	Marine Corps Base, Camp LeJeune	$59,300,000
Pennsylvania	Philadelphia Naval Shipyard	$6,000,000
South Carolina	Marine Corps Air Station, Beaufort	$15,000,000
Texas	Naval Air Station, Corpus Christi	$4,400,000
	Naval Air Station, Kingsville	$2,710,000
	Naval Station, Ingleside	$2,640,000
Virginia	Fleet and Industrial Supply Center, Williamsburg	$8,390,000
	Henderson Hall, Arlington	$1,900,000
	Marine Corps Combat Development Command, Quantico	$3,500,000
	Naval Hospital, Portsmouth	$9,500,000
	Naval Station, Norfolk	$10,580,000
	Naval Weapons Station, Yorktown	$1,300,000
Washington	Naval Undersea Warfare Center Division, Keyport	$5,300,000
	Puget Sound Naval Shipyard, Bremerton	$19,870,000
West Virginia	Naval Security Group Detachment	$7,200,000
CONUS Classified	Classified Locations	$1,200,000
	Total:	$435,409,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Guam	Naval Computer and Telecommunications Area, Master Station Western Pacific	$2,250,000
	Navy Public Works Center, Guam	$16,180,000

Navy: Outside the United States—Continued

Country	Installation or location	Amount
Italy	Naval Air Station, Sigonella	$12,170,000
	Naval Support Activity, Naples	$24,950,000
Puerto Rico	Naval Security Group Activity, Sabana Seca	$2,200,000
	Naval Station, Roosevelt Roads	$11,500,000
	Total	$69,250,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State	Installation	Purpose	Amount
California	Marine Corps Base, Camp Pendleton	138 units	$20,000,000
	Marine Corps Base, Camp Pendleton	Community Center.	$1,438,000
	Marine Corps Base, Camp Pendleton	Housing Office	$707,000
	Naval Air Station, Lemoore	240 units	$34,900,000
	Pacific Missile Test Center, Point Mugu	Housing Office	$1,020,000
	Public Works Center, San Diego	346 units	$49,310,000
Hawaii	Naval Complex, Oahu	252 units	$48,400,000
Maryland	Naval Air Test Center, Patuxent River	Warehouse	$890,000
	US Naval Academy, Annapolis	Housing Office	$800,000
North Carolina	Marine Corps Air Station, Cherry Point	Community Center.	$1,003,000
Pennsylvania	Navy Ships Parts Control Center, Mechanicsburg	Housing Office	$300,000
Puerto Rico	Naval Station, Roosevelt Roads	Housing Office	$710,000
Virginia	Naval Surface Warfare Center, Dahlgren	Housing Office	$520,000
	Public Works Center, Norfolk	320 units	$42,500,000
	Public Works Center, Norfolk	Housing Office	$1,390,000
West Virginia	Security Group Naval Detachment, Sugar Grove	23 units	$3,590,000
		Total:	$207,478,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $24,390,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $290,831,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Subject to subsection (c), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1995, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,119,317,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $427,709,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $69,250,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,200,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $50,515,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $522,699,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $1,048,329,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $7,700,000 (the balance of the amount authorized under section 2201(a) for the construction of a bachelor enlisted quarters at the Naval Construction Batallion Center, Port Hueneme, California).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $6,385,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2205. REVISION OF FISCAL YEAR 1995 AUTHORIZATION OF APPROPRIATIONS TO CLARIFY AVAILABILITY OF FUNDS FOR LARGE ANECHOIC CHAMBER FACILITY, PATUXENT RIVER NAVAL WARFARE CENTER, MARYLAND.

Section 2204(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3033) is amended—

(1) in the matter preceding paragraph (1), by striking out ''$1,591,824,000'' and inserting in lieu thereof ''$1,601,824,000''; and

(2) by adding at the end the following:

''(6) For the construction of the large anechoic chamber facility at the Patuxent River Naval Warfare Center, Aircraft Division, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2590), $10,000,000.''.

SEC. 2206. AUTHORITY TO CARRY OUT LAND ACQUISITION PROJECT, HAMPTON ROADS, VIRGINIA.

The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2589) is amended—

(1) in the item relating to Damneck, Fleet Combat Training Center, Virginia, by striking out ''$19,427,000'' in the amount column and inserting in lieu thereof ''$14,927,000''; and

(2) by inserting after the item relating to Damneck, Fleet Combat Training Center, Virginia, the following new item:

	Hampton Roads	$4,500,000

SEC. 2207. ACQUISITION OF LAND, HENDERSON HALL, ARLINGTON, VIRGINIA.

(a) AUTHORITY TO ACQUIRE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire all right, title, and interest of any party in and to a parcel of real property, including an abandoned mausoleum, consisting of approximately 0.75 acres and located in Arlington, Virginia, the site of Henderson Hall.

(b) DEMOLITION OF MAUSOLEUM.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary may—

(1) demolish the mausoleum located on the parcel acquired under subsection (a); and

(2) provide for the removal and disposition in an appropriate manner of the remains contained in the mausoleum.

(c) AUTHORITY TO DESIGN PUBLIC WORKS FACILITY.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary may obtain architectural and engineering services and construction design for a warehouse and office facility for the Marine Corps to be constructed on the property acquired under subsection (a).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property authorized to be acquired under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the acquisition under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2208. ACQUISITION OR CONSTRUCTION OF MILITARY FAMILY HOUSING IN VICINITY OF SAN DIEGO, CALIFORNIA.

(a) AUTHORITY TO USE LITIGATION PROCEEDS.—Upon final settlement in the case of Rossmoor Liquidating Trust against United States, in the United States District Court for the Central District of California (Case No. CV 82–0956 LEW (Px)), the Secretary of the Treasury shall deposit in a separate account any funds paid to the United States in settlement of such case. At the request of the Secretary of the Navy, the Secretary of the Treasury shall make available amounts in the account to the Secretary of the Navy solely for the acquisition or construction of military family housing, including the acquisition of land necessary for such acquisition or construction, for members of the Armed Forces and their dependents stationed in, or in the vicinity of, San Diego, California. In using amounts in the account, the Secretary of the Navy may use the authorities provided in subchapter IV of chapter 169 of title 10, United States Code, as added by section 2801 of this Act.

(b) UNITS AUTHORIZED.—Not more than 150 military family housing units may be acquired or constructed with funds referred to in subsection (a). The units authorized by this subsection are in addition to any other units of military family housing authorized to be acquired or constructed in, or in the vicinity of, San Diego, California.

(c) PAYMENT OF EXCESS INTO TREASURY.—The Secretary of the Treasury shall deposit into the Treasury as miscellaneous receipts funds referred to in subsection (a) that have not been obligated for construction under this section within four years after receipt thereof.

(d) LIMITATION.—The Secretary may not enter into any contract for the acquisition or construction of military family housing under this section until after the expiration of the 21-day period beginning on the day after the day on which the Secretary transmits to the congressional defense committees a report containing the details of such contract.

(e) REPEAL OF EXISTING AUTHORITY.—Section 2848 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1666) is repealed.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), and, in the case of the project described in section 2304(b)(2), other amounts appropriated pursuant to authorizations enacted after this Act for that project, the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$5,200,000
Alaska	Eielson Air Force Base	$7,850,000
	Elmendorf Air Force Base	$9,100,000
	Tin City Long Range RADAR Site	$2,500,000
Arizona	Davis-Monthan Air Force Base	$4,800,000
	Luke Air Force Base	$5,200,000
Arkansas	Little Rock Air Force Base	$2,500,000
California	Beale Air Force Base	$7,500,000
	Edwards Air Force Base	$33,800,000
	Travis Air Force Base	$26,700,000
	Vandenberg Air Force Base	$6,000,000
Colorado	Buckley Air National Guard Base	$5,500,000
	Peterson Air Force Base	$4,390,000
	US Air Force Academy	$12,874,000
Delaware	Dover Air Force Base	$5,500,000
District of Columbia.	Bolling Air Force Base	$12,100,000
Florida	Cape Canaveral Air Force Station	$1,600,000
	Eglin Air Force Base	$13,500,000
	Tyndall Air Force Base	$1,200,000
Georgia	Moody Air Force Base	$25,190,000
	Robins Air Force Base	$12,400,000
Hawaii	Hickam Air Force Base	$10,700,000
Idaho	Mountain Home Air Force Base	$18,650,000
Illinois	Scott Air Force Base	$12,700,000
Kansas	McConnell Air Force Base	$9,450,000
Louisiana	Barksdale Air Force Base	$2,500,000
Maryland	Andrews Air Force Base	$12,886,000
Mississippi	Columbus Air Force Base	$1,150,000
	Keesler Air Force Base	$6,500,000
Missouri	Whiteman Air Force Base	$24,600,000
Nevada	Nellis Air Force Base	$17,500,000
New Jersey	McGuire Air Force Base	$16,500,000
New Mexico	Cannon Air Force Base	$13,420,000
	Holloman Air Force Base	$6,000,000
	Kirtland Air Force Base	$9,156,000
North Carolina	Pope Air Force Base	$8,250,000
	Seymour Johnson Air Force Base	$5,530,000
North Dakota	Grand Forks Air Force Base	$14,800,000
	Minot Air Force Base	$1,550,000
Ohio	Wright Patterson Air Force Base	$4,100,000
Oklahoma	Altus Air Force Base	$4,800,000
	Tinker Air Force Base	$11,100,000
South Carolina	Charleston Air Force Base	$12,500,000
	Shaw Air Force Base	$1,300,000
South Dakota	Ellsworth Air Force Base	$7,800,000
Tennessee	Arnold Air Force Base	$5,000,000
Texas	Dyess Air Force Base	$5,400,000
	Goodfellow Air Force Base	$1,000,000
	Kelly Air Force Base	$3,244,000
	Laughlin Air Force Base	$1,400,000
	Randolph Air Force Base	$3,100,000
	Sheppard Air Force Base	$1,500,000
Utah	Hill Air Force Base	$8,900,000
Virginia	Langley Air Force Base	$1,000,000
Washington	Fairchild Air Force Base	$15,700,000
	McChord Air Force Base	$9,900,000
Wyoming	F.E. Warren Air Force Base	$9,000,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
CONUS Classified ..	Classified Location	$700,000
	Total:	$504,690,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and may carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Spangdahlem Air Base	$8,380,000
	Vogelweh Annex	$2,600,000
Greece	Araxos Radio Relay Site	$1,950,000
Italy	Aviano Air Base	$2,350,000
	Ghedi Radio Relay Site	$1,450,000
Turkey	Ankara Air Station	$7,000,000
	Incirlik Air Base	$4,500,000
United Kingdom	Lakenheath Royal Air Force Base	$1,820,000
	Mildenhall Royal Air Force Base	$2,250,000
Overseas Classified	Classified Location	$17,100,000
	Total:	$49,400,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State/Country	Installation	Purpose	Amount
Alaska	Elmendorf Air Force Base	Housing Office/ Maintenance Facility ..	$3,000,000
Arizona	Davis-Monthan Air Force Base	80 units	$9,498,000
Arkansas ...	Little Rock Air Force Base	Replace 1 General Officer Quarters	$210,000
California ..	Beale Air Force Base.	Family Housing Office	$842,000
	Edwards Air Force Base	127 units ..	$20,750,000
	Vandenberg Air Force Base	Family Housing Office	$900,000
	Vandenberg Air Force Base	143 units ..	$20,200,000
Colorado	Peterson Air Force Base	Family Housing Office	$570,000
District of Columbia	Bolling Air Force Base	32 units	$4,100,000
Florida	Eglin Air Force Base	Family Housing Office	$500,000
	Eglin Auxiliary Field 9	Family Housing Office	$880,000
	MacDill Air Force Base	Family Housing Office	$646,000
	Patrick Air Force Base	70 units	$7,947,000

Air Force: Family Housing—Continued

State/Country	Installation	Purpose	Amount
	Tyndall Air Force Base	82 units	$9,800,000
Georgia	Moody Air Force Base	1 Officer & 1 General Officer Quarter	$513,000
	Robins Air Force Base	83 units	$9,800,000
Guam	Andersen Air Force Base	Housing Maintenance Facility ..	$1,700,000
Idaho	Mountain Home Air Force Base	Housing Management Facility	$844,000
Kansas	McConnell Air Force Base	39 units	$5,193,000
Louisiana ...	Barksdale Air Force Base	62 units	$10,299,000
Massachusetts.	Hanscom Air Force Base	32 units	$4,900,000
Mississippi	Keesler Air Force Base	98 units	$9,300,000
Missouri	Whiteman Air Force Base	72 units	$9,948,000
Nevada	Nellis Air Force Base	102 units ..	$16,357,000
New Mexico	Holloman Air Force Base	1 General Officer Quarters	$225,000
	Kirtland Air Force Base	105 units ..	$11,000,000
North Carolina.	Pope Air Force Base	104 units ..	$9,984,000
	Seymour Johnson Air Force Base	1 General Officer Quarters	$204,000
South Carolina.	Shaw Air Force Base	Housing Maintenance Facility ..	$715,000
Texas	Dyess Air Force Base	Housing Maintenance Facility ..	$580,000
	Lackland Air Force Base	67 units	$6,200,000
	Sheppard Air Force Base	Management Office	$500,000
	Sheppard Air Force Base	Housing Maintenance Facility ..	$600,000
Turkey	Incirlik Air Base ..	150 units ..	$10,146,000
Washington	McChord Air Force Base	50 units	$9,504,000
		Total:	$198,355,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $8,989,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $90,959,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Subject to subsection (c), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1995, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,735,086,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $504,690,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $49,400,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $9,030,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $30,835,000.

(5) For military housing functions:

(A) For construction and acquisition, planning and design and improvement of military family housing and facilities, $298,303,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $849,213,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $5,400,000 (the balance of the amount authorized under section 2301(a) for the construction of a corrosion control facility at Tinker Air Force Base, Oklahoma).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $6,385,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2305. RETENTION OF ACCRUED INTEREST ON FUNDS DEPOSITED FOR CONSTRUCTION OF FAMILY HOUSING, SCOTT AIR FORCE BASE, ILLINOIS.

(a) RETENTION OF INTEREST.—Section 2310 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1874) is amended—

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

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

''(b) RETENTION OF INTEREST.—Interest accrued on the funds transferred to the County pursuant to subsection (a) shall be retained in the same account as the transferred funds and shall be available to the County for the same purpose as the transferred funds.''.

(b) LIMITATION ON UNITS CONSTRUCTED.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended by adding at the end the following new sentence: ''The number of units constructed using the transferred funds (and interest accrued on such funds) may not exceed the number of units of military family housing authorized for Scott Air Force Base in section 2302(a) of the Military Construction Authorization Act for Fiscal Year 1993.''.

(c) EFFECT OF COMPLETION OF CONSTRUCTION.—Such section is further amended by adding at the end the following new subsection:

''(d) COMPLETION OF CONSTRUCTION.—Upon the completion of the construction authorized by this section, all funds remaining from the funds transferred pursuant to subsection (a), and the remaining interest accrued on such funds, shall be deposited in the general fund of the Treasury of the United States.''.

(d) REPORTS ON ACCRUED INTEREST.—Such section is further amended by adding at the end the following new subsection:

''(e) REPORTS ON ACCRUED INTEREST.—Not later than March 1 of each year following a year in which funds available to the County under this section are used by the County for the purpose referred to in subsection (c), the Secretary shall submit to the congressional defense committees a report setting forth the amount of interest that accrued on such funds during the preceding year.''.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), and, in the case of the project described in section 2405(b)(2), other amounts appropriated pursuant to authorizations enacted after this Act for that project, the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency/State	Installation or location	Amount
Ballistic Missile Defense Organization		
Texas	Fort Bliss	$13,600,000
Defense Finance & Accounting Service		
Ohio	Columbus Center	$72,403,000
Defense Intelligence Agency		
District of Columbia	Bolling Air Force Base	$498,000
Defense Logistics Agency		
Alabama	Defense Distribution Anniston	$3,550,000
California	Defense Distribution Stockton	$15,000,000
	DFSC, Point Mugu	$750,000
Delaware	DFSC, Dover Air Force Base	$15,554,000
Florida	DFSC, Eglin Air Force Base	$2,400,000
Louisiana	DFSC, Barksdale Air Force Base	$13,100,000
New Jersey	DFSC, McGuire Air Force Base	$12,000,000
Pennsylvania	Defense Distribution New Cumberland—DDSP	$4,600,000
Virginia	Defense Distribution Depot—DDNV	$10,400,000
Defense Mapping Agency		
Missouri	Defense Mapping Agency Aerospace Center	$40,300,000
Defense Medical Facility Office		
Alabama	Maxwell Air Force Base	$10,000,000
Arizona	Luke Air Force Base	$8,100,000
California	Fort Irwin	$6,900,000
	Marine Corps Base, Camp Pendleton	$1,700,000
	Vandenberg Air Force Base	$5,700,000
Delaware	Dover Air Force Base	$4,400,000
Georgia	Fort Benning	$5,600,000
Louisiana	Barksdale Air Force Base	$4,100,000
Maryland	Bethesda Naval Hospital	$1,300,000
	Walter Reed Army Institute of Research	$1,550,000
Texas	Fort Hood	$5,500,000
	Lackland Air Force Base	$6,100,000
Virginia	Northwest Naval Security Group Activity	$4,300,000
National Security Agency		
Maryland	Fort Meade	$18,733,000
Office of the Secretary of Defense		

Defense Agencies: Inside the United States—Continued

Agency/State	Installation or location	Amount
Inside the United States	Classified location	$11,500,000
Department of Defense Dependents Schools		
Alabama	Maxwell Air Force Base	$5,479,000
Georgia	Fort Benning	$1,116,000
South Carolina	Fort Jackson	$576,000
Special Operations Command		
California	Camp Pendleton	$5,200,000
Florida	Eglin Air Force Base (Duke Field)	$2,400,000
	Eglin Auxiliary Field 9	$14,150,000
North Carolina	Fort Bragg	$23,800,000
Pennsylvania	Olmstead Field, Harrisburg IAP	$1,643,000
Virginia	Dam Neck	$4,500,000
	Naval Amphibious Base, Little Creek	$6,100,000
	Total:	$364,602,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency/Country	Installation name	Amount
Defense Logistics Agency		
Puerto Rico	Defense Fuel Support Point, Roosevelt Roads	$6,200,000
Spain	DFSC Rota	$7,400,000
Defense Medical Facility Office		
Italy	Naval Support Activity, Naples	$5,000,000
Department of Defense Dependents Schools		
Germany	Ramstein Air Force Base	$19,205,000
Italy	Naval Air Station, Sigonella	$7,595,000
National Security Agency		
United Kingdom	Menwith Hill Station	$677,000
Special Operations Command		
Guam	Naval Station, Guam	$8,800,000
	Total:	$54,877,000

SEC. 2402. MILITARY FAMILY HOUSING PRIVATE INVESTMENT.

(a) AVAILABILITY OF FUNDS FOR INVESTMENT.—Of the amount authorized to be appropriated pursuant to section 2405(a)(11)(A), $22,000,000 shall be available for crediting to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code (as added by section 2801 of this Act).

(b) USE OF FUNDS.—The Secretary of Defense may use funds credited to the Department of Defense Family Housing Improvement Fund under subsection (a) to carry out any activities authorized by subchapter IV of chapter 169 of such title (as added by such section) with respect to military family housing.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(11)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $3,772,000.

SEC. 2404. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(9), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1995, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $4,629,491,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $329,599,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $54,877,000.

(3) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640), $47,900,000.

(4) For military construction projects at Elmendorf Air Force Base, Alaska, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $28,100,000.

(5) For military construction projects at Walter Reed Army Institute of Research, Maryland, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $27,000,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $23,007,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $11,037,000.

(8) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $68,837,000.

(9) For energy conservation projects authorized by section 2404, $40,000,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $3,897,892,000.

(11) For military family housing functions:

(A) For construction and acquisition and improvement of military family housing and facilities, $25,772,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $40,467,000, of which not more than $24,874,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variation authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $35,003,000 (the balance of the amount authorized under section 2401(a) for the construction of a center of the Defense Finance and Accounting Service at Columbus, Ohio).

SEC. 2406. LIMITATIONS ON USE OF DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990.

(a) SET ASIDE FOR 1995 ROUND.—Of the amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(10), $784,569,000 shall be available only for the purposes described in section 2905 of

the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) with respect to military installations approved for closure or realignment in 1995.

(b) CONSTRUCTION.—Amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(10) may not be obligated to carry out a construction project with respect to military installations approved for closure or realignment in 1995 until after the date on which the Secretary of Defense submits to Congress a five-year program for executing the 1995 base realignment and closure plan. The limitation contained in this subsection shall not prohibit site surveys, environmental baseline surveys, environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and planning and design work conducted in anticipation of such construction.

SEC. 2407. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1995 PROJECTS.

The table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), under the agency heading relating to Chemical Weapons and Munitions Destruction, is amended—

(1) in the item relating to Pine Bluff Arsenal, Arkansas, by striking out ''$3,000,000'' in the amount column and inserting in lieu thereof ''$115,000,000''; and

(2) in the item relating to Umatilla Army Depot, Oregon, by striking out ''$12,000,000'' in the amount column and inserting in lieu thereof ''$186,000,000''.

SEC. 2408. REDUCTION IN AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 1994 CONTINGENCY CONSTRUCTION PROJECTS.

Section 2403(a) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1876) is amended—

(1) in the matter preceding paragraph (1), by striking out ''$3,268,394,000'' and inserting in lieu thereof ''$3,260,263,000''; and

(2) in paragraph (10), by striking out ''$12,200,000'' and inserting in lieu thereof ''$4,069,000''.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1995, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure program, as authorized by section 2501, in the amount of $161,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1995, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $134,802,000; and

(B) for the Army Reserve, $73,516,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $19,055,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $170,917,000; and

(B) for the Air Force Reserve, $36,232,000.

SEC. 2602. REDUCTION IN AMOUNT AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 1994 AIR NATIONAL GUARD PROJECTS.

Section 2601(3)(A) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1878) is amended by striking out ''$236,341,000'' and inserting in lieu thereof ''$229,641,000''.

SEC. 2603. CORRECTION IN AUTHORIZED USES OF FUNDS FOR ARMY NATIONAL GUARD PROJECTS IN MISSISSIPPI.

(a) IN GENERAL.—Subject to subsection (b), amounts appropriated pursuant to the authorization of appropriations in section 2601(1)(A) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1878) for the addition or alteration of Army National Guard Armories at various locations in the State of Mississippi shall be available for the addition, alteration, or new construction of armory facilities and an operation and maintenance shop facility (including the acquisition of land for such facilities) at various locations in the State of Mississippi.

(b) NOTICE AND WAIT.—The amounts referred to in subsection (a) shall not be available for construction with respect to a facility referred to in that subsection until 21 days after the date on which the Secretary of the Army submits to Congress a report describing the construction (including any land acquisition) to be carried out with respect to the facility.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1998; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1999.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1998; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1999 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Infrastructure program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1993 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2602), authorizations for the projects set forth in the tables in subsection (b), as provided in section 2101, 2301, or 2601 of that Act or in section 2201 of that Act (as amended by section 2206 of this Act), shall remain in effect until October 1, 1996, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1997, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 1993 Project Authorizations

State	Installation or Location	Project	Amount
Arkansas	Pine Bluff Arsenal	Ammunition Demilitarization Support Facility	$15,000,000
Hawaii	Schofield Barracks	Add/Alter Sewage Treatment Plant	$17,500,000

Navy: Extension of 1993 Project Authorizations

State	Installation or Location	Project	Amount
California	Camp Pendleton Marine Corps Base	Sewage Treatment Plant Modifications	$19,740,000
Maryland	Patuxent River Naval Warfare Center	Large Anechoic Chamber, Phase I	$60,990,000
Mississippi	Meridian Naval Air Station	Child Development Center	$1,100,000
Virginia	Hampton Roads	Land Acquisition	$4,500,000

Air Force: Extension of 1993 Project Authorizations

State	Installation or Location	Project	Amount
Arkansas	Little Rock Air Force Base	Fire Training Facility	$710,000

Air Force: Extension of 1993 Project Authorizations—Continued

State	Installation or Location	Project	Amount
District of Columbia	Bolling Air Force Base	Civil Engineer Complex	$9,400,000
Mississippi	Keesler Air Force Base	Alter Student Dormitory	$3,100,000
North Carolina	Pope Air Force Base	Construct Bridge Road and Utilities	$4,000,000
	Pope Air Force Base	Munitions Storage Complex	$4,300,000
Virginia	Langley Air Force Base	Base Engineer Complex	$5,300,000
Guam	Andersen Air Base	Landfill	$10,000,000
Portugal	Lajes Field	Water Wells	$865,000
	Lajes Field	Fire Training Facility	$950,000

Army National Guard: Extension of 1993 Project Authorizations

State	Installation or Location	Project	Amount
Alabama	Tuscaloosa	Armory	$2,273,000
	Union Springs	Armory	$813,000
Oregon	La Grande	Organizational Maintenance Shop	$1,220,000
	La Grande	Armory Addition	$3,049,000
Pennsylvania	Indiana	Armory	$1,700,000
Rhode Island	North Kingston	Add/Alter Armory	$3,330,000

Army Reserve: Extension of 1993 Project Authorizations

State	Installation or Location	Project	Amount
West Virginia	Bluefield	United States Army Reserve Center	$1,921,000
	Clarksburg	United States Army Reserve Center	$1,566,000
	Grantville	United States Army Reserve Center	$2,785,000
	Lewisburg	United States Army Reserve Center	$1,631,000
	Weirton	United States Army Reserve Center	$3,481,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1992 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1535), authorizations for the projects set forth in the tables in subsection (b), as provided in section 2101 or 2601 of that Act, and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3047), shall remain in effect until October 1, 1996, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1997, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 1992 Project Authorizations

State	Installation or Location	Project	Amount
Oregon	Umatilla Army Depot	Ammunition Demilitarization Support Facility	$3,600,000
	Umatilla Army Depot	Ammunition Demilitarization Utilities	$7,500,000

Army National Guard: Extension of 1992 Project Authorization

State	Installation or Location	Project	Amount
Ohio	Toledo	Armory	$3,183,000

Army Reserve: Extension of 1992 Project Authorization

State	Installation or Location	Project	Amount
Tennessee	Jackson	Joint Training Facility	$1,537,000

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Housing Privatization Initiative

SEC. 2801. ALTERNATIVE AUTHORITY FOR CONSTRUCTION AND IMPROVEMENT OF MILITARY HOUSING.

(a) ALTERNATIVE AUTHORITY TO CONSTRUCT AND IMPROVE MILITARY HOUSING.—(1) Chapter 169 of title 10, United States Code, is amended by adding at the end the following new subchapter:

''SUBCHAPTER IV—ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING

''Sec.
''2871. Definitions.
''2872. General authority.
''2873. Direct loans and loan guarantees.
''2874. Leasing of housing to be constructed.
''2875. Investments in nongovernmental entities.
''2876. Rental guarantees.
''2877. Differential lease payments.
''2878. Conveyance or lease of existing property and facilities.
''2879. Interim leases.
''2880. Unit size and type.
''2881. Ancillary supporting facilities.
''2882. Assignment of members of the armed forces to housing units.
''2883. Department of Defense Housing Funds.
''2884. Reports.
''2885. Expiration of authority.

''§ 2871. Definitions

''In this subchapter:

''(1) The term 'ancillary supporting facilities' means facilities related to military housing units, including child care centers, day care centers, tot lots, community centers, housing offices, dining facilities, unit offices, and other similar facilities for the support of military housing.

''(2) The term 'base closure law' means the following:

''(A) Section 2687 of this title.

''(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

''(C) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

''(3) The term 'construction' means the construction of military housing units and ancillary supporting facilities or the improvement or rehabilitation of existing units or ancillary supporting facilities.

''(4) The term 'contract' includes any contract, lease, or other agreement entered into under the authority of this subchapter.

''(5) The term 'Fund' means the Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund established under section 2883(a) of this title.

''(6) The term 'military unaccompanied housing' means military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents.

''(7) The term 'United States' includes the Commonwealth of Puerto Rico.

''§ 2872. General authority

''In addition to any other authority provided under this chapter for the acquisition or construction of military family housing or military unaccompanied housing, the Secretary concerned may exercise any authority or any combination of authorities provided under this subchapter in order to provide for the acquisition or construction by private persons of the following:

''(1) Family housing units on or near military installations within the United States and its territories and possessions.

''(2) Military unaccompanied housing units on or near such military installations.

''§ 2873. Direct loans and loan guarantees

''(a) DIRECT LOANS.—(1) Subject to subsection (c), the Secretary concerned may make direct loans to persons in the private sector in order to provide funds to such persons for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

''(2) The Secretary concerned shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.

''(b) LOAN GUARANTEES.—(1) Subject to subsection (c), the Secretary concerned may guarantee a loan made to any person in the private sector if the proceeds of the loan are to be used by the person to acquire, or construct housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

''(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of—

''(A) the amount equal to 80 percent of the value of the project; or

''(B) the amount of the outstanding principal of the loan.

''(3) The Secretary concerned shall establish such terms and conditions with respect to guarantees of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of obligors of such loans and the rights and obligations of the United States with respect to such guarantees.

''(c) LIMITATION ON DIRECT LOAN AND GUARANTEE AUTHORITY.—Direct loans and loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) are made in advance, or authority is otherwise provided in appropriation Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7))), which shall be available for the disbursement of direct loans or payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of direct loans and guarantees made under this section.

''§ 2874. Leasing of housing to be constructed

''(a) BUILD AND LEASE AUTHORIZED.—The Secretary concerned may enter into contracts for the lease of military family housing units or military unaccompanied housing units to be constructed under this subchapter.

''(b) LEASE TERMS.—A contract under this section may be for any period that the Secretary concerned determines appropriate and may provide for the owner of the leased property to operate and maintain the property.

''§ 2875. Investments in nongovernmental entities

''(a) INVESTMENTS AUTHORIZED.—The Secretary concerned may make investments in nongovernmental entities carrying out projects for the acquisition or construction of housing units suitable for use as military family housing or as military unaccompanied housing.

''(b) FORMS OF INVESTMENT.—An investment under this section may take the form of an acquisition of a limited partnership interest by the United States, a purchase of stock or other equity instruments by the United States, a purchase of bonds or other debt instruments by the United States, or any combination of such forms of investment.

''(c) LIMITATION ON VALUE OF INVESTMENT.—(1) The cash amount of an investment under this section in a nongovernmental entity may not exceed an amount equal to 33⅓ percent of the capital cost (as determined by the Secretary concerned) of the project or projects that the entity proposes to carry out under this section with the investment.

''(2) If the Secretary concerned conveys land or facilities to a nongovernmental entity as all or part of an investment in the entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

''(3) In this subsection, the term 'capital cost', with respect to a project for the acquisition or construction of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.

''(d) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary concerned shall enter into collateral incentive agreements with nongovernmental entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

''§ 2876. Rental guarantees

''The Secretary concerned may enter into agreements with private persons that acquire or construct military family housing units or military unaccompanied housing units under this subchapter in order to assure—

''(1) the occupancy of such units at levels specified in the agreements; or

''(2) rental income derived from rental of such units at levels specified in the agreements.

''§ 2877. Differential lease payments

''Pursuant to an agreement entered into by the Secretary concerned and a private lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount in addition to the rental payments for the housing made by the members as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.

''§ 2878. Conveyance or lease of existing property and facilities

''(a) CONVEYANCE OR LEASE AUTHORIZED.—The Secretary concerned may convey or lease property or facilities (including ancillary supporting facilities) to private persons for purposes of using the proceeds of such conveyance or lease to carry out activities under this subchapter.

''(b) INAPPLICABILITY TO PROPERTY AT INSTALLATION APPROVED FOR CLOSURE.—The authority of this section does not apply to property or facilities located on or near a military installation approved for closure under a base closure law.

''(c) TERMS AND CONDITIONS.—(1) The conveyance or lease of property or facilities under this section shall be for such consideration and upon such terms and conditions as the Secretary concerned considers appropriate for the purposes of this subchapter and to protect the interests of the United States.

''(2) As part or all of the consideration for a conveyance or lease under this section, the purchaser or lessor (as the case may be) shall enter into an agreement with the Secretary to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or sublease of a reasonable number of the housing units covered by the conveyance or lease, as the case may be, or in the lease of other suitable housing units made available by the purchaser or lessee.

''(d) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:

''(1) Section 2667 of this title.

''(2) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

''(3) Section 321 of the Act of June 30, 1932 (commonly known as the Economy Act) (40 U.S.C. 303b).

''(4) Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401).

''§ 2879. Interim leases

''Pending completion of a project to acquire or construct military family housing units or military unaccompanied housing units under this subchapter, the Secretary concerned may provide for the interim lease of such units of the project as are complete. The term of a lease under this section may not extend beyond the date of the completion of the project concerned.

''§ 2880. Unit size and type

''(a) CONFORMITY WITH SIMILAR HOUSING UNITS IN LOCALE.—The Secretary concerned shall ensure that the room patterns and floor areas of military family housing units and military unaccompanied housing units acquired or constructed under this subchapter are generally comparable to the room patterns and floor areas of similar housing units in the locality concerned.

''(b) INAPPLICABILITY OF LIMITATIONS ON SPACE BY PAY GRADE.—(1) Section 2826 of this title shall not apply to military family housing units acquired or constructed under this subchapter.

''(2) The regulations prescribed under section 2856 of this title shall not apply to any military unaccompanied housing unit acquired or constructed under this subchapter unless the unit is located on a military installation.

''§ 2881. Ancillary supporting facilities

''Any project for the acquisition or construction of military family housing units or military unaccompanied housing units under this subchapter may include the acquisition

or construction of ancillary supporting facilities for the housing units concerned.

"§ 2882. Assignment of members of the armed forces to housing units

''(a) IN GENERAL.—The Secretary concerned may assign members of the armed forces to housing units acquired or constructed under this subchapter.

''(b) EFFECT OF CERTAIN ASSIGNMENTS ON ENTITLEMENT TO HOUSING ALLOWANCES.—(1) Except as provided in paragraph (2), housing referred to in subsection (a) shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403(b) of title 37.

''(2) A member of the armed forces who is assigned in accordance with subsection (a) to a housing unit not owned or leased by the United States shall be entitled to a basic allowance for quarters under section 403 of title 37 and, if in a high housing cost area, a variable housing allowance under section 403a of that title.

''(c) LEASE PAYMENTS THROUGH PAY ALLOTMENTS.—The Secretary concerned may require members of the armed forces who lease housing in housing units acquired or constructed under this subchapter to make lease payments for such housing pursuant to allotments of the pay of such members under section 701 of title 37.

"§ 2883. Department of Defense Housing Funds

''(a) ESTABLISHMENT.—There are hereby established on the books of the Treasury the following accounts:

''(1) The Department of Defense Family Housing Improvement Fund.

''(2) The Department of Defense Military Unaccompanied Housing Improvement Fund.

''(b) COMMINGLING OF FUNDS PROHIBITED.—(1) The Secretary of Defense shall administer each Fund separately.

''(2) Amounts in the Department of Defense Family Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military family housing.

''(3) Amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military unaccompanied housing.

''(c) CREDITS TO FUNDS.—(1) There shall be credited to the Department of Defense Family Housing Improvement Fund the following:

''(A) Amounts authorized for and appropriated to that Fund.

''(B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition or construction of military family housing.

''(C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military family housing.

''(D) Income derived from any activities under this subchapter with respect to military family housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

''(2) There shall be credited to the Department of Defense Military Unaccompanied Housing Improvement Fund the following:

''(A) Amounts authorized for and appropriated to that Fund.

''(B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition or construction of military unaccompanied housing.

''(C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military unaccompanied housing.

''(D) Income derived from any activities under this subchapter with respect to military unaccompanied housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

''(d) USE OF AMOUNTS IN FUNDS.—(1) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Family Housing Improvement Fund to carry out activities under this subchapter with respect to military family housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter.

''(2) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities under this subchapter with respect to military unaccompanied housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter.

''(3) Amounts made available under this subsection shall remain available until expended. The Secretary of Defense may transfer amounts made available under this subsection to the Secretaries of the military departments to permit such Secretaries to carry out the activities for which such amounts may be used.

''(e) LIMITATION ON OBLIGATIONS.—The Secretary may not incur an obligation under a contract or other agreement entered into under this subchapter in excess of the unobligated balance, at the time the contract is entered into, of the Fund required to be used to satisfy the obligation.

''(f) NOTIFICATION REQUIRED FOR TRANSFERS.—A transfer of appropriated amounts to a Fund under paragraph (1)(B) or (2)(B) of subsection (c) may be made only after the end of the 30-day period beginning on the date the Secretary of Defense submits written notice of, and justification for, the transfer to the appropriate committees of Congress.

''(g) LIMITATION ON AMOUNT OF BUDGET AUTHORITY.—The total value in budget authority of all contracts and investments undertaken using the authorities provided in this subchapter shall not exceed—

''(1) $850,000,000 for the acquisition or construction of military family housing; and

''(2) $150,000,000 for the acquisition or construction of military unaccompanied housing.

"§ 2884. Reports

''(a) PROJECT REPORTS.—(1) The Secretary of Defense shall transmit to the appropriate committees of Congress a report describing—

''(A) each contract for the acquisition or construction of family housing units or unaccompanied housing units that the Secretary proposes to solicit under this subchapter; and

''(B) each conveyance or lease proposed under section 2878 of this title.

''(2) The report shall describe the proposed contract, conveyance, or lease and the intended method of participation of the United States in the contract, conveyance, or lease and provide a justification of such method of participation. The report shall be submitted not later than 30 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease.

''(b) ANNUAL REPORTS.—The Secretary of Defense shall include each year in the materials that the Secretary submits to Congress in support of the budget submitted by the President pursuant to section 1105 of title 31 the following:

''(1) A report on the expenditures and receipts during the preceding fiscal year covering the Funds established under section 2883 of this title.

''(2) A methodology for evaluating the extent and effectiveness of the use of the authorities under this subchapter during such preceding fiscal year.

''(3) A description of the objectives of the Department of Defense for providing military family housing and military unaccompanied housing for members of the armed forces.

"§ 2885. Expiration of authority

''The authority to enter into a contract under this subchapter shall expire five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.''.

(2) The table of subchapters at the beginning of such chapter is amended by inserting after the item relating to subchapter III the following new item:

''IV. Alternative Authority for Acquisition and Improvement of Military Housing ..... 2871''.

(b) FINAL REPORT.—Not later than March 1, 2000, the Secretary of Defense shall submit to the congressional defense committees a report on the use by the Secretary of Defense and the Secretaries of the military departments of the authorities provided by subchapter IV of chapter 169 of title 10, United States Code, as added by subsection (a). The report shall assess the effectiveness of such authority in providing for the construction and improvement of military family housing and military unaccompanied housing.

SEC. 2802. EXPANSION OF AUTHORITY FOR LIMITED PARTNERSHIPS FOR DEVELOPMENT OF MILITARY FAMILY HOUSING.

(a) PARTICIPATION OF OTHER MILITARY DEPARTMENTS.—(1) Subsection (a)(1) of section 2837 of title 10, United States Code, is amended by striking out ''of the naval service'' and inserting in lieu thereof ''of the armed forces''.

(2) Subsection (b)(1) of such section is amended by striking out ''of the naval service'' and inserting in lieu thereof ''of the armed forces''.

(b) ADMINISTRATION.—(1) Subsection (a)(1) of such section is further amended by striking out ''the Secretary of the Navy'' in the first sentence and inserting in lieu thereof ''the Secretary of a military department''.

(2) Subsections (a)(2), (b), (c), (g), and (h) of such section are amended by striking out ''Secretary'' each place it appears and inserting in lieu thereof ''Secretary concerned''.

(c) ACCOUNT.—Subsection (d) of such section is amended to read as follows:

''(d) ACCOUNT.—(1) There is hereby established on the books of the Treasury an account to be known as the 'Defense Housing Investment Account'.

''(2) There shall be deposited into the Account—

''(A) such funds as may be authorized for and appropriated to the Account;

''(B) any proceeds received by the Secretary concerned from the repayment of investments or profits on investments of the Secretary under subsection (a); and

''(C) any unobligated balances which remain in the Navy Housing Investment Account as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.

''(3) From such amounts as are provided in advance in appropriation Acts, funds in the Account shall be available to the Secretaries concerned in amounts determined by the Secretary of Defense for contracts, investments, and expenses necessary for the implementation of this section.

''(4) The Secretary concerned may not enter into a contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) unless a sufficient amount of the unobligated balance of the funds in the Account is available to the Secretary, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.''.

(d) TERMINATION OF NAVY HOUSING INVESTMENT BOARD.—Such section is further amended—

(1) by striking out subsection (e); and

(2) in subsection (h)—

(A) by striking out ''AUTHORITIES'' in the subsection heading and inserting in lieu thereof ''AUTHORITY'';

(B) by striking out ''(1)''; and

(C) by striking out paragraph (2).

(e) REPORT.—Subsection (f) of such section is amended—

(1) by striking out ''the Secretary carries out activities'' and inserting in lieu thereof ''activities are carried out''; and

(2) by striking out ''the Secretary shall'' and inserting in lieu thereof ''the Secretaries concerned shall jointly''.

(f) EXTENSION OF AUTHORITY.—Subsection (h) of such section is further amended by striking out ''September 30, 1999'' and inserting in lieu thereof ''September 30, 2000''.

(g) CONFORMING AMENDMENT.—Subsection (g) of such section is further amended by striking out ''NAVY'' in the subsection heading.

Subtitle B—Other Military Construction Program and Military Family Housing Changes

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''(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may require such additional terms and conditions in connection with the conveyance of family housing facilities under this section as the Secretary considers appropriate to protect the interests of the United States.''.

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2854 the following new item:

''2854a. Conveyance of damaged or deteriorated military family housing; use of proceeds.''.

(b) CONFORMING AMENDMENT.—Section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

''(4) This subsection does not apply to damaged or deteriorated military family housing facilities conveyed under section 2854a of title 10, United States Code.''.

SEC. 2819. ENERGY AND WATER CONSERVATION SAVINGS FOR THE DEPARTMENT OF DEFENSE.

(a) INCLUSION OF WATER EFFICIENT MAINTENANCE IN ENERGY PERFORMANCE PLAN.—Paragraph (3) of section 2865(a) of title 10, United States Code, is amended by striking out ''energy efficient maintenance'' and inserting in lieu thereof ''energy efficient maintenance or water efficient maintenance''.

(b) SCOPE OF TERM.—Paragraph (4) of such section is amended—

(1) in the matter preceding subparagraph (A), by striking out '''energy efficient maintenance''' and inserting in lieu thereof '''energy efficient maintenance or water efficient maintenance'''';

(2) in subparagraph (A), by striking out ''systems or industrial processes,'' in the matter preceding clause (i) and inserting in lieu thereof ''systems, industrial processes, or water efficiency applications,''; and

(3) in subparagraph (B), by inserting ''or water cost savings'' before the period at the end.

SEC. 2820. EXTENSION OF AUTHORITY TO ENTER INTO LEASES OF LAND FOR SPECIAL OPERATIONS ACTIVITIES.

(a) EXTENSION OF AUTHORITY.—Subsection (d) of section 2680 of title 10, United States Code, is amended in the first sentence by striking out ''September 30, 1995'' and inserting in lieu thereof ''September 30, 2000''.

(b) REPORTING REQUIREMENT.—Such section is further amended by adding at the end the following new subsection:

''(e) REPORTS.—Not later than March 1 of each year, the Secretary of Defense shall submit to the Committee on the Armed Services of the Senate and the Committee on National Security of the House of Representatives a report that—

''(1) identifies each leasehold interest acquired during the previous fiscal year under subsection (a); and

''(2) contains a discussion of each project for the construction or modification of facilities carried out pursuant to subsection (c) during such fiscal year.''.

(c) CONFORMING REPEAL.—Section 2863 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 2680 note) is amended by striking out subsection (b).

SEC. 2821. DISPOSITION OF AMOUNTS RECOVERED AS A RESULT OF DAMAGE TO REAL PROPERTY.

(a) IN GENERAL.—Chapter 165 of title 10, United States Code, is amended by inserting after section 2781 the following new section:

''§ 2782. Damage to real property: disposition of amounts recovered

''Except as provided in section 2775 of this title, amounts recovered for damage caused to real property under the jurisdiction of the Secretary of a military department or, with respect to the Defense Agencies, under the jurisdiction of the Secretary of Defense shall be credited to the account available for the repair or replacement of the real property at the time of recovery. In such amounts as are provided in advance in appropriation Acts, amounts so credited shall be available for use for the same purposes and under the same circumstances as other funds in the account.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2781 the following new item:

''2782. Damage to real property: disposition of amounts recovered.''.

SEC. 2822. PILOT PROGRAM TO PROVIDE INTEREST RATE BUY DOWN AUTHORITY ON LOANS FOR HOUSING WITHIN HOUSING SHORTAGE AREAS AT MILITARY INSTALLATIONS.

(a) SHORT TITLE.—This section may be cited as the ''Military Housing Assistance Act of 1995''.

(b) MORTGAGE ASSISTANCE PAYMENT AUTHORITY OF THE SECRETARY OF VETERANS AFFAIRS.—(1) Chapter 37 of title 38, United States Code, is amended by inserting after section 3707 the following:

''§ 3708. Authority to buy down interest rates: pilot program

''(a) In order to enable the purchase of housing in areas where the supply of suitable military housing is inadequate, the Secretary may conduct a pilot program under which the Secretary may make periodic or lump sum assistance payments on behalf of an eligible veteran for the purpose of buying down the interest rate on a loan to that veteran that is guaranteed under this chapter for a purpose described in paragraph (1), (6), or (10) of section 3710(a) of this title.

''(b) An individual is an eligible veteran for the purposes of this section if—

''(1) the individual is a veteran, as defined in section 3701(b)(4) of this title;

''(2) the individual submits an application for a loan guaranteed under this chapter within one year of an assignment of the individual to duty at a military installation in the United States designated by the Secretary of Defense as a housing shortage area;

''(3) at the time the loan referred to in subsection (a) is made, the individual is an enlisted member, warrant officer, or an officer (other than a warrant officer) at a pay grade of O–3 or below;

''(4) the individual has not previously used any of the individual's entitlement to housing loan benefits under this chapter; and

''(5) the individual receives comprehensive prepurchase counseling from the Secretary (or the designee of the Secretary) before making application for a loan guaranteed under this chapter.

''(c) Loans with respect to which the Secretary may exercise the buy down authority under subsection (a) shall—

''(1) provide for a buy down period of not more than three years in duration;

''(2) specify the maximum and likely amounts of increases in mortgage payments that the loans would require; and

''(3) be subject to such other terms and conditions as the Secretary may prescribe by regulation.

''(d) The Secretary shall promulgate underwriting standards for loans for which the interest rate assistance payments may be made under subsection (a). Such standards shall be based on the interest rate for the second year of the loan.

''(e) The Secretary or lender shall provide comprehensive prepurchase counseling to eligible veterans explaining the features of interest rate buy downs under subsection (a), including a hypothetical payment schedule that displays the increases in monthly payments to the mortgagor over the first five years of the mortgage term. For the purposes of this subsection, the Secretary may assign personnel to military installations referred to in subsection (b)(2).

''(f) There is authorized to be appropriated $3,000,000 annually to carry out this section.

''(g) The Secretary may not guarantee a loan under this chapter after September 30, 1998, on which the Secretary is obligated to make payments under this section.''.

(2) The table of sections at the beginning of chapter 37 of title 38, United States Code, is amended by inserting after the item relating to section 3707 to following new item:

''3708. Authority to buy down interest rates: pilot program.''.

(c) AUTHORITY OF SECRETARY OF DEFENSE.—

(1) REIMBURSEMENT FOR BUY DOWN COSTS.—The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for amounts paid by the Secretary of Veterans Affairs to mortgagees under section 3708 of title 38, United States Code, as added by subsection (b).

(2) DESIGNATION OF HOUSING SHORTAGE AREAS.—For purposes of section 3708 of title 38, United States Code, the Secretary of Defense may designate as a housing shortage area a military installation in the United States at which the Secretary determines there is a shortage of suitable housing to meet the military family needs of members of the Armed Forces and the dependents of such members.

(3) REPORT.—Not later than March 30, 1998, the Secretary shall submit to Congress a report regarding the effectiveness of the authority provided in section 3708 of title 38, United States Code, in ensuring that members of the Armed Forces and their dependents have access to suitable housing. The report shall include the recommendations of the Secretary regarding whether the authority provided in this subsection should be extended beyond the date specified in paragraph (5).

(4) EARMARK.—Of the amount provided in section 2405(a)(11)(B), $10,000,000 for fiscal year 1996 shall be available to carry out this subsection.

(5) SUNSET.—This subsection shall not apply with respect to housing loans guaranteed after September 30, 1998, for which assistance payments are paid under section 3708 of title 38, United States Code.

Subtitle C—Defense Base Closure and Realignment

SEC. 2831. DEPOSIT OF PROCEEDS FROM LEASES OF PROPERTY LOCATED AT INSTALLATIONS BEING CLOSED OR REALIGNED.

(a) EXCEPTION TO EXISTING REQUIREMENTS.—Section 2667(d) of title 10, United States Code, is amended—

(1) in paragraph (1)(A)(ii), by inserting ''or (5)'' after ''paragraph (4)''; and

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

''(5) Money rentals received by the United States from a lease under subsection (f) shall be deposited into the account established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).''.

(b) CORRESPONDING AMENDMENTS TO BASE CLOSURE LAWS.—(1) Section 207(a)(7) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended

by striking out ''transfer or disposal'' and inserting in lieu thereof ''lease, transfer, or disposal''.

(2) Section 2906(a)(2) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2867 note) is amended—

(A) in subparagraph (C), by striking out ''transfer or disposal'' and inserting in lieu thereof ''lease, transfer, or disposal''; and

(B) in subparagraph (D), by striking out ''transfer or disposal'' and inserting in lieu thereof ''lease, transfer, or disposal''.

SEC. 2832. IN-KIND CONSIDERATION FOR LEASES AT INSTALLATIONS TO BE CLOSED OR REALIGNED.

Section 2667(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(4) The Secretary concerned may accept under subsection (b)(5) services of a lessee for an entire installation to be closed or realigned under a base closure law, or for any part of such installation, without regard to the requirement in subsection (b)(5) that a substantial part of the installation be leased.''.

SEC. 2833. INTERIM LEASES OF PROPERTY APPROVED FOR CLOSURE OR REALIGNMENT.

Section 2667(f) of title 10, United States Code, is amended by adding after paragraph (4), as added by section 2832 of this Act, the following new paragraph:

''(5)(A) Notwithstanding the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the scope of any environmental impact analysis necessary to support an interim lease of property under this subsection shall be limited to the environmental consequences of activities authorized under the proposed lease and the cumulative impacts of other past, present, and reasonably foreseeable future actions during the period of the proposed lease.

''(B) Interim leases entered into under this subsection shall be deemed not to prejudice the final disposal decision with respect to the property, even if final disposal of the property is delayed until completion of the term of the interim lease. An interim lease under this subsection shall not be entered into without prior consultation with the redevelopment authority concerned.

''(C) Subparagraphs (A) and (B) shall not apply to an interim lease under this subsection if authorized activities under the lease would—

''(i) significantly affect the quality of the human environment; or

''(ii) irreversibly alter the environment in a way that would preclude any reasonable disposal alternative of the property concerned.''.

SEC. 2834. AUTHORITY TO LEASE PROPERTY REQUIRING ENVIRONMENTAL REMEDIATION AT INSTALLATIONS APPROVED FOR CLOSURE OR REALIGNMENT.

Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended in the matter following subparagraph (C)—

(1) by striking out the first sentence; and

(2) by adding at the end, flush to the paragraph margin, the following:

''The requirements of subparagraph (B) shall not apply in any case in which the person or entity to whom the real property is transferred is a potentially responsible party with respect to such property. The requirements of subparagraph (B) shall not apply in any case in which the transfer of the property occurs or has occurred by means of a lease, without regard to whether the lessee has agreed to purchase the property or whether the duration of the lease is longer than 55 years. In the case of a lease entered into after September 30, 1995, with respect to real property located at an installation approved for closure or realignment under a base closure law, the agency leasing the property, in consultation with the Administrator, shall determine before leasing the property that the property is suitable for lease, that the uses contemplated for the lease are consistent with protection of human health and the environment, and that there are adequate assurances that the United States will take all remedial action referred to in subparagraph (B) that has not been taken on the date of the lease.''.

SEC. 2835. FINAL FUNDING FOR DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

Section 2902(k) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new paragraph:

''(3)(A) The Secretary may transfer not more than $300,000 from unobligated funds in the account referred to in subparagraph (B) for the purpose of assisting the Commission in carrying out its duties under this part during October, November, and December 1995. Funds transferred under the preceding sentence shall remain available until December 31, 1995.

''(B) The account referred to in subparagraph (A) is the Department of Defense Base Closure Account established under section 207(a) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).''.

SEC. 2836. EXERCISE OF AUTHORITY DELEGATED BY THE ADMINISTRATOR OF GENERAL SERVICES.

Section 2905(b)(2) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) in subparagraph (A)—

(A) by striking out ''Subject to subparagraph (C)'' in the matter preceding clause (i) and inserting in lieu thereof ''Subject to subparagraph (B)''; and

(B) by striking out ''in effect on the date of the enactment of this Act'' each place it appears in clauses (i) and (ii);

(2) by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following new subparagraph (B):

''(B) The Secretary may, with the concurrence of the Administrator of General Services—

''(i) prescribe general policies and methods for utilizing excess property and disposing of surplus property pursuant to the authority delegated under paragraph (1); and

''(ii) issue regulations relating to such policies and methods, which shall supersede the regulations referred to in subparagraph (A) with respect to that authority.''; and

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

SEC. 2837. LEASE BACK OF PROPERTY DISPOSED FROM INSTALLATIONS APPROVED FOR CLOSURE OR REALIGNMENT.

(a) AUTHORITY.—Section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph (C):

''(C)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this part (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

''(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.

''(iii) A lease under clause (i) may not require rental payments by the United States.

''(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.''.

(b) USE OF FUNDS TO IMPROVE LEASED PROPERTY.—Notwithstanding any other provision of law, a department or agency of the Federal Government that enters into a lease of property under section 2905(b)(4)(C) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as amended by subsection (a), may improve the leased property using funds appropriated or otherwise available to the department or agency for such purpose.

SEC. 2838. IMPROVEMENT OF BASE CLOSURE AND REALIGNMENT PROCESS REGARDING DISPOSAL OF PROPERTY.

(a) APPLICABILITY.—Subparagraph (A) of section 2905(b)(7) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended to read as follows:

''(A) The disposal of buildings and property located at installations approved for closure or realignment under this part after October 25, 1994, shall be carried out in accordance with this paragraph rather than paragraph (6).''.

(b) AGREEMENTS UNDER REDEVELOPMENT PLANS.—Subparagraph (F)(ii)(I) of such section is amended in the second sentence by striking out ''the approval of the redevelopment plan by the Secretary of Housing and Urban Development under subparagraph (H) or (J)'' and inserting in lieu thereof ''the decision regarding the disposal of the buildings and property covered by the agreements by the Secretary of Defense under subparagraph (K) or (L)''.

(c) REVISION OF REDEVELOPMENT PLANS.—Subparagraph (I) of such section is amended—

(1) in clause (i)(II), by inserting ''the Secretary of Defense and'' before ''the Secretary of Housing and Urban Development''; and

(2) in clause (ii), by striking out ''the Secretary of Housing and Urban Development'' and inserting in lieu thereof ''such Secretaries''.

(d) DISPOSAL OF BUILDINGS AND PROPERTY.—(1) Subparagraph (K) of such section is amended to read as follows:

''(K)(i) Upon receipt of a notice under subparagraph (H)(iv) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property at the installation.

''(ii) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary

of Defense shall treat the redevelopment plan for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation.

''(iii) The Secretary of Defense shall dispose of buildings and property under clause (i) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.). In preparing the record of decision or other decision document, the Secretary shall give substantial deference to the redevelopment plan concerned.

''(iv) The disposal under clause (i) of buildings and property to assist the homeless shall be without consideration.

''(v) In the case of a request for a conveyance under clause (i) of buildings and property for public benefit under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).''.

(2) Subparagraph (L) of such section is amended by striking out clauses (iii) and (iv) and inserting in lieu thereof the following new clauses (iii) and (iv):

''(iii) Not later than 90 days after the date of the receipt of a revised plan for an installation under subparagraph (J), the Secretary of Housing and Urban Development shall—

''(I) notify the Secretary of Defense and the redevelopment authority concerned of the buildings and property at an installation under clause (i)(IV) that the Secretary of Housing and Urban Development determines are suitable for use to assist the homeless; and

''(II) notify the Secretary of Defense of the extent to which the revised plan meets the criteria set forth in subparagraph (H)(i).

''(iv)(I) Upon notice from the Secretary of Housing and Urban Development with respect to an installation under clause (iii), the Secretary of Defense shall dispose of buildings and property at the installation in consultation with the Secretary of Housing and Urban Development and the redevelopment authority concerned.

''(II) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary of Defense shall treat the redevelopment plan submitted by the redevelopment authority for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation. The Secretary of Defense shall incorporate the notification of the Secretary of Housing and Urban Development under clause (iii)(I) as part of the proposed Federal action for the installation only to the extent, if any, that the Secretary of Defense considers such incorporation to be appropriate and consistent with the best and highest use of the installation as a whole, taking into consideration the redevelopment plan submitted by the redevelopment authority.

''(III) The Secretary of Defense shall dispose of buildings and property under subclause (I) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.). In preparing the record of decision or other decision document, the Secretary shall give deference to the redevelopment plan submitted by the redevelopment authority for the installation.

''(IV) The disposal under subclause (I) of buildings and property to assist the homeless shall be without consideration.

''(V) In the case of a request for a conveyance under subclause (I) of buildings and property for public benefit under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).''.

(e) CONFORMING AMENDMENT.—Subparagraph (M)(i) of such section is amended by inserting ''or (L)'' after ''subparagraph (K)''.

(f) CLARIFICATION OF PARTICIPANTS IN PROCESS.—Such section is further amended by adding at the end the following new subparagraph:

''(P) For purposes of this paragraph, the term 'other interested parties', in the case of an installation, includes any parties eligible for the conveyance of property of the installation under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) or sections 47151 through 47153 of title 49, United States Code, whether or not the parties assist the homeless.''.

SEC. 2839. AGREEMENTS FOR CERTAIN SERVICES AT INSTALLATIONS BEING CLOSED.

(a) 1988 LAW.—Section 204(b)(8) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

''(A) Subject to subparagraph (C), the Secretary may enter into agreements (including contracts, cooperative agreements, or other arrangements for reimbursement) with local governments for the provision of police or security services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this title if the Secretary determines that the provision of such services under such agreements is in the best interests of the Department of Defense.''.

(b) 1990 LAW.—Section 2905(b)(8) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2867 note) is amended by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

''(A) Subject to subparagraph (C), the Secretary may enter into agreements (including contracts, cooperative agreements, or other arrangements for reimbursement) with local governments for the provision of police or security services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this part if the Secretary determines that the provision of such services under such agreements is in the best interests of the Department of Defense.''.

SEC. 2840. AUTHORITY TO TRANSFER PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED TO PERSONS WHO CONSTRUCT OR PROVIDE MILITARY FAMILY HOUSING.

(a) 1988 LAW.—Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

''(e) TRANSFER AUTHORITY IN CONNECTION WITH CONSTRUCTION OR PROVISION OF MILITARY FAMILY HOUSING.—(1) Subject to paragraph (2), the Secretary may enter into an agreement to transfer by deed real property or facilities located at or near an installation closed or to be closed under this title with any person who agrees, in exchange for the real property or facilities, to transfer to the Secretary housing units that are constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable housing to meet the requirements of members of the Armed Forces and their dependents. The Secretary may not select real property for transfer under this paragraph if the property is identified in the redevelopment plan for the installation as items essential to the reuse or redevelopment of the installation.

''(2) A transfer of real property or facilities may be made under paragraph (1) only if—

''(A) the fair market value of the housing units to be received by the Secretary in exchange for the property or facilities to be transferred is equal to or greater than the fair market value of such property or facilities, as determined by the Secretary; or

''(B) in the event the fair market value of the housing units is less than the fair market value of property or facilities to be transferred, the recipient of the property or facilities agrees to pay to the Secretary the amount equal to the excess of the fair market value of the property or facilities over the fair market value of the housing units.

''(3) Notwithstanding section 207(a)(7), the Secretary may deposit funds received under paragraph (2)(B) in the Department of Defense Family Housing Improvement Fund established under section 2873(a) of title 10, United States Code.

''(4) The Secretary shall submit to the appropriate committees of Congress a report describing each agreement proposed to be entered into under paragraph (1), including the consideration to be received by the United States under the agreement. The Secretary may not enter into the agreement until the end of the 21-day period beginning on the date the appropriate committees of Congress receive the report regarding the agreement.

''(5) The Secretary may require any additional terms and conditions in connection with an agreement authorized by this subsection as the Secretary considers appropriate to protect the interests of the United States.''.

(b) 1990 LAW.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

''(f) TRANSFER AUTHORITY IN CONNECTION WITH CONSTRUCTION OR PROVISION OF MILITARY FAMILY HOUSING.—(1) Subject to paragraph (2), the Secretary may enter into an agreement to transfer by deed real property or facilities located at or near an installation closed or to be closed under this part with any person who agrees, in exchange for the real property or facilities, to transfer to the Secretary housing units that are constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable housing to meet the requirements of members of the Armed Forces and their dependents. The Secretary may not select real property for

transfer under this paragraph if the property is identified in the redevelopment plan for the installation as property essential to the reuse or redevelopment of the installation.

''(2) A transfer of real property or facilities may be made under paragraph (1) only if—

''(A) the fair market value of the housing units to be received by the Secretary in exchange for the property or facilities to be transferred is equal to or greater than the fair market value of such property or facilities, as determined by the Secretary; or

''(B) in the event the fair market value of the housing units is less than the fair market value of property or facilities to be transferred, the recipient of the property or facilities agrees to pay to the Secretary the amount equal to the excess of the fair market value of the property or facilities over the fair market value of the housing units.

''(3) Notwithstanding paragraph (2) of section 2906(a), the Secretary may deposit funds received under paragraph (2)(B) in the Department of Defense Family Housing Improvement Fund established under section 2873(a) of title 10, United States Code.

''(4) The Secretary shall submit to the congressional defense committees a report describing each agreement proposed to be entered into under paragraph (1), including the consideration to be received by the United States under the agreement. The Secretary may not enter into the agreement until the end of the 30-day period beginning on the date the congressional defense committees receive the report regarding the agreement.

''(5) The Secretary may require any additional terms and conditions in connection with an agreement authorized by this subsection as the Secretary considers appropriate to protect the interests of the United States.''.

(c) REGULATIONS.—Not later than nine months after the date of the enactment of this Act, the Secretary of Defense shall prescribe any regulations necessary to carry out subsection (e) of section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), as added by subsection (a), and subsection (f) of section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by subsection (b).

SEC. 2841. USE OF SINGLE BASE CLOSURE AUTHORITIES FOR DISPOSAL OF PROPERTY AND FACILITIES AT FORT HOLABIRD, MARYLAND.

(a) CONSOLIDATION OF BASE CLOSURE AUTHORITIES.—In the case of the property and facilities at Fort Holabird, Maryland, described in subsection (b), the Secretary of Defense shall dispose of such property and facilities in accordance with section 2905(b)(7) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as amended by section 2838 of this Act.

(b) COVERED PROPERTY AND FACILITIES.—Subsection (a) applies to the following property and facilities at Fort Holabird, Maryland:

(1) Property and facilities that were approved for closure or realignment under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), but have not been disposed of as of the date of the enactment of this Act, including buildings 305 and 306 and the parking lots and other property associated with such buildings.

(2) Property and facilities that were approved in 1995 for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(c) USE OF SURVEYS AND OTHER EVALUATIONS OF PROPERTY.—In carrying out the disposal of the property and facilities referred to in subsection (b)(1), the Secretary shall utilize any surveys and other evaluations of such property and facilities that were prepared by the Corps of Engineers before the date of the enactment of this Act as part of the process for the disposal of such property and facilities.

Subtitle D—Land Conveyances Generally

PART I—ARMY CONVEYANCES

SEC. 2851. TRANSFER OF JURISDICTION, FORT SAM HOUSTON, TEXAS.

(a) TRANSFER OF LAND FOR NATIONAL CEMETERY.—The Secretary of the Army may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property (including any improvements thereon) consisting of approximately 53 acres and comprising a portion of Fort Sam Houston, Texas.

(b) USE OF LAND.—The Secretary of Veterans Affairs shall use the real property transferred under subsection (a) as a national cemetery under chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army. The cost of the survey shall be borne by the Secretary of Veterans Affairs.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the transfer under this section as the Secretary of the Army considers appropriate to protect the interests of the United States.

SEC. 2852. TRANSFER OF JURISDICTION, FORT BLISS, TEXAS.

(a) TRANSFER OF LAND FOR NATIONAL CEMETERY.—The Secretary of the Army may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property (including any improvements thereon) consisting of approximately 22 acres and comprising a portion of Fort Bliss, Texas.

(b) USE OF LAND.—The Secretary of Veterans Affairs shall use the real property transferred under subsection (a) as an addition to the Fort Bliss National Cemetery and administer such real property pursuant to chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army. The cost of the survey shall be borne by the Secretary of Veterans Affairs.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the transfer under this section as the Secretary of the Army considers appropriate to protect the interests of the United States.

SEC. 2853. TRANSFER OF JURISDICTION AND LAND CONVEYANCE, FORT DEVENS MILITARY RESERVATION, MASSACHUSETTS.

(a) TRANSFER OF LAND FOR WILDLIFE REFUGE.—Subject to subsections (b) and (c), the Secretary of the Army shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior that portion of Fort Devens Military Reservation, Massachusetts, that is situated south of Massachusetts State Route 2, for inclusion in the Oxbow National Wildlife Refuge.

(b) LAND CONVEYANCE.—Subject to subsection (c), the Secretary of the Army shall convey to the Town of Lancaster, Massachusetts (in this section referred to as the ''Town''), all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 100 acres of the parcel available for transfer under subsection (a) and located adjacent to Massachusetts State Highway 70.

(c) REQUIREMENTS RELATING TO TRANSFER AND CONVEYANCE.—(1) The transfer under subsection (a) and the conveyance under subsection (b) may not be made unless the property to be transferred and conveyed is determined to be excess to the needs of the Department of Defense.

(2) The transfer and conveyance shall be made as soon as practicable after the date on which the property is determined to be excess to the needs of the Department of Defense.

(d) LEGAL DESCRIPTION.—(1) The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey mutually satisfactory to the Secretary of the Army and the Secretary of the Interior. The cost of the survey shall be borne by the Secretary of the Interior.

(2) The exact acreage and legal description of the real property to be conveyed under subsection (b) shall be determined by a survey mutually satisfactory to the Secretary of the Army, the Secretary of the Interior, and the Board of Selectmen of the Town. The cost of the survey shall be borne by the Town.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the transfer under subsection (a) and the conveyance under subsection (b) as the Secretary of the Army considers appropriate to protect the interests of the United States.

SEC. 2854. MODIFICATION OF LAND CONVEYANCE, FORT BELVOIR, VIRGINIA.

(a) DESIGNATION OF RECIPIENT.—Subsection (a) of section 2821 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1658) is amended by striking out ''any grantee selected in accordance with subsection (e)'' and inserting in lieu thereof ''the County of Fairfax, Virginia (in this section referred to as the 'grantee'),''.

(b) CONSIDERATION.—Subsection (b)(1) of such section is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

''(B) grant title, free of liens and other encumbrances, to the Department to such facilities and, if not already owned by the Department, to the underlying land; and''.

(c) CONTENT OF AGREEMENT.—Subsection (c) of such section is amended to read as follows:

''(c) CONTENT OF AGREEMENT.—An agreement entered into under this section shall include the following:

''(1) A requirement that the grantee construct facilities and make infrastructure improvements for the Department of the Army that the Secretary determines are necessary for the Department at Fort Belvoir and at other sites at which activities will be relocated as a result of the conveyance made under this section.

''(2) A requirement that the construction of facilities and infrastructure improvements referred to in paragraph (1) be carried out in accordance with plans and specifications approved by the Secretary.

''(3) A requirement that the Secretary retain a lien or other security interest against the property conveyed to the grantee in the amount of the fair market value of the property, as determined under subsection (b)(2). The agreement will specify the terms for releasing the lien or other security interest, in

whole or in part. In the event of default by the County on its obligations under the terms of the agreement, the Secretary shall enforce the lien or security interest. The proceeds obtained through enforcing the lien or security interest may be used by the Secretary to construct facilities and make infrastructure improvements in lieu of those provided for in the agreement.''.

(d) SURVEYS.—Subsection (g) of such section is amended by striking out the last sentence and inserting in lieu thereof the following: ''The grantee shall be responsible for completing any such survey without cost to the United States.''.

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

(1) in subsection (a), by striking out ''Subject to subsections (b) through (h), the'' and inserting in lieu thereof ''The'';

(2) in subsection (b)(1), by striking out ''subsection (c)(1)(D)'' both places it appears and inserting in lieu thereof ''subsection (c)(1)(A)'';

(3) by striking out subsections (e) and (f); and

(4) by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

SEC. 2855. LAND EXCHANGE, FORT LEWIS, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to Weyerhaeuser Real Estate Company, Tacoma, Washington (in this section referred to as ''WRECO''), all right, title, and interest of the United States in and to a parcel of real property at Fort Lewis, Washington, known as an unimproved portion of Tract 1000 (formerly being in the DuPont Steilacoom Road, consisting of approximately 1.23 acres), and Tract 26E (consisting of 0.03 acre).

(b) CONSIDERATION.—As consideration for the conveyance authorized by subsection (a), WRECO shall convey or cause to be conveyed to the United States, by warranty deed acceptable to the Secretary, a 0.39 acre parcel of real property located adjacent to Fort Lewis, Washington, together with other consideration acceptable to the Secretary. The total consideration conveyed to the United States shall not be less than the fair market value of the land conveyed under subsection (a).

(c) DETERMINATION OF FAIR MARKET VALUE.—The determinations of the Secretary regarding the fair market values of the parcels of real property and improvements to be conveyed pursuant to subsections (a) and (b) shall be final.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcels of real property to be conveyed pursuant to subsections (a) and (b) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by WRECO.

(e) EFFECT ON EXISTING REVERSIONARY INTEREST.—The Secretary may enter into an agreement with the appropriate officials of Pierce County, Washington, under which—

(1) the existing reversionary interest of Pierce County in the lands to be conveyed by the United States under subsection (a) is extinguished; and

(2) the conveyance to the United States under subsection (b) is made subject to a similar reversionary interest in favor of Pierce County in the lands conveyed under such subsection.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2856. LAND EXCHANGE, ARMY RESERVE CENTER, GAINESVILLE, GEORGIA.

(a) LAND EXCHANGE AUTHORIZED.—The Secretary of the Army may convey to the City of Gainesville, Georgia (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 4.2 acres and located on Shallowford Road in Gainesville, Georgia, the site of the Army Reserve Center, Gainesville, Georgia.

(b) CONSIDERATION.—As consideration for the conveyance authorized by subsection (a), the City shall—

(1) convey to the United States all right, title, and interest in and to a parcel of real property consisting of approximately 8 acres located in the Atlas Industrial Park, Gainesville, Georgia, that is acceptable to the Secretary;

(2) design and construct on such real property suitable facilities (as determined by the Secretary) for training activities of the Army Reserve to replace facilities conveyed under subsection (a);

(3) carry out, at cost to the City, any environmental assessments and any other studies, analyses, and assessments that may be required under Federal law in connection with the land conveyances under subsection (a) and paragraph (1) and the construction under paragraph (2);

(4) pay the Secretary the amount (as determined by the Secretary) equal to the cost of relocating Army Reserve units from the real property to be conveyed under subsection (a) to the replacement facilities to be constructed under paragraph (2); and

(5) if the fair market value of the real property conveyed by the Secretary under subsection (a) exceeds the fair market value of the consideration provided by the City under paragraphs (1) through (4), pay the United States the amount equal to the amount of such excess.

(c) DETERMINATION OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the real property to be conveyed under subsection (a) and of the consideration to be furnished by the City under subsection (b). Such determination shall be final.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcels of real property to be conveyed under subsections (a) and (b) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2857. LAND CONVEYANCE, HOLSTON ARMY AMMUNITION PLANT, MOUNT CARMEL, TENNESSEE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without reimbursement, to the City of Mount Carmel, Tennessee (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 6.5 acres located at Holston Army Ammunition Plant, Tennessee. The property is located adjacent to the Mount Carmel Cemetery and is intended for expansion of the cemetery.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2858. LAND CONVEYANCE, INDIANA ARMY AMMUNITION PLANT, CHARLESTOWN, INDIANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Indiana (in this section referred to as the ''State''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, that consists of approximately 1125 acres at the inactivated Indiana Army Ammunition Plant in Charlestown, Indiana, and is the subject of a 25-year lease between the Secretary and the State.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the State use the conveyed property for recreational purposes.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the State.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2859. LAND CONVEYANCE, FORT ORD, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the City of Seaside, California (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) consisting of approximately 477 acres located in Monterey County, California, and comprising a portion of the former Fort Ord Military Complex. The real property to be conveyed to the City includes the two Fort Ord Golf Courses, Black Horse and Bayonet, and a portion of the Hayes Housing Facilities.

(b) CONSIDERATION.—As consideration for the conveyance of the real property and improvements under subsection (a), the City shall pay to the United States an amount equal to the fair market value of the property to be conveyed, as determined by the Secretary.

(c) USE AND DEPOSIT OF PROCEEDS.—(1) From the funds paid by the City under subsection (b), the Secretary shall deposit in the Morale, Welfare, and Recreation Fund Account of the Department of the Army such amounts as may be necessary to cover morale, welfare, and recreation activities at Army installations in the general vicinity of Fort Ord during fiscal years 1996 through 2000. The amount deposited by the Secretary into the Account shall not exceed the fair market value, as established under subsection (b), of the two Fort Ord Golf Courses conveyed under subsection (a). The Secretary shall notify Congress of the amount to be deposited not later than 90 days after the date of the conveyance.

(2) The Secretary shall deposit the balance of any funds paid by the City under subsection (b), after deducting the amount deposited under paragraph (1), in the Department of Defense Base Closure Account 1990.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey mutually satisfactory to the Secretary and the City. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2860. LAND CONVEYANCE, PARKS RESERVE FORCES TRAINING AREA, DUBLIN, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—(1) Except as provided in paragraph (2), the Secretary of the Army may convey to the County of Alameda, California (in this section referred to as the ''County''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 42 acres located at Parks Reserve Forces Training Area, Dublin, California.

(2) The conveyance authorized by this section shall not include any oil, gas, or mineral interest of the United States in the real property to be conveyed.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a)(1), the County shall provide the Army with the following services at the portion of Parks Reserve Forces Training Area retained by the Army:

(A) Relocation of the main gate of the retained Training Area from Dougherty Road to Dublin Boulevard across from the Bay Area Rapid Transit District East Dublin station, including the closure of the existing main gate on Dougherty Road, construction of a security facility, and construction of a roadway from the new entrance to Fifth Street.

(B) Enclosing and landscaping of the southern boundary of the retained Training Area installation located northerly of Dublin Boulevard.

(C) Enclosing and landscaping of the eastern boundary of the retained Training Area from Dublin Boulevard to Gleason Drive.

(D) Resurfacing of roadways within the retained Training Area.

(E) Provision of such other services in connection with the retained Training Area, including relocation or reconstruction of water lines, relocation or reconstruction of sewer lines, construction of drainage improvements, and construction of buildings, as the Secretary and the County may determine to be appropriate.

(F) Provision for and funding of any environmental mitigation that is necessary as a result of a change in use of the conveyed property by the County.

(2) The detailed specifications for the services to be provided under paragraph (1) may be determined and approved on behalf of the Secretary by the Commander of Parks Reserve Forces Training Area. The preparation costs of such specifications shall be borne by the County.

(3) The fair market value of improvements and services received by the United States from the County under paragraph (1) must be equal to or exceed the appraised fair market value of the real property to be conveyed under subsection (a)(1). The appraisal of the fair market value of the property shall be subject to the Secretary's review and approval.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(d) TIME FOR TRANSFER OF TITLE.—The transfer of title to the County under subsection (a)(1) may be executed by the Secretary only upon the satisfactory guarantee by the County of completion of the services to be provided under subsection (b).

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a)(1) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2861. LAND CONVEYANCE, ARMY RESERVE CENTER, YOUNGSTOWN, OHIO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Youngstown, Ohio (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located at 399 Miller Street in Youngstown, Ohio, and contains the Kefurt Army Reserve Center.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City retain the conveyed property for the use and benefit of the Youngstown Fire Department.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2862. LAND CONVEYANCE, ARMY RESERVE PROPERTY, FORT SHERIDAN, ILLINOIS.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may convey to any transferee selected under subsection (g) all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) at Fort Sheridan, Illinois, consisting of approximately 114 acres and comprising an Army Reserve area.

(b) REQUIREMENT FOR FEDERAL SCREENING OF PROPERTY.—The Secretary may not carry out the conveyance of property authorized by subsection (a) unless the Secretary determines that no department or agency of the Federal Government will accept the transfer of the property.

(c) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the transferee selected under subsection (g) shall—

(A) convey to the United States a parcel of real property that meets the requirements of subsection (d);

(B) design for and construct on the property conveyed under subparagraph (A) such facilities (including support facilities and infrastructure) to replace the facilities conveyed pursuant to the authority in subsection (a) as the Secretary considers appropriate; and

(C) pay the cost of relocating Army personnel in the facilities located on the real property conveyed pursuant to the authority in subsection (a) to the facilities constructed under subparagraph (B).

(2) The Secretary shall ensure that the fair market value of the consideration provided by the transferee under paragraph (1) is not less than the fair market value of the real property conveyed by the Secretary under subsection (a).

(d) REQUIREMENTS RELATING TO PROPERTY TO BE CONVEYED TO UNITED STATES.—The real property conveyed to the United States under subsection (c)(1)(A) by the transferee selected under subsection (g) shall—

(1) be located not more than 25 miles from Fort Sheridan;

(2) be located in a neighborhood or area having social and economic conditions similar to the social and economic conditions of the area in which Fort Sheridan is located; and

(3) be acceptable to the Secretary.

(e) INTERIM RELOCATION OF ARMY PERSONNEL.—Pending completion of the construction of all the facilities proposed to be constructed under subsection (c)(1)(B) by the transferee selected under subsection (g), the Secretary may relocate Army personnel in the facilities located on the property to be conveyed pursuant to the authority in subsection (a) to the facilities that have been constructed by the transferee under such subsection (c)(1)(B).

(f) DETERMINATION OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the real property to be conveyed under subsection (a) and of the consideration to be provided under subsection (c)(1). Such determination shall be final.

(g) SELECTION OF TRANSFEREE.—(1) The Secretary shall use competitive procedures for the selection of a transferee under subsection (a).

(2) In evaluating the offers of prospective transferees, the Secretary shall—

(A) consider such criteria as the Secretary considers to be appropriate to determine whether prospective transferees will be able to satisfy the consideration requirements specified in subsection (c)(1); and

(B) consult with the communities and jurisdictions in the vicinity of Fort Sheridan (including the City of Lake Forest, the City of Highwood, and the City of Highland Park and the County of Lake, Illinois) in order to determine the most appropriate use of the property to be conveyed.

(h) DESCRIPTIONS OF PROPERTY.—The exact acreage and legal descriptions of the real property to be conveyed by the Secretary under subsection (a) and the real property to be conveyed under subsection (c)(1)(A) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the transferee selected under subsection (g).

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2863. LAND CONVEYANCE, PROPERTY UNDERLYING CUMMINS APARTMENT COMPLEX, FORT HOLABIRD, MARYLAND.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary of the Army may convey to the existing owner of the improvements thereon all right, title, and interest of the United States in and to a parcel of real property underlying the Cummins Apartment Complex at Fort Holabird, Maryland, that consists of approximately 6 acres, and any interest the United States may have in the improvements thereon.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the owner of the improvements referred to in that subsection shall provide compensation to the United States in an amount equal to the fair market value (as determined by the Secretary) of the property interest to be conveyed.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2864. MODIFICATION OF EXISTING LAND CONVEYANCE, ARMY PROPERTY, HAMILTON AIR FORCE BASE, CALIFORNIA.

(a) APPLICATION OF SECTION.—The authority provided in subsection (b) shall apply

only in the event that the purchaser purchases only a portion of the Sale Parcel referred to in section 9099 of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1924) and exercises the purchaser's option to withdraw from the sale as to the rest of the Sale Parcel.

(b) CONVEYANCE AUTHORITY IN EVENT OF PARTIAL SALE.—The Secretary of the Army may convey to the City of Novato, California (in this section referred to as the ''City'')—

(1) that portion of the Sale Parcel (other than Landfill 26 and an appropriate buffer area around it and the groundwater treatment facility site) that is not purchased as provided in subsection (a); and

(2) any of the land referred to in subsection (e) of such section 9099 that is not purchased by the purchaser.

(c) CONSIDERATION AND CONDITIONS ON CONVEYANCE.—The conveyance under subsection (b) shall be made as a public benefit transfer to the City for the sum of One Dollar, subject to the condition that the conveyed property be used for school, classroom, or other educational purposes or as a public park or recreation area.

(d) SUBSEQUENT CONVEYANCE BY THE CITY.—(1) If, within 10 years after the conveyance under subsection (b), the City conveys all or any part of the conveyed property to a third party without the use restrictions specified in subsection (c), the City shall pay to the Secretary of the Army an amount equal to the proceeds received by the City from the conveyance, minus the demonstrated reasonable costs of making the conveyance and of any improvements made by the City to the property following its acquisition of the land (but only to the extent such improvements increase the value of the property conveyed). The Secretary of the Army shall deliver into the applicable closing escrow an acknowledgement of receipt of the proceeds and a release of the reverter right under subsection (e) as to the affected land, effective upon such receipt.

(2) Until one year after the completion of the cleanup of contaminated soil in the Landfill located on the Sale Parcel and completion of the groundwater treatment facilities, any conveyance by the City must be at a per-acre price for the portion sold that is at least equal to the per-acre contract price paid by the purchaser for the portion of the Sale Parcel purchased under the Agreement and Modification for the purchase of the Sale Parcel by the purchaser. Thereafter, any conveyance by the City must be at a price at least equal to the fair market value of the portion sold.

(3) This subsection shall not apply to a conveyance by the City to another public or quasi-public agency for public uses of the kind described in subsection (c).

(e) REVERSION.—If the Secretary of the Army determines that the City has failed to make a payment as required by subsection (d)(1) or that any portion of the conveyed property retained by the City or conveyed under subsection (d)(3) is not being utilized in accordance with subsection (c), title to the applicable portion of such property shall revert to the United States at the election of the Administrator of the General Services Administration.

(f) SPECIAL CONVEYANCE REGARDING BUILDING 138 PARCEL.—The Secretary of the Army may convey to the purchaser of the Sale Parcel the Building 138 parcel, which has been designated by the parties as Parcel A4. The per-acre price for the portion conveyed under this subsection shall be at least equal to the per-acre contract price paid by the purchaser for the portion of the Sale Parcel purchased under the Agreement and Modification, dated September 25, 1990, as amended.

PART II—NAVY CONVEYANCES

SEC. 2865. TRANSFER OF JURISDICTION, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON, NEW YORK.

(a) TRANSFER AUTHORIZED.—Notwithstanding section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2626), as amended by section 2823 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3058), the Secretary of the Navy may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property consisting of approximately 150 acres located adjacent to the Calverton National Cemetery, Calverton, New York, and comprising a portion of the buffer zone of the Naval Weapons Industrial Reserve Plant, Calverton, New York.

(b) USE OF PROPERTY.—The Secretary of Veterans Affairs shall use the real property transferred under subsection (a) as an addition to the Calverton National Cemetery and administer such real property pursuant to chapter 24 of title 38, United States Code.

(c) SURVEY.—The cost of any survey necessary for the transfer of jurisdiction of the real property described in subsection (a) from the Secretary of the Navy to the Secretary of Veterans Affairs shall be borne by the Secretary of Veterans Affairs.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the transfer under this section as the Secretary of the Navy considers appropriate to protect the interests of the United States.

SEC. 2866. MODIFICATION OF LAND CONVEYANCE, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON, NEW YORK.

(a) REMOVAL OF REVERSIONARY INTEREST; ADDITION OF LEASE AUTHORITY.—Subsection (c) of section 2833 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3061) is amended to read as follows:

''(c) LEASE AUTHORITY.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the Community Development Agency in exchange for security services, fire protection services, and maintenance services provided by the Community Development Agency for the property.''.

(b) CONFORMING AMENDMENT.—Subsection (e) of such section is amended by striking out ''subsection (a)'' and inserting in lieu thereof ''subsection (a) or a lease under subsection (c)''.

SEC. 2867. LAND CONVEYANCE ALTERNATIVE TO EXISTING LEASE AUTHORITY, NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

Section 2834(b) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2614), as amended by section 2833 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1896) and section 2821 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3057), is further amended by adding at the end the following new paragraphs:

''(4) In lieu of entering into a lease under paragraph (1), or in place of an existing lease under that paragraph, the Secretary may convey, without consideration, the property described in that paragraph to the City of Oakland, California, the Port of Oakland, California, the City of Alameda, California, or the City of Richmond, California, under such terms and conditions as the Secretary considers appropriate.

''(5) The exact acreage and legal description of any property conveyed under paragraph (4) shall be determined by a survey satisfactory to the Secretary. The cost of each survey shall be borne by the recipient of the property.''.

SEC. 2868. LAND CONVEYANCE, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, MCGREGOR, TEXAS.

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Navy may convey, without consideration, to the City of McGregor, Texas (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, containing the Naval Weapons Industrial Reserve Plant, McGregor, Texas.

(2) After screening the facilities, equipment, and fixtures (including special tooling and special test equipment) located on the parcel for other uses by the Department of the Navy, the Secretary may include in the conveyance under paragraph (1) any facilities, equipment, and fixtures on the parcel not to be so used if the Secretary determines that manufacturing activities requiring the use of such facilities, equipment, and fixtures are likely to continue or be reinstated on the parcel after conveyance under paragraph (1).

(b) LEASE AUTHORITY.—Until such time as the real property described in subsection (a)(1) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the City in exchange for security services, fire protection services, and maintenance services provided by the City for the property.

(c) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City, directly or through an agreement with a public or private entity, use the conveyed property (or offer the conveyed property for use) for economic redevelopment to replace all or a part of the economic activity being lost at the parcel.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or a lease under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2869. LAND CONVEYANCE, NAVAL SURFACE WARFARE CENTER, MEMPHIS, TENNESSEE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the Memphis and Shelby County Port Commission, Memphis, Tennessee (in this section referred to as the ''Port''), all right, title, and interest of the United States in and to a parcel of real property (including any improvements thereon) consisting of approximately 26 acres that is located at the Carderock Division, Naval Surface Warfare Center, Memphis Detachment, Presidents Island, Memphis, Tennessee.

(b) CONSIDERATION.—As consideration for the conveyance of real property under subsection (a), the Port shall—

(1) grant to the United States a restrictive easement in and to a parcel of real property consisting of approximately 100 acres that is adjacent to the Memphis Detachment, Presidents Island, Memphis, Tennessee; and

(2) if the fair market value of the easement granted under paragraph (1) is less than the

fair market value of the real property conveyed under subsection (a), provide the United States such additional consideration as the Secretary and the Port jointly determine appropriate so that the value of the consideration received by the United States under this subsection is equal to or greater than the fair market value of the real property conveyed under subsection (a).

(c) CONDITION OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be carried out in accordance with the provisions of the Land Exchange Agreement between the United States and the Memphis and Shelby County Port Commission, Memphis, Tennessee.

(d) DETERMINATION OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the real property to be conveyed under subsection (a) and of the easement to be granted under subsection (b)(1). Such determinations shall be final.

(e) USE OF PROCEEDS.—The Secretary shall deposit any proceeds received under subsection (b)(2) as consideration for the conveyance of real property authorized under subsection (a) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) and the easement to be granted under subsection (b)(1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Port.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) and the easement granted under subsection (b)(1) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2870. LAND CONVEYANCE, NAVY PROPERTY, FORT SHERIDAN, ILLINOIS.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Navy may convey to any transferee selected under subsection (i) all right, title, and interest of the United States in and to a parcel of real property (including any improvements thereon) at Fort Sheridan, Illinois, consisting of approximately 182 acres and comprising the Navy housing areas at Fort Sheridan.

(b) REQUIREMENT FOR FEDERAL SCREENING OF PROPERTY.—The Secretary may not carry out the conveyance of property authorized by subsection (a) unless the Secretary determines that no department or agency of the Federal Government will accept the transfer of the property.

(c) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the transferee selected under subsection (i) shall—

(A) convey to the United States a parcel of real property that meets the requirements of subsection (d);

(B) design for and construct on the property conveyed under subparagraph (A) such housing facilities (including support facilities and infrastructure) to replace the housing facilities conveyed pursuant to the authority in subsection (a) as the Secretary considers appropriate;

(C) pay the cost of relocating members of the Armed Forces residing in the housing facilities located on the real property conveyed pursuant to the authority in subsection (a) to the housing facilities constructed under subparagraph (B);

(D) provide for the education of dependents of such members under subsection (e); and

(E) carry out such activities for the operation, maintenance, and improvement of the facilities constructed under subparagraph (B) as the Secretary and the transferee jointly determine appropriate.

(2) The Secretary shall ensure that the fair market value of the consideration provided by the transferee under paragraph (1) is not less than the fair market value of the property interest conveyed by the Secretary under subsection (a).

(d) REQUIREMENTS RELATING TO PROPERTY TO BE CONVEYED TO UNITED STATES.—The property interest conveyed to the United States under subsection (c)(1)(A) by the transferee selected under subsection (i) shall—

(1) be located not more than 25 miles from the Great Lakes Naval Training Center, Illinois;

(2) be located in a neighborhood or area having social and economic conditions similar to the social and economic conditions of the area in which Fort Sheridan is located; and

(3) be acceptable to the Secretary.

(e) EDUCATION OF DEPENDENTS OF MEMBERS OF THE ARMED FORCES.—In providing for the education of dependents of members of the Armed Forces under subsection (c)(1)(D), the transferee selected under subsection (i) shall ensure that such dependents may enroll at the schools of one or more school districts in the vicinity of the real property conveyed to the United States under subsection (c)(1)(A) which schools and districts—

(1) meet such standards for schools and schools districts as the Secretary shall establish; and

(2) will continue to meet such standards after the enrollment of such dependents regardless of the receipt by such school districts of Federal impact aid.

(f) INTERIM RELOCATION OF MEMBERS OF THE ARMED FORCES.—Pending completion of the construction of all the housing facilities proposed to be constructed under subsection (c)(1)(B) by the transferee selected under subsection (i), the Secretary may relocate—

(1) members of the Armed Forces residing in housing facilities located on the property to be conveyed pursuant to the authority in subsection (a) to the housing facilities that have been constructed by the transferee under such subsection (c)(1)(B); and

(2) other Government tenants located on such property to other facilities.

(g) APPLICABILITY OF CERTAIN AGREEMENTS.—The property conveyed by the Secretary pursuant to the authority in subsection (a) shall be subject to the Memorandum of Understanding concerning the Transfer of Certain Properties at Fort Sheridan, Illinois, dated August 8, 1991, between the Department of the Army and the Department of the Navy.

(h) DETERMINATION OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the real property interest to be conveyed under subsection (a) and of the consideration to be provided under subsection (c)(1). Such determination shall be final.

(i) SELECTION OF TRANSFEREE.—(1) The Secretary shall use competitive procedures for the selection of a transferee under subsection (a).

(2) In evaluating the offers of prospective transferees, the Secretary shall—

(A) consider such criteria as the Secretary considers to be appropriate to determine whether prospective transferees will be able to satisfy the consideration requirements specified in subsection (c)(1); and

(B) consult with the communities and jurisdictions in the vicinity of Fort Sheridan (including the City of Lake Forest, the City of Highwood, and the City of Highland Park and the County of Lake, Illinois) in order to determine the most appropriate use of the property to be conveyed.

(j) DESCRIPTIONS OF PROPERTY.—The exact acreage and legal descriptions of the real property to be conveyed by the Secretary under subsection (a) and the real property to be conveyed under subsection (c)(1)(A) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the transferee selected under subsection (i).

(k) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2871. LAND CONVEYANCE, NAVAL COMMUNICATIONS STATION, STOCKTON, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretrary of the Navy may convey to the Port of Stockton, California (in this section referred to as the ''Port''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 1,450 acres at the Naval Communication Station, Stockton, California.

(b) REQUIREMENT FOR FEDERAL SCREENING OF PROPERTY.—The Secretary may not carry out the conveyance of property authorized by subsection (a) unless the Secretary determines that no department or agency of the Federal Government will accept the transfer of the property.

(c) INTERIM LEASE.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the Port under terms and conditions satisfactory to the Secretary.

(d) CONSIDERATION.—The conveyance may be made as a public benefit conveyance for port development as defined in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) if the Port satisfies the criteria in such section and the regulations prescribed to implement such section. If the Port fails to qualify for a public benefit conveyance and still desires to acquire the property, the Port shall pay to the United States an amount equal to the fair market value of the property to be conveyed, as determined by the Secretary.

(e) FEDERAL LEASE OF CONVEYED PROPERTY.—As a condition for transfer of this property under subparagraph (a), the Secretary may require that the Port lease to the Department of Defense or any other Federal agency all or any part of the property being used by the Federal Government at the time of conveyance. Any such lease shall be made under the same terms and conditions as in force at the time of the conveyance. Such terms and conditions will continue to include payment to the Port for maintenance of facilities leased to the Federal Government. Such maintenance of the Federal premises shall be to the reasonable satisfaction of the United States, or as required by all applicable Federal, State, and local laws and ordinances.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Port.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or the lease under subsection (c) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2872. LEASE OF PROPERTY, NAVAL AIR STATION AND MARINE CORPS AIR STATION, MIRAMAR, CALIFORNIA.

(a) LEASE AUTHORIZED.—Notwithstanding section 2692(a)(1) of title 10, United States

Code, the Secretary of the Navy may lease to the City of San Diego, California (in this subsection referred to as the ''City''), the parcel of real property, including improvements thereon, described in subsection (b) in order to permit the City to carry out activities on the parcel relating to solid waste management, including the operation and maintenance of one or more solid waste landfills. Pursuant to the lease, the Secretary may authorize the City to construct and operate on the parcel facilities related to solid waste management, including a sludge processing facility.

(b) COVERED PROPERTY.—The parcel of property to be leased under subsection (a) is a parcel of real property consisting of approximately 1,400 acres that is located at Naval Air Station, Miramar, California, or Marine Corps Air Station, Miramar, California.

(c) LEASE TERM.—The lease authorized under subsection (a) shall be for an initial term of not more than 50 years. Under the lease, the Secretary may provide the City with an option to extend the lease for such number of additional periods of such length as the Secretary considers appropriate.

(d) FORM OF CONSIDERATION.—The Secretary may provide in the lease under subsection (a) for the provision by the City of in-kind consideration under the lease.

(e) USE OF MONEY RENTALS.—In such amounts as are provided in advance in appropriation Acts, the Secretary may use money rentals received by the Secretary under the lease authorized under subsection (a) to carry out the following programs at Department of the Navy installations that utilize the solid waste landfill or landfills located on the leased property:

(1) Environmental programs, including natural resource management programs, recycling programs, and pollution prevention programs.

(2) Programs to improve the quality of military life, including programs to improve military unaccompanied housing and military family housing.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(g) DEFINITIONS.—In this section, the terms ''sludge'', ''solid waste'', and ''solid waste management'' have the meanings given such terms in paragraphs (26A), (27), and (28), respectively, of section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

PART III—AIR FORCE CONVEYANCES

SEC. 2874. LAND ACQUISITION OR EXCHANGE, SHAW AIR FORCE BASE, SOUTH CAROLINA.

(a) LAND ACQUISITION.—By means of an exchange of property, acceptance as a gift, or other means that do not require the use of appropriated funds, the Secretary of the Air Force may acquire all right, title, and interest in and to a parcel of real property (together with any improvements thereon) consisting of approximately 1,100 acres and located adjacent to the eastern end of Shaw Air Force Base, South Carolina, and extending to Stamey Livestock Road in Sumter County, South Carolina.

(b) LAND EXCHANGE AUTHORIZED.—For purposes of acquiring the real property described in subsection (a), the Secretary may participate in a land exchange and convey all right, title, and interest of the United States in and to a parcel of real property in the possession of the Air Force if—

(1) the Secretary determines that the land exchange is in the best interests of the Air Force; and

(2) the fair market value of the parcel to be conveyed by the Secretary does not exceed the fair market value of the parcel to be acquired by the Secretary.

(c) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the parcels of real property to be exchanged, accepted, or otherwise acquired pursuant to subsection (a) and exchanged pursuant to subsection (b). Such determinations shall be final.

(d) REVERSION OF GIFT CONVEYANCE.—If the Secretary acquires the real property described in subsection (a) by way of gift, the Secretary may accept in the deed of conveyance terms or conditions that require that the land be reconveyed to the donor, or the heirs of the donor, if Shaw Air Force Base ceases operations and is closed.

(e) DESCRIPTIONS OF PROPERTY.—The exact acreage and legal descriptions of the parcels of real property to be to be exchanged, accepted, or otherwise acquired pursuant to subsection (a) and exchanged pursuant to subsection (b) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the acquisition under subsection (a) or conveyance under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2875. LAND CONVEYANCE, ELMENDORF AIR FORCE BASE, ALASKA.

(a) CONVEYANCE TO PRIVATE PERSON AUTHORIZED.—The Secretary of the Air Force may convey to such private person as the Secretary considers appropriate, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 31.69 acres that is located at Elmendorf Air Force Base, Alaska, and identified in land lease W–95–507–ENG–58.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the purchaser shall pay to the United States an amount equal to the fair market value of the real property to be conveyed, as determined by the Secretary. In determining the fair market value of the real property, the Secretary shall consider the property as encumbered by land lease W–95–507–ENG–58, with an expiration date of June 13, 2024.

(c) CONDITION OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the condition that the purchaser of the property—

(1) permit the lease of the apartment complex located on the property by members of the Armed Forces stationed at Elmendorf Air Force Base and their dependents; and

(2) maintain the apartment complex in a condition suitable for such leases.

(d) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the amount received from the purchaser under subsection (b) in the special account established under section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser of the real property.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2876. LAND CONVEYANCE, RADAR BOMB SCORING SITE, FORSYTH, MONTANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the City of Forsyth, Montana (in this section referred to as the ''City''), all right, title, and interest of the United States in and to the parcel of property (including any improvements thereon) consisting of approximately 58 acres located in Forsyth, Montana, which has served as a support complex and recreational facilities for the Radar Bomb Scoring Site, Forsyth, Montana.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the City—

(1) utilize the property and recreational facilities conveyed under that subsection for housing and recreation purposes; or

(2) enter into an agreement with an appropriate public or private entity to lease such property and facilities to that entity for such purposes.

(c) REVERSION.—If the Secretary determines at any time that the property conveyed under subsection (a) is not being utilized in accordance with paragraph (1) or paragraph (2) of subsection (b), all right, title, and interest in and to the conveyed property, including any improvements thereon, shall revert to the United States and the United States shall have the right of immediate entry onto the property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2877. LAND CONVEYANCE, RADAR BOMB SCORING SITE, POWELL, WYOMING.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the Northwest College Board of Trustees (in this section referred to as the ''Board''), all right, title, and interest of the United States in and to a parcel of real property (including any improvements thereon) consisting of approximately 24 acres located in Powell, Wyoming, which has served as the location of a support complex, recreational facilities, and housing facilities for the Radar Bomb Scoring Site, Powell, Wyoming.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Board use the property conveyed under that subsection for housing and recreation purposes and for such other purposes as the Secretary and the Board jointly determine appropriate.

(c) REVERSIONARY INTEREST.—During the five-year period beginning on the date that the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed property is not being used in accordance with subsection (b), all right, title, and interest in and to the conveyed property, including any improvements thereon, shall revert to the United States and the United States shall have the right of immediate entry onto the property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2878. LAND CONVEYANCE, AVON PARK AIR FORCE RANGE, FLORIDA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to Highlands County, Florida (in this section referred to as the ''County''), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, located within the boundaries of the Avon Park Air Force Range near Sebring, Florida, which has previously served as the location of a support complex and recreational facilities for the Avon Park Air Force Range.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the County, directly or through an agreement with an appropriate public or private entity, use the conveyed property, including the support complex and recreational facilities, for operation of a juvenile or other correctional facility.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the property conveyed under subsection (a) is not being used in accordance with subsection (b), all right, title, and interest in the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

Subtitle E—Land Conveyances Involving Utilities

SEC. 2881. CONVEYANCE OF RESOURCE RECOVERY FACILITY, FORT DIX, NEW JERSEY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to Burlington County, New Jersey (in this section referred to as the ''County''), all right, title, and interest of the United States in and to a parcel of real property at Fort Dix, New Jersey, consisting of approximately six acres and containing a resource recovery facility, known as the Fort Dix resource recovery facility.

(b) RELATED EASEMENTS.—The Secretary may grant to the County any easement that is necessary for access to and operation of the resource recovery facility conveyed under subsection (a).

(c) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance of the resource recovery facility authorized by subsection (a) unless the County agrees to accept the facility in its existing condition at the time of the conveyance.

(d) CONDITIONS ON CONVEYANCE.—The conveyance of the resource recovery facility authorized by subsection (a) is subject to the following conditions:

(1) That the County provide refuse and steam service to Fort Dix, New Jersey, at the rate established by the appropriate Federal or State regulatory authority.

(2) That the County comply with all applicable environmental laws and regulations (including any permit or license requirements) relating to the resource recovery facility.

(3) That the County assume full responsibility for ownership, operation, maintenance, repair, and all regulatory compliance requirements for the resource recovery facility.

(4) That the County not commence any expansion of the resource recovery facility without approval of such expansion by the Secretary.

(e) DESCRIPTION OF THE PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a), and of any easements to be granted under subsection (b), shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the County.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) and the grant of any easement under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2882. CONVEYANCE OF WATER AND WASTEWATER TREATMENT PLANTS, FORT GORDON, GEORGIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the city of Augusta, Georgia (in this section referred to as the ''City''), all right, title, and interest of the United States to several parcels of real property located at Fort Gordon, Georgia, and consisting of approximately seven acres each. The parcels are improved with a water filtration plant, water distribution system with storage tanks, sewage treatment plant, and sewage collection system.

(b) RELATED EASEMENTS.—The Secretary may grant to the City any easement that is necessary for access to the real property conveyed under subsection (a) and operation of the water and wastewater treatment plants and distribution and collection systems conveyed under subsection (a).

(c) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance of the water and wastewater treatment plants and distribution and collection systems authorized by subsection (a) unless the City agrees to accept the water and wastewater treatment plants and distribution and collection systems in their existing condition at the time of the conveyance.

(d) CONDITIONS ON CONVEYANCE.—The conveyance authorized by subsection (a) is subject to the following conditions:

(1) That the City provide water and sewer service to Fort Gordon, Georgia, at a rate established by the appropriate Federal or State regulatory authority.

(2) That the City comply with all applicable environmental laws and regulations (including any permit or license requirements) regarding the real property conveyed under subsec- tion (a).

(3) That the City assume full responsibility for ownership, operation, maintenance, repair, and all regulatory compliance requirements for the water and wastewater treatment plants and distribution and collection systems.

(4) That the City not commence any expansion of the water and wastewater treatment plants and distribution and collection systems without approval of such expansion by the Secretary.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a), and of any easements granted under subsection (b), shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) and the grant of any easement under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2883. CONVEYANCE OF ELECTRICITY DISTRIBUTION SYSTEM, FORT IRWIN, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Southern California Edison Company, California (in this section referred to as the ''Company''), all right, title, and interest of the United States in and to the electricity distribution system located at Fort Irwin, California.

(b) DESCRIPTION OF SYSTEM AND CONVEYANCE.—The electricity distribution system authorized to be conveyed under subsection (a) consists of approximately 115 miles of electricity distribution lines (including poles, switches, reclosers, transformers, regulators, switchgears, and service lines) and includes the equipment, fixtures, structures, and other improvements the Federal Government utilizes to provide electricity services at Fort Irwin. The system does not include any real property.

(c) RELATED EASEMENTS.—The Secretary may grant to the Company any easement that is necessary for access to and operation of the electricity distribution system conveyed under subsection (a).

(d) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the electricity distribution system authorized by subsection (a) unless the Company agrees to accept the electricity distribution system in its existing condition at the time of the conveyance.

(e) CONDITIONS ON CONVEYANCE.—The conveyance authorized by subsection (a) is subject to the following conditions:

(1) That the Company provide electricity service to Fort Irwin, California, at a rate established by the appropriate Federal or State regulatory authority.

(2) That the Company comply with all applicable environmental laws and regulations (including any permit or license requirements) regarding the electricity distribution system.

(3) That the Company assume full responsibility for ownership, operation, maintenance, repair, and all regulatory compliance requirements for the electricity distribution system.

(4) That the Company not commence any expansion of the electricity distribution system without approval of such expansion by the Secretary.

(f) DESCRIPTION OF EASEMENT.—The exact acreage and legal description of any easement granted under subsection (c) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Company.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) and the grant of any easement under subsection (c) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2884. CONVEYANCE OF WATER TREATMENT PLANT, FORT PICKETT, VIRGINIA.

(a) AUTHORITY TO CONVEY.—(1) The Secretary of the Army may convey to the Town of Blackstone, Virginia (in this section referred to as the ''Town''), all right, title, and interest of the United States in and to the property described in paragraph (2).

(2) The property referred to in paragraph (1) is the following property located at Fort Pickett, Virginia:

(A) A parcel of real property consisting of approximately 10 acres, including a reservoir and improvements thereon, the site of the Fort Pickett water treatment plant.

(B) Any equipment, fixtures, structures, or other improvements (including any water transmission lines, water distribution and service lines, fire hydrants, water pumping

stations, and other improvements) not located on the parcel described in subparagraph (A) that are jointly identified by the Secretary and the Town as owned and utilized by the Federal Government in order to provide water to and distribute water at Fort Pickett.

(b) RELATED EASEMENTS.—The Secretary may grant to the Town the following easements relating to the conveyance of the property authorized by subsection (a):

(1) Such easements, if any, as the Secretary and the Town jointly determine are necessary in order to provide access to the water distribution system referred to in paragraph (2) of such subsection for maintenance, safety, and other purposes.

(2) Such easements, if any, as the Secretary and the Town jointly determine are necessary in order to provide access to the finished water lines from the system to the Town.

(3) Such rights of way appurtenant, if any, as the Secretary and the Town jointly determine are necessary in order to satisfy requirements imposed by any Federal, State, or municipal agency relating to the maintenance of a buffer zone around the water distribution system.

(c) WATER RIGHTS.—The Secretary shall grant to the Town as part of the conveyance under subsection (a) all right, title, and interest of the United States in and to any water of the Nottoway River, Virginia, that is connected with the reservoir referred to in paragraph (2)(A) of such subsection. The grant of such water rights shall not impair the right that any other local jurisidiction may have to withdraw water from the Nottoway River, on or after the date of the enactment of this Act, pursuant to the law of the Commonwealth of Virginia.

(d) REQUIREMENTS RELATING TO CONVEYANCE.—(1) The Secretary may not carry out the conveyance of the water distribution system authorized under subsection (a) unless the Town agrees to accept the system in its existing condition at the time of the conveyance.

(2) The Secretary shall complete any environmental removal or remediation required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) with respect to the system to be conveyed under this section before carrying out the conveyance.

(e) CONDITIONS ON CONVEYANCE.—The conveyance authorized in subsection (a) shall be subject to the following conditions:

(1) That the Town reserve for provision to Fort Pickett, and provide to Fort Pickett on demand, not less than 1,500,000 million gallons per day of treated water from the water distribution system.

(2) That the Town provide water to and distribute water at Fort Pickett at a rate established by the appropriate Federal or State regulatory authority.

(3) That the Town maintain and operate the water distribution system in compliance with all applicable Federal and State environmental laws and regulations (including any permit and license requirements).

(f) DESCRIPTION OF PROPERTY.—The exact legal description of the property to be conveyed under subsection (a), of any easements granted under subsection (b), and of any water rights granted under subsection (c) shall be determined by a survey and other means satisfactory to the Secretary. The cost of any survey or other services performed at the direction of the Secretary under the authority in the preceding sentence shall be borne by the Town.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized under subsection (a), the easements granted under subsection (b), and the water rights granted under subsection (c) that the Secretary considers appropriate to protect the interests of the United States.

Subtitle F—Other Matters

SEC. 2891. AUTHORITY TO USE FUNDS FOR CERTAIN EDUCATIONAL PURPOSES.

Section 2008 of title 10, United States Code, is amended by striking out ''section 10'' and all that follows through the period at the end and inserting in lieu thereof ''construction, as defined in section 8013(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(3)), or to carry out section 8008 of such Act (20 U.S.C. 7708), relating to the provision of assistance to certain school facilities under the impact aid program.''.

SEC. 2892. DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a program (to be known as the ''Department of Defense Laboratory Revitalization Demonstration Program'') for the revitalization of Department of Defense laboratories. Under the program, the Secretary may carry out minor military construction projects in accordance with subsection (b) and other applicable law to improve Department of Defense laboratories covered by the program.

(b) INCREASED MAXIMUM AMOUNTS APPLICABLE TO MINOR CONSTRUCTION PROJECTS.—For purpose of any military construction project carried out under the program—

(1) the amount provided in the second sentence of subsection (a)(1) of section 2805 of title 10, United States Code, shall be deemed to be $3,000,000;

(2) the amount provided in subsection (b)(1) of such section shall be deemed to be $1,500,000; and

(3) the amount provided in subsection (c)(1)(B) of such section shall be deemed to be $1,000,000.

(c) PROGRAM REQUIREMENTS.—(1) Not later than 30 days before commencing the program, the Secretary shall—

(A) designate the Department of Defense laboratories at which construction may be carried out under the program; and

(B) establish procedures for the review and approval of requests from such laboratories to carry out such construction.

(2) The laboratories designated under paragraph (1)(A) may not include Department of Defense laboratories that are contractor owned.

(3) The Secretary shall notify Congress of the laboratories designated under paragraph (1)(A).

(d) REPORT.—Not later than February 1, 1998, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendations regarding the desirability of extending the authority set forth in subsection (b) to cover all Department of Defense laboratories.

(e) EXCLUSIVITY OF PROGRAM.—Nothing in this section may be construed to limit any other authority provided by law for any military construction project at a Department of Defense laboratory covered by the program.

(f) DEFINITIONS.—In this section:

(1) The term ''laboratory'' includes—

(A) a research, engineering, and development center;

(B) a test and evaluation activity owned, funded, and operated by the Federal Government through the Department of Defense; and

(C) a supporting facility of a laboratory.

(2) The term ''supporting facility'', with respect to a laboratory, means any building or structure that is used in support of research, development, test, and evaluation at the laboratory.

(g) EXPIRATION OF AUTHORITY.—The Secretary may not commence a construction project under the program after September 30, 1998.

SEC. 2893. AUTHORITY FOR PORT AUTHORITY OF STATE OF MISSISSIPPI TO USE NAVY PROPERTY AT NAVAL CONSTRUCTION BATTALION CENTER, GULFPORT, MISSISSIPPI.

(a) JOINT USE AGREEMENT AUTHORIZED.—The Secretary of the Navy may enter into an agreement with the Port Authority of the State of Mississippi (in this section referred to as the ''Port Authority''), under which the Port Authority may use real property comprising up to 50 acres located at the Naval Construction Battalion Center, Gulfport, Mississippi (in this section referred to as the ''Center'').

(b) TERM OF AGREEMENT.—The agreement authorized under subsection (a) may be for an initial period of not more than 15 years. Under the agreement, the Secretary shall provide the Port Authority with an option to extend the agreement for at least three additional periods of five years each.

(c) CONDITIONS ON USE.—The agreement authorized under subsection (a) shall require the Port Authority—

(1) to suspend operations under the agreement in the event Navy contingency operations are conducted at the Center; and

(2) to use the property covered by the agreement in a manner consistent with Navy operations conducted at the Center.

(d) CONSIDERATION.—(1) As consideration for the use of the property covered by the agreement under subsection (a), the Port Authority shall pay to the Navy an amount equal to the fair market rental value of the property, as determined by the Secretary taking into consideration the Port Authority's use of the property.

(2) The Secretary may include a provision in the agreement requiring the Port Authority—

(A) to pay the Navy an amount (as determined by the Secretary) to cover the costs of replacing at the Center any facilities vacated by the Navy on account of the agreement or to construct suitable replacement facilities for the Navy; and

(B) to pay the Navy an amount (as determined by the Secretary) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(e) CONGRESSIONAL NOTIFICATION.—The Secretary may not enter into the agreement authorized by subsection (a) until the end of the 21-day period beginning on the date on which the Secretary submits to Congress a report containing an explanation of the terms of the proposed agreement and a description of the consideration that the Secretary expects to receive under the agreement.

(f) USE OF PAYMENT.—(1) In such amounts as are provided in advance in appropriation Acts, the Secretary may use amounts paid under subsection (d)(1) to pay for general supervision, administration, and overhead expenses and for improvement, maintenance, repair, construction, or restoration of the roads, railways, and facilities serving the Center.

(2) In such amounts as are provided in advance in appropriation Acts, the Secretary may use amounts paid under subsection (d)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on account of the agreement under subsection (a) and for relocating operations of the Navy from the vacated facilities to replacement facilities.

(g) CONSTRUCTION BY PORT AUTHORITY.—The Secretary may authorize the Port Authority to demolish existing facilities located on the property covered by the agreement under subsection (a) and, consistent with the restriction specified in subsection (c)(2), construct new facilities on the property for joint use by the Port Authority and the Navy.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the agreement authorized under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2894. PROHIBITION ON JOINT USE OF NAVAL AIR STATION AND MARINE CORPS AIR STATION, MIRAMAR, CALIFORNIA.

The Secretary of the Navy may not enter into any agreement that provides for or permits civil aircraft to regularly use Naval Air Station or Marine Corps Air Station, Miramar, California.

SEC. 2895. REPORT REGARDING ARMY WATER CRAFT SUPPORT FACILITIES AND ACTIVITIES.

Not later than February 15, 1996, the Secretary of the Army shall submit to Congress a report setting forth—

(1) the location, assets, and mission of each Army facility, active or reserve component, that supports water transportation operations;

(2) an infrastructure inventory and utilization rate of each Army facility supporting water transportation operations;

(3) options for consolidating these operations to reduce overhead; and

(4) actions that can be taken to respond affirmatively to requests from the residents of Marcus Hook, Pennsylvania, to close the Army Reserve facility located in Marcus Hook and make the facility available for use by the community.

SEC. 2896. RESIDUAL VALUE REPORTS.

(a) REPORTS REQUIRED.—The Secretary of Defense, in coordination with the Director of the Office of Management and Budget, shall submit to the congressional defense committees status reports on the results of residual value negotiations between the United States and Germany. Such status reports shall be submitted within 30 days after the receipt of such reports by the Office of Management and Budget.

(b) CONTENT OF STATUS REPORTS.—The status reports required by subsection (a) shall include the following information:

(1) The estimated residual value of United States capital value and improvements to facilities in Germany that the United States has turned over to Germany.

(2) The actual value obtained by the United States for each facility or installation turned over to Germany.

(3) The reasons for any difference between the estimated and actual value obtained.

SEC. 2897. SENSE OF CONGRESS AND REPORT REGARDING FITZSIMONS ARMY MEDICAL CENTER, COLORADO.

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

(1) Fitzsimons Army Medical Center in Aurora, Colorado, was approved for closure in 1995 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) The University of Colorado Health Sciences Center and the University of Colorado Hospital Authority are in urgent need of space to maintain their ability to deliver health care to meet the growing demand for their services.

(3) Reuse of the Fitzsimons Army Medical Center at the earliest opportunity would provide significant benefit to the cities of Aurora, Colorado, and Denver, Colorado.

(4) Reuse of the Fitzsimons Army Medical Center by the communities in the vicinity of the center will ensure that the center is fully utilized, thereby providing a benefit to such communities.

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

(1) determinations as to the use by other departments and agencies of the Federal Government of buildings and property at military installations approved for closure under the Defense Base Closure and Realignment Act of 1990, including Fitzsimons Army Medical Center, Colorado, should be completed as soon as practicable;

(2) the Secretary of Defense should consider the expedited transfer of appropriate facilities (including facilities that remain operational) at such installations to the redevelopment authorities for such installations in order to ensure continuity of use of such facilities after the closure of such installations, in particular, the Secretary should consider the expedited transfer of the Fitzsimons Army Medical Center because of the significant preparation underway by the redevelopment authority concerned;

(3) the Secretary should not enter into leases with redevelopment authorities for facilities at such installations until the Secretary determines that such leases fall within the categorical exclusions established by the Secretary pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(c) REPORT.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the closure and redevelopment of Fitzsimons Army Medical Center.

(2) The report shall include the following:

(A) The results of the determinations as to the use of buildings and property at Fitzsimons Army Medical Center by other departments and agencies of the Federal Government under section 2905(b)(1) of the Defense Base Closure and Realignment Act of 1990.

(B) A description of any actions taken to expedite such determinations.

(C) A discussion of any impediments raised as a result of such determinations to the transfer or lease of Fitzsimons Army Medical Center.

(D) A description of any actions taken by the Secretary to lease Fitzsimons Army Medical Center to the redevelopment authority.

(E) The results of any environmental reviews under the National Environmental Policy Act in which such a lease would fall into the categorical exclusions established by the Secretary of the Army.

(F) The results of the environmental baseline survey regarding Fitzsimons Army Medical Center and a finding of suitability or nonsuitability.

TITLE XXIX—LAND CONVEYANCES INVOLVING JOLIET ARMY AMMUNITION PLANT, ILLINOIS

SEC. 2901. SHORT TITLE.

This title may be cited as the ''Illinois Land Conservation Act of 1995''.

SEC. 2902. DEFINITIONS.

For purposes of this title, the following definitions apply:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the United States Environmental Protection Agency.

(2) AGRICULTURAL PURPOSES.—The term ''agricultural purposes'' means the use of land for row crops, pasture, hay, and grazing.

(3) ARSENAL.—The term ''Arsenal'' means the Joliet Army Ammunition Plant located in the State of Illinois.

(4) ARSENAL LAND USE CONCEPT.—The term ''Arsenal land use concept'' means the land use proposals that were developed and unanimously approved on May 30, 1995, by the Joliet Arsenal Citizen Planning Commission.

(5) CERCLA.—The term ''CERCLA'' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(6) ENVIRONMENTAL LAW.—The term ''environmental law'' means all applicable Federal, State, and local laws, regulations, and requirements related to protection of human health, natural and cultural resources, or the environment. Such term includes CERCLA, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), and the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(7) HAZARDOUS SUBSTANCE.—The term ''hazardous substance'' has the meaning given such term by section 101(14) of CERCLA (42 U.S.C. 9601(14)).

(8) MNP.—The term ''MNP'' means the Midewin National Tallgrass Prairie established pursuant to section 2914 and managed as a part of the National Forest System.

(9) PERSON.—The term ''person'' has the meaning given such term by section 101(21) of CERCLA (42 U.S.C. 9601(21)).

(10) POLLUTANT OR CONTAMINANT.—The term ''pollutant or contaminant'' has the meaning given such term by section 101(33) of CERCLA (42 U.S.C. 9601(33)).

(11) RELEASE.—The term ''release'' has the meaning given such term by section 101(22) of CERCLA (42 U.S.C. 9601(22)).

(12) RESPONSE ACTION.—The term ''response action'' has the meaning given the term ''response'' by section 101(25) of CERCLA (42 U.S.C. 9601(25)).

Subtitle A—Conversion of Joliet Army Ammunition Plant to Midewin National Tallgrass Prairie

SEC. 2911. PRINCIPLES OF TRANSFER.

(a) LAND USE PLAN.—The Congress ratifies in principle the proposals generally identified by the land use plan which was developed by the Joliet Arsenal Citizen Planning Commission and unanimously approved on May 30, 1995.

(b) TRANSFER WITHOUT REIMBURSEMENT.—The area constituting the Midewin National Tallgrass Prairie shall be transferred, without reimbursement, to the Secretary of Agriculture.

(c) MANAGEMENT OF MNP.—Management by the Secretary of Agriculture of those portions of the Arsenal transferred to the Secretary under this title shall be in accordance with sections 2914 and 2915 regarding the Midewin National Tallgrass Prairie.

(d) SECURITY MEASURES.—The Secretary of the Army and the Secretary of Agriculture shall each provide and maintain physical and other security measures on such portion of the Arsenal as is under the administrative jurisdiction of such Secretary, unless the Secretary of the Army and the Secretary of Agriculture agree otherwise. Such security measures (which may include fences and natural barriers) shall include measures to prevent members of the public from gaining unauthorized access to such portions of the Arsenal as are under the administrative jurisdiction of such Secretary and that may endanger health or safety.

(e) COOPERATIVE AGREEMENTS.—The Secretary of the Army, the Secretary of Agriculture, and the Administrator are individually and collectively authorized to enter into cooperative agreements and memoranda of understanding among each other and with other affected Federal agencies, State and

local governments, private organizations, and corporations to carry out the purposes for which the Midewin National Tallgrass Prairie is established.

(f) INTERIM ACTIVITIES OF THE SECRETARY OF AGRICULTURE.—Prior to transfer and subject to such reasonable terms and conditions as the Secretary of the Army may prescribe, the Secretary of Agriculture may enter upon the Arsenal property for purposes related to planning, resource inventory, fish and wildlife habitat manipulation (which may include prescribed burning), and other such activities consistent with the purposes for which the Midewin National Tallgrass Prairie is established.

SEC. 2912. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER ARSENAL.

(a) GENERAL RULE FOR TRANSFER OF JURISDICTION.—

(1) TRANSFER REQUIRED SUBJECT TO RESPONSE ACTIONS.—Subject to subsection (d), not later than 270 days after the date of the enactment of this title, the Secretary of the Army shall transfer, without reimbursement, to the Secretary of Agriculture those portions of the Arsenal that—

(A) are identified on the map described in subsection (e)(1) as appropriate for transfer under this subsection to the Secretary of Agriculture; and

(B) the Secretary of the Army and the Administrator concur in finding that all response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the property.

(2) EFFECT OF LESS THAN COMPLETE TRANSFER.—If the concurrence requirement in paragraph (1)(B) results in the transfer, within such 270-day period, of less than all of the Arsenal property covered by paragraph (1)(A), the Secretary of the Army and the Secretary of Agriculture shall enter into a memorandum of understanding providing for the performance by the Secretary of the Army of the additional response actions necessary to allow fulfillment of the concurrence requirement with respect to such Arsenal property. The memorandum of understanding shall be entered into within 60 days of the end of such 270-day period and shall include a schedule for the completion of the additional response actions as soon as practicable. Subject to subsection (d), the Secretary of the Army shall transfer Arsenal property covered by this paragraph to the Secretary of Agriculture as soon as possible after the Secretary of the Army and the Administrator concur that all additional response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the property. The Secretary of the Army may make transfers under this paragraph on a parcel-by-parcel basis.

(3) RULE OF CONSTRUCTION REGARDING CONCURRENCES.—For the purpose of reaching the concurrences required by this subsection and subsection (b), if a response action requires construction and installation of an approved remedial design, the response action shall be considered to have been taken when the construction and installation of the approved remedial design is completed and the remedy is demonstrated to the satisfaction of the Administrator to be operating properly and successfully.

(b) SPECIAL TRANSFER REQUIREMENTS FOR CERTAIN PARCELS.—Subject to subsection (d), the Secretary of the Army shall transfer, without reimbursement, to the Secretary of Agriculture the Arsenal property known as LAP Area Sites L2, L3, and L5 and Manufacturing Area Site 1. The transfer shall occur as soon as possible after the Secretary of the Army and the Administrator concur that all response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the property. The Secretary of the Army may make transfers under this subsection on a parcel-by-parcel basis.

(c) DOCUMENTATION OF ENVIRONMENTAL CONDITION OF PARCELS; ASSESSMENT OF REQUIRED ACTIONS UNDER OTHER ENVIRONMENTAL LAWS.—

(1) DOCUMENTATION.—The Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all documentation and information that exists on the date the documentation and information is provided relating to the environmental condition of the Arsenal property proposed for transfer under subsection (a) or (b), including documentation that supports the finding that all response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the property.

(2) ASSESSMENT.—The Secretary of the Army shall provide to the Secretary of Agriculture an assessment, based on information in existence at the time the assessment is provided, indicating what further action, if any, is required under any environmental law (other than CERCLA) on the Arsenal property proposed for transfer under subsection (a) or (b).

(3) TIME FOR SUBMISSION OF DOCUMENTATION AND ASSESSMENT.—The documentation and assessments required to be submitted to the Secretary of Agriculture under this subsection shall be submitted—

(A) in the case of the transfers required by subsection (a), not later than 210 days after the date of the enactment of this title; and

(B) in the case of the transfers required by subsection (b), not later than 60 days before the earliest date on which the property could be transferred.

(4) SUBMISSION OF ADDITIONAL INFORMATION.—The Secretary of the Army and the Administrator shall have a continuing obligation to provide to the Secretary of Agriculture any additional information regarding the environmental condition of property to be transferred under subsection (a) or (b) as such information becomes available.

(d) EFFECT OF ENVIRONMENTAL ASSESSMENT.—

(1) AUTHORITY OF SECRETARY OF AGRICULTURE TO DECLINE IMMEDIATE TRANSFER.—If a parcel of Arsenal property to be transferred under subsection (a) or (b) includes property for which the assessment under subsection (c)(2) concludes further action is required under any environmental law (other than CERCLA), the Secretary of Agriculture may decline immediate transfer of the parcel. With respect to such a parcel, the Secretary of the Army and the Secretary of Agriculture shall enter into a memorandum of understanding providing for the performance by the Secretary of the Army of the required actions identified in the Army assessment. The memorandum of understanding shall be entered into within 90 days after the date on which the Secretary of Agriculture declines immediate transfer of the parcel and shall include a schedule for the completion of the required actions as soon as practicable.

(2) EVENTUAL TRANSFER.—In the case of a parcel of Arsenal property that the Secretary of Agriculture declines immediate transfer under paragraph (1), the Secretary may accept transfer of the parcel at any time after the original finding with respect to the parcel that all response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the property. The Secretary of Agriculture shall accept transfer of the parcel as soon as possible after the date on which all required further actions identified in the assessment have been taken and the terms of any memorandum of understanding have been satisfied.

(e) IDENTIFICATION OF ARSENAL PROPERTY FOR TRANSFER.—

(1) MAP OF PROPOSED TRANSFERS.—The lands subject to transfer to the Secretary of Agriculture under subsections (a) and (b) and section 2916 are depicted on the map dated September 22, 1995, which is on file and available for public inspection at the Office of the Chief of the Forest Service and the Office of the Assistant Secretary of the Army for Installations, Logistics and the Environment.

(2) METHOD OF EFFECTING TRANSFER.—The Secretary of the Army shall effect the transfer of jurisdiction of Arsenal property under subsections (a) and (b) and section 2916 by publication of notices in the Federal Register. The Secretary of Agriculture shall give prior concurrence to the publication of such notices. Each notice published in the Federal Register shall refer to the parcel being transferred by legal description, references to maps or surveys, or other forms of description mutually acceptable to the Secretary of the Army and the Secretary of Agriculture. The Secretary of the Army shall provide, without reimbursement, to the Secretary of Agriculture copies of all surveys and land title information on lands transferred under this section or section 2916.

(f) SURVEYS.—All costs of necessary surveys for the transfer of jurisdiction of Arsenal property from the Secretary of the Army to the Secretary of Agriculture shall be borne by the Secretary of Agriculture.

SEC. 2913. RESPONSIBILITY AND LIABILITY.

(a) CONTINUED LIABILITY OF SECRETARY OF THE ARMY.—The transfers of Arsenal property under sections 2912 and 2916, and the requirements of such sections, shall not in any way affect the responsibilities and liabilities of the Secretary of the Army specified in this section. The Secretary of the Army shall retain any obligation or other liability at the Arsenal that the Secretary of the Army has under CERCLA or other environmental laws. Following transfer of a portion of the Arsenal under this subtitle, the Secretary of the Army shall be accorded any easement or access to the property that may be reasonably required by the Secretary to carry out the obligation or satisfy the liability.

(b) SPECIAL PROTECTIONS FOR SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall not be liable under any environmental law for matters which are related directly or indirectly to activities of the Secretary of the Army at the Arsenal or any party acting under the authority of the Secretary of the Army at the Arsenal, including any of the following:

(1) Costs or performance of response actions required under CERCLA at or related to the Arsenal.

(2) Costs, penalties, fines, or performance of actions related to noncompliance with any environmental law at or related to the Arsenal or related to the presence, release, or threat of release of any hazardous substance, pollutant or contaminant, hazardous waste, or hazardous material of any kind at or related to the Arsenal, including contamination resulting from migration of a hazardous substance, pollutant or contaminant, hazardous waste, hazardous material, or petroleum products or their derivatives.

(3) Costs or performance of actions necessary to remedy noncompliance or another problem specified in paragraph (2).

(c) LIABILITY OF OTHER PERSONS.—Nothing in this title shall be construed to effect, modify, amend, repeal, alter, limit or otherwise change, directly or indirectly, the responsibilities or liabilities under any environmental law of any person (including the Secretary of Agriculture), except as provided in subsection (b) with respect to the Secretary of Agriculture.

(d) PAYMENT OF RESPONSE ACTION COSTS.—A Federal agency that had or has operations at the Arsenal resulting in the release or threatened release of a hazardous substance or pollutant or contaminant for which that agency would be liable under any environmental law, subject to the provisions of this subtitle, shall pay the costs of related response actions and shall pay the costs of related actions to remediate petroleum products or the derivatives of the products, including motor oil and aviation fuel.

(e) CONSULTATION.—

(1) RESPONSIBILITY OF SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall consult with the Secretary of the Army with respect to the management by the Secretary of Agriculture of real property included in the Midewin National Tallgrass Prairie subject to any response action or other action at the Arsenal being carried out by or under the authority of the Secretary of the Army under any environmental law. The Secretary of Agriculture shall consult with the Secretary of the Army prior to undertaking any activities on the Midewin National Tallgrass Prairie that may disturb the property to ensure that such activities will not exacerbate contamination problems or interfere with performance by the Secretary of the Army of response actions at the property.

(2) RESPONSIBILITY OF SECRETARY OF THE ARMY.—In carrying out response actions at the Arsenal, the Secretary of the Army shall consult with the Secretary of Agriculture to ensure that such actions are carried out in a manner consistent with the purposes for which the Midewin National Tallgrass Prairie is established, as specified in section 2914(c), and the other provisions of sections 2914 and 2915.

SEC. 2914. ESTABLISHMENT AND ADMINISTRATION OF MIDEWIN NATIONAL TALLGRASS PRAIRIE.

(a) ESTABLISHMENT.—On the effective date of the initial transfer of jurisdiction of portions of the Arsenal to the Secretary of Agriculture under section 2912(a), the Secretary of Agriculture shall establish the Midewin National Tallgrass Prairie. The MNP shall—

(1) be administered by the Secretary of Agriculture; and

(2) consist of the real property so transferred and such other portions of the Arsenal subsequently transferred under section 2912(b) or 2916 or acquired under section 2914(d).

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall manage the Midewin National Tallgrass Prairie as a part of the National Forest System in accordance with this title and the laws, rules, and regulations pertaining to the National Forest System, except that the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010–1012) shall not apply to the MNP.

(2) INITIAL MANAGEMENT ACTIVITIES.—In order to expedite the administration and public use of the Midewin National Tallgrass Prairie, the Secretary of Agriculture may conduct management activities at the MNP to effectuate the purposes for which the MNP is established, as set forth in subsection (c), in advance of the development of a land and resource management plan for the MNP.

(3) LAND AND RESOURCE MANAGEMENT PLAN.—In developing a land and resource management plan for the Midewin National Tallgrass Prairie, the Secretary of Agriculture shall consult with the Illinois Department of Natural Resources and local governments adjacent to the MNP and provide an opportunity for public comment. Any parcel transferred to the Secretary of Agriculture under this title after the development of a land and resource management plan for the MNP may be managed in accordance with such plan without need for an amendment to the plan.

(c) PURPOSES OF THE MIDEWIN NATIONAL TALLGRASS PRAIRIE.—The Midewin National Tallgrass Prairie is established to be managed for National Forest System purposes, including the following:

(1) To manage the land and water resources of the MNP in a manner that will conserve and enhance the native populations and habitats of fish, wildlife, and plants.

(2) To provide opportunities for scientific, environmental, and land use education and research.

(3) To allow the continuation of agricultural uses of lands within the MNP consistent with section 2915(b).

(4) To provide a variety of recreation opportunities that are not inconsistent with the preceding purposes.

(d) OTHER LAND ACQUISITION FOR MNP.—

(1) AVAILABILITY OF LAND ACQUISITION FUNDS.—Notwithstanding section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the Secretary of Agriculture may use monies appropriated from the Land and Water Conservation Fund established under section 2 of such Act (16 U.S.C. 460*l*–5) for the acquisition of lands and interests in land for inclusion in the Midewin National Tallgrass Prairie.

(2) ACQUISITION OF LANDS.—The Secretary of Agriculture may acquire lands or interests therein for inclusion in the Midewin National Tallgrass Prairie by donation, purchase, or exchange, except that the acquisition of private lands for inclusion in the MNP shall be on a willing seller basis only.

(e) COOPERATION WITH STATES, LOCAL GOVERNMENTS AND OTHER ENTITIES.—In the management of the Midewin National Tallgrass Prairie, the Secretary of Agriculture is authorized and encouraged to cooperate with appropriate Federal, State and local governmental agencies, private organizations and corporations. Such cooperation may include cooperative agreements as well as the exercise of the existing authorities of the Secretary under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) and the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.). The objects of such cooperation may include public education, land and resource protection, and cooperative management among government, corporate, and private landowners in a manner which furthers the purposes for which the Midewin National Tallgrass Prairie is established.

SEC. 2915. SPECIAL MANAGEMENT REQUIREMENTS FOR MIDEWIN NATIONAL TALLGRASS PRAIRIE.

(a) PROHIBITION AGAINST THE CONSTRUCTION OF NEW THROUGH ROADS.—No new construction of any highway, public road, or any part of the interstate system, whether Federal, State, or local, shall be permitted through or across any portion of the Midewin National Tallgrass Prairie. Nothing in this title shall preclude construction and maintenance of roads for use within the MNP, the granting of authorizations for utility rights-of-way under applicable Federal law, or such access as is necessary. Nothing in this title shall preclude necessary access by the Secretary of the Army for purposes of restoration and cleanup as provided in this title.

(b) AGRICULTURAL LEASES AND SPECIAL USE AUTHORIZATIONS.—Within the Midewin National Tallgrass Prairie, use of the lands for agricultural purposes shall be permitted subject to the following terms and conditions:

(1) If at the time of transfer of jurisdiction under section 2912 or 2916 there exists any lease issued by the Secretary of the Army or the Secretary of Defense for agricultural purposes upon the parcel transferred, the Secretary of Agriculture shall issue a special use authorization to supersede the lease. The terms of the special use authorization shall be identical in substance to the lease that the special use authorization is superseding, including the expiration date and any payments owed the United States. On issuance of the special use authorization, the lease shall become void.

(2) In addition to the authority provided in paragraph (1), the Secretary of Agriculture may issue special use authorizations to persons for use of the Midewin National Tallgrass Prairie for agricultural purposes. Special use authorizations issued pursuant to this paragraph shall include terms and conditions as the Secretary of Agriculture may deem appropriate.

(3) No agricultural special use authorization shall be issued for agricultural purposes which has a term extending beyond the date 20 years from the date of the enactment of this title, except that nothing in this title shall preclude the Secretary of Agriculture from issuing agricultural special use authorizations or grazing permits which are effective after twenty years from the date of enactment of this title for purposes primarily related to erosion control, provision for food and habitat for fish and wildlife, or other resource management activities consistent with the purposes of the Midewin National Tallgrass Prairie.

(c) TREATMENT OF RENTAL FEES.—Monies received under a special use authorization issued under subsection (b) shall be subject to distribution to the State of Illinois and affected counties pursuant to the Act of May 23, 1908, and section 13 of the Act of March 1, 1911 (16 U.S.C. 500). All monies not distributed pursuant to such Acts shall be covered into the Treasury and shall constitute a special fund (to be known as the ''MNP Rental Fee Account''). The Secretary of Agriculture may use amounts in the fund, until expended and without fiscal year limitation, to cover the cost to the United States of prairie improvement work at the Midewin National Tallgrass Prairie. Any amounts in the fund that the Secretary of Agriculture determines to be in excess of the cost of doing such work shall be transferred, upon such determination, to miscellaneous receipts, Forest Service Fund, as a National Forest receipt of the fiscal year in which the transfer is made.

(d) USER FEES.—The Secretary of Agriculture is authorized to charge reasonable fees for the admission, occupancy, and use of the Midewin National Tallgrass Prairie and may prescribe a fee schedule providing for reduced or a waiver of fees for persons or groups engaged in authorized activities including those providing volunteer services, research, or education. The Secretary shall permit admission, occupancy, and use at no additional charge for persons possessing a valid Golden Eagle Passport or Golden Age Passport.

(e) SALVAGE OF IMPROVEMENTS.—The Secretary of Agriculture may sell for salvage value any facilities and improvements which have been transferred to the Secretary pursuant to this title.

(f) TREATMENT OF USER FEES AND SALVAGE RECEIPTS.—Monies collected pursuant to subsections (d) and (e) shall be covered into the Treasury and constitute a special fund (to be known as the ''Midewin National Tallgrass Prairie Restoration Fund''). The Secretary of Agriculture may use amounts

in the fund, in such amounts as are provided in advance in appropriation Acts, for restoration and administration of the Midewin National Tallgrass Prairie, including construction of a visitor and education center, restoration of ecosystems, construction of recreational facilities (such as trails), construction of administrative offices, and operation and maintenance of the MNP. The Secretary of Agriculture shall include the MNP among the areas under the jurisdiction of the Secretary selected for inclusion in any cost recovery or any pilot program of the Secretary for the collection, use, and distribution of user fees.

SEC. 2916. SPECIAL TRANSFER RULES FOR CERTAIN ARSENAL PARCELS INTENDED FOR MNP.

(a) DESCRIPTION OF PARCELS.—The following areas of the Arsenal may be transferred under this section:

(1) Study Area 2, explosive burning ground.
(2) Study Area 3, flashing ground.
(3) Study Area 4, lead azide area.
(4) Study Area 10, toluene tank farms.
(5) Study Area 11, landfill.
(6) Study Area 12, sellite manufacturing area.
(7) Study Area 14, former pond area.
(8) Study Area 15, sewage treatment plan.
(9) Study Area L1, load assemble packing area, group 61.
(10) Study Area L4, landfill area.
(11) Study Area L7, group 1.
(12) Study Area L8, group 2.
(13) Study Area L9, group 3.
(14) Study Area L10, group 3A.
(15) Study Area L14, group 4.
(16) Study Area L15, group 5.
(17) Study Area L18, group 8.
(18) Study Area L19, group 9.
(19) Study Area L33, PVC area.
(20) Any other lands proposed for transfer as depicted on the map described in section 2912(e)(1) and not otherwise specifically identified for transfer under this subtitle.

(b) INFORMATION REGARDING ENVIRONMENTAL CONDITION OF PARCELS; ASSESSMENT OF REQUIRED ACTIONS UNDER OTHER ENVIRONMENTAL LAWS.—

(1) INFORMATION.—Not later than 180 days after the date on which the Secretary of the Army and the Administrator concur in finding that, with respect to a parcel of Arsenal property described in subsection (a), all response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the parcel, the Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all information that exists on such date regarding the environmental condition of the parcel and the implementation of any response action, including information regarding the effectiveness of the response action.

(2) ASSESSMENT.—At the same time as information is provided under paragraph (1) with regard to a parcel of Arsenal property described in subsection (a), the Secretary of the Army shall provide to the Secretary of Agriculture an assessment, based on information in existence at the time the assessment is provided, indicating what further action, if any, is required under any environmental law (other than CERCLA) with respect to the parcel.

(3) SUBMISSION OF ADDITIONAL INFORMATION.—The Secretary of the Army and the Administrator shall have a continuing obligation to provide to the Secretary of Agriculture any additional information regarding the environmental condition of a parcel of the Arsenal property described in subsection (a) as such information becomes available.

(c) OFFER OF TRANSFER.—Not later than 180 days after the date on which information is provided under subsection (b)(1) with regard to a parcel of the Arsenal property described in subsection (a), the Secretary of the Army shall offer the Secretary of Agriculture the option of accepting a transfer of the parcel, without reimbursement, to be added to the Midewin National Tallgrass Prairie. The transfer shall be subject to the terms and conditions of this subtitle, including the liability provisions contained in section 2913. The Secretary of Agriculture has the option to accept or decline the offered transfer. The transfer of property under this section may be made on a parcel-by-parcel basis.

(d) EFFECT OF ENVIRONMENTAL ASSESSMENT.—

(1) AUTHORITY OF SECRETARY OF AGRICULTURE TO DECLINE TRANSFER.—If a parcel of Arsenal property described in subsection (a) includes property for which the assessment under subsection (b)(2) concludes further action is required under any other environmental law, the Secretary of Agriculture may decline any transfer of the parcel. Alternatively, the Secretary of Agriculture may decline immediate transfer of the parcel and enter into a memorandum of understanding with the Secretary of the Army providing for the performance by the Secretary of the Army of the required actions identified in the Army assessment with respect to the parcel. The memorandum of understanding shall be entered into within 90 days, or such later date as the Secretaries may establish, after the date on which the Secretary of Agriculture declines immediate transfer of the parcel and shall include a schedule for the completion of the required actions as soon as practicable.

(2) EVENTUAL TRANSFER.—The Secretary of Agriculture may accept or decline at any time for any reason the transfer of a parcel covered by this section. However, if the Secretary of Agriculture and the Secretary of the Army enter into a memorandum of understanding under paragraph (1) providing for transfer of the parcel, the Secretary of Agriculture shall accept transfer of the parcel as soon as possible after the date on which all required further actions identified in the assessment have been taken and the requirements of the memorandum of understanding have been satisfied.

(e) RULE OF CONSTRUCTION REGARDING CONCURRENCES.—For the purpose of the reaching the concurrence required by subsection (b)(1), if a response action requires construction and installation of an approved remedial design, the response action shall be considered to have been taken when the construction and installation of the approved remedial design is completed and the remedy is demonstrated to the satisfaction of the Administrator to be operating properly and successfully.

(f) INCLUSIONS AND EXCEPTIONS.—

(1) INCLUSIONS.—The parcels of Arsenal property described in subsection (a) shall include all associated inventoried buildings and structures as identified in the Joliet Army Ammunition Plant Plantwide Building and Structures Report and the contaminate study sites for both the manufacturing and load assembly and packing sites of the Arsenal as shown in the Dames and Moore Final Report, Phase 2 Remedial Investigation Manufacturing (MFG) Area Joliet Army Ammunition Plant, Joliet, Illinois (May 30, 1993, Contract No. DAAA15–90–D–0015 task order No. 6 prepared for the United States Army Environmental Center).

(2) EXCEPTION.—The parcels described in subsection (a) shall not include the property at the Arsenal designated for transfer or conveyance under subtitle B.

Subtitle B—Other Land Conveyances Involving Joliet Army Ammunition Plant

SEC. 2921. CONVEYANCE OF CERTAIN REAL PROPERTY AT ARSENAL FOR A NATIONAL CEMETERY.

(a) CONVEYANCE AUTHORIZED.—Subject to section 2931, the Secretary of the Army may transfer, without reimbursement, to the Secretary of Veterans Affairs the parcel of real property at the Arsenal described in subsection (b) for use as a national cemetery operated as part of the National Cemetery System of the Department of Veterans Affairs under chapter 24 of title 38, United States Code.

(b) DESCRIPTION OF PROPERTY.—The real property authorized to be transferred under subsection (a) is a parcel of real property at the Arsenal consisting of approximately 982 acres, the approximate legal description of which includes part of sections 30 and 31, Jackson Township, Township 34 North, Range 10 East, and part of sections 25 and 36, Channahon Township, Township 34 North, Range 10 East, Will County, Illinois, as depicted in the Arsenal land use concept.

(c) SECURITY MEASURES.—The Secretary of Veterans Affairs shall provide and maintain physical and other security measures on the real property transferred under subsection (a). Such security measures (which may include fences and natural barriers) shall include measures to prevent members of the public from gaining unauthorized access to the portion of the Arsenal that is under the administrative jurisdiction of the Secretary of Veterans Affairs and that may endanger health or safety.

(d) SURVEYS.—All costs of necessary surveys for the transfer of jurisdiction of Arsenal properties from the Secretary of the Army to the Secretary of Veterans Affairs shall be borne solely by the Secretary of Veterans Affairs.

SEC. 2922. CONVEYANCE OF CERTAIN REAL PROPERTY AT ARSENAL FOR A COUNTY LANDFILL.

(a) CONVEYANCE AUTHORIZED.—Subject to section 2931, the Secretary of the Army may convey, without compensation, to Will County, Illinois, all right, title, and interest of the United States in and to the parcel of real property at the Arsenal described in subsection (b), which shall be operated as a landfill by the County.

(b) DESCRIPTION OF PROPERTY.—The real property authorized to be conveyed under subsection (a) is a parcel of real property at the Arsenal consisting of approximately 455 acres, the approximate legal description of which includes part of sections 8, 9, 16, and 17, Florence Township, Township 33 North, Range 10 East, Will County, Illinois, as depicted in the Arsenal land use concept.

(c) CONDITION ON CONVEYANCE.—The conveyance shall be subject to the condition that the Department of the Army, the Department of Veterans Affairs, and the Department of Agriculture (or their agents or assigns) may use the landfill established on the real property conveyed under subsection (a) for the disposal of construction debris, refuse, and other materials related to any restoration and cleanup of Arsenal property. Such use shall be subject to applicable environmental laws and at no cost to the Federal Government.

(d) REVERSIONARY INTEREST.—If, at the end of the five-year period beginning on the date of the conveyance under subsection (a), the Secretary of Agriculture determines that the conveyed property is not opened for operation as a landfill, then, at the option of the Secretary of Agriculture, all right, title, and interest in and to the property, including improvements thereon, shall revert to the United States. Upon any such reversion, the property shall be included in the Midewin

National Tallgrass Prairie. In the event the United States exercises its option to cause the property to revert, the United States shall have the right of immediate entry onto the property.

(e) INFORMATION REGARDING ENVIRONMENTAL CONDITIONS.—At the request of the Secretary of Agriculture, Will County, the Secretary of the Army, and the Administrator shall provide to the Secretary of Agriculture all information in their possession at the time of the request regarding the environmental condition of the real property to be conveyed under this section. The liability and responsibility of any person under any environmental law shall remain unchanged with respect to the landfill, except as provided in this title, including section 2913.

(f) SURVEYS.—All costs of necessary surveys for the conveyance of real property under this section shall be borne by Will County, Illinois.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under this section as the Secretary of the Army considers appropriate to protect the interests of the United States.

SEC. 2923. CONVEYANCE OF CERTAIN REAL PROPERTY AT ARSENAL FOR INDUSTRIAL PARKS.

(a) CONVEYANCE AUTHORIZED.—Subject to section 2931, the Secretary of the Army may convey to the State of Illinois, all right, title, and interest of the United States in and to the parcels of real property at the Arsenal described in subsection (b), which shall be used as industrial parks to replace all or a part of the economic activity lost at the Arsenal.

(b) DESCRIPTION OF PROPERTY.—The real property at the Arsenal authorized to be transferred under subsection (a) consists of the following parcels:

(1) A parcel of approximately 1,900 acres, the approximate legal description of which includes part of section 30, Jackson Township, Township 34 North, Range 10 East, and sections or parts of sections 24, 25, 26, 35, and 36, Township 34 North, Range 9 East, in Channahon Township, an area of 9.77 acres around the Des Plaines River Pump Station located in the southeast quarter of section 15, Township 34 North, Range 9 East of the Third Principal Meridian, in Channahon Township, and an area of 511 feet by 596 feet around the Kankakee River Pump Station in the Northwest Quarter of section 5, Township 33 North, Range 9 East, east of the Third Principal Meridian in Wilmington Township, containing 6.99 acres, located along the easterly side of the Kankakee Cut-Off in Will County, Illinois, as depicted in the Arsenal land use concept, and the connecting piping to the northern industrial site, as described by the United States Army Report of Availability, dated 13 December 1993.

(2) A parcel of approximately 1,100 acres, the approximate legal description of which includes part of sections 16, 17, and 18 in Florence Township, Township 33 North, Range 10 East, Will County, Illinois, as depicted in the Arsenal land use concept.

(c) CONSIDERATION.—

(1) DELAY IN PAYMENT OF CONSIDERATION.—After the end of the 20-year period beginning on the date on which the conveyance under subsection (a) is completed, the State of Illinois shall pay to the United States an amount equal to fair market value of the conveyed property as of the time of the conveyance.

(2) EFFECT OF RECONVEYANCE BY STATE.—If the State of Illinois reconveys all or any part of the conveyed property during such 20-year period, the State shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the State.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Secretary of the Army shall determine fair market value in accordance with Federal appraisal standards and procedures.

(4) TREATMENT OF LEASES.—The Secretary of the Army may treat a lease of the property within such 20-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (2).

(5) DEPOSIT OF PROCEEDS.—The Secretary of the Army shall deposit any proceeds received under this subsection in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(d) CONDITIONS OF CONVEYANCE.—

(1) REDEVELOPMENT AUTHORITY.—The conveyance under subsection (a) shall be subject to the condition that the Governor of the State of Illinois, in consultation with the Mayor of the Village of Elwood, Illinois, and the Mayor of the City of Wilmington, Illinois, establish a redevelopment authority to be responsible for overseeing the development of the industrial parks on the conveyed property.

(2) TIME FOR ESTABLISHMENT.—To satisfy the condition specified in paragraph (1), the redevelopment authority shall be established within one year after the date of the enactment of this title.

(e) SURVEYS.—All costs of necessary surveys for the conveyance of real property under this section shall be borne by the State of Illinois.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

Subtitle C—Miscellaneous Provisions

SEC. 2931. DEGREE OF ENVIRONMENTAL CLEANUP.

(a) IN GENERAL.—Nothing in this title shall be construed to restrict or lessen the degree of cleanup at the Arsenal required to be carried out under provisions of any environmental law.

(b) RESPONSE ACTION.—The establishment of the Midewin National Tallgrass Prairie under subtitle A and the additional real property transfers or conveyances authorized under subtitle B shall not restrict or lessen in any way any response action or degree of cleanup under CERCLA or other environmental law, or any action required under any environmental law to remediate petroleum products or their derivatives (including motor oil and aviation fuel), required to be carried out under the authority of the Secretary of the Army at the Arsenal and surrounding areas.

(c) ENVIRONMENTAL QUALITY OF PROPERTY.—Any contract for sale, deed, or other transfer of real property under subtitle B shall be carried out in compliance with all applicable provisions of section 120(h) of CERCLA and other environmental laws.

SEC. 2932. RETENTION OF PROPERTY USED FOR ENVIRONMENTAL CLEANUP.

(a) RETENTION OF CERTAIN PROPERTY.—Unless and until the Arsenal property described in this subsection is actually transferred or conveyed under this title or other applicable law, the Secretary of the Army may retain jurisdiction, authority, and control over real property at the Arsenal to be used for—

(1) water treatment;

(2) the treatment, storage, or disposal of any hazardous substance, pollutant or contaminant, hazardous material, or petroleum products or their derivatives;

(3) other purposes related to any response action at the Arsenal; and

(4) other actions required at the Arsenal under any environmental law to remediate contamination or conditions of noncompliance with any environmental law.

(b) CONDITIONS.—The Secretary of the Army shall consult with the Secretary of Agriculture regarding the identification and management of the real property retained under this section and ensure that activities carried out on that property are consistent, to the extent practicable, with the purposes for which the Midewin National Tallgrass Prairie is established, as specified in section 2914(c), and with the other provisions of sections 2914 and 2915.

(c) PRIORITY OF RESPONSE ACTIONS.—In the case of any conflict between management of the property by the Secretary of Agriculture and any response action required under CERCLA, or any other action required under any other environmental law, including actions to remediate petroleum products or their derivatives, the response action or other action shall take priority.

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. WEAPONS ACTIVITIES.

(a) STOCKPILE STEWARDSHIP.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of $1,567,175,000, to be allocated as follows:

(1) For core stockpile stewardship, $1,159,708,000, to be allocated as follows:

(A) For operation and maintenance, $1,078,403,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $81,305,000, to be allocated as follows:

Project 96–D–102, stockpile stewardship facilities revitalization, Phase VI, various locations, $2,520,000.

Project 96–D–103, ATLAS, Los Alamos National Laboratory, Los Alamos, New Mexico, $8,400,000.

Project 96–D–104, processing and environmental technology laboratory (PETL), Sandia National Laboratories, Albuquerque, New Mexico, $1,800,000.

Project 96–D–105, contained firing facility addition, Lawrence Livermore National Laboratory, Livermore, California, $6,600,000.

Project 95–D–102, Chemical and Metallurgy Research Building upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $9,940,000.

Project 94–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, $12,200,000.

Project 93–D–102, Nevada support facility, North Las Vegas, Nevada, $15,650,000.

Project 90–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $6,200,000.

Project 88–D–106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $17,995,000.

(2) For inertial fusion, $240,667,000, to be allocated as follows:

(A) For operation and maintenance, $203,267,000.

(B) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto), $37,400,000:

Project 96–D–111, national ignition facility, location to be determined, $37,400,000.

(3) For technology transfer and education, $160,000,000.

(4) For Marshall Islands, $6,800,000.

(b) STOCKPILE MANAGEMENT.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of $2,025,083,000, to be allocated as follows:

(1) For operation and maintenance, $1,911,458,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $113,625,000, to be allocated as follows:

Project 96–D–122, sewage treatment quality upgrade (STQU), Pantex Plant, Amarillo, Texas, $600,000.

Project 96–D–123, retrofit heating, ventilation, and air conditioning and chillers for ozone protection, Y–12 Plant, Oak Ridge, Tennessee, $3,100,000.

Project 96–D–125, Washington measurements operations facility, Andrews Air Force Base, Camp Springs, Maryland, $900,000.

Project 96–D–126, tritium loading line modifications, Savannah River Site, South Carolina, $12,200,000.

Project 95–D–122, sanitary sewer upgrade, Y–12 Plant, Oak Ridge, Tennessee, $6,300,000.

Project 94–D–124, hydrogen fluoride supply system, Y–12 Plant, Oak Ridge, Tennessee, $8,700,000.

Project 94–D–125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, $5,500,000.

Project 94–D–127, emergency notification system, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 94–D–128, environmental safety and health analytical laboratory, Pantex Plant, Amarillo, Texas, $4,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $7,200,000.

Project 93–D–123, complex–21, various locations, $41,065,000.

Project 88–D–122, facilities capability assurance program, various locations, $8,660,000.

Project 88–D–123, security enhancement, Pantex Plant, Amarillo, Texas, $13,400,000.

(c) PROGRAM DIRECTION.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for program direction in carrying out weapons activities necessary for national security programs in the amount of $115,000,000.

(d) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (c) reduced by the sum of—

(1) $37,200,000, for savings resulting from procurement reform; and

(2) $209,744,000, for use of prior year balances.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) ENVIRONMENTAL RESTORATION.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for environmental restoration in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,635,973,000.

(b) WASTE MANAGEMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,470,598,000, to be allocated as follows:

(1) For operation and maintenance, $2,295,994,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $174,604,000, to be allocated as follows:

Project 96–D–406, spent nuclear fuels canister storage and stabilization facility, Richland, Washington, $42,000,000.

Project 96–D–407, mixed waste/low-level waste treatment projects, Rocky Flats Plant, Golden, Colorado, $2,900,000.

Project 96–D–408, waste management upgrades, various locations, $5,615,000.

Project 95–D–402, install permanent electrical service, Waste Isolation Pilot Plant, Carlsbad, New Mexico, $4,314,000.

Project 95–D–405, industrial landfill V and construction/demolition landfill VII, Phase III, Y–12 Plant, Oak Ridge, Tennessee, $4,600,000.

Project 95–D–406, road 5–01 reconstruction, area 5, Nevada Test Site, Nevada, $1,023,000.

Project 95–D–407, 219–S secondary containment upgrade, Richland Washington, $1,000,000.

Project 94–D–400, high explosive wastewater treatment system, Los Alamos National Laboratory, Los Alamos, New Mexico, $4,445,000.

Project 94–D–402, liquid waste treatment system, Nevada Test Site, Nevada, $282,000.

Project 94–D–404, Melton Valley storage tank capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $11,000,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $12,000,000.

Project 94–D–411, solid waste operation complex, Richland, Washington, $6,606,000.

Project 93–D–178, building 374 liquid waste treatment facility, Rocky Flats Plant, Golden, Colorado, $3,900,000.

Project 93–D–181, radioactive liquid waste line replacement, Richland, Washington, $5,000,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $19,795,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River Site, South Carolina, $19,700,000.

Project 92–D–171, mixed waste receiving and storage facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,105,000.

Project 92–D–188, waste management environmental, safety and health (ES&H) and compliance activities, various locations, $1,100,000.

Project 90–D–172, aging waste transfer lines, Richland, Washington, $2,000,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $1,428,000.

Project 90–D–178, TSA retrieval enclosure, Idaho National Engineering Laboratory, Idaho, $2,606,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $800,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River Site, Aiken, South Carolina, $11,500,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $8,885,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River Site, Aiken, South Carolina, $1,000,000.

(c) TECHNOLOGY DEVELOPMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for technology development in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $440,510,000.

(d) TRANSPORTATION MANAGEMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for transportation management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $13,158,000.

(e) NUCLEAR MATERIALS AND FACILITIES STABILIZATION.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for nuclear materials and facilities stabilization in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,561,854,000 to be allocated as follows:

(1) For operation and maintenance, $1,447,108,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $114,746,000, to be allocated as follows:

Project 96–D–457, thermal treatment system, Richland Washington, $1,000,000.

Project 96–D–458, site drainage control, Mound Plant, Miamisburg, Ohio, $885,000.

Project 96–D–461, electrical distribution upgrade, Idaho National Engineering Laboratory, Idaho, $1,539,000.

Project 96–D–464, electrical and utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $4,952,000.

Project 96–D–468, residue elimination project, Rocky Flats Plant, Golden, Colorado, $33,100,000.

Project 96–D–471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, $1,500,000.

Project 95–D–155, upgrade site road infrastructure, Savannah River Site, South Carolina, $2,900,000.

Project 95–D–156, radio trunking system, Savannah River Site, South Carolina, $6,000,000.

Project 95–D–454, 324 facility compliance/renovation, Richland, Washington, $3,500,000.

Project 95–D–456, security facilities upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $8,382,000.

Project 94–D–122, underground storage tanks, Rocky Flats Plant, Golden, Colorado, $5,000,000.

Project 94–D–401, emergency response facility, Idaho National Engineering Laboratory, Idaho, $5,074,000.

Project 94–D–412, 300 area process sewer piping upgrade, Richland, Washington, $1,000,000.

Project 94–D–415, medical facilities, Idaho National Engineering Laboratory, Idaho, $3,601,000.

Project 94–D–451, infrastructure replacement, Rocky Flats Plant, Golden, Colorado, $2,940,000.

Project 93–D–147, domestic water system upgrade, Phase I and II, Savannah River Site, Aiken, South Carolina, $7,130,000.

Project 92–D–123, plant fire/security alarm systems replacement, Rocky Flats Plant, Golden, Colorado, $9,560,000.

Project 92–D–125, master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, Golden, Colorado, $7,000,000.

Project 92–D–181, fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $6,883,000.

Project 91–D–127, criticality alarm and plant annunciation utility replacement, Rocky Flats Plant, Golden, Colorado, $2,800,000.

(f) COMPLIANCE AND PROGRAM COORDINATION.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for compliance and program coordination in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $46,251,000, to be allocated as follows:

(1) For operation and maintenance, $31,251,000.

(2) For the following plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of a project authorized in prior years, and land acquisition related thereto):

Project 95–E–600, hazardous materials training center, Richland, Washington, $15,000,000.

(g) ANALYSIS, EDUCATION, AND RISK MANAGEMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for analysis, education, and risk management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $78,522,000.

(h) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (g) reduced by the sum of—

(1) $652,334,000, for use of prior year balances; and

(2) $37,000,000, for Savannah River Pension Refund.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

(a) OTHER DEFENSE ACTIVITIES.—Subject to subsection (b), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for other defense activities in carrying out programs necessary for national security in the amount of $1,351,975,600, to be allocated as follows:

(1) For verification and control technology, $428,205,600, to be allocated as follows:

(A) For nonproliferation and verification research and development, $224,905,000.

(B) For arms control, $160,964,600.

(C) For intelligence, $42,336,000.

(2) For nuclear safeguards and security, $83,395,000.

(3) For security investigations, $20,000,000.

(4) For security evaluations, $14,707,000.

(5) For the Office of Nuclear Safety, $17,679,000.

(6) For worker and community transition assistance, $82,500,000.

(7) For fissile materials disposition, $70,000,000.

(8) For emergency management, $23,321,000.

(9) For naval reactors development, $682,168,000, to be allocated as follows:

(A) For operation and infrastructure, $652,568,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $29,600,000, to be allocated as follows:

Project GPN–101, general plant projects, various locations, $6,600,000.

Project 95–D–200, laboratory systems and hot cell upgrades, various locations, $11,300,000.

Project 95–D–201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, $4,800,000.

Project 93–D–200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $3,900,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $3,000,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to this section is the amount authorized to be appropriated in subsection (a) reduced by $70,000,000, for use of prior year balances.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $248,400,000.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) $1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $2,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $2,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by sections 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY; LIMITATIONS.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than five percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(3) The authority provided by this section to transfer authorizations—

(A) may only be used to provide funds for items relating to weapons activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(B) may not be used to provide authority for an item that has been denied funds by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a

national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than $2,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds $600,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including those funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, and 3103, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriations Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. AUTHORITY TO CONDUCT PROGRAM RELATING TO FISSILE MATERIALS.

(a) AUTHORITY.—The Secretary of Energy may conduct programs designed to improve the protection, control, and accountability of fissile materials in Russia.

(b) SEMI-ANNUAL REPORTS ON OBLIGATION OF FUNDS.—(1) Not later than 30 days after the date of the enactment of this Act, and thereafter not later than April 1 and October 1 of each year, the Secretary of Energy shall submit to Congress a report on each obligation during the preceding six months of funds appropriated for a program described in subsection (a).

(2) Each such report shall specify—

(A) the activities and forms of assistance for which the Secretary of Energy has obligated funds;

(B) the amount of the obligation;

(C) the activities and forms of assistance for which the Secretary anticipates obligating funds during the six months immediately following the report, and the amount of each such anticipated obligation; and

(D) the projected involvement (if any) of any department or agency of the United States (in addition to the Department of Energy) and of the private sector of the United States in the activities and forms of assistance for which the Secretary of Energy has obligated funds referred to in subparagraph (A).

SEC. 3132. NATIONAL IGNITION FACILITY.

None of the funds authorized to be appropriated pursuant to this title for construction of the National Ignition Facility may be obligated until—

(1) the Secretary of Energy determines that the construction of the National Ignition Facility will not impede the nuclear nonproliferation objectives of the United States; and

(2) the Secretary of Energy notifies the congressional defense committees of that determination.

SEC. 3133. TRITIUM PRODUCTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a tritium production program that is capable of meeting the tritium requirements of the United States for nuclear weapons. In carrying out the tritium production program, the Secretary shall—

(1) complete the tritium supply and recycling environmental impact statement in preparation by the Secretary as of the date of the enactment of this Act; and

(2) assess alternative means for tritium production, including production through—

(A) types of new and existing reactors, including multipurpose reactors (such as advanced light water reactors and gas turbine gas-cooled reactors) capable of meeting both the tritium production requirements and the plutonium disposition requirements of the United States for nuclear weapons;

(B) an accelerator; and

(C) multipurpose reactor projects carried out by the private sector and the Government.

(b) FUNDING.—Of funds authorized to be appropriated to the Department of Energy pursuant to section 3101, not more than $50,000,000 shall be available for the tritium production program established pursuant to subsection (a).

(c) LOCATION OF TRITIUM PRODUCTION FACILITY.—The Secretary shall locate any new tritium production facility of the Department of Energy at the Savannah River Site, South Carolina.

(d) COST-BENEFIT ANALYSIS.—(1) The Secretary shall include in the statements referred to in paragraph (2) a comparison of the costs and benefits of carrying out two projects for the separate performance of the tritium production mission of the Department and the plutonium disposition mission of the Department with the costs and benefits of carrying out one multipurpose project for the performance of both such missions.

(2) The statements referred to in paragraph (1) are—

(A) the environmental impact statement referred to in subsection (a)(1);

(B) the plutonium disposition environmental impact statement in preparation by the Secretary as of the date of the enactment of this Act; and

(C) assessments related to the environmental impact statements referred to in subparagraphs (A) and (B).

(e) REPORT.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the tritium production program established pursuant to subsection (a). The report shall include a specification of—

(1) the planned expenditures of the Department during fiscal year 1996 for any of the alternative means for tritium production assessed under subsection (a)(2);

(2) the amount of funds required to be expended by the Department, and the program milestones (including feasibility demonstrations) required to be met, during fiscal years 1997 through 2001 to ensure tritium production beginning not later than 2005 that is adequate to meet the tritium requirements of the United States for nuclear weapons; and

(3) the amount of such funds to be expended and such program milestones to be met during such fiscal years to ensure such tritium production beginning not later than 2011.

(f) TRITIUM TARGETS.—Of the funds made available pursuant to subsection (b), not more than $5,000,000 shall be available for the Idaho National Engineering Laboratory for the test and development of nuclear reactor tritium targets for the types of reactors assessed under subsection (a)(2)(A).

SEC. 3134. PAYMENT OF PENALTIES.

The Secretary of Energy may pay to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507), from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3102, stipulated civil penalties in the amount of $350,000 assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against the Rocky Flats Site, Colorado.

SEC. 3135. FISSILE MATERIALS DISPOSITION.

(a) IN GENERAL.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1996 pursuant to section 3103, $70,000,000 shall be available only for purposes of completing the evaluation of, and commencing implementation of, the interim- and long-term storage and disposition (including storage and disposition through the use of advanced light water reactors and gas turbine gas-cooled reactors) of fissile materials (including plutonium, highly enriched uranium, and other fissile materials) that are excess to the national security needs of the United States.

(b) AVAILABILITY OF FUNDS FOR MULTIPURPOSE REACTORS.—Of funds made available pursuant to subsection (a), sufficient funds shall be made available for the complete consideration of multipurpose reactors for the disposition of fissile materials in the programmatic environmental impact statement of the Department.

(c) LIMITATION.—Of funds made available pursuant to subsection (a), $10,000,000 shall be available only for a plutonium resource assessment.

SEC. 3136. TRITIUM RECYCLING.

(a) IN GENERAL.—Except as provided in subsection (b), the following activities shall be carried out at the Savannah River Site, South Carolina:

(1) All tritium recycling for weapons, including tritium refitting.

(2) All activities regarding tritium formerly carried out at the Mound Plant, Ohio.

(b) EXCEPTION.—The following activities may be carried out at the Los Alamos National Laboratory, New Mexico:

(1) Research on tritium.

(2) Work on tritium in support of the defense inertial confinement fusion program.

(3) Provision of technical assistance to the Savannah River Site regarding the weapons surveillance program.

SEC. 3137. MANUFACTURING INFRASTRUCTURE FOR REFABRICATION AND CERTIFICATION OF NUCLEAR WEAPONS STOCKPILE.

(a) MANUFACTURING PROGRAM.—The Secretary of Energy shall carry out a program for purposes of establishing within the Government a manufacturing infrastructure that has the capabilities of meeting the following objectives as specified in the Nuclear Posture Review:

(1) To provide a stockpile surveillance engineering base.

(2) To refabricate and certify weapon components and types in the enduring nuclear weapons stockpile, as necessary.

(3) To fabricate and certify new nuclear warheads, as necessary.

(4) To support nuclear weapons.

(5) To supply sufficient tritium in support of nuclear weapons to ensure an upload hedge in the event circumstances require.

(b) REQUIRED CAPABILITIES.—The manufacturing infrastructure established under the program under subsection (a) shall include the following capabilities (modernized to attain the objectives referred to in that subsection):

(1) The weapons assembly capabilities of the Pantex Plant.

(2) The weapon secondary fabrication capabilities of the Y–12 Plant, Oak Ridge, Tennessee.

(3) The tritium production, recycling, and other weapons-related capabilities of the Savannah River Site.

(4) The non-nuclear component capabilities of the Kansas City Plant.

(c) NUCLEAR POSTURE REVIEW.—For purposes of subsection (a), the term ''Nuclear Posture Review'' means the Department of Defense Nuclear Posture Review as contained in the Report of the Secretary of Defense to the President and the Congress dated February 19, 1995, or subsequent such reports.

(d) FUNDING.—Of the funds authorized to be appropriated under section 3101(b), $143,000,000 shall be available for carrying out the program required under this section, of which—

(1) $35,000,000 shall be available for activities at the Pantex Plant;

(2) $30,000,000 shall be available for activities at the Y–12 Plant, Oak Ridge, Tennessee;

(3) $35,000,000 shall be available for activities at the Savannah River Site; and

(4) $43,000,000 shall be available for activities at the Kansas City Plant.

(e) PLAN AND REPORT.—The Secretary shall develop a plan for the implementation of this section. Not later than March 1, 1996, the Secretary shall submit to Congress a report on the obligations the Secretary has incurred, and plans to incur, during fiscal year 1996 for the program referred to in subsection (a).

SEC. 3138. HYDRONUCLEAR EXPERIMENTS.

Of the funds authorized to be appropriated to the Department of Energy pursuant to section 3101, $30,000,000 shall be available to prepare for the commencement of a program of hydronuclear experiments at the nuclear weapons design laboratories at the Nevada Test Site, Nevada. The purpose of the program shall be to maintain confidence in the reliability and safety of the nuclear weapons stockpile.

SEC. 3139. LIMITATION ON AUTHORITY TO CONDUCT HYDRONUCLEAR TESTS.

Nothing in this Act may be construed to authorize the conduct of hydronuclear tests or to amend or repeal the requirements of section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102–377; 106 Stat. 1343; 42 U.S.C. 2121 note).

SEC. 3140. FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO THE DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX.

(a) IN GENERAL.—The Secretary of Energy shall conduct a fellowship program for the development of skills critical to the ongoing mission of the Department of Energy nuclear weapons complex. Under the fellowship program, the Secretary shall—

(1) provide educational assistance and research assistance to eligible individuals to facilitate the development by such individuals of skills critical to maintaining the ongoing mission of the Department of Energy nuclear weapons complex;

(2) employ eligible individuals at the facilities described in subsection (c) in order to facilitate the development of such skills by these individuals; or

(3) provide eligible individuals with the assistance and the employment.

(b) ELIGIBLE INDIVIDUALS.—Individuals eligible for participation in the fellowship program are the following:

(1) Students pursuing graduate degrees in fields of science or engineering that are related to nuclear weapons engineering or to the science and technology base of the Department of Energy.

(2) Individuals engaged in postdoctoral studies in such fields.

(c) COVERED FACILITIES.—The Secretary shall carry out the fellowship program at or in connection with the following facilities:

(1) The Kansas City Plant, Kansas City, Missouri.

(2) The Pantex Plant, Amarillo, Texas.

(3) The Y–12 Plant, Oak Ridge, Tennessee.

(4) The Savannah River Site, Aiken, South Carolina.

(d) ADMINISTRATION.—The Secretary shall carry out the fellowship program at a facility referred to in subsection (c) through the stockpile manager of the facility.

(e) ALLOCATION OF FUNDS.—The Secretary shall, in consultation with the Assistant Secretary of Energy for Defense Programs, allocate funds available for the fellowship program under subsection (f) among the facilities referred to in subsection (c). The Secretary shall make the allocation after evaluating an assessment by the weapons program director of each such facility of the personnel and critical skills necessary at the facility for carrying out the ongoing mission of the facility.

(f) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1996 under section 3101(b), $10,000,000 may be used for the purpose of carrying out the fellowship program under this section.

SEC. 3141. LIMITATION ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.

Funds appropriated or otherwise made available to the Department of Energy for fiscal year 1996 under section 3101 may be obligated and expended for activities under the Department of Energy Laboratory Directed Research and Development Program or under Department of Energy technology transfer programs only if such activities support the national security mission of the Department.

SEC. 3142. PROCESSING AND TREATMENT OF HIGH-LEVEL NUCLEAR WASTE AND SPENT NUCLEAR FUEL RODS.

(a) PROCESSING OF SPENT NUCLEAR FUEL RODS.—Of the amounts appropriated pursuant to section 3102, there shall be available to the Secretary of Energy to respond effectively to new requirements for managing spent nuclear fuel—

(1) not more than $30,000,000, for the Savannah River Site for the development and implementation of a program for the processing, reprocessing, separation, reduction, isolation, and interim storage of high-level nuclear waste associated with aluminum clad spent fuel rods and foreign spent fuel rods; and

(2) not more than $15,000,000, for the Idaho National Engineering Laboratory for the development and implementation of a program for the treatment, preparation, and conditioning of high-level nuclear waste and spent nuclear fuel (including naval spent nuclear fuel), nonaluminum clad fuel rods, and foreign fuel rods for interim storage and final disposition.

(b) IMPLEMENTATION PLAN.—Not later than April 30, 1996, the Secretary shall submit to Congress a five-year plan for the implementation of the programs referred to in subsection (a). The plan shall include—

(1) an assessment of the facilities required to be constructed or upgraded to carry out the processing, separation, reduction, isolation and interim storage of high-level nuclear waste;

(2) a description of the technologies, including stabilization technologies, that are required to be developed for the efficient conduct of the programs;

(3) a projection of the dates upon which activities under the programs are sufficiently completed to provide for the transfers of such waste to permanent repositories; and

(4) a projection of the total cost to complete the programs.

(c) ELECTROMETALLURGICAL WASTE TREATMENT TECHNOLOGIES.—Of the amount appropriated pursuant to section 3102(c), not more than $25,000,000 shall be available for development of electrometallurgical waste treatment technologies at the Argonne National Laboratory.

(d) USE OF FUNDS FOR SETTLEMENT AGREEMENT.—Funds made available pursuant to subsection (a)(2) for the Idaho National Engineering Laboratory shall be considered to be funds made available in partial fulfillment of the terms and obligations set forth in the settlement agreement entered into by the United States with the State of Idaho in the actions captioned Public Service Co. of Colorado v. Batt, Civil No. 91–0035–S–EJL, and United States v. Batt, Civil No. 91–0054–S–EJL, in the United States District Court for the District of Idaho and the consent order of the United States District Court for the District of Idaho, dated October 17, 1995, that effectuates the settlement agreement.

SEC. 3143. PROTECTION OF WORKERS AT NUCLEAR WEAPONS FACILITIES.

Of the funds authorized to be appropriated to the Department of Energy under section 3102, $10,000,000 shall be available to carry out activities authorized under section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571; 42 U.S.C. 7274d), relating to worker protection at nuclear weapons facilities.

SEC. 3144. DEPARTMENT OF ENERGY DECLASSIFICATION PRODUCTIVITY INITIATIVE.

Of the funds authorized to be appropriated to the Department of Energy under section 3103, $3,000,000 shall be available for the Declassification Productivity Initiative of the Department of Energy.

Subtitle D—Other Matters

SEC. 3151. REPORT ON FOREIGN TRITIUM PURCHASES.

(a) REPORT.—Not later than May 1, 1996, the President shall submit to the congressional defense committees a report on the

feasibility of, the cost of, and the policy, legal, and other issues associated with purchasing tritium from various foreign suppliers in order to ensure an adequate supply of tritium in the United States for nuclear weapons.

(b) FORM OF REPORT.—The report shall be submitted in unclassified form, but may contain a classified appendix.

SEC. 3152. STUDY ON NUCLEAR TEST READINESS POSTURES.

Not later than February 15, 1996, the Secretary of Energy shall submit to Congress a report on the costs, programmatic issues, and other issues associated with sustaining the capability of the Department of Energy—

(1) to conduct an underground nuclear test 6 months after the date on which the President determines that such a test is necessary to ensure the national security of the United States;

(2) to conduct such a test 18 months after such date; and

(3) to conduct such a test 36 months after such date.

SEC. 3153. MASTER PLAN FOR THE CERTIFICATION, STEWARDSHIP, AND MANAGEMENT OF WARHEADS IN THE NUCLEAR WEAPONS STOCKPILE.

(a) MASTER PLAN REQUIREMENT.—Not later than March 15, 1996, the President shall submit to Congress a master plan for maintaining the nuclear weapons stockpile. The President shall submit to Congress an update of the master plan not later than March 15 of each year thereafter.

(b) PLAN ELEMENTS.—The master plan and each update of the master plan shall set forth the following:

(1) The numbers of weapons (including active and inactive weapons) for each type of weapon in the nuclear weapons stockpile.

(2) The expected design lifetime of each weapon type, the current age of each weapon type, and any plans (including the analytical basis for such plans) for lifetime extensions of a weapon type.

(3) An estimate of the lifetime of the nuclear and nonnuclear components of the weapons (including active weapons and inactive weapons) in the nuclear weapons stockpile, and any plans (including the analytical basis for such plans) for lifetime extensions of such components.

(4) A schedule of the modifications, if any, required for each weapon type (including active and inactive weapons) in the nuclear weapons stockpile and the cost of such modifications.

(5) The process to be used in recertifying the safety, reliability, and performance of each weapon type (including active weapons and inactive weapons) in the nuclear weapons stockpile.

(6) The manufacturing infrastructure required to maintain the nuclear weapons stockpile stewardship and management programs, including a detailed project plan that demonstrates the manner by which the Government will develop by 2002 the capability to refabricate and certify warheads in the nuclear weapons stockpile and to design, fabricate, and certify new warheads.

(c) FORM OF PLAN.—The master plan and each update of the master plan shall be submitted in unclassified form, but may contain a classified appendix.

SEC. 3154. PROHIBITION ON INTERNATIONAL INSPECTIONS OF DEPARTMENT OF ENERGY FACILITIES UNLESS PROTECTION OF RESTRICTED DATA IS CERTIFIED.

(a) PROHIBITION ON INSPECTIONS.—(1) The Secretary of Energy may not allow an inspection of a nuclear weapons facility by the International Atomic Energy Agency until the Secretary certifies to Congress that no restricted data will be revealed during such inspection.

(2) For purposes of paragraph (1), the term ''restricted data'' has the meaning provided by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

(b) EXTENSION OF NOTICE-AND-WAIT REQUIREMENT REGARDING PROPOSED COOPERATION AGREEMENTS.—Section 3155(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3092) is amended by striking out ''December 31, 1995'' and inserting in lieu thereof ''October 1, 1996''.

SEC. 3155. REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE.

(a) IN GENERAL.—The Secretary of Energy shall ensure that, before a document of the Department of Energy that contains national security information is released or declassified, such document is reviewed to determine whether it contains restricted data.

(b) LIMITATION ON DECLASSIFICATION.—The Secretary may not implement the automatic declassification provisions of Executive Order 12958 if the Secretary determines that such implementation could result in the automatic declassification and release of documents containing restricted data.

(c) RESTRICTED DATA DEFINED.—In this section, the term ''restricted data'' has the meaning provided by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

SEC. 3156. ACCELERATED SCHEDULE FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT ACTIVITIES.

(a) ACCELERATED CLEANUP.—The Secretary of Energy shall accelerate the schedule for environmental restoration and waste management activities and projects for a site at a Department of Energy defense nuclear facility if the Secretary determines that such an accelerated schedule will achieve meaningful, long-term cost savings to the Federal Government and could substantially accelerate the release of land for local reuse.

(b) CONSIDERATION OF FACTORS.—In making a determination under subsection (a), the Secretary shall consider the following:

(1) The cost savings achievable by the Federal Government.

(2) The amount of time for completion of environmental restoration and waste management activities and projects at the site that can be reduced from the time specified for completion of such activities and projects in the baseline environmental management report required to be submitted for 1995 under section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 7274k).

(3) The potential for reuse of the site.

(4) The risks that the site poses to local health and safety.

(5) The proximity of the site to populated areas.

(c) REPORT.—Not later than May 1, 1996, the Secretary shall submit to Congress a report on each site for which the Secretary has accelerated the schedule for environmental restoration and waste management activities and projects under subsection (a). The report shall include an explanation of the basis for the determination for that site required by such subsection, including an explanation of the consideration of the factors described in subsection (b).

(d) SAVINGS PROVISION.—Nothing in this section may be construed to affect a specific statutory requirement for a specific environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment.

SEC. 3157. SENSE OF CONGRESS REGARDING CERTAIN ENVIRONMENTAL RESTORATION REQUIREMENTS.

It is the sense of Congress that—

(1) an individual acting within the scope of that individual's employment with a Federal agency should not be personally subject to civil or criminal sanctions (to the extent such sanctions are provided for by law) as a result of the failure to comply with an environmental cleanup requirement under the Solid Waste Disposal Act or the Comprehensive Environmental Response, Compensation, and Liability Act or an analogous requirement under a comparable Federal, State, or local law, in any circumstance under which such failure to comply is due to an insufficiency of funds appropriated to carry out such requirement;

(2) Federal and State enforcement authorities should refrain from an enforcement action in a circumstance described in paragraph (1); and

(3) if funds appropriated for a fiscal year after fiscal year 1995 are insufficient to carry out any such environmental cleanup requirement, Congress should elicit the views of Federal agencies, affected States, and the public, and consider appropriate legislative action to address personal criminal liability in a circumstance described in paragraph (1) and any related issues pertaining to potential liability of a Federal agency.

SEC. 3158. RESPONSIBILITY FOR DEFENSE PROGRAMS EMERGENCY RESPONSE PROGRAM.

The Office of Military Applications under the Assistant Secretary of Energy for Defense Programs shall retain responsibility for the Defense Programs Emergency Response Program within the Department of Energy.

SEC. 3159. REQUIREMENTS FOR DEPARTMENT OF ENERGY WEAPONS ACTIVITIES BUDGETS FOR FISCAL YEARS AFTER FISCAL YEAR 1996.

(a) IN GENERAL.—The weapons activities budget of the Department of Energy shall be developed in accordance with the Nuclear Posture Review, the Post Nuclear Posture Review Stockpile Memorandum currently under development, and the programmatic and technical requirements associated with the review and memorandum.

(b) REQUIRED DETAIL.—The Secretary of Energy shall include in the materials that the Secretary submits to Congress in support of the budget for a fiscal year submitted by the President pursuant to section 1105 of title 31, United States Code, a long-term program plan, and a near-term program plan, for the certification and stewardship of the nuclear weapons stockpile.

(c) DEFINITION.—In this section, the term ''Nuclear Posture Review'' means the Department of Defense Nuclear Posture Review as contained in the report of the Secretary of Defense to the President and the Congress dated February 19, 1995, or in subsequent such reports.

SEC. 3160. REPORT ON HYDRONUCLEAR TESTING.

(a) REPORT.—The Secretary of Energy shall direct the joint preparation by the Directors of the Lawrence Livermore National Laboratory and the Los Alamos National Laboratory of a report on the advantages and disadvantages with respect to the safety and reliability of the nuclear weapons stockpile of permitting alternative limits to the current limit on the explosive yield of hydronuclear and other explosive tests. The report shall address the following explosive yield limits:

(1) 4 pounds (TNT equivalent).

(2) 400 pounds (TNT equivalent).

(3) 4,000 pounds (TNT equivalent).

(4) 40,000 pounds (TNT equivalent).

(5) 400 tons (TNT equivalent).

(b) FUNDING.—The Secretary shall make available funds appropriated to the Department of Energy pursuant to section 3101 for preparation of the report required under subsection (a).

SEC. 3161. APPLICABILITY OF ATOMIC ENERGY COMMUNITY ACT OF 1955 TO LOS ALAMOS, NEW MEXICO.

(a) DATE OF TRANSFER OF UTILITIES.—Section 72 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2372) is amended by striking out ''not later than five years after the date it is included within this Act'' and inserting in lieu thereof ''not later than June 30, 1998''.

(b) DATE OF TRANSFER OF MUNICIPAL INSTALLATIONS.—Section 83 of such Act (42 U.S.C. 2383) is amended by striking out ''not later than five years after the date it is included within this Act'' and inserting in lieu thereof ''not later than June 30, 1998''.

(c) RECOMMENDATION FOR FURTHER ASSISTANCE PAYMENTS.—Section 91d. of such Act (42 U.S.C. 2391) is amended—

(1) by striking out '', and the Los Alamos School Board;'' and all that follows through ''county of Los Alamos, New Mexico'' and inserting in lieu thereof ''; or not later than June 30, 1996, in the case of the Los Alamos School Board and the county of Los Alamos, New Mexico''; and

(2) by adding at the end the following new sentence: ''If the recommendation under the preceding sentence regarding the Los Alamos School Board or the county of Los Alamos, New Mexico, indicates a need for further assistance for the school board or the county, as the case may be, after June 30, 1997, the recommendation shall include a report and plan describing the actions required to eliminate the need for further assistance for the school board or the county, including a proposal for legislative action to carry out the plan.''.

(d) CONTRACT TO MAKE PAYMENTS.—Section 94 of such Act (42 U.S.C. 2394) is amended—

(1) by striking out ''June 30, 1996'' each place it appears in the proviso in the first sentence and inserting in lieu thereof ''June 30, 1997''; and

(2) by striking out ''July 1, 1996'' in the second sentence and inserting in lieu thereof ''July 1, 1997''.

SEC. 3162. SENSE OF CONGRESS REGARDING SHIPMENTS OF SPENT NUCLEAR FUEL.

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

(1) The United States has entered into a settlement agreement with the State of Idaho in the actions captioned Public Service Co. of Colorado v. Batt, Civil No. 91–0035–S–EJL, and United States v. Batt, Civil No. 91–0054–S–EJL, in the United States District Court for the District of Idaho, regarding shipment of naval spent nuclear fuel to Idaho, examination and storage of such fuel in Idaho, and other matters.

(2) Under this court enforceable agreement—

(A) the State of Idaho has agreed—

(i) to accept 575 shipments of naval spent nuclear fuel from the Navy into Idaho between October 17, 1995 and 2035;

(ii) to accept certain shipments of spent nuclear fuel from the Department of Energy into Idaho between October 17, 1995 and 2035; and

(iii) to allow the Navy and the Department of Energy, on an interim basis, to store the spent nuclear fuel in Idaho over the next 40 years; and

(B) the United States has made commitments—

(i) to remove all spent nuclear fuel (except certain quantities for testing) from Idaho by 2035; and

(ii) to facilitate the cleanup and stabilization of radioactive waste at the Idaho National Engineering Laboratory.

(3) The settlement agreement allows the Department of Energy and the Department of the Navy to meet responsibilities that are important to the national security interests of the United States.

(4) Authorizations and appropriations of funds will be necessary in order to provide for fulfillment of the terms and obligations set forth in the settlement agreement.

(b) SENSE OF CONGRESS.—(1) Congress recognizes the need to implement the terms, conditions, rights, and obligations contained in the settlement agreement referred to in subsection (a)(1) and the consent order of the United States District Court for the District of Idaho, dated October 17, 1995, that effectuates the settlement agreement in accordance with those terms, conditions, rights, and obligations.

(2) It is the sense of Congress that funds requested by the President to carry out the settlement agreement and such consent order should be appropriated for that purpose.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1996, $17,000,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Subtitle A—Authorization of Disposals and Use of Funds

SEC. 3301. DEFINITIONS.

For purposes of this subtitle:

(1) The term ''National Defense Stockpile'' means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term ''National Defense Stockpile Transaction Fund'' means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 1996, the National Defense Stockpile Manager may obligate up to $77,100,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3303. DISPOSAL OF CHROMITE AND MANGANESE ORES AND CHROMIUM FERRO AND MANGANESE METAL ELECTROLYTIC.

(a) DOMESTIC UPGRADING.—In offering to enter into agreements pursuant to any provision of law for the disposal from the National Defense Stockpile of chromite and manganese ores or chromium ferro and manganese metal electrolytic, the President shall give a right of first refusal on all such offers to domestic ferroalloy upgraders.

(b) DOMESTIC FERROALLOY UPGRADER DEFINED.—For purposes of this section, the term ''domestic ferroalloy upgrader'' means a company or other business entity that, as determined by the President—

(1) is engaged in operations to upgrade chromite or manganese ores of metallurgical grade or chromium ferro and manganese metal electrolytic; and

(2) conducts a significant level of its research, development, engineering, and upgrading operations in the United States.

SEC. 3304. RESTRICTIONS ON DISPOSAL OF MANGANESE FERRO.

(a) DISPOSAL OF LOWER GRADE MATERIAL FIRST.—The President may not dispose of high carbon manganese ferro in the National Defense Stockpile that meets the National Defense Stockpile classification of Grade One, Specification 30(a), as revised on May 22, 1992, until completing the disposal of all manganese ferro in the National Defense Stockpile that does not meet such classification. The President may not reclassify manganese ferro in the National Defense Stockpile after the date of the enactment of this Act.

(b) REQUIREMENT FOR REMELTING BY DOMESTIC FERROALLOY PRODUCERS.—Manganese ferro in the National Defense Stockpile that does not meet the classification specified in subsection (a) may be sold only for remelting by a domestic ferroalloy producer unless the President determines that a domestic ferroalloy producer is not available to acquire the material.

(c) DOMESTIC FERROALLOY PRODUCER DEFINED.—For purposes of this section, the term ''domestic ferroalloy producer'' means a company or other business entity that, as determined by the President—

(1) is engaged in operations to upgrade manganese ores of metallurgical grade or manganese ferro; and

(2) conducts a significant level of its research, development, engineering, and upgrading operations in the United States.

SEC. 3305. TITANIUM INITIATIVE TO SUPPORT BATTLE TANK UPGRADE PROGRAM.

During each of the fiscal years 1996 through 2003, the Secretary of Defense shall transfer from stocks of the National Defense Stockpile up to 250 short tons of titanium sponge to the Secretary of the Army for use in the weight reduction portion of the main battle tank upgrade program. Transfers under this section shall be without charge to the Army, except that the Secretary of the Army shall pay all transportation and related costs incurred in connection with the transfer.

Subtitle B—Programmatic Change

SEC. 3311. TRANSFER OF EXCESS DEFENSE-RELATED MATERIALS TO STOCKPILE FOR DISPOSAL.

(a) TRANSFER AND DISPOSAL.—Section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c) is amended by adding at the end the following new subsection:

''(c)(1) The Secretary of Energy, in consultation with the Secretary of Defense, shall transfer to the stockpile for disposal in accordance with this Act uncontaminated materials that are in the Department of Energy inventory of materials for the production of defense-related items, are excess to the requirements of the Department for that purpose, and are suitable for transfer to the stockpile and disposal through the stockpile.

''(2) The Secretary of Defense shall determine whether materials are suitable for transfer to the stockpile under this subsection, are suitable for disposal through the stockpile, and are uncontaminated.''.

(b) CONFORMING AMENDMENT.—Subsection (a) of such section is amended by adding at the end the following:

''(10) Materials transferred to the stockpile under subsection (c).''.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Subtitle A—Administration of Naval Petroleum Reserves

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to the Secretary of Energy $148,786,000 for fiscal year 1996 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves (as defined in section 7420(2) of such title). Funds appropriated pursuant to such authorization shall remain available until expended. Of the amount appropriated pursuant to the authorization of appropriations in the preceding sentence, the Secretary may use not more than $7,000,000 for carrying out activities related to the sale of Naval Petroleum Reserve Numbered 1 under section 3412.

SEC. 3402. PRICE REQUIREMENT ON SALE OF CERTAIN PETROLEUM DURING FISCAL YEAR 1996.

Notwithstanding section 7430(b)(2) of title 10, United States Code, during fiscal year 1996, any sale of any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 1, 2, and 3 shall be made at a price not less than 90 percent of the current sales price, as estimated by the Secretary of Energy, of comparable petroleum in the same area.

SEC. 3403. EXTENSION OF OPERATING CONTRACT FOR NAVAL PETROLEUM RESERVE NUMBERED 1.

Section 3503 of the National Defense Authorization Act of Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3111) is amended by striking out ''two years'' in the first sentence and inserting in lieu thereof ''three years''.

Subtitle B—Sale of Naval Petroleum Reserve

SEC. 3411. DEFINITIONS.

For purposes of this subtitle:

(1) The terms ''Naval Petroleum Reserve Numbered 1'' and ''reserve'' mean Naval Petroleum Reserve Numbered 1, commonly referred to as the Elk Hills Unit, located in Kern County, California, and established by Executive order of the President, dated September 2, 1912.

(2) The term ''naval petroleum reserves'' has the meaning given that term in section 7420(2) of title 10, United States Code, except that the term does not include Naval Petroleum Reserve Numbered 1.

(3) The term ''unit plan contract'' means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 entered into on June 19, 1944.

(4) The term ''effective date'' means the date of the enactment of this Act.

(5) The term ''Secretary'' means the Secretary of Energy.

(6) The term ''appropriate congressional committees means the Committee on Armed Services of the Senate and the Committee on National Security and the Committee on Commerce of the House of Representatives.

SEC. 3412. SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.

(a) SALE OF RESERVE REQUIRED.—Subject to section 3414, not later than two years after the effective date, the Secretary of Energy shall enter into one or more contracts for the sale of all right, title, and interest of the United States in and to all lands owned or controlled by the United States inside Naval Petroleum Reserve Numbered 1. Chapter 641 of title 10, United States Code, shall not apply to the sale of the reserve.

(b) EQUITY FINALIZATION.—(1) Not later than eight months after the effective date, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in Naval Petroleum Reserve Numbered 1 in accordance with the recommendation, or the Secretary may use such other method to establish final equity interest in the reserve as the Secretary considers appropriate.

(3) If, on the effective date, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, the dispute shall be resolved in the manner provided in the unit plan contract within eight months after the effective date. The resolution shall be considered final for all purposes under this section.

(c) NOTICE OF SALE.—Not later than two months after the effective date, the Secretary shall publish a notice of intent to sell Naval Petroleum Reserve Numbered 1. The Secretary shall make all technical, geological, and financial information relevant to the sale of the reserve available to all interested and qualified buyers upon request. The Secretary, in consultation with the Administrator of General Services, shall ensure that the sale process is fair and open to all interested and qualified parties.

(d) ESTABLISHMENT OF MINIMUM SALE PRICE.—(1) Not later than seven months after the effective date, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the value of the interest of the United States in Naval Petroleum Reserve Numbered 1. The independent experts shall complete their assessments within 11 months after the effective date. In making their assessments, the independent experts shall consider (among other factors)—

(A) all equipment and facilities to be included in the sale;

(B) the estimated quantity of petroleum and natural gas in the reserve; and

(C) the net present value of the anticipated revenue stream that the Secretary and the Director of the Office of Management and Budget jointly determine the Treasury would receive from the reserve if the reserve were not sold, adjusted for any anticipated increases in tax revenues that would result if the reserve were sold.

(2) The independent experts retained under paragraph (1) shall also determine and submit to the Secretary the estimated total amount of the cost of any environmental restoration and remediation necessary at the reserve. The Secretary shall report the estimate to the Director of the Office of Management and Budget, the Secretary of the Treasury, and Congress.

(3) The Secretary, in consultation with the Director of the Office of Management and Budget, shall set the minimum acceptable price for the reserve. The Secretary may not set the minimum acceptable price below the higher of—

(A) the average of the five assessments prepared under paragraph (1); and

(B) the average of three assessments after excluding the high and low assessments.

(e) ADMINISTRATION OF SALE; DRAFT CONTRACT.—(1) Not later than two months after the effective date, the Secretary shall retain the services of an investment banker or an appropriate equivalent financial adviser to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of Naval Petroleum Reserve Numbered 1 under this section. Costs and fees of retaining the investment banker or financial adviser may be paid out of the proceeds of the sale of the reserve.

(2) Not later than 11 months after the effective date, the investment banker or financial adviser retained under paragraph (1) shall complete a draft contract or contracts for the sale of Naval Petroleum Reserve Numbered 1, which shall accompany the solicitation of offers and describe the terms and provisions of the sale of the interest of the United States in the reserve.

(3) The draft contract or contracts shall identify—

(A) all equipment and facilities to be included in the sale; and

(B) any potential claim or liability (including liability for environmental restoration and remediation), and the extent of any such claim or liability, for which the United States is responsible under subsection (g).

(4) The draft contract or contracts, including the terms and provisions of the sale of the interest of the United States in the reserve, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget. Each of those officials shall complete the review of, and approve or disapprove, the draft contract or contracts not later than 12 months after the effective date.

(f) SOLICITATION OF OFFERS.—(1) Not later than 13 months after the effective date, the Secretary shall publish the solicitation of offers for Naval Petroleum Reserve Numbered 1.

(2) Not later than 18 months after the effective date, the Secretary shall identify the highest responsible offer or offers for purchase of the interest of the United States in Naval Petroleum Reserve Numbered 1 that, in total, meet or exceed the minimum acceptable price determined under subsection (d)(3).

(3) The Secretary shall take such action immediately after the effective date as is necessary to obtain from an independent petroleum engineer within 10 months after that date a reserve report prepared in a manner consistent with commercial practices. The Secretary shall use the reserve report in support of the preparation of the solicitation of offers for the reserve.

(g) FUTURE LIABILITIES.—To effectuate the sale of the interest of the United States in Naval Petroleum Reserve Numbered 1, the Secretary may extend such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser from claims arising from the ownership in the reserve by the United States.

(h) MAINTAINING PRODUCTION.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce the reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract.

(i) NONCOMPLIANCE WITH DEADLINES.—At any time during the two-year period beginning on the effective date, if the Secretary determines that the actions necessary to complete the sale of the reserve within that period are not being taken or timely completed, the Secretary shall transmit to the appropriate congressional committees a written notification of that determination together with a plan setting forth the actions that will be taken to ensure that the sale of the reserve will be completed within

that period. The Secretary shall consult with the Director of the Office of Management and Budget in preparing the plan for submission to the committees.

(j) OVERSIGHT.—The Comptroller General shall monitor the actions of the Secretary relating to the sale of the reserve and report to the appropriate congressional committees any findings on such actions that the Comptroller General considers appropriate to report to the committees.

(k) ACQUISITION OF SERVICES.—The Secretary may enter into contracts for the acquisition of services required under this section under the authority of paragraph (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)), except that the notification required under subparagraph (B) of such paragraph for each contract shall be submitted to Congress not less than 7 days before the award of the contract.

SEC. 3413. EFFECT OF SALE OF RESERVE.

(a) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date, for the purchase of production from any part of the United States' share of Naval Petroleum Reserve Numbered 1, the sale of the interest of the United States in the reserve shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date for the purchase of the production shall not exceed the anticipated closing date for the sale of the reserve.

(2) The Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–ACO1–85FE60520 so that the contract terminates not later than the date of closing of the sale of Naval Petroleum Reserve Numbered 1 under section 3412.

(3) The Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of reserve.

(b) EFFECT ON ANTITRUST LAWS.—Nothing in this subtitle shall be construed to alter the application of the antitrust laws of the United States to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 or to the lands in the reserve subject to sale under section 3412 upon the completion of the sale.

(c) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this subtitle shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of Naval Petroleum Reserve Numbered 1 and which are subject to the unit plan contract.

(d) TRANSFER OF OTHERWISE NONTRANSFERABLE PERMIT.—The Secretary may transfer to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 the incidental take permit regarding the reserve issued to the Secretary by the United States Fish and Wildlife Service and in effect on the effective date if the Secretary determines that transfer of the permit is necessary to expedite the sale of the reserve in a manner that maximizes the value of the sale to the United States. The transferred permit shall cover the identical activities, and shall be subject to the same terms and conditions, as apply to the permit at the time of the transfer.

SEC. 3414. CONDITIONS ON SALE PROCESS.

(a) NOTICE REGARDING SALE CONDITIONS.—The Secretary may not enter into any contract for the sale of Naval Petroleum Reserve Numbered 1 under section 3412 until the end of the 31-day period beginning on the date on which the Secretary submits to the appropriate congressional committees a written notification—

(1) describing the conditions of the proposed sale; and

(2) containing an assessment by the Secretary of whether it is in the best interests of the United States to sell the reserve under such conditions.

(b) AUTHORITY TO SUSPEND SALE.—(1) The Secretary may suspend the sale of Naval Petroleum Reserve Numbered 1 under section 3412 if the Secretary and the Director of the Office of Management and Budget jointly determine that—

(A) the sale is proceeding in a manner inconsistent with achievement of a sale price that reflects the full value of the reserve; or

(B) a course of action other than the immediate sale of the reserve is in the best interests of the United States.

(2) Immediately after making a determination under paragraph (1) to suspend the sale of Naval Petroleum Reserve Numbered 1, the Secretary shall submit to the appropriate congressional committees a written notification describing the basis for the determination and requesting a reconsideration of the merits of the sale of the reserve.

(c) EFFECT OF RECONSIDERATION NOTICE.—After the Secretary submits a notification under subsection (b), the Secretary may not complete the sale of Naval Petroleum Reserve Numbered 1 under section 3412 or any other provision of law unless the sale of the reserve is authorized in an Act of Congress enacted after the date of the submission of the notification.

SEC. 3415. TREATMENT OF STATE OF CALIFORNIA CLAIM REGARDING RESERVE.

(a) RESERVATION OF FUNDS.—After the costs incurred in the conduct of the sale of Naval Petroleum Reserve Numbered 1 under section 3412 are deducted, nine percent of the remaining proceeds from the sale of the reserve shall be reserved in a contingent fund in the Treasury for payment to the State of California for the Teachers' Retirement Fund of the State in the event that, and to the extent that, the claims of the State against the United States regarding production and proceeds of sale from Naval Petroleum Reserve Numbered 1 are—

(1) settled by agreement with the United States under subsection (c); or

(2) finally resolved in favor of the State by a court of competent jurisdiction, if a settlement agreement is not reached.

(b) DISPOSITION OF FUNDS.—In such amounts as may be provided in appropriation Acts, amounts in the contingent fund shall be available for paying a claim described in subsection (a). After final disposition of the claims, any unobligated balance in the contingent fund shall be credited to the general fund of the Treasury. If no payment is made from the contingent fund within 10 years after the effective date, amounts in the contingent fund shall be credited to the general fund of the Treasury.

(c) SETTLEMENT OFFER.—Not later than 30 days after the date of the sale of Naval Petroleum Reserve Numbered 1 under section 3412, the Secretary shall offer to settle all claims of the State of California against the United States with respect to lands in the reserve located in sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, and production or proceeds of sale from the reserve, in order to provide proper compensation for the State's claims. The Secretary shall base the amount of the offered settlement payment from the contingent fund on the fair value for the State's claims, including the mineral estate, not to exceed the amount reserved in the contingent fund.

(d) RELEASE OF CLAIMS.—Acceptance of the settlement offer made under subsection (c) shall be subject to the condition that all claims against the United States by the State of California for the Teachers' Retirement Fund of the State be released with respect to lands in Naval Petroleum Reserve Numbered 1, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from the reserve.

SEC. 3416. STUDY OF FUTURE OF OTHER NAVAL PETROLEUM RESERVES.

(a) STUDY REQUIRED.—The Secretary of Energy shall conduct a study to determine which of the following options, or combinations of options, regarding the naval petroleum reserves (other than Naval Petroleum Reserve Numbered 1) would maximize the value of the reserves to the United States:

(1) Retention and operation of the naval petroleum reserves by the Secretary under chapter 641 of title 10, United States Code.

(2) Transfer of all or a part of the naval petroleum reserves to the jurisdiction of another Federal agency for administration under chapter 641 of title 10, United States Code.

(3) Transfer of all or a part of the naval petroleum reserves to the Department of the Interior for leasing in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and surface management in accordance with the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(4) Sale of the interest of the United States in the naval petroleum reserves.

(b) CONDUCT OF STUDY.—The Secretary shall retain an independent petroleum consultant to conduct the study.

(c) CONSIDERATIONS UNDER STUDY.—An examination of the value to be derived by the United States from the transfer or sale of the naval petroleum reserves shall include an assessment and estimate of the fair market value of the interest of the United States in the naval petroleum reserves. The assessment and estimate shall be made in a manner consistent with customary property valuation practices in the oil and gas industry.

(d) REPORT AND RECOMMENDATIONS REGARDING STUDY.—Not later than June 1, 1996, the Secretary shall submit to Congress a report describing the results of the study and containing such recommendations (including proposed legislation) as the Secretary considers necessary to implement the option, or combination of options, identified in the study that would maximize the value of the naval petroleum reserves to the United States.

TITLE XXXV—PANAMA CANAL COMMISSION

Subtitle A—Authorization of Appropriations

SEC. 3501. SHORT TITLE.

This subtitle may be cited as the ''Panama Canal Commission Authorization Act for Fiscal Year 1996''.

SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1996.

(b) LIMITATIONS.—For fiscal year 1996, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $50,741,000 for administrative expenses, of which—

(1) not more than $15,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) not more than $10,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) not more than $45,000 may be used for official reception and representation expenses of the Administrator of the Commission.

(c) REPLACEMENT VEHICLES.—Funds available to the Panama Canal Commission shall be available for the purchase of not to exceed 38 passenger motor vehicles (including large heavy-duty vehicles to be used to transport Commission personnel across the isthmus of Panama) at a cost per vehicle of not more than $19,500. A vehicle may be purchased with such funds only as necessary to replace another passenger motor vehicle of the Commission.

SEC. 3503. EXPENDITURES IN ACCORDANCE WITH OTHER LAWS.

Expenditures authorized under this subtitle may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

Subtitle B—Reconstitution of Commission as Government Corporation

SEC. 3521. SHORT TITLE.

This subtitle may be cited as the ''Panama Canal Amendments Act of 1995''.

SEC. 3522. RECONSTITUTION OF COMMISSION AS GOVERNMENT CORPORATION.

(a) IN GENERAL.—Section 1101 of the Panama Canal Act of 1979 (22 U.S.C. 3611) is amended to read as follows:

''ESTABLISHMENT, PURPOSES, OFFICES, AND RESIDENCE OF COMMISSION

''SEC. 1101. (a) For the purposes of managing, operating, and maintaining the Panama Canal and its complementary works, installations and equipment, and of conducting operations incident thereto, in accordance with the Panama Canal Treaty of 1977 and related agreements, the Panama Canal Commission (hereinafter in this Act referred to as the 'Commission') is established as a wholly owned government corporation (as that term is used in chapter 91 of title 31, United States Code) within the executive branch of the Government of the United States. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.

''(b) The principal office of the Commission shall be located in the Republic of Panama in one of the areas made available for use of the United States under the Panama Canal Treaty of 1977 and related agreements, but the Commission may establish branch offices in such other places as it considers necessary or appropriate for the conduct of its business. Within the meaning of the laws of the United States relating to venue in civil actions, the Commission is an inhabitant and resident of the District of Columbia and the eastern judicial district of Louisiana.''.

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of contents in section 1 of such Act is amended to read as follows:

''1101. Establishment, Purposes, Offices, and Residence of Commission.''.

SEC. 3523. SUPERVISORY BOARD.

Section 1102 of the Panama Canal Act of 1979 (22 U.S.C. 3612) is amended by striking out so much as precedes subsection (b) and inserting in lieu thereof the following:

''SUPERVISORY BOARD

''SEC. 1102. (a) The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary. Not less than five members of the Board shall be nationals of the United States and the remaining members of the Board shall be nationals of the Republic of Panama. Three members of the Board who are nationals of the United States shall hold no other office in, and shall not be employed by, the Government of the United States, and shall be chosen for the independent perspective they can bring to the Commission's affairs. Members of the Board who are nationals of the United States shall cast their votes as directed by the Secretary of Defense or a designee of the Secretary of Defense.''.

SEC. 3524. GENERAL AND SPECIFIC POWERS OF COMMISSION.

(a) IN GENERAL.—The Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) is amended by inserting after section 1102 the following new sections:

''GENERAL POWERS OF COMMISSION

''SEC. 1102a. (a) The Commission may adopt, alter, and use a corporate seal, which shall be judicially noticed.

''(b) The Commission may by action of the Board of Directors adopt, amend, and repeal bylaws governing the conduct of its general business and the performance of the powers and duties granted to or imposed upon it by law.

''(c) The Commission may sue and be sued in its corporate name, except that—

''(1) the amenability of the Commission to suit is limited by Article VIII of the Panama Canal Treaty of 1977, section 1401 of this Act, and otherwise by law;

''(2) an attachment, garnishment, or similar process may not be issued against salaries or other moneys owed by the Commission to its employees except as provided by section 5520a of title 5, United States Code, and sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, 662), or as otherwise specifically authorized by the laws of the United States; and

''(3) the Commission is exempt from the payment of interest on claims and judgments.

''(d) The Commission may enter into contracts, leases, agreements, or other transactions.

''(e) The Commission—

''(1) may determine the character of, and necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid; and

''(2) may incur, allow, and pay its obligations and expenditures, subject to pertinent provisions of law generally applicable to Government corporations.

''(f) The Commission shall have the priority of the Government of the United States in the payment of debts out of bankrupt estates.

''(g) The authority of the Commission under this section and section 1102B is subject to the Panama Canal Treaty of 1977 and related agreements, and to chapter 91 of title 31, United States Code.

''SPECIFIC POWERS OF COMMISSION

''SEC. 1102b. (a) The Commission may manage, operate, and maintain the Panama Canal.

''(b) The Commission may construct or acquire, establish, maintain, and operate such activities, facilities, and appurtenances as necessary and appropriate for the accomplishment of the purposes of this Act, including the following:

''(1) Docks, wharves, piers, and other shoreline facilities.

''(2) Shops and yards.

''(3) Marine railways, salvage and towing facilities, fuel-handling facilities, and motor transportation facilities.

''(4) Power systems, water systems, and a telephone system.

''(5) Construction facilities.

''(6) Living quarters and other buildings.

''(7) Warehouses, storehouses, a printing plant, and manufacturing, processing, or service facilities in connection therewith.

''(8) Recreational facilities.

''(c) The Commission may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

''(d) The Commission may take such actions as are necessary or appropriate to carry out the powers specifically conferred upon it.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 1102 the following new items:

''1102a. General powers of Commission.

''1102b. Specific powers of Commission.''.

SEC. 3525. CONGRESSIONAL REVIEW OF BUDGET.

Section 1302 of the Panama Canal Act of 1979 (22 U.S.C. 3712) is amended—

(1) in subsection (c)—

(A) by striking out ''and subject to paragraph (2)'' in paragraph (1);

(B) by striking out paragraph (2); and

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

(2) by striking out subsection (e) and inserting in lieu thereof the following new subsection (e):

''(e) In accordance with section 9104 of title 31, United States Code, Congress shall review the annual budget of the Commission.''.

SEC. 3526. AUDITS.

(a) IN GENERAL.—Section 1313 of the Panama Canal Act of 1979 (22 U.S.C. 3723) is amended—

(1) by striking out the heading for the section and inserting in lieu thereof the following: ''AUDITS'';

(2) in subsection (a)—

(A) by striking out ''Financial transactions'' and inserting in lieu thereof ''Notwithstanding any other provision of law, and subject to subsection (d), financial transactions'';

(B) by striking out ''pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)'';

(C) by striking out ''audit pursuant to such Act'' in the second sentence and inserting in lieu thereof ''such audit'';

(D) by striking out ''An audit pursuant to such Act'' in the last sentence and inserting in lieu thereof ''Any such audit''; and

(E) by adding at the end the following new sentence: ''An audit performed under this section is subject to the requirements of paragraphs (2), (3), and (5) of section 9105(a) of title 31, United States Code.'';

(3) in subsection (b), by striking out ''The Comptroller General'' in the first sentence and inserting in lieu thereof ''Subject to subsection (d), the Comptroller General''; and

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

''(d) At the discretion of the Board provided for in section 1102, the Commission may hire independent auditors to perform, in lieu of the Comptroller General, the audit and reporting functions prescribed in subsections (a) and (b).

''(e) In addition to auditing the financial statements of the Commission, the Comptroller General (or the independent auditor if one is employed pursuant to subsection (d)) shall, in accordance with standards for an examination of a financial forecast established by the American Institute of Certified Public Accountants, examine and report on the Commission's financial forecast that it will be in a position to meet its financial liabilities on December 31, 1999.''.

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of contents in section 1 of such Act is amended to read as follows:

''1313. Audits.''.

SEC. 3527. PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS.

Section 1601 of the Panama Canal Act of 1979 (22 U.S.C. 3791) is amended to read as follows:

''PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS

''SEC. 1601. The Commission may, subject to the provisions of this Act, prescribe and from time to time change—

''(1) the rules for the measurement of vessels for the Panama Canal; and

''(2) the tolls that shall be levied for use of the Panama Canal.''.

SEC. 3528. PROCEDURES FOR CHANGES IN RULES OF MEASUREMENT AND RATES OF TOLLS.

Section 1604 of the Panama Canal Act of 1979 (22 U.S.C. 3794) is amended—

(1) in subsection (a), by striking out ''1601(a)'' in the first sentence and inserting in lieu thereof ''1601'';

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

''(c) After the proceedings have been conducted pursuant to subsections (a) and (b), the Commission may change the rules of measurement or rates of tolls, as the case may be. The Commission shall publish notice of any such change in the Federal Register not less than 30 days before the effective date of the change.''; and

(3) by striking out subsections (d) and (e) and redesignating subsection (f) as subsection (d).

SEC. 3529. MISCELLANEOUS TECHNICAL AMENDMENTS.

The Panama Canal Act of 1979 is amended—

(1) in section 1205 (22 U.S.C. 3645), by striking out ''appropriation'' in the last sentence and inserting in lieu thereof ''fund'';

(2) in section 1303 (22 U.S.C. 3713), by striking out ''The authority of this section may not be used for administrative expenses.'';

(3) in section 1321(d) (22 U.S.C. 3731(d)), by striking out ''appropriations or'' in the second sentence;

(4) in section 1401(c) (22 U.S.C. 3761(c)), by striking out ''appropriated for or'' in the first sentence;

(5) in section 1415 (22 U.S.C. 3775), by striking out ''appropriated or'' in the second sentence; and

(6) in section 1416 (22 U.S.C. 3776), by striking out ''appropriated or'' in the third sentence.

SEC. 3530. CONFORMING AMENDMENT TO TITLE 31, UNITED STATES CODE.

Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

''(P) the Panama Canal Commission.''.

DIVISION D—FEDERAL ACQUISITION REFORM

SEC. 4001. SHORT TITLE.

This division may be cited as the ''Federal Acquisition Reform Act of 1996''.

TITLE XLI—COMPETITION

SEC. 4101. EFFICIENT COMPETITION.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304 of title 10, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection (j):

''(j) The Federal Acquisition Regulation shall ensure that the requirement to obtain full and open competition is implemented in a manner that is consistent with the need to efficiently fulfill the Government's requirements.''.

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

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

(2) by inserting after subsection (g) the following new subsection (h):

''(h) The Federal Acquisition Regulation shall ensure that the requirement to obtain full and open competition is implemented in a manner that is consistent with the need to efficiently fulfill the Government's requirements.''.

(c) REVISIONS TO NOTICE THRESHOLDS.—Section 18(a)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)(B)) is amended—

(A) by striking out ''subsection (f)—'' and all that follows through the end of the subparagraph and inserting in lieu thereof ''subsection (b); and''; and

(B) by inserting after ''property or services'' the following: ''for a price expected to exceed $10,000, but not to exceed $25,000,''.

SEC. 4102. EFFICIENT APPROVAL PROCEDURES.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304(f)(1)(B) of title 10, United States Code, is amended—

(1) in clause (i)—

(A) by striking out ''$100,000 (but equal to or less than $1,000,000)'' and inserting in lieu thereof ''$500,000 (but equal to or less than $10,000,000)''; and

(B) by striking out ''(ii), (iii), or (iv)'' and inserting in lieu thereof ''(ii) or (iii)'';

(2) in clause (ii)—

(A) by striking out ''$1,000,000 (but equal to or less than $10,000,000)'' and inserting in lieu thereof ''$10,000,000 (but equal to or less than $50,000,000)''; and

(B) by adding ''or'' at the end;

(3) by striking out clause (iii); and

(4) by redesignating clause (iv) as clause (iii).

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303(f)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)) is amended—

(1) in clause (i)—

(A) by striking out ''$100,000 (but equal to or less than $1,000,000)'' and inserting in lieu thereof ''$500,000 (but equal to or less than $10,000,000)''; and

(B) by striking out ''(ii), (iii), or (iv);'' and inserting in lieu thereof ''(ii) or (iii); and'';

(2) in clause (ii)—

(A) by striking out ''$1,000,000 (but equal to or less than $10,000,000)'' and inserting in lieu thereof ''$10,000,000 (but equal to or less than $50,000,000)''; and

(B) by striking out the semicolon after ''civilian'' and inserting in lieu thereof a comma; and

(3) in clause (iii), by striking out ''$10,000,000'' and inserting in lieu thereof ''$50,000,000''.

SEC. 4103. EFFICIENT COMPETITIVE RANGE DETERMINATIONS.

(a) ARMED SERVICES ACQUISITIONS.—Paragraph (4) of 2305(b) of title 10, United States Code, is amended—

(1) in subparagraph (C), by striking out ''(C)'', by transferring the text to the end of subparagraph (B), and in that text by striking out ''Subparagraph (B)'' and inserting in lieu thereof ''This subparagraph'';

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting before subparagraph (C) (as so redesignated) the following new subparagraph (B):

''(B) If the contracting officer determines that the number of offerors that would otherwise be included in the competitive range under subparagraph (A)(i) exceeds the number at which an efficient competition can be conducted, the contracting officer may limit the number of proposals in the competitive range, in accordance with the criteria specified in the solicitation, to the greatest number that will permit an efficient competition among the offerors rated most highly in accordance with such criteria.''.

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(d)) is amended—

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

(2) by inserting before paragraph (3) (as so redesignated) the following new paragraph (2):

''(2) If the contracting officer determines that the number of offerors that would otherwise be included in the competitive range under paragraph (1)(A) exceeds the number at which an efficient competition can be conducted, the contracting officer may limit the number of proposals in the competitive range, in accordance with the criteria specified in the solicitation, to the greatest number that will permit an efficient competition among the offerors rated most highly in accordance with such criteria.''.

SEC. 4104. PREAWARD DEBRIEFINGS.

(a) ARMED SERVICES ACQUISITIONS.—Section 2305(b) of title 10, United States Code, is amended—

(1) by striking out subparagraph (F) of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (9); and

(3) by inserting after paragraph (5) the following new paragraphs:

''(6)(A) When the contracting officer excludes an offeror submitting a competitive proposal from the competitive range (or otherwise excludes such an offeror from further consideration prior to the final source selection decision), the excluded offeror may request in writing, within three days after the date on which the excluded offeror receives notice of its exclusion, a debriefing prior to award. The contracting officer shall make every effort to debrief the unsuccessful offeror as soon as practicable but may refuse the request for a debriefing if it is not in the best interests of the Government to conduct a debriefing at that time.

''(B) The contracting officer is required to debrief an excluded offeror in accordance with paragraph (5) of this section only if that offeror requested and was refused a preaward debriefing under subparagraph (A) of this paragraph.

''(C) The debriefing conducted under this subsection shall include—

''(i) the executive agency's evaluation of the significant elements in the offeror's offer;

''(ii) a summary of the rationale for the offeror's exclusion; and

''(iii) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

''(D) The debriefing conducted pursuant to this subsection may not disclose the number or identity of other offerors and shall not disclose information about the content, ranking, or evaluation of other offerors' proposals.

''(7) The contracting officer shall include a summary of any debriefing conducted under paragraph (5) or (6) in the contract file.

''(8) The Federal Acquisition Regulation shall include a provision encouraging the use of alternative dispute resolution techniques

to provide informal, expeditious, and inexpensive procedures for an offeror to consider using before filing a protest, prior to the award of a contract, of the exclusion of the offeror from the competitive range (or otherwise from further consideration) for that contract.''.

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by striking out paragraph (6) of subsection (e);

(2) by redesignating subsections (f), (g), (h), and (i) as subsections (i), (j), (k), and (l), respectively; and

(3) by inserting after subsection (e) the following new subsections:

''(f)(1) When the contracting officer excludes an offeror submitting a competitive proposal from the competitive range (or otherwise excludes such an offeror from further consideration prior to the final source selection decision), the excluded offeror may request in writing, within 3 days after the date on which the excluded offeror receives notice of its exclusion, a debriefing prior to award. The contracting officer shall make every effort to debrief the unsuccessful offeror as soon as practicable but may refuse the request for a debriefing if it is not in the best interests of the Government to conduct a debriefing at that time.

''(2) The contracting officer is required to debrief an excluded offeror in accordance with subsection (e) of this section only if that offeror requested and was refused a preaward debriefing under paragraph (1) of this subsection.

''(3) The debriefing conducted under this subsection shall include—

''(A) the executive agency's evaluation of the significant elements in the offeror's offer;

''(B) a summary of the rationale for the offeror's exclusion; and

''(C) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

''(4) The debriefing conducted pursuant to this subsection may not disclose the number or identity of other offerors and shall not disclose information about the content, ranking, or evaluation of other offerors' proposals.

''(g) The contracting officer shall include a summary of any debriefing conducted under subsection (e) or (f) in the contract file.

''(h) The Federal Acquisition Regulation shall include a provision encouraging the use of alternative dispute resolution techniques to provide informal, expeditious, and inexpensive procedures for an offeror to consider using before filing a protest, prior to the award of a contract, of the exclusion of the offeror from the competitive range (or otherwise from further consideration) for that contract.''.

SEC. 4105. DESIGN-BUILD SELECTION PROCEDURES.

(a) ARMED SERVICES ACQUISITIONS.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2305 the following new section:

''§ 2305a. Design-build selection procedures

''(a) AUTHORIZATION.—Unless the traditional acquisition approach of design-bid-build established under the Brooks Architect-Engineers Act (41 U.S.C. 541 et seq.) is used or another acquisition procedure authorized by law is used, the head of an agency shall use the two-phase selection procedures authorized in this section for entering into a contract for the design and construction of a public building, facility, or work when a determination is made under subsection (b) that the procedures are appropriate for use.

''(b) CRITERIA FOR USE.—A contracting officer shall make a determination whether two-phase selection procedures are appropriate for use for entering into a contract for the design and construction of a public building, facility, or work when the contracting officer anticipates that three or more offers will be received for such contract, design work must be performed before an offeror can develop a price or cost proposal for such contract, the offeror will incur a substantial amount of expense in preparing the offer, and the contracting officer has considered information such as the following:

''(1) The extent to which the project requirements have been adequately defined.

''(2) The time constraints for delivery of the project.

''(3) The capability and experience of potential contractors.

''(4) The suitability of the project for use of the two-phase selection procedures.

''(5) The capability of the agency to manage the two-phase selection process.

''(6) Other criteria established by the agency.

''(c) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

''(1) The agency develops, either in-house or by contract, a scope of work statement for inclusion in the solicitation that defines the project and provides prospective offerors with sufficient information regarding the Government's requirements (which may include criteria and preliminary design, budget parameters, and schedule or delivery requirements) to enable the offerors to submit proposals which meet the Government's needs. If the agency contracts for development of the scope of work statement, the agency shall contract for architectural and engineering services as defined by and in accordance with the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.).

''(2) The contracting officer solicits phase-one proposals that—

''(A) include information on the offeror's—

''(i) technical approach; and

''(ii) technical qualifications; and

''(B) do not include—

''(i) detailed design information; or

''(ii) cost or price information.

''(3) The evaluation factors to be used in evaluating phase-one proposals are stated in the solicitation and include specialized experience and technical competence, capability to perform, past performance of the offeror's team (including the architect-engineer and construction members of the team) and other appropriate factors, except that cost-related or price-related evaluation factors are not permitted. Each solicitation establishes the relative importance assigned to the evaluation factors and subfactors that must be considered in the evaluation of phase-one proposals. The agency evaluates phase-one proposals on the basis of the phase-one evaluation factors set forth in the solicitation.

''(4) The contracting officer selects as the most highly qualified the number of offerors specified in the solicitation to provide the property or services under the contract and requests the selected offerors to submit phase-two competitive proposals that include technical proposals and cost or price information. Each solicitation establishes with respect to phase two—

''(A) the technical submission for the proposal, including design concepts or proposed solutions to requirements addressed within the scope of work (or both), and

''(B) the evaluation factors and subfactors, including cost or price, that must be considered in the evaluations of proposals in accordance with paragraphs (2), (3), and (4) of section 2305(a) of this title.

The contracting officer separately evaluates the submissions described in subparagraphs (A) and (B).

''(5) The agency awards the contract in accordance with section 2305(b)(4) of this title.

''(d) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to the procedures described in subsection (c) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (c)(4). The maximum number specified in the solicitation shall not exceed 5 unless the agency determines with respect to an individual solicitation that a specified number greater than 5 is in the Government's interest and is consistent with the purposes and objectives of the two-phase selection process.

''(e) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—The Federal Acquisition Regulation shall include guidance—

''(1) regarding the factors that may be considered in determining whether the two-phase contracting procedures authorized by subsection (a) are appropriate for use in individual contracting situations;

''(2) regarding the factors that may be used in selecting contractors; and

''(3) providing for a uniform approach to be used Government-wide.''.

(2) The table of sections at the beginning of chapter 137 of such title is amended by adding after the item relating to section 2305 the following new item:

''2305a. Design-build selection procedures.''.

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303L the following new section:

''SEC. 303M. DESIGN-BUILD SELECTION PROCEDURES.

''(a) AUTHORIZATION.—Unless the traditional acquisition approach of design-bid-build established under the Brooks Architect-Engineers Act (title IX of this Act) is used or another acquisition procedure authorized by law is used, the head of an executive agency shall use the two-phase selection procedures authorized in this section for entering into a contract for the design and construction of a public building, facility, or work when a determination is made under subsection (b) that the procedures are appropriate for use.

''(b) CRITERIA FOR USE.—A contracting officer shall make a determination whether two-phase selection procedures are appropriate for use for entering into a contract for the design and construction of a public building, facility, or work when the contracting officer anticipates that three or more offers will be received for such contract, design work must be performed before an offeror can develop a price or cost proposal for such contract, the offeror will incur a substantial amount of expense in preparing the offer, and the contracting officer has considered information such as the following:

''(1) The extent to which the project requirements have been adequately defined.

''(2) The time constraints for delivery of the project.

''(3) The capability and experience of potential contractors.

''(4) The suitability of the project for use of the two-phase selection procedures.

''(5) The capability of the agency to manage the two-phase selection process.

''(6) Other criteria established by the agency.

''(c) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

''(1) The agency develops, either in-house or by contract, a scope of work statement for inclusion in the solicitation that defines the project and provides prospective offerors with sufficient information regarding the Government's requirements (which may include criteria and preliminary design, budget parameters, and schedule or delivery requirements) to enable the offerors to submit proposals which meet the Government's needs. If the agency contracts for development of the scope of work statement, the agency shall contract for architectural and engineering services as defined by and in accordance with the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.).

''(2) The contracting officer solicits phase-one proposals that—

''(A) include information on the offeror's—

''(i) technical approach; and

''(ii) technical qualifications; and

''(B) do not include—

''(i) detailed design information; or

''(ii) cost or price information.

''(3) The evaluation factors to be used in evaluating phase-one proposals are stated in the solicitation and include specialized experience and technical competence, capability to perform, past performance of the offeror's team (including the architect-engineer and construction members of the team) and other appropriate factors, except that cost-related or price-related evaluation factors are not permitted. Each solicitation establishes the relative importance assigned to the evaluation factors and subfactors that must be considered in the evaluation of phase-one proposals. The agency evaluates phase-one proposals on the basis of the phase-one evaluation factors set forth in the solicitation.

''(4) The contracting officer selects as the most highly qualified the number of offerors specified in the solicitation to provide the property or services under the contract and requests the selected offerors to submit phase-two competitive proposals that include technical proposals and cost or price information. Each solicitation establishes with respect to phase two—

''(A) the technical submission for the proposal, including design concepts or proposed solutions to requirements addressed within the scope of work (or both), and

''(B) the evaluation factors and subfactors, including cost or price, that must be considered in the evaluations of proposals in accordance with subsections (b), (c), and (d) of section 303A.

The contracting officer separately evaluates the submissions described in subparagraphs (A) and (B).

''(5) The agency awards the contract in accordance with section 303B of this title.

''(d) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to the procedures described in subsection (c) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (c)(4). The maximum number specified in the solicitation shall not exceed 5 unless the agency determines with respect to an individual solicitation that a specified number greater than 5 is in the Government's interest and is consistent with the purposes and objectives of the two-phase selection process.

''(e) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—The Federal Acquisition Regulation shall include guidance—

''(1) regarding the factors that may be considered in determining whether the two-phase contracting procedures authorized by subsection (a) are appropriate for use in individual contracting situations;

''(2) regarding the factors that may be used in selecting contractors; and

''(3) providing for a uniform approach to be used Government-wide.''.

(2) The table of sections at the beginning of such Act is amended by inserting after the item relating to section 303L the following new item:

''Sec. 303M. Design-build selection procedures.''.

TITLE XLII—COMMERCIAL ITEMS

SEC. 4201. COMMERCIAL ITEM EXCEPTION TO REQUIREMENT FOR CERTIFIED COST OR PRICING DATA.

(a) ARMED SERVICES ACQUISITIONS.—(1) Subsections (b), (c), and (d) of section 2306a of title 10, United States Code, are amended to read as follows:

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Submission of certified cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or modification of a contract or subcontract—

''(A) for which the price agreed upon is based on—

''(i) adequate price competition; or

''(ii) prices set by law or regulation;

''(B) for the acquisition of a commercial item; or

''(C) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

''(2) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the exception to the submission of certified cost or pricing data in paragraph (1)(A) or (1)(B), submission of certified cost or pricing data shall not be required under subsection (a) if—

''(A) the contract or subcontract being modified is a contract or subcontract for which submission of certified cost or pricing data may not be required by reason of paragraph (1)(A) or (1)(B); and

''(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

''(c) COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—

''(1) AUTHORITY TO REQUIRE SUBMISSION.—Subject to paragraph (2), when certified cost or pricing data are not required to be submitted by subsection (a) for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

''(2) EXCEPTION.—The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subparagraph (A) or (B) of subsection (b)(1).

''(3) DELEGATION OF AUTHORITY PROHIBITED.—The head of a procuring activity may not delegate functions under this paragraph.

''(d) SUBMISSION OF OTHER INFORMATION.—

''(1) AUTHORITY TO REQUIRE SUBMISSION.—When certified cost or pricing data are not required to be submitted under this section for a contract, subcontract, or modification of a contract or subcontract, the contracting officer shall require submission of data other than certified cost or pricing data to the extent necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract. Except in the case of a contract or subcontract covered by the exceptions in subsection (b)(1)(A), the data submitted shall include, at a minimum, appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price for the procurement.

''(2) LIMITATIONS ON AUTHORITY.—The Federal Acquisition Regulation shall include the following provisions regarding the types of information that contracting officers may require under paragraph (1):

''(A) Reasonable limitations on requests for sales data relating to commercial items.

''(B) A requirement that a contracting officer limit, to the maximum extent practicable, the scope of any request for information relating to commercial items from an offeror to only that information that is in the form regularly maintained by the offeror in commercial operations.

''(C) A statement that any information received relating to commercial items that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.''.

(2) Section 2306a of such title is further amended—

(A) by striking out subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Subsections (b), (c) and (d) of section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b) are amended to read as follows:

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Submission of certified cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or a modification of a contract or subcontract—

''(A) for which the price agreed upon is based on—

''(i) adequate price competition; or

''(ii) prices set by law or regulation;

''(B) for the acquisition of a commercial item; or

''(C) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

''(2) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the exception to the submission of certified cost or pricing data in paragraph (1)(A) or (1)(B), submission of certified cost or pricing data shall not be required under subsection (a) if—

''(A) the contract or subcontract being modified is a contract or subcontract for which submission of certified cost or pricing data may not be required by reason of paragraph (1)(A) or (1)(B); and

''(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

''(c) COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—

''(1) AUTHORITY TO REQUIRE SUBMISSION.—Subject to paragraph (2), when certified cost

or pricing data are not required to be submitted by subsection (a) for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

''(2) EXCEPTION.—The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subparagraph (A) or (B) of subsection (b)(1).

''(3) DELEGATION OF AUTHORITY PROHIBITED.—The head of a procuring activity may not delegate the functions under this paragraph.

''(d) SUBMISSION OF OTHER INFORMATION.—

''(1) AUTHORITY TO REQUIRE SUBMISSION.—When certified cost or pricing data are not required to be submitted under this section for a contract, subcontract, or modification of a contract or subcontract, the contracting officer shall require submission of data other than certified cost or pricing data to the extent necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract. Except in the case of a contract or subcontract covered by the exceptions in subsection (b)(1)(A), the data submitted shall include, at a minimum, appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price for the procurement.

''(2) LIMITATIONS ON AUTHORITY.—The Federal Acquisition Regulation shall include the following provisions regarding the types of information that contracting officers may require under paragraph (1):

''(A) Reasonable limitations on requests for sales data relating to commercial items.

''(B) A requirement that a contracting officer limit, to the maximum extent practicable, the scope of any request for information relating to commercial items from an offeror to only that information that is in the form regularly maintained by the offeror in commercial operations.

''(C) A statement that any information received relating to commercial items that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.''.

(2) Section 304A of such Act is further amended—

(A) by striking out subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

SEC. 4202. APPLICATION OF SIMPLIFIED PROCEDURES TO CERTAIN COMMERCIAL ITEMS.

(a) ARMED SERVICES ACQUISITIONS.—(1) Section 2304(g) of title 10, United States Code, is amended—

(A) in paragraph (1), by striking out ''shall provide for special simplified procedures for purchases of'' and all that follows through the end of the paragraph and inserting in lieu thereof the following: ''shall provide for—

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

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

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

''(4) The head of an agency shall comply with the Federal Acquisition Regulation provisions referred to in section 31(g) of the Office of Federal Procurement Policy Act (41 U.S.C. 427).''.

(2) Section 2305 of title 10, United States Code, is amended in subsection (a)(2) by inserting after ''(other than for'' the following: ''a procurement for commercial items using special simplified procedures or''.

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(A) in paragraph (1), by striking out ''shall provide for special simplified procedures for purchases of'' and all that follows through the end of the paragraph and inserting in lieu thereof the following: ''shall provide for—

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

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

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

''(5) An executive agency shall comply with the Federal Acquisition Regulation provisions referred to in section 31(g) of the Office of Federal Procurement Policy Act (41 U.S.C. 427).''.

(2) Section 303A of such Act (41 U.S.C. 253a) is amended in subsection (b) by inserting after ''(other than for'' the following: ''a procurement for commercial items using special simplified procedures or''.

(c) ACQUISITIONS GENERALLY.—Section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427) is amended—

(1) in subsection (a), by striking out ''shall provide for special simplified procedures for purchases of'' and all that follows through the end of the subsection and inserting in lieu thereof the following: ''shall provide for—

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

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

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

''(g) SPECIAL RULES FOR COMMERCIAL ITEMS.—The Federal Acquisition Regulation shall provide that, in the case of a purchase of commercial items using special simplified procedures, an executive agency—

''(1) shall publish a notice in accordance with section 18 and, as provided in subsection (b)(4) of such section, permit all responsible sources to submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency;

''(2) may not conduct the purchase on a sole source basis unless the need to do so is justified in writing and approved in accordance with section 2304 of title 10, United States Code, or section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), as applicable; and

''(3) shall include in the contract file a written description of the procedures used in awarding the contract and the number of offers received.''.

(d) SIMPLIFIED NOTICE.—(1) Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(A) in subsection (a)(6), by inserting before ''submission'' the following: ''issuance of solicitations and the''; and

(B) in subsection (b)(6), by striking out ''threshold—'' and inserting in lieu thereof ''threshold, or a contract for the procurement of commercial items using special simplified procedures—''.

(e) EFFECTIVE DATE.—The authority to issue solicitations for purchases of commercial items in excess of the simplified acquisition threshold pursuant to the special simplified procedures authorized by section 2304(g)(1) of title 10, United States Code, section 303(g)(1) of the Federal Property and Administrative Services Act of 1949, and section 31(a) of the Office of Federal Procurement Policy Act, as amended by this section, shall expire three years after the date on which such amendments take effect pursuant to section 4401(b). Contracts may be awarded pursuant to solicitations that have been issued before such authority expires, notwithstanding the expiration of such authority.

SEC. 4203. INAPPLICABILITY OF CERTAIN PROCUREMENT LAWS TO COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS.

(a) LAWS LISTED IN THE FAR.—The Office of Federal Procurement Policy Act (41 U.S.C. 401) et seq.) is amended by adding at the end the following:

''SEC. 35. COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEM ACQUISITIONS: LISTS OF INAPPLICABLE LAWS IN FEDERAL ACQUISITION REGULATION.

''(a) LISTS OF INAPPLICABLE PROVISIONS OF LAW.—(1) The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercially available off-the-shelf items.

''(2) A provision of law that, pursuant to paragraph (3), is properly included on a list referred to in paragraph (1) may not be construed as being applicable to contracts referred to in paragraph (1). Nothing in this section shall be construed to render inapplicable to such contracts any provision of law that is not included on such list.

''(3) A provision of law described in subsection (b) shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Administrator for Federal Procurement Policy makes a written determination that it would not be in the best interest of the United States to exempt such contracts from the applicability of that provision of law. Nothing in this section shall be construed as modifying or superseding, or as being intended to impair or restrict authorities or responsibilities under—

''(A) section 15 of the Small Business Act (15 U.S.C. 644); or

''(B) bid protest procedures developed under the authority of subchapter V of chapter 35 of title 31, United States Code; subsections (e) and (f) of section 2305 of title 10, United States Code; or subsections (h) and (i) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b).

''(b) COVERED LAW.—Except as provided in subsection (a)(3), the list referred to in subsection (a)(1) shall include each provision of law that, as determined by the Administrator, imposes on persons who have been awarded contracts by the Federal Government for the procurement of commercially available off-the-shelf items Government-unique policies, procedures, requirements, or restrictions for the procurement of property or services, except the following:

''(1) A provision of law that provides for criminal or civil penalties.

''(2) A provision of law that specifically refers to this section and provides that, notwithstanding this section, such provision of law shall be applicable to contracts for the procurement of commercial off-the-shelf items.

''(c) DEFINITION.—(1) As used in this section, the term 'commercially available off-the-shelf item' means, except as provided in paragraph (2), an item that—

''(A) is a commercial item (as described in section 4(12)(A));

''(B) is sold in substantial quantities in the commercial marketplace; and

''(C) is offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace.

''(2) The term 'commercially available off-the-shelf item' does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 34 the following:

''Sec. 35. Commercially available off-the-shelf item acquisitions: lists of inapplicable laws in Federal Acquisition Regulation.''.

SEC. 4204. AMENDMENT OF COMMERCIAL ITEMS DEFINITION.

Section 4(12)(F) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(F)) is amended by inserting ''or market'' after ''catalog''.

SEC. 4205. INAPPLICABILITY OF COST ACCOUNTING STANDARDS TO CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.

Paragraph (2)(B) of section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)) is amended—

(1) by striking out clause (i) and inserting in lieu thereof the following:

''(i) Contracts or subcontracts for the acquisition of commercial items.''; and

(2) by striking out clause (iii).

TITLE XLIII—ADDITIONAL REFORM PROVISIONS

Subtitle A—Additional Acquisition Reform Provisions

SEC. 4301. ELIMINATION OF CERTAIN CERTIFICATION REQUIREMENTS.

(a) ELIMINATION OF CERTAIN STATUTORY CERTIFICATION REQUIREMENTS.—(1) Section 2410b of title 10, United States Code, is amended in paragraph (2) by striking out ''certification and''.

(2) Section 1352(b)(2) of title 31, United States Code, is amended—

(A) by striking out subparagraph (C); and

(B) by inserting ''and'' after the semicolon at the end of subparagraph (A).

(3) Section 5152 of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701) is amended—

(A) in subsection (a)(1), by striking out ''has certified to the contracting agency that it will'' and inserting in lieu thereof ''agrees to'';

(B) in subsection (a)(2), by striking out ''contract includes a certification by the individual'' and inserting in lieu thereof ''individual agrees''; and

(C) in subsection (b)(1)—

(i) by striking out subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph by striking out ''such certification by failing to carry out''; and

(iii) by redesignating subparagraph (C) as subparagraph (B).

(b) ELIMINATION OF CERTAIN REGULATORY CERTIFICATION REQUIREMENTS.—

(1) CURRENT CERTIFICATION REQUIREMENTS.—(A) Not later than 210 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall issue for public comment a proposal to amend the Federal Acquisition Regulation to remove from the Federal Acquisition Regulation certification requirements for contractors and offerors that are not specifically imposed by statute. The Administrator may omit such a certification requirement from the proposal only if—

(i) the Federal Acquisition Regulatory Council provides the Administrator with a written justification for the requirement and a determination that there is no less burdensome means for administering and enforcing the particular regulation that contains the certification requirement; and

(ii) the Administrator approves in writing the retention of the certification requirement.

(B)(i) Not later than 210 days after the date of the enactment of this Act, the head of each executive agency that has agency procurement regulations containing one or more certification requirements for contractors and offerors that are not specifically imposed by statute shall issue for public comment a proposal to amend the regulations to remove the certification requirements. The head of the executive agency may omit such a certification requirement from the proposal only if—

(I) the senior procurement executive for the executive agency provides the head of the executive agency with a written justification for the requirement and a determination that there is no less burdensome means for administering and enforcing the particular regulation that contains the certification requirement; and

(II) the head of the executive agency approves in writing the retention of such certification requirement.

(ii) For purposes of clause (i), the term ''head of the executive agency'' with respect to a military department means the Secretary of Defense.

(2) FUTURE CERTIFICATION REQUIREMENTS.—(A) Section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425) is amended—

(i) by amending the heading to read as follows:

''SEC. 29. CONTRACT CLAUSES AND CERTIFICATIONS.'';

(ii) by inserting ''(a) NONSTANDARD CONTRACT CLAUSES.—'' before ''The Federal Acquisition''; and

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

''(c) PROHIBITION ON CERTIFICATION REQUIREMENTS.—(1) A requirement for a certification by a contractor or offeror may not be included in the Federal Acquisition Regulation unless—

''(A) the certification requirement is specifically imposed by statute; or

''(B) written justification for such certification requirement is provided to the Administrator for Federal Procurement Policy by the Federal Acquisition Regulatory Council, and the Administrator approves in writing the inclusion of such certification requirement.

''(2)(A) A requirement for a certification by a contractor or offeror may not be included in a procurement regulation of an executive agency unless—

''(i) the certification requirement is specifically imposed by statute; or

''(ii) written justification for such certification requirement is provided to the head of the executive agency by the senior procurement executive of the agency, and the head of the executive agency approves in writing the inclusion of such certification requirement.

''(B) For purposes of subparagraph (A), the term 'head of the executive agency' with respect to a military department means the Secretary of Defense.''.

(B) The item relating to section 29 in the table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) (41 U.S.C. 401 note) is amended to read as follows:

''Sec. 29. Contract clauses and certifications.''.

(c) POLICY OF CONGRESS.—Section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425) is further amended by adding after subsection (a) the following new subsection:

''(b) CONSTRUCTION OF CERTIFICATION REQUIREMENTS.—A provision of law may not be construed as requiring a certification by a contractor or offeror in a procurement made or to be made by the Federal Government unless that provision of law specifically provides that such a certification shall be required.''.

SEC. 4302. AUTHORITIES CONDITIONED ON FACNET CAPABILITY.

(a) COMMENCEMENT AND EXPIRATION OF AUTHORITY TO CONDUCT CERTAIN TESTS OF PROCUREMENT PROCEDURES.—Subsection (j) of section 5061 of the Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 413 note; 108 Stat. 3355) is amended to read as follows:

''(j) COMMENCEMENT AND EXPIRATION OF AUTHORITY.—The authority to conduct a test under subsection (a) in an agency and to award contracts under such a test shall take effect on January 1, 1997, and shall expire on January 1, 2001. A contract entered into before such authority expires in an agency pursuant to a test shall remain in effect, in accordance with the terms of the contract, the notwithstanding of expiration the authority to conduct the test under this section.''.

(b) USE OF SIMPLIFIED ACQUISITION PROCEDURES.—Subsection (e) of section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427) is amended—

(1) by striking out ''ACQUISITION PROCEDURES.—'' and all that follows through ''(B) The simplified acquisition'' in paragraph (2)(B) and inserting in lieu thereof ''ACQUISITION PROCEDURES.—The simplified acquisition''; and

(2) by striking out ''pursuant to this section'' in the remaining text and inserting in lieu thereof ''pursuant to section 2304(g)(1)(A) of title 10, United States Code, section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)), and subsection (a)(1) of this section''.

SEC. 4303. INTERNATIONAL COMPETITIVENESS.

(a) ADDITIONAL AUTHORITY TO WAIVE RESEARCH, DEVELOPMENT, AND PRODUCTION COSTS.—Subject to subsection (b), section 21(e)(2) of the Arms Export Control Act (22 U.S.C. 2761(e)(2)) is amended—

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

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

''(B) The President may waive the charge or charges which would otherwise be considered appropriate under paragraph (1)(B) for a particular sale if the President determines that—

''(i) imposition of the charge or charges likely would result in the loss of the sale; or

''(ii) in the case of a sale of major defense equipment that is also being procured for the use of the Armed Forces, the waiver of the charge or charges would (through a resulting increase in the total quantity of the equipment purchased from the source of the equipment that causes a reduction in the unit cost of the equipment) result in a savings to the United States on the cost of the equipment procured for the use of the Armed Forces that substantially offsets the revenue foregone by reason of the waiver of the charge or charges.

''(C) The President may waive, for particular sales of major defense equipment, any increase in a charge or charges previously considered appropriate under paragraph (1)(B) if the increase results from a correction of an estimate (reasonable when made) of the production quantity base that was used for calculating the charge or charges for purposes of such paragraph.''.

(b) CONDITIONS.—Subsection (a) shall be effective only if—

(1) the President, in the budget of the President for fiscal year 1997, proposes legislation that if enacted would be qualifying offsetting legislation; and

(2) there is enacted qualifying offsetting legislation.

(c) EFFECTIVE DATE.—If the conditions in subsection (b) are met, then the amendments made by subsection (a) shall take effect on the date of the enactment of qualifying offsetting legislation.

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

(1) The term ''qualifying offsetting legislation'' means legislation that includes provisions that—

(A) offset fully the estimated revenues lost as a result of the amendments made by subsection (a) for each of the fiscal years 1997 through 2005;

(B) expressly state that they are enacted for the purpose of the offset described in subparagraph (A); and

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

(2) The term ''PayGo scorecard'' means the estimates that are made by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 4304. PROCUREMENT INTEGRITY.

(a) AMENDMENT OF PROCUREMENT INTEGRITY PROVISION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended to read as follows:

''SEC. 27. RESTRICTIONS ON DISCLOSING AND OBTAINING CONTRACTOR BID OR PROPOSAL INFORMATION OR SOURCE SELECTION INFORMATION.

''(a) PROHIBITION ON DISCLOSING PROCUREMENT INFORMATION.—(1) A person described in paragraph (2) shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

''(2) Paragraph (1) applies to any person who—

''(A) is a present or former official of the United States, or a person who is acting or has acted for or on behalf of, or who is advising or has advised the United States with respect to, a Federal agency procurement; and

''(B) by virtue of that office, employment, or relationship has or had access to contractor bid or proposal information or source selection information.

''(b) PROHIBITION ON OBTAINING PROCUREMENT INFORMATION.—A person shall not, other than as provided by law, knowingly obtain contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

''(c) ACTIONS REQUIRED OF PROCUREMENT OFFICERS WHEN CONTACTED BY OFFERORS REGARDING NON-FEDERAL EMPLOYMENT.—(1) If an agency official who is participating personally and substantially in a Federal agency procurement for a contract in excess of the simplified acquisition threshold contacts or is contacted by a person who is a bidder or offeror in that Federal agency procurement regarding possible non-Federal employment for that official, the official shall—

''(A) promptly report the contact in writing to the official's supervisor and to the designated agency ethics official (or designee) of the agency in which the official is employed; and

''(B)(i) reject the possibility of non-Federal employment; or

''(ii) disqualify himself or herself from further personal and substantial participation in that Federal agency procurement until such time as the agency has authorized the official to resume participation in such procurement, in accordance with the requirements of section 208 of title 18, United States Code, and applicable agency regulations on the grounds that—

''(I) the person is no longer a bidder or offeror in that Federal agency procurement; or

''(II) all discussions with the bidder or offeror regarding possible non-Federal employment have terminated without an agreement or arrangement for employment.

''(2) Each report required by this subsection shall be retained by the agency for not less than two years following the submission of the report. All such reports shall be made available to the public upon request, except that any part of a report that is exempt from the disclosure requirements of section 552 of title 5, United States Code, under subsection (b)(1) of such section may be withheld from disclosure to the public.

''(3) An official who knowingly fails to comply with the requirements of this subsection shall be subject to the penalties and administrative actions set forth in subsection (e).

''(4) A bidder or offeror who engages in employment discussions with an official who is subject to the restrictions of this subsection, knowing that the official has not complied with subparagraph (A) or (B) of paragraph (1), shall be subject to the penalties and administrative actions set forth in subsection (e).

''(d) PROHIBITION ON FORMER OFFICIAL'S ACCEPTANCE OF COMPENSATION FROM CONTRACTOR.—(1) A former official of a Federal agency may not accept compensation from a contractor as an employee, officer, director, or consultant of the contractor within a period of one year after such former official—

''(A) served, at the time of selection of the contractor or the award of a contract to that contractor, as the procuring contracting officer, the source selection authority, a member of the source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement in which that contractor was selected for award of a contract in excess of $10,000,000;

''(B) served as the program manager, deputy program manager, or administrative contracting officer for a contract in excess of $10,000,000 awarded to that contractor; or

''(C) personally made for the Federal agency—

''(i) a decision to award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order in excess of $10,000,000 to that contractor;

''(ii) a decision to establish overhead or other rates applicable to a contract or contracts for that contractor that are valued in excess of $10,000,000;

''(iii) a decision to approve issuance of a contract payment or payments in excess of $10,000,000 to that contractor; or

''(iv) a decision to pay or settle a claim in excess of $10,000,000 with that contractor.

''(2) Nothing in paragraph (1) may be construed to prohibit a former official of a Federal agency from accepting compensation from any division or affiliate of a contractor that does not produce the same or similar products or services as the entity of the contractor that is responsible for the contract referred to in subparagraph (A), (B), or (C) of such paragraph.

''(3) A former official who knowingly accepts compensation in violation of this subsection shall be subject to penalties and administrative actions as set forth in subsection (e).

''(4) A contractor who provides compensation to a former official knowing that such compensation is accepted by the former official in violation of this subsection shall be subject to penalties and administrative actions as set forth in subsection (e).

''(5) Regulations implementing this subsection shall include procedures for an official or former official of a Federal agency to request advice from the appropriate designated agency ethics official regarding whether the official or former official is or would be precluded by this subsection from accepting compensation from a particular contractor.

''(e) PENALTIES AND ADMINISTRATIVE ACTIONS.—

''(1) CRIMINAL PENALTIES.—Whoever engages in conduct constituting a violation of subsection (a) or (b) for the purpose of either—

''(A) exchanging the information covered by such subsection for anything of value, or

''(B) obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract,

shall be imprisoned for not more than 5 years or fined as provided under title 18, United States Code, or both.

''(2) CIVIL PENALTIES.—The Attorney General may bring a civil action in an appropriate United States district court against any person who engages in conduct constituting a violation of subsection (a), (b), (c), or (d). Upon proof of such conduct by a preponderance of the evidence, the person is subject to a civil penalty. An individual who engages in such conduct is subject to a civil penalty of not more than $50,000 for each violation plus twice the amount of compensation which the individual received or offered for the prohibited conduct. An organization that engages in such conduct is subject to a civil penalty of not more than $500,000 for each violation plus twice the amount of compensation which the organization received or offered for the prohibited conduct.

''(3) ADMINISTRATIVE ACTIONS.—(A) If a Federal agency receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d), the Federal agency shall consider taking one or more of the following actions, as appropriate:

''(i) Cancellation of the Federal agency procurement, if a contract has not yet been awarded.

''(ii) Rescission of a contract with respect to which—

''(I) the contractor or someone acting for the contractor has been convicted for an offense punishable under paragraph (1), or

''(II) the head of the agency that awarded the contract has determined, based upon a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting such an offense.

''(iii) Initiation of suspension or debarment proceedings for the protection of the Government in accordance with procedures in the Federal Acquisition Regulation.

''(iv) Initiation of adverse personnel action, pursuant to the procedures in chapter 75 of title 5, United States Code, or other applicable law or regulation.

''(B) If a Federal agency rescinds a contract pursuant to subparagraph (A)(ii), the United States is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

''(C) For purposes of any suspension or debarment proceedings initiated pursuant to subparagraph (A)(iii), engaging in conduct constituting an offense under subsection (a), (b), (c), or (d) affects the present responsibility of a Government contractor or subcontractor.

''(f) DEFINITIONS.—As used in this section:

''(1) The term 'contractor bid or proposal information' means any of the following information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

''(A) Cost or pricing data (as defined by section 2306a(h) of title 10, United States Code, with respect to procurements subject to that section, and section 304A(h) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(h)), with respect to procurements subject to that section).

''(B) Indirect costs and direct labor rates.

''(C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.

''(D) Information marked by the contractor as 'contractor bid or proposal information', in accordance with applicable law or regulation.

''(2) The term 'source selection information' means any of the following information prepared for use by a Federal agency for the purpose of evaluating a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

''(A) Bid prices submitted in response to a Federal agency solicitation for sealed bids, or lists of those bid prices before public bid opening.

''(B) Proposed costs or prices submitted in response to a Federal agency solicitation, or lists of those proposed costs or prices.

''(C) Source selection plans.

''(D) Technical evaluation plans.

''(E) Technical evaluations of proposals.

''(F) Cost or price evaluations of proposals.

''(G) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract.

''(H) Rankings of bids, proposals, or competitors.

''(I) The reports and evaluations of source selection panels, boards, or advisory councils.

''(J) Other information marked as 'source selection information' based on a case-by-case determination by the head of the agency, his designee, or the contracting officer that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

''(3) The term 'Federal agency' has the meaning provided such term in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

''(4) The term 'Federal agency procurement' means the acquisition (by using competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by a Federal agency using appropriated funds.

''(5) The term 'contracting officer' means a person who, by appointment in accordance with applicable regulations, has the authority to enter into a Federal agency procurement contract on behalf of the Government and to make determinations and findings with respect to such a contract.

''(6) The term 'protest' means a written objection by an interested party to the award or proposed award of a Federal agency procurement contract, pursuant to subchapter V of chapter 35 of title 31, United States Code.

''(7) The term 'official' means the following:

''(A) An officer, as defined in section 2104 of title 5, United States Code.

''(B) An employee, as defined in section 2105 of title 5, United States Code.

''(C) A member of the uniformed services, as defined in section 2101(3) of title 5, United States Code.

''(g) LIMITATION ON PROTESTS.—No person may file a protest against the award or proposed award of a Federal agency procurement contract alleging a violation of subsection (a), (b), (c), or (d), nor may the Comptroller General of the United States consider such an allegation in deciding a protest, unless that person reported to the Federal agency responsible for the procurement, no later than 14 days after the person first discovered the possible violation, the information that the person believed constitutes evidence of the offense.

''(h) SAVINGS PROVISIONS.—This section does not—

''(1) restrict the disclosure of information to, or its receipt by, any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

''(2) restrict a contractor from disclosing its own bid or proposal information or the recipient from receiving that information;

''(3) restrict the disclosure or receipt of information relating to a Federal agency procurement after it has been canceled by the Federal agency before contract award unless the Federal agency plans to resume the procurement;

''(4) prohibit individual meetings between a Federal agency official and an offeror or potential offeror for, or a recipient of, a contract or subcontract under a Federal agency procurement, provided that unauthorized disclosure or receipt of contractor bid or proposal information or source selection information does not occur;

''(5) authorize the withholding of information from, nor restrict its receipt by, Congress, a committee or subcommittee of Congress, the Comptroller General, a Federal agency, or an inspector general of a Federal agency;

''(6) authorize the withholding of information from, nor restrict its receipt by, the Comptroller General of the United States in the course of a protest against the award or proposed award of a Federal agency procurement contract; or

''(7) limit the applicability of any requirements, sanctions, contract penalties, and remedies established under any other law or regulation.''.

(b) REPEALS.—The following provisions of law are repealed:

(1) Sections 2397, 2397a, 2397b, and 2397c of title 10, United States Code.

(2) Section 33 of the Federal Energy Administration Act of 1974 (15 U.S.C. 789).

(3) Section 281 of title 18, United States Code.

(4) Subsection (c) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428).

(5) The first section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5918).

(6) Part A of title VI of the Department of Energy Organization Act and its catchline (42 U.S.C. 7211, 7212, and 7218).

(7) Section 308 of the Energy Research and Development Administration Appropriation Authorization Act for Fiscal Year 1977 (42 U.S.C. 5816a).

(8) Section 522 of the Energy Policy and Conservation Act (42 U.S.C. 6392).

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

(2) The table of sections at the beginning of chapter 15 of title 18, United States Code, is amended by striking out the item relating to section 281.

(3) Section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) is amended by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

(4) The table of contents for the Department of Energy Organization Act is amended by striking out the items relating to part A of title VI including sections 601 through 603.

(5) The table of contents for the Energy Policy and Conservation Act is amended by striking out the item relating to section 522.

SEC. 4305. FURTHER ACQUISITION STREAMLINING PROVISIONS.

(a) PURPOSE OF OFFICE OF FEDERAL PROCUREMENT POLICY.—

(1) REVISED STATEMENT OF PURPOSE.—Section 5(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 404) is amended to read as follows:

''(a) There is in the Office of Management and Budget an Office of Federal Procurement Policy (hereinafter referred to as the 'Office') to provide overall direction of Government-wide procurement policies, regulations, procedures, and forms for executive agencies and to promote economy, efficiency, and effectiveness in the procurement of property and services by the executive branch of the Federal Government.''.

(2) REPEAL OF FINDINGS, POLICIES, AND PURPOSES.—Sections 2 and 3 of such Act (41 U.S.C. 401 and 402) are repealed.

(b) REPEAL OF REPORT REQUIREMENT.—Section 8 of the Office of Federal Procurement Policy Act (41 U.S.C. 407) is repealed.

(c) OBSOLETE PROVISIONS.—

(1) RELATIONSHIP TO FORMER REGULATIONS.—Section 10 of the Office of Federal Procurement Policy Act (41 U.S.C. 409) is repealed.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 11 of such Act (41 U.S.C. 410) is amended to read as follows:

''SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated for the Office of Federal Procurement Policy each fiscal year such sums as may be necessary for carrying out the responsibilities of that office for such fiscal year.''.

(d) CLERICAL AMENDMENTS.—The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by striking out the items relating to sections 2, 3, 8, and 10.

SEC. 4306. VALUE ENGINEERING FOR FEDERAL AGENCIES.

(a) USE OF VALUE ENGINEERING.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4203, is further amended by adding at the end the following new section:

"SEC. 36. VALUE ENGINEERING.

''(a) IN GENERAL.—Each executive agency shall establish and maintain cost-effective value engineering procedures and processes.

''(b) DEFINITION.—As used in this section, the term 'value engineering' means an analysis of the functions of a program, project, system, product, item of equipment, building, facility, service, or supply of an executive agency, performed by qualified agency or contractor personnel, directed at improving performance, reliability, quality, safety, and life cycle costs.''.

(b) CLERICAL AMENDMENT.—The table of contents for such Act, contained in section 1(b), is amended by adding at the end the following new item:

''Sec. 36. Value engineering.''.

SEC. 4307. ACQUISITION WORKFORCE.

(a) ACQUISITION WORKFORCE.—(1) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4306, is further amended by adding at the end the following new section:

"SEC. 37. ACQUISITION WORKFORCE.

''(a) APPLICABILITY.—This section does not apply to an executive agency that is subject to chapter 87 of title 10, United States Code.

''(b) MANAGEMENT POLICIES.—

''(1) POLICIES AND PROCEDURES.—The head of each executive agency, after consultation with the Administrator for Federal Procurement Policy, shall establish policies and procedures for the effective management (including accession, education, training, career development, and performance incentives) of the acquisition workforce of the agency. The development of acquisition workforce policies under this section shall be carried out consistent with the merit system principles set forth in section 2301(b) of title 5, United States Code.

''(2) UNIFORM IMPLEMENTATION.—The head of each executive agency shall ensure that, to the maximum extent practicable, acquisition workforce policies and procedures established are uniform in their implementation throughout the agency.

''(3) GOVERNMENT-WIDE POLICIES AND EVALUATION.—The Administrator shall issue policies to promote uniform implementation of this section by executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Administrator shall coordinate with the Deputy Director for Management of the Office of Management and Budget to ensure that such policies are consistent with the policies and procedures established and enhanced system of incentives provided pursuant to section 5051(c) of the Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 263 note). The Administrator shall evaluate the implementation of the provisions of this section by executive agencies.

''(c) SENIOR PROCUREMENT EXECUTIVE AUTHORITIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the head of an executive agency, the senior procurement executive of the agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this section. The senior procurement executive shall ensure that the policies of the head of the executive agency established in accordance with this section are implemented throughout the agency.

''(d) MANAGEMENT INFORMATION SYSTEMS.—The Administrator shall ensure that the heads of executive agencies collect and maintain standardized information on the acquisition workforce related to implementation of this section. To the maximum extent practicable, such data requirements shall conform to standards established by the Office of Personnel Management for the Central Personnel Data File.

''(e) APPLICABILITY TO ACQUISITION WORKFORCE.—The programs established by this section shall apply to the acquisition workforce of each executive agency. For purposes of this section, the acquisition workforce of an agency consists of all employees serving in acquisition positions listed in subsection (g)(1)(A).

''(f) CAREER DEVELOPMENT.—

''(1) CAREER PATHS.—The head of each executive agency shall ensure that appropriate career paths for personnel who desire to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior acquisition positions. The head of each executive agency shall make information available on such career paths.

''(2) CRITICAL DUTIES AND TASKS.—For each career path, the head of each executive agency shall identify the critical acquisition-related duties and tasks in which, at minimum, employees of the agency in the career path shall be competent to perform at full performance grade levels. For this purpose, the head of the executive agency shall provide appropriate coverage of the critical duties and tasks identified by the Director of the Federal Acquisition Institute.

''(3) MANDATORY TRAINING AND EDUCATION.—For each career path, the head of each executive agency shall establish requirements for the completion of course work and related on-the-job training in the critical acquisition-related duties and tasks of the career path. The head of each executive agency shall also encourage employees to maintain the currency of their acquisition knowledge and generally enhance their knowledge of related acquisition management disciplines through academic programs and other self-developmental activities.

''(4) PERFORMANCE INCENTIVES.—The head of each executive agency shall provide for an enhanced system of incentives for the encouragement of excellence in the acquisition workforce which rewards performance of employees that contribute to achieving the agency's performance goals. The system of incentives shall include provisions that—

''(A) relate pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs pursuant to section 313(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 263(b))); and

''(B) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving such cost goals, schedule goals, and performance goals.

''(g) QUALIFICATION REQUIREMENTS.—

''(1) IN GENERAL.—(A) Subject to paragraph (2), the Administrator shall establish qualification requirements, including education requirements, for the following positions:

''(i) Entry-level positions in the General Schedule Contracting series (GS–1102).

''(ii) Senior positions in the General Schedule Contracting series (GS–1102).

''(iii) All positions in the General Schedule Purchasing series (GS–1105).

''(iv) Positions in other General Schedule series in which significant acquisition-related functions are performed.

''(B) Subject to paragraph (2), the Administrator shall prescribe the manner and extent to which such qualification requirements shall apply to any person serving in a position described in subparagraph (A) at the time such requirements are established.

''(2) RELATIONSHIP TO REQUIREMENTS APPLICABLE TO DEFENSE ACQUISITION WORKFORCE.—The Administrator shall establish qualification requirements and make prescriptions under paragraph (1) that are comparable to those established for the same or equivalent positions pursuant to chapter 87 of title 10, United States Code, with appropriate modifications.

''(3) APPROVAL OF REQUIREMENTS.—The Administrator shall submit any requirement established or prescription made under paragraph (1) to the Director of the Office of Personnel Management for approval. If the Director does not disapprove a requirement or prescription within 30 days after the date on which the Director receives it, the requirement or prescription is deemed to be approved by the Director.

''(h) EDUCATION AND TRAINING.—

''(1) FUNDING LEVELS.—(A) The head of an executive agency shall set forth separately the funding levels requested for education and training of the acquisition workforce in the budget justification documents submitted in support of the President's budget submitted to Congress under section 1105 of title 31, United States Code.

''(B) Funds appropriated for education and training under this section may not be obligated for any other purpose.

''(2) TUITION ASSISTANCE.—The head of an executive agency may provide tuition reimbursement in education (including a full-time course of study leading to a degree) in accordance with section 4107 of title 5, United States Code, for personnel serving in acquisition positions in the agency.''.

(2) The table of contents for such Act, contained in section 1(b), is amended by adding at the end the following new item:

''Sec. 37. Acquisition workforce.''.

(b) ADDITIONAL AMENDMENTS.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405), is amended—

(1) by redesignating paragraphs (6), (7), (8), (9), (10), (11), and (12) (as transferred by section 4321(h)(1)) as paragraphs (7), (8), (9), (10), (11), (12), and (13), respectively;

(2) in paragraph (5)—

(A) in subparagraph (A), by striking out ''Government-wide career management programs for a professional procurement work force'' and inserting in lieu thereof ''the development of a professional acquisition workforce Government-wide''; and

(B) in subparagraph (B)—

(i) by striking out ''procurement by the'' and inserting in lieu thereof ''acquisition by the'';

(ii) by striking out ''and'' at the end of the subparagraph; and

(iii) by striking out subparagraph (C) and inserting in lieu thereof the following:

''(C) collect data and analyze acquisition workforce data from the Office of Personnel Management, the heads of executive agencies, and, through periodic surveys, from individual employees;

''(D) periodically analyze acquisition career fields to identify critical competencies, duties, tasks, and related academic prerequisites, skills, and knowledge;

''(E) coordinate and assist agencies in identifying and recruiting highly qualified candidates for acquisition fields;

''(F) develop instructional materials for acquisition personnel in coordination with private and public acquisition colleges and training facilities;

''(G) evaluate the effectiveness of training and career development programs for acquisition personnel;

''(H) promote the establishment and utilization of academic programs by colleges and universities in acquisition fields;

''(I) facilitate, to the extent requested by agencies, interagency intern and training programs; and

''(J) perform other career management or research functions as directed by the Administrator.''; and

(3) by inserting before paragraph (7) (as so redesignated) the following new paragraph (6):

''(6) administering the provisions of section 37;''.

SEC. 4308. DEMONSTRATION PROJECT RELATING TO CERTAIN PERSONNEL MANAGEMENT POLICIES AND PROCEDURES.

(a) COMMENCEMENT.—The Secretary of Defense is encouraged to take such steps as may be necessary to provide for the commencement of a demonstration project, the purpose of which would be to determine the feasibility or desirability of one or more proposals for improving the personnel management policies or procedures that apply with respect to the acquisition workforce of the Department of Defense.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, any demonstration project described in subsection (a) shall be subject to section 4703 of title 5, United States Code, and all other provisions of such title that apply with respect to any demonstration project under such section.

(2) EXCEPTIONS.—Subject to paragraph (3), in applying section 4703 of title 5, United States Code, with respect to a demonstration project described in subsection (a)—

(A) ''180 days'' in subsection (b)(4) of such section shall be deemed to read ''120 days'';

(B) ''90 days'' in subsection (b)(6) of such section shall be deemed to read ''30 days''; and

(C) subsection (d)(1)(A) of such section shall be disregarded.

(3) CONDITION.—Paragraph (2) shall not apply with respect to a demonstration project unless it—

(A) involves only the acquisition workforce of the Department of Defense (or any part thereof); and

(B) commences during the 3-year period beginning on the date of the enactment of this Act.

(c) DEFINITION.—For purposes of this section, the term ''acquisition workforce'' refers to the persons serving in acquisition positions within the Department of Defense, as designated pursuant to section 1721(a) of title 10, United States Code.

SEC. 4309. COOPERATIVE PURCHASING.

(a) DELAY IN OPENING CERTAIN FEDERAL SUPPLY SCHEDULES TO USE BY STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS.—The Administrator of General Services may not use the authority of section 201(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(b)(2)) to provide for the use of Federal supply schedules of the General Services Administration until after the later of—

(1) the date on which the 18-month period beginning on the date of the enactment of this Act expires; or

(2) the date on which all of the following conditions are met:

(A) The Administrator has considered the report of the Comptroller General required by subsection (b).

(B) The Administrator has submitted comments on such report to Congress as required by subsection (c).

(C) A period of 30 days after the date of submission of such comments to Congress has expired.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Administrator of General Services and to Congress a report on the implementation of section 201(b) of the Federal Property and Administrative Services Act of 1949. The report shall include the following:

(1) An assessment of the effect on industry, including small businesses and local dealers, of providing for the use of Federal supply schedules by the entities described in section 201(b)(2)(A) of the Federal Property and Administrative Services Act of 1949.

(2) An assessment of the effect on such entities of providing for the use of Federal supply schedules by them.

(c) COMMENTS ON REPORT BY ADMINISTRATOR.—Not later than 30 days after receiving the report of the Comptroller General required by subsection (b), the Administrator of General Services shall submit to Congress comments on the report, including the Administrator's comments on whether the Administrator plans to provide any Federal supply schedule for the use of any entity described in section 201(b)(2)(A) of the Federal Property and Administrative Services Act of 1949.

(d) CALCULATION OF 30-DAY PERIOD.—For purposes of subsection (a)(2)(C), the calculation of the 30-day period shall exclude Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days.

SEC. 4310. PROCUREMENT NOTICE TECHNICAL AMENDMENT.

Section 18(c)(1)(E) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)(1)(E)) is amended by inserting after ''requirements contract'' the following: '', a task order contract, or a delivery order contract''.

SEC. 4311. MICRO-PURCHASES WITHOUT COMPETITIVE QUOTATIONS.

Section 32(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428), as redesignated by section 4304(c)(3), is amended by striking out ''the contracting officer'' and inserting in lieu thereof ''an employee of an executive agency or a member of the Armed Forces of the United States authorized to do so''.

Subtitle B—Technical Amendments

SEC. 4321. AMENDMENTS RELATED TO FEDERAL ACQUISITION STREAMLINING ACT OF 1994.

(a) PUBLIC LAW 103–355.—Effective as of October 13, 1994, and as if included therein as enacted, the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3243 et seq.) is amended as follows:

(1) Section 1073 (108 Stat. 3271) is amended by striking out ''section 303I'' and inserting in lieu thereof ''section 303K''.

(2) Section 1202(a) (108 Stat. 3274) is amended by striking out the closing quotation marks and second period at the end of paragraph (2)(B) of the subsection inserted by the amendment made by that section.

(3) Section 1251(b) (108 Stat. 3284) is amended by striking out ''Office of Federal Procurement Policy Act'' and inserting in lieu thereof ''Federal Property and Administrative Services Act of 1949''.

(4) Section 2051(e) (108 Stat. 3304) is amended by striking out the closing quotation marks and second period at the end of subsection (f)(3) in the matter inserted by the amendment made by that section.

(5) Section 2101(a)(6)(B)(ii) (108 Stat. 3308) is amended by replacing ''regulation'' with ''regulations'' in the first quoted matter.

(6) Section 2351(a) (108 Stat. 3322) is amended by inserting ''(1)'' before ''Section 6''.

(7) The heading of section 2352(b) (108 Stat. 3322) is amended by striking out ''PROCEDURES TO SMALL BUSINESS GOVERNMENT CONTRACTORS.—'' and inserting in lieu thereof ''PROCEDURES.—''.

(8) Section 3022 (108 Stat. 3333) is amended by striking out ''each place'' and all that follows through the end of the section and inserting in lieu thereof ''in paragraph (1) and ', rent,' after 'sell' in paragraph (2).''.

(9) Section 5092(b) (108 Stat. 3362) is amended by inserting ''of paragraph (2)'' after ''second sentence''.

(10) Section 6005(a) (108 Stat. 3364) is amended by striking out the closing quotation marks and second period at the end of subsection (e)(2) of the matter inserted by the amendment made by that section.

(11) Section 10005(f)(4) (108 Stat. 3409) is amended in the second matter in quotation marks by striking out '''SEC. 5. This Act'' and inserting in lieu thereof '''SEC. 7. This title''.

(b) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 2220(b) is amended by striking out ''the date of the enactment of the Federal Acquisition Streamlining Act of 1994'' and inserting in lieu thereof ''October 13, 1994''.

(2)(A) The section 2247 added by section 7202(a)(1) of Public Law 103–355 (108 Stat. 3379) is redesignated as section 2249.

(B) The item relating to that section in the table of sections at the beginning of subchapter I of chapter 134 is revised to conform to the redesignation made by subparagraph (A).

(3) Section 2302(3)(K) is amended by adding a period at the end.

(4) Section 2304(f)(2)(D) is amended by striking out ''the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O'Day Act,'' and inserting in lieu thereof ''the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.),''.

(5) Section 2304(h) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

''(1) The Walsh-Healey Act (41 U.S.C. 35 et seq.).''.

(6)(A) The section 2304a added by section 848(a)(1) of Public Law 103–160 (107 Stat. 1724) is redesignated as section 2304e.

(B) The item relating to that section in the table of sections at the beginning of chapter 137 is revised to conform to the redesignation made by subparagraph (A).

(7) Section 2306a is amended—

(A) in subsection (d)(2)(A)(ii), by inserting ''to'' after ''The information referred'';

(B) in subsection (e)(4)(B)(ii), by striking out the second comma after ''parties''; and

(C) in subsection (i)(3), by inserting ''(41 U.S.C. 403(12))'' before the period at the end.

(8) Section 2323 is amended—

(A) in subsection (a)(1)(C), by inserting a closing parenthesis after ''1135d–5(3))'' and after ''1059c(b)(1))'';

(B) in subsection (a)(3), by striking out ''(issued under'' and all that follows through ''421(c))'';

(C) in subsection (b), by inserting ''(1)'' after ''AMOUNT.—''; and

(D) in subsection (i)(3), by adding at the end a subparagraph (D) identical to the subparagraph (D) set forth in the amendment made by section 811(e) of Public Law 103–160 (107 Stat. 1702).

(9) Section 2324 is amended—

(A) in subsection (e)(2)(C)—

(i) by striking out ''awarding the contract'' at the end of the first sentence; and

(ii) by striking out ''title III'' and all that follows through ''Act)'' and inserting in lieu thereof ''the Buy American Act (41 U.S.C. 10b–1)''; and

(B) in subsection (h)(2), by inserting ''the head of the agency or'' after ''in the case of any contract if''.

(10) Section 2350b is amended—

(A) in subsection (c)(1)—

(i) by striking out ''specifically—'' and inserting in lieu thereof ''specifically prescribes—''; and

(ii) by striking out ''prescribe'' in each of subparagraphs (A), (B), (C), and (D); and

(B) in subsection (d)(1), by striking out ''subcontract to be'' and inserting in lieu thereof ''subcontract be''.

(11) Section 2372(i)(1) is amended by striking out ''section 2324(m)'' and inserting in lieu thereof ''section 2324(l)''.

(12) Section 2384(b) is amended—

(A) in paragraph (2)—

(i) by striking ''items, as'' and inserting in lieu thereof ''items (as''; and

(ii) by inserting a closing parenthesis after ''403(12))''; and

(B) in paragraph (3), by inserting a closing parenthesis after ''403(11))''.

(13) Section 2400(a)(5) is amended by striking out ''the preceding sentence'' and inserting in lieu thereof ''this paragraph''.

(14) Section 2405 is amended—

(A) in paragraphs (1) and (2) of subsection (a), by striking out ''the date of the enactment of the Federal Acquisition Streamlining Act of 1994'' and inserting in lieu thereof ''October 13, 1994''; and

(B) in subsection (c)(3)—

(i) by striking out ''the later of—'' and all that follows through ''(B)''; and

(ii) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and realigning those subparagraphs accordingly.

(15) Section 2410d(b) is amended by striking out paragraph (3).

(16) Section 2410g(d)(1) is amended by inserting before the period at the end the following: ''(as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))''.

(17) Section 2424(c) is amended—

(A) by inserting ''EXCEPTION.—'' after ''(c)''; and

(B) by striking out ''drink'' the first and third places it appears in the second sentence and inserting in lieu thereof ''beverage''.

(18) Section 2431 is amended—

(A) in subsection (b)—

(i) by striking out ''Any report'' in the first sentence and inserting in lieu thereof ''Any documents''; and

(ii) by striking out ''the report'' in paragraph (3) and inserting in lieu thereof ''the documents''; and

(B) in subsection (c), by striking ''reporting'' and inserting in lieu thereof ''documentation''.

(19) Section 2461(e)(1) is amended by striking out ''the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Wagner-O'Day Act'' and inserting in lieu thereof ''the Javits-Wagner-O'Day Act (41 U.S.C. 47)''.

(20) Section 2533(a) is amended by striking out ''title III of the Act'' and all that follows through ''such Act'' and inserting in lieu thereof ''the Buy American Act (41 U.S.C. 10a)) whether application of such Act''.

(21) Section 2662(b) is amended by striking out ''small purchase threshold'' and inserting in lieu thereof ''simplified acquisition threshold''.

(22) Section 2701(i)(1) is amended—

(A) by striking out ''Act of August 24, 1935 (40 U.S.C. 270a–270d), commonly referred to as the 'Miller Act','' and inserting in lieu thereof ''Miller Act (40 U.S.C. 270a et seq.)''; and

(B) by striking out ''such Act of August 24, 1935'' and inserting in lieu thereof ''the Miller Act''.

(c) SMALL BUSINESS ACT.—The Small Business Act (15 U.S.C. 632 et seq.) is amended as follows:

(1) Section 8(d) (15 U.S.C. 637(d)) is amended—

(A) in paragraph (1), by striking out the second comma after ''small business concerns'' the first place it appears; and

(B) in paragraph (6)(C), by striking out ''and small business concerns owned and controlled by the socially and economically disadvantaged individuals'' and inserting in lieu thereof '', small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women''.

(2) Section 8(f) (15 U.S.C. 637(f)) is amended by inserting ''and'' after the semicolon at the end of paragraph (5).

(3) Section 15(g)(2) (15 U.S.C. 644(g)(2)) is amended by striking out the second comma after the first appearance of ''small business concerns''.

(d) TITLE 31, UNITED STATES CODE.—Title 31, United States Code, is amended as follows:

(1) Section 3551 is amended—

(A) by striking out ''subchapter—'' and inserting in lieu thereof ''subchapter:''; and

(B) in paragraph (2), by striking out ''or proposed contract'' and inserting in lieu thereof ''or a solicitation or other request for offers''.

(2) Section 3553(b)(3) is amended by striking out ''3554(a)(3)'' and inserting in lieu thereof ''3554(a)(4)''.

(3) Section 3554(b)(2) is amended by striking out ''section 3553(d)(2)(A)(i)'' and inserting in lieu thereof ''section 3553(d)(3)(C)(i)(I)''.

(e) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The Federal Property and Administrative Services Act of 1949 is amended as follows:

(1) The table of contents in section 1 (40 U.S.C. 471 prec.) is amended—

(A) by striking out the item relating to section 104;

(B) by striking out the item relating to section 201 and inserting in lieu thereof the following:

''Sec. 201. Procurements, warehousing, and related activities.'';

(C) by inserting after the item relating to section 315 the following new item:

''Sec. 316. Merit-based award of grants for research and development.'';

(D) by striking out the item relating to section 603 and inserting in lieu thereof the following:

''Sec. 603. Authorizations for appropriations and transfer authority.'';

and

(E) by inserting after the item relating to section 605 the following new item:

''Sec. 606. Sex discrimination.''.

(2) Section 303(f)(2)(D) (41 U.S.C. 253(f)(2)(D)) is amended by striking out ''the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O'Day Act,'' and inserting in lieu thereof ''the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.),''.

(3) The heading for paragraph (1) of section 304A(c) (41 U.S.C. 254b(c)) is amended by changing each letter that is capitalized (other than the first letter of the first word) to lower case.

(4) Subsection (d)(2)(A)(ii) of section 304A (41 U.S.C. 254b) is amended by inserting ''to'' after ''The information referred''.

(5) Section 304C(a)(2) is amended by striking out ''section 304B'' and inserting in lieu thereof ''section 304A''.

(6) Section 307(b) is amended by striking out ''section 305(c)'' and inserting in lieu thereof ''section 305(d)''.

(7) The heading for section 314A (41 U.S.C. 264a) is amended to read as follows:

''SEC. 314A. DEFINITIONS RELATING TO PROCUREMENT OF COMMERCIAL ITEMS.''.

(8) Section 315(b) (41 U.S.C. 265(b)) is amended by striking out ''inspector general'' both places it appears and inserting in lieu thereof ''Inspector General''.

(9) The heading for section 316 (41 U.S.C. 266) is amended by inserting at the end a period.

(f) WALSH-HEALEY ACT.—

(1) The Walsh-Healey Act (41 U.S.C. 35 et seq.) is amended—

(A) by transferring the second section 11 (as added by section 7201(4) of Public Law 103–355) so as to appear after section 10; and

(B) by redesignating the three sections following such section 11 (as so transferred) as sections 12, 13, and 14.

(2) Such Act is further amended in section 10—

(A) in subsection (b), by striking out ''section 1(b)'' and inserting in lieu thereof ''section 1(a)''; and

(B) in subsection (c), by striking out the comma after ''locality''.

(g) ANTI-KICKBACK ACT OF 1986.—Section 7(d) of the Anti-Kickback Act of 1986 (41 U.S.C. 57(d)) is amended—

(1) by striking out ''such Act'' and inserting in lieu thereof ''the Office of Federal Procurement Policy Act''; and

(2) by striking out the second period at the end.

(h) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended as follows:

(1) Section 6 (41 U.S.C. 405) is amended by transferring paragraph (12) of subsection (d) (as such paragraph was redesignated by section 5091(2) of the Federal Acquisition Streamlining Act of 1994 (P.L. 103–355; 108 Stat. 3361)) to the end of that subsection.

(2) Section 6(11) (41 U.S.C. 405(11)) is amended by striking out ''small business'' and inserting in lieu thereof ''small businesses''.

(3) Section 18(b) (41 U.S.C. 416(b)) is amended by inserting ''and'' after the semicolon at the end of paragraph (5).

(4) Section 26(f)(3) (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out ''Not later than 180 days after the date of enactment of this section, the Administrator'' and inserting in lieu thereof ''The Administrator''.

(i) OTHER LAWS.—

(1) The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended as follows:

(A) Section 126(c) (107 Stat. 1567) is amended by striking out ''section 2401 of title 10, United States Code, or section 9081 of the Department of Defense Appropriations Act, 1990 (10 U.S.C. 2401 note).'' and inserting in lieu thereof ''section 2401 or 2401a of title 10, United States Code.''.

(B) Section 127 (107 Stat. 1568) is amended—

(i) in subsection (a), by striking out ''section 2401 of title 10, United States Code, or section 9081 of the Department of Defense Appropriations Act, 1990 (10 U.S.C. 2401 note).'' and inserting in lieu thereof ''section 2401 or 2401a of title 10, United States Code.''; and

(ii) in subsection (e), by striking out ''section 9081 of the Department of Defense Appropriations Act, 1990 (10 U.S.C. 2401 note).'' and inserting in lieu thereof ''section 2401a of title 10, United States Code.''.

(2) The National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189) is amended by striking out section 824.

(3) Section 117 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law

100–456; 10 U.S.C. 2431 note) is amended by striking out subsection (c).

(4) The National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180) is amended by striking out section 825 (10 U.S.C. 2432 note).

(5) Section 11 of Public Law 101–552 (5 U.S.C. 581 note) is amended by inserting ''under'' before ''the amendments made by this Act''.

(6) The last sentence of section 6 of the Federal Power Act (16 U.S.C. 799) is repealed.

(7) Section 101(a)(11)(A) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)(A)) is amended by striking out ''the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.)'' and inserting in lieu thereof ''the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.)''.

(8) The first section 5 of the Miller Act (40 U.S.C. 270a note) is redesignated as section 7 and, as so redesignated, is transferred to the end of that Act.

(9) Section 3737(g) of the Revised Statutes of the United States (41 U.S.C. 15(g)) is amended by striking out ''rights of obligations'' and inserting in lieu thereof ''rights or obligations''.

(10) The Act of June 15, 1940 (41 U.S.C. 20a; Chapter 367; 54 Stat. 398), is repealed.

(11) The Act of November 28, 1943 (41 U.S.C. 20b; Chapter 328; 57 Stat. 592), is repealed.

(12) Section 3741 of the Revised Statutes of the United States (41 U.S.C. 22), as amended by section 6004 of Public Law 103–355 (108 Stat. 3364), is amended by striking out ''No member'' and inserting in lieu thereof ''SEC. 3741. No Member''.

(13) Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701(a)(1)) is amended by striking out ''as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)'' and inserting in lieu thereof ''(as defined in section 4(12) of such Act (41 U.S.C. 403(12)))''.

SEC. 4322. MISCELLANEOUS AMENDMENTS TO FEDERAL ACQUISITION LAWS.

(a) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended as follows:

(1) Section 6(b) (41 U.S.C. 405(b)) is amended by striking out the second comma after ''under subsection (a)'' in the first sentence.

(2) Section 25(b)(2) (41 U.S.C. 421(b)(2)) is amended by striking out ''Under Secretary of Defense for Acquisition'' and inserting in lieu thereof ''Under Secretary of Defense for Acquisition and Technology''.

(b) OTHER LAWS.—

(1) Section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking out the second comma after ''Community Service''.

(2) Section 908(e) of the Defense Acquisition Improvement Act of 1986 (10 U.S.C. 2326 note) is amended by striking out ''section 2325(g)'' and inserting in lieu thereof ''section 2326(g)''.

(3) Effective as of August 9, 1989, and as if included therein as enacted, Public Law 101–73 is amended in section 501(b)(1)(A) (103 Stat. 393) by striking out ''be,'' and inserting in lieu thereof ''be;'' in the second quoted matter therein.

(4) Section 3732(a) of the Revised Statutes of the United States (41 U.S.C. 11(a)) is amended by striking out the second comma after ''quarters''.

(5) Section 2 of the Contract Disputes Act of 1978 (41 U.S.C. 601) is amended in paragraphs (3), (5), (6), and (7), by striking out ''The'' and inserting in lieu thereof ''the''.

(6) Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended in subsections (d) and (e) by inserting after ''United States Code'' each place it appears the following: ''(as in effect on September 30, 1995)''.

(7) Section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) is amended—

(A) in subsection (a), by striking out ''section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a)'' and inserting in lieu thereof ''section 1304 of title 31, United States Code''; and

(B) in subsection (c), by striking out ''section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a)'' and inserting in lieu thereof ''section 1304 of title 31, United States Code,''.

TITLE XLIV—EFFECTIVE DATES AND IMPLEMENTATION

SEC. 4401. EFFECTIVE DATE AND APPLICABILITY.

(a) EFFECTIVE DATE.—Except as otherwise provided in this division, this division and the amendments made by this division shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY OF AMENDMENTS.—

(1) SOLICITATIONS, UNSOLICITED PROPOSALS, AND RELATED CONTRACTS.—An amendment made by this division shall apply, in the manner prescribed in the final regulations promulgated pursuant to section 4402 to implement such amendment, with respect to any solicitation that is issued, any unsolicited proposal that is received, and any contract entered into pursuant to such a solicitation or proposal, on or after the date described in paragraph (3).

(2) OTHER MATTERS.—An amendment made by this division shall also apply, to the extent and in the manner prescribed in the final regulations promulgated pursuant to section 4402 to implement such amendment, with respect to any matter related to—

(A) a contract that is in effect on the date described in paragraph (3);

(B) an offer under consideration on the date described in paragraph (3); or

(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

(3) DEMARCATION DATE.—The date referred to in paragraphs (1) and (2) is the date specified in such final regulations. The date so specified shall be January 1, 1997, or any earlier date that is not within 30 days after the date on which such final regulations are published.

SEC. 4402. IMPLEMENTING REGULATIONS.

(a) PROPOSED REVISIONS.—Proposed revisions to the Federal Acquisition Regulation and such other proposed regulations (or revisions to existing regulations) as may be necessary to implement this Act shall be published in the Federal Register not later than 210 days after the date of the enactment of this Act.

(b) PUBLIC COMMENT.—The proposed regulations described in subsection (a) shall be made available for public comment for a period of not less than 60 days.

(c) FINAL REGULATIONS.—Final regulations shall be published in the Federal Register not later than 330 days after the date of enactment of this Act.

(d) MODIFICATIONS.—Final regulations promulgated pursuant to this section to implement an amendment made by this Act may provide for modification of an existing contract without consideration upon the request of the contractor.

(e) SAVINGS PROVISIONS.—

(1) VALIDITY OF PRIOR ACTIONS.—Nothing in this division shall be construed to affect the validity of any action taken or any contract entered into before the date specified in the regulations pursuant to section 4401(b)(3) except to the extent and in the manner prescribed in such regulations.

(2) RENEGOTIATION AND MODIFICATION OF PREEXISTING CONTRACTS.—Except as specifically provided in this division, nothing in this division shall be construed to require the renegotiation or modification of contracts in existence on the date of the enactment of this Act.

(3) CONTINUED APPLICABILITY OF PREEXISTING LAW.—Except as otherwise provided in this division, a law amended by this division shall continue to be applied according to the provisions thereof as such law was in effect on the day before the date of the enactment of this Act until—

(A) the date specified in final regulations implementing the amendment of that law (as promulgated pursuant to this section); or

(B) if no such date is specified in regulations, January 1, 1997.

DIVISION E—INFORMATION TECHNOLOGY MANAGEMENT REFORM

SEC. 5001. SHORT TITLE.

This division may be cited as the ''Information Technology Management Reform Act of 1996''.

SEC. 5002. DEFINITIONS.

In this division:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(3) INFORMATION TECHNOLOGY.—(A) The term ''information technology'', with respect to an executive agency means any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency. For purposes of the preceding sentence, equipment is used by an executive agency if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency which (i) requires the use of such equipment, or (ii) requires the use, to a significant extent, of such equipment in the performance of a service or the furnishing of a product.

(B) The term ''information technology'' includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

(C) Notwithstanding subparagraphs (A) and (B), the term ''information technology'' does not include any equipment that is acquired by a Federal contractor incidental to a Federal contract.

(4) INFORMATION RESOURCES.—The term ''information resources'' has the meaning given such term in section 3502(6) of title 44, United States Code.

(5) INFORMATION RESOURCES MANAGEMENT.—The term ''information resources management'' has the meaning given such term in section 3502(7) of title 44, United States Code.

(6) INFORMATION SYSTEM.—The term ''information system'' has the meaning given such term in section 3502(8) of title 44, United States Code.

(7) COMMERCIAL ITEM.—The term ''commercial item'' has the meaning given that term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

TITLE LI—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

ion system" has the meaning given such term in section 3502(8) of title 44, United States Code.

Subtitle A—General Authority

SEC. 5101. REPEAL OF CENTRAL AUTHORITY OF THE ADMINISTRATOR OF GENERAL SERVICES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is repealed.

Subtitle B—Director of the Office of Management and Budget

SEC. 5111. RESPONSIBILITY OF DIRECTOR.

In fulfilling the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Director shall comply with this title with respect to the specific matters covered by this title.

SEC. 5112. CAPITAL PLANNING AND INVESTMENT CONTROL.

(a) FEDERAL INFORMATION TECHNOLOGY.—The Director shall perform the responsibilities set forth in this section in fulfilling the responsibilities under section 3504(h) of title 44, United States Code.

(b) USE OF INFORMATION TECHNOLOGY IN FEDERAL PROGRAMS.—The Director shall promote and be responsible for improving the acquisition, use, and disposal of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

(c) USE OF BUDGET PROCESS.—The Director shall develop, as part of the budget process, a process for analyzing, tracking, and evaluating the risks and results of all major capital investments made by an executive agency for information systems. The process shall cover the life of each system and shall include explicit criteria for analyzing the projected and actual costs, benefits, and risks associated with the investments. At the same time that the President submits the budget for a fiscal year to Congress under section 1105(a) of title 31, United States Code, the Director shall submit to Congress a report on the net program performance benefits achieved as a result of major capital investments made by executive agencies in information systems and how the benefits relate to the accomplishment of the goals of the executive agencies.

(d) INFORMATION TECHNOLOGY STANDARDS.—The Director shall oversee the development and implementation of standards and guidelines pertaining to Federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 5131 and section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

(e) DESIGNATION OF EXECUTIVE AGENTS FOR ACQUISITIONS.—The Director shall designate (as the Director considers appropriate) one or more heads of executive agencies as executive agent for Government-wide acquisitions of information technology.

(f) USE OF BEST PRACTICES IN ACQUISITIONS.—The Director shall encourage the heads of the executive agencies to develop and use the best practices in the acquisition of information technology.

(g) ASSESSMENT OF OTHER MODELS FOR MANAGING INFORMATION TECHNOLOGY.—The Director shall assess, on a continuing basis, the experiences of executive agencies, State and local governments, international organizations, and the private sector in managing information technology.

(h) COMPARISON OF AGENCY USES OF INFORMATION TECHNOLOGY.—The Director shall compare the performances of the executive agencies in using information technology and shall disseminate the comparisons to the heads of the executive agencies.

(i) INFORMATION TECHNOLOGY TRAINING PROGRAM.—The Director shall monitor the development and implementation of training in information resources management for executive agency personnel.

(j) INFORMING CONGRESS.—The Director shall keep Congress fully informed on the extent to which the executive agencies are improving the performance of agency programs and the accomplishment of agency missions through the use of the best practices in information resources management.

(k) PROCUREMENT POLICY AND ACQUISITIONS OF INFORMATION TECHNOLOGY.—The Director shall coordinate the development and review by the Administrator of the Office of Information and Regulatory Affairs of policy associated with Federal acquisition of information technology with the Office of Federal Procurement Policy.

SEC. 5113. PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT.

(a) IN GENERAL.—The Director shall encourage the use of performance-based and results-based management in fulfilling the responsibilities assigned under section 3504(h), of title 44, United States Code.

(b) EVALUATION OF AGENCY PROGRAMS AND INVESTMENTS.—

(1) REQUIREMENT.—The Director shall evaluate the information resources management practices of the executive agencies with respect to the performance and results of the investments made by the executive agencies in information technology.

(2) DIRECTION FOR EXECUTIVE AGENCY ACTION.—The Director shall issue to the head of each executive agency clear and concise direction that the head of such agency shall—

(A) establish effective and efficient capital planning processes for selecting, managing, and evaluating the results of all of its major investments in information systems;

(B) determine, before making an investment in a new information system—

(i) whether the function to be supported by the system should be performed by the private sector and, if so, whether any component of the executive agency performing that function should be converted from a governmental organization to a private sector organization; or

(ii) whether the function should be performed by the executive agency and, if so, whether the function should be performed by a private sector source under contract or by executive agency personnel;

(C) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes, as appropriate, before making significant investments in information technology to be used in support of those missions; and

(D) ensure that the information security policies, procedures, and practices are adequate.

(3) GUIDANCE FOR MULTIAGENCY INVESTMENTS.—The direction issued under paragraph (2) shall include guidance for undertaking efficiently and effectively interagency and Government-wide investments in information technology to improve the accomplishment of missions that are common to the executive agencies.

(4) PERIODIC REVIEWS.—The Director shall implement through the budget process periodic reviews of selected information resources management activities of the executive agencies in order to ascertain the efficiency and effectiveness of information technology in improving the performance of the executive agency and the accomplishment of the missions of the executive agency.

(5) ENFORCEMENT OF ACCOUNTABILITY.—

(A) IN GENERAL.—The Director may take any authorized action that the Director considers appropriate, including an action involving the budgetary process or appropriations management process, to enforce accountability of the head of an executive agency for information resources management and for the investments made by the executive agency in information technology.

(B) SPECIFIC ACTIONS.—Actions taken by the Director in the case of an executive agency may include—

(i) recommending a reduction or an increase in any amount for information resources that the head of the executive agency proposes for the budget submitted to Congress under section 1105(a) of title 31, United States Code;

(ii) reducing or otherwise adjusting apportionments and reapportionments of appropriations for information resources;

(iii) using other authorized administrative controls over appropriations to restrict the availability of funds for information resources; and

(iv) designating for the executive agency an executive agent to contract with private sector sources for the performance of information resources management or the acquisition of information technology.

Subtitle C—Executive Agencies

SEC. 5121. RESPONSIBILITIES.

In fulfilling the responsibilities assigned under chapter 35 of title 44, United States Code, the head of each executive agency shall comply with this subtitle with respect to the specific matters covered by this subtitle.

SEC. 5122. CAPITAL PLANNING AND INVESTMENT CONTROL.

(a) DESIGN OF PROCESS.—In fulfilling the responsibilities assigned under section 3506(h) of title 44, United States Code, the head of each executive agency shall design and implement in the executive agency a process for maximizing the value and assessing and managing the risks of the information technology acquisitions of the executive agency.

(b) CONTENT OF PROCESS.—The process of an executive agency shall—

(1) provide for the selection of information technology investments to be made by the executive agency, the management of such investments, and the evaluation of the results of such investments;

(2) be integrated with the processes for making budget, financial, and program management decisions within the executive agency;

(3) include minimum criteria to be applied in considering whether to undertake a particular investment in information systems, including criteria related to the quantitatively expressed projected net, risk-adjusted return on investment and specific quantitative and qualitative criteria for comparing and prioritizing alternative information systems investment projects;

(4) provide for identifying information systems investments that would result in shared benefits or costs for other Federal agencies or State or local governments;

(5) provide for identifying for a proposed investment quantifiable measurements for determining the net benefits and risks of the investment; and

(6) provide the means for senior management personnel of the executive agency to obtain timely information regarding the progress of an investment in an information system, including a system of milestones for measuring progress, on an independently verifiable basis, in terms of cost, capability of the system to meet specified requirements, timeliness, and quality.

SEC. 5123. PERFORMANCE AND RESULTS-BASED MANAGEMENT.

In fulfilling the responsibilities under section 3506(h) of title 44, United States Code, the head of an executive agency shall—

(1) establish goals for improving the efficiency and effectiveness of agency operations and, as appropriate, the delivery of services to the public through the effective use of information technology;

(2) prepare an annual report, to be included in the executive agency's budget submission to Congress, on the progress in achieving the goals;

(3) ensure that performance measurements are prescribed for information technology used by or to be acquired for, the executive agency and that the performance measurements measure how well the information technology supports programs of the executive agency;

(4) where comparable processes and organizations in the public or private sectors exist, quantitatively benchmark agency process performance against such processes in terms of cost, speed, productivity, and quality of outputs and outcomes;

(5) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes as appropriate before making significant investments in information technology that is to be used in support of the performance of those missions; and

(6) ensure that the information security policies, procedures, and practices of the executive agency are adequate.

SEC. 5124. ACQUISITIONS OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—The authority of the head of an executive agency to conduct an acquisition of information technology includes the following authorities:

(1) To acquire information technology as authorized by law.

(2) To enter into a contract that provides for multiagency acquisitions of information technology in accordance with guidance issued by the Director.

(3) If the Director finds that it would be advantageous for the Federal Government to do so, to enter into a multiagency contract for procurement of commercial items of information technology that requires each executive agency covered by the contract, when procuring such items, either to procure the items under that contract or to justify an alternative procurement of the items.

(b) FTS 2000 PROGRAM.—Notwithstanding any other provision of this or any other law, the Administrator of General Services shall continue to manage the FTS 2000 program, and to coordinate the follow-on to that program, on behalf of and with the advice of the heads of executive agencies.

SEC. 5125. AGENCY CHIEF INFORMATION OFFICER.

(a) DESIGNATION OF CHIEF INFORMATION OFFICERS.—Section 3506 of title 44, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A), by striking out ''senior official'' and inserting in lieu thereof ''Chief Information Officer'';

(B) in paragraph (2)(B)—

(i) by striking out ''senior officials'' in the first sentence and inserting in lieu thereof ''Chief Information Officers'';

(ii) by striking out ''official'' in the second sentence and inserting in lieu thereof ''Chief Information Officer''; and

(iii) by striking out ''officials'' in the second sentence and inserting in lieu thereof ''Chief Information Officers''; and

(C) in paragraphs (3) and (4), by striking out ''senior official'' each place it appears and inserting in lieu thereof ''Chief Information Officer''; and

(2) in subsection (c)(1), by striking out ''official'' in the matter preceding subparagraph (A) and inserting in lieu thereof ''Chief Information Officer''.

(b) GENERAL RESPONSIBILITIES.—The Chief Information Officer of an executive agency shall be responsible for—

(1) providing advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the executive agency in a manner that implements the policies and procedures of this division, consistent with chapter 35 of title 44, United States Code, and the priorities established by the head of the executive agency;

(2) developing, maintaining, and facilitating the implementation of a sound and integrated information technology architecture for the executive agency; and

(3) promoting the effective and efficient design and operation of all major information resources management processes for the executive agency, including improvements to work processes of the executive agency.

(c) DUTIES AND QUALIFICATIONS.—The Chief Information Officer of an agency that is listed in section 901(b) of title 31, United States Code, shall—

(1) have information resources management duties as that official's primary duty;

(2) monitor the performance of information technology programs of the agency, evaluate the performance of those programs on the basis of the applicable performance measurements, and advise the head of the agency regarding whether to continue, modify, or terminate a program or project; and

(3) annually, as part of the strategic planning and performance evaluation process required (subject to section 1117 of title 31, United States Code) under section 306 of title 5, United States Code, and sections 1105(a)(29), 1115, 1116, 1117, and 9703 of title 31, United States Code—

(A) assess the requirements established for agency personnel regarding knowledge and skill in information resources management and the adequacy of such requirements for facilitating the achievement of the performance goals established for information resources management;

(B) assess the extent to which the positions and personnel at the executive level of the agency and the positions and personnel at management level of the agency below the executive level meet those requirements;

(C) in order to rectify any deficiency in meeting those requirements, develop strategies and specific plans for hiring, training, and professional development; and

(D) report to the head of the agency on the progress made in improving information resources management capability.

(d) INFORMATION TECHNOLOGY ARCHITECTURE DEFINED.—In this section, the term ''information technology architecture'', with respect to an executive agency, means an integrated framework for evolving or maintaining existing information technology and acquiring new information technology to achieve the agency's strategic goals and information resources management goals.

(e) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Chief Information Officer, Department of Agriculture.

''Chief Information Officer, Department of Commerce.

''Chief Information Officer, Department of Defense (unless the official designated as the Chief Information Officer of the Department of Defense is an official listed under section 5312, 5313, or 5314 of this title).

''Chief Information Officer, Department of Education.

''Chief Information Officer, Department of Energy.

''Chief Information Officer, Department of Health and Human Services.

''Chief Information Officer, Department of Housing and Urban Development.

''Chief Information Officer, Department of Interior.

''Chief Information Officer, Department of Justice.

''Chief Information Officer, Department of Labor.

''Chief Information Officer, Department of State.

''Chief Information Officer, Department of Transportation.

''Chief Information Officer, Department of Treasury.

''Chief Information Officer, Department of Veterans Affairs.

''Chief Information Officer, Environmental Protection Agency.

''Chief Information Officer, National Aeronautics and Space Administration.

''Chief Information Officer, Agency for International Development.

''Chief Information Officer, Federal Emergency Management Agency.

''Chief Information Officer, General Services Administration.

''Chief Information Officer, National Science Foundation.

''Chief Information Officer, Nuclear Regulatory Agency.

''Chief Information Officer, Office of Personnel Management.

''Chief Information Officer, Small Business Administration.''.

SEC. 5126. ACCOUNTABILITY.

The head of each executive agency, in consultation with the Chief Information Officer and the Chief Financial Officer of that executive agency (or, in the case of an executive agency without a Chief Financial Officer, any comparable official), shall establish policies and procedures that—

(1) ensure that the accounting, financial, and asset management systems and other information systems of the executive agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the executive agency;

(2) ensure that financial and related program performance data are provided on a reliable, consistent, and timely basis to executive agency financial management systems; and

(3) ensure that financial statements support—

(A) assessments and revisions of mission-related processes and administrative processes of the executive agency; and

(B) performance measurement of the performance in the case of investments made by the agency in information systems.

SEC. 5127. SIGNIFICANT DEVIATIONS.

The head of an executive agency shall identify in the strategic information resources management plan required under section 3506(b)(2) of title 44, United States Code, any major information technology acquisition program, or any phase or increment of such a program, that has significantly deviated from the cost, performance, or schedule goals established for the program.

SEC. 5128. INTERAGENCY SUPPORT.

Funds available for an executive agency for oversight, acquisition, and procurement of information technology may be used by the head of the executive agency to support jointly with other executive agencies the activities of interagency groups that are established to advise the Director in carrying out the Director's responsibilities under this title. The use of such funds for that purpose shall be subject to such requirements and

limitations on uses and amounts as the Director may prescribe. The Director shall prescribe any such requirements and limitations during the Director's review of the executive agency's proposed budget submitted to the Director by the head of the executive agency for purposes of section 1105 of title 31, United States Code.

Subtitle D—Other Responsibilities

SEC. 5131. RESPONSIBILITIES REGARDING EFFICIENCY, SECURITY, AND PRIVACY OF FEDERAL COMPUTER SYSTEMS.

(a) STANDARDS AND GUIDELINES.—

(1) AUTHORITY.—The Secretary of Commerce shall, on the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)), promulgate standards and guidelines pertaining to Federal computer systems. The Secretary shall make such standards compulsory and binding to the extent to which the Secretary determines necessary to improve the efficiency of operation or security and privacy of Federal computer systems. The President may disapprove or modify such standards and guidelines if the President determines such action to be in the public interest. The President's authority to disapprove or modify such standards and guidelines may not be delegated. Notice of such disapproval or modification shall be published promptly in the Federal Register. Upon receiving notice of such disapproval or modification, the Secretary of Commerce shall immediately rescind or modify such standards or guidelines as directed by the President.

(2) EXERCISE OF AUTHORITY.—The authority conferred upon the Secretary of Commerce by this section shall be exercised subject to direction by the President and in coordination with the Director to ensure fiscal and policy consistency.

(b) APPLICATION OF MORE STRINGENT STANDARDS.—The head of a Federal agency may employ standards for the cost-effective security and privacy of sensitive information in a Federal computer system within or under the supervision of that agency that are more stringent than the standards promulgated by the Secretary of Commerce under this section, if such standards contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Secretary of Commerce.

(c) WAIVER OF STANDARDS.—The standards determined under subsection (a) to be compulsory and binding may be waived by the Secretary of Commerce in writing upon a determination that compliance would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or cause a major adverse financial impact on the operator which is not offset by Government-wide savings. The Secretary may delegate to the head of one or more Federal agencies authority to waive such standards to the extent to which the Secretary determines such action to be necessary and desirable to allow for timely and effective implementation of Federal computer system standards. The head of such agency may redelegate such authority only to a Chief Information Officer designated pursuant to section 3506 of title 44, United States Code. Notice of each such waiver and delegation shall be transmitted promptly to Congress and shall be published promptly in the Federal Register.

(d) DEFINITIONS.—In this section, the terms ''Federal computer system'' and ''operator of a Federal computer system'' have the meanings given such terms in section 20(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(d)).

(e) TECHNICAL AMENDMENTS.—Chapter 35 of title 44, United States Code, is amended—

(1) in section 3504(g)—

(A) in paragraph (2), by striking out ''the Computer Security Act of 1987 (40 U.S.C. 759 note)'' and inserting in lieu thereof ''sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3 and 278g–4), section 5131 of the Information Technology Management Reform Act of 1996, and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)''; and

(B) in paragraph (3), by striking out ''the Computer Security Act of 1987 (40 U.S.C. 759 note)'' and inserting in lieu thereof ''the standards and guidelines promulgated under section 5131 of the Information Technology Management Reform Act of 1996 and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)''; and

(2) in section 3518(d), by striking out ''Public Law 89–306 on the Administrator of the General Services Administration, the Secretary of Commerce, or'' and inserting in lieu thereof ''section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987 (40 U.S.C. 759 note) on the Secretary of Commerce or''.

SEC. 5132. SENSE OF CONGRESS.

It is the sense of Congress that, during the next five-year period beginning with 1996, executive agencies should achieve each year at least a 5 percent decrease in the cost (in constant fiscal year 1996 dollars) that is incurred by the agency for operating and maintaining information technology, and each year a 5 percent increase in the efficiency of the agency operations, by reason of improvements in information resources management by the agency.

Subtitle E—National Security Systems

SEC. 5141. APPLICABILITY TO NATIONAL SECURITY SYSTEMS.

(a) IN GENERAL.—Except as provided in subsection (b), this title does not apply to national security systems.

(b) EXCEPTIONS.—

(1) IN GENERAL.—Sections 5123, 5125, and 5126 apply to national security systems.

(2) CAPITAL PLANNING AND INVESTMENT CONTROL.—The heads of executive agencies shall apply sections 5112 and 5122 to national security systems to the extent practicable.

(3) PERFORMANCE AND RESULTS OF INFORMATION TECHNOLOGY INVESTMENTS.—(A) Subject to subparagraph (B), the heads of executive agencies shall apply section 5113 to national security systems to the extent practicable.

(B) National security systems shall be subject to section 5113(b)(5) except for subparagraph (B)(iv) of that section.

SEC. 5142. NATIONAL SECURITY SYSTEM DEFINED.

(a) DEFINITION.—In this subtitle, the term ''national security system'' means any telecommunications or information system operated by the United States Government, the function, operation, or use of which—

(1) involves intelligence activities;

(2) involves cryptologic activities related to national security;

(3) involves command and control of military forces;

(4) involves equipment that is an integral part of a weapon or weapons system; or

(5) subject to subsection (b), is critical to the direct fulfillment of military or intelligence missions.

(b) LIMITATION.—Subsection (a)(5) does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

TITLE LII—PROCESS FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

SEC. 5201. PROCUREMENT PROCEDURES.

The Federal Acquisition Regulatory Council shall ensure that, to the maximum extent practicable, the process for acquisition of information technology is a simplified, clear, and understandable process that specifically addresses the management of risk, incremental acquisitions, and the need to incorporate commercial information technology in a timely manner.

SEC. 5202. INCREMENTAL ACQUISITION OF INFORMATION TECHNOLOGY.

(a) POLICY.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

''SEC. 35. MODULAR CONTRACTING FOR INFORMATION TECHNOLOGY.

''(a) IN GENERAL.—The head of an executive agency should, to the maximum extent practicable, use modular contracting for an acquisition of a major system of information technology.

''(b) MODULAR CONTRACTING DESCRIBED.—Under modular contracting, an executive agency's need for a system is satisfied in successive acquisitions of interoperable increments. Each increment complies with common or commercially accepted standards applicable to information technology so that the increments are compatible with other increments of information technology comprising the system.

''(c) IMPLEMENTATION.—The Federal Acquisition Regulation shall provide that—

''(1) under the modular contracting process, an acquisition of a major system of information technology may be divided into several smaller acquisition increments that—

''(A) are easier to manage individually than would be one comprehensive acquisition;

''(B) address complex information technology objectives incrementally in order to enhance the likelihood of achieving workable solutions for attainment of those objectives;

''(C) provide for delivery, implementation, and testing of workable systems or solutions in discrete increments each of which comprises a system or solution that is not dependent on any subsequent increment in order to perform its principal functions; and

''(D) provide an opportunity for subsequent increments of the acquisition to take advantage of any evolution in technology or needs that occur during conduct of the earlier increments;

''(2) a contract for an increment of an information technology acquisition should, to the maximum extent practicable, be awarded within 180 days after the date on which the solicitation is issued and, if the contract for that increment cannot be awarded within such period, the increment should be considered for cancellation; and

''(3) the information technology provided for in a contract for acquisition of information technology should be delivered within 18 months after the date on which the solicitation resulting in award of the contract was issued.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 34 the following new item:

''Sec. 35. Modular contracting for information technology.''.

TITLE LIII—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS

Subtitle A—Conduct of Pilot Programs

SEC. 5301. AUTHORITY TO CONDUCT PILOT PROGRAMS.

(a) IN GENERAL.—

(1) PURPOSE.—The Administrator for Federal Procurement Policy (hereinafter referred to as the ''Administrator''), in consultation with the Administrator for the Office of Information and Regulatory Affairs, may conduct pilot programs in order to test alternative approaches for acquisition of information technology by executive agencies.

(2) MULTIAGENCY, MULTI-ACTIVITY CONDUCT OF EACH PROGRAM.—Except as otherwise provided in this title, each pilot program conducted under this title shall be carried out in not more than two procuring activities in each of the executive agencies that are designated by the Administrator in accordance with this title to carry out the pilot program. The head of each designated executive agency shall, with the approval of the Administrator, select the procuring activities of the executive agency that are to participate in the test and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of the pilot program within the executive agency.

(b) LIMITATIONS.—

(1) NUMBER.—Not more than two pilot programs may be conducted under the authority of this title, including one pilot program each pursuant to the requirements of sections 5311 and 5312.

(2) AMOUNT.—The total amount obligated for contracts entered into under the pilot programs conducted under the authority of this title may not exceed $750,000,000. The Administrator shall monitor such contracts and ensure that contracts are not entered into in violation of the limitation in the preceding sentence.

(c) PERIOD OF PROGRAMS.—

(1) IN GENERAL.—Subject to paragraph (2), any pilot program may be carried out under this title for the period, not in excess of five years, that is determined by the Administrator as being sufficient to establish reliable results.

(2) CONTINUING VALIDITY OF CONTRACTS.—A contract entered into under the pilot program before the expiration of that program shall remain in effect according to the terms of the contract after the expiration of the program.

SEC. 5302. EVALUATION CRITERIA AND PLANS.

(a) MEASURABLE TEST CRITERIA.—The head of each executive agency conducting a pilot program under section 5301 shall establish, to the maximum extent practicable, measurable criteria for evaluating the effects of the procedures or techniques to be tested under the program.

(b) TEST PLAN.—Before a pilot program may be conducted under section 5301, the Administrator shall submit to Congress a detailed test plan for the program, including a detailed description of the procedures to be used and a list of any regulations that are to be waived.

SEC. 5303. REPORT.

(a) REQUIREMENT.—Not later than 180 days after the completion of a pilot program under this title, the Administrator shall—

(1) submit to the Director a report on the results and findings under the program; and

(2) provide a copy of the report to Congress.

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

(1) A detailed description of the results of the program, as measured by the criteria established for the program.

(2) A discussion of any legislation that the Administrator recommends, or changes in regulations that the Administrator considers necessary, in order to improve overall information resources management within the Federal Government.

SEC. 5304. RECOMMENDED LEGISLATION.

If the Director determines that the results and findings under a pilot program under this title indicate that legislation is necessary or desirable in order to improve the process for acquisition of information technology, the Director shall transmit the Director's recommendations for such legislation to Congress.

SEC. 5305. RULE OF CONSTRUCTION.

Nothing in this title shall be construed as authorizing the appropriation or obligation of funds for the pilot programs authorized under this title.

Subtitle B—Specific Pilot Programs

SEC. 5311. SHARE-IN-SAVINGS PILOT PROGRAM.

(a) REQUIREMENT.—The Administrator may authorize the heads of two executive agencies to carry out a pilot program to test the feasibility of—

(1) contracting on a competitive basis with a private sector source to provide the Federal Government with an information technology solution for improving mission-related or administrative processes of the Federal Government; and

(2) paying the private sector source an amount equal to a portion of the savings derived by the Federal Government from any improvements in mission-related processes and administrative processes that result from implementation of the solution.

(b) LIMITATIONS.—The head of an executive agency authorized to carry out the pilot program may, under the pilot program, carry out one project and enter into not more than five contracts for the project.

(c) SELECTION OF PROJECTS.—The projects shall be selected by the Administrator, in consultation with the Administrator for the Office of Information and Regulatory Affairs.

SEC. 5312. SOLUTIONS-BASED CONTRACTING PILOT PROGRAM.

(a) IN GENERAL.—The Administrator may authorize the heads of any of the executive agencies, in accordance with subsection (d)(2), to carry out a pilot program to test the feasibility of using solutions-based contracting for acquisition of information technology.

(b) SOLUTIONS-BASED CONTRACTING DESCRIBED.—For purposes of this section, solutions-based contracting is an acquisition method under which the acquisition objectives are defined by the Federal Government user of the technology to be acquired, a streamlined contractor selection process is used, and industry sources are allowed to provide solutions that attain the objectives effectively.

(c) PROCESS REQUIREMENTS.—The Administrator shall require use of a process with the following aspects for acquisitions under the pilot program:

(1) ACQUISITION PLAN EMPHASIZING DESIRED RESULT.—Preparation of an acquisition plan that defines the functional requirements of the intended users of the information technology to be acquired, identifies the operational improvements to be achieved, and defines the performance measurements to be applied in determining whether the information technology acquired satisfies the defined requirements and attains the identified results.

(2) RESULTS-ORIENTED STATEMENT OF WORK.—Use of a statement of work that is limited to an expression of the end results or performance capabilities desired under the acquisition plan.

(3) SMALL ACQUISITION ORGANIZATION.—Assembly of a small acquisition organization consisting of the following:

(A) An acquisition management team, the members of which are to be evaluated and rewarded under the pilot program for contributions toward attainment of the desired results identified in the acquisition plan.

(B) A small source selection team composed of representatives of the specific mission or administrative area to be supported by the information technology to be acquired, together with a contracting officer and persons with relevant expertise.

(4) USE OF SOURCE SELECTION FACTORS EMPHASIZING SOURCE QUALIFICATIONS AND COSTS.—Use of source selection factors that emphasize—

(A) the qualifications of the offeror, including such factors as personnel skills, previous experience in providing other private or public sector organizations with solutions for attaining objectives similar to the objectives of the acquisition, past contract performance, qualifications of the proposed program manager, and the proposed management plan; and

(B) the costs likely to be associated with the conceptual approach proposed by the offeror.

(5) OPEN COMMUNICATIONS WITH CONTRACTOR COMMUNITY.—Open availability of the following information to potential offerors:

(A) The agency mission to be served by the acquisition.

(B) The functional process to be performed by use of information technology.

(C) The process improvements to be attained.

(6) SIMPLE SOLICITATION.—Use of a simple solicitation that sets forth only the functional work description, the source selection factors to be used in accordance with paragraph (4), the required terms and conditions, instructions regarding submission of offers, and the estimate of the Federal Government's budget for the desired work.

(7) SIMPLE PROPOSALS.—Submission of oral presentations and written proposals that are limited in size and scope and contain information on—

(A) the offeror's qualifications to perform the desired work;

(B) past contract performance;

(C) the proposed conceptual approach; and

(D) the costs likely to be associated with the proposed conceptual approach.

(8) SIMPLE EVALUATION.—Use of a simplified evaluation process, to be completed within 45 days after receipt of proposals, which consists of the following:

(A) Identification of the most qualified offerors that are within the competitive range.

(B) Issuance of invitations for at least three and not more than five of the identified offerors to make oral presentations to, and engage in discussions with, the evaluating personnel regarding, for each offeror—

(i) the qualifications of the offeror, including how the qualifications of the offeror relate to the approach proposed to be taken by the offeror in the acquisition; and

(ii) the costs likely to be associated with the approach.

(C) Evaluation of the qualifications of the identified offerors and the costs likely to be associated with the offerors' proposals on the basis of submissions required under the process and any oral presentations made by, and any discussions with, the offerors.

(9) SELECTION OF MOST QUALIFIED OFFEROR.—A selection process consisting of the following:

(A) Identification of the most qualified source, and ranking of alternative sources, primarily on the basis of the oral proposals, presentations, and discussions, and written proposals submitted in accordance with paragraph (7).

(B) Conduct for 30 to 60 days of a program definition phase (funded, in the case of the source ultimately awarded the contract, by the Federal Government)—

(i) during which the selected source, in consultation with one or more intended users, develops a conceptual system design and technical approach, defines logical phases for the project, and estimates the total cost and the cost for each phase; and

(ii) after which a contract for performance of the work may be awarded to that source on the basis of cost, the responsiveness, reasonableness, and quality of the proposed performance, and a sharing of risk and benefits between the source and the Government.

(C) Conduct of as many successive program definition phases with alternative sources (in the order ranked) as is necessary in order to award a contract in accordance with subparagraph (B).

(10) SYSTEM IMPLEMENTATION PHASING.—System implementation to be executed in phases that are tailored to the solution, with various contract arrangements being used, as appropriate, for various phases and activities.

(11) MUTUAL AUTHORITY TO TERMINATE.—Authority for the Federal Government or the contractor to terminate the contract without penalty at the end of any phase defined for the project.

(12) TIME MANAGEMENT DISCIPLINE.—Application of a standard for awarding a contract within 105 to 120 days after issuance of the solicitation.

(d) PILOT PROGRAM DESIGN.—

(1) JOINT PUBLIC-PRIVATE WORKING GROUP.—The Administrator, in consultation with the Administrator for the Office of Information and Regulatory Affairs, shall establish a joint working group of Federal Government personnel and representatives of the information technology industry to design a plan for conduct of any pilot program carried out under this section.

(2) CONTENT OF PLAN.—The plan shall provide for use of solutions-based contracting in the Department of Defense and not more than two other executive agencies for a total of—

(A) not more than 10 projects, each of which has an estimated cost of between $25,000,000 and $100,000,000; and

(B) not more than 10 projects, each of which has an estimated cost of between $1,000,000 and $5,000,000, to be set aside for small business concerns.

(3) COMPLEXITY OF PROJECTS.—(A) Subject to subparagraph (C), each acquisition project under the pilot program shall be sufficiently complex to provide for meaningful evaluation of the use of solutions-based contracting for acquisition of information technology for executive agencies.

(B) In order for an acquisition project to satisfy the requirement in subparagraph (A), the solution for attainment of the executive agency's objectives under the project should not be obvious, but rather shall involve a need for some innovative development and systems integration.

(C) An acquisition project should not be so extensive or lengthy as to result in undue delay in the evaluation of the use of solutions-based contracting.

(e) MONITORING BY GAO.—The Comptroller General of the United States shall—

(1) monitor the conduct, and review the results, of acquisitions under the pilot program; and

(2) submit to Congress periodic reports containing the views of the Comptroller General on the activities, results, and findings under the pilot program.

TITLE LIV—ADDITIONAL INFORMATION RESOURCES MANAGEMENT MATTERS

SEC. 5401. ON-LINE MULTIPLE AWARD SCHEDULE CONTRACTING.

(a) AUTOMATION OF MULTIPLE AWARD SCHEDULE CONTRACTING.—In order to provide for the economic and efficient procurement of information technology and other commercial items, the Administrator of General Services shall provide through the Federal Acquisition Computer Network (in this section referred to as ''FACNET''), not later than January 1, 1998, Government-wide on-line computer access to information on products and services that are available for ordering under the multiple award schedules. If the Administrator determines it is not practicable to provide such access through FACNET, the Administrator shall provide such access through another automated system that has the capability to perform the functions listed in subsection (b)(1) and meets the requirement of subsection (b)(2).

(b) ADDITIONAL FACNET FUNCTIONS.—(1) In addition to the functions specified in section 30(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 426(b)), the FACNET architecture shall have the capability to perform the following functions:

(A) Provide basic information on prices, features, and performance of all products and services available for ordering through the multiple award schedules.

(B) Provide for updating that information to reflect changes in prices, features, and performance as soon as information on the changes becomes available.

(C) Enable users to make on-line computer comparisons of the prices, features, and performance of similar products and services offered by various vendors.

(2) The FACNET architecture shall be used to place orders under the multiple award schedules in a fiscal year for an amount equal to at least 60 percent of the total amount spent for all orders under the multiple award schedules in that fiscal year.

(c) STREAMLINED PROCEDURES.—

(1) PILOT PROGRAM.—Upon certification by the Administrator of General Services that the FACNET architecture meets the requirements of subsection (b)(1) and was used as required by subsection (b)(2) in the fiscal year preceding the fiscal year in which the certification is made, the Administrator for Federal Procurement Policy may establish a pilot program to test streamlined procedures for the procurement of information technology products and services available for ordering through the multiple award schedules.

(2) APPLICABILITY TO MULTIPLE AWARD SCHEDULE CONTRACTS.—Except as provided in paragraph (4), the pilot program shall be applicable to all multiple award schedule contracts for the purchase of information technology and shall test the following procedures:

(A) A procedure under which negotiation of the terms and conditions for a covered multiple award schedule contract is limited to terms and conditions other than price.

(B) A procedure under which the vendor establishes the prices under a covered multiple award schedule contract and may adjust those prices at any time in the discretion of the vendor.

(C) A procedure under which a covered multiple award schedule contract is awarded to any responsible offeror that—

(i) has a suitable record of past performance, which may include past performance on multiple award schedule contracts;

(ii) agrees to terms and conditions that the Administrator determines as being required by law or as being appropriate for the purchase of commercial items; and

(iii) agrees to establish and update prices, features, and performance and to accept orders electronically through the automated system established pursuant to subsection (a).

(3) COMPTROLLER GENERAL REVIEW AND REPORT.—(A) Not later than three years after the date on which the pilot program is established, the Comptroller General of the United States shall review the pilot program and report to the Congress on the results of the pilot program.

(B) The report shall include the following:

(i) An evaluation of the extent to which there is competition for the orders placed under the pilot program.

(ii) The effect that the streamlined procedures under the pilot program have on prices charged under multiple award schedule contracts.

(iii) The effect that such procedures have on paperwork requirements for multiple award schedule contracts and orders.

(iv) The impact of the pilot program on small businesses and socially and economically disadvantaged small businesses.

(4) WITHDRAWAL OF SCHEDULE OR PORTION OF SCHEDULE FROM PILOT PROGRAM.—The Administrator may withdraw a multiple award schedule or portion of a schedule from the pilot program if the Administrator determines that (A) price competition is not available under such schedule or portion thereof, or (B) the cost to the Government for that schedule or portion thereof for the previous year was higher than it would have been if the contracts for such schedule or portion thereof had been awarded using procedures that would apply if the pilot program were not in effect. The Administrator shall notify Congress at least 30 days before the date on which the Administrator withdraws a schedule or portion thereof under this paragraph. The authority under this paragraph may not be delegated.

(5) TERMINATION OF PILOT PROGRAM.—Unless reauthorized by law, the authority of the Administrator to award contracts under the pilot program shall expire four years after the date on which the pilot program is established. Contracts entered into before the authority expires shall remain in effect in accordance with their terms notwithstanding the expiration of the authority to award new contracts under the pilot program.

(d) DEFINITION.—In this section, the term ''FACNET'' means the Federal Acquisition Computer Network established under section 30 of the Office of Federal Procurement Policy Act (41 U.S.C. 426).

SEC. 5402. IDENTIFICATION OF EXCESS AND SURPLUS COMPUTER EQUIPMENT.

Not later than six months after the date of the enactment of this Act, the head of an executive agency shall inventory all computer equipment under the control of that official. After completion of the inventory, the head of the executive agency shall maintain, in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), an inventory of any such equipment that is excess or surplus property.

SEC. 5403. ACCESS OF CERTAIN INFORMATION IN INFORMATION SYSTEMS TO THE DIRECTORY ESTABLISHED UNDER SECTION 4101 OF TITLE 44, UNITED STATES CODE.

Notwithstanding any other provision of this division, if in designing an information technology system pursuant to this division, the head of an executive agency determines that a purpose of the system is to disseminate information to the public, then the head of such executive agency shall reasonably ensure that an index of information disseminated by such system is included in the directory created pursuant to section 4101 of title 44, United States Code. Nothing in this section authorizes the dissemination of information to the public unless otherwise authorized.

TITLE LV—PROCUREMENT PROTEST AUTHORITY OF THE COMPTROLLER GENERAL

SEC. 5501. PERIOD FOR PROCESSING PROTESTS.

Title 31, United States Code, is amended as follows:

(1) Section 3553(b)(2)(A) is amended by striking out ''35'' and inserting in lieu thereof ''30''.

(2) Section 3554 is amended—

(A) in subsection (a)(1), by striking out ''125'' and inserting in lieu thereof ''100''; and

(B) in subsection (e)—

(i) in paragraph (1), by striking out ''Government Operations'' and inserting in lieu thereof ''Government Reform and Oversight''; and

(ii) in paragraph (2), by striking out ''125'' and inserting in lieu thereof ''100''.

SEC. 5502. AVAILABILITY OF FUNDS FOLLOWING GAO RESOLUTION OF CHALLENGE TO CONTRACTING ACTION.

(a) IN GENERAL.—Section 1558 of title 31, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting ''or other action referred to in subsection (b)'' after ''protest'' the first place it appears;

(B) by striking out ''90 working days'' and inserting in lieu thereof ''100 days''; and

(C) by inserting ''or other action'' after ''protest'' the second place it appears; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

''(b) Subsection (a) applies with respect to—

''(1) any protest filed under subchapter V of chapter 35 of this title; or

''(2) an action commenced under administrative procedures or for a judicial remedy if—

''(A) the action involves a challenge to—

''(i) a solicitation for a contract;

''(ii) a proposed award of a contract;

''(iii) an award of a contract; or

''(iv) the eligibility of an offeror or potential offeror for a contract or of the contractor awarded the contract; and

''(B) commencement of the action delays or prevents an executive agency from making an award of a contract or proceeding with a procurement.''.

(b) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

''§ 1558. Availability of funds following resolution of a formal protest or other challenge''.

(c) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 15 of title 31, United States Code, is amended to read as follows:

''1558. Availability of funds following resolution of a formal protest or other challenge.''.

TITLE LVI—CONFORMING AND CLERICAL AMENDMENTS

SEC. 5601. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) PROTEST FILE.—Section 2305(e) is amended by striking out paragraph (3).

(b) MULTIYEAR CONTRACTS.—Section 2306b of such title is amended—

(1) by striking out subsection (k); and

(2) by redesignating subsection (l) as subsection (k).

(c) LAW INAPPLICABLE TO PROCUREMENT OF INFORMATION TECHNOLOGY.—Section 2315 of title 10, United States Code, is amended by striking out ''Section 111'' and all that follows through ''use of equipment or services if,'' and inserting in lieu thereof the following: ''For the purposes of the Information Technology Management Reform Act of 1996, the term 'national security systems' means those telecommunications and information systems operated by the Department of Defense, the functions, operation or use of which''.

SEC. 5602. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) REFERENCES TO BROOKS AUTOMATIC DATA PROCESSING ACT.—Section 612 of title 28, United States Code, is amended—

(1) in subsection (f), by striking out ''section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759)'' and inserting in lieu thereof ''the provisions of law, policies, and regulations applicable to executive agencies under the Information Technology Management Reform Act of 1996'';

(2) in subsection (g), by striking out ''sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759)'' and inserting in lieu thereof ''section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481)'';

(3) by striking out subsection (l); and

(4) by redesignating subsection (m) as subsection (l).

(b) REFERENCES TO AUTOMATIC DATA PROCESSING.—Section 612 of title 28, United States Code, is further amended—

(1) in the heading, by striking out the second word and inserting in lieu thereof ''**Information Technology**'';

(2) in subsection (a), by striking out ''Judiciary Automation Fund'' and inserting in lieu thereof ''Judiciary Information Technology Fund''; and

(3) by striking out ''automatic data processing'' and inserting in lieu thereof ''information technology'' each place it appears in subsections (a), (b), (c)(2), (e), (f), and (h)(1).

SEC. 5603. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Section 3552 of title 31, United States Code, is amended by striking out the second sentence.

SEC. 5604. AMENDMENTS TO TITLE 38, UNITED STATES CODE.

Section 310 of title 38, United States Code, is amended to read as follows:

''§ 310. Chief Information Officer

''(a) The Chief Information Officer for the Department is designated pursuant to section 3506(a)(2) of title 44.

''(b) The Chief Information Officer performs the duties provided for chief information officers of executive agencies under chapter 35 of title 44 and the Information Technology Management Reform Act of 1996.''.

SEC. 5605. PROVISIONS OF TITLE 44, UNITED STATES CODE, RELATING TO PAPERWORK REDUCTION.

(a) DEFINITION.—Section 3502 of title 44, United States Code, is amended by striking out paragraph (9) and inserting in lieu thereof the following:

''(9) the term 'information technology' has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 but does not include national security systems as defined in section 5142 of that Act;''.

(b) DEVELOPMENT OF STANDARDS AND GUIDELINES BY NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—Section 3504(h)(1)(B) of such title is amended by striking out ''section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))'' and inserting in lieu thereof ''section 5131 of the Information Technology Management Reform Act of 1996''.

(c) COMPLIANCE WITH DIRECTIVES.—Section 3504(h)(2) of such title is amended by striking out ''sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759)'' and inserting in lieu thereof ''the Information Technology Management Reform Act of 1996 and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757)''.

(d) COLLECTION OF INFORMATION.—Section 3507(j)(2) of such title is amended by striking out ''90 days'' in the second sentence and inserting in lieu thereof ''180 days''.

SEC. 5606. AMENDMENT TO TITLE 49, UNITED STATES CODE.

Section 40112(a) of title 49, United States Code, is amended by striking out ''or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies''.

SEC. 5607. OTHER LAWS.

(a) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) is amended—

(1) in subsection (a)—

(A) by striking out ''section 3502(2) of title 44'' each place it appears in paragraphs (2) and (3)(A) and inserting in lieu thereof ''section 3502(9) of title 44''; and

(B) in paragraph (4), by striking out ''section 111(d) of the Federal Property and Administrative Services Act of 1949'' and inserting in lieu thereof ''section 5131 of the Information Technology Management Reform Act of 1996'';

(2) in subsection (b)—

(A) by striking out paragraph (2);

(B) in paragraph (3), by striking out ''section 111(d) of the Federal Property and Administrative Services Act of 1949'' and inserting in lieu thereof ''section 5131 of the Information Technology Management Reform Act of 1996''; and

(C) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5); and

(3) in subsection (d)—

(A) in paragraph (1)(B)(v), by striking out ''as defined'' and all that follows and inserting in lieu thereof a semicolon; and

(B) in paragraph (2)—

(i) by striking out ''system'—'' and all that follows through ''means'' in subparagraph (A) and inserting in lieu thereof ''system' means''; and

(ii) by striking out ''; and'' at the end of subparagraph (A) and all that follows through the end of subparagraph (B) and inserting in lieu thereof a semicolon.

(b) COMPUTER SECURITY ACT OF 1987.—

(1) PURPOSES.—Section 2(b)(2) of the Computer Security Act of 1987 (Public Law 100–235; 101 Stat. 1724) is amended by striking out ''by amending section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))''.

(2) SECURITY PLAN.—Section 6(b) of such Act (101 Stat. 1729; 40 U.S.C. 759 note) is amended—

(A) by striking out ''Within one year after the date of enactment of this Act, each such agency shall, consistent with the standards, guidelines, policies, and regulations prescribed pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949,'' and inserting in lieu thereof ''Each such agency shall, consistent with the standards, guidelines, policies, and regulations prescribed pursuant to section 5131 of the Information Technology Management Reform Act of 1996,''; and

(B) by striking out ''Copies'' and all that follows through ''Code.''.

(c) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Section 303B(h) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(h)) is amended by striking out paragraph (3).

(d) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 6(h)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(h)(1)) is amended by striking out ''of automatic data processing and telecommunications equipment and services or''.

(e) NATIONAL ENERGY CONSERVATION POLICY ACT.—Section 801(b)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(3)) is amended by striking out the second sentence.

(f) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—Section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c) is amended by striking out subsection (e).

SEC. 5608. CLERICAL AMENDMENTS.

(a) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The table of contents in section 1(b) of the Federal Property and Administrative Services Act of 1949 is amended by striking out the item relating to section 111.

(b) TITLE 38, UNITED STATES CODE.—The table of sections at the beginning of chapter 3 of title 38, United States Code, is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

''310. Chief Information Officer.''.

TITLE LVII—EFFECTIVE DATE, SAVINGS PROVISIONS, AND RULES OF CONSTRUCTION

SEC. 5701. EFFECTIVE DATE.

This division and the amendments made by this division shall take effect 180 days after the date of the enactment of this Act.

SEC. 5702. SAVINGS PROVISIONS.

(a) REGULATIONS, INSTRUMENTS, RIGHTS, AND PRIVILEGES.—All rules, regulations, contracts, orders, determinations, permits, certificates, licenses, grants, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the Administrator of General Services or the General Services Board of Contract Appeals, or by a court of competent jurisdiction, in connection with an acquisition activity carried out under the section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), and

(2) which are in effect on the effective date of this division,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Director or any other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS.—

(1) PROCEEDINGS GENERALLY.—This division and the amendments made by this division shall not affect any proceeding, including any proceeding involving a claim, application, or protest in connection with an acquisition activity carried out under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) that is pending before the Administrator of General Services or the General Services Board of Contract Appeals on the effective date of this division.

(2) ORDERS.—Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this division had not been enacted. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked in accordance with law by the Director or any other authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION OF PROCEEDINGS NOT PROHIBITED.—Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(4) OTHER AUTHORITY AND PROHIBITION.—Section 1558(a) of title 31, United States Code, and the second sentence of section 3552 of such title shall continue to apply with respect to a protest process in accordance with this subsection.

(5) REGULATIONS FOR TRANSFER OF PROCEEDINGS.—The Director may prescribe regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) STANDARDS AND GUIDELINES FOR FEDERAL COMPUTER SYSTEMS.—Standards and guidelines that are in effect for Federal computer systems under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d)) on the day before the effective date of this division shall remain in effect until modified, terminated, superseded, revoked, or disapproved under the authority of section 5131 of this Act.

SEC. 5703. RULES OF CONSTRUCTION.

(a) RELATIONSHIP TO TITLE 44, UNITED STATES CODE.—Nothing in this division shall be construed to amend, modify, or supersede any provision of title 44, United States Code, other than chapter 35 of such title.

(b) RELATIONSHIP TO COMPUTER SECURITY ACT OF 1987.—Nothing in this division shall affect the limitations on authority that is provided for in the administration of the Computer Security Act of 1987 (Public Law 100–235) and the amendments made by such Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the House amendment, amend the title so as to read: ''An Act to authorize appropriations for fiscal year 1996 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, to reform acquisition laws and information technology management of the Federal Government, and for other purposes.''.

And the House agree to the same.

FLOYD SPENCE,
BOB STUMP,
DUNCAN HUNTER,
HERBERT H. BATEMAN,
CURT WELDON,
G.V. MONTGOMERY,
JOHN M. SPRATT, Jr.,
Managers on the Part of the House.

STROM THURMOND,
JOHN WARNER,
BILL COHEN,
TRENT LOTT,
SAM NUNN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1124) to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

All references in this joint statement to provisions of the House bill refer to the provisions of H.R. 1530 (The National Defense Authorization Act for Fiscal Year 1996), as passed by the House on June 15, 1995. All references to provisions of the Senate amendment refer to the Senate amendment to the text of H.R. 1530, as passed by the Senate on September 6, 1995.

The conference report on H.R. 1530 is set forth in House Report 104–406. The President vetoed H.R. 1530 on December 28, 1995.

In those cases in which the conference agreement requires the submission of a report to Congress or a committee of Congress, the report shall be submitted not later than the later of the date established in the Act or the statement of managers language for submission of the report or the date that is 45 days after the date of the enactment of this Act. The reason for this extension is that, while the conferees expect that reports will be submitted in a timely fashion, they recognize that the circumstances associated with this legislation may in some cases make compliance with deadlines impractical. The conferees intend that this authority be used sparingly and only in those few cases where an extension in filing the report is essential.

SUMMARY STATEMENT OF CONFERENCE ACTION

The conferees recommend authorizations for the Department of Defense for procurement, research and development, test and evaluation, operation and maintenance, working capital funds, military construction and family housing, weapons programs of the Department of Energy, and civil defense that have a budget authority implication of $264.7 billion.

SUMMARY TABLE OF AUTHORIZATIONS

The defense authorization act provides authorizations for appropriations but does not generally provide budget authority. Budget authority is generally provided in appropriation acts.

In order to relate the conference recommendations to the Budget Resolution, matters in addition to the dollar authorizations contained in this bill must be taken into account. A number of programs in the defense function are authorized permanently or, in certain instances, authorized in other annual legislation. In addition, this authorization bill would establish personnel levels and include a number of legislative provisions affecting military compensation.

The following table summarizes authorizations included in the bill in fiscal year 1996 and, in addition, summarizes the implications of the conference action for the budget totals for national defense (budget function 050).

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1996

(Dollars in Millions) Account Title	Authorization Request 1996	House Authorized	Senate Authorized	Conference Change	Conference Authorization	Request BA 1996	BA Implications House	BA Implications Senate	BA Implications Conference
DIVISION A									
TITLE I									
Aircraft Procurement, Army	1,223.067	1,423.067	1,396.451	335.738	1,558.805	1,223.067	1,423.067	1,396.451	1,558.805
Missile Procurement, Army	676.430	862.830	894.430	189.125	865.555	676.430	862.830	894.430	865.555
Procurement of Weapons and Tracked Combat Vehicles,	1,298.986	1,359.664	1,547.964	353.759	1,652.745	1,298.986	1,359.664	1,547.964	1,652.745
Procurement of Ammunition, Army	795.015	1,062.715	1,120.115	298.976	1,093.991	795.015	1,062.715	1,120.115	1,093.991
Other Procurement, Army	2,256.601	2,545.587	2,811.101	506.842	2,763.443	2,256.601	2,545.587	2,811.101	2,763.443
Aircraft Procurement, Navy	3,886.488	4,106.488	4,916.588	685.906	4,572.394	3,886.488	4,106.488	4,916.588	4,572.394
Weapons Procurement, Navy	1,787.121	1,626.411	1,771.421	(127.294)	1,659.827	1,787.121	1,626.411	1,771.421	1,659.827
Shipbuilding and Conversion, Navy	5,051.935	6,227.958	7,111.935	1,592.023	6,643.958	5,051.935	6,227.958	7,111.935	6,643.958
Procurement of Ammunition, Navy and Marine Corps	-	461.779	-	430.053	430.053	-	461.779	-	430.053
Other Procurement, Navy	2,396.080	2,461.472	2,471.861	18.691	2,414.771	2,396.080	2,461.472	2,471.861	2,414.771
Procurement, Marine Corps	474.116	399.247	683.416	(15.169)	458.947	474.116	399.247	683.416	458.947
Aircraft Procurement, Air Force	6,183.886	7,031.952	6,318.586	1,165.897	7,349.783	6,183.886	7,031.952	6,318.586	7,349.783
Missile Procurement, Air Force	3,647.711	3,430.083	3,627.499	(708.828)	2,938.883	3,647.711	3,430.083	3,627.499	2,938.883
Procurement of Ammunition, Air Force	-	321.328	-	343.848	343.848	-	321.328	-	343.848
Other Procurement, Air Force	6,804.696	6,784.801	6,516.001	(536.266)	6,268.430	6,804.696	6,784.801	6,516.001	6,268.430
Procurement, Defense-wide	2,179.917	2,205.917	2,118.324	(55.538)	2,124.379	2,179.917	2,205.917	2,118.324	2,124.379
National Guard and Reserve Equipment	-	770.000	777.400	777.000	777.000	-	770.000	777.400	777.000
Chemical Agents and Munitions Destruction, Army									
O&M	393.850	393.850	393.850	(40.000)	353.850	393.850	393.850	393.850	353.850
Proc	299.448	299.448	224.448	(34.448)	265.000	299.448	299.448	224.448	265.000
R&D	53.400	53.400	53.400	-	53.400	53.400	53.400	53.400	53.400
Defense Production Act Purchases	-	-	-		-	-			
Defense Health, Procurement	288.033	288.033	288.033	-	288.033	-			
Office of the Inspector General, Procurement	1.000	1.000	1.000	-	1.000	-			
Total Procurement	39,697.780	44,117.030	45,043.823	5,180.315	44,878.095	39,408.747	43,827.997	44,754.790	44,589.062
TITLE II									
Research, Development, Test, and Evaluation, Army	4,444.175	4,774.947	4,845.097	293.406	4,737.581	4,444.175	4,774.947	4,845.097	4,737.581
Research, Development, Test, and Evaluation, Navy	8,204.530	8,516.509	8,624.230	270.253	8,474.783	8,204.530	8,516.509	8,624.230	8,474.783

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1996

(Dollars in Millions) Account Title	Authorization Request 1996	House Authorized	Senate Authorized	Conference Change	Conference Authorization	Request BA 1996	BA Implications House	BA Implications Senate	BA Implications Conference
Research, Development, Test, and Evaluation, Air Force	12,598.439	13,184.102	13,087.389	316.429	12,914.868	12,598.439	13,184.102	13,087.389	12,914.868
Research, Development, Test, and Evaluation, Defense-w	8,802.881	9,287.058	9,271.220	616.630	9,419.511	8,802.881	9,287.058	9,271.220	9,419.511
Operational Test and Evaluation, Defense	22.587	22.587	22.587	-	22.587	22.587	22.587	22.587	22.587
Developmental Test and Evaluation, Defense	259.341	239.341	239.341	(8.259)	251.082	259.341	239.341	239.341	251.082
Undistributed Reduction			(40.000)	-	-			(40.000)	
FFRDC Reduction	-	(90.000)	(90.000)	(90.000)	(90.000)	-	(90.097)	(90.000)	(90.000)
Total Research & Development	34,331.953	35,934.544	35,959.864	1,398.459	35,730.412	34,331.953	35,934.447	35,959.864	35,730.412
TITLE III									
Operation and Maintenance, Army	18,184.736	19,339.936	18,064.436	561.959	18,746.695	18,184.736	19,339.936	18,064.436	18,746.695
Operation and Maintenance, Navy	21,225.710	21,677.510	21,346.910	267.445	21,493.155	21,225.710	21,677.510	21,346.910	21,493.155
Operation and Maintenance, Marine Corps	2,269.722	2,603.622	2,405.722	252.100	2,521.822	2,269.722	2,603.622	2,405.722	2,521.822
Operation and Maintenance, Air Force	18,256.597	18,984.162	18,230.097	462.680	18,719.277	18,256.597	18,984.162	18,230.097	18,719.277
Operation and Maintenance, Defense-wide	10,366.782	10,680.371	10,035.867	(456.306)	9,910.476	10,366.782	10,681.871	10,035.867	9,910.476
Defense Health Program,O&M	9,865.525	9,876.525	9,943.825	11.000	9,876.525	9,865.525	9,876.525	9,943.825	9,876.525
Defense Health Program,PROC	-	-	-	-	-	288.033	288.033	288.033	288.033
Operation and Maintenance, Army Reserve	1,068.591	1,139.591	1,062.591	60.600	1,129.191	1,068.591	1,139.591	1,062.591	1,129.191
Operation and Maintenance, Navy Reserve	826.042	838.042	840.842	42.300	868.342	826.042	838.042	840.842	868.342
Operation and Maintenance, Marine Corps Reserve	90.283	91.783	90.283	10.000	100.283	90.283	91.783	90.283	100.283
Operation and Maintenance, Air Force Reserve	1,485.947	1,507.447	1,482.947	30.340	1,516.287	1,485.947	1,507.447	1,482.947	1,516.287
Operation and Maintenance, Army National Guard	2,304.108	2,394.108	2,304.108	57.700	2,361.808	2,304.108	2,394.108	2,304.108	2,361.808
Operation and Maintenance, Air National Guard	2,712.221	2,734.221	2,734.221	47.900	2,760.121	2,712.221	2,734.221	2,734.221	2,760.121
Office of the Inspector General, O&M	138.226	177.226	138.226		138.226	138.226	177.226	138.226	138.226
Office of the Inspector General, Proc						1.000	1.000	1.000	1.000
United States Courts of Appeals for the Armed Forces	6.521	6.521	6.521		6.521	6.521	6.521	6.521	6.521
Environmental Restoration, Defense	1,622.200	1,422.200	1,601.800	(200.000)	1,422.200	1,622.200	1,422.200	1,601.800	1,422.200
Drug Interdiction and Counter-drug Activities, Defense	680.432	680.432	680.432		680.432	680.432	680.432	680.432	680.432
Former Soviet Union Threat Reduction Account	371.000	200.000	365.000	(71.000)	300.000	371.000	200.000	365.000	300.000
Summer Olympics	15.000	15.000	15.000	-	15.000	15.000	15.000	15.000	15.000
Contributions for International Peacekeeping and Peace E	65.000	-	-	(65.000)	-	65.000	-	-	-
Humanitarian Assistance	79.790	-	60.000	(79.790)	-	79.790	-	60.000	-

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1996

(Dollars in Millions) Account Title	Authorization Request 1996	House Authorized	Senate Authorized	Conference Change	Conference Authorization	Request BA 1996	BA Implications House	BA Implications Senate	BA Implications Conference
Disposal and Lease of DOD Real Property	-	-	-		-	8.000	8.000	8.000	8.000
DOD 50th Anniversary of World War II Commemoration	-	-	-		-	0.100	0.100	0.100	0.100
Overseas Humanitarian, Disaster, & Civic Aid	-	50.000	-	50.000	50.000	-	50.000	-	50.000
National Science Center, Army	-	-	-	-	-	0.085	0.085	0.085	0.085
Total Operation & Maintenance	91,634.433	94,418.697	91,408.828	981.928	92,616.361	91,931.651	94,717.415	91,706.046	92,913.579
Revolving Funds									
Defense Business OperationsFund	878.700	878.700	878.700	-	878.700	878.700	878.700	878.700	878.700
National Defense Sealift Fund	974.220	1,574.220	1,084.220	50.000	1,024.220	974.220	1,574.220	1,084.220	1,024.220
National Defense Stockpile Transaction Fund	-	-	-	-	-	(150.000)	(150.000)	(150.000)	(150.000)
Stockpile Fund-Public Enterprise	-	-	-	-	-	(202.000)	(202.000)	(202.000)	(202.000)
Totals	1,852.920	2,452.920	1,962.920	50.000	1,902.920	1,500.920	2,100.920	1,610.920	1,550.920
TITLE IV-V-VI-VII									
Total Military Personnel (Sec 431)		68,951.663	68,814.863	494.345	69,191.008	68,696.663	68,951.663	68,814.863	69,191.008
GENERAL PROVISIONS DIVISION B									
Military Construction, Army	472.724	631.608	547.877	144.865	617.589	472.724	631.608	547.877	617.589
Military Construction, Navy	488.086	588.243	542.885	60.203	548.289	488.086	588.243	542.885	548.289
Military Construction, Air Force	495.655	586.841	587.517	91.915	587.570	495.655	586.841	587.517	587.570
Military Construction, Defense-wide	857.405	728.332	601.450	(235.179)	622.226	857.405	728.332	601.450	622.226
North Atlantic Treaty Organization Infrastructure	179.000	161.000	179.000	(18.000)	161.000	179.000	161.000	179.000	161.000
Military Construction, Army Reserve	42.963	42.963	79.895	30.553	73.516	42.963	42.963	79.895	73.516
Military Construction, Naval Reserve	7.920	19.655	7.920	11.135	19.055	7.920	19.655	7.920	19.055
Military Construction, Air Force Reserve	27.002	31.502	35.132	9.230	36.232	27.002	31.502	35.132	36.232
Military Construction, Army National Guard	18.480	72.537	148.586	116.322	134.802	18.480	72.537	148.586	134.802
Military Construction, Air National Guard	85.647	118.267	160.807	78.570	164.217	85.647	118.267	160.807	164.217
Foreign Currency Fluctuations, Construction	-	-	-	-	-	-	-	-	-
Base Realignment and Closure Account	3,897.892	3,897.892	3,799.192	-	3,897.892	3,897.892	3,897.892	3,799.192	3,897.892
Total Military Construction	6,572.774	6,878.840	6,690.261	289.614	6,862.388	6,572.774	6,878.840	6,690.261	6,862.388

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1996

(Dollars in Millions)	Authorization Request	House	Senate	Conference	Conference	Request BA	BA Implications		
Account Title	1996	Authorized	Authorized	Change	Authorization	1996	House	Senate	Conference
Family Housing, Army	43.500	126.400	66.552	73.156	116.656	43.500	126.400	66.552	116.656
Family Housing Support, Army	1,337.596	1,333.596	1,337.596	-	1,337.596	1,337.596	1,333.596	1,337.596	1,337.596
Family Housing, Navy and Marine Corps	465.755	531.289	486.247	56.944	522.699	465.755	531.289	486.247	522.699
Family Housing Support, Navy and Marine Corps	1,048.329	1,045.329	1,048.329		1,048.329	1,048.329	1,045.329	1,048.329	1,048.329
Family Housing, Air Force	249.003	294.503	287.965	49.300	298.303	249.003	294.503	287.965	298.303
Family Housing Support, Air Force	849.213	846.213	849.213		849.213	849.213	846.213	849.213	849.213
Family Housing, Defense-wide	25.772	25.772	25.772	-	25.772	25.772	25.772	25.772	25.772
Family Housing Support, Defense-wide	30.467	40.467	30.467	10.000	40.467	30.467	40.467	30.467	40.467
Homeowners Assistance Fund, Defense	75.586	75.586	75.586	-	75.586	75.586	75.586	75.586	75.586
Sec 2809-Authority to convey Family Housing	-		5.000		-	-	-	-	-
Total Family Housing	4,125.221	4,319.155	4,212.727	189.400	4,314.621	4,125.221	4,319.155	4,207.727	4,314.621
DIVISION C									
TITLE XXXI, XXXII									
Weapons Activities	3,540.175	3,610.914	3,666.219	(79.861)	3,460.314	3,540.175	3,610.914	3,666.219	3,460.314
Defense Nuclear Waste Disposal	198.400	198.400	198.400	50.000	248.400	198.400	198.400	198.400	248.400
Defense Environmental Restoration and Waste Managem	6,008.002	5,265.478	5,905.955	(450.470)	5,557.532	6,008.002	5,265.478	5,905.955	5,557.532
Other Defense Activities /	1,432.159	1,328.841	1,408.162	(80.183)	1,351.976	1,432.159	1,328.841	1,408.162	1,351.976
Salaries and Expenses	18.500	17.000	18.500	(1.500)	17.000	18.500	17.000	18.500	17.000
Total DOE	11,197.236	10,420.633	11,197.236	(562.014)	10,635.222	11,197.236	10,420.633	11,197.236	10,635.222
TITLE XXXIII									
National Defense Stockpile Transaction Fund	-	-	-	-	-	(150.000)	(150.000)	(150.000)	(150.000)
OTHER									
Salaries and Expenses	44.006	-	-	(44.01)	-	44.006	-	-	-
Emergency Management Planning and Assistance	24.025	-	-	(24.03)	-	24.025	-	-	-
FEMA Civil Defense (Total)	68.031	-	-	(68.031)	-	68.031	-	-	-

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1996

(Dollars in Millions) Account Title	Authorization Request 1996	House Authorized	Senate Authorized	Conference Change	Conference Authorization	Request BA 1996	BA Implications House	BA Implications Senate	BA Implications Conference
RECAPITULATION									
Department of Defense (Division A)	167,517.086	245,426.039	243,190.298	8,105.047	244,318.796	236,019.934	245,682.442	242,996.483	244,124.981
Department of Defense (Division B)	10,697.995	11,197.995	10,902.988	479.014	11,177.009	10,697.995	11,197.995	10,897.988	11,177.009
National Defense Stockpile Transaction Fund	-	-	-	-	-	(150.000)	(150.000)	(150.000)	(150.000)
Other Funds	28.010	-	-	(28.010)	-	482.995	454.985	454.985	454.985
Offsetting Receipts	-	-	-	-	-	(1,207.785)	(1,207.785)	(1,207.785)	(1,207.785)
General Provisions (Sec. 1008)	-	-	-	(832.000)	(832.000)	-	-	-	(832.000)
Total DoD Military (051)	178,243.091	256,624.034	254,093.286	7,724.051	254,663.805	245,843.139	255,977.637	252,991.671	253,567.190
Total Atomic Energy Defense Act (053)	11,197.236	10,420.633	11,197.236	(562.014)	10,635.222	11,197.236	10,420.633	11,197.236	10,635.222
Total Other Defense (054)	68.031	-	-	(68.031)	-	562.261	494.230	494.230	494.230
Total National Defense Function (050)	189,508.358	267,044.667	265,290.522	7,094.006	265,299.027	257,602.636	266,892.500	264,683.137	264,696.642
Total National Defense Function (050)/Outlays									
Military Retirement Trust Fund	-	403.000	-	-	-	-	403.000	-	-

Congressional defense committees

The term ''congressional defense committees'' is often used in this statement of the managers. It means the Defense Authorization and Appropriations Committees of the Senate and House of Representatives.

DIVISION A: DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Overview

The budget request for fiscal year 1996 contained an authorization of $39,697.8 million for procurement in the Department of Defense. The House bill would authorize $44,117.0 million. The Senate amendment would authorize $45,043.8 million. The conferees recommended an authorization of $44,878.1 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1996

(Dollars in Millions)

Account Title	Authorization Request 1996	House Authorized	Senate Authorized	Conference Change	Conference Authorization
TITLE I					
Aircraft Procurement, Army	1,223.067	1,423.067	1,396.451	335.738	1,558.805
Missile Procurement, Army	676.430	862.830	894.430	189.125	865.555
Procurement of Weapons and Tracked Combat Vehicles,	1,298.986	1,359.664	1,547.964	353.759	1,652.745
Procurement of Ammunition, Army	795.015	1,062.715	1,120.115	298.976	1,093.991
Other Procurement, Army	2,256.601	2,545.587	2,811.101	506.842	2,763.443
Aircraft Procurement, Navy	3,886.488	4,106.488	4,916.588	685.906	4,572.394
Weapons Procurement, Navy	1,787.121	1,626.411	1,771.421	(127.294)	1,659.827
Shipbuilding and Conversion, Navy	5,051.935	6,227.958	7,111.935	1,592.023	6,643.958
Procurement of Ammunition, Navy and Marine Corps	-	461.779	-	430.053	430.053
Other Procurement, Navy	2,396.080	2,461.472	2,471.861	18.691	2,414.771
Procurement, Marine Corps	474.116	399.247	683.416	(15.169)	458.947
Aircraft Procurement, Air Force	6,183.886	7,031.952	6,318.586	1,165.897	7,349.783
Missile Procurement, Air Force	3,647.711	3,430.083	3,627.499	(708.828)	2,938.883
Procurement of Ammunition, Air Force	-	321.328	-	343.848	343.848
Other Procurement, Air Force	6,804.696	6,784.801	6,516.001	(536.266)	6,268.430
Procurement, Defense-wide	2,179.917	2,205.917	2,118.324	(55.538)	2,124.379
National Guard and Reserve Equipment	-	770.000	777.400	777.000	777.000
Chemical Agents and Munitions Destruction, Army					
O&M	393.850	393.850	393.850	(40.000)	353.850
Proc	299.448	299.448	224.448	(34.448)	265.000
R&D	53.400	53.400	53.400	-	53.400
Defense Production Act Purchases	-	-	-		-
Defense Health, Procurement	288.033	288.033	288.033	-	288.033
Office of the Inspector General, Procurement	1.000	1.000	1.000	-	1.000
Total Procurement	39,697.780	44,117.030	45,043.823	5,180.315	44,878.095

Overview

The budget request for fiscal year 1996 contained an authorization of $1,223.1 million for Aircraft Procurement, Army in the Department of Defense. The House bill would authorize $1,423.1 million. The Senate amendment would authorize $1,396.5 million. The conferees recommended an authorization of $1,558.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	AIRCRAFT PROCUREMENT, ARMY										
	AIRCRAFT										
	FIXED WING										
1	ARL (TIARA)	1	18,403	1	18,403	1	18,403			1	18,403
2	C21A AIRCRAFT		-		-		-				-
3	C-XX (MEDIUM RANGE) AIRCRAFT		-		-	4	23,000		23,000	4	23,000
4	GUARDRAIL COMMON SENSOR (TIARA)		6,014		6,014		6,014				6,014
	ROTARY										
5	TOTAL PACKAGE FIELDING		-		-		-				-
6	AH-64 ATTACK HELICOPTER (APACHE)		3,268		3,268		3,268				3,268
7	UH-60 BLACKHAWK (MYP)	60	526,041	60	526,041	50	472,825			60	526,041
7	LESS: ADVANCE PROCUREMENT (PY)		(191,161)		(191,161)		(191,161)				(191,161)
8	ADVANCE PROCUREMENT (CY)		-		75,000		-		70,000		70,000
9	HELICOPTER NEW TRAINING		458		458		458				458
	MODIFICATION OF AIRCRAFT								-		
	MODIFICATION OF AIRCRAFT										
10	TRACTOR DEW		-		-		-				-
11	GUARDRAIL MODS (TIARA)		48,969		48,969		48,969		9,000		57,969
12	AH1F MODS		2,165		2,165		2,165				2,165
13	AH-64 MODS		53,596		53,596		53,596				53,596
14	CH-47 CARGO HELICOPTER MODS (MYP)		14,081		14,081		14,081				14,081
15	C-12 CARGO AIRPLANE MODS		675		675		675				675
16	OH-58 MODS		2,886		2,886		2,886				2,886
17	C-20 AIRCRAFT MODS		929		929		929				929
18	UTILITY/TBW		421,406		421,406		503,406		76,200		497,606
18	LESS: ADVANCE PROCUREMENT (PY)		(79,438)		(79,438)		(79,438)				(79,438)
19	ADVANCE PROCUREMENT (CY)		12,879		12,879		12,879				12,879
20	UH-1 MODS		4,975		4,975		4,975				4,975
21	UH-1 HUEY SLEP		-		-		-				-
22	UH-60 MODS		19,300		19,300		19,300				19,300
23	KIOWA WARRIOR		71,334		196,334	20	196,334		140,000	20	211,334
24	EH-60 QUICKFIX MODS		38,049		38,049		38,049				38,049
25	AIRBORNE AVIONICS		30,424		30,424		30,424				30,424
26	ASE MODS		4,215		4,215		4,215				4,215
27	MODIFICATIONS < $2.0M		1,882		1,882		1,882				1,882
	SPARES AND REPAIR PARTS				-		-				
	SPARES AND REPAIR PARTS										
28	SPARES AND REPAIR PARTS		49,177		49,177		49,177		(14,562)		34,615
	SUPPORT EQUIPMENT AND FACILITIES				-		-				
	GROUND SUPPORT AVIONICS										
29	AIRCRAFT SURVIVABILITY EQUIPMENT		22,304		22,304		22,304		32,100		54,404
	OTHER SUPPORT										
30	AIRBORNE COMMAND & CONTROL		3,981		3,981		3,981				3,981
31	AVIONICS SUPPORT EQUIPMENT		22,168		22,168		22,168				22,168
32	TRAINING DEVICES		37,206		37,206		37,206				37,206
33	COMMON GROUND EQUIPMENT		30,539		30,539		27,139				30,539
34	AVIATION LIFE SUPPORT EQUIPMENT (ALSE)		9,732		9,732		9,732				9,732
35	AIR TRAFFIC CONTROL		8,187		8,187		8,187				8,187
36	INDUSTRIAL FACILITIES		2,826		2,826		2,826				2,826

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
37	AIRBORNE COMMUNICATIONS		25,597		25,597		25,597				25,597
38	CLOSED ACCOUNT ADJUSTMENT				-		-				-
	AIRCRAFT PROCUREMENT, ARMY -TOTAL		1,223,067		1,423,067		1,396,451		335,738		1,558,805

Airborne reconnaissance low

The budget request included $18.4 million to procure one additional aircraft.

The House bill and the Senate amendment would approve the budget request.

The conferees agree to authorize the budget request and express a continued strong support for the Airborne Reconnaissance Low (ARL) program, to include the procurement of a total of 9 aircraft as soon as possible.

The conferees expect the Department to evaluate the advantages of linking the airborne workstations of the ARL to an Unmanned Aerial Vehicle, to provide for airborne analysis and assured dissemination of information.

UH–60 Black Hawk helicopter

The budget request included $526.0 million for the procurement of 60 Black Hawk helicopters in the final year of a five-year multiyear procurement. No funds were requested for advance procurement.

The House bill would approve the budget request and add $75.0 million for advance procurement.

The Senate amendment would decrease procurement funds to $475.8 million to procure 50 helicopters, and would not provide funds for advance procurement.

The conferees agree to authorize $526.0 million for the procurement of 60 Black Hawk helicopters and $70.0 million for advance procurement. The conferees also agree to provide authority for multiyear procurement for the Black Hawk helicopter program.

Overview

The budget request for fiscal year 1996 contained an authorization of $676.4 million for Missile Procurement, Army in the Department of Defense. The House bill would authorize $862.8 million. The Senate amendment would authorize $894.4 million. The conferees recommended an authorization of $865.6 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	MISSILE PROCUREMENT, ARMY										
	OTHER MISSILES										
	SURFACE-TO-AIR MISSILE SYSTEM										
1	HAWK SYSTEM SUMMARY		-		-		-				-
2	PATRIOT SYSTEM SUMMARY		5,070		5,070		5,070				5,070
3	STINGER SYSTEM SUMMARY		-		-		-				-
4	AVENGER SYSTEM SUMMARY		31,441		31,441		31,441				31,441
4	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
	AIR-TO-SURFACE MISSILE SYSTEM										
5	HELLFIRE SYS SUMMARY	352	209,460		249,460	1102	249,460		37,225	1102	246,685
	ANTI-TANK/ASSAULT MISSILE SYSTEM										
6	JAVELIN (AAWS-M) SYSTEM SUMMARY	557	171,428		210,428	1010	210,428		35,500	1010	206,928
6	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
7	TOW 2 SYSTEM SUMMARY		7,378		27,378	1000	27,378		5,000	500	12,378
8	MLRS ROCKET		3,086		46,086	1500	46,086		43,000	1500	46,086
9	MLRS LAUNCHER SYSTEMS		48,158		64,558		96,158		50,400		98,558
10	ARMY TACTICAL MSL SYS (ATACMS) - SYS	91	106,971		124,971	120	124,971		18,000	120	124,971
10	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
	MODIFICATION OF MISSILES										
	MODIFICATIONS										
11	PATRIOT MODS		6,988		6,988		6,988				6,988
12	STINGER MODS		10,095		20,095		20,095				10,095
13	AVENGER MODS		-		-		-				
14	TOW MODS		33,358		33,358		33,358				33,358
15	MLRS MODS		17,996		17,996		17,996				17,996
16	MODIFICATIONS LESS THAN $2.0M		-		-		-				-
	SPARES AND REPAIR PARTS				-		-				
	SPARES AND REPAIR PARTS										
17	SPARES AND REPAIR PARTS		11,841		11,841		11,841				11,841
	SUPPORT EQUIPMENT AND FACILITIES				-		-				
	SUPPORT EQUIPMENT AND FACILITIES										
18	AIR DEFENSE TARGETS		6,791		6,791		6,791				6,791
19	ITEMS LESS THAN $2.0M (MISSILES)		1,000		1,000		1,000				1,000
20	MISSILE DEMILITARIZATION		1,693		1,693		1,693				1,693
21	PRODUCTION BASE SUPPORT		3,676		3,676		3,676				3,676
22	CLOSED ACCOUNT ADJUSTMENTS		-		-		-				-
	MISSILE PROCUREMENT, ARMY-TOTAL		676,430		862,830		894,430		189,125		865,555

Hellfire missile

The budget request included $197.5 million to procure 352 Longbow Hellfire missiles and $12.0 million for post-production support.

The House bill and the Senate amendment would provide an additional $40.0 million, which when combined with $12.0 million of post-production funds, would enable the Army to buy 750 Hellfire II missiles.

The conferees agree to provide an additional $37.2 million for the procurement of 750 Hellfire II missiles.

Javelin medium anti-tank weapon

The budget request included $171.4 million to procure 557 Javelin missiles.

The House bill and the Senate amendment would authorize an increase of $39.0 million for an additional 453 Javelin missiles.

The conferees agree to authorize an additional $35.5 million, which when added to the budget request of $171.4 million, will procure a total of 1,010 Javelin missiles.

TOW missile

The budget request included $7.4 million for plant closure and production support of prior year TOW missile deliveries. No funds were requested for additional missile production.

The House bill and the Senate amendment would authorize an increase of $20.0 million for procurement of 1,000 TOW 2B missiles.

The conferees agree to authorize an increase of $5.0 million for procurement of 500 TOW 2B missiles.

Multiple launch rocket system

The budget request included $48.2 million for annual support and fielding of the Army's Multiple Launch Rocket System (MLRS), but this amount did not include funding for procurement of any new launchers.

The House bill would authorize an increase of $16.4 million to procure MLRS launchers to complete equipping a National Guard MLRS battalion, for which funds were authorized in fiscal year 1995.

The Senate amendment would authorize an increase of $16.4 million to complete fielding the same National Guard battalion described in the House bill. In addition, the Senate amendment would authorize an increase of $48.0 million to recondition sufficient MLRS launchers and ancillary equipment for one additional National Guard MLRS battalion.

The conferees agree to authorize $98.6 million to provide sufficient reconditioned MLRS launchers and ancillary equipment to complete the fielding of the National Guard battalion authorized in fiscal year 1995, and to fully equip another National Guard battalion in fiscal year 1996.

Overview

The budget request for fiscal year 1996 contained an authorization of $1,298.9 million for Weapons and Tracked Combat Vehicles Procurement, Army in the Department of Defense. The House bill would authorize $1,359.7 million. The Senate amendment would authorize $1,547.9 million. The conferees recommended an authorization of $1,652.7 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	PROCUREMENT OF WATCV, ARMY										
	TRACKED COMBAT VEHICLES										
1	ABRAMS TRNG DEV MOD		3,115		3,115		3,115				3,115
2	BRADLEY FIGHTING VEHICLE FAMILY (MYP)		-		-		-				-
3	BRADLEY BASE SUSTAINMENT		138,308		138,308		138,308				138,308
4	BRADLEY FVS TRAINING DEVICES		-		-		-				-
5	BRADLEY FVS TRAINING DEVICES (MOD)		1,872		1,872		1,872				1,872
6	ABRAMS TANK TRAINING DEVICES		6,259		6,259		6,259				6,259
7	ARMORED GUN SYSTEM (AGS)	26	141,551	26	141,551	26	141,551		6,000	26	147,551
8	M1 ABRAMS TANK SERIES (MYP)		-		-		15,000		3,000		3,000
9	COMMAND & CONTROL VEHICLE		-		-		-				-
	MODIFICATION OF TRACKED COMBAT VEHICLES										
10	CARRIER, MOD		48,067		48,067		48,067		1,600		49,667
11	FVS (MOD)		74,336		88,336		88,336		14,000		88,336
11a	BFV ARMOR TILES		-		-		-				-
12	HOWITZER, MED SP FT 155MM M109A6 (MOD)		220,239		220,239		220,239		81,800		302,039
13	HOWITZER, MED SP FT 155MM M109A5 (MOD)		131		131		131				131
14	PALADIN PIP TO FLEET		4,065		4,065		4,065				4,065
15	IMPROVED RECOVERY VEHICLE (M88 MOD)		23,492		23,492		57,392		33,900		57,392
16	BRIDGE SYSTEM (MOD)		-		-		-				-
17	HEAVY ASSAULT BRIDGE (HAB) SYS (MOD)		15,095		15,095		15,095				15,095
18	ARMORED VEH LAUNCH BRIDGE (AVLB) (MOD)		-		-		-				-
19	M1 ABRAMS TANK (MOD)		77,076		46,754		51,754		(25,322)		51,754
20	ABRAMS UPGRADE PROGRAM		393,884		393,884		503,884		110,000		503,884
20	LESS ADVANCE PROCUREMENT (PY)		(52,973)		(52,973)		(52,973)				(52,973)
21	ADVANCE PROCUREMENT (CY)		132,959		132,959		132,959				132,959
22	ABRAMS UPGRADE PROGRAM (MOD)		-		-		-				-
23	MODIFICATIONS LESS TRAN EL.004 (TCV-WTCV)		581		581		581				581
	PRODUCTION BASE SUPPORT AND FACILITIES										
24	SPARES AND REPAIR PARTS		-		-		-				-
25	SPARES LESS TRAN EL.004 (TCV-WTCV)		152		152		152				152
26	TANK PRODUCTION BASE		-		-		-				-
27	PRODUCTION BASE SUPPORT (TCV-WTCV)		11,619		11,619		11,619		(6,119)		5,500
28	REGIONAL MAINTENANCE TRAINING SITES-EQUIP		1,452		1,452		1,452				1,452
	PALADIN				-				44,000		44,000
	WEAPONS AND OTHER COMBAT VEHICLES				-		-				
	WEAPONS AND OTHER COMBAT VEHICLES										
29	PERSONAL DEFENSE WEAPON (SOLL)		-		2,000	10000	4,000	4660	2,000	4660	2,000
30	HOWITZER, LIGHT, TOWED, 105MM, M119		-		-		-				-
31	MACHINE GUN, 5.56MM (SAW)		-		28,500	10420	28,500	10265	28,500	10265	28,500
32	GRENADE LAUNCHER, AUTO, 40MM, MK19-3		-		20,000	2100	33,900		33,900	2100	33,900
33	MORTAR, 120MM		3,007		3,007		3,007				3,007
34	M16 RIFLE		-		13,500	27500	13,500		13,500	27500	13,500
35	5.56 CARBINE M4		-		6,500	12000	13,500		6,500	12000	6,500
35a	MED MACHINE GUN MOD		-		6,500	1434	6,500		6,500	1434	6,500
	MODIFICATION OF WEAPONS AND OTHER COMBAT VEH										
36	M4 CARBINE MODS		930		930		930				930
37	SQUAD AUTOMATIC WEAPON (MOD)		-		-		-				-
38	M16 RIFLE MODS		2,842		2,842		2,842				2,842

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39	MODIFICATIONS LESS THAN $2.0M (WOCV-WTCV)		1,383		1,383		2,083				1,383
	SUPPORT EQUIPMENT AND FACILITIES										
40	SPARES AND REPAIR PARTS		-		-		-				-
41	ITEMS LESS THAN $2.0M (WOCV-WTCV)		1,150		1,150		1,150				1,150
42	PRODUCTION BASE SUPPORT (WOCV-WTCV)		6,049		6,049		6,049				6,049
43	INDUSTRIAL PREPAREDNESS		5,574		5,574		5,574				5,574
44	SMALL ARMS (SOLDIER SYSTEM PROG)		2,428		2,428		2,428				2,428
	SPARE AND REPAIR PARTS				-		-				
	SPARES										
45	SPARES AND REPAIR PARTS (WTCV)		34,343		34,343		34,343				34,343
	PROCUREMENT OF W&TCV, ARMY-TOTAL		1,298,906		1,359,664		1,547,964		353,759		1,652,745

Direct support electronic system test sets

The budget request included $1.5 million for calibration of the direct support electronic system test sets (DSESTS).

The House bill included no additional funding for DSESTS.

The Senate amendment would authorize an increase of $15.0 million for additional procurement of DSESTS for M1 Abrams series tanks and Bradley infantry fighting vehicles.

The conferees agree to authorize an increase of $15.0 million for DSESTS for both procurement and research and development, as indicated below:

	Million
Procurement:	
M1 Abrams tank series	$3.0
Armored Gun System	6.0
Research & Development:	
PE23735A Abrams Block Improvements	4.0
PE23735A Armored Gun System	2.0

M113 Carrier modifications

The budget request included $48.1 million for modification of M113 personnel carriers.

The House bill and the Senate amendment would approve the budget request.

The conferees agree to authorize an increase of $1.6 million for an additional 12 carrier modification upgrades to be used as opposing force vehicles at the National Training Center.

M109A6 Paladin 155mm howitzer, self-propelled

The budget request included $220.2 million for retrofitting 215 M109A6 Paladin howitzer systems.

The House bill and the Senate amendment would approve the budget request.

The conferees agree to authorize an increase of $81.8 million to procure an additional 48 Paladin retrofits to equip two additional National Guard battalions and to retrofit the fire control processor for 340 systems.

Improved Recovery Vehicle

The budget request included $23.5 million to procure nine M88A1E1 Improved Recovery Vehicles (IRV).

The House bill would approve the budget request.

The Senate amendment would authorize an increase of $33.9 million to procure an additional 12 IRVs.

The House recedes.

M1 Abrams tank upgrade program

The budget request included $473.8 million for 100 M1A2 tank upgrades for the Army.

The House bill would approve the budget request.

The Senate amendment would authorize an increase of $110.0 million for 24 additional M1A2 tank upgrades and, in accordance with the Statement of Managers accompanying the National Defense Authorization Act of Fiscal Year 1995 (H. Rept. 103–701), would direct the Army to transfer 24 M1A1 tanks to the Marine Corps Reserve.

The House recedes.

The conferees continue to support a multiyear procurement for M1A2 tank upgrades, as authorized in the National Defense Authorization Act of Fiscal Year 1995. However, the conferees agree with guidance and direction to the Army Acquisition Executive (AAE) regarding the need to maintain an appropriate balance between the heavy and medium portions of the tracked combat vehicle fleets, included in the Senate report (S. Rept. 104–112). The conferees expect the AAE to comply with that guidance and direction.

Mark–19 universal mounting bracket

The budget request included $1.4 million for program modifications under $2.0 million.

The Senate amendment would recommend an increase of $1.5 million to begin initial production of a nondevelopmental universal bracket.

The House bill would authorize the budget request.

The Senate recedes.

The conferees encourage the Army to reprogram funds to provide $1.5 million to initiate production of a nondevelopmental universal mounting bracket for the Mark–19 automatic grenade launcher.

The conferees provide $.5 million in PE 64802A to type classify this bracket.

Overview

The budget request for fiscal year 1996 contained an authorization of $795.0 million for Ammunition Procurement, Army in the Department of Defense. The House bill would authorize $1,062.7 million. The Senate amendment would authorize $1,120.1 million. The conferees recommended an authorization of $1,093.9 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	PROCUREMENT OF AMMUNITION, ARMY										
	AMMUNITION										
	SMALL/MEDIUM CAL AMMUNITION										
1	CTG, 5.56MM, ALL TYPES		58,579		58,579		58,579				58,579
2	CTG, 7.62MM, ALL TYPES		2,573		12,573		12,573		5,000		7,573
3	CTG, 9MM, ALL TYPES		3,837		3,837		3,837				3,837
4	CTG, .50 CAL, ALL TYPES		27,584		27,584		27,584				27,584
5	CTG, 20MM, ALL TYPES		-		-		-				-
6	CTG, 25MM, ALL TYPES		35,139		55,139		35,139		35,000		70,139
6a	CTG, 25MM, HEIT M792		-				20,000				
7	CTG, 30MM, ALL TYPES		4,289		4,289		4,289				4,289
8	CTG, 40MM, ALL TYPES		40,278		50,278		40,278		10,000		50,278
	CTG, 40MM, M430A1		-				10,000				
	MORTAR AMMUNITION										
9	CTG MORTAR 60MM 1/10 PRAC M766		-		-		-				-
10	CTG MORTAR 60MM ILLUM M721	31	13,021		23,021		20,021		10,000		23,021
11	CTG MORTAR 81MM PRAC 1/10 RANGE M880		-		6,600		-		6,600		6,600
12	CTG MORTAR 120MM FULL RANGE PRACTICE XM931	45	18,768		18,768		18,768			45	18,768
13	CTG MORTAR 120MM HE XM933 W/PD FUZE		-		-		-				-
14	CTG MORTAR 120MM SMOKE XM929 W/MO FUZE	44	47,704		69,704		67,704		20,000		67,704
	TANK AMMUNITION										
15	CTG TANK 105MM SUBCAL PRAC M968		-		-		-				-
16	CTG 120MM APFSDS-T M829A2		-		82,100		87,100		82,100		82,100
17	CTG 120MM HEAT-MP-T M830A1		-		-		20,000				-
18	CTG TANK 120MM TP-T M831A/M831A1	41	29,400		29,400		29,400			41	29,400
19	CTG TANK 120MM TPCSDS-T M865	136	91,041		91,041		91,041			136	91,041
	ARTILLERY AMMUNITION										
20	CTG ARTY 75MM BLANK M337A1	102	3,749		3,749		3,749		(2,249)	102	1,500
21	CTG ARTY 105MM DPICM XM915		-		-		-				-
22	CTG ARTY 105MM HERA M913		-		-		-				-
23	PROJ ARTY 155MM SMOKE WP M825		10,607		10,607		10,607		(5,475)		5,132
24	PROJ ARTY 155MM HE M795	75	37,040		57,040		57,040		20,000	75	57,040
25	PROJ ARTY 155MM SADARM XM898	77	24,284		24,284		24,284		18,000		42,284
26	PROJ ARTY 155MM PRAC M804		-		22,000		-				-
	MINES										
27	MINE, TRAINING, ALL TYPES		3,853		3,853		3,853				3,853
28	MINE AT/AP M87 (VOLCANO)		-		30,000		30,000		30,000		30,000
29	WIDE AREA MINE	134	15,000		15,000		15,000			134	15,000
	ROCKETS										
30	BUNKER DEFEATING MUNITION (BDM)		-		15,000		15,000		15,000		15,000
31	ROCKET, HYDRA 70, ALL TYPES		28,087		48,087		48,087				28,087
	OTHER AMMUNITION										
32	DEMOLITION MUNITIONS, ALL TYPES		26,269		26,269		32,269		6,000		32,269
33	GRENADES, ALL TYPES		27,496		27,496		27,496				27,496
34	SIGNALS, ALL TYPES		18,314		18,314		18,314				18,314
35	SIMULATORS, ALL TYPES		6,070		6,070		6,070				6,070
35a	SELECTABLE LIGHTWEIGHT ATTACK MUNITIONS, XM94				-		11,000				-
	MISCELLANEOUS										
36	AMMO COMPONENTS, ALL TYPES		4,100		4,100		4,100				4,100

Line No	Title	FY 1996 Request		House Authorized		Senate Authorized		Change to Request		Conference Agreement	
		Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
37	M483 TO M864 CONVERSION		-		-		-				-
38	UPGRADE/IMPROVEMENT OF AT4		-		-		-				-
39	CADPAD ALL TYPES		3,523		3,523		3,523				3,523
40	ITEMS LESS THAN $2 MILLION		855		855		855				855
41	BOD EXPLOSIVE ITEMS		-		-		-				-
42	AMMUNITION PECULIAR EQUIPMENT		5,000		5,000		5,000				5,000
43	FIRST DESTINATION TRANSPORTATION (AMMO)		3,925		3,925		3,925				3,925
	AMMUNITION PRODUCTION BASE SUPPORT				-		-				
	PRODUCTION BASE SUPPORT										
44	PROVISION OF INDUSTRIAL FACILITIES		41,906		41,906		41,906				41,906
45	COMPONENTS FOR PROVE-OUT		1,456		1,456		1,456				1,456
46	LAYAWAY OF INDUSTRIAL FACILITIES		13,663		13,663		13,663				13,663
47	PROVING GROUND MODERNIZATION		-		-		-				-
48	MAINTENANCE OF INACTIVE FACILITIES		51,325		51,325		51,325				51,325
48a	ARMAMENT RETOOLING & MANUFACTURING SUPPORT (ARMS)				-		45,000		45,000		45,000
49	CONVENTIONAL AMMO DEMILITARIZATION		96,280		96,280		100,280		4,000		100,280
50	FLEXIBLE MANUFACTURING CENTERS		-		-		-				-
	PROCUREMENT OF AMMUNITION, ARMY-TOTAL		795,015		1,062,715		1,120,115		298,976		1,093,991

Overview

The budget request for fiscal year 1996 contained an authorization of $2,256.6 million for Other Procurement, Army in the Department of Defense. The House bill would authorize $2,545.6 million. The Senate amendment would authorize $2,811.1 million. The conferees recommended an authorization of $2,763.4 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request		House Authorized		Senate Authorized		Change to Request		Conference Agreement	
		Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	OTHER PROCUREMENT, ARMY										
	TACTICAL AND SUPPORT VEHICLES										
	TACTICAL VEHICLES										
1	TACTICAL TRAILERS/DOLLY SETS		13,803		13,803		13,803				13,803
2	SEMITRAILER,FB,MDCOST TRANS 22 1/2 T		-		-		-				-
3	SEMITRAILER, TANK, 5000G		-		-		-				-
4	SEMITRAILER VAN CGO SUPPLY 12T 4WHL M129A2	58	3,179		3,179		3,179			58	3,179
5	HEMTT MOD MULTI-PURP WHLD VEH (HMMWV)(MYP)	546	57,690		96,690	1846	129,690		72,000	1846	129,690
6	FAMILY OF MEDIUM TACTICAL VEH (MYP)		39,692		149,692		149,692		110,000		149,692
7	HEAVY EQUIPMENT TRANSPORTER SYS		-		-		-				-
8	FAMILY OF HEAVY TACTICAL VEHICLES (MYP)		596		100,596		125,596		125,000		125,596
9	ARMORED SECURITY VEHICLES (COMBAT SPT) TAC		-		-		-				-
10	MEDIUM TRUCK EXTENDED SVC PGM(ESP) (PREV S		-		-		30,000		20,000		20,000
11	MODIFICATION OF IN SVC EQUIP		2,802		2,802		2,802				2,802
12	ITEMS LESS THAN $5M (TAC VEH)		200		200		200				200
	NON-TACTICAL VEHICLES										
13	PASSENGER CARRYING VEHICLES	41	994	41	994	41	994			41	994
14	GENERAL PURPOSE VEHICLES		993		993		993				993
15	SPECIAL PURPOSE VEHICLES		993		993		993				993
	MATERIAL HANDLING AND EQUIPMENT										
16	SYSTEM SELECTED SUPPORT PEO		4,189		4,189		4,189				4,189
17	PROJECT MANAGEMENT SUPPORT		697		697		697				697
18	SYSTEM FIELDING SUPPORT (TACOM)		2,000		2,000		2,000				2,000
19	SPARES AND REPAIR PARTS		-		-		-				-
	COMMUNICATIONS AND ELECTRONICS EQUIPMENT				-		-				
	COMM - ARMY COMMUNICATIONS										
20	ACSS EQUIPMENT (MMBDCOM)		2,271		2,271		2,271				2,271
	COMM - SATELLITE COMMUNICATIONS										
21	DEFENSE SATELLITE COMMUNICATIONS SYSTEM		78,232		78,232		78,232				78,232
22	SAT TERM, EMUT	618	17,498	618	17,498	618	17,498			618	17,498
23	NAVSTAR GLOBAL POSITIONING SYSTEM	15,025	32,502	15025	32,502	15025	32,502		17,500		50,002
24	GROUND COMMAND POST		1,049		1,049		1,049				1,049
25	SMART-T		66,714		66,714		66,714				66,714
26	SCAMP		25,816		25,816		25,816				25,816
27	MOD OF IN-SVC EQUIP (TAC SAT)		4,166		4,166		4,166				4,166
	COMM - COMBAT SUPPORT COMM										
28	MSE MOD IN SERVICE		14,683		14,683		14,683				14,683
	COMM - C3 SYSTEM										
29	COMMAND CENTER IMPROVEMENT PROG (CCIP)		920		920		920				920
30	MAINFORM C3 UPGRADE		11,424		11,424		11,424				11,424
31	STD THEATER CMD & CONTROL SYS (STACCS)		14,526		14,526		17,826				14,526
	COMM - COMBAT COMMUNICATIONS										
32	ARMY DATA DISTRIBUTION SYSTEM (ADDS)		19,968		44,968		44,968		25,000		44,968
33	MOBILE SUBSCRIBER EQUIP (MSE)		3,477		3,477		3,477				3,477
34	SINCGARS FAMILY		310,620		310,620		364,720		54,100		364,720
35	SW ASIA COMM INFRASTRUCTURE		-		-		-				-
36	EAC COMMUNICATIONS		5,896		5,896		45,896		40,000		45,896
37	MOD OF IN-SVC EQUIP (EAC COMM)		11,637		11,637		11,637				11,637
38	TAC RADIO	700	24,803	700	24,803	700	24,803			700	24,803

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39	C-E CONTINGENCY/FIELDING EQUIP		5,108		5,108		5,108				5,108
	INFORMATION SECURITY										
40	TSEC - INFORMATION SYSTEM SECURITY		11,105		11,105		11,105				11,105
41	TSEC - JCSE EQIP		-		-		-				-
	COMM - LONG HAUL COMMUNICATIONS										
42	TERRESTRIAL TRANSMISSION		9,596		9,596		9,596				9,596
43	BASE SUPPORT COMMUNICATIONS		2,205		2,205		2,205				2,205
44	DEFENSE DATA NETWORK (DDN)		4,927		4,927		4,927				4,927
45	ELECTROMAG COMP PROG (EMCP)		498		498		498				498
46	WW TECH CON IMP PROG (WWTCIP)		4,811		4,811		4,811				4,811
	COMM - BASE COMMUNICATIONS										
47	INFORMATION SYSTEMS		64,142		64,142		64,142		(12,000)		52,142
48	DEFENSE MESSAGE SYSTEM (DMS)		7,963		7,963		10,763				7,963
49	LOCAL AREA NETWORK (LAN)		61,547		61,547		61,547		(10,000)		51,547
50	PENTAGON TELECOM CTR (PTC)		2,741		2,741		2,741				2,741
	ELECT EQUIP - MAT FOR INT PROG (MFP)										
51	FOREIGN COUNTERINTELLIGENCE PROG (FCI)		536		536		536				536
52	GENERAL DEFENSE INTELL PROG (GDIP)		29,409		29,409		29,409		(5,221)		24,188
53	ITEMS LESS THAN $2.0M (INTEL SPT) - TIARA		2,826		2,826		2,826				2,826
	ELECT EQUIP - TACT INTEL ACT (TIARA)										
54	ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)		9,886		9,886		16,286				9,886
55	COMMANDERS TACTICAL TERM (CTT) (TIARA)	33	11,314		30,014		30,014		18,700		30,014
56	MF COMINT SYSTEM (TIARA)		-		-		-				-
57	EW - GSM BASE COMMON SENSORS (TIARA)		46,937		46,937		46,937				46,937
58	DEFENSE AERIAL RECONN PROGRAM (DARP)		-		-		-				-
59	JOINT STARS (ASAT) (TIARA)		82,984		82,984		82,984				82,984
60	DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (TIARA)	5	6,954	5	6,954	5	6,954			5	6,954
61	DIRM DIRECTION PROGRAM (DIP) (TIARA)		-		-		-				-
62	TACTICAL EXPLOITATION OF NATIONAL CAPABILI		4,617		4,617		4,617				4,617
63	JOINT TACTICAL GROUND STATION		30,914		-		30,914				30,914
64	TROJAN (TIARA)		19,313		19,313		19,313				19,313
65	MOD OF IN-SVC EQUIP (INTEL SPT) (TIARA)		19,491		19,491		19,491				19,491
66	ITEMS LESS THAN $2.0M (TIARA)		517		517		517				517
	ELECT EQUIP - ELECTRONIC WARFARE (EW)										
67	MOD OF IN-SVC EQUIP (EW)		-		-		-				-
68	COUNTERMEASURES/LOW/OBSERVABILITY COUNTERMEASUR		2,582		2,582		2,582				2,582
	ELECT EQUIP - TACTICAL SURV. (TAC SURV)										
69	LT SPEC DIV INTERIM SENSOR (LISS)		-		-		-				-
70	FAAD GBS		44,678		63,878		63,878		19,200		63,878
71	NIGHT VISION DEVICES		77,132		77,132		85,132		8,000		85,132
72	PHYSICAL SECURITY SYSTEMS		-		-		-				-
73	ARTILLERY ACCURACY EQUIP		12,364		12,364		12,364				12,364
74	MOD OF IN-SVC EQUIP (TAC SURV)		26,860		26,860		26,860				26,860
75	LIGHTWEIGHT LEADER COMPUTER (LLC)		-		-		-				-
76	COMPUTER BALLISTICS: MORTAR XM-23		5,019		5,019		5,019				5,019
77	INTEGRATED MET SYS SENSORS (IMETS) - TIARA	12	7,029	12	7,029	12	7,029			12	7,029
	ELECT EQUIP - TACTICAL C2 SYSTEMS										
78	ADV FIELD ARTILLERY TACT DATA SYS (AFATDS)	221	30,897	221	30,897	221	30,897		(1,500)	221	29,397
79	FIRE SUPPORT ADA CONVERSION		-		-		-				-

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80	INITIAL FIRE SPT AUTOMATIC SYSTEM (IFSAS)		-		-		-				-
81	CMBT SVC SUPT CONTROL SYS (CSSCS)	29	5,915	29	5,915	29	5,915			29	5,915
82	COMPS/EMBATEE ADP SVC CTR (CTASC)		-		-		-				-
83	FAAD C2	5	32,942	5	32,942	5	32,942		7,400	5	40,342
84	FORWARD ENTRY DEVICE (FED)		-		-		-				-
85	COMMON HARDWARE SOFTWARE		-		-		-				-
86	LIFE CYCLE SOFTWARE SUPPORT (LCSS)		2,096		2,096		2,096				2,096
87	LOGIBASE		4,534		4,534		4,534				4,534
88	SIVICON EQUIPMENT		13,178		13,178		13,178				13,178
89	MANEUVER CONTROL SYSTEM (MCS)		13,808		13,808		18,808		5,000		18,808
90	STAMIS TACTICAL COMPUTERS (STACOMP)	1,830	23,465	1830	23,465	1830	23,465			1830	23,465
91	STANDARD INTEGRATED CMD POST SYSTEM		28,914		28,914		28,914				28,914
	SUBCT EQUIP - AUTOMATION										
92	AUTOMATED DATA PROCESSING EQUIP		132,751		120,751		132,751				132,751
93	RESERVE COMPONENT AUTOMATION SYS (RCAS)		83,174		83,174		83,174				83,174
	SUBCT EQUIP - AUDIO VISUAL SYS (A/V)										
94	AFRTS		2,586		2,586		2,586				2,586
95	ITEMS LESS THAN $2.0M (A/V)		5,102		5,102		5,102				5,102
	SUBCT EQUIP-TEST MEASUREMENT EQUIP (TMDE)										
96	CALIBRATION SETS EQUIPMENT		11,457		11,457		11,457				11,457
97	INTEGRATED FAMILY OF TEST EQUIP (IFTE)		26,449		46,449		26,449		18,500		44,949
98	TMDE MODERNIZATION (TMOD)		9,470		9,470		9,470				9,470
	SUBCT EQUIP - SUPPORT										
99	INITIAL SPARES - FBO CCS		-		-		-				-
100	INITIAL SPARES - FBO COMM		-		-		-				-
101	INITIAL SPARES - FBO IEW		-		-		-				-
102	INITIAL SPARES - FBO STAMIS		-		-		-				-
103	INITIAL SPARES - NON FBO		-		-		-				-
104	ARMY PRINTING AND BINDING EQUIPMENT		-		-		-				-
105	INSTALLATION CA UPGRADE (ICU)		1,762		1,762		1,762				1,762
106	PRODUCTION BASE SUPPORT (C-E)		717		717		717				717
	OTHER SUPPORT EQUIPMENT				-		-				
	CHEMICAL DEFENSIVE EQUIPMENT										
107	SMP COLL PROT EQUIP M28		-		-		-				-
108	COLL PROT EQUIP, NBC TEMPER, TENT M28		-		-		-				-
109	MASK, PROTECTIVE, NBC M40/M42		-		-		-				-
110	REMOTE SENSING CHEMICAL AGENT ALARM XM21		-		-		-				-
111	IMPROVED CHEMICAL AGENT MONITOR		-		-		-				-
112	AUTO CHEMICAL AGENT ALARM (ACADA), XM22		-		-		-				-
113	DECONTAMINATE A/P PWR DR LT WT M17		-		-		-				-
114	GEN SUR MECH-SELFD DUAL PURP XM56		-		-		-				-
115	GENERATOR, 10KWX, MECH XM58	34	12,698	34	12,698	34	12,698			34	12,698
116	GEN SET, 10KWX, MECH: PUL. SET,XM157	170	5,214	170	5,214	170	5,214			170	5,214
117	RADIATION MONITORING SYSTEM (IPA-3)		-		-		-				-
118	JOINT BIOLOGICAL DEFENSE PROGRAM		-		-		-				-
	BRIDGING EQUIPMENT										
119	RIBBON BRIDGE		3,828		3,828		3,828				3,828
	ENGINEER NON-CONSTRUCTION EQUIPMENT										
120	DISPENSER, MINE M139		953		953		953				953

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121	METALLIC MINE DETECTOR, VEHICLE MOUNTED		-		-		-				-
	COMBAT SERVICE SUPPORT EQUIPMENT										
122	AIR CONDITIONERS VARIOUS SIZE/CAPACITY		3,176		3,176		3,176				3,176
123	STANDARD INTEGRATED CMD POST SYSTEM		-		-		-				-
124	CHEMICAL PROTECTIVE SHELTER		-		-		-				-
125	SPACE HEATER	290	1,440	290	1,440	290	1,440			290	1,440
126	SOLDIER ENHANCEMENT		-		-		-				-
127	FORCE PROVIDER	2	12,275	2	12,275	2	12,275			2	12,275
128	REFRIGERATION EQUIPMENT		2,562		2,562		2,562				2,562
129	ITEMS LESS THAN $2.0M (CSS-EQ)		2,222		2,222		2,222				2,222
	REHABILITATION ENHANCEMENT										
130	LAR FUEL FROM REGULAR BASE	1	2,786	1	2,786	1	2,786			1	2,786
131	INLAND PETROLEUM DISTRIBUTION SYSTEM		1,115		1,115		1,115				1,115
132	SMART AVIATION REFUELING SYSTEM	21	546	21	546	21	546			21	546
133	ITEMS LESS THAN $2.0M (POL)		5,537		5,537		5,537		(837)		4,700
	WATER EQUIPMENT										
134	FWD AREA WTR POINT SUP SYSTEM	148	2,692	148	2,692	148	2,692			148	2,692
135	SMALL MOBILE WATER CHILLER (SMWC)	387	3,953	387	3,953	387	3,953			387	3,953
136	ITEMS LESS THAN $2.0M (WATER EQ)		2,394		2,394		2,394				2,394
	MEDICAL EQUIPMENT										
137	COMBAT SUPPORT MEDICAL		14,310		14,310		14,310				14,310
	MAINTENANCE EQUIPMENT										
138	SHOP EQ CONTACT MAINTENANCE TRK MTD (MYP)	71	1,778	71	1,778	71	1,778			71	1,778
139	TOOL KIT HYDRAULIC REPAIR 3/4 TRL MTD		-		-		-				-
140	ITEMS LESS THAN $2.0M (MAINT EQ)		1,450		1,450		1,450				1,450
	CONSTRUCTION EQUIPMENT										
141	COMPACTOR 60-SPEED TAMP SELF PROP (CCE)		-		-		-				-
142	ROLLER, VIBRATORY, SELF-PROPELLED (CCE)	47	7,115	47	7,115	47	7,115			47	7,115
143	DEPLOYABLE UNIVERSAL COMBAT EARTH MOVERS	18	9,938	18	9,938	18	9,938			18	9,938
144	CRANE, WHEEL MTD, 25T, 3/4 CU YD, RT	7	1,987	7	1,987	7	1,987			7	1,987
145	ITEMS LESS THAN $2.0M (CONST EQUIP)		1,981		1,981		1,981				1,981
	RAIL/FLOAT CONTAINERIZATION EQUIPMENT										
146	FORKLIFT, 30-40 L	1	3,576	1	3,576	1	3,576			1	3,576
147	FLOATING CRANE, 100-250 TON		-		-		-				-
148	GANGWAY SYSTEMS		-		-		-				-
149	RAILWAY CAR, FLAT, 100 TON	238	11,767	238	11,767	238	11,767			238	11,767
150	ITEMS LESS THAN $2.0M (FLOAT/RAIL)		3,602		3,602		3,602		(1,000)		2,602
	GENERATORS										
151	GENERATORS AND ASSOCIATED EQUIP		13,761		13,761		48,761				13,761
	MATERIAL HANDLING EQUIPMENT										
152	TRUCK, FORK LIFT, DIE, PT, RT, 30000 LB	33	10,928	33	10,928	33	10,928			33	10,928
153	ALL TERRAIN LIFTING ARTICULATING SYSTEM	112	14,403	112	14,403	112	14,403			112	14,403
154	ITEMS LESS THAN $2.0M (MHE)		2,843		2,843		2,843				2,843
	TRAINING EQUIPMENT										
155	COMBAT TRAINING CENTERS SUPPORT		22,208		22,208		22,208				22,208
156	TRAINING DEVICES, MOBSYSTEM		71,561		71,561		71,561		4,500		76,061
157	SIMNETICLOSS COMBAT TACTICAL TRAINER		30,655		30,655		30,655				30,655
158	FIRE SUPPORT COMBINED ARMS TACTICAL TRAINE		-		-		-				-
	OTHER SUPPORT EQUIPMENT										

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159	RECONFIGURABLE SIMULATORS		12,616		12,616		12,616				12,616
160	PHYSICAL SECURITY SYSTEMS (OPA3)		6,190		6,190		6,190				6,190
161	SYSTEM FIELDING SUPPORT (OPA-3)		10,030		10,030		10,030				10,030
162	BASE LEVEL COM'L EQUIPMENT		-		-		-				-
163	ARMS CONTROL COMPLIANCE		-		-		-				-
164	COMBINED DEFENSE IMPROVEMENT PROJECT (CDIP		-		-		-				-
165	MODIFICATION OF IN-SVC EQUIPMENT (OPA-3)		21,911		21,911		21,911		(7,500)		14,411
166	PRODUCTION BASE SUPPORT (OTH)		1,835		1,835		1,835				1,835
167	INDUSTRIAL MODERNIZATION INCENTIVE PROG		-		-		-				-
168	SPECIAL EQUIPMENT FOR USER TESTING		9,165		9,165		9,165				9,165
169	ITEMS LESS THAN $2.0M (OTH SPT EQ)		-		-		-				-
170	OPA INITIAL SPARES		-		-		-				-
171	TRACTOR VAPOR		2,223		2,223		2,223				2,223
172	NATURAL GAS UTILIZATION		-		-		-				-
173	CLOSED ACCOUNT ADJUSTMENTS		-		-		-				-
	SPARE AND REPAIR PARTS				-		-				
	(OPA)										
174	INITIAL SPARES - TSV		1,093		1,093		1,093				1,093
	(OPA)										
175	INITIAL SPARES - C&E		82,994		82,994		82,994				82,994
	(OPA)										
176	INITIAL SPARES - OTHER SUPPORT EQUIP		2,038		2,038		2,038				2,038
	OTHER PROCUREMENT, ARMY-TOTAL		2,256,601		2,545,587		2,811,101		506,842		2,763,443

High mobility multipurpose wheeled vehicle

The budget request included $57.7 million for 546 high mobility multipurpose wheeled vehicles (HMMWVs).

The House bill would authorize an increase of $39.0 million to procure approximately 700 additional HMMWVs.

The Senate amendment would authorize an increase of $72.0 million to procure approximately 1300 additional HMMWVs.

The House recedes.

The conferees agree that additional HMMWVs are required for both the Army and the Marine Corps, and expect the military services to include in future budget requests adequate funds to procure sufficient HMMWVs to meet validated service requirements and to meet minimum annual required production rates necessary to sustain the essential elements of the HMMWV industrial base.

Family of heavy tactical vehicles

The budget request included $0.6 million for the family of heavy tactical vehicles (FHTV).

The House bill would authorize an increase of $100.0 million for the FHTV program.

The Senate amendment would authorize an increase of $125.0 million for the FHTV program.

The House recedes.

The conferees agree to authorize an increase to the budget request of $125.0 million to procure the heavy tactical vehicles, as indicated below:

	Dollars (in millions)	Quantity
Heavy equipment transporter	$40.0	83
Heavy expanded mobility tactical transporter	33.0	115
Palletized loading system	52.0	147

Medium truck extended service program

The budget request did not include funds for the medium truck extended service program (ESP).

The House bill would not authorize funds for medium truck ESP.

The Senate amendment would authorize $30.0 million for medium truck ESP.

The conferees agree to authorize $20.0 million for medium truck ESP. The conferees express their concern regarding the possibility of initiating multiple truck remanufacture programs, thereby creating excess capacity in the industry. The conferees prefer that maximum use be made of the medium truck ESP currently underway, that separate, additional procurements be kept to a minimum to avoid industrial overcapacity, and that, for future procurements, consideration be given to reliable manufacturers with demonstrated capabilities to produce military trucks.

GUARDRAIL tactical information broadcast service

The budget request included $48.9 million for the GUARDRAIL common sensor program.

Both the House bill and the Senate amendment would authorize funding at the requested level.

The conferees have determined that there is a need for GUARDRAIL aircraft to be equipped with improved intelligence data dissemination capability and interoperability with other intelligence data producers. Therefore, the conferees agree to authorize an increase of $9.0 million to the budget request for procurement and integration of tactical information broadcast service to provide this capability for existing GUARDRAIL aircraft.

Nonsystem training devices

The budget request included $71.6 million for nonsystem training devices.

The House bill and the Senate amendment authorized the request.

The conferees are concerned that the Army is currently training firefighters using fossil-fueled techniques that are not only hazardous to the trainees but, in some cases, in violation of environmental regulations. Moreover, the conferees are aware that there are computer-controlled natural gas/propane firefighter training systems, currently used by other services, that provide safe training for individuals and minimize destruction to the environment. Accordingly, the conferees authorize $4.5 million to procure an initial set of these systems.

Further, the conferees believe that the Army should develop a plan to replace current firefighting training sites in regions where multiple commands can take advantage of a single site.

Overview

The budget request for fiscal year 1996 contained an authorization of $3,886.5 million for Aircraft Procurement, Navy in the Department of Defense. The House bill would authorize $4,106.5 million. The Senate amendment would authorize $4,916.6 million. The conferees recommended an authorization of $4,572.4 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

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	AIRCRAFT PROCUREMENT, NAVY										
	COMBAT AIRCRAFT										
	COMBAT AIRCRAFT										
1	EA-6B(REIMPG (ELECTRONIC WARFARE) PROWLER		-		-		180,000				-
2	AV-8B (V/STOL)HARRIER	4	163,582	12	323,582	8	263,582	4	81,251	8	244,833
2	LESS: ADVANCE PROCUREMENT (PY)		(15,419)		(15,419)		(15,419)				(15,419)
3	ADVANCE PROCUREMENT (CY)		21,582		21,582		21,582				21,582
4	F/A-18C/D (FIGHTER) HORNET	12	694,101	12	694,101	24	1,258,101	6	212,765	18	906,866
4	LESS: ADVANCE PROCUREMENT (PY)		(84,197)		(84,197)		(84,197)				(84,197)
5	ADVANCE PROCUREMENT (CY)		-		-		-				-
6	F/A-18E/F (FIGHTER) HORNET		-		-		-				-
6	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
7	ADVANCE PROCUREMENT (CY)		236,882		236,882		236,882				236,882
8	CH/MH-53E (HELICOPTER) SUPER STALLION		-		-	3	90,000				-
8	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
9	V-22 (MEDIUM LIFT)		-		-		-				-
9	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
10	ADVANCE PROCUREMENT (CY)		48,022		48,022		48,022				48,022
11	AH-1W (HELICOPTER) SEA COBRA		10,385		10,385		10,385		64,615	6	75,000
12	SH-60B (ASW HELICOPTER) SEAHAWK		13,744		13,744		13,744				13,744
12	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
13	SH-60F CV (ASW HELICOPTER)		-		-		-				-
13	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
14	E-2C (EARLY WARNING) HAWKEYE	3	212,589	4	282,589	3	212,589			3	212,589
14	LESS: ADVANCE PROCUREMENT (PY)		(41,376)		(41,376)		(41,376)				(41,376)
15	ADVANCE PROCUREMENT (CY)		43,020		43,020		43,020				43,020
	TRAINER AIRCRAFT				-		-				
	TRAINER AIRCRAFT										-
16	T-45TS (TRAINER) GOSHAWK	12	317,143	12	317,143	12	317,143			12	317,143
16	LESS: ADVANCE PROCUREMENT (PY)		(30,961)		(30,961)		(30,961)				(30,961)
17	ADVANCE PROCUREMENT (CY)		29,902		29,902		29,902				29,902
17a	T-39N		-		-				45,000	17	45,000
	OTHER AIRCRAFT				-		-				
	OTHER AIRCRAFT										
18	HH-60H (HELICOPTER)		23,750		23,750		23,750				23,750
	MODIFICATION OF AIRCRAFT				-		-				
	MODIFICATION OF AIRCRAFT										
19	A-6 SERIES		-		-		-				-
20	EA-6 SERIES		-		-		36,000		165,000		165,000
21	AV-8 SERIES		16,007		16,007		16,007				16,007
22	F-14 SERIES		59,047		59,047		76,147		42,475		101,522
23	ADVERSARY		153		153		153				153
24	E2-3 SERIES		20,608		20,608		20,608				20,608
25	F-18 SERIES		91,606		91,606		91,606				91,606
26	H-46 SERIES		83,665		83,665		83,665				83,665
27	H-53 SERIES		46,152		46,152		46,152				46,152
28	SH-60 SERIES		66,770		66,770		66,770				66,770
29	H-1 SERIES		54,530		54,530		67,530		13,000		67,530
30	H-3 SERIES		6,975		6,975		6,975				6,975

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31	EP-3 SERIES		32,405		32,405		32,405				32,405
32	P-3 SERIES		178,557		178,557		178,557		31,800		210,357
33	S-3 SERIES		40,232		40,232		40,232				40,232
34	E-2 SERIES		19,636		19,636		19,636				19,636
35	TRAINER A/C SERIES		727		727		727				727
36	C-130 SERIES		6,939		6,939		6,939				6,939
37	FEWSG		550		550		550				550
38	CARGO/TRANSPORT A/C SERIES		31,354		31,354		31,354				31,354
39	E-6 SERIES		112,904		112,904		112,904				112,904
40	EXECUTIVE HELICOPTERS SERIES		35,965		35,965		35,965				35,965
41	T-45 SERIES		4,949		4,949		4,949				4,949
42	POWER PLANT CHANGES		17,525		17,525		17,525				17,525
43	MISC FLIGHT SAFETY CHANGES		167		167		167				167
44	COMMON ECM EQUIPMENT		4,234		4,234		34,234		30,000		34,234
45	COMMON AVIONICS CHANGES		73,947		73,947		73,947				73,947
	AIRCRAFT SPARES AND REPAIR PARTS				-		-				
	AIRCRAFT SPARES AND REPAIR PARTS				-		-				
46	SPARES AND REPAIR PARTS		784,782		784,782		784,782				784,782
	AIRCRAFT SUPPORT EQUIPMENT AND FACILITIE				-		-				
	AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES				-		-				
47	COMMON GROUND EQUIPMENT		367,017		357,017		367,017				367,017
48	AIRCRAFT INDUSTRIAL FACILITIES		30,656		30,656		30,656				30,656
49	WAR CONSUMABLES		20,191		20,191		20,191				20,191
50	OTHER PRODUCTION CHARGES		21,881		21,881		21,881				21,881
51	SPECIAL SUPPORT EQUIPMENT		11,743		11,743		11,743				11,743
52	FIRST DESTINATION TRANSPORTATION		1,865		1,865		1,865				1,865
53	CANCELLED ACCOUNT ADJUSTMENTS		-		-		-				-
	AVIATION MULTIYEAR FUND				-						
	AIRCRAFT PROCUREMENT, NAVY-TOTAL		3,886,488		4,106,488		4,916,588		685,906		4,572,394

AV–8B remanufacture

The budget request included $148.2 million for the remanufacture of four Marine Corps AV–8B aircraft.

The House bill would add $160.0 million for the remanufacture of eight additional aircraft.

The Senate amendment would authorize an additional $100.0 million for the remanufacture of four more aircraft.

The conferees agree to authorize a total of $229.4 million, $81.3 million above the budget request, for the remanufacture of four additional aircraft.

Electronic warfare

The budget request included no funds to either expand the Navy's fleet of EA–6B Block 89 aircraft to accommodate the retirement of the EF–111 jammer aircraft or to improve the capabilities of the existing Block 89 EA–6B fleet.

The House bill would approve the budget request.

The Senate amendment would authorize $216.0 million to modernize airborne electronic warfare (EW) capabilities of the EA–6B Block 89 aircraft and to expand the number of Block 89 aircraft by 20.

The conferees agree that modernization of the Department's tactical electronic warfare aircraft fleet is a priority item of special interest. Accordingly, the conferees agree to authorize $165.0 million to initiate procurement of EA–6B modifications, as set forth below:

(1) $100.0 million to modernize up to 20 older EA–6B Block 82 aircraft to the newer Block 89 configuration to offset EF–111 retirements;

(2) $40.0 million to procure 60 band 9/10 transmitters; and

(3) $25.0 million for 30 USQ–113 enhanced radio countermeasure sets.

The conferees also authorize an increase of $10.0 million to Navy EW development (PE 64270N), to develop a low-cost, reactive jamming capability for the EA–6B. The conferees are especially interested in the Navy's completion of an affordable upgrade to the EA–6B reactive processor capability.

The conferees note the inconsistent nature of the Navy's actions regarding airborne tactical EW in recent years and are deeply concerned with the Navy's vacillating commitment and support for meaningful upgrades to the EA–6B aircraft. Accordingly, the Secretary of the Navy is directed to:

(1) initiate the EA–6B modifications identified above.

(2) provide the congressional defense committees with the following:

(a) a program and budget plan for completing the directed modifications.

(b) the Joint Tactical Airborne EW Study (JTAEWS).

In addition, the conferees agree that the Secretary of the Navy shall not obligate more than 75 percent of funds appropriated for procurement of the F/A–18C/D for fiscal year 1996 until he has accomplished the actions specified above.

F–14 modifications

The budget request included $59.0 million for F–14 modifications. This amount did not include any funds for a forward-looking infrared (FLIR)/laser designator system for the F–14. The budget request included $25.4 million in research and development funds for a precision strike upgrade, an effort to integrate the joint direct attack munition (JDAM) into the F–14.

The House bill would approve the budget request for F–14 modifications.

After completion of the House bill, the Navy informed the Senate that the requirements validation process had documented an operational requirement for a FLIR/laser designator system for the F–14, in lieu of the JDAM integration. The Senate considered this requirement to be a high priority for carrier operations. Therefore, the Senate amendment would authorize an increase of $17.1 million for F–14 aircraft modifications in fiscal year 1996. This action was taken with the understanding that the Department of Defense would provide funding for the system in future budget requests.

The conferees agree to provide $101.5 million for F–14 modifications, with an increase of $42.5 million provided for the FLIR/laser designator effort. The conferees also agree to reduce the F–14 research and development request by $25.4 million.

Additionally, the conferees agree to invite the Navy to reprogram funds originally authorized for JDAM integration into the FLIR/laser designator procurement effort, to expedite meeting the need for improving F–14 strike capability.

Overview

The budget request for fiscal year 1996 contained an authorization of $1,787.1 million for Weapons Procurement, Navy in the Department of Defense. The House bill would authorize $1,626.4 million. The Senate amendment would authorize $1,771.4 million. The conferees recommended an authorization of $1,659.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	WEAPONS PROCUREMENT, NAVY										
	BALLISTIC MISSILES										
	BALLISTIC MISSILES		-		-		-				
1	TRIDENT I		-		-		-				-
2	TRIDENT II	6	343,392	6	343,392	6	343,392			6	343,392
2	LESS: ADVANCE PROCUREMENT (PY)		(15,960)		(15,960)		(15,960)				(15,960)
3	ADVANCE PROCUREMENT (CY)		190,920		190,920		190,920				190,920
	SUPPORT EQUIPMENT AND FACILITIES				-		-				
4	MISSILE INDUSTRIAL FACILITIES		2,199		2,199		2,199				2,199
	OTHER MISSILES				-		-				-
	STRATEGIC MISSILES				-		-				
5	TOMAHAWK	164	161,727	164	161,727	164	120,027		(41,700)	164	120,027
	TACTICAL MISSILES				-		-				
6	AMRAAM	115	81,691	115	81,691	115	77,691		(4,200)	115	77,491
7	HARPOON	30	46,368	30	86,368	30	46,368		40,000	75	86,368
8	JSOW		26,218		26,218		26,218				26,218
9	STANDARD MISSILE	151	231,540	151	231,540	151	231,540			151	231,540
10	RAM	230	69,208	230	69,208	230	69,208			230	69,208
11	HELLFIRE		-		-		-				-
12	AERIAL TARGETS		68,620		68,620		68,620				68,620
13	DRONES AND DECOYS		-		-		-				-
14	OTHER MISSILE SUPPORT		22,203		22,203		22,203				22,203
	MODIFICATION OF MISSILES				-		-				
15	TOMAHAWK MODS		684		684		684		49,316		50,000
16	SPARROW MODS		4,338		4,338		4,338				4,338
17	SIDEWINDER MODS		17,861		17,861		17,861				17,861
18	HARPOON MODS		4,370		4,370		4,370				4,370
19	HARM MODS		-		-		-				-
20	STANDARD MISSILES MODS		35,055		35,055		35,055				35,055
	SUPPORT EQUIPMENT AND FACILITIES				-		-				
21	WEAPONS INDUSTRIAL FACILITIES		13,094		13,094		13,094		30,000		43,094
22	FLEET SATELLITE COMM (MYP)		51,764		51,764		81,764				51,764
	ORDNANCE SUPPORT EQUIPMENT				-		-				
23	ORDNANCE SUPPORT EQUIPMENT		5,012		5,012		5,012				5,012
	TORPEDOES AND RELATED EQUIPMENT				-		-				
	TORPEDOES AND RELATED EQUIPMENT				-		-				
24	MK-48 ADCAP TORPEDO (MYP)		-		-		-				-
24	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
25	MK-50 ALWT		-		-		-				-
26	ASW TARGETS		652		652		652				652
27	VERTICAL LAUNCHED ASROC (VLA)		-		-		-				-
27	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
	MOD OF TORPEDOES AND RELATED EQUIP				-		-				
28	MK-46 TORPEDO MODS		3,613		3,613		3,613				3,613
29	MK-48 TORPEDO ADCAP MODS		61,022		61,022		61,022				61,022
30	QUICKSTRIKE MINE		-		-		-				-
	SUPPORT EQUIPMENT				-		-				
31	TORPEDO SUPPORT EQUIPMENT		31,237		31,237		31,237			-	31,237
32	ASW RANGE SUPPORT		18,128		18,128		18,128			-	18,128

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	DESTINATION TRANSPORTATION				-		-				
33	FIRST DESTINATION TRANSPORTATION		4,032		4,032		4,032				4,032
	OTHER WEAPONS				-		-				
	GUNS AND GUN MOUNTS				-		-				
34	SMALL ARMS AND WEAPONS		922		922		922				922
	MODIFICATION OF GUNS AND GUN MOUNTS				-		-				
35	CIWS MODS		37,328		37,328		37,328				37,328
36	5/54 GUN MOUNT MODS		2,605		2,605		2,605				2,605
37	MK-75 76MM GUN MOUNT MODS		901		901		901				901
38	MODS UNDER $2 MILLION		1,645		1,645		1,645				1,645
	OTHER										
39	CANCELLED ACCOUNT ADJUSTMENTS		-		-		-				-
	OTHER ORDNANCE				-		-				
	AIR LAUNCHED ORDNANCE				-		-				
40	GENERAL PURPOSE BOMBS		46,142		-		46,142		(46,142)		-
41	2.75 INCH ROCKETS		14,806		-		14,806		(14,806)		-
42	MACHINE GUN AMMUNITION		11,469		-		11,469		(11,469)		-
43	PRACTICE BOMBS		11,195		-		11,195		(11,195)		-
44	CARTRIDGES & CART ACTUATED DEVICES		17,974		-		17,974		(17,974)		-
45	AIRCRAFT ESCAPE ROCKETS		10,586		-		10,586		(10,586)		-
46	AIR EXPENDABLE COUNTERMEASURES		22,828		-		22,828		(22,828)		-
47	MARINE LOCATION MARKERS		871		-		871		(871)		-
48	JATOS		4,940		-		4,940		(4,940)		-
	SHIP ORDNANCE				-						
49	5 INCH/54 GUN AMMUNITION		21,501		-		21,501		(21,501)		
50	CIWS AMMUNITION		93		-		93		(93)		-
51	76MM GUN AMMUNITION		6,432		-		6,432		(6,432)		-
52	OTHER SHIP GUN AMMUNITION		5,148		-		5,148		(5,148)		-
	OTHER ORDNANCE				-		-				
53	SMALL ARMS & LANDING PARTY AMMO		5,814		-		5,814		(5,814)		-
54	PYROTECHNIC AND DEMOLITION		11,253		-		11,253		(11,253)		-
55	MINE NEUTRALIZATION DEVICES		787		-		787		(787)		-
56	SHIP EXPENDABLE COUNTERMEASURES		8,871		-		8,871		(8,871)		-
	SPARES AND REPAIR PARTS				-		-				
	SPARES AND REPAIR PARTS				-		-				
57	SPARES AND REPAIR PARTS		64,022		64,022		64,022				64,022
	WEAPONS PROCUREMENT, NAVY-TOTAL		1,787,121		1,626,411		1,771,421		(127,294)		1,659,827

Overview

The budget request for fiscal year 1996 contained an authorization of $5,051.9 million for Shipbuilding and Conversion Procurement, Navy in the Department of Defense. The House bill would authorize $6,227.9 million. The Senate amendment would authorize $7,111.9 million. The conferees recommended an authorization of $6,643.9 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	SHIPBUILDING & CONVERSION, NAVY										
	OTHER WARSHIPS										
	OTHER WARSHIPS										
1	CARRIER REPLACEMENT PROGRAM		-		-		-				
1	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
2	SSN-21	1	1,876,102		368,625	1	1,876,102		(807,477)	1	1,068,625
2	LESS: ADVANCE PROCUREMENT (PY)		(368,625)		(368,625)		(368,625)				(368,625)
3	NEW SSN		704,498		704,498		814,498		100,000		804,498
3a	ENHANCED SSN CAPABILITIES		-		1,000,000						-
4	CVN REFUELING OVERHAULS		221,988		221,988		221,988				221,988
5	CON REFUELING OVERHAULS		1,719		1,719		1,719				1,719
5	LESS: ADVANCE PROCUREMENT (PY)		(1,719)		(1,719)		(1,719)				(1,719)
6	DDG-51	2	2,162,457	3	2,812,457	4	2,812,457			3	2,162,457
6	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
7	ADVANCE PROCUREMENT (CY)		6,800		6,800		6,800				6,800
	AMPHIBIOUS SHIPS				-		-				
	AMPHIBIOUS SHIPS				-		-				
8	LHD-1 AMPHIBIOUS ASSAULT SHIP (MYP)		-		-	1	1,400,000		1,400,000	1	1,400,000
8	LESS: ADVANCE PROCUREMENT (PY)		-		-		(100,000)		(100,000)		(100,000)
8a	LPD-17				974,000		-		974,000	1	974,000
9	ADVANCE PROCUREMENT (CY)		-		-		-				-
	MINE WARFARE AND PATROL SHIPS				-		-				-
	MINE WARFARE AND PATROL SHIPS				-		-				
10	MCS CONV		-		-		-				
10a	FAST PATROL CRAFT		-		9,500				9,500		9,500
	AUXILIARIES, CRAFT, AND PRIOR-YEAR PROGR				-		-				
	AUXILIARIES, CRAFT AND PRIOR YEAR PROGRAM COS				-		-				
11	AE(C)	2	62,130	2	62,130	2	62,130			2	62,130
12	OCEANOGRAPHIC SHIPS		-		-		-				-
12a	T-AGS 64		-		70,000				16,000		16,000
12b	LSD-52 SELF DEFENSE								20,000		20,000
13	SERVICE CRAFT		16,996		16,996		16,996				16,996
14	OUTFITTING		144,791		134,791		144,791		(10,000)		134,791
15	POST DELIVERY		174,991		164,991		174,991		(10,000)		164,991
16	AFS (C)	2	47,096	2	47,096	2	47,096			2	47,096
17	FIRST DESTINATION TRANSPORTATION		2,711		2,711		2,711				2,711
18	SSN MAIN STEAM CONDENSERS		-		-		-				-
	SHIPBUILDING & CONVERSION, NAVY-TOTAL		5,051,935		6,227,958		7,111,935		1,592,023		6,643,958

Overview

The budget request for fiscal year 1996 contained no authorization for Ammunition Procurement, Navy and Marine Corps in the Department of Defense. The House bill would authorize $461.8 million. The Senate amendment contained no authorization. The conferees recommended an authorization of $430.1 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	PROCUREMENT OF AMMUNITION, NAVY & MARINE CORP										
	PROC AMMO, NAVY										
	NAVY AMMUNITION										
1	GENERAL PURPOSE BOMBS			-	46,142		-		43,000		43,000
2	2.75 INCH ROCKETS			-	14,806		-		14,806		14,806
3	MACHINE GUN AMMUNITION			-	11,469		-		11,469		11,469
4	PRACTICE BOMBS			-	11,195		-		19,000		19,000
5	CARTRIDGES & CART ACTUATED DEVICES			-	17,974		-		17,974		17,974
6	AIRCRAFT ESCAPE ROCKETS			-	10,586		-		10,586		10,586
7	AIR EXPENDABLE COUNTERMEASURES			-	22,828		-		24,828		24,828
8	MARINE LOCATION MARKERS			-	871		-		871		871
9	DEFENSE NUCLEAR AGENCY MATERIAL			-	-		-				-
10	JATOS			-	4,940		-		4,940		4,940
	NAVY AMMUNITION						-				
11	5 INCH/54 GUN AMMUNITION			-	51,701		-		36,000		36,000
12	CIWS AMMUNITION			-	93		-		93		93
13	76MM GUN AMMUNITION			-	6,432		-		6,432		6,432
14	OTHER SHIP GUN AMMUNITION			-	5,148		-		10,148		10,148
	NAVY AMMUNITION						-				
15	SMALL ARMS & LANDING PARTY AMMO			-	5,814		-		5,814		5,814
16	PYROTECHNIC AND DEMOLITION			-	11,253		-		11,253		11,253
17	MINE NEUTRALIZATION DEVICES			-	787		-		787		787
18	SHIP EXPENDABLE COUNTERMEASURES			-	8,871		-		8,871		8,871
	PROC AMMO, MC				-		-				
	MARINE CORPS AMMUNITION						-				
19	5.56 MM, ALL TYPES			-	28,487		-		28,487		28,487
20	7.62 MM, ALL TYPES			-	12,082		-		12,082		12,082
21	.50 CALIBER			-	66,688		-		45,000		45,000
22	40 MM, ALL TYPES			-	3,939		-		3,939		3,939
23	60 MM HE M888			-	9,855		-		9,855		9,855
24	81 MM HE			-	4,724		-		14,724		14,724
25	81 MM SMOKE SCREEN			-	5,445		-		5,445		5,445
26	81MM ILLUMINATION (M853)			-	-		-		-		-
26a	81MM ILLUMINATION (M816)			-	6,700				6,700		6,700
27	120MM TPCSDS-T M865			-	8,902		-		8,902		8,902
28	120 MM TP-T M831			-	3,314		-		3,314		3,314
	155MM CHG, PROP, RED BAG								16,000		16,000
	155MM PROP CHARGE M203A1				32,000		-		-		-
29	FUZE, IET, XM762			-	10,000		-		10,000		10,000
30	CTG 25MM, ALL TYPES			-	6,724		-		6,724		6,724
31	9 MM ALL TYPES			-	2,979		-		2,979		2,979
32	ROCKETS, ALL TYPES			-	7,034		-		7,034		7,034
33	AMMO MODERNIZATION			-	9,611		-		9,611		9,611
	GRENADES, ALL TYPES				1,174				1,174		1,174
	MARINE CORPS AMMUNITION						-				
34	ITEMS LESS THAN $2 MIL			-	11,211		-		11,211		11,211
	PROCUREMENT OF AMMUNITION, NAVY & MARINE CORP			-	461,779		-		430,053		430,053

Overview

The budget request for fiscal year 1996 contained an authorization of $2,396.1 million for Other Procurement, Navy in the Department of Defense. The House bill would authorize $2,461.5 million. The Senate amendment would authorize $2,471.9 million. The conferees recommended an authorization of $2,414.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	OTHER PROCUREMENT, NAVY										
	SHIPS SUPPORT EQUIPMENT										
	SHIP PROPULSION EQUIPMENT										
1	LM-2500 GAS TURBINE		7,973		7,973		7,973				7,973
2	ALLISON 501K GAS TURBINE		7,143		7,143		7,143				7,143
3	STEAM PROPULSION IMPROVEMENT		781		781		781				781
4	OTHER PROPULSION EQUIPMENT		3,185		3,185		3,185				3,185
	GENERATORS				-		-				
5	OTHER GENERATORS		7,754		7,754		7,754				7,754
	PUMPS				-		-				
6	OTHER PUMPS		1,014		1,014		1,014				1,014
7	SUBMARINE PUMP RETROFIT KITS		-		-		-				-
	AIR COMPRESSORS				-		-				
8	HIGH PRESSURE AIR COMPRESSORS		-		-		-				-
	PROPELLERS				-		-				-
9	SUBMARINE PROPELLERS		-		-		-				
10	OTHER PROPELLERS AND SHAFTS		1,543		1,543		1,543				1,543
	NAVIGATION EQUIPMENT				-		-				
11	SLRC SUSPENDED GYRO NAVIGATOR		4,108		-		1,608		(4,108)		-
12	OTHER NAVIGATION EQUIPMENT		17,688		27,688		27,688		10,000		27,688
	UNDERWAY REPLENISHMENT EQUIPMENT				-		-				
13	UNDERWAY REPLENISHMENT EQUIPMENT		14,008		14,008		14,008				14,008
	SEARCHES				-		-				
14	SEE PERISCOPES & IMAGING EQUIP		24,157		24,157		24,157				24,157
	OTHER SHIPBOARD EQUIPMENT				-		-				
15	FIREFIGHTING EQUIPMENT		19,652		19,652		19,652				19,652
16	COMMAND AND CONTROL SWITCHBOARD		4,702		4,702		4,702				4,702
17	POLLUTION CONTROL EQUIPMENT		104,493		104,493		104,493				104,493
18	SUBMARINE SILENCING EQUIPMENT		4,539		4,539		4,539				4,539
19	SURFACE SHIP SILENCING EQUIPMENT		-		-		-				-
20	SUBMARINE BATTERIES		7,347		7,347		7,347				7,347
21	NAVY CLASS SUPPORT EQUIPMENT		4,982		4,982		4,982				4,982
22	STRATEGIC PLATFORM SUPPORT EQUIP		4,500		4,500		4,500				4,500
23	DSSP EQUIPMENT		6,622		6,622		6,622				6,622
24	MINEHUNTING EQUIPMENT		12,985		12,985		12,985		(6,000)		6,985
25	ITEMS ITEMS UNDER $2 MILLION		43,389		33,389		43,389		(10,000)		33,389
26	LASER ARTICULATION ROBOTIC SYSTEM (LARS)		-		-		-				-
27	SURFACE SSA		1,407		1,407		1,407				1,407
28	DEGAUSSING EQUIPMENT		-		-		-				-
29	RADIOLOGICAL CONTROLS		151		151		151				151
30	MISSILE/SONAR ELECTRONIC REPAIR		990		990		990				990
31	SUBMARINE LIFE SUPPORT SYSTEM		-		-		-				-
	REACTOR PLANT EQUIPMENT				-		-				
32	REACTOR POWER UNITS		-		-		-				-
33	REACTOR COMPONENTS		187,943		187,943		187,943				187,943
	OCEAN ENGINEERING				-		-				
34	DIVING AND SALVAGE EQUIPMENT		8,234		8,234		8,234				8,234
35	NAVAL SPECIAL WARFARE EQUIPMENT		4,784		4,784		4,784				4,784
	SMALL BOATS				-		-				

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
36	STANDARD BOATS		8,072		8,072		8,072				8,072
	TRAINING EQUIPMENT				-		-				-
37	OTHER SHIPS TRAINING EQUIPMENT		5,388		5,388		5,388				5,388
	PRODUCTION FACILITIES EQUIPMENT				-		-				
38	PRODUCTION SUPPORT FACILITIES		3,258		3,258		3,258				3,258
39	OPERATING FORCES IPE		821		821		821				821
	OTHER SHIP SUPPORT				-		-				
40	NUCLEAR ALTERATIONS		120,452		120,452		120,452				120,452
41	FLEET MODERNIZATION PROGRAM		-		3,000		-		3,000		3,000
	COMMUNICATIONS AND ELECTRONICS EQUIPMENT				-		-				
	SHIP RADARS				-		-				
42	AN/SPS-40		-		-		-				-
43	AN/SPS-48		2,167		2,167		2,167				2,167
44	AN/SPS-49		10,038		10,038		10,038				10,038
45	AN/SYS-0		311		311		311				311
46	MK-23 TARGET ACQUISITION SYSTEM		5,283		5,283		5,283				5,283
47	RADAR SUPPORT		466		9,466		466		9,000		9,466
48	SURFACE ELECTRO-OPTICAL SYSTEM		3,542		3,542		3,542				3,542
	SHIP SONARS				-		-				
49	SURFACE SONAR SUPPORT EQUIPMENT		9,349		9,349		9,349				9,349
50	AN/SQQ-89 SURF ASW COMBAT SYSTEM		30,297		30,297		30,297		(5,000)		25,297
51	SSN ACOUSTICS		42,269		42,269		42,269				42,269
52	SURFACE SONAR WINDOWS AND DOME		-		6,000		-		6,000		6,000
53	SONAR SUPPORT EQUIPMENT		25,836		25,836		25,836				25,836
54	SONAR SWITCHES AND TRANSDUCERS		9,069		9,069		9,069				9,069
55	FIRM SYSTEM SONARS		-		-		-				-
	ASW ELECTRONIC EQUIPMENT				-		-				
56	SUBMARINE ACOUSTIC WARFARE SYSTEM		7,973		7,973		7,973				7,973
57	SSTD		13,751		13,751		13,751				13,751
58	ACOUSTIC COMMUNICATIONS		225		225		225				225
59	SOSUS		19,725		19,725		19,725				19,725
60	AN/SQR-18 TOWED ARRAY SONAR		-		-		-				-
61	SURTASS		18,513		18,513		18,513				18,513
62	ASW OPERATIONS CENTER		8,358		8,358		8,358				8,358
63	CARRIER ASW MODULE		169		169		169				169
	ELECTRONIC WARFARE EQUIPMENT				-		-				
64	AN/SLQ-32		19,076		19,076		42,076				19,076
65	AN/WLR-1		2,898		2,898		2,898				2,898
66	AN/WLR-8		-		-		-				-
67	ICAD SYSTEMS		1,449		1,449		1,449				1,449
68	EW SUPPORT EQUIPMENT		8,351		8,351		8,351				8,351
69	C-3 COUNTERMEASURES		9,540		9,540		9,540		15,000		24,540
	RECONNAISSANCE EQUIPMENT				-		-				
70	COMBAT DF		4,967		4,967		4,967				4,967
71	OUTBOARD		1,505		1,505		1,505				1,505
72	BATTLE GROUP PASSIVE HORIZON EXTEN		-		-		-				-
	SUBMARINE SURVEILLANCE EQUIPMENT				-		-				
73	AN/WLQ-4		2,977		2,977		2,977				2,977
74	SUBMARINE SUPPORT EQUIPMENT PROG		4,432		4,432		4,432				4,432

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	OTHER SHIP ELECTRONIC EQUIPMENT				-		-				
75	NAVY TACTICAL DATA SYSTEM		301		301		301				301
76	TACTICAL FLAG COMMAND CENTER		15,330		15,330		15,330				15,330
77	NAVAL TACTICAL COMMAND SUPPORT SYSTEM (NTCSS)		31,380		31,380		31,380				31,380
78	LINK 16 HARDWARE		15,452		15,452		15,452				15,452
79	MINEWARFARE SYSTEM REPLACEMENT		5,019		5,019		5,019				5,019
80	SMALL/DW WATER MCM		398		398		398				398
81	SMMP (MYP)		26,100		26,100		26,100				26,100
82	NAVSTAR GPS RECEIVERS		1,487		1,487		1,487				1,487
83	HF LINK-11 DATA TERMINALS		3,578		3,578		3,578				3,578
84	ARMED FORCES RADIO AND TV		3,549		3,549		3,549				3,549
85	STRATEGIC PLATFORM SUPPORT EQUIP		10,007		10,007		10,007				10,007
	TRAINING EQUIPMENT				-		-				
86	OTHER SPAWAR TRAINING EQUIPMENT		2,298		2,298		2,298				2,298
87	OTHER TRAINING EQUIPMENT		11,602		11,602		11,602				11,602
	AVIATION ELECTRONIC EQUIPMENT				-		-				
88	MATCALS		1,588		1,588		1,588				1,588
89	SHIPBOARD AIR TRAFFIC CONTROL		7,704		7,704		7,704				7,704
90	AUTOMATIC CARRIER LANDING SYSTEM		6,659		6,659		6,659				6,659
91	NATIONAL AIR SPACE SYSTEM		-		-		-				-
92	TACAN		28		28		28				28
93	AIR STATION SUPPORT EQUIPMENT		5,801		5,801		5,801				5,801
94	MICROWAVE LANDING SYSTEM		507		507		507				507
95	FACSFAC		6,388		6,388		6,388				6,388
96	ID SYSTEMS		10,202		10,202		10,202		($500)		9,702
97	SURFACE IDENTIFICATION SYSTEMS		10,248		10,248		10,248				10,248
	OTHER SHORE ELECTRONIC EQUIPMENT				-		-				-
98	TADIL-B		4,450		4,450		4,450				4,450
99	NAVAL SPACE SURVEILLANCE SYSTEM		-		-		-				-
100	NATIONAL IMAGERY SUPPORT		1,292		1,292		1,292				1,292
101	NCCS ASHORE		7,730		7,730		7,730				7,730
102	RADIAC		4,877		4,877		4,877				4,877
103	GPETE		13,452		13,452		13,452				13,452
104	INTEG COMBAT SYSTEM TEST FACILITY		6,164		6,164		6,164				6,164
105	CALIBRATION STANDARDS		2,384		2,384		2,384				2,384
106	SHE OSHTRON, INSTRUMENTATION		5,917		5,917		5,917				5,917
107	SHORE ELEC ITEMS UNDER $2 MILLION		8,558		8,558		8,558				8,558
	SHIPBOARD COMMUNICATIONS				-		-				
108	SHIPBOARD TACTICAL COMMUNICATIONS		6,635		6,635		10,135		6,300		12,935
109	PORTABLE RADIOS		1,436		1,436		1,436				1,436
110	SINCGARS		3,132		3,132		3,132				3,132
111	SHIP COMMUNICATIONS AUTOMATION		6,110		6,110		6,110				6,110
112	SHIP COMM ITEMS UNDER $2 MILLION		11,104		11,104		11,104				11,104
	SUBMARINE COMMUNICATIONS				-		-				
113	SHORE LF/VLF COMMUNICATIONS		4,288		4,288		4,288				4,288
114	SUBMARINE COMMUNICATION EQUIPMENT		17,961		17,961		17,961				17,961
	SATELLITE COMMUNICATIONS				-		-				
115	SATCOM SHIP TERMINALS		98,099		98,099		112,499		14,400		112,499
116	SATCOM SHORE TERMINALS		12,228		12,228		12,228				12,228

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	SHORE COMMUNICATIONS				-		-				
117	JCS COMMUNICATIONS EQUIPMENT		1,551		1,551		1,551				1,551
118	ELECTRICAL POWER SYSTEMS		-		-		-				-
119	SHORE HF COMMUNICATIONS		795		795		795				795
120	WWMCCS COMMUNICATIONS EQUIPMENT		2,361		2,361		2,361				2,361
121	NAVAL SHORE COMMUNICATIONS		34,160		34,160		34,160				34,160
	CRYPTOGRAPHIC EQUIPMENT				-		-				
122	SECURE VOICE SYSTEM		4,204		4,204		4,204				4,204
123	SECURE DATA SYSTEM		8,636		8,636		8,636		(2,599)		6,037
124	KEY MANAGEMENT SYSTEMS		12,913		12,913		12,913				12,913
125	SIGNAL SECURITY		-		-		-				-
126	CRYPTOGRAPHIC ITEMS UNDER $2 MILL		-		-		-				-
	CRYPTOLOGIC EQUIPMENT				-		-				
127	CRYPTOLOGIC COMMUNICATIONS EQUIP		5,925		5,925		5,925				5,925
128	CRYPTOLOGIC ITEMS UNDER $2 MILLION		-		-		-				-
129	CRYPTOLOGIC FIELD TRAINING EQUIP		-		-		-				-
	OTHER ELECTRONIC SUPPORT				-		-				
130	ELEC ENGINEERED MAINT (NAVSEA)		-		-		-				-
131	ELECT ENGINEERED MAINTENANCE		1,781		1,781		1,781				1,781
	DECOMMISSIONING SUPPORT				-		-				
132	OTHER SHIP DECOMMISSIONING SUPPORT		-		-		-				-
	AVIATION SUPPORT EQUIPMENT				-		-				-
	SONOBUOYS				-		-				
133	AN/SSQ-36 (BT)		-		-		200		200		200
134	AN/SSQ-53 (DIFAR)		8,902		-		-		(8,902)		-
135	AN/SSQ-62 (DICAPS)		-				4,100		4,090		4,090
136	AN/SSQ-110 (SSQ)		-		8,902		21,900		21,910		21,910
137	AN/SSQ-53 (DLC)		-		-		-				-
138	SIGNAL, UNDERWATER SOUND (SUS)		-		-		-				-
	AIR LAUNCHED ORDNANCE				-		-				
139	CARTRIDGE & CART ACTUATED DEVELOP		-		-		-				-
140	AIRCRAFT ESCAPE ROCKETS		-		-		-				-
141	AIR EXPENDABLE COUNTERMEASURES		-		-		-				-
142	MARINE LOCATION MARKERS		-		-		-				-
143	DEFENSE NUCLEAR AGENCY MATERIAL		-		-		-				-
144	JATOS		-		-		-				-
	AIRCRAFT SUPPORT EQUIPMENT				-		-				
145	WEAPONS RANGE SUPPORT EQUIPMENT		40,280		40,280		40,280				40,280
146	EXPEDITIONARY AIRFIELDS		4,924		4,924		4,924				4,924
147	AIRCRAFT REARMING EQUIPMENT		7,505		7,505		7,505				7,505
148	CATAPULTS & ARRESTING GEAR		15,876		15,876		15,876				15,876
149	METEOROLOGICAL EQUIPMENT		20,196		20,196		20,196				20,196
150	OTHER PHOTOGRAPHIC EQUIPMENT		732		732		732				732
151	AVIATION LIFE SUPPORT		17,708		17,708		17,708				17,708
152	AIRBORNE MINE COUNTERMEASURES		19,506		19,506		19,506				19,506
153	LAMPS MK III SHIPBOARD EQUIPMENT		17,914		17,914		17,914		(1,200)		16,714
154	REWSON PHOTOGRAPHIC EQUIPMENT		612		612		612				612
155	JMPS-N		-		-		-				-
156	STOCK SURVEILLANCE EQUIPMENT		1,518		1,518		1,518				1,518

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157	OTHER AVIATION SUPPORT EQUIPMENT		12,577		12,577		12,577				12,577
	ORDNANCE SUPPORT EQUIPMENT				-		-				
	SHIP GUN SYSTEM EQUIPMENT				-		-				
158	GUN FIRE CONTROL EQUIPMENT		4,076		4,076		4,076				4,076
	SHIP MISSILE SYSTEMS EQUIPMENT				-		-				
159	MK-92 FIRE CONTROL SYSTEM		739		739		739				739
160	HARPOON SUPPORT EQUIPMENT		2,952		2,952		2,952				2,952
161	TARTAR SUPPORT EQUIPMENT		-		-		-				-
162	POINT DEFENSE SUPPORT EQUIPMENT		-		-		-				-
163	AIRBORNE ECM/ECCM		520		520		520				520
164	ENGAGEMENT SYSTEMS SUPPORT		24,994		24,994		24,994				24,994
165	NATO SEASPARROW		6,619		6,619		6,619				6,619
166	RAM GMLS		50,037		50,037		50,037				50,037
167	SHIP SELF DEFENSE SYSTEM		15,643		15,643		15,643				15,643
168	AEGIS SUPPORT EQUIPMENT		64,288		64,288		64,288				64,288
169	SURFACE TOMAHAWK SUPPORT EQUIPMENT		71,293		71,293		71,293		(10,000)		61,293
170	SUBMARINE TOMAHAWK SUPPORT EQUIP		1,391		1,391		1,391				1,391
171	VERTICAL LAUNCH SYSTEMS		10,617		10,617		8,700				10,617
	FIRM SUPPORT EQUIPMENT				-		-				
172	STRATEGIC PLATFORM SUPPORT EQUIP		-		-		-				-
173	STRATEGIC MISSILE SYSTEMS EQUIP		106,189		137,689		106,189				106,189
	ASW SUPPORT EQUIPMENT				-		-				
174	MK-117 FIRE CONTROL SYSTEM		12,917		12,917		12,917				12,917
175	SUBMARINE ASW SUPPORT EQUIPMENT		6,730		6,730		6,730				6,730
176	SURFACE ASW SUPPORT EQUIPMENT		8,169		8,169		8,169				8,169
177	ASW RANGE SUPPORT EQUIPMENT		5,118		5,118		5,118				5,118
	OTHER ORDNANCE SUPPORT EQUIPMENT				-		-				
178	EXPLOSIVE ORDNANCE DISPOSAL EQUIP		9,690		9,690		9,690				9,690
179	UNMANNED SEASURFACE TARGET		4,333		4,333		4,333				4,333
180	ANTI-SHIP MISSILE DECOY SYSTEM		15,199		15,199		15,199		(12,600)		2,599
181	DEMASTRAL FACILITIES (CALIBRATION EQUIPMENT)		5,316		5,316		5,316				5,316
182	STOCK SURVEILLANCE EQUIPMENT		1,483		1,483		1,483				1,483
183	OTHER ORDNANCE TRAINING EQUIPMENT		-		-		-				-
	OTHER EXPENDABLE ORDNANCE				-		-				
184	FLEET MINE SUPPORT EQUIPMENT		4,452		4,452		4,452		1,700		6,152
185	MINE NEUTRALIZATION DEVICES		-		-		-				-
186	DEFENSE NUCLEAR AGENCY MATERIAL		-		-		-				-
187	SHIP EXPENDABLE COUNTERMEASURE		-		-		-				-
	CIVIL ENGINEERING SUPPORT EQUIPMENT				-		-				-
	CIVIL ENGINEERING SUPPORT EQUIPMENT				-		-				
188	PASSENGER CARRYING VEHICLES	213	2,881	213	2,881	213	2,881			213	2,881
189	SPECIAL PURPOSE VEHICLES		6,298		6,298		6,298				6,298
190	GENERAL PURPOSE TRUCKS		7,045		7,045		7,045				7,045
191	TRAILERS/TRUCK TRACTORS		1,345		1,345		1,345				1,345
192	EARTH MOVING EQUIPMENT		2,293		2,293		2,293				2,293
193	CONSTRUCTION & MAINTENANCE EQUIP		1,329		1,329		1,329				1,329
194	FIRE FIGHTING EQUIPMENT		2,224		2,224		2,224				2,224
195	WEIGHT HANDLING EQUIPMENT		1,017		1,017		1,017				1,017
196	AMPHIBIOUS EQUIPMENT		3,010		3,010		3,010				3,010

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197	COMBAT CONSTRUCTION SUPPORT EQUIP		1,026		1,026		1,026				1,026
198	MOBILE UTILITIES SUPPORT EQUIPMENT		710		710		710				710
199	COLLATERAL EQUIPMENT		577		577		577				577
200	OCEAN CONSTRUCTION EQUIPMENT		139		139		139				139
201	FLEET MOORINGS		-		-		-				-
202	POLLUTION CONTROL EQUIPMENT		18,141		18,141		18,141				18,141
203	OTHER CIVIL ENG SUPPORT EQUIPMENT		100		100		100				100
204	NATURAL GAS UTILIZATION EQUIPMENT		-		-		-				-
	SUPPLY SUPPORT EQUIPMENT				-		-				-
	SUPPLY SUPPORT EQUIPMENT				-		-				
205	FORKLIFT TRUCKS		3,750		3,750		1,750		(2,000)		1,750
206	OTHER MATERIALS HANDLING EQUIPMENT		1,559		1,559		1,559				1,559
207	OTHER SUPPLY SUPPORT EQUIPMENT		48		48		48				48
208	FIRST DESTINATION TRANSPORTATION		6,827		6,827		6,827				6,827
209	SPECIAL PURPOSE SUPPLY SYSTEMS		74,934		74,934		88,934				74,934
	PERSONNEL AND COMMAND SUPPORT EQUIPMENT				-		-				
	TRAINING DEVICES				-		-				
210	SUBMARINE SONAR TRAINERS		-		-		-				-
211	SURFACE COMBAT SYSTEM TRAINERS		745		745		745				745
212	SHIP SYSTEM TRAINERS		-		-		-				-
213	TRAINING SUPPORT EQUIPMENT		2,622		2,622		2,622				2,622
214	TRAINING DEVICE MODIFICATIONS		21,954		21,954		21,954				21,954
	COMMAND SUPPORT EQUIPMENT				-		-				
215	COMMAND SUPPORT EQUIPMENT		33,298		33,298		33,298				33,298
216	EDUCATION SUPPORT EQUIPMENT		385		385		385				385
217	MEDICAL SUPPORT EQUIPMENT		7,462		7,462		7,462				7,462
218	INTELLIGENCE SUPPORT EQUIPMENT		-		-		-				-
219	ITEMS UNDER $2 MILLION		-		-		-				-
220	OPERATING FORCES SUPPORT EQUIPMENT		-		-		-				-
221	NAVAL RESERVE SUPPORT EQUIPMENT		596		596		596				596
222	ENVIRONMENTAL SUPPORT EQUIPMENT		647		647		647				647
223	PHYSICAL SECURITY EQUIPMENT		4,567		4,567		4,567				4,567
224	INDUSTRIAL DEPOT MAINTENANCE EQUIP		6,953		6,953		6,953				6,953
	COMPUTER ACQUISITION PROGRAM				-		-				
225	COMPUTER ACQUISITION PROGRAM		-		-		-				-
	OTHER				-		-				-
226	CANCELLED ACCOUNT ADJUSTMENTS		-		-		-				-
226a	SAFETY AND SURVIVABILITY ITEMS		-		20,000				10,000		10,000
	SPARES AND REPAIR PARTS				-		-				
	SPARES AND REPAIR PARTS				-		-				
227	SPARES AND REPAIR PARTS		210,213		210,213		210,213		(20,000)		190,213
	OTHER PROCUREMENT, NAVY-TOTAL		2,396,080		2,461,472		2,471,861		18,691		2,414,771

Submarine navigation sets

The budget request included $4.1 million for the electrically suspended gyro navigator (ESGN), the navigation system currently installed on Navy submarines. It also included $17.7 million for other navigation equipment.

The House bill would reduce ESGN funding by $4.1 million and increase funding for other navigation equipment by $10.0 million to purchase and install MK–49 ring laser gyro (RLG) navigators on Navy submarines.

The Senate amendment would reduce ESGN funding by $2.5 million, the amount budgeted for ESGN reliability modifications. It would also increase funding for other navigation equipment by $10.0 million to purchase and install MK–49 RLG navigators on Navy submarines.

The Senate recedes.

AN/BPS–16 submarine radar

The budget request included $0.5 million for ship radar support .

The House bill would add $9.0 million for procurement of AN/BPS–16 submarine radar systems because of a concern about the reliability and operational suitability of the existing AN/BPS–15 submarine navigation radar.

The Senate amendment would authorize the budget request.

The conferees are aware that there is a commercial off-the-shelf (COTS) variant of the AN/BPS–16 that could be procured and installed at a substantially lower cost than the AN/BPS–16 built to military specifications. The conferees are also aware that the reliability and maintenance challenges associated with the existing AN/BPS–15 have induced many Navy submarine crews to procure inexpensive commercial navigation radars with limited capability.

Based on these considerations, the conferees agree to authorize an increase of $9.0 million for the procurement and installation of AN/BPS–16 submarine radar sets. The conferees encourage the Navy to take advantage of the new COTS variant of the AN/BPS–16 to achieve the maximum benefit from this additional funding.

Afloat planning system

The conferees have fully supported the Tomahawk cruise missile program and the associated support systems necessary for employment of Tomahawk for precision strike missions. The conferees note that the Tomahawk afloat planning system (APS) complements the Tomahawk mission planning system, located at the shore-based mission planning centers, and provides afloat battle group and battle force commanders or deployed joint staffs with an organic capability to plan for the tactical employment of the conventional Tomahawk land attack missile (TLAM). APS is also an integral part of the Joint Service Imagery Processing System—Navy (JSIPS–N) and Challenge Athena systems. These systems support Tomahawk strike planning, but can also provide mission planning support for other precision guided munitions.

The conferees encourage the Department of Defense to:

(1) continue support and funding for APS; and

(2) consider extending APS's targeting and mission planning capabilities to other tactical command echelons, in order to meet the expanding requirement for tactical utilization of the Tomahawk system and improve its responsiveness to the demands of land battle.

Overview

The budget request for fiscal year 1996 contained an authorization of $474.1 million for Marine Corps Procurement, Navy in the Department of Defense. The House bill would authorize $399.2 million. The Senate amendment would authorize $683.4 million. The conferees recommended an authorization of $458.9 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

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	PROCUREMENT, MARINE CORPS										
	AMMUNITION										
	AMMUNITION										
1	5.56 MM, ALL TYPES		28,487		-		28,487		(28,487)		-
2	7.62 MM, ALL TYPES		2,082		-		12,082		(2,082)		-
3	LINEAR CHARGES, ALL TYPES		-		-		-				-
4	.50 CALIBER		8,588		-		8,588		(8,588)		-
4a	.50 CALIBER SLAP				-		10,000				-
4b	.50 CALIBER 4 & 1				-		15,000				-
5	40 MM, ALL TYPES		3,939		-		3,939		(3,939)		-
6	40 MM HE M000		9,855		-		9,855		(9,855)		-
7	81 MM HE		4,724		-		4,724		(4,724)		-
7a	81 MM HE M000A1				-						-
8	81 MM SMOKE SCREEN		5,445		-		5,445		(5,445)		-
8a	81 MM IR M 816				-		11,400				-
9	120MM TBCHE-T M865		8,902		-		8,902		(8,902)		-
10	120 MM TP-T M831		3,314		-		3,314		(3,314)		-
10a	CTG TANK 120MM APFSDS-T M829A2		-		-		5,000				-
10b	CTG TANK 120MM MP-T M830A1		-		-		5,000				-
11	FUZE, ST, M762		-		-		-				-
12	FUZE, ST, M767		-		-		-				-
13	CTG 25MM, ALL TYPES		6,724		-		6,724		(6,724)		-
14	9 MM ALL TYPES		2,979		-		2,979		(2,979)		-
15	MINES, ALL TYPES		-		-		-				-
16	GRENADES, ALL TYPES		474		-		474		(474)		-
17	ROCKETS, ALL TYPES		7,034		-		7,034		(7,034)		-
18	AMMO MODERNIZATION		9,611		-		9,611		(9,611)		-
	FROG CHARGE M931A1				-		26,000				-
	GRENADE, SMOKE VIOLET				-		700				-
	MORTAR M576				-		400				-
	ROAD SHEET				-		2,200				-
	OTHER SUPPORT				-		-				
19	ITEMS LESS THAN $5 MIL		8,711		-		8,711		(8,711)		-
	WEAPONS AND COMBAT VEHICLES				-		-				-
	TRACKED COMBAT VEHICLES				-		-				
20	AAV7A1 PIP		11,779		11,779		11,779				11,779
21	LAV PIP		23,291		23,291		23,291				23,291
22	LIGHT ARMORED VEHICLE		-		-		-				-
23	MODIFICATION KITS (TRKD VEH)		3,273		3,273		17,773		12,300		15,573
24	ITEMS UNDER $5M (TRKD VEH)		100		100		100				100
	ARTILLERY AND OTHER WEAPONS										
25	MOD KITS (ARTILLERY)		498		498		498				498
26	ITEMS UNDER $5M (ALL OTHER)		120		120		120				120
	GUIDED MISSILES AND EQUIPMENT										
	GUIDED MISSILES										
27	HAWK MOD		3,040		3,040		4,640				3,040
28	AAWS-MEDIUM		-		-		-				-
29	PEDESTAL MOUNTED STINGER (PMS) (94YP)		25,833		25,833		25,833				25,833
	OTHER SUPPORT										

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
30	MODIFICATION KITS		1,991		1,991		1,991				1,991
31	ITEMS LESS THAN $2 MILLION		100		100		100				100
	COMMUNICATIONS AND ELECTRONICS EQUIPMENT										-
	MANPACK RADIOS										
32	MANPACK RADIOS AND EQUIP		9,735		9,735		12,735		3,000		12,735
33	GPS		-		-		-				-
	VEHICLE MOUNTED RADIOS AND EQUIPMENT										
34	VEHICLE MTD RADIOS & EQUIP (MYP)		-		-		-				-
35	TSC-96 FIP FLEET SATCOM TERMINAL		-		-		-				-
	TELEPHONE AND TELETYPE EQUIPMENT										
36	UHF LITES, CIRCUIT SWITCH (ULCS)		-		-		-				-
37	TACT OBSERV CONTROL EQUIP		-		-		-				-
38	TACTICAL DATA NETWORK		-		-		-				-
39	JOINT TACT INFO DIST SYS (CL I)		5,375		5,375		5,375				5,375
40	COMMAND MISSILE FORCES		-		-		-				-
	REPAIR AND TEST EQUIPMENT										
41	AUTO TEST EQUIP SYS		9,747		9,747		9,747				9,747
42	ELECTRONIC TEST EQUIP (TEL)		6,184		6,184		6,184				6,184
	OTHER COMMUNIC EQUIPMENT										
43	MOBILE GROUND GBD & AIR RADIO		48,027		48,027		48,027				48,027
	OTHER SUPPORT (TEL)				-		-				
44	MODIFICATION KITS (TEL)		1,095		1,095		1,095				1,095
45	ITEMS LESS THAN $2M (TEL)		1,443		1,443		2,443				1,443
	COMMAND AND CONTROL SYSTEM (NON-TEL)										
46	FIRE CONTROL SYSTEMS (FLES)		-		-		-				-
47	TACTICAL AIR OPER MODULE (TAOM)		2,421		2,421		2,421				2,421
48	ADVANCED TACT AIR COMMAND CENTER		7,214		7,214		7,214				7,214
49	MARINE TACTICAL C3		-		-		-				-
50	MAT-TD-SHOP ADP FIELD ART TACTICAL DATA SYS	188	12,140		12,140		23,140			188	12,140
51	TACTICAL COMBAT OPERATIONS SYS		11,025		11,025		11,025				11,025
	INTELLIGENCE EQUIPMENT (NON-TEL)										
52	AN/TPQ-36 FIRE FINDER RADAR UPGRADE		-		-		-				-
53	METEOROLOGICAL SYSTEMS	7	3,393		3,393		3,393			7	3,393
54	INTELLIGENCE SUPPORT EQUIPMENT		6,283		6,283		6,283		29,000		35,283
55	MOD KITS (INTEL)		943		943		943				943
56	ITEMS LESS THAN $2M (INTELL)		1,755		1,755		1,755				1,755
	REPAIR AND TEST EQUIPMENT (NON-TEL)										
57	ELECTRONIC TRAIN REPAIR FACILITY		-		-		-				-
58	MRCR TEST TRAIN		3,042		3,042		3,042				3,042
59	SHOP SET ELECT AN/GRM-33		-		-		-				-
	OTHER COMMUNIC EQUIPMENT (NON-TEL)										
60	NIGHT VISION EQUIPMENT		2,283		2,283		4,283		2,000		4,283
61	ADP EQUIPMENT		22,839		22,839		44,439				22,839
	OTHER SUPPORT (NON-TEL)										
62	MARINE ENHANCEMENT PROGRAM		3,401		3,401		6,401		3,000		6,401
63	TEST CALIB & MAINT EQT		-		-		-				-
64	MODIFICATION KITS (NONTEL)		6,738		6,738		6,738				6,738
65	ITEMS LESS THAN $2M (NONTEL)		1,480		1,480		1,480				1,480
	SUPPORT VEHICLES										

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	ADMINISTRATIVE VEHICLES										
66	COMMERCIAL PASSENGER VEHICLES	194	2,824		2,824		2,824				2,824
67	COMMERCIAL CARGO VEHICLES		9,771		9,771		9,771				9,771
	TACTICAL VEHICLES										
68	5/4T TRUCK HMMWV (MYP)		-		-		-				-
68a	Light Recon Vehicle		-		2,000						-
69	LOGISTICS VEHICLE SYSTEM		-		-		-				-
70	TRAILERS		4,932		4,932		10,432		5,500		10,432
	OTHER SUPPORT										
71	MODIFICATION KITS		6,496		6,496		6,496		1,000		7,496
72	ITEMS LESS THAN $2 MIL		100		100		100				100
	ENGINEER AND OTHER EQUIPMENT				-		-				
	ENGINEER AND OTHER EQUIPMENT										
73	ENVIRONMENTAL CONTROL EQUIP ASSORT		2,338		2,338		2,338				2,338
74	TACTICAL FUEL SYSTEM (TFS) EQUIP		-		-		2,400				-
75	POWER EQUIPMENT ASSORTED		2,372		2,372		2,372				2,372
76	MINE/COUNTERMEASURES SYSTEM		-		-		-				-
77	AUTOMATIC BOILING MACHINES		-		-		-				-
78	CANCELLED ACCOUNT ADJUSTMENTS		-		-		-				-
	MATERIAL HANDLING EQUIPMENT										
79	COMBAT SUPPORT EQUIPMENT		-		-		-				-
80	AMPHIBIOUS RAID EQUIPMENT		257		257		257				257
81	PHYSICAL SECURITY EQUIPMENT		1,839		1,839		1,839				1,839
82	GARRISON MOBILE ENGR EQUIP		5,169		5,169		5,169				5,169
83	TELEPHONE SYSTEM		8,268		8,268		8,268				8,268
84	WAREHOUSE MODERNIZATION		2,927		2,927		2,927				2,927
85	MATERIAL HANDLING EQUIP		3,105		3,105		3,105				3,105
86	FIRST DESTINATION TRANSPORTATION		1,726		1,726		1,726				1,726
	GENERAL PROPERTY										
87	FIELD MEDICAL EQUIPMENT		3,215		3,215		3,215				3,215
88	TRAINING DEVICES		17,792		51,792		51,792		34,000		51,792
89	CONTAINER FAMILY		-		-		-				-
	OTHER SUPPORT										
90	MODIFICATION KITS		1,471		1,471		1,471				1,471
91	CHEMICAL AGENT MONITOR		-		-		-				-
92	ITEMS LESS THAN $2 MIL		75		75		75				75
93	DRUG INTERDICTION		-		-		-				-
	SPARES AND REPAIR PARTS				-		-				
	SPARES AND REPAIR PARTS										
94	SPARES AND REPAIR PARTS		51,982		51,982		51,982				51,982
	PRECISION GUNNERY TRAINING SYSTEMS								5,900		5,900
	M240 MACHINE GUN MODS										
	ASSET TRACKING LOGISTICS SYSTEM										
	LIGHT COMPUTER UNITS										
	PROCUREMENT, MARINE CORPS-TOTAL		474,116		399,247		683,416		(15,169)		458,947

Commander's Tactical Terminal

The budget request included no funding for USMC procurement of Commander's Tactical Terminal (CTT) radios.

Neither the House bill nor the Senate amendment authorized additional funding for CTT radios.

The conferees note that the Department's integrated (intelligence) broadcast service plan included migration to an interoperable family of transceivers known as the Joint Tactical Terminal. The conferees have been informed that Marine Corps procurement of CTTs will play a vital role in this plan, and therefore authorize an increase of $12.5 million for this purpose.

Marine Corps intelligence support equipment

The budget request included no funding for Marine Corps procurement of Joint Surveillance and Target Attack Radar System (JSTARS) ground support module.

Neither the House bill nor the Senate amendment included additional funds for this purpose.

The conferees believe the Marine Corps should have more responsibility over its own procurement actions, and therefore agree to authorize an increase of $16.5 million for Marine procurement of two JSTARS ground support modules.

Light reconnaissance/strike vehicles

The budget request did not include funds for procurement of any light reconnaissance/strike vehicles (LRV/LSV).

The House bill would add $2.0 million to buy LRVs for the Marine Corps and $6.0 million to buy LSVs for the special operations forces.

The conferees agree to authorize $6.0 million for LSVs for the special operations forces.

The conferees understand that the Marine Corps has completed a mission needs statement (MNS) for an LRV. The MNS calls for fielding an LRV with the Fleet Marine Forces by fiscal year 1995. However, the Marine Corps has neither established a formal requirement nor budgeted any resources against a possible requirement.

Therefore, the conferees direct the Secretary of the Navy to report to the congressional defense committees on whether the Marine Corps will translate the MNS into an operational requirement and the risks the Fleet Marine Force will incur if an LRV is not procured. The conferees expect the Secretary to submit this report by February 28, 1996.

Overview

The budget request for fiscal year 1996 contained an authorization of $6,183.9 million for Aircraft Procurement, Air Force in the Department of Defense. The House bill would authorize $7,032.0 million. The Senate amendment would authorize $6,318.6 million. The conferees recommended an authorization of $7,349.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	AIRCRAFT PROCUREMENT, AIR FORCE										
	COMBAT AIRCRAFT										
	STRATEGIC OFFENSIVE										
1	B-1B (MYP)		56,336		56,336		141,336				56,336
2	B-2A (MYP)		279,921		832,921		279,921		493,000		772,921
	TACTICAL FORCES										
3	ADVANCED TACTICAL FIGHTER		-		-		-				-
4	F-15A		-		-		-				-
4a	F-15E		-		250,000		-		311,210		311,210
4b	F-15E Adv Proc				-				50,190		50,190
5	F-16 C/D (MYP)		-		175,000		-		159,400		159,400
5	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
	AIRLIFT AIRCRAFT				-		-				
	TACTICAL AIRLIFT										
6	C-17 (MYP)	8	2,592,391	8	2,592,391	8	2,592,391			8	2,592,391
6	LESS: ADVANCE PROCUREMENT (PY)		(189,900)		(189,900)		(189,900)				(189,900)
7	ADVANCE PROCUREMENT (CY)		-		-		-				-
	OTHER AIRLIFT										
8	C-130H		-		-		-				-
9	C-130J	2	88,608	2	88,608	2	88,608			2	88,608
9a	WC-130				-				132,700	3	132,700
	STRATEGIC AIRLIFT										
10	STRATEGIC AIRLIFT		183,757		183,757		183,757				183,757
10a	NONDEVELOPMENTAL AIRLIFT AIRCRAFT		-		70,000						-
	NON DEVELOPMENT AIRLIFT										
11	NON DEVELOPMENT AIRLIFT AIRCRAFT		-		-		-				-
	TRAINER AIRCRAFT				-		-				
	OPERATIONAL TRAINERS										
12	ENHANCED FLIGHT SCREENER		-		-		-				-
13	JPATS	3	54,968	3	54,968	3	54,968			8	54,968
14	TANKER, TRANSPORT, TRAINER SYSTEM		4,374		4,374		4,374				4,374
	OTHER AIRCRAFT				-		-				
	MISSION SUPPORT AIRCRAFT										
15	CIVIL AIR PATROL A/C	27	2,597	27	2,597	27	2,597			27	2,597
16	DRUG INTERDICTION		-		-		-				-
	OTHER AIRCRAFT										
17	E-8B	2	536,334	2	536,334	2	536,334		(17,200)	2	519,134
17	LESS: ADVANCE PROCUREMENT (PY)		(141,700)		(141,700)		(141,700)				(141,700)
18	ADVANCE PROCUREMENT (CY)		97,140		97,140		97,140				97,140
19	SOF A/C C&E		-		-		-				-
	MODIFICATION OF INSERVICE AIRCRAFT				-		-				
	STRATEGIC AIRCRAFT										
20	B-2A		17,286		17,286		17,286				17,286
21	B-1B		75,383		75,383		86,983		(6,900)		68,483
22	B-52		4,908		4,908		4,908				4,908
23	F-117		47,660		47,660		47,660				47,660
	TACTICAL AIRCRAFT										
24	A-10		79,424		79,424		79,424		(38,400)		41,024
25	F/RF-4		61		61		61				61

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26	F-15		79,488		79,488		79,488		(1,200)		78,288
27	F-16		118,606		118,606		118,606				118,606
28	EF-111		1,900		1,900		1,900				1,900
29	F-111		-		-		-				-
30	T/AT-37		502		502		502				502
	AIRLIFT AIRCRAFT										
31	C-5		45,431		45,431		45,431				45,431
32	C-9		4,066		4,066		4,066				4,066
33	C-17A		12,687		12,687		12,687				12,687
34	C-21		4,654		4,654		4,654				4,654
35	C-22		670		670		670				670
36	C-STOL		298		298		298				298
37	C-137		2,402		2,402		2,402				2,402
38	C-141		95,162		95,162		95,162				95,162
	TRAINER AIRCRAFT										
39	T-1		5,762		5,762		5,762				5,762
40	T-3 (EPS) AIRCRAFT		78		78		78				78
41	T-38		11,487		11,487		11,487				11,487
42	T-41 AIRCRAFT		25		25		25				25
43	T-43		5,441		5,441		5,441				5,441
	OTHER AIRCRAFT										
44	EC-10A (ATCA)		20,690		20,690		20,690				20,690
45	C-12		3,237		3,237		3,237				3,237
46	C-18		2,675		2,675		2,675				2,675
47	C-20 MODS		7,765		7,765		7,765				7,765
48	VC-25A MOD		7,772		7,772		7,772				7,772
49	C-130		84,399		84,399		84,399		10,000		94,399
50	C-135		142,764		132,764		142,764		96,000		238,764
51	E-3		230,439		220,439		230,439				230,439
52	E-4		957		957		957				957
53	H-1		6,160		6,160		6,160				6,160
54	H-60		-		-		-				-
55	OTHER AIRCRAFT		29,433		29,433		29,433				29,433
	OTHER MODIFICATIONS										
56	CLASSIFIED PROJECTS		-		-		-				-
57	DARP		-		37,000		48,000		53,000		53,000
	AIRCRAFT SPARES AND REPAIR PARTS				-		-				
	AIRCRAFT SPARES + REPAIR PARTS										
58	SPARES AND REPAIR PARTS		603,619		598,112		583,719		(17,338)		586,281
	AIRCRAFT SUPPORT EQUIPMENT AND FACILITIE				-		-				
	COMMON AGE										
59	COMMON AGE		216,048		223,248		216,048		(3,538)		212,510
	POST PRODUCTION SUPPORT										
60	F-15 POST PRODUCTION SUPPORT		13,955		-		13,955		(6,977)		6,978
61	F-16 POST PRODUCTION SUPPORT		194,672		-		194,672		(68,050)		126,622
	INDUSTRIAL PREPAREDNESS										
62	INDUSTRIAL PREPAREDNESS		48,694		48,694		48,694				48,694
63	BOMBER INDUSTRIAL BASE SUPPORT		-		-		-				-
	WAR CONSUMABLES										

Line No	Title	FY 1996 Request		House Authorized		Senate Authorized		Change to Request		Conference Agreement	
		Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
64	WAR CONSUMABLES		25,479		25,479		10,479				25,479
	OTHER PRODUCTION CHARGES										
65	OTHER PRODUCTION CHARGES		167,676		157,676		192,676		20,000		187,676
66	CANCELLED ACCOUNT ADJUSTMENTS		-		-		-				-
	COMMON ECM EQUIPMENT										
67	COMMON ECM EQUIPMENT		4,871		4,871		4,871				4,871
	DARP										
68	DARP		194,374		194,374		194,374				194,374
	AIRCRAFT PROCUREMENT, AIR FORCE-TOTAL		6,183,886		7,031,952		6,318,586		1,165,897		7,349,783

Air Force fighter aircraft data link

The budget request included $79.5 million for F–15 modifications.

The House bill would authorize the requested amount based on assurances from the Department of Defense that Air Force efforts to procure a tactical information data link for a portion of the F–15 fleet would be conducted within the scope of the Department's multifunction information distribution system (MIDS) program.

The Senate amendment would authorize the budget request. The Senate report (S. Rept. 104–112) expressed support for the Air Force's efforts to equip its fighter aircraft with ''Link 16'' data link capability, but questioned the Air Force's decision to pursue this capability for only a portion of the F–15 fleet. The Senate report also recommended that the Department continue MIDS acquisition and stated that it would not support any Air Force effort to start a new program, redundant to MIDS, to meet similar requirements.

The conferees note that the Under Secretary of Defense for Acquisition and Technology has terminated the F–15 data link procurement and that the Air Force now intends to pursue a MIDS variant data link to meet its requirements. The Department has informed the conferees that this program is to be a competitive solicitation that will require adherence to the MIDS architecture, MIDS software modularity, and MIDS hardware modulatory as a design objective, and, for the F–15, reduced hardware and software functionality to reduce costs.

The conferees agree to authorize $78.3 million for F–15 modifications. The conferees direct the Under Secretary of Defense for Acquisition and Technology to ensure that the Department uses a competitive acquisition strategy for fighter data link procurement. The strategy should promote full opportunity for U.S. companies to compete within the competitive solicitation outlined by the Under Secretary.

Defense support program procurement

The budget request included $102.9 million for Defense Support Program (DSP) procurement.

The Senate amendment would authorize $67.0 million, a reduction of $35.9 million to the budget request.

The House bill would authorize the budget request.

The House recedes. The conferees are aware that $35.9 million in fiscal year 1995 funds are excess and subject to consideration for reprogramming for non-DSP purposes. Therefore, the conferees agree to reduce the fiscal year 1996 DSP procurement budget by $35.9 million, leaving $67.0 million. The conferees direct the Air Force to use the excess fiscal year 1995 funds currently identified as a source on the fiscal year 1995 omnibus reprogramming request to fulfill fiscal year 1996 DSP requirements. Given that the fiscal year 1995 DSP procurement source has been denied as part of this year's omnibus reprogramming, the conferees direct that the full amount be restored to DSP.

RC–135 re-engining

The budget request included no funding for the Defense Airborne Reconnaissance Program (DARP) modifications line (P–1, line 57) in the Aircraft Procurement, Air Force account.

The House bill would authorize an increase of $37.0 million for modification of an existing C–135 aircraft to the RC–135 RIVET JOINT configuration.

The Senate amendment would authorize an increase of $48.0 million for re-engining of two existing RIVET JOINT aircraft. The Senate amendment would also authorize an increase of $31.5 million in PE 64268F for nonrecurring integration activity to facilitate an affordable program for converting two retired EC–135 aircraft to the RIVET JOINT configuration.

ENGINES AND INSTALLATION

The conferees concur with the cost effectiveness and increase in operational effectiveness that could be provided by re-engining the existing fleet of RIVET JOINT aircraft and agree to authorize an increase of $48.0 million to procure and install re-engining kits for two existing RIVET JOINT aircraft.

The conferees note that the theater Commanders-in-Chief (CINCs) have addressed additional RIVET JOINT aircraft as one of their highest intelligence priorities. The need for additional RIVET JOINT aircraft is further reinforced by the extremely high operational tempo currently experienced by this reconnaissance asset. The conferees support the theater CINCs' requirements for additional RIVET JOINT aircraft and strongly urge the Department to seek reprogramming authority to modify other existing C–135 assets to the RC–135 configuration.

SR–71

The conferees agree to provide an additional $5.0 million for costs associated with the refurbishment of SR–71 aircraft.

ENGINE COMPONENT IMPROVEMENT PROGRAM

The conferees agree to authorize $133.2 million for the engine component improvement program, an increase of $29.5 million, consisting of two adjustments: (1) an additional $31.5 million for the integration activity described in the Senate report (S. Rept. 104–112); and (2) a reduction of the $2.0 million requested for the B–2 engine.

Overview

The budget request for fiscal year 1996 contained an authorization of $3,647.7 million for Missile Procurement, Air Force in the Department of Defense. The House bill would authorize $3,430.1 million. The Senate amendment would authorize $3,627.5 million. The conferees recommended an authorization of $2,938.9 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	MISSILE PROCUREMENT, AIR FORCE										
	BALLISTIC MISSILES										
	MISSILE REPLACEMENT EQUIPMENT - BALLISTIC										
1	MISSILE REPLACEMENT EQ-BALLISTIC		18,749		18,749		18,749				18,749
	OTHER MISSILES				-		-				
	STRATEGIC										
2	HAVE NAP		-		39,000	50	38,000		38,000	54	38,000
3	TRI-SERVICE ATTACK MISSILE		-		-		-				
4	ADVANCED CRUISE MISSILE		1,873		1,873		1,873				1,873
	TACTICAL										
5	GPS AIDED MUNITION		-		-		-				-
6	JOINT STANDOFF WEAPON		-		-		-				-
7	AMRAAM	291	190,672	291	190,672	291	182,672		(8,000)	291	182,672
8	AGM-130 POWERED GBU-15		69,303		109,303		109,303		40,000	100	109,303
8a	Interim JROW				-		10,400				-
	TARGET DRONES										
9	TARGET DRONES	88	39,150	88	39,150	88	39,150		(3,000)	88	36,150
10	INDUSTRIAL FACILITIES		8,100		8,100		8,100				8,100
	MISSILE REPLACEMENT EQUIPMENT - OTHER										
11	MISSILE REPLACEMENT EQ-OTHER		147		147		147				147
	MODIFICATION OF INSERVICE MISSILES				-		-				
	CLASSIFIED										
12	CONVENTIONAL ALCM		-		27,200		27,200		15,000	100	15,000
13	PEACEKEEPER (M-X)		-		-		-				-
14	AGM-9 SIDEWINDER		15,379		15,379		15,379				15,379
15	MM III MODIFICATIONS		19,344		29,344		29,344		10,000		29,344
16	AGM-65D MAVERICK		-		-		-				-
17	AGM-88A HARM		1,602		1,602		1,602				1,602
18	MODIFICATIONS UNDER $2.4M		1,370		1,370		1,370				1,370
	SPARES AND REPAIR PARTS				-		-				
	MISSILE SPARES + REPAIR PARTS										
19	SPARES AND REPAIR PARTS		53,914		53,914		53,914				53,914
	OTHER SUPPORT				-		-				
	SPACE PROGRAMS										
20	SPACELIFT EQUIP (COMMERC)		19,158		19,158		19,158				19,158
21	GLOBAL POSITIONING (MYP)	4	202,910	4	202,910	4	202,910		(10,000)	4	192,910
21	LESS: ADVANCE PROCUREMENT (PY)		(66,850)		(66,850)		(66,850)				(66,850)
22	ADVANCE PROCUREMENT (CY)		38,412		33,412		-		(5,000)		33,412
23	SPACE SHUTTLE OPERATIONS		56,963		56,963		56,963				56,963
23	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
24	SPACE BOOSTERS		464,953		459,953		449,953		(31,100)		433,853
25	ADVANCE PROCUREMENT (CY)		-		-		-				-
26	MEDIUM LAUNCH VEHICLE	4	179,493	4	179,493	4	179,493			4	179,493
26	LESS: ADVANCE PROCUREMENT (PY)		(28,564)		(28,564)		(28,564)				(28,564)
27	ADVANCE PROCUREMENT (CY)		38,856		38,856		38,856				38,856
28	DEF METEOROLOGICAL SAT PROG		29,265		29,265		29,265				29,265
29	DEFENSE SUPPORT PROGRAM (MYP)		102,911		102,911		67,011		(35,900)		67,011
29	LESS: ADVANCE PROCUREMENT (PY)		-		-		-				-
30	ADVANCE PROCUREMENT (CY)		-		-		-		-		-

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31	DEFENSE SATELLITE COMM SYSTEM		25,666		23,166		18,166		(2,500)		23,166
	SPECIAL PROGRAMS										
32	EOMS (MYP)	4	29,045	4	29,045	4	29,045			4	29,045
32	LESS: ADVANCE PROCUREMENT (PY)		(9,954)		(9,954)		(9,954)				(9,954)
33	ADVANCE PROCUREMENT (CY)		-		-		-				-
34	SPECIAL UPGRADE PROGRAMS		218,751		218,751		218,751				218,751
35	SPECIAL PROGRAMS		1,605,765		1,605,765		1,534,765		(395,000)		1,210,765
	MUNITIONS & RELATED EQUIPMENT				-		-				-
	ROCKETS & LAUNCHERS				-		-				-
36	2.75 INCH ROCKET MOTOR	30,000	10,402		-		10,402		(10,402)		-
37	2.75	34,320	1,993		-		1,993		(1,993)		-
38	ITEMS LESS THAN $2,000,000		950		-		950		(950)		-
	CARTRIDGES				-		-				
39	5.56 MM	13,835	5,534		-		5,534		(5,534)		-
40	20MM TRAINING		-		-		-				-
41	30 MM TRAINING	1,360	14,480		-		14,480		(14,480)		-
42	CARTRIDGE CHAFF RR-180	720	10,030		-		10,030		(10,030)		-
43	CARTRIDGE CHAFF RR-188	903	1,192		-		1,192		(1,192)		-
44	SIGNAL MK-4 MOD 3		-		-		-				-
45	CART IMP 2000 FT/LBS		-		-		-		-		-
46	ITEMS LESS THAN $2,000,000		5,162		-		5,162		(5,162)		-
	BOMBS				-		-				
47	MK-83 DSBT/BDU-50	12,586	8,253		-		8,253		(8,253)		-
48	TIMER ACTUATOR FIN FUZE	10,000	6,242		-		6,242		(6,242)		-
49	BOMB PRACTICE 25 POUND	400,000	5,928		-		5,928		(5,928)		-
50	MK-84 BOMB-EMPTY	3,718	9,261		-		9,261		(9,261)		-
51	SMART FUZED WEAPON	500	165,447		-		165,447		(165,447)		-
	CBU-89/COMBINED EFFECTS MUNITIONS		-		-		30,000				-
52	CBU-89 GATOR DSBT	236	6,531		-		6,531		(6,531)		-
53	ITEMS LESS THAN $2,000,000		1,300		-		1,300		(1,300)		-
	OTHER ITEMS				-		-				-
54	FLARE, IR MJU-7B	945,049	21,859		-		21,859		(21,859)		-
55	MJU-10 FLARE	7,426	6,483		-		6,483		(6,483)		-
56	MJU-10B	110,436	7,204		-		7,204		(7,204)		-
57	M-206 CARTRIDGE FLARE	331,564	11,250		-		11,250		(11,250)		-
58	INITIAL SPARES		621		-		621		(621)		-
59	REPLENISHMENT SPARES		2,329		-		2,329		(2,329)		-
60	MODIFICATIONS		2,340		-		2,340		(2,340)		-
61	ITEMS LESS THAN $2,000,000		11,289		-		11,289		(11,289)		-
	FUZES										
62	JOINT PROGRAMMABLE FUSE(JPF)		-		-		-				-
	OTHER WEAPONS										
63	M-16 A2 RIFLE		5,048		-		5,048		(5,048)		-
	MISSILE PROCUREMENT, AIR FORCE-TOTAL		3,647,711		3,430,083		3,627,499		(708,828)		2,938,883

Overview

The budget request for fiscal year 1996 contained no authorization for Ammunition Procurement, Air Force in the Department of Defense. The House bill would authorize $321.3 million. The Senate amendment contained no authorization. The conferees recommended an authorization of $343.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	PROCUREMENT OF AMMUNITION, AIR FORCE										
	PROCUREMENT OF AMMO, AIR FORCE										
	PROC AMMO, AF										
1	2.75 INCH ROCKET MOTOR		-		10,402		-		10,402		10,402
1a	2.75 INCH HEAD SIGNATURE				1,993				1,993		1,993
2	ITEMS LESS THAN $2,000,000		-		950		-		950		950
	CARTRIDGE CHAFF RR-180										-
3	5.56 MM		-		5,534		-		5,534		5,534
4	20MM TRAINING		-		-		-				-
5	30 MM TRAINING		-		14,480		-		7,000		7,000
6	CARTRIDGE CHAFF RR-180		-		10,030		-		10,030		10,030
7	CARTRIDGE CHAFF RR-188		-		1,192		-		1,192		1,192
8	SIGNAL MK-4 MOD 3		-		-		-				-
	CART IMP 3000 FT/LBS		-		-		-				-
9	ITEMS LESS THAN $2,000,000		-		5,162		-		5,162		5,162
9a	MK-82 INERT/BDU-50		-		8,253				8,253		8,253
	TIMER ACTUATOR FIN FUZE										
10	TIMER ACTUATOR FIN FUZE		-		6,242		-		6,242		6,242
11	GBU-15		-		-		-				-
12	BOMB PRACTICE 25 POUND		-		5,928		-		5,928		5,928
12a	MK-84 BOMB EMPTY				9,261				9,261		9,261
13	SENSOR FUZED WEAPON		-		165,447		-		165,447		165,447
13a	CBU-89 GATOR INERT				6,531				6,531		6,531
13b	CBU COMBINED EFFECTS MUNITIONS										
14	ITEMS LESS THAN $2,000,000		-		1,500		-		1,500		1,500
	ITEMS LESS THAN $2,000,000										
15	ITEMS LESS THAN $2,000,000		-		-		-				-
	FLARE, IR MJU-7B										
16	FLARE, IR MJU-7B		-		21,859		-		21,859		21,859
16a	MJU-23 FLARE				6,483				6,483		6,483
16b	MJU-10B				7,204				7,204		7,204
17	PARACHUTE FLARE LUU-2 B/B		-		-		-				-
18	M-206 CARTRIDGE FLARE		-		11,250		-		11,250		11,250
19	INITIAL SPARES		-		621		-		621		621
20	REPLENISHMENT SPARES		-		2,329		-		2,329		2,329
21	MODIFICATIONS		-		2,340		-		2,340		2,340
22	ITEMS LESS THAN $2,000,000		-		11,289		-		11,289		11,289
	FMU-139 FUZE										
23	FMU-139 FUZE		-		-		-				-
24	ITEMS LESS THAN $2,000,000		-		-		-				-
	MUNITIONS UNDISTRIBUTED										
25	M-16 A2 RIFLE		-		5,048		-		5,048		5,048
	CBU 97(Combined Effects Munitions)		-		-				30,000		30,000
	PROCUREMENT OF AMMUNITION, AIR FORCE		-		321,328		-		343,848		343,848

Overview

The budget request for fiscal year 1996 contained an authorization of $6,804.7 million for Other Procurement, Air Force in the Department of Defense. The House bill would authorize $6,784.8 million. The Senate amendment would authorize $6,516.0 million. The conferees recommended an authorization of $6,268.4 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

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	OTHER PROCUREMENT, AIR FORCE										
	MUNITIONS AND ASSOCIATED EQUIPMENT										
	ROCKETS + LAUNCHERS										
1	ITEMS LESS THAN $2,000,000		-		-		-				-
	CARTRIDGES (THOUSANDS)				-		-				
2	5.56 MM		-		-		-				-
3	200-84 TRAINING		-		-		-				-
4	30 MM TRAINING		-		-		-				-
5	CARTRIDGE CHAFF RR-180		-		-		-				-
6	CARTRIDGE CHAFF RR-186		-		-		-				-
7	SIGNAL MK-4 MOD 3		-		-		-				-
8	CART IMP 3000 FT/LBS		-		-		-				-
9	ITEMS LESS THAN $2,000,000		-		-		-				-
	MK-82 DERT/DEU-50		-		-		-				-
	BOMBS				-		-				-
10	BSU-49 INFLATABLE RETARDER		-		-		-				-
11	GBU-15		-		-		-				-
12	BOMB PRACTICE 25 POUND		-		-		-				-
13	SENSOR FUZED WEAPON		-		-		-				-
14	CBU-97(CONSIDERED EFFECTS MUNITIONS)		-		-						-
15	ITEMS LESS THAN $2,000,000		-		-		-				-
	TARGETS				-		-				
16	ITEMS LESS THAN $2,000,000		-		-		-				-
	OTHER ITEMS				-		-				-
17	FLARE, IR MJU-7B		-		-		-				-
	MJU-10 FLARE		-		-		-				-
18	MJU-10B		-		-		-				-
19	ALE-17 FLARE		-		-		-				-
20	SPARES AND REPAIR PARTS		-		-		-				-
21	MODIFICATIONS		-		-		-				-
22	ITEMS LESS THAN $2,000,000		-		-		-				-
	FUZES				-		-				
23	FMU-139 FUZE		-		-		-				-
24	ITEMS LESS THAN $2,000,000		-		-		-				-
	OTHER WEAPONS				-		-				
25	M-16 A2 RIFLE		-		-		-				-
26	.50 CAL RIFLE		-		-		-				-
	VEHICULAR EQUIPMENT				-		-				
	PASSENGER CARRYING VEHICLES				-		-				
27	SEDAN, 4 DR 4X2	186	1,798	186	1,798	186	1,798			186	1,798
28	STATION WAGON, 4X2	69	1,053	69	1,053	69	1,053			69	1,053
29	BUS, 20 PASSENGER		-		-		-				-
30	BUS - 32-44 PASSENGER		-		-		-				-
31	BUSES	43	2,339	43	2,339	43	2,339			43	2,339
32	AMBULANCE, BUS		-		-		-				-
33	AMBULANCES		-		-		-				-
34	MODULAR AMBULANCE		-		-		-				-
35	14-23 PASSENGER BUS		-		-		-				-
36	LAW ENFORCEMENT VEHICLE	86	1,327	86	1,327	86	1,327			86	1,327

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
37	ARMORED SEDAN	1	202	1	202	1	202		58	1	260
	CARGO + UTILITY VEHICLES										
38	TRUCK, CARGO-UTILITY, 3/4T, 4X4	134	2,760	134	2,760	134	2,760			134	2,760
39	TRUCK, PICKUP, 1/2T, 4X2	235	2,469	235	2,469	235	2,469			235	2,469
40	TRUCK, PICKUP, COMPACT	435	4,777	435	4,777	435	4,777			435	4,777
41	TRUCK, MULTI-STOP 1 TON 4X2	164	3,671	164	3,671	164	3,671			164	3,671
42	TRUCK CARRYALL		-		-		-				-
43	TRUCK, CARGO, 2 1/2T, 6X6, M-35	50	2,705	50	2,705	50	2,705			50	2,705
44	MIDDLE TACTICAL VEHICLE	56	5,860	56	5,860	56	5,860			56	5,860
45	TRUCK TRACTOR, OVER 5T	57	2,799	57	2,799	57	2,799			57	2,799
46	CAP VEHICLES		781		781		781				781
47	ITEMS LESS THAN $2,000,000		7,258		7,258		7,258				7,258
	SPECIAL PURPOSE VEHICLES										
48	TRUCK TANK FUEL R-11	154	22,339	154	22,339	154	22,339			154	22,339
49	HMMWV, ARMORED	56	7,170	56	7,170	56	7,170			56	7,170
50	TRACTOR, TOW, FLIGHTLINE	152	4,460	152	4,460	152	4,460			152	4,460
51	ITEMS LESS THAN $2,000,000		6,603		6,603		6,603				6,603
	FIRE FIGHTING EQUIPMENT										
52	TRUCK CRASH P-25		-		-		-				-
53	TRUCK WATER P-36 (P-10)		-		-		-				-
54	HEAVY RESCUE VEHICLE	15	2,616	15	2,616	15	2,616			15	2,616
55	TRUCK PUMPER P-24		-		-		-				-
56	TRUCK PUMPER P-22		-		-		-				-
57	ITEMS LESS THAN $2,000,000		1,314		1,314		1,314				1,314
	MATERIALS HANDLING EQUIPMENT										
58	TRUCK, FH, 10,000 LB		-		-		-				-
59	60K A/C LOADER	28	35,336	28	35,336	28	35,336	8	7,000	36	42,336
60	30K CONTAINER HANDLER		-		-		-				-
61	ITEMS LESS THAN $2,000,000		1,670		1,670		1,670				1,670
	BASE MAINTENANCE SUPPORT										
62	WELL DRILLING SYSTEM		-		-		-				-
63	SPARES AND REPAIR PARTS		-		-		-				-
64	MODIFICATIONS		200		200		200				200
65	ITEMS LESS THAN $2,000,000		2,352		2,352		2,352		11,824		14,176
	ELECTRONICS AND TELECOMMUNICATIONS EQUIP				-		-				
	COMM SECURITY EQUIPMENT(COMSEC)										
66	COMSEC EQUIPMENT		39,422		39,422		39,422				39,422
67	SPARES AND REPAIR PARTS		-		-		-				-
68	MODIFICATIONS (COMSEC)		462		462		462				462
	INTELLIGENCE PROGRAMS										
69	INTELLIGENCE DATA HANDLING SYS		11,966		11,966		11,966				11,966
70	INTELLIGENCE TRAINING EQUIPMENT		2,368		2,368		2,368				2,368
71	INTELLIGENCE COMM EQUIP		5,510		5,510		5,510				5,510
72	ITEMS LESS THAN $2,000,000		995		995		995				995
	ELECTRONIC PROGRAMS										
73	AIR TRAFFIC CTRL/LAND SYS (ATCALS)		-		-		-				-
74	NATIONAL AEROSPACE SYSTEM		-		-		-				-
75	THEATER AIR CONTROL SYS IMPROVEMENT		32,345		32,345		32,345		(4,600)		27,745
76	WEATHER OBSERV/FORCAST		7,103		7,103		7,103				7,103

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77	DEFENSE SUPPORT PROGRAM		36,909		36,909		36,909				36,909
78	STRATEGIC COMMAND AND CONTROL		67,596		67,596		67,596		(9,501)		58,095
79	CHEYENNE MOUNTAIN COMPLEX		8,667		8,667		8,667				8,667
80	SPACE BASED IR SENSOR PROG		19,895		-		-		(19,895)		-
81	NAVSTAR GPS		1,170		1,170		1,170				1,170
82	DEFENSE METEOROLOGICAL SAT PROG		14,350		14,350		14,350				14,350
83	TAC SECRET SUPPORT		5,879		5,879		5,879				5,879
84	DRUG INTERDICTION PROGRAM		-		-		-				-
85	NUCLEAR DETECTION SYSTEM (NDS)		5,770		5,770		5,770				5,770
86	DARP		-		-		-				-
	SPECIAL COMM-ELECTRONICS PROJECTS										
87	AUTOMATIC DATA PROCESSING EQUIP		23,958		23,958		23,958				23,958
88	ADP OPERATIONS CONSOLIDATION		-		-		-				-
89	WORLDWIDE MILITARY COMMAND & CONTROL SYS		5,173		5,173		5,173				5,173
90	MOBILITY COMMAND AND CONTROL		-		-		-				-
91	PENTAGON RENOVATION		-		-		-				-
92	AIR FORCE PHYSICAL SECURITY SYSTEM		15,247		15,247		15,247				15,247
93	COMBAT TRAINING RANGES		2,079		2,079		2,079				2,079
94	C3 COUNTERMEASURES		7,548		7,548		7,548				7,548
95	BASE LEVEL DATA ADPO PROGRAM		26,851		26,851		26,851				26,851
96	AIR FORCE BATTLE CONTROL NETWORK		25,495		25,495		25,495				25,495
97	THEATER BATTLE MGT C2 SYS		52,616		52,616		52,616				52,616
98	EASTERN/WESTERN RANGE IAM		114,505		114,505		114,505				114,505
	AIR FORCE COMMUNICATIONS										
99	INFORMATION TRANSMISSION SYSTEMS		-		-		-				-
100	BASE INFORMATION INFRASTRUCTURE		73,138		73,138		58,138		(16,753)		56,385
101	USCENTCOM		2,219		2,219		2,219				2,219
102	AUTOMATED TELECOMMUNICATIONS PRO		18,058		18,058		18,058				18,058
103	MILSATCOM		43,362		43,362		43,362				43,362
104	SATELLITE TERMINALS		-		-		-				-
	DISA PROGRAMS										
105	WWMCCS/GLOBAL SYSTEMS UPGRADE		-		-		-				-
106	MINIMUM ESSENTIAL EMER COMM NET		-		-		-				-
	ORGANIZATION AND BASE										
107	TACTICAL C-E EQUIPMENT		24,628		24,628		24,628				24,628
108	RADIO EQUIPMENT		7,172		7,172		7,172				7,172
109	TV EQUIPMENT (AFRTV)		2,492		2,492		2,492				2,492
110	CCTV/AUDIO VISUAL EQUIPMENT		5,764		5,764		5,764				5,764
111	BASE COMM INFRASTRUCTURE		-		-		-				-
112	SPARES AND REPAIR PARTS		-		-		-				-
113	CAP COM & ELECT		-		-		-				-
114	ITEMS LESS THAN $2,000,000		6,638		6,638		6,638				6,638
	MODIFICATIONS										
115	COMM ELECT MODS		20,424		20,424		20,424		(10,700)		9,724
116	ANTI-JAM VOICE		-		-		-				-
117	SPACE MODS		37,142		37,142		37,142				37,142
	OTHER BASE MAINTENANCE AND SUPPORT EQUIP				-		-				
	TEST EQUIPMENT										-
118	BASE/ALC CALIBRATION PACKAGE		10,024		10,024		10,024				10,024

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
119	PRIMARY STANDARDS LABORATORY PACKAGE		1,604		1,604		1,604				1,604
120	ITEMS LESS THAN $2,000,000		11,820		11,820		11,820				11,820
	PERSONAL SAFETY AND RESCUE EQUIP										-
121	NIGHT VISION GOGGLES		976		976		976				976
122	BREATHING APPARATUS TWO HOUR		3,134		3,134		3,134				3,134
123	UNIVERSAL WATER ACTIVATED REL SYS		7,460		7,460		7,460				7,460
124	CHEMICAL/BIOLOGICAL DEF PROG		-		-		-				-
125	ITEMS LESS THAN $2,000,000		4,802		4,802		4,802				4,802
	DEPOT PLANT + MATERIALS HANDLING EQ										
126	MECHANIZED MATERIAL HANDLING EQUIP		3,525		3,525		3,525				3,525
127	BASE MECHANIZATION EQUIPMENT		-		-		-				-
128	AIR TERMINAL MECHANIZATION EQUIP		-		-		-				-
129	ITEMS LESS THAN $2,000,000		4,090		4,090		4,090				4,090
	ELECTRICAL EQUIPMENT										-
130	GENERATORS-MOBILE ELECTRIC		3,186		3,186		3,186				3,186
131	FLOODLIGHTS SET TYPE MP2D		325		325		325				325
132	ITEMS LESS THAN $2,000,000		3,294		3,294		3,294				3,294
	BASE SUPPORT EQUIPMENT										
133	BASE PROCURED EQUIPMENT		-		-		-				-
134	NATURAL GAS UTILIZATION EQUIPMENT		-		-		-				-
135	MEDICAL/DENTAL EQUIPMENT		12,843		12,843		12,843				12,843
136	ENVIRONMENTAL PROJECTS		-		-		-				-
137	AIR BASE OPERABILITY		4,316		4,316		4,316				4,316
138	PALLET AIR CARGO	4,000	3,677	4000	3,677	4000	3,677			4000	3,677
139	MET ASSEMBLY, 108		1,952		1,952		1,952				1,952
140	BLADDER FUEL		3,933		3,933		3,933				3,933
141	AERIAL BULK FUEL DELIVERY SYSTEM		-		-		-				-
142	PHOTOGRAPHIC EQUIPMENT		6,231		6,231		6,231				6,231
143	PRODUCTIVITY ENHANCEMENT		-		-		-				-
144	PRODUCTIVITY INVESTMENTS		-		-		-				-
145	MOBILITY EQUIPMENT		17,670		17,670		17,670		11,900		29,570
146	WARTIME HOST NATION SUPPORT		1,699		1,699		1,699		(1,699)		-
147	SPARES AND REPAIR PARTS		-		-		-				-
148	EXPLOSIVE ORDNANCE/DEVIDENT CONTAINERS		3,320		3,320		3,320				3,320
149	SPACIAL RECONNAISSANCE DEMONSTRATOR		-		-		-				-
150	AIR CONDITIONERS		-		-		-				-
151	ITEMS LESS THAN $2,000,000		9,269		9,269		9,269				9,269
	SPECIAL PURPOSE PROJECTS										
152	PERFLUOROCARBON PRODUCTION ACTIVITY		67,928		67,928		61,228		1,200		69,128
153	TECH SURV COUNTERMEASURES EQ		1,049		1,049		1,049				1,049
154	SE YR GROUND STATIONS		-		-		-				-
155	DARP		74,051		74,051		74,051				74,051
156	SELECTED ACTIVITIES		5,409,357		5,409,357		5,162,257		(505,100)		4,904,257
157	SPECIAL UPDATE PROGRAM		158,402		158,402		158,402				158,402
158	INDUSTRIAL PREPAREDNESS		1,156		1,156		1,156				1,156
159	MODIFICATIONS		199		199		199				199
160	FIRST DESTINATION TRANSPORTATION		12,914		12,914		12,914				12,914
	SPARE AND REPAIR PARTS				-		-				
	SPARES AND REPAIR PARTS										

Line No	Title	FY 1996 Request		House Authorized		Senate Authorized		Change to Request		Conference Agreement	
		Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
161	SPARES AND REPAIR PARTS		61,715		61,715		61,715				61,715
	OTHER PROCUREMENT, AIR FORCE-TOTAL		6,804,696		6,784,801		6,516,001		(536,266)		6,268,430

Overview

The budget request for fiscal year 1996 contained an authorization of $2,179.9 million for Defense-wide Procurement in the Department of Defense. The House bill would authorize $2,205.9 million. The Senate amendment would authorize $2,118.3 million. The conferees recommended an authorization of $2,124.4 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	PROCUREMENT, DEFENSE-WIDE										
	MAJOR EQUIPMENT										
	MAJOR EQUIPMENT, OSD/WHS										
1	MOTOR VEHICLES		304		304		304				304
2	MAJOR EQUIPMENT, OSD		193,321		193,321		193,321				193,321
3	MAJOR EQUIPMENT, WHS		15,670		15,670		15,670				15,670
4	ARMED FORCE INFORMATION SERVICE		4,907		4,907		4,907				4,907
5	DEPARTMENT OF DEFENSE EDUCATION ACTIVITY		1,612		1,612		1,612				1,612
6	DEFENSE TECHNOLOGY SECURITY ADMINISTRATION		770		770		770				770
7	DARP		179,307		179,307		183,807		(17,732)		161,575
8	CORPORATE INFORMATION MANAGEMENT		4,933		4,933		4,933				4,933
9	DEFENSE INFORMATION INFRASTRUCTURE		54,234		54,234		54,234		4,500		58,734
	MAJOR EQUIPMENT, MIA										
11	DEFENSE AIRBORNE RECONNAISSANCE PROGRAM		16,978		16,978		16,978				16,978
	MAJOR EQUIPMENT, DNA										
12	VEHICLES		130		130		130				130
13	OTHER MAJOR EQUIPMENT		7,971		7,971		7,971				7,971
	MAJOR EQUIPMENT, DISA										
14	WWMCCS ADP SYSTEMS		4,446		4,446		4,446				4,446
15	INFORMATION SERVICES TRANSFER		-		-		-				-
16	PLANS & PROGRAM ANALYSIS SUPPORT CENTER		1,498		1,498		1,498				1,498
17	ITEMS LESS THAN $2 MILLION		294		294		294				294
18	DRUG INTERDICTION SUPPORT		-		-		-				-
	MAJOR EQUIPMENT, DIA				-		-				
	MAJOR EQUIPMENT, DLA										
21	DEFENSE SUPPORT ACTIVITIES		7,291		7,291		7,291				7,291
21a	AUTOMATED DOCUMENT CONVERSION SYSTEM		-		20,000						-
	MAJOR EQUIPMENT, DMA										
22	COMMUNICATION EQUIPMENT		-		-		-				-
23	AUTOMATED INFORMATION SYSTEM EQUIPMENT		-		-		-				-
24	VECTOR PRODUCT EQUIPMENT		-		-		-				-
25	DEVELOPMENT TEST FACILITY		-		-		-				-
26	MC & G MAINFRAME UPGRADE		-		-		-				-
27	VEHICLES		1,211		1,211		1,211				1,211
28	OTHER CAPITAL EQUIPMENT		-		-		-				-
29	DEFENSE HYDROGRAPHIC EQUIPMENT		-		-		-				-
	MAJOR EQUIPMENT, DSS										
30	VEHICLES	333	3,117	333	3,117	333	3,117			333	3,117
31	OTHER CAPITAL EQUIPMENT		6,801		6,801		6,801				6,801
	MAJOR EQUIPMENT, DCAA										
32	ITEMS LESS THAN $2 MILLION		3,980		3,980		3,980				3,980
	MAJOR EQUIPMENT, DEPO				-		-				
33	MAJOR EQUIPMENT , DEPO		25,104		25,104		25,104				25,104
34	MAJOR EQUIPMENT , DEPO		-		-		-				-
35	MAJOR EQUIPMENT		-		-		-				-
	MAJOR EQUIPMENT, TJS										
36	MAJOR EQUIPMENT, TJS		38,717		38,717		38,717				38,717
	ON-SITE INSPECTION AGENCY										
37	VEHICLES		-		-		-				-

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38	OTHER CAPITAL EQUIPMENT		2,941		2,941		2,941				2,941
	BALLISTIC MISSILE DEFENSE ORGANIZATION										
40	C4I		32,242		32,242		32,242				32,242
41	HAWK IINAC3 MODS		5,106		5,106		5,106				5,106
	CENTRAL IMAGERY OFFICE										
	CLASSIFIED PROGRAMS										-
	SPECIAL OPERATIONS COMMAND										
	AVIATION PROGRAMS										
44	RADIO FREQUENCY MOBILE ELECTRONIC TEST SET		29,801		29,801		29,801				29,801
45	SOF ROTARY WING UPGRADES		9,042		9,042		9,042				9,042
46	SOF TRAINING SYSTEMS		26,818		26,818		26,818				26,818
47	MC-130H COMBAT TALON II		12,134		12,134		12,134				12,134
48	AC-130U GUNSHIP ACQUISITION		57,165		57,165		57,165				57,165
49	C-130 MODIFICATIONS		115,518		115,518		115,518				115,518
49	LESS: ADVANCE PROCUREMENT (PY)		(5,101)		(5,101)		(5,101)				(5,101)
50	ADVANCE PROCUREMENT (CY)		-		-		-				-
51	HH-53 MODIFICATIONS		-		-		-				-
52	MH-47/MH-60 MODIFICATIONS		-		-		-				-
53	OH-6 PROCUREMENT & MODIFICATIONS		-		-		-				-
54	AIRCRAFT SUPPORT		5,946		5,946		5,946				5,946
	SHIPBUILDING										-
55	PC/CYCLONE CLASS		-		-		-		20,000		20,000
56	ADVANCED SEAL DELIVERY SYSTEM (ASDS)		-		-		-				-
57	MK VIII MOD 1 - SEAL DELIVERY VEHICLE	4	11,115	4	11,115	4	11,115			4	11,115
58	SUBMARINE CONVERSION		6,770		6,770		6,770				6,770
58	LESS: ADVANCE PROCUREMENT (PY)		(2,086)		(2,086)		(2,086)				(2,086)
59	ADVANCE PROCUREMENT (CY)		-		-		-				-
60	MK V SPECIAL OPERATIONS CRAFT (MK V SOC)	2	19,501	2	19,501	4	37,201	2	17,700	4	37,201
	AMMUNITION PROGRAMS										
61	SOF PYROTECHNIC		23,887		23,887		23,887				23,887
62	SOF PLATFORM GUN AMMUNITION		-		-		-				-
63	SOF DIRECT WEAPONS AMMUNITION		45,412		45,412		45,412				45,412
	OTHER PROCUREMENT PROGRAMS										
64	MARITIME EQUIPMENT MODIFICATIONS		8,559		8,559		8,559				8,559
65	SPARES AND REPAIR PARTS		35,876		35,876		35,876				35,876
66	COMM EQUIPMENT & ELECTRONICS		32,824		32,824		32,824				32,824
67	SOF INTELLIGENCE SYSTEMS		19,510		19,510		19,510				19,510
68	SOF SMALL ARMS & WEAPONS		9,972		9,972		9,972				9,972
69	SPECIAL WARFARE EQUIPMENT		11,776		11,776		7,483		(4,293)		7,483
69a	LIGHT STRIKE VEHICLE				6,000		-		6,000		6,000
70	DRUG INTERDICTION		-		-		-				-
71	MISCELLANEOUS EQUIPMENT		809		809		809				809
72	SOF FLAMING AND MISHEARSAL SYSTEM (SOFPARS)		595		595		595				595
73	CLASSIFIED PROGRAMS		77,656		77,656		77,656				77,656
74	PSYOP EQUIPMENT		28,106		28,106		28,106				28,106
	CHEMICAL/BIOLOGICAL DEFENSE				-		-				-
	CBDP										
75	PROTECTIVE MASK		24,819		24,819		24,819				24,819
76	AIRCREW MASK		-		-		-				-

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		Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
77	REMOTE CHEM AGT ALARM (RSCAAL)		4,190		4,190		4,190				4,190
78	IMPROVED CHEM AGENT MONITOR (ICAM)	237	7,232	237	7,232	237	7,232			237	7,232
79	AUTO CHEM AGENT ALARM (ACADA)		-		-		-				-
80	NBC RECON SYS (NBCRS) MOD6		46,033		46,033		46,033				46,033
81	MODULAR DECON SYSTEM		-		-		-				-
82	M17 DECON MOD6		3,165		3,165		3,165				3,165
83	POCKET RADIAC AN/UDR- 13	4,636	3,729	4636	3,729	4636	3,729			4636	3,729
84	CB PROTECTIVE SHELTER	62	11,494	62	11,494	62	11,494			62	11,494
85	JOINT BIO DEFENSE PROM		22,860		22,860		22,860				22,860
86	CBMB/BIO DEFENSE EQ (AF)		11,049		11,049		11,049				11,049
87	CHEM WARFARE DETECTORS		5,455		5,455		5,455				5,455
88	CB HELO NBI		-		-		-				-
89	CBR EQUIP-SHIPBOARD	-	498		498		498				498
999	CLASSIFIED PROGRAMS		844,903		844,903		765,403		(81,713)		763,190
	PROCUREMENT, DEFENSE-WIDE-TOTAL		2,179,917		2,205,917		2,118,324		(55,538)		2,124,379

Defense airborne reconnaissance program procurement

The budget request included $179.3 million in procurement for the Defense airborne reconnaissance program (DARP).

The House bill would approve the budget request.

The Senate amendment would increase the requested amount by $4.5 million, and would direct the Department to change the priorities of some program elements. The conferees agree to an authorization of $161.6 million, a reduction of $17.7 million from the budget request.

JOINT TACTICAL UAV

The conferees agree to authorize a total of $42.4 million for the joint tactical UAV (JT–UAV), a reduction of $17.7 million from the budget request.

The conferees are particularly concerned about the continuing problems with the Hunter UAV in the JT–UAV program. Therefore, the conferees direct that none of the funds appropriated for fiscal year 1996 be used to procure production Hunter systems or additional low-rate initial production units, beyond those already ordered, until the Secretary of Defense provides to the Congressional defense committees the results of the Defense Acquisition Board (DAB) review of the Hunter program.

PIONEER UAV

Of the funds authorized and appropriated for defense-wide procurement, Defense Airborne Reconnaissance Programs (DARP), the conferees direct that the Department use $4.5 million to equip nine Pioneer UAV systems with the common automatic landing and recovery system (CARLS).

The conferees note the Department's continuing failure to equip UAVs with the CARLS system. The conferees are concerned with this result, particularly since the Department agrees that CARLS installation on UAVs in general, and Pioneer in particular, would reduce landing accidents and associated losses.

Automated document conversion system

The budget request did not include any additional funds for the automated document conversion system (ADCS). This is a program for converting the Department of Defense's engineering drawings from hard copy to electronic format.

The House bill would authorize $20.0 million for this purpose.

The Senate amendment would approve the budget request.

The conferees are concerned with the lack of progress by the Department toward achieving major cost savings through the adoption of automated document conversion technology. The conferees are encouraged, however, that the Department has recently acknowledged such savings and has produced a roadmap to realize these savings by changing from raster to vector conversion. The conferees also understand this plan brings an upgrade and expansion of UNIX-based systems and will test several personal computer (PC)-based systems.

However, the conferees are concerned with the Department's plan for using $10.0 million of these funds for ''bulk'' conversion purposes, since these funds were specifically appropriated for the purchase of ADCS equipment. The conferees are concerned that there may be a greater requirement for ADCS software and equipment than the Department currently has planned and that some or all of the funds planned for bulk conversion may be needed for software and equipment. Should the results of the Department's ongoing conversion survey confirm that additional software and equipment is needed, the conferees feel that the Department should address first the needs of UNIX-based engineering systems as the UNIX-based system has undergone extensive testing per Congressional direction. The conferees direct that the Secretary of Defense provide a report to the congressional defense committees by March 29, 1996, on the results of the PC-based system testing.

Overview

The budget request for fiscal year 1996 contained no authorization for National Guard and Reserve Procurement in the Department of Defense. The House bill would authorize $770.0 million. The Senate amendment would authorize $777.4 million. The conferees recommended an authorization of $777.0 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	NATIONAL GUARD & RESERVE EQUIPMENT										
	RESERVE EQUIPMENT										
	ARMY RESERVE										
	TACTICAL VEHICLES		-		20,000		-		15,000		15,000
	SINCGARS		-		3,500		5,000		3,000		3,000
	MEDIUM TRUCK ESP		-		-		10,000		10,000		10,000
	HEAVY TRUCK MODERNIZATION		-		-		15,000		10,000		10,000
	NIGHT VISION EQUIPMENT		-		5,800		5,000		5,700		5,700
	CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT		-		-		2,000		2,000		2,000
	ENGINEER EQUIPMENT		-		10,000		-		10,000		10,000
	VARI-REACH LIFT TRUCKS		-		4,500		-				-
	ALL-TERRAIN FORK LIFT TRUCKS										4,500
	CH-47D		-		16,000		-		16,000		16,000
	ENGINE SERVICE ADAPTERS		-		500		-		500		500
	GENERATORS/POWER EQUIP/SPT EQUIP		-		5,000		-		5,000		5,000
	MK-19 GRENADE LAUNCHERS		-		10,000		-				-
	SIMULATORS		-		2,000		-		2,000		2,000
	MEDICAL EQUIPMENT		-		2,000		-		2,000		2,000
	MISCELLANEOUS EQUIPMENT		-		5,000		25,000				-
	NAVY RESERVE										
	DECM EQUIPMENT		-		8,000		-		8,000		8,000
	F/A-18 UPGRADES		-		28,000		24,000		24,000		24,000
	MIUW TBW-108		-		10,000		10,000		10,000		10,000
	C-9 AIRCRAFT AVIONIC UPGRADE		-		35,000		25,000		25,000		25,000
	MISCELLANEOUS EQUIPMENT		-		5,000		15,000				-
	MARINE CORPS RESERVE										
	CBT VEHICLE TRAINER		-		3,800		-		3,800		3,800
	CH-53 HELICOPTERS		-		30,000		-		50,000	2	50,000
	DIGITAL COMMAND & CONTROL NETWORK		-		4,300		-		4,300		4,300
	COMM COMPANY EQUIPMENT		-		5,000		-		5,000		5,000
	UH-1N NAV/FLIR UPGRADES		-		2,600		-		2,600		2,600
	AH-1W HELICOPTERS (3)		-		-		35,000				-
	SINCGARS		-		-		5,000		3,000		3,000
	NIGHT VISION EQUIPMENT		-		-		5,000		5,000		5,000
	MISCELLANEOUS EQUIPMENT		-		5,000		10,000				-
	AIR FORCE RESERVE										
	KC-135R REENGINING		-		26,000		-				-
	C-130H		-	4	145,200		-		135,600	4	135,600
	C-130J		-		-		210,000				-
	C-20G		-		-		30,000				-
	MISCELLANEOUS EQUIPMENT		-		-		-				-
	TOTAL RESERVE EQUIPMENT		-		392,200		431,000		362,000		362,000
	NATIONAL GUARD EQUIPMENT										
	ARMY NATIONAL GUARD										
	AVENGER		-		-		54,000		50,000		50,000
	PALADIN/FAASV		-		-		55,000				-
	MLRS		-		-		16,400				-
	M113A3 UPGRADES		-		-		10,000		10,000		10,000

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	M113A3 NIGHT VIEWERS		-		-		2,000		2,000		2,000
	MEDIUM TRUCK ESP		-		-		10,000		15,000		15,000
	HEAVY TRUCK MODERNIZATION		-		-		10,000		10,000		10,000
	TACTICAL TRUCK PROC/SLEP		-		-		-				-
	TACTICAL VEHICLES										10,000
	NEW PROCUREMENT		-		10,000		-				-
	SLEP (5 TON)		-		10,000		-				-
	SLEP (2 1/2 TON)		-		10,000		-				-
	SINCGARS		-		10,000		5,000		5,000		5,000
	M109 ACE		-		10,000		-		5,000		5,000
	IFTE		-		10,000		-		10,000		10,000
	NIGHT VISION EQUIPMENT		-		10,000		5,000		5,000		5,000
	CBRN RDO EQUIPMENT		-		5,000		2,000		2,000		2,000
	HIGH CAPACITY AIR AMBULANCE		-		30,000		-				-
	AH-1 (C-NITE)		-		10,000		-				-
	FADEC		-		10,000		-		5,000		5,000
	TRNG & SIM EQUIPMENT		-		-		-				-
	AH-64 COMBAT MISSION SIMULATOR		-		15,000		15,000		15,000		15,000
	UH-1 SLEP		-		-		-				-
	AH-1 BORESIGHT EQUIPMENT		-		-		5,000		5,000		5,000
	FULL AUTHORITY DIGITAL ELECTRONIC CONTROL (CH-47)		-		-		5,000				-
	C-26									2	11,000
	MISCELLANEOUS EQUIPMENT		-		10,000		15,000				-
	AIR NATIONAL GUARD										
	F-16 220E ENGINES		-		10,000		-		5,000		5,000
	C-130E		-	4	145,200		102,000	6	203,400	6	203,400
	AIRLIFT DEFENSIVE SYSTEMS		-		10,000		-		10,000		10,000
	EC-130E RECONSING		-		26,000		26,000				-
	EC-135 MODS		-		-		-				-
	AIRLIFT REPLACEMENT RADAR		-		6,600		-		6,600		6,600
	C-20G		-		30,000		-		30,000		30,000
	C-26		-		-		9,000				-
	MISCELLANEOUS EQUIPMENT		-		-		-				-
	TOTAL NATIONAL GUARD EQUIPMENT		-		377,800		346,400		415,000		415,000
	TOTAL NATIONAL GUARD & RESERVE EQUIPMENT		-								
	MISC EQUIPMENT GUARD & RESERVE AIRCRAFT										
	TOTAL NATIONAL GUARD & RESERVE EQUIPMENT				770,000		777,400		777,000		777,000

Overview

The budget request for fiscal year 1996 contained an authorization of $746.7 million for Chemical Agent and Munitions Destruction, Army in the Department of Defense. The House bill would authorize $746.7 million. The Senate amendment would authorize $671.7 million. The conferees recommended an authorization of $672.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Line No	Title	FY 1996 Request Quantity	FY 1996 Request Amount	House Authorized Quantity	House Authorized Amount	Senate Authorized Quantity	Senate Authorized Amount	Change to Request Quantity	Change to Request Amount	Conference Agreement Quantity	Conference Agreement Amount
	CHEM AGENTS & MUNITIONS DESTRUCTION, DEF										
	CHEM AGENTS & MUNITIONS DESTRUCT-RDT&E										
	RESEARCH AND DEVELOPMENT										
1	CHEM DEMILITARIZATION - RDTE		53,400		53,400		53,400				53,400
			53,400		53,400		53,400				53,400
	CHEM AGENTS & MUNITIONS DESTRUCT-PROC										
	PROCUREMENT										265,000
2	CHEM DEMILITARIZATION - PROC		299,448		299,448		224,448		(34,448)		265,000
	CHEM AGENTS & MUNITIONS DESTRUCT-O&M										
	OPERATION AND MAINTENANCE										
3	CHEM DEMILITARIZATION - O&M		393,850		393,850		393,850		(40,000)		353,850
			393,850		393,850		393,850		(40,000)		353,850

ITEMS OF SPECIAL INTEREST

Aerial targets

The budget request included $68.6 million for aerial targets.

The House bill and the Senate amendment authorized the request.

The conferees understand the Navy's current acquisition strategy for subscale subsonic aerial targets is to procure only the BQM–74E. However, the conferees understand the contractor may have taken some recent cost reduction initiatives on the BQM–34S subscale target. Therefore, the conferees believe that the Navy's non-competitive procurement of the BQM–74E may not provide the service with the best value target. Accordingly, the conferees urge the Navy to reassess its acquisition strategy for this target and conduct a competition based upon meeting a performance specification. The conferees believe that such a competition could result in buying a target that truly represents the best value to the Navy.

AN/ALE–47

The conferees are concerned that the current Air Force acquisition strategy for the follow-on production of lots IV through VII of the AN/ALE–47 Countermeasure Dispenser System may involve significant and unnecessary risks for the program. The conferees direct the Air Force to delay any procurement action regarding lots IV through VII of the AN/ALE–47 until 14 days after the date on which the Air Force has provided the congressional defense committees with a report that assesses the cost and acquisition strategy related to the introduction of new suppliers for the system.

Engineer construction equipment

The conferees are aware of the significant contribution National Guard engineer construction units have made to securing the southwest border. The construction efforts of the National Guard have been of singular assistance in providing for increased safety for U.S. Border Patrol agents and in facilitating the U.S. Border Patrol efforts to counter illegal drugs and illegal immigration along the southwest border. The conferees agree that sufficient funds should be allocated by the National Guard to purchase appropriate loaders, dozers, and road-grading equipment for use by National Guard engineer construction units that rotate to continue construction on projects along the United States-Mexican border.

The conferees have indicated elsewhere in this statement of managers, that the Department of Defense should, through normal reprogramming procedures, use available funds provided for counterdrug activities to continue construction to extend the fence constructed by the National Guard on the southwest border.

LPD–17 radio communications systems engineering support

The conferees note that, as a result of the base realignment and closure decisions, the Navy has reorganized and consolidated its radio communications systems (RCS) engineering, production, testing, integration, and training support activities. In assigning RCS engineering support workload for the LPD–17 class of ships, the conferees expect that the Navy will assign such workload to the most appropriate facility.

SH–60 modifications

The conferees understand that there are at least 60 AN/AQS–13F dipping sonars currently installed in the Navy's SH–60F helicopters that will not be replaced under the SH–60R program. These sonars could be upgraded to meet current shallow water operational requirements based on a modification already developed through the FMS program.

The conferees direct the Secretary of the Navy to evaluate the cost effectiveness of a modification program for the AQS–13F dipping sonars that will not be replaced in conjunction with the SH–60R program, and report the results to the congressional defense committees by March 15, 1996.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Subtitle B—Army Programs

Procurement of OH–58D Armed Kiowa Warrior helicopters (sec. 111)

The House bill contained a provision (sec. 111) that would modify current law to permit procurement of twenty additional OH–58D AHIP scout helicopters.

The Senate amendment contained an identical provision (sec. 122).

The conferees understand that the procurement of twenty additional OH–58D Armed Kiowa Warrior helicopters will cost up to $140.0 million and agree to amend the provision to authorize $140.0 million to procure these helicopters.

Repeal of requirements for armored vehicle upgrades (sec. 112)

The House bill contained a provision (sec. 112) that would repeal subsection (j) of section 21 of the Arms Export Control Act (22 U.S.C. 2761).

The Senate amendment contained no similar provision.

The Senate recedes.

Multiyear procurement of helicopters (sec. 113)

The budget request included $354.0 million to buy 18 AH–64D aircraft and 13 Longbow fire control radars.

The House bill would authorize the budget request.

The Senate amendment contained a provision (sec. 111) that would authorize an increase of $82.0 million and the multiyear procurement of Longbow Apache helicopters.

The House recedes with an amendment.

The conferees agree to authorize an increase of $76.2 million for the Longbow Apache attack helicopter program and multiyear procurement contracts for both the AH–64D Longbow Apache attack helicopter program and the UH–60 Black Hawk utility helicopter program.

Report on AH–64D engine upgrades (sec. 114)

The Senate amendment contained a provision (sec. 114) that would require the Secretary of the Army to submit a report to Congress on plans to procure T700–701C engine upgrade kits for Army AH–64D helicopters.

The House bill contained no similar provision.

The House recedes.

Requirement for use of previously authorized multiyear procurement authority for Army small arms procurement (sec. 115)

The budget request did not include any funds for procurement of small arms.

The House bill and the Senate amendment would authorize funds for the following small arms programs as indicated below:

[In millions of dollars]

	House	Senate
M–16 rifle	$13.5	$13.5
M4 carbine	6.5	13.5
M9 personal defense weapon	2.0	4.0
M249 squad automatic weapon	28.5	28.5
MK–19 grenade launcher	20.0	33.9
Medium machine gun (mod kits)	6.5	6.5

The conferees agree to provide funds for small arms programs as indicated below:

	Dollars (millions)	Quantity
M–16 rifle	$13.5	27,500
M4 carbine	6.5	12,000
M9 personal defense weapon	2.0	4,660
M249 squad automatic weapon	28.5	10,265
MK–19 grenade launcher	33.9	2,100
Medium machine gun (mod kits)	6.5	1,434

The conferees express their concern that the Army did not include funds for small arms programs in the fiscal year 1996 budget request, despite specific direction regarding multiyear procurement for small arms included in the Statement of Managers accompanying the National Defense Authorization Act for Fiscal Year 1995 (S. Rept. 103–701). The conferees expect the Secretary of the Army to comply with both the letter and intent of the law in this regard. The conferees further expect the Secretary of the Army to ensure that small arms programs are funded at levels approximating those in this report until requirements for each separate class of small arms are fully achieved and that appropriate multiyear contracts are executed. The conferees include a provision (sec. 116) that would direct the Secretary of the Army to enter into multiyear procurement contracts during fiscal year 1997, in accordance with section 115(b)(2) of the National Defense Authorization Act for Fiscal Year 1995.

Subtitle C—Navy Programs

Nuclear attack submarines (sec. 131)

The budget request reflected a policy, adopted by the Department of Defense as a consequence of its Bottom Up Review, that would cause all future nuclear submarines to be constructed by General Dynamics Electric Boat Division (Electric Boat). The budget request included the following funding for submarine construction programs:

(1) $1.5 billion for SSN–23, the final increment required for full funding of this *Seawolf* class submarine;

(2) $704.5 million advance procurement for the first of a new class of nuclear attack submarines, designated as the new attack submarine (NAS), whose construction would begin in fiscal year 1998; and

(3) a total of $455.4 million for research, development, test, and evaluation for the NAS program.

The House report (H. Rept. 104–131) reflected the view that changes in the Navy's plan for acquisition of nuclear attack submarines should be made to incorporate advanced technologies into these submarines' designs. These recommendations were based on an underlying premise that the Navy's NAS program would not provide an adequate technological advantage over foreign submarines presently under construction or in design. The House bill would:

(1) not authorize SSN–23;

(2) authorize $550.0 million for Electric Boat to design, build, and incorporate a hull section into SSN–22 to create a lengthened, expanded capability variant of the basic *Seawolf* design, while retaining its full weapons load;

(3) authorize $704.5 million advance procurement for the fiscal year 1998 submarine that would be built by Electric Boat;

(4) authorize $300.0 million for Electric Boat to design and build a second hull section that would be incorporated into a fiscal year 1998 submarine, and convert that submarine from the lead ship of a serial-production class, based on the current NAS design, into an additional, one-of-a-kind, expanded capability platform that would be derived from the current NAS design;

(5) directs that $10.0 million of the funds in the budget request for NAS detailed design work be used only for establishing and maintaining a cadre of Newport News submarine designers at Electric Boat and for transfer of

all NAS design data from Electric Boat's design data base to Newport News';

(6) authorize $150.0 million to begin an effort at Newport News to design, develop, and build prototype versions of major submarine components that would result in a follow-on submarine design for serial production that represents a substantial improvement in affordability and capability over the current NAS design;

(7) direct the Advanced Research Projects Agency (ARPA) and the national laboratories to make new technologies available to both Electric Boat and Newport News that show potential for achieving a follow-on submarine design for serial production that represents a substantial improvement over the current NAS design; and

(8) include a provision (sec. 133) that would direct the Secretary of the navy to award, on a competitive basis, contracts for attack submarines built after the fiscal year 1998 submarine.

The Senate amendment reflected an alternate view on how to acquire nuclear attack submarines. It contained a provision (sec. 121) that would:

(1) authorize the SSN–23 at $1.5 billion, the budget request;

(2) limit the ability of the Secretary of the Navy to obligate or expend funds for SSN–23 until he restructures the NAS program to provide for:

(a) procurement of the lead NAS from Electric Boat in fiscal year 1998;

(b) procurement of the second NAS from Newport News Shipbuilding and Drydock (Newport News) in fiscal year 1999; and

(c) competitive procurement of any additional NAS vessels after the second. Potential competitors for these additional vessels would be contractors that have been awarded a contract by the Secretary of the Navy for construction of nuclear attack submarines during the past 10 years;

(3) place additional limits on the total amount of funds that may be expended for SSN–23 in fiscal years 1996, 1997, 1998, and 1999;

(4) direct the Secretary of the Navy to solicit competitive proposals and award the contract or contracts for NAS, after the second NAS, on the basis of price;

(5) direct the Secretary of the Navy to take no action that would impair the design, engineering, construction, and maintenance competencies of either Electric Boat or Newport News to construct the NAS;

(6) direct the Secretary of the Navy to report every six months to the Committee on Armed Services of the Senate and the Committee on National Security of the House the obligation and expenditure of funds for SSN–23 and the NAS;

(7) authorize $814.5 million in fiscal year 1996 for design and advance procurement of the lead and second NAS, of which $10.0 million would be available only for participation of Newport News in the NAS design, and $100.0 million would be available only for advance procurement and design of the second submarine under the NAS program;

(8) place limits on the expenditure of advance procurement funds in fiscal year 1996 for the lead NAS, unless funds are also obligated or expended for the second NAS;

(9) authorized $802.0 million in fiscal year 1997 for advance procurement of the lead and second NAS, of which $75.0 million would be available only for participation by Newport News in the design of the NAS, and $427.0 million would be available only for advance procurement and design of the second submarine under the NAS program; and

(10) authorized $455.4 million, the budget request, for research, development, test, and evaluation for the NAS program.

The conferees agree to adopt a new provision dealing with the design and procurement of future Navy attack submarines. This provision would:

(1) authorize the SSN–23 at $700.0 million;

(2) authorize $804.5 million in fiscal year 1996 for design and advance procurement of the fiscal year 1998 and fiscal year 1999 submarines (previously designated by the Navy as the NAS), of which;

(a) $704.5 million would be available only for long-lead and advance construction and procurement for the fiscal year 1998 submarine, which would be built by Electric Boat; and

(b) $100.0 million would be available only for long-lead and advance construction and procurement for the fiscal year 1999 submarine, which would be built by Newport News;

(3) authorize $10.0 million only for participation of Newport News in the design of the submarine previously designated by the Navy as the NAS;

(4) establish a special bipartisan congressional panel that would be briefed, at least annually, by the Secretary of the Navy on the status of the submarine modernization program and submarine-related research and development;

(5) direct the Secretary of Defense, not later than March 15, 1996, to accomplish the following:

(a) develop and submit a detailed plan for development of a program that will lead to production of more capable, less expensive submarines than the submarine previously designated as the NAS;

(b) ensure the plan includes a program for the design, development, and procurement of four nuclear attack submarines that would be procured during fiscal years 1998 through 2001 with each successive submarine being more capable and more affordable;

(c) structure the program so that:

(i) one of the four submarines would be constructed with funds appropriated for each fiscal year from fiscal year 1998 through fiscal year 2001;

(ii) to ensure flexibility for innovation, the fiscal year 1998 and the fiscal year 2000 submarines would be constructed by Electric Boat and the fiscal year 1999 and the fiscal year 2001 submarines would be constructed by Newport News;

(iii) the design previously designated as the NAS would be used as the base design by both contractors:

(iv) each contractor would be called on to propose improvements, including design improvements, for each successive submarine so that each of them would be more capable, more affordable, and their design would lead to a design for a future class of nuclear attack submarines that would possess the latest, best, and most affordable technology; and

(v) the fifth and subsequent nuclear attack submarines, proposed for construction after SSN–23, would be procured after a competition based on price;

(d) the Secretary of Defense's plan would also:

(i) set forth a program to accomplish the design, development, and construction of the four submarines that would take maximum advantage of a streamlined acquisition process;

(ii) culminate in selection of a design for a next submarine for serial production not earlier than fiscal year 2003 with procurement to occur after a competition based on price;

(iii) identify advanced technologies that are in various phases of research and development, as well as those that are commercially available off-the-shelf, that are candidates for incorporation into the plan to design, develop, and procure the submarines;

(iv) designate the fifth submarine procured after SSN–23 to be the lead ship in a next generation submarine class, unless the Secretary of the Navy, in consultation with the special congressional submarine review panel, determines that more submarines should be built before the design of a new class of submarines is fixed, in which case the fifth and each successive submarine would be procured after a competition based on price; and

(v) identify the impact of the submarine program on the remainder of the Navy's shipbuilding account;

(6) impose certain limits on the amounts that can be obligated and expended on the SSN–23 and the fiscal year 1998 and 1999 submarines until:

(a) the Secretary of the Navy has certified in writing to the Committee on Armed Services of the Senate and the Committee on National Security of the House that procurement of future nuclear attack submarines, except as stipulated elsewhere in this provision, would be accomplished through a competition based on price; and

(b) the Secretary of Defense, not later than March 15, 1996, has:

(i) submitted the submarine design and procurement plan that would be required by the provision;

(ii) directed the Under Secretary of Defense (Comptroller) to incorporate the costs of the submarine design and procurement plan into the future years defense program, even if the total cost of the plan's program exceeds the President's budget; and

(iii) directed that the Under Secretary of Defense for Acquisition and Technology conduct oversight of the development and improvement of the nuclear attack submarine program of the Navy and established reporting procedures to ensure that officials of the Department of the Navy, who exercise management oversight of the program, report to the Under Secretary of Defense for Acquisition and Technology with respect to that program;

(7) direct the Secretary of Defense to use streamlined acquisition policies to reduce the cost and increase the efficiency of the submarine program;

(8) direct the Secretary of Defense to submit to Congress an annual update of the submarine design and procurement plan with the submission of the President's budget, for each of fiscal years 1998 through 2002;

(9) direct that funds authorized for fiscal year 1996 by this provision may not be obligated or expended during fiscal year 1996 for the fiscal year 1998 submarine unless funds are also obligated and expended during fiscal year 1996 for the fiscal year 1999 submarine;

(10) authorize the Secretary of the Navy to enter into contracts with Electric Boat and Newport News, and suppliers of components during fiscal year 1996 for:

(a) the procurement of long-lead components for the fiscal year 1998 submarine and the fiscal year 1999 submarine; and

(b) advance construction of long-lead components and other components for such submarines;

(11) authorize that, of the amount provided in section 201(4) of this Act for ARPA, that $100.0 million would be available only for development and demonstration of advanced technologies for incorporation into the submarines constructed as part of the submarine design and procurement plan specified under this provision, to include electric drive, hydrodynamic quieting, ship control automation, solid-state power electronics, wake reduction technologies, superconductor technologies, torpedo defense technologies, advanced control concepts, fuel cell technologies, and propulsors;

(12) direct that the Director of ARPA shall implement a rapid prototype acquisition strategy for both land-based and at-sea subsystem and system demonstrations of advanced technologies in concert with Electric Boat and Newport News: and

(13) define potential competitors, for the purposes of this provision, as those that have been awarded a contract by the Secretary of the Navy for construction of nuclear attack submarines during the past 10 years.

Research for advanced submarine technology (sec. 132)

The conferees agree to adopt a new provision that would direct that, of the amount appropriated for fiscal year 1996 for the national defense sealift fund, $50.0 million would be available only for the Director of the Advance Research Projects Agency for advanced submarine technology activities.

Cost limitation for Seawolf submarine program (sec. 133)

The Senate amendment would authorize the third *Seawolf* class submarine SSN–23. Consistent with this authorization, the Senate amendment included a provision (sec. 125) that would establish a combined cost cap on all three *Seawolf* submarines (SSN–21, SSN–22 and SSN–23). This cost cap would be in addition to a cost cap that Congress imposed on the first two *Seawolf* class submarines, SSN–21 and SSN–22, in fiscal year 1995.

The House bill included a provision (sec. 132) that would repeal the cost cap on SSN–21 and SSN–22.

The conferees agree to adopt a new provision that would:

(1) establish a combined cost cap on the three *Seawolf* submarines (SSN–21, SSN–22, and SSN–23); and

(2) repeal the combined cost cap on SSN–21 and SSN–22 that was imposed by the National Defense Authorization Act for Fiscal Year 1995.

Repeal of prohibition on backfit of Trident submarines (sec. 134)

The House bill contained a provision (sec. 131) that would repeal the provision of law that prohibits the backfit of Trident II (D–5) missiles into Trident I (C–4) missile-carrying submarines.

The Senate amendment contained an identical provision (sec. 122).

The conference agreement contains this provision.

The conferees endorse an all D–5 fleet of Trident submarines. But the conferees also believe that it is premature to rule out the option of retaining all 18 Trident submarines. Although the Nuclear Posture Review recommended a force of 14 Trident submarines equipped with the D–5 missile, circumstances may require the United States to retain a higher number of such submarines or, alternatively, reduce to a lower level.

Given this uncertainty, the conferees direct the Secretary of the Navy to take several actions: (1) fully fund all activities necessary for the backfitting of Trident II missiles into at least four west coast Trident submarines on the schedule recommended in the Nuclear Posture Review; and (2) continue to fund, in the fiscal year 1997 budget and in the Future Years Defense Program, adequate operational support for Trident I missiles to ensure the option of retaining all 18 Trident submarines on full operational status, assuming backfits of the final four submarines with D–5 missiles following the completion of the first four conversions.

Arleigh Burke class destroyer program (sec. 135)

The Senate amendment contained a provision (sec. 123) that would:

(1) authorize $650.0 million as the first increment of split funding for two *Arleigh Burke* class destroyers in accordance with a split funding provision (sec. 124) that was included elsewhere in the Senate amendment; and

(2) express the sense of Congress that the Secretary of the Navy should plan for and request the final increment of funding for the two *Arleigh Burke* class destroyers in fiscal year 1997, also in accordance with the split funding provision (sec. 124) of the Senate amendment.

The House bill contained no similar provision.

The conferees adopt a new provision that would:

(1) authorize six *Arleigh Burke* class destroyers;

(2) authorize $2.17 billion, the budget request, for the construction, including advance procurement, for *Arleigh Burke* class destroyers;

(3) authorize the Secretary of the Navy to enter into contracts in fiscal year 1996 for the construction of three *Arleigh Burke* class destroyers;

(4) authorize the Secretary of the Navy to enter into contracts in fiscal year 1997 for the construction of three *Arleigh Burke* class destroyers, subject to the availability of appropriations for such destroyers;

(5) continue the contract award pattern and sequence used by the Navy for the procurement of *Arleigh Burke* class destroyers in fiscal years 1994 and 1995;

(6) limit the liability of the government for these vessels to the amounts appropriated for them; and

(7) encourage, subject to a prior notification to the congressional defense committees, the Secretary of the Navy to use shipbuilding and conversion savings, that become excess to the needs of the Navy from other programs, to fully fund *Arleigh Burke* class destroyer contracts entered into under the terms of the provision.

Acquisition program for crash attenuating seats (sec. 136)

The Senate amendment contained a provision (sec. 126) that would allow the Secretary of the Navy to establish a program to procure and install commercially developed, energy absorbing, crash attenuating seats in H-53E helicopters. The Senate provision would allow the Secretary to use up to $10.0 million for the program out of unobligated balances in the Legacy Resource Management Program.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary to establish such a program.

The conferees acknowledge the potential value of crash attenuating seats for passengers in military helicopters, and expect the Department to proceed quickly to define the technical specification and qualification for non-developmental seats. The conferees further expect the Department to ensure the acquisition program incorporates full and open competition.

T–39N trainer aircraft (sec. 137)

The budget request did not include funds to purchase the T–39N aircraft the Department of the Navy now uses to train naval flight officers. The government leases these aircraft as part of a service contract. The lessor has offered to sell these aircraft to the government, rather than continue the current leasing arrangement.

The House bill and the Senate amendment would support the budget request.

The Senate report (S. Rept 104–112) would direct the Secretary of the Navy to provide an analysis of the contractor's proposal to the Armed Services Committee of the Senate, so the proposal and the analysis could be reviewed for possible further action.

The conferees recommend $45.0 million for purchasing T–39N aircraft, subject to certain conditions. The conferees believe that the proposal deserves further review before purchasing these aircraft. The conferees expect the Department's analysis to answer, at a minimum, the following questions:

(1) What would be the status of the training program for which T–39Ns are currently leased?

(2) For what purpose would the Navy spend procurement funds in fiscal year 1996?

(3) Is funding for this project contained anywhere in the future years defense program (FYDP)? If there is funding, how much?

(4) Is there an approved requirement in the Navy for acquiring this capability? Does this requirement supplant or supplement the current mission that is being filled by the T–39N leasing program?

(5) How much funding beyond $45.0 million would be required to enable the T–39N system to meet future training requirements? If additional funds are required, how much of the additional cost is budgeted in the FYDP?

(6) What savings, in terms of both current and constant dollars, would accrue to the Navy by purchasing aircraft for this requirement on a non-competitive basis in fiscal year 1996, rather than selecting an aircraft under competitive procedures when the current lease program expires in fiscal year 1998? If savings will accrue, are they attributable to factors other than inflation? Are there savings in life cycle support costs beyond the initial acquisition costs?

(7) Would additional funding for the project now interfere with the Navy's opportunity to conduct a competitive procurement or better define the program's requirements?

(8) Are there other reasons that would prevent executing the program in fiscal year 1996?

(9) The conferees understand that the T–39N leasing contract provided for amortizing the full purchase price of the aircraft over the first five years of the lease. Since the contractor has already been reimbursed in full for purchase price, why would it be in the government's interests to pay more than a nominal amount for aircraft?

The conferees believe that the proposal to buy the aircraft could have merit; however, the conferees recommend a provision that would prohibit obligation of these acquisition funds until 60 days after the Under Secretary of Defense for Acquisition and Technology has submitted the analysis described above and has certified to the Armed Services Committee of the Senate and the National Security Committee of the House of Representatives that acquisition of the T–39N aircraft is in the best interest of the government and is the most cost effective alternative in meeting the requirements for training naval flight officers.

Pioneer unmanned aerial vehicle program (sec. 138)

The Senate amendment contained a provision (sec. 132) that would prohibit the Secretary of the Navy from spending more than one-sixth of the funds appropriated for fiscal year 1996, or any unobligated balances available from previous years, until the Secretary certifies that funds have been obligated to equip nine Pioneer Unmanned Aerial Vehicle systems with the Common Automatic Landing and Recovery System (CARLS).

The House bill contained no similar provision.

The House recedes.

Subtitle D—Air Force Programs

Repeal of limitations (secs. 141 and 142)

The budget request included $279.9 million for B–2 procurement and $623.6 million for B–

2 research and development for a B–2 program consisting of twenty aircraft. The House bill contained a provision (sec. 141) that would repeal limitations on the B–2 program, and provide an increase of $553 million for B–2 procurement. The House bill would repeal:

Section 112 of the National Defense Act for Fiscal Years 1990 and 1991, which requires certification from the Secretary of Defense that the B–2 is meeting certain performance criteria.

Section 151(c) of the National Defense Authorization Act for Fiscal Year 1993, which limits B–2 procurement to 20 bombers and one test aircraft.

Section 131(c) of the National Defense Authorization Act for Fiscal Year 1994, which reaffirms the twenty one aircraft limitation.

Section 131(d) of the National Defense Authorization Act for Fiscal Year 1994, which limits the total program costs to $28,968,000,000 in Fiscal Year 1981 constant dollars.

Section 133(e) of the National Defense Authorization Act for Fiscal Year 1995, which provides that none of the $125.0 million authorized and appropriated for the Enhanced Bomber Capability Fund may be obligated for advance procurement of new B–2 aircraft (including long lead items).

The Senate amendment contained no additional funds, nor did it contain any repeal of the limitations provision.

The conferees agree to an amendment that would repeal the limitations imposed on the scope of the B–2 program, while retaining requirements for B–2 performance compliance in both the present authorization and any possible future acquisition of the aircraft.

The conferees agree to authorize the budget request for research and development and to increase the authorization for procurement by $493.0 million. The conferees further agree that the $493.0 million may not be spent until March 31, 1996.

The conferees believe that the B–2 bomber represents a major technological advance in strategic bomber capabilities. However, if a decision were made to acquire additional B–2 bombers, their high cost would result in funding reductions in the Administration's five year defense program. Therefore, the Senate conferees believe that the increased authorization of $493.0 million provided for the B–2 bomber program may be expended only for procurement of B–2 components, upgrades, and modifications that would be of value for the existing fleet of B–2 bombers.

The conferees are concerned over the cost of producing modern, highly capable, long range bombers, and therefore strongly urge the Secretary of Defense to: (1) complete the study called for in section 133(d)(3) of the National Defense Act of 1995 (Public Law 103–337) for requirements formulation and conceptual studies for a conventional-conflict-oriented, lower-cost, next generation bomber; and (2) explore options, including adoption of streamlined acquisition policies and procedures, for reducing the costs of producing long-range bombers. Accordingly, the conferees agree to repeal the requirements contained in section 133(d)(3), which states that such a study may be carried out only if the previously-produced bomber force study found bomber capabilities to be inadequate.

The conferees note that section 133(d) permitted the Secretary to obligate up to $25.0 million of the $125.0 million authorized and appropriated in fiscal year 1995 for the Enhanced Bomber Capability Fund for such a study. The conferees direct that any remaining unobligated fiscal year 1995 funds from the $125.0 million made available for B–2 bomber industrial base preservation and next-generation bomber study shall promptly be merged with the $493.0 million in additional B–2 funds authorized in this Act.

In order to compare force capabilities with relative costs, the conferees urge the Secretary of Defense to provide a summary and detailed listing of program reductions and adjustments to the fiscal year 1997 budget request and the future years' defense program (FYDP) required by the possible acquisition of additional B–2 bombers. The Secretary should use the standard cost analysis approach used in the March 1995 Air Force cost estimate for further B–2 acquisition of one and one-half and three aircraft per year.

MC–130H Aircraft Program (sec. 143)

The conference agreement includes a new provision that would amend section 161 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (P.L. 101–189) to enable obligation of funds for award fee and procurement of contractor furnished equipment.

The conferees understand that the Air Force desires to grant an award fee to the MC–130H Combat Talon II development contractor, but is prohibited from doing so by a provision of Public Law 101–189. The conferees note that the prohibitive legislative provision requires the Director of Operational Test and Evaluation (DOT&E) to certify that the MC–130H Combat Talon II terrain avoidance radar performs in accordance with requirements outlined in the test and Evaluation Master Plan (TEMP) approved by the DOT&E in September 1988. The conferees have been informed that the aircraft cannot be certified as having met TEMP criteria because a specific test criterion referred to in the TEMP has been determined to be unmeasurable.

The conferees agree to include a provision that would allow the DOT&E to certify to the congressional defense committees that the MC–130H terrain avoidance radar is operationally effective in order to release the award fee for the MC–130H. The conferees direct the DOT&E to include in his report a statement that all unmeasurable test criteria included in the September 1988 TEMP have been appropriately corrected.

Subtitle E—Chemical Demilitarization Program

Chemical agents and munitions destruction program (secs. 107, 151–153)

The budget request contained $746.7 million for operation and maintenance, research and development and procurement, for the defense chemical agents and munitions destruction program.

The House bill contained a series of provisions (secs. 106, 151–153, and 2407) that would: authorize the budget request; repeal a legislative requirement to develop a chemical demilitarization cryofracture facility; express congressional concern about the cost growth of destroying the unitary chemical stockpile and express a view that the Secretary of Defense should consider measures to reduce the overall cost; direct the Secretary of Defense to conduct a review and evaluation of issues associated with closure and reuse of the Department of Defense facilities that are co-located with the unitary chemical stockpile and demilitarization operations; and prohibit the obligation or expenditure of fiscal year 1996 funds, prior to March 1, 1996, for the construction of a chemical munitions incinerator facility at Umatilla Army Depot, Oregon.

The Senate amendment contained provisions (sec. 107 and 1099C) that would authorize $671.7 million for the chemical agents and munitions destruction program, and direct the Department of Defense to review and assess the risk associated with the transportation of any portion of the unitary chemical stockpile, such as drained chemical agents or munitions from one location to another within the continental United States, and review and evaluate issues associated with closure and reuse of the Department of Defense facilities that are co-located with the unitary chemical stockpile and demilitarization operations. The Senate report (S. Rept. 104–112) would recommend the use of unobligated fiscal years 1994 and 1995 procurement funds for procurement of equipment at Pine Bluff, Arkansas and Umatilla, Oregon.

The conferees agree to provisions that would authorize $672.3 million for the defense chemical agents and munitions program, to include: $265.0 million for procurement; $353.8 million for operations and maintenance; and $53.4 million for research and development. The provision would repeal the legislative requirement to develop a chemical demilitarization cryofracture facility.

Further, the conferees agree to provisions that would direct the Secretary of Defense to proceed with the destruction of the U.S. chemical stockpile using the current baseline technology. The conferees would also require the Secretary to ensure that support measures have been provided at each installation where a chemical agent and munitions demilitarization facility would be constructed, as required by the Department of Defense and the Department of Army regulations, the chemical demilitarization plans, and the Solid Waste Disposal Act permit. The conferees direct the Secretary to conduct an assessment of the current chemical demilitarization program and recommend measures that could reduce the total cost of the program. The provision would also direct the Secretary to review and evaluate issues associated with the closure and reutilization of Department of Defense facilities co-located with continuing chemical stockpile and chemical demilitarization operations. The conferees agree to authorize the use of funds appropriated for the defense chemical agents and munitions destruction program to support travel and associated travel costs of Commissioners of the Citizens' Advisory Commissions, when such travel is conducted at the invitation of the Assistant Secretary of the Army for Research, Development and Acquisition. The provision would modify existing law to permit the appointment of a civilian as project manager for the chemical agent and munitions destruction program. The Department would also be required to provide a quarterly report to Congress on the use of such funds to pay for the travel and associated travel costs.

COST OF THE CHEMICAL AGENTS AND MUNITIONS DESTRUCTION PROGRAM

The conferees remain concerned about the escalating costs associated with the chemical agents and munitions destruction program. The program has grown from its original estimate of $1.7 billion in 1986 to the current estimated cost of $11.9 billion, with expectations that costs will further increase. Continued delays in proceeding with the demilitarization and destruction of the chemical stockpile have added to the overall increases in the program. The conferees believe that the program should proceed expeditiously and utilize technology that minimizes risks to the public and the environment.

The conferees are concerned that continued delays, related to site operation systemization, environmental permits, and construction of the demilitarization and destruction facilities, would increase the overall program costs and risks to the public and the environment.

Finally, as the Department reviews measures that could be implemented to reduce the growth of the program costs, the conferees expect the Secretary to consider the potential for reconfiguration of the stockpile, as described in the October 19, 1995 letter from the Assistant Secretary of the

Army for Research, Development and Acquisition, and to ensure protection of the public and environment.

ALTERNATIVE TECHNOLOGIES

The Department of the Army is currently conducting research and development of chemical neutralization and biodegradation, in conjunction with neutralization, for use at the bulk-only storage sites. The conferees believe there is potential for the implementation of these processes at future demilitarization and destruction sites, which could reduce the requirement for a liquid incinerator. The conferees support the National Research Council's (NRC's) recommendation that the Army continues its current baseline incineration program until such time as the evaluation of these alternative technologies is concluded.

If the evaluation of the alternative technologies research and development program proves successful, the conferees would support inclusion of this process into the baseline process. In conducting the chemical demilitarization and destruction program and assessing measures to significantly reduce program costs, the conferees expect the Department to consider a wide range of alternatives to the current baseline incineration program, to include the use of alternative technologies.

Additionally, the conferees expect the Secretary's assessment of the current chemical demilitarization program and measures to reduce the overall cost of the program, to include a risk analysis specific to each chemical stockpile storage and demilitarization site, the results of the stockpile surveillance and stability analysis related to the physical and chemical integrity of the stockpile, and the potential reconfiguration of the chemical stockpile. In making such an assessment, the Secretary shall ensure the maximum protection of the environment, the general public, and the personnel involved in the destruction of the chemical stockpile, while minimizing total program costs. The conferees expect the assessment to yield potential revisions to the chemical agents and munitions destruction program that could reduce program costs and increase public safety.

LEGISLATIVE PROVISIONS NOT ADOPTED

Repeal of limitation on total cost for SSN–21 and SSN–22 Seawolf submarines

The budget request included $1.5 billion for construction of the third *Seawolf* class submarine, SSN–23.

The House bill would not authorize SSN–23. However, consistent with other actions taken by the House on SSN–22, the House bill contained a provision (sec. 132) that would eliminate the existing cost cap on the first two *Seawolf* class submarines.

The Senate amendment would authorize SSN–23. It did not contain a provision that would repeal the cost cap on SSN–21 and SSN–22.

The House recedes.

Competition required for selection of shipyards for construction of vessels for next generation attack submarine program

The House bill contained a provision (sec. 133) that would:

(1) require the Secretary of the Navy to select on a competitive basis the shipyard for construction of each vessel of the next generation attack submarine program; and

(2) stipulate that the next generation attack submarine program shall begin with the first submarine that is programmed to be constructed after the submarine that is programmed to be constructed in fiscal year 1998.

The Senate amendment contained a provision (sec. 121) that would address competition as an integral part of the broader issue of current and future nuclear submarine construction programs.

The House recedes.

The conferees agree to incorporate the issue of competition for future submarines into a new, more comprehensive provision dealing with future submarine development and procurement.

Sonobuoy programs

The budget request included $8.9 million for the procurement of AN/SSQ–53 sonobuoys and no funding for the procurement of AN/SSQ–110 sonobuoys.

The House bill contained a provision (sec. 134) that would:

(1) stipulate that no fiscal year 1996 funds could be used for procurement of AN/SSQ–53 sonobuoys; and

(2) authorize $8.9 million for AN/SSQ–110 sonobuoys.

While the Senate amendment contained no similar provision, it did recommend funding adjustments to these two sonobuoy programs that would accomplish the intent underlying the House provision.

The conferees agree that the funding adjustment included in the House provision should be adopted, but do not believe that a legislative provision to that effect is necessary.

The House recedes.

Split funding for construction of naval vessels and incremental funding of procurement items

The Senate amendment contained a provision (sec. 124) that would authorize the Secretary of Defense to employ split funding for construction of certain naval vessels when developing the future years defense program. The provision would permit the Secretary to provide funding for these vessels over two years, but enter into a contract based on the first increment of funding. The intent of the provision would be to provide the Secretary with more flexibility to develop a uniform and cost effective shipbuilding program.

The House bill contained a provision (sec. 1007) that would prohibit the use of incremental funding, including split funding, for:

(1) the procurement of aircraft, missiles, or naval vessels;

(2) the procurement of tracked combat vehicles;

(3) the procurement of other weapons; and

(4) the procurement of naval torpedoes and related support equipment.

The House provision would not apply to funding classified as advance procurement funding.

These provisions were not included in the conference agreement.

Tier II predator unmanned aerial vehicle program

The Senate amendment contained a provision (sec. 131) that would prohibit the obligation of funds appropriated or otherwise made available for the Department of Defense in fiscal year 1996 for the Tier II Predator Unmanned Aerial Vehicle.

The House bill contained no similar provision.

The Senate recedes.

Joint primary aircraft training system program

The budget request included $55.0 million for three joint primary aircraft training system (JPATS) aircraft. At the time of the budget submission, the Department of Defense (DOD) had not completed the JPATS competition. This amount was derived from an estimate of funding required to procure three aircraft from any of the potential competitors. After source selection, the Department determined that it could procure eight JPATS aircraft with the requested funds.

The Senate amendment contained a provision (sec. 133) that would increase the number of aircraft that the Department could procure, from three to eight, without changing the amount of the authorization.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree that the Air Force should buy up to eight aircraft with authorized funds.

Weapons industrial facilities

The budget request included $13.1 million for naval weapons industrial facilities.

The Senate amendment included a provision (sec. 391) that would authorize an increase of $2.0 million in operations and maintenance accounts for essential safety functions for the Allegany Ballistics Laboratory.

The House bill contained no similar provision.

The Senate recedes. The conferees agree to provide an increase of $30.0 million for naval weapons industrial facilities for continuation of the facility restoration program at Allegany Ballistics Laboratory.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Overview

The budget request for fiscal year 1996 contained an authorization of $34,331.9 million for Research and Development in the Department of Defense. The House bill would authorize $35,934.5 million. The Senate amendment would authorize $35,959.9 million. The conferees recommended an authorization of $35,730.4 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1996

(Dollars in Millions)

Account Title	Authorization Request 1996	House Authorized	Senate Authorized	Conference Change	Conference Authorization
TITLE II					
Research, Development, Test, and Evaluation, Army	4,444.175	4,774.947	4,845.097	293.406	4,737.581
Research, Development, Test, and Evaluation, Navy	8,204.530	8,516.509	8,624.230	270.253	8,474.783
Research, Development, Test, and Evaluation, Air Force	12,598.439	13,184.102	13,087.389	316.429	12,914.868
Research, Development, Test, and Evaluation, Defense-w	8,802.881	9,287.058	9,271.220	616.630	9,419.511
Operational Test and Evaluation, Defense	22.587	22.587	22.587	-	22.587
Developmental Test and Evaluation, Defense	259.341	239.341	239.341	(8.259)	251.082
Undistributed Reduction			(40.000)	-	-
FFRDC Reduction	-	(90.000)	(90.000)	(90.000)	(90.000)
Total Research & Development	34,331.953	35,934.544	35,959.864	1,398.459	35,730.412

Overview

The budget request for fiscal year 1996 contained an authorization of $4,444.2 million for Army, Research and Development in the Department of Defense. The House bill would authorize $4,774.9 million. The Senate amendment would authorize $4,845.1 million. The conferees recommended an authorization of $4,737.6 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

PE	No	Title	FY 1996 Request	House Authorized	Senate Authorized	Change to Request	Conference Agreement
ACCOUNT		RESEARCH DEVELOPMENT TEST & EVAL ARMY					
0601101A	1	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	14,340	14,340	14,340		14,340
0601102A	2	DEFENSE RESEARCH SCIENCES	127,565	127,565	127,565		127,565
0601104A	3	UNIVERSITY AND INDUSTRY RESEARCH CENTERS	62,715	62,715	62,715	(14,936)	47,779
0602104A	4	TRACTOR ROSE	2,618	2,618	2,618		2,618
0602105A	5	MATERIALS TECHNOLOGY	10,176	14,176	14,176		10,176
0602120A	6	SENSORS AND ELECTRONIC SURVIVABILITY	21,918	27,918	21,918	6,000	27,918
0602122A	7	TRACTOR HIP	5,885	5,885	5,885		5,885
0602211A	8	AVIATION TECHNOLOGY	20,381	20,381	23,381	(1,911)	18,470
0602270A	9	EW TECHNOLOGY	15,311	15,311	15,311		15,311
0602303A	10	MISSILE TECHNOLOGY	17,985	17,985	22,985		17,985
0602307A	11	LASER WEAPONS TECHNOLOGY	-	4,000	-		-
0602308A	12	MODELING AND SIMULATION	23,770	23,770	23,770	(3,244)	20,526
0602601A	13	COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	39,207	39,207	39,207		39,207
0602618A	14	BALLISTICS TECHNOLOGY	28,126	35,126	28,126	8,000	36,126
0602622A	15	CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECHNOLOGY	1,891	1,891	1,891		1,891
0602623A	16	JOINT SERVICE SMALL ARMS PROGRAM	5,114	5,114	5,114		5,114
0602624A	17	WEAPONS AND MUNITIONS TECHNOLOGY	23,968	25,968	26,968		23,968
0602705A	18	ELECTRONICS AND ELECTRONIC DEVICES	17,525	20,525	17,525	2,000	19,525
0602708A	19	NIGHT VISION TECHNOLOGY	17,086	17,086	19,086		17,086
0602716A	20	HUMAN FACTORS ENGINEERING TECHNOLOGY	12,534	12,534	12,534		12,534
0602720A	21	ENVIRONMENTAL QUALITY TECHNOLOGY	21,304	21,304	24,304		21,304
0602727A	22	NON-SYSTEM TRAINING DEVICE TECHNOLOGY	-	-	-		-
0602782A	23	COMMAND, CONTROL, COMMUNICATIONS TECHNOLOGY	15,726	15,726	17,726	(2,148)	13,578
0602783A	24	COMPUTER AND SOFTWARE TECHNOLOGY	3,992	3,992	3,992		3,992
0602784A	25	MILITARY ENGINEERING TECHNOLOGY	35,220	35,220	35,220		35,220
0602785A	26	MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	7,500	7,500	7,500		7,500
0602786A	27	LOGISTICS TECHNOLOGY	28,036	28,036	28,036		28,036
0602787A	28	MEDICAL TECHNOLOGY	56,658	61,658	56,658		56,658
0602788A	29	TRACTOR FLOP	-	-	-		-
0602789A	30	ARMY ARTIFICIAL INTELLIGENCE TECHNOLOGY	2,166	2,166	2,166		2,166
0603001A	31	LOGISTICS ADVANCED TECHNOLOGY	10,569	13,669	10,569	(1,862)	8,707
0603002A	32	MEDICAL ADVANCED TECHNOLOGY	11,760	11,760	14,760	9,000	20,760
0603003A	33	AVIATION ADVANCED TECHNOLOGY	48,593	65,093	48,593	8,000	56,593
0603004A	34	WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY	18,518	20,518	18,518	9,000	27,518
0603005A	35	COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY	30,616	30,616	30,616	(2,445)	28,171
0603006A	36	COMMAND, CONTROL, COMMUNICATIONS ADVANCED TECHNOLOGY	16,922	16,922	23,922	9,000	25,922
0603007A	37	MANPOWER, PERSONNEL AND TRAINING ADVANCED TECHNOLOGY	4,826	4,826	4,826		4,826
0603009A	38	TRACTOR HIKE	14,588	31,588	24,588	10,000	24,588

PE	No	Title	FY 1996 Request	House Authorized	Senate Authorized	Change to Request	Conference Agreement
0603012A	39	TRACTOR HOLE	-	-	-		-
0603013A	40	TRACTOR DIRT	1,805	1,805	1,805		1,805
0603017A	41	TRACTOR RED	5,663	5,663	5,663		5,663
0603020A	42	TRACTOR ROSE	4,513	4,513	18,013		4,513
0603106A	43	ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) RESEARCH	2,946	2,946	2,946		2,946
0603122A	44	TRACTOR HIP	-	-	-		-
0603238A	45	GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISION STRIKE TECHNOLOGY DEMONSTRATION	39,824	43,824	39,824	(1,500)	38,324
0603270A	46	EW TECHNOLOGY	4,022	4,022	4,022		4,022
0603313A	47	MISSILE AND ROCKET ADVANCED TECHNOLOGY	123,913	111,813	135,913	(5,000)	118,913
0603322A	48	TRACTOR CAGE	8,530	8,530	8,530		8,530
0603606A	49	LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOGY	18,820	28,820	18,820	6,000	24,820
0603607A	50	JOINT SERVICE SMALL ARMS PROGRAM	4,487	6,487	7,487		4,487
0603654A	51	LINE-OF-SIGHT, ANTITANK (LOSAT)	14,727	14,727	14,727		14,727
0603710A	52	NIGHT VISION ADVANCED TECHNOLOGY	37,969	42,969	37,969	(4,166)	33,803
0603734A	53	MILITARY ENGINEERING ADVANCED TECHNOLOGY	12,380	12,380	18,380		12,380
0603769A	54	CHEMICAL BIOLOGICAL DEFENSE AND SMOKE ADVANCED TECHNOLOGY	-	-	-		-
0603771A	55	INDUSTRIAL PREPAREDNESS MANUFACTURING TECHNOLOGY	17,776	-	17,776	(17,776)	-
0603772A	56	ADVANCED TACTICAL COMPUTER SCIENCE AND TECHNOLOGY	33,989	33,989	33,989	(5,037)	28,952
0603018A	57	TRACTOR TREAD	14,930	14,930	14,930		14,930
0603019A	58	TRACTOR DUMP	15,025	15,025	15,025	(15,025)	-
0603308A	59	ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (DEM/VAL)	2,985	2,985	2,985	21,000	23,985
0603604A	60	NUCLEAR MUNITIONS - ADV DEV	-	-	-		-
0603617A	61	NON-LINE OF SIGHT (N-LOS)	-	-	-		-
0603619A	62	LANDMINE WARFARE AND BARRIER - ADV DEV	32,839	32,839	32,839		32,839
0603627A	63	SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ADV DEV	3,248	3,248	3,248		3,248
0603639A	64	ARMAMENT ENHANCEMENT INITIATIVE	61,491	61,491	61,491		61,491
0603640A	65	ARTILLERY PROPELLANT DEVELOPMENT	10,946	30,546	21,646	11,000	21,946
0603645A	66	ARMORED SYSTEM MODERNIZATION - ADV DEV	201,513	201,513	201,513	(10,000)	191,513
0603647A	67	TRACTOR DIRT	-	-	-		-
0603649A	68	ENGINEER MOBILITY EQUIPMENT ADVANCED DEVELOPMENT	5,615	10,115	10,115	4,500	10,115
0603653A	69	ADVANCED TANK ARMAMENT SYSTEM (ATAS)	9,955	9,955	9,955		9,955
0603713A	70	ARMY DATA DISTRIBUTION SYSTEM	6,694	6,694	6,694		6,694
0603730A	71	TACTICAL SURVEILLANCE SYSTEM - ADV DEV	-	-	-		-
0603745A	72	TACTICAL ELECTRONIC SUPPORT SYSTEMS - ADV DEV	2,937	5,937	2,937	3,000	5,937
0603746A	73	SINGLE CHANNEL GROUND AND AIRBORNE RADIO SYSTEM (SINCGARS)	-	3,000	-		-
0603747A	74	SOLDIER SUPPORT AND SURVIVABILITY	33,848	33,848	33,848	(25,935)	7,913
0603760A	75	DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS) - ADVANCED DEVELOPMENT	-	-	-		-
0603766A	76	TACTICAL ELECTRONIC SURVEILLANCE SYSTEM - ADV DEV	28,369	28,369	28,369		28,369
0603774A	77	NIGHT VISION SYSTEMS ADVANCED DEVELOPMENT	2,960	2,960	2,960		2,960

PE	No	Title	FY 1996 Request	House Authorized	Senate Authorized	Change to Request	Conference Agreement
0603801A	78	AVIATION - ADV DEV	8,430	14,430	8,430	6,000	14,430
0603802A	79	WEAPONS AND MUNITIONS - ADV DEV	-	-	5,000	1,000	1,000
0603804A	80	LOGISTICS AND ENGINEER EQUIPMENT - ADV DEV	7,427	7,427	7,427		7,427
0603805A	81	COMBAT SERVICE SUPPORT COMPUTER SYSTEM EVALUATION AND ANALYSIS	13,969	13,969	13,969		13,969
0603806A	82	NBC DEFENSE SYSTEM-ADV DEV	-	-	-		-
0603807A	83	MEDICAL SYSTEMS - ADV DEV	10,576	10,576	10,576		10,576
0603851A	84	TRACTOR CAGE (DEM/VAL)	3,411	3,411	3,411		3,411
0603889A	85	COUNTERDRUG RDT&E PROJECTS	-	-	-		-
0604018A	87	TRACTOR TREAD	-	-	-		-
0604201A	88	AIRCRAFT AVIONICS	22,044	33,044	33,044		22,044
0604220A	89	ARMED, DEPLOYABLE OH-58D	726	726	726		726
0604223A	90	COMANCHE	199,103	299,103	373,103	100,000	299,103
0604270A	91	EW DEVELOPMENT	65,222	65,222	65,222		65,222
0604315A	92	TRI-SERVICE STANDOFF ATTACK MISSILE	-	-	-		-
0604321A	93	ALL SOURCE ANALYSIS SYSTEM	52,698	52,698	52,698		52,698
0604325A	94	ADVANCED MISSILE SYSTEM-HEAVY	995	-	995	*	995
0604328A	95	TRACTOR CAGE	-	-	-		-
0604604A	96	MEDIUM TACTICAL VEHICLES	-	-	10,000	1,500	1,500
0604608A	97	SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ENG DEV	2,000	2,000	2,000		2,000
0604611A	98	JAVELIN	-	2,000	-	1,000	1,000
0604619A	99	LANDMINE WARFARE	31,028	31,028	31,028		31,028
0604622A	100	HEAVY TACTICAL VEHICLES	-	2,745	1,900	2,745	2,745
0604633A	101	AIR TRAFFIC CONTROL	1,813	1,813	1,813		1,813
0604640A	102	ADVANCED COMMAND AND CONTROL VEHICLE (AC2V)	18,238	18,238	18,238		18,238
0604641A	103	TACTICAL UNMANNED GROUND VEHICLE (TUGV)	-	-	-		-
0604642A	104	LIGHT TACTICAL WHEELED VEHICLES	2,187	2,187	7,187	2,000	4,187
0604645A	105	ARMORED SYSTEMS MODERNIZATION (ASM)-ENG. DEV.	38,465	43,825	43,825	1,600	40,065
0604649A	106	ENGINEER MOBILITY EQUIPMENT DEVELOPMENT	21,831	35,984	35,984	2,600	24,431
0604710A	107	NIGHT VISION SYSTEMS - ENG DEV	39,697	39,697	39,697		39,697
0604713A	108	COMBAT FEEDING, CLOTHING, AND EQUIPMENT	17,959	17,959	17,959		17,959
0604715A	109	NON-SYSTEM TRAINING DEVICES - ENG DEV	55,303	55,303	55,303	(3,000)	52,303
0604716A	110	TERRAIN INFORMATION - ENG DEV	9,011	9,011	9,011		9,011
0604726A	111	INTEGRATED METEOROLOGICAL SUPPORT SYSTEM	-	-	-		-
0604740A	112	TACTICAL SURVEILLANCE SYSTEM - ENG DEV	-	3,100	3,000	3,000	3,000
0604741A	113	AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE - ENG DEV	22,030	32,030	32,030	(1,200)	20,830
0604746A	114	AUTOMATIC TEST EQUIPMENT DEVELOPMENT	5,437	15,437	5,437	10,000	15,437
0604760A	115	DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS) - ENGINEERING DEVELOPMENT	-	-	-		-
0604766A	116	TACTICAL ELECTRONIC SURVEILLANCE SYSTEM - ENG DEV	24,699	24,699	24,699		24,699
0604768A	117	TRACTOR BAT	193,303	200,303	200,303	7,000	200,303

PE	No	Title	FY 1996 Request	House Authorized	Senate Authorized	Change to Request	Conference Agreement
0604770A	118	JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM	18,771	18,771	18,771	9,500	28,271
0604778A	119	POSITIONING SYSTEMS DEVELOPMENT	460	460	460		460
0604780A	120	COMBINED ARMS TACTICAL TRAINER (CATT)	59,475	59,475	59,475		59,475
0604801A	121	AVIATION - ENG DEV	5,142	5,142	5,142		5,142
0604802A	122	WEAPONS AND MUNITIONS - ENG DEV	15,928	20,228	16,428	2,100	18,028
0604804A	123	LOGISTICS AND ENGINEER EQUIPMENT - ENG DEV	20,756	22,756	20,756		20,756
0604805A	124	COMMAND, CONTROL, COMMUNICATIONS SYSTEMS - ENG DEV	13,432	13,432	13,432		13,432
0604806A	125	NBC DEFENSE SYSTEM-ENG DEV	-	-	-		-
0604807A	126	MEDICAL MATERIEL/MEDICAL BIOLOGICAL DEFENSE EQUIPMENT - ENG DEV	4,738	4,738	4,738		4,738
0604808A	127	LANDMINE WARFARE/BARRIER - ENG DEV	7,382	7,382	7,382		7,382
0604814A	128	SENSE AND DESTROY ARMAMENT MISSILE - ENG DEV	16,617	16,617	16,617		16,617
0604816A	129	LONGBOW - ENG DEV	23,590	23,590	23,590		23,590
0604817A	130	NON-COOPERATIVE TARGET RECOGNITION - ENG DEV	30,466	30,466	30,466	(8,000)	22,466
0604818A	131	ARMY TACTICAL COMMAND & CONTROL SYSTEMS (ATCCS) ENG DEV	18,769	18,769	18,769		18,769
0604820A	132	RADAR DEVELOPMENT	-	-	-		-
0604256A	133	THREAT SIMULATOR DEVELOPMENT	14,397	14,397	14,397		14,397
0604258A	134	TARGET SYSTEMS DEVELOPMENT	14,292	14,292	14,292		14,292
0604759A	135	MAJOR T&E INVESTMENT	66,874	66,874	56,874		66,874
0605103A	136	RAND ARROYO CENTER	21,872	21,872	16,872	(3,000)	18,872
0605104A	137	LOS ALAMOS MESON PHYSICS FACILITY	-	-	-		-
0605301A	138	ARMY KWAJALEIN ATOLL	149,769	149,769	149,769		149,769
0605502A	139	SMALL BUSINESS INNOVATIVE RESEARCH	-	-	-		-
0605601A	140	ARMY TEST RANGES AND FACILITIES	147,330	147,330	147,330		147,330
0605602A	141	ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS	27,600	27,600	27,600		27,600
0605604A	142	SURVIVABILITY/LETHALITY ANALYSIS	34,535	34,535	34,535		34,535
0605605A	143	DOD HIGH ENERGY LASER TEST FACILITY	3,000	3,000	34,800	32,000	35,000
0605606A	144	AIRCRAFT CERTIFICATION	2,976	2,976	2,976		2,976
0605702A	145	METEOROLOGICAL SUPPORT TO RDT&E ACTIVITIES	6,660	6,660	6,660		6,660
0605706A	146	MATERIEL SYSTEMS ANALYSIS	17,864	17,864	17,864		17,864
0605709A	147	EXPLOITATION OF FOREIGN ITEMS	8,869	8,869	8,869		8,869
0605710A	148	JOINT NUCLEAR BIOLOGICAL CHEMICAL TEST, ASSESSMENT & SURVIVABILITY	-	-	-		-
0605712A	149	SUPPORT OF OPERATIONAL TESTING	46,491	47,991	46,491		46,491
0605801A	150	PROGRAMWIDE ACTIVITIES	63,649	63,649	63,649		63,649
0605802A	151	INTERNATIONAL COOPERATIVE RESEARCH AND DEVELOPMENT	1,606	1,606	1,606		1,606
0605803A	152	TECHNICAL INFORMATION ACTIVITIES	16,401	16,401	16,401	(2,564)	13,837
0605805A	153	MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY	6,903	6,903	6,903		6,903
0605810A	154	RDT&E SUPPORT FOR NONDEVELOPMENTAL ITEMS	-	-	-		-
0605853A	155	ENVIRONMENTAL CONSERVATION	2,533	2,533	2,533		2,533
0605854A	156	POLLUTION PREVENTION	13,005	13,005	13,005		13,005

PE	No	Title	FY 1996 Request	House Authorized	Senate Authorized	Change to Request	Conference Agreement
0605856A	157	ENVIRONMENTAL COMPLIANCE	66,101	66,101	66,101		66,101
0605876A	158	MINOR CONSTRUCTION (RPM) - RDT&E	5,497	5,497	5,497		5,497
0605878A	159	MAINTENANCE AND REPAIR (RPM) - RDT&E	95,696	95,696	95,696		95,696
0605896A	160	BASE OPERATIONS - RDT&E	329,978	329,978	309,978	(10,500)	319,478
0605898A	161	MANAGEMENT HEADQUARTERS (RESEARCH AND DEVELOPMENT)	8,766	8,766	8,766		8,766
0608999A	162	FINANCING FOR CANCELLED ACCOUNT ADJUSTMENTS	-	-	-		-
0603778A	163	MLRS PRODUCT IMPROVEMENT PROGRAM	68,786	72,486	72,486	3,700	72,486
0203726A	164	ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	39,422	45,622	45,622	(3,000)	36,422
0203735A	165	COMBAT VEHICLE IMPROVEMENT PROGRAMS	197,669	198,978	198,978	17,334	215,003
0203740A	166	MANEUVER CONTROL SYSTEM	38,327	51,327	38,327	13,000	51,327
0203744A	167	AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEMENT PROGRAMS	2,326	2,326	2,326		2,326
0203752A	168	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	3,012	3,012	3,012		3,012
0203758A	169	DIGITIZATION	88,567	88,567	88,567	1,500	90,067
0203801A	170	MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM	17,069	26,869	61,869	44,800	61,869
0203802A	171	OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS	57,949	57,949	57,949	10,000	67,949
0203808A	172	TRACTOR RIG	3,215	3,215	3,215		3,215
0203808A	173	TRACTOR CARD	10,156	10,156	10,156		10,156
0208010A	174	JOINT TACTICAL COMMUNICATIONS PROGRAM (TRI-TAC)	13,368	13,368	20,568		13,368
0301359A	175	SPECIAL ARMY PROGRAM	8,690	11,690	8,690		8,690
0303140A	176	INFORMATION SYSTEMS SECURITY PROGRAM	3,644	3,644	3,644		3,644
0303142A	177	SATCOM GROUND ENVIRONMENT	56,355	56,355	58,655		56,355
0303152A	178	WORLD-WIDE MILITARY COMMAND AND CONTROL SYSTEMS, INFORMATION SYSTEM	-	-	-		-
0305127A	179	FOREIGN COUNTERINTELLIGENCE ACTIVITIES	-	-	-		-
0305150A	180	AIR RECONNAISSANCE LOW	-	-	-		-
0708045A	181	END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES	-	27,776	-	26,776	26,776
		Depressed Altitude Guided Gun Round System			5,000		
		Undistributed Reduction			(5,000)		
		TASK FORCE XXI					
		TASK FORCE XXI - Soldier				30,000	30,000
XXXXXXXXXX	999	Classified Programs	-	-	-		-
		Total Army RDT&E	4,444,175	4,774,947	4,845,097	293,406	4,737,581

Passive millimeter wave camera

The budget request did not include funds for the passive millimeter wave camera.

The House bill would add $6.0 million in PE 62120A for continuation of the program.

The Senate amendment contained no similar provision.

The Senate recedes.

Tractor rose

The budget request included $4.5 million for Tractor Rose.

The House bill would authorize the requested amount.

The Senate amendment would authorize an additional $13.5 million.

The conferees are aware of recent progress in the activities related to this program. As a consequence, the conferees recommend authorization of this project at the level of funds appropriated in fiscal year 1996. In addition, the conferees urge the Department of the Army to consider reprogramming funds below threshold to capitalize on the potential of this technology.

Electric gun technology

The budget request included $9.0 million for the electric gun exploratory development program.

The House bill would authorize an additional $6.0 million in PE 62618A to complete research team data gathering and assessment in order to refocus the effort on the most promising technologies.

The conferees agree to authorize an additional $7.0 million for electric gun technology and an additional $1.0 million for the electrothermal chemical gun.

Objective individual combat weapon (OICW)

The budget request included $5.1 million in PE 62623A and $4.5 million in PE 63607A for continuation of the joint service small arms program.

The House bill would authorize an additional $2.0 million in PE 63607A for an advanced technology demonstration of lightweight, medium caliber, multi-shot, anti-armor weapon technology for application to a next-generation objective individual combat weapon system (OICW) for the Army and the Marines. The House report (H. Rept. 104–131) expressed the concern that funds requested for the OICW in fiscal year 1996 are insufficient to adequately conduct this advanced technology program. The House report also encouraged the Secretary of the Army to examine the current development strategy for the OICW to support the joint small arms master plan (JSAMP) and to request reprogramming of funds to carry out the plan.

The Senate amendment would authorize the requested amount.

The House recedes. The conferees strongly support the development of advanced technology for advanced individual weapons systems, as outlined in the JSAMP, and share the concerns expressed in the House report regarding adequacy of funding for development of the OICW. The conferees encourage the Secretary of the Army to request reprogramming of additional funds to compensate for any fiscal year 1996 funding shortfalls in the OICW program. The conferees also encourage the Secretary to include additional funds in the fiscal year 1997 budget request for OICW.

Advanced battery technology

The budget request did not include funding for advanced batteries.

The House bill would authorize $3.0 million in PE 62705A for non-metallic lithium and low-cost reusable alkaline batteries.

The Senate amendment contained no similar provision.

The conferees agree to the House authorization, but agree to provide only $2.0 million in PE 62705A.

Environmental policy simulation laboratory

The conferees agree that $3.0 million of the funds appropriated in PE 62720A shall be authorized for the establishment of an environmental policy simulation lab under the direction of the Army Environmental Policy Institute. The conferees further direct the Department of Defense to comply with the direction contained in the Senate report (S. Rept. 104–112) regarding the establishment of this lab.

Command, control, and communications technology

The budget request included $15.7 million in PE 62782A for the exploratory development of command, control, and communications technology.

The House bill would authorize the requested amount.

The Senate amendment would authorize an additional $2.0 million in PE 62782A as part of a general increase to address underfunding in the Army technology base.

The Senate recedes.

The conferees agree that the Army technology base has been underfunded in recent years. The conferees urge the Army leadership and the Office of the Secretary of Defense provide for balanced funding of the Army technology base program, as related to other Defense program accounts in the fiscal year 1997 budget request.

Medical advanced technology

The budget request included $11.8 million for medical advanced technology.

The House bill would include an additional $5.0 million for continuation of the battlefield tissue replacement program.

The Senate amendment would include an additional $3.0 million for telemedicine.

The conferees agree to authorize an additional $8.0 million for both of these programs and an additional $1.0 million for Army standardized testing of Trichloromelamine (TCM) in PE 63002A.

Aviation advanced technology

The budget request included $48.6 million for aviation advanced technology.

The House bill provided an additional authorization of $6.5 million for evaluation of the Starstreak missile and $10.0 million for tactical mobility technologies and designs, particularly related to the CH–47.

The Senate amendment would authorize the budget request.

The conferees agree to authorize an additional $4.0 million in PE 63003A for the completion of the phase II air-to-air test and evaluation for Starstreak during fiscal year 1996 and $4.0 for modernization technologies and improvement designs for the CH–47D.

The Army is encouraged to provide sufficient funding in its fiscal year 1997 budget request for completion of the air-to-air Starstreak evaluation program and continuation of the CH–47D modernization program.

Weapons and munitions-advanced technology

The budget request included $18.8 million for weapons and munitions advanced technology.

The House bill would authorize an additional $2.0 million for the XM 982/155mm projectile development.

The Senate amendment would authorize the request.

The conferees agree to authorize $2.0 million for the XM 982/155mm projectile development, an additional $6.0 million for the precision guided mortar munition, and an additional $1.0 million for electrorheological fluid recoil in PE 63004A.

Command, control, and communications-advanced technology

The budget request included $16.9 million in PE 63006A for advanced development of command, control, and communications technology.

The House bill would authorize the requested amount.

The Senate amendment would authorize an additional $3.0 million to partially address funding shortfalls in the Army technology base for fiscal year 1996. The Senate amendment would also authorize an increase of $4.0 million in PE 63006A to develop and test wave net technology for possible application to the Army's digitization initiatives.

The conferees agree to authorize the additional $4.0 million to PE 63006A for development and testing of wave net technology.

Space applications technology program

The budget request included $16.9 million in PE 63006A for command, control, and communications advanced technology, including $498,000 for the Army's space applications technology program.

Both the House bill and the Senate amendment would authorize the budget request for the Army's space applications technology program.

The conferees agree to an additional $5.0 million in PE 63006A for the space applications technology program. The conferees are aware of the program's success in demonstrating global positioning system and Wrasse weather data receivers during Operation Desert Storm/Desert Shield and other space technology applications, such as, the location of high value targets using hyperspectral sensing techniques, high data rate satellite communications on the move, and down link weather satellite technology. The conferees encourage the Army to continue support to the program in future budget requests.

Acquired immune deficiency syndrome

The budget request included $2.9 million in PE 63105A.

Both the House bill and the Senate amendment authorized the requested amount.

The conferees agree to authorize the requested amount and concur with the Senate report (S. Rept. 104–112) that directed at least $1.0 million of the authorized amount be used to continue domestic clinical HIV programs.

Joint precision strike demonstration programs

The budget request included $34.1 million in PE 63238A for the joint air-land-sea precision strike demonstration (JPSD) program.

The House bill would direct that the JPSD program be expanded into a jointly manned program, with participation by all military services, and would recommend an increase of $4.0 million for this purpose.

The Senate amendment would authorize the requested amount.

The House recedes. The conferees agree with the views expressed in the House report (H. Rept. 104–131) on the progress made by the Army in demonstrating advanced concepts for attack of time-critical targets. The conferees also agree with the House report recommendations for increased participation by the other military services in the JPSD. Attack of time-critical targets on the battlefield is a joint issue which requires the coordinated efforts of all the military services.

Missile and rocket advanced technology

The budget request included $123.9 million in PE 63313A for missile and rocket advanced technology.

The House bill would reduce the requested amount by $12.1 million by making the following adjustments: adding $2.5 million for low cost autonomous attack submunition (LOCAAS) and $5.0 million for low-cost guidance development for the multiple launch rocket system (MLRS); and reducing the amount requested for the rapid force projection initiative by $19.6 million.

The Senate amendment would increase the requested amount by $12.0 million, with $5.0 million for LOCAAS and $7.0 million for low-cost guidance for MLRS.

The conferees agree to authorize a total of $118.9 million in PE 63313A. The conferees agree to reduce the requested amount by $7.5 million for the Enhanced-Fiber Optic Guided (E–FOG) missile system, as a result of concerns expressed in the House report (H. Rept. 104–131), and to add $2.5 million for LOCAAS within PE 63313A. The conferees would also increase the requested amount by $2.5 million for LOCAAS in PE 63601F for the Air Force. The conferees continue to support low-cost guidance for the MLRS and urge the Army to reprogram funds for this program in fiscal year 1996 and to request adequate funds in the fiscal year 1997 budget request.

Landmine warfare and barrier advanced technology

The budget request included $18.8 million for landmine warfare, and barrier advanced technology.

The House bill would authorize an additional $10.0 million for continuation of the landmine neutralization program.

The Senate amendment would approve the budget request.

The conferees agree to authorize an increase of $6.0 million for PE 63606A. Of this increase, $3.0 million will be used for landmine detection and clearance technology development, and $3.0 million will be used for the accelerated development and testing of the Ground Penetrating Radar.

Intelligence fusion analysis demonstration

The budget request included $2.9 million in PE 63745A for the Intelligence Fusion Analysis Demonstration program.

The House bill would authorize an additional $3.0 million for development and evaluation in Army Warfighter Experiments and the joint precision strike demonstration program of advanced large screen, automated graphical displays that would provide enhanced situational awareness for tactical commanders.

The Senate amendment would authorize the requested amount.

The Senate recedes.

Aviation advanced development

The budget request contained $8.4 million for aviation advanced development.

The House bill would authorize an additional $6.0 million for the common helicopter helmet development in PE 63801A.

The Senate amendment would authorize the budget request.

The Senate recedes.

Comanche helicopter (RAH–66)

The budget request included $199.1 million to continue development of the Comanche scout/attack helicopter.

The House bill would authorize an increase of $100.0 million for Comanche research and development.

The Senate amendment would authorize an increase of $174.0 million and require the Department of Defense and the Department of the Army to develop a plan to provide for procurement of Comanche helicopters, not later than fiscal year 2001, with initial operating capability by fiscal year 2003.

The Senate recedes.

The conferees agree to authorize an increase of $100.0 million to accelerate development of the electro-optical system and integrated communication navigation package, and mission equipment software development for the second aircraft.

Medium truck extended service program

The House bill would authorize an additional $9.4 million for the Marine Corps medium truck variant.

The Senate amendment would add $10.0 million to PE 64604A for initiation of a five-ton truck extended service program (ESP), and $9.4 million to PE 26624M for additional medium truck variants and development of simulation models and testing.

The conferees agree to provide $1.5 million in PE 64604A for the Army's five-ton ESP and $3.5 million for the Marine Corps in PE 26624M for initiation of a medium tactical vehicle replacement (MTVR).

The conferees agree with the section of the Senate Report (S. Rept. 104–112) that deals with the medium tactical truck extended service program, including the requirements for a report from the Secretary of the Army on the medium truck ESP.

As the manager of tactical vehicles for the Department of Defense, the conferees expect the Army to manage the Army five-ton truck ESP and the Marine Corps MTVR program and ensure that Air Force and Navy requirements are included in executing the Army ESP. The conferees expect the Army to take maximum advantage of medium truck ESP currently underway, to minimize additional procurements to avoid industrial overcapacity, and to give consideration to reliable manufacturers that have demonstrated capabilities to produce military trucks.

Heavy tactical vehicles

The House bill would provide an increase of $2.75 million in PE 64622A, $1.9 million for water heater/chiller development for the Army's water tank semitrailer, and $.85 million for a palletized loading system technology demonstration.

The Senate amendment would provide an increase of $1.9 million in PE 64622A for water heater/chiller development for the Army's water tank semitrailer.

The Senate recedes.

High mobility multipurpose wheeled vehicle extended service program

The Senate amendment would include an increase of $5.0 million in PE 64642A to initiate an extended service program (ESP) for the high mobility multipurpose wheeled vehicle (HMMWV).

The conferees recognize that the HMMWV fleet is reaching age and mileage levels leading to increased maintenance and operating costs and lower reliability. The conferees agree to provide an increase of $2.0 million for initiation and prototype development for HMMWV ESP.

The conferees direct the Secretary of the Army to submit, with the fiscal year 1997 budget request, a report to the congressional defense committees that describes a program to develop and test prototypes, and to initiate a joint program to remanufacture HMMWV's for the Army and the Marine Corps, harmonizing their requirements for ESP. The conferees further direct the Secretary of the Army and the Secretary of the Navy to ensure this program is fully funded in future budgets.

Automated test equipment development

The budget request included $5.4 million for automated test equipment development.

The House bill would authorize an additional $10.0 million in PE 64746A for the integrated family of test equipment.

The Senate amendment contained no similar provision.

The Senate recedes.

Joint surveillance target attack radar system

The budget request included $18.8 million for the Army and $169.7 million for the Air Force for the Joint Surveillance Target Attack Radar System (JSTARS).

The House bill would authorize an increase in the Air Force requested amount, $14.0 million to establish a NATO program office and $20.0 million for development of an improved data modem and satellite communications capability.

The Senate amendment would authorize no additional funding for these programs.

The conferees agree to authorize an additional $9.5 million in PE 64770A for the Army Ground Station Module, in support of the NATO Alliance Ground Surveillance program, and an additional $24.5 million in PE 64770F, with $4.5 million for the Air Force portion of the JSTARS NATO Alliance Ground Surveillance program and $20.0 million for development of an improved data modem and satellite communications capability.

Weapons and munitions-engineering development

The budget request included $15.9 million for weapons and munitions-engineering development.

The House bill would authorize an additional $2.7 million for type classification of a soft mount for the MK–19 and $1.6 million for the 120mm practice cartridge XM–931 training round.

The Senate amendment would authorize $0.5 million for type classification of a non-developmental universal mounting bracket for the MK–19 grenade machine gun.

The conferees agree to authorize $0.5 million for the type classification of the MK–19 mounting bracket and $1.6 million for the 120mm practice cartridge in PE 64802A.

Battlefield combat identification system (BCIS)

The conferees are disappointed with the fiscal constraints that precluded full funding of the administration's $30.5 million request for non-cooperative target recognition (PE 64817A), particularly in relation to the battlefield combat identification system (BCIS). Fratricide on the battlefield is of great concern to our fighting forces, and BCIS is expected to significantly enhance the Army's ability to deal with this critical issue. The system has performed extremely well in Army testing to date, and the program enjoys widespread support, both within the military services and the warfighting Commanders-in-Chief. The conferees encourage the Secretary of the Army to aggressively pursue the program, and would entertain a reprogramming request to fund additional BCIS units or accelerated BCIS development.

Joint warfighter interoperability demonstration

The budget request included $46.5 million in PE 65712A for support of Army operational testing.

The House bill would recommend an additional $1.5 million for support of a joint warfighter interoperability demonstration, one of the key fiscal year 1996 funding shortfalls identified during evaluation of the Department of the Army budget request.

The Senate amendment would authorize the budget request.

The conferees agree to authorize an additional $1.5 million in PE 23758A for support of the joint warfighting interoperability demonstration, as recommended in the House bill.

Missile/air defense product improvement

The budget request included $17.1 million for the missile/air defense product improvement program element.

The House bill would authorize an increase of $9.8 million for the evaluation of Stinger block II.

The Senate amendment would also authorize $9.8 million for Stinger, and an additional $35.0 million for Patriot cruise missile defense.

The conferees agree to authorize $61.9 million in PE 23801A, an increase of $44.8 million for both programs.

Instrumented factory for gear development

The budget request did not include funding for the continuation of the instrumented factory gear (INFAC).

The House bill would authorize an additional $5.0 million for INFAC in PE 78045A.

The Senate amendment contained no similar provision.

The Senate recedes.

Polycrylonitrile carbon fibers

The budget request did not include funding for polycrylonitrile (PAN) fiber development.

The House bill would authorize an additional $4.0 million for PAN fibers in the Army MANTECH program.

The Senate amendment would authorize an additional $4.0 million for PAN fibers in the Army materials technology program.

The conferees agree to authorize an additional $4.0 million for this PAN fibers program in PE 78045A.

Rotary winged aircraft repair

The budget request included no funding for manufacturing technology related to rotary winged aircraft repair.

The House bill would fence $1.5 million of the Army MANTECH program for technologies related to industrial-academic partnerships for repair technology development and insertion for rotary winged aircraft.

The Senate amendment contained no similar provision.

The conferees agree to authorize $1.5 million for the program in PE 78045A.

Task force XXI soldier

The conferees agree to authorize $30.0 million for a program that consolidates the Army's Land warrior and Generation II (GEN II) soldier programs. The conferees agree to the following adjustment for the purpose of program consolidation:

	Millions
PE 63001A—Logistics Advanced Technology	−$4.9
PE 63710A—Night Vision Advanced Technology	−4.2
PE 63772A—Advanced Tactical Computer Science and Technology	−5.0
PE 63747A—Soldier Support and Survivability	−25.9
Task Force XXI Soldier	+30.0

The conferees believe that the Army must examine and consider a full range of alternatives, including expansion of the dismounted soldier system of the applique program, execution of the Land Warrior program, and acceleration of the GEN II advanced technology demonstrator, to the extent that they support the new consolidated program.

Overview

The budget request for fiscal year 1996 contained an authorization of $8,204.5 million for Navy, Research and Development in the Department of Defense. The House bill would authorize $8,516.5 million. The Senate amendment would authorize $8,624.2 million. the conferees recommended an authorization of $8,474.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

PE	No	Title	FY 1996 Request	House Authorized	Senate Authorized	Change to Request	Conference Agreement
ACCOUNT		RESEARCH DEVELOPMENT TEST & EVAL NAVY					
0601152N	1	IN-HOUSE INDEPENDENT LABORATORY RESEARCH	16,084	16,084	16,084		16,084
0601153N	2	DEFENSE RESEARCH SCIENCES	385,917	391,917	373,917	(12,000)	373,917
0602111N	3	SURFACE/AEROSPACE SURVEILLANCE AND WEAPONS TECHNOLOGY	32,658	36,658	42,058	2,000	34,658
0602121N	4	SURFACE SHIP TECHNOLOGY	36,786	52,786	42,786	31,000	67,786
0602122N	5	AIRCRAFT TECHNOLOGY	22,238	24,738	22,238	2,500	24,738
0602131M	6	MARINE CORPS LANDING FORCE TECHNOLOGY	17,623	18,623	17,623		17,623
0602232N	7	COMMAND, CONTROL, AND COMMUNICATIONS TECHNOLOGY	60,090	64,090	60,090		60,090
0602233N	8	READINESS, TRAINING, AND ENVIRONMENTAL QUALITY TECHNOLOGY	40,511	43,211	40,511		40,511
0602234N	9	MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY	74,849	77,849	74,849	3,000	77,849
0602270N	10	ELECTRONIC WARFARE TECHNOLOGY	18,341	18,341	18,341		18,341
0602314N	11	UNDERSEA SURVEILLANCE WEAPON TECHNOLOGY	51,182	51,682	55,982	5,300	56,482
0602315N	12	MINE COUNTERMEASURES, MINING AND SPECIAL WARFARE	43,384	43,384	43,384		43,384
0602435N	13	OCEANOGRAPHIC AND ATMOSPHERIC TECHNOLOGY	45,526	50,526	45,526	2,500	48,026
0602633N	14	UNDERSEA WARFARE WEAPONRY TECHNOLOGY (H)	35,582	35,582	35,582		35,582
0603217N	15	AIR SYSTEMS AND WEAPONS ADVANCED TECHNOLOGY	17,082	52,082	26,082	54,000	71,082
0603238N	16	PRECISION STRIKE AND AIR DEFENSE	64,502	64,502	124,502		64,502
0603270N	17	ADVANCED ELECTRONIC WARFARE TECHNOLOGY	14,532	14,532	14,532		14,532
0603508N	18	SHIP PROPULSION SYSTEM	43,544	17,986	17,986	(25,558)	17,986
0603528N	18a	NON-ACOUSTIC ANTI-SUBMARINE WARFARE		23,200		10,000	10,000
0603640M	19	MARINE CORPS ADVANCED TECHNOLOGY DEMONSTRATION (ATD)	25,896	25,896	25,896		25,896
0603706N	20	MEDICAL DEVELOPMENT	27,754	27,754	27,754	3,000	30,754
0603707N	21	MANPOWER, PERSONNEL AND TRAINING ADV TECH DEV	17,797	19,297	17,797		17,797
0603712N	22	ENVIRONMENTAL QUALITY AND LOGISTICS ADVANCED TECHNOLOGY	21,504	33,504	21,504		21,504
0603747N	23	UNDERSEA WARFARE ADVANCED TECHNOLOGY	51,816	51,816	51,816	(3,323)	48,493
0603771N	24	INDUSTRIAL PREPAREDNESS MANUFACTURING TECHNOLOGY	41,251	-	41,251	(41,251)	-
0603782N	25	SHALLOW WATER MCM DEMOS	50,958	50,958	50,958	(10,000)	40,958
0603792N	26	ADVANCED TECHNOLOGY TRANSITION	96,825	99,825	96,825	(15,825)	81,000
0603794N	27	C3 ADVANCED TECHNOLOGY	26,794	26,794	26,794		26,794
0603207N	28	AIR/OCEAN TACTICAL APPLICATIONS	16,621	16,621	16,621		16,621
0603208N	29	TRAINING SYSTEM AIRCRAFT	3,069	3,069	3,069		3,069
0603216N	30	AVIATION SURVIVABILITY	7,477	14,877	7,477	7,400	14,877
0603254N	31	ASW SYSTEMS DEVELOPMENT	30,202	30,202	30,202		30,202
0603261N	32	TACTICAL AIRBORNE RECONNAISSANCE	18,924	18,924	18,924		18,924
0603382N	33	ADVANCED COMBAT SYSTEMS TECHNOLOGY	2,803	2,803	2,803		2,803
0603451N	34	TACTICAL SPACE OPERATIONS	1,383	1,383	1,383		1,383
0603502N	35	SURFACE AND SHALLOW WATER MINE COUNTERMEASURES	54,527	56,177	62,027	1,650	56,177
0603504N	36	ADVANCED SUBMARINE COMBAT SYSTEMS DEVELOPMENT	21,281	28,181	21,281	6,900	28,181
0603506N	37	SURFACE SHIP TORPEDO DEFENSE	10,049	10,049	10,049		10,049

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0603512N	38	CARRIER SYSTEMS DEVELOPMENT	16,164	16,164	16,164	(3,400)	12,764
0603513N	39	SHIPBOARD SYSTEM COMPONENT DEVELOPMENT	16,804	16,804	16,804		16,804
0603514N	40	SHIP COMBAT SURVIVABILITY	11,649	11,649	11,649		11,649
0603525N	41	PILOT FISH	78,960	78,960	78,960		78,960
0603536N	42	RETRACT JUNIPER	10,002	10,002	10,002		10,002
0603542N	43	RADIOLOGICAL CONTROL	3,202	3,202	3,202		3,202
0603553N	44	SURFACE ASW	6,655	6,655	6,655		6,655
0603561N	45	ADVANCED SUBMARINE SYSTEM DEVELOPMENT	35,748	48,848	35,748	20,000	55,748
0603562N	46	SUBMARINE TACTICAL WARFARE SYSTEMS	5,070	5,070	5,070		5,070
0603563N	47	SHIP CONCEPT ADVANCED DESIGN	16,736	16,736	16,736		16,736
0603564N	48	SHIP PRELIMINARY DESIGN & FEASIBILITY STUDIES	9,708	9,708	9,708		9,708
0603570N	49	ADVANCED NUCLEAR POWER SYSTEMS	141,835	141,835	141,835		141,835
0603573N	50	ADVANCED SURFACE MACHINERY SYSTEMS	39,156	86,214	64,714	43,708	82,864
0603576N	51	CHALK EAGLE	114,175	114,175	114,175		114,175
0603582N	52	COMBAT SYSTEM INTEGRATION	5,414	5,414	5,414		5,414
0603608N	53	CONVENTIONAL MUNITIONS	31,537	31,537	31,537		31,537
0603610N	54	ADVANCED WARHEAD DEVELOPMENT (MK-50)	2,993	2,993	2,993		2,993
0603611M	55	MARINE CORPS ASSAULT VEHICLES	34,157	40,157	40,157	6,000	40,157
0603612M	56	MARINE CORPS MINE/COUNTERMEASURES SYSTEMS - ADV DEV	2,470	2,470	2,470		2,470
0603634N	57	ELECTROMAGNETIC EFFECTS PROTECTION DEVELOPMENT	-	-	-		-
0603635M	58	MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM	46,733	50,933	50,933	4,200	50,933
0603654N	59	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	7,298	7,298	7,298		7,298
0603709N	60	ADVANCED MARINE BIOLOGICAL SYSTEM	-	-	-		-
0603711N	61	FLEET TACTICAL DEVELOPMENT	4,268	4,268	4,268		4,268
0603713N	62	OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT	5,166	5,166	5,166		5,166
0603721N	63	ENVIRONMENTAL PROTECTION	65,947	65,947	65,947		65,947
0603724N	64	NAVY ENERGY PROGRAM	1,976	1,976	1,976		1,976
0603725N	65	FACILITIES IMPROVEMENT	1,803	1,803	1,803		1,803
0603734N	66	CHALK CORAL	71,085	71,085	71,085		71,085
0603746N	67	RETRACT MAPLE	82,932	90,932	87,932	5,000	87,932
0603748N	68	LINK PLUMERIA	17,879	17,879	21,879	3,700	21,579
0603751N	69	RETRACT ELM	32,561	32,561	32,561	(1,000)	31,561
0603755N	70	SHIP SELF DEFENSE	245,620	245,620	288,120	42,500	288,120
0603763N	71	WARFARE SYSTEMS ARCHITECTURE AND ENGINEERING	-	-	-		-
0603785N	72	COMBAT SYSTEMS OCEANOGRAPHIC PERFORMANCE ASSESSMENT	16,042	16,042	16,042		16,042
0603787N	73	SPECIAL PROCESSES	72,251	72,251	72,251		72,251
0603795N	74	GUN WEAPON SYSTEM TECHNOLOGY	12,028	37,028	31,228	22,000	34,028
0603800N	75	JOINT ADVANCED STRIKE TECHNOLOGY - DEM/VAL	149,295	123,795	324,295	(65,500)	83,795
0604707N	76	SPACE AND ELECTRONIC WARFARE (SEW) ARCHITECTURE/ENGINEERING SPT	5,742	5,742	5,742		5,742

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0603889N	77	COUNTERDRUG RDT&E PROJECTS	-	-	-		-
0604212N	78	ASW AND OTHER HELO DEVELOPMENT	91,803	80,175	91,803	(2,167)	89,636
0604214N	79	AV-8B AIRCRAFT - ENG DEV	11,309	26,909	11,309	15,600	26,909
0604215N	80	STANDARDS DEVELOPMENT	10,567	10,567	10,567		10,567
0604217N	81	S-3 WEAPON SYSTEM IMPROVEMENT	12,872	27,872	26,072		12,872
0604218N	82	AIR/OCEAN EQUIPMENT ENGINEERING	6,182	6,182	6,182		6,182
0604221N	83	P-3 MODERNIZATION PROGRAM	1,945	16,945	1,945	15,000	16,945
0604231N	84	TACTICAL COMMAND SYSTEM	27,389	27,389	27,389	(2,639)	24,750
0604261N	85	ACOUSTIC SEARCH SENSORS	9,680	9,680	9,680		9,680
0604262N	86	V-22A	762,548	762,548	762,548	(5,000)	757,548
0604264N	87	AIR CREW SYSTEMS DEVELOPMENT	9,788	17,688	9,788	7,900	17,688
0604265N	88	AIR LAUNCHED SATURATION SYSTEM (ALSS)	-	-	-		-
0604270N	89	EW DEVELOPMENT	87,440	87,440	112,440	10,000	97,440
0604301N	90	MK 92 FIRE CONTROL SYSTEM UPGRADE	-	-	-		-
0604307N	91	AEGIS COMBAT SYSTEM ENGINEERING	105,683	89,883	105,683	(11,000)	94,683
0604312N	92	TRI-SERVICE STANDOFF ATTACK MISSILE	-	37,500	-		-
0604369N	93	STANDARD MISSILE IMPROVEMENTS	8,572	8,572	8,572		8,572
0604372N	94	NEW THREAT UPGRADE	-	-	-		-
0604373N	95	AIRBORNE MCM	42,226	42,226	42,226	(7,758)	34,468
0604503N	96	SSN-688 AND TRIDENT MODERNIZATION	70,315	70,315	70,315		70,315
0604504N	97	AIR CONTROL	7,815	7,815	7,815		7,815
0604507N	98	ENHANCED MODULAR SIGNAL PROCESSOR	8,342	8,342	8,342	6,500	14,842
0604512N	99	SHIPBOARD AVIATION SYSTEMS	11,343	11,343	11,343		11,343
0604516N	100	SHIP SURVIVABILITY	4,907	4,907	4,907		4,907
0604518N	101	COMBAT INFORMATION CENTER CONVERSION	15,859	15,859	15,859		15,859
0604524N	102	SUBMARINE COMBAT SYSTEM	43,302	37,151	43,302		43,302
0604558N	103	NEW DESIGN SSN	347,415	347,415	347,415		347,415
0604561N	104	SSN-21 DEVELOPMENTS	83,503	83,503	83,503		83,503
0604562N	105	SUBMARINE TACTICAL WARFARE SYSTEM	38,479	20,487	38,479		38,479
0604567N	106	SHIP CONTRACT DESIGN/ LIVE FIRE T&E	17,994	17,994	17,994		17,994
0604574N	107	NAVY TACTICAL COMPUTER RESOURCES	5,499	5,499	5,499		5,499
0604601N	108	MINE DEVELOPMENT	3,045	3,045	3,045		3,045
0604603N	109	UNGUIDED CONVENTIONAL AIR-LAUNCHED WEAPONS	40,517	40,517	40,517		40,517
0604610N	110	LIGHTWEIGHT TORPEDO DEVELOPMENT	22,027	22,027	22,027		22,027
0604612M	111	MARINE CORPS MINE COUNTERMEASURES SYSTEMS - ENG DEV	263	263	263		263
0604618N	112	JOINT DIRECT ATTACK MUNITION	37,832	37,832	37,832	475	38,307
0604654N	113	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	5,408	5,408	5,408		5,408
0604703N	114	PERSONNEL, TRAINING, SIMULATION, AND HUMAN FACTORS	1,043	1,043	1,043		1,043
0604710N	115	NAVY ENERGY PROGRAM	2,628	2,628	2,628		2,628

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0604719M	116	MARINE CORPS COMMAND/CONTROL/COMMUNICATIONS SYSTEMS	15,380	10,380	15,380		15,380
0604721N	117	BATTLE GROUP PASSIVE HORIZON EXTENSION SYSTEM	7,600	7,600	7,600		7,600
0604727N	118	JOINT STANDOFF WEAPON SYSTEMS	81,837	81,837	81,837		81,837
0604755N	119	SHIP SELF DEFENSE	165,997	165,997	184,497	17,500	183,497
0604761N	120	INTELLIGENCE ENGINEERING	-	-	-		-
0604771N	121	MEDICAL DEVELOPMENT	3,402	3,402	3,402		3,402
0604777N	122	NAVIGATION/ID SYSTEM	56,472	56,472	56,472	(2,368)	54,104
0604784N	123	DISTRIBUTED SURVEILLANCE SYSTEM	93,507	103,507	93,507	10,000	103,507
0604256N	124	THREAT SIMULATOR DEVELOPMENT	25,911	25,911	25,911		25,911
0604258N	125	TARGET SYSTEMS DEVELOPMENT	24,364	24,364	24,364		24,364
0604759N	126	MAJOR T&E INVESTMENT	46,586	46,586	46,586		46,586
0605152N	127	STUDIES AND ANALYSIS SUPPORT - NAVY	9,281	9,281	9,281	(2,281)	7,000
0605154N	128	CENTER FOR NAVAL ANALYSES	44,429	44,429	44,429		44,429
0605155N	129	FLEET TACTICAL DEVELOPMENT	2,620	2,620	2,620		2,620
0605502N	130	SMALL BUSINESS INNOVATIVE RESEARCH	-	-	-		-
0605804N	131	TECHNICAL INFORMATION SERVICES	2,027	2,027	2,027		2,027
0605853N	132	MANAGEMENT, TECHNICAL & INTERNATIONAL SUPPORT	20,371	20,371	20,371	(1,949)	18,422
0605856N	133	STRATEGIC TECHNICAL SUPPORT	3,584	3,584	3,584	(584)	3,000
0605861N	134	RDT&E SCIENCE AND TECHNOLOGY MANAGEMENT	61,001	61,001	61,001		61,001
0605862N	135	RDT&E INSTRUMENTATION MODERNIZATION	8,278	8,278	8,278		8,278
0605863N	136	RDT&E SHIP AND AIRCRAFT SUPPORT	63,232	63,232	63,232		63,232
0605864N	137	TEST AND EVALUATION SUPPORT	245,911	247,911	240,911	(6,000)	239,911
0605865N	138	OPERATIONAL TEST AND EVALUATION CAPABILITY	5,675	5,675	5,675		5,675
0605866N	139	NAVY SPACE AND ELECTRONIC WARFARE (SEW) SUPPORT	3,638	3,638	3,638		3,638
0605867N	140	SEW SURVEILLANCE/RECONAISSANCE SUPPORT	12,134	12,134	12,134		12,134
0605871M	141	MARINE CORPS TACTICAL EXPLOITATION OF NATIONAL CAPABILITIES	2,984	2,984	2,984		2,984
0605873M	142	MARINE CORPS PROGRAM WIDE SUPPORT	5,914	5,914	5,914		5,914
0101221N	143	STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	39,511	39,511	41,711	(2,902)	36,609
0101224N	144	SSBN SECURITY TECHNOLOGY PROGRAM	25,078	34,578	25,078	5,500	30,578
0101226N	145	SUBMARINE ACOUSTIC WARFARE DEVELOPMENT	7,937	7,937	7,937		7,937
0101402N	146	NAVY STRATEGIC COMMUNICATIONS	20,416	20,416	20,416		20,416
0102427N	147	NAVAL SPACE SURVEILLANCE	752	752	752		752
0204136N	148	F/A-18 SQUADRONS	919,484	919,484	919,484		919,484
0204152N	149	E-2 SQUADRONS	52,965	52,965	52,965		52,965
0204163N	150	FLEET TELECOMMUNICATIONS (TACTICAL)	24,032	24,032	24,032		24,032
0204229N	151	TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER (TMPC)	141,440	141,440	141,440	4,000	145,440
0204311N	152	INTEGRATED SURVEILLANCE SYSTEM	16,440	16,440	16,440		16,440
0204413N	153	AMPHIBIOUS TACTICAL SUPPORT UNITS	4,364	4,364	4,364		4,364
0204571N	154	CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT	48,058	51,058	48,058	3,000	51,058

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0205601N	155	HARM IMPROVEMENT	3,348	6,348	3,348		3,348
0205604N	156	TACTICAL DATA LINKS	54,869	54,869	54,869		54,869
0205620N	157	SURFACE ASW COMBAT SYSTEM INTEGRATION	9,955	9,955	9,955		9,955
0205632N	158	MK-48 ADCAP	22,214	22,214	22,214		22,214
0205633N	159	AVIATION IMPROVEMENTS	66,875	66,875	66,875		66,875
0205658N	160	NAVY SCIENCE ASSISTANCE PROGRAM	6,036	6,036	6,036		6,036
0205667N	161	F-14 UPGRADE	44,490	44,490	44,490	(25,375)	19,115
0205675N	162	OPERATIONAL NUCLEAR POWER SYSTEMS	58,065	58,065	58,065		58,065
0206313M	163	MARINE CORPS COMMUNICATIONS SYSTEMS	3,250	3,250	3,250		3,250
0206623M	164	MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS	13,386	13,386	23,386		13,386
0206624M	165	MARINE CORPS COMBAT SERVICES SUPPORT	3,915	16,315	13,315	3,500	7,415
	165a	ATV	-	-	-		-
0206625M	166	MARINE CORPS INTELLIGENCE/ELECTRONICS WARFARE SYSTEMS	5,131	5,131	5,131		5,131
0206626M	167	MARINE CORPS COMMAND/CONTROL/COMMUNICATIONS SYSTEMS	19,793	19,793	19,793		19,793
0207161N	168	TACTICAL AIM MISSILES	29,721	29,721	29,721		29,721
0207163N	169	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	4,491	4,491	4,491		4,491
0303109N	171	SATELLITE COMMUNICATIONS	38,472	38,472	38,472		38,472
0303140N	172	INFORMATION SYSTEMS SECURITY PROGRAM	25,848	25,848	25,848		25,848
0305160N	174	DEFENSE METEOROLOGICAL SATELLITE PROGRAM (DMSP)	18,416	18,416	18,416		18,416
0708011N	175	INDUSTRIAL PREPAREDNESS	-	51,251	-	88,000	88,000
XXXXXXXXXX	999	Classified Programs	539,680	579,680	545,480	45,800	585,480
		FREE ELECTRON LASER PROGRAM	-	9,000		9,000	9,000
		Total Navy RDT&E	8,204,530	8,525,509	8,624,230	270,253	8,474,783

Long-range guided projectile technology

The budget request contained $32.7 million for development and demonstration of the advanced global positioning system/inertial navigation system (GPS/INS) guidance and control technology for long range precision guided munitions used by Navy surface fire support and Army long-range artillery.

The House bill would authorize an additional $9.0 million to accelerate the development and demonstration of the GPS/INS.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The conferees agree to an additional $2.0 million in PE 62111N for the purposes indicated in the House report (H. Rept. 104–131). The conferees are aware of a demonstrated rapid progress in the development and demonstration of miniaturized, gun-hardened GPS/INS technology in the Army's Low-Cost Competent Munition (LCCM) Program, the Navy's advanced technology demonstration program for an extended range guided projectile, and the cooperative LCCM technology program established between Departments of the Army and the Navy. The conferees believe that the technology may significantly improve the accuracy of existing and future gun-fired projectiles, missiles, and rockets, and that an opportunity exists to accelerate development and demonstration in these areas. The conferees strongly encourage increased funding in this area in future Army and Navy budget requests.

Surface ship technology

The budget request included $36.8 million for surface ship technology.

The House bill would authorize an additional $6.0 million for power electronics building blocks and $10.0 million for advanced submarine technology development.

The Senate amendment would authorize an additional $6.0 million for power electronics building blocks.

The conferees agree to authorize $67.8 million in PE 62121N; an increase of $31.0 million. That authorization includes $6.0 million for power electronics building blocks, $10.0 million for advanced submarine technology development and $15.0 million for curved plate technology for ship construction.

Power electronic building blocks

The budget request did not include funding for the power electronic building blocks project.

Both the House bill and the Senate amendment contained $6.0 million in PE 62121N to initiate a power electronics program based on metal oxide semiconductor (MOS) control thyristors for high speed switching.

The conferees agree that the program should be affiliated with academic institutions and, as recommended by the Senate, involve a computational test bed for system simulation. The conferees agree that at least one-third of the funding should be for university participation.

Flat panel, helmet-mounted display

The budget request included $7.0 million in PE 62122N for exploratory development of air vehicle technology.

The House bill would authorize an additional $2.5 million to continue exploratory development of flat panel, helmet-mounted displays for air crew helmets.

The Senate amendment would authorize the budget request.

The Senate recedes.

Communications technology

The budget request included $9.2 million in PE 62232N to continue development of key communications technologies for air, ship, and submarine platforms.

The House bill would authorize an additional $4.0 million for support of wireless and satellite communications research in the areas of integrated antenna systems, communications hardware design, communication algorithm development and high-frequency device modeling and measurements.

The Senate amendment contained no similar recommendation.

The House recedes. The conferees recognize the importance of continued wireless and satellite communications research in the areas recommended in the House report (H. Rept. 104–131).

Air crew adaptive automation technology

The budget request included $40.5 million in PE 62233N for exploratory development of enabling readiness, training, and environmental technologies that support the manning, operation, and maintenance of fleet assets, and that provide the necessary training, facilities, and equipment to maintain operational forces in a high state of readiness.

The House bill would authorize an additional $2.7 million to continue development of adaptable automation technology for management of air crew workloads.

The Senate amendment would authorize the budget request.

The House recedes.

Embedded sensors

The budget request included $74.8 million in PE 62234N for exploratory development in the areas of materials, electronics, and computer technology in support of Navy advanced weapon and platform systems.

The House bill would authorize an additional $3.0 million to complete the exploratory development of embedded, remotely queried, microelectromechanical sensors in thick composites, which would be suitable for use in submarine, ships, and armored vehicles.

The Senate amendment would authorize the budget request.

The Senate recedes.

Parametric airborne dipping sonar

The budget request included $51.2 million for exploratory development of undersea surveillance and weapons technology.

The Senate amendment would authorize an additional $4.8 million in PE 62314N to expand the current scope of the demonstration and evaluation of parametric sonar technology to provide three dimensional stabilized steerable beams, around 360 degrees, at full source level, further characterize the technology for mine avoidance implications, and evaluate whether parametric sonar technology merits further development.

The House bill contained no similar provision.

The House recedes. The conferees agree that the Navy should complete evaluation of the limited capability laboratory prototype, in-depth technical review and assessment of the potential of parametric sonar for helicopter application, and in-water testing and evaluation of the parametric airborne dipping sonar prototype.

Polar Ozone Aerosol Monitor III

The budget request included $45.5 million for exploratory development of oceanographic and atmospheric technology, in support of joint warfare mission area capabilities.

The House bill would authorize an additional $5.0 million to complete engineering, integration and test of the Polar Ozone Aerosol Monitor (POAM) III payload on the SPOT 4 spacecraft, in anticipation of system launch in 1997.

The Senate amendment included no similar provision.

The conferees agree to authorize an additional $2.5 million in PE 62435N to continue engineering, integration and test of the POAM III payload on the SPOT 4 spacecraft. The conferees encourage the Secretary of the Navy to reprogram those funds necessary to complete the program and launch the POAM III payload on the SPOT 4 spacecraft in 1997.

Air crew protective clothing and devices

The budget request included $1.7 million in PE 63216N for demonstration and validation of air crew protective clothing and devices.

The House bill would authorize an additional $7.4 million to the budget request to continue development of the advanced integrated life support system and of an advanced technology escape system for air crews. The House report (H. Rept. 104–131) also directed the Navy to provide, by March 2, 1996, a report that would describe the program plan for these two programs and the coordination of each plan with programs under consideration in the Air Force and the Army.

The Senate amendment would authorize the budget request.

The Senate recedes.

The conferees direct the Secretary of the Navy to submit the report described in the House report (H. Rpt. 104–131).

Air systems and weapons advanced technology

The budget request included $17.1 million for air systems advanced technology in PE 63217N. The request contained no specific funding for the maritime avionics subsystems and technology (MAST) program. MAST is a fiscal year 1995 ''new start'' that focuses on the development of scaleable, open, fault-tolerant, and common avionics architectures.

The House bill would authorize an additional $35.0 million for the advanced anti-radiation guided missile (AARGM). The House report (H. Rept. 104–131) encouraged the Navy and the Air Force to pursue the technology objectives of the MAST program under respective avionics technology development programs and the Joint Advanced Strike Technology (JAST) program.

The Senate amendment would authorize an additional $9.0 million for rapid response technologies.

The conferees agree to authorize an additional $35.0 million in PE 63217N for AARGM and $9.0 million for rapid response technologies for the specific purposes detailed in the respective House and Senate reports (H. Rept. 104–131; S. Rept. 104–112). The conferees also agree to authorize an additional $10.0 million for continuation of the MAST program in fiscal year 1996, and recommend that the Secretary of the Navy consider requirements for continuation of the MAST program in the Navy's fiscal year 1997 budget request.

Mobile off-shore base (MOBS)

The budget request included $14.7 million in PE 63238N to begin using ARPA developed technology for a mobile offshore base (MOB) and to initiate sub-scale tests of a complete system for the purpose of evaluating risks associated with full scale construction.

The House bill would authorize the budget request. The House report (H. Rept. 104–131), citing the potential cost of the MOBS system, noted that the Department of Defense had failed to comply with guidance provided in the Statement of Managers (H. Rept. 103–701) accompanying the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337). The House report directed that any fiscal year 1996 funds authorized and appropriated for MOBS or for the Landing Ship Quay/Causeway not be obligated until the Department provides the reports and certification previously directed by Congress.

The Senate amendment would authorize the budget request.

The House recedes from its restriction on the obligation of fiscal year 1996 funds for

the MOBS project. The conferees note, however, the point made in the House report (H. Rept. 104–131) about the large potential cost of the MOBS program if carried to completion. The conferees further note that, in accordance with section 2430, title 10, United States Code, MOBS qualifies as an Acquisition Category I major defense acquisition program. Therefore, it is subject to the review and approval procedures for major defense acquisition programs established in Department of Defense instructions, regulations, and procedures. Under these review and approval procedures, a Milestone 0 (concept exploration and definition) review of the MOBS project is required by the Defense Acquisition Board (DAB). The conferees direct the Secretary of Defense to report to the congressional defense committees, by March 31, 1996, the plan and schedule for incorporating MOBS into the DAB process and accomplishing a Milestone 0 review.

Medical development

The conferees agreed to authorize an additional $1.0 million (PE 63706N) for acceleration of blood storage development and an additional $3.0 million (PE 63706N) for the Naval Biodynamics Laboratory (NBDL) for infrastructure transfer activities.

Sensor integration and decision support systems

The budget request contained $17.8 million in PE 63707N for advanced development of manpower, personnel, and training technology, including $1.1 million for air human factors engineering.

The House bill would authorize an additional $1.5 million in PE 63707N for development and evaluation of intelligent, multisource, multi-platform sensor integration and cockpit decision support systems.

The Senate amendment would authorize the budget request.

The House recedes.

Navy advanced technology demonstration

The budget request included $96.8 million in PE 63792N for advanced development and demonstration of high payoff, emerging technologies that could significantly improve Navy warfighting capabilities.

Both the House bill and the Senate amendment would authorize the budget request.

The conferees agree that the program for advanced technology demonstration of low cost, highly accurate guidance and control for improved naval surface fire support from surface 5″ guns shall be fully funded at the level established in the budget request.

Remote controlled minehunting vehicle

The budget request included $7.6 million in PE 63502N for development and demonstration of improvements in minehunting sonar and remotely controlled minehunting systems.

The House bill would authorize an additional $1.65 million in PE 63502N to accelerate the remote minehunting operational prototype (RMOP) development program and provide an interim operational capability to the fleet.

The Senate amendment would authorize an additional $7.5 million in PE 63502N to accelerate development of RMOP.

The Senate recedes. The conferees agree that the mine detection and location capability demonstrated by the RMOP vehicle during a joint amphibious exercise in March–April 1995 suggests that it has the potential to fill a gap in the Navy's mine countermeasures operational capabilities. Therefore, the conferees conclude that the RMOP program should be accelerated to provide a contingency capability for fleet use. The conferees encourage the Secretary of the Navy to include additional funds for this purpose in the fiscal year 1997 budget request.

Non-acoustic antisubmarine warfare program

The House bill would authorize $23.2 million to reestablish a separate Navy non-acoustic antisubmarine warfare (NAASW) program in PE 63528N that would be on par with the Department of Defense's advanced sensor applications program.

The Senate amendment contained no funding for a Navy specific research and development program. However, the Senate amendment did provide $10.0 million of additional funding in PE 63714D, the Department of Defense's advanced sensor applications program, to continue development for a NAASW program, ATD–111, that is being executed by the Navy.

The conferees authorize an increase of $10.0 million in PE 63528N for the ATD–111 NAASW program. The funding is authorized to: (1) test system upgrades; (2) correct system defects identified during field tests; (3) bring the test systems to a common configuration; and (4) evaluate carriage on alternate airborne platforms.

The conferees recommend that the Navy conduct a comparative evaluation of the ATD–111 laser radar (LIDAR) system with other approaches. Comparative testing of competing non-acoustic approaches to antisubmarine warfare and other applications should provide a basis for establishing a firm requirement for follow-on systems.

The conferees also agree that there is a need for two viable, independent, but coordinated and complementary NAASW programs, one in the Navy and one in the Office of the Secretary of Defense. To reestablish the Navy's independent NAASW program, the conferees encourage the Secretary of the Navy to provide funding for it in the fiscal year 1997 budget request. Further guidance with respect to the NAASW program is contained in the classified annex.

Advanced submarine technology development

The budget request included $18.4 million in PE 62121N for exploratory development of submarine systems technology and $30.9 million in PE 63561N for advanced submarine systems development.

The House bill would authorize an increase of $10.0 million in PE 62121N. Of this amount, $7.0 million is to continue the transfer of technology to the Navy for active control of machinery platforms demonstrated in the Advanced Research Projects Agency's (ARPA's) Project M. The House bill would also authorize an additional $13.1 million in PE 63561N. The House report (H. Rept. 104–131) expressed concern over the overall reduction in submarine research and development funding, reflecting in the budget request, and the belief that this level of funding would be inadequate to support the type of long-term research necessary to ensure the availability of advanced technologies that could maintain the superior technological capability of the U.S. submarine force. The House report directed the Secretary of Defense to develop a plan for long-term submarine research and development aimed at ensuring U.S. technological superiority and to report this plan to the congressional defense committees with the submission of the fiscal year 1997 budget request.

The Senate amendment would approve the budget request.

The conferees agree to an increase of $10.0 million in PE 62121N. This increase would not include any reservations for ARPA's Project M. The conferees would authorize the transition effort associated with Project M in PE 63569E. The conferees also agree to an increase of $20.0 million in PE 63561N. The conferees would also adopt a provision, discussed in greater detail in the procurement section of the conference report, that would direct the Secretary of the Defense to develop a plan for long-term submarine research and development aimed at ensuring U.S. technological superiority and to report this plan to the congressional defense committees no later than March 15, 1996.

Intercooled recuperated gas turbine engine

The budget request included $25.6 million in PE 63508N, a technology base program element, for continued development of the intercooled recuperated (ICR) gas turbine.

The House bill expressed concern that the budget request had transferred the ICR gas turbine engine from the Advanced Surface Machinery (ASM) Program (PE 63573N), where it had been previously budgeted, because of the possibility of disruption in the relationship between the ICR program and other elements of the ASM program. In order to restore ASM program integrity, the House bill would direct the transfer of $25.6 million from PE 63508N to PE 63573N. Additionally, the House bill would increase funding for the ICR engine by $21.5 million to support ICR engine tests at the Navy's land-based test site and, based on elements of the Navy's revised ICR development plan, direct the Navy to proceed with a second 500 hour engine test and other associated testing at the site.

The Senate amendment also directed transfer of $25.6 million from PE 63508N to PE 63573N, but did not increase funding for the ICR engine.

The conferees agree to a funding level of $82.9 million in PE 63573N. The conferees direct that, of the total amount authorized for PE 63573N, $41.0 million is authorized for the ICR program.

Cooperative engagement capability

The budget request included $180.0 million in PE 63755N for development of the cooperative engagement capability (CEC).

The House bill would authorize the requested amount, but would direct that no more than $102.0 million be obligated until the Secretary of Defense notifies the congressional defense committees that the test and evaluation master plan for the CEC program has been approved by the Director, Operational Test and Evaluation.

The Senate amendment would add $22.5 million to continue accelerated development of the airborne component of CEC and an additional $20.0 million to accelerate joint Army-Navy and Air Force-Navy exploitation of CEC for cruise missile defense and theater missile defense.

The conferees agree to an additional $42.5 million for CEC for the purposes described in Senate amendment. The House recedes from its funding limitation. The conferees note the concerns expressed in the House report (H. Rept. 104–131) regarding developmental testing and independent operational testing required to insure that the CEC is operationally effective and suitable when deployed to the fleet. They direct the Secretary of the Navy to submit to the congressional defense committees, by March 31, 1996, a report on the status of plans for developmental and independent operational testing of the CEC.

Naval surface fire support

The Navy's budget request included $12.0 million in PE 63795N to develop the gun weapon system technology needed by the Navy to resolve major deficiencies in its ability to provide naval surface fire support (NSFS) to amphibious operations.

The House report (H. Rept. 104–131) noted that the budget request was sharply reduced during the budget formulation process. It further observed that the future years defense plan for gun system technology had been left under funded by over $160 million and did not include an adequate plan to meet long-term requirements for advanced NSFS weapons systems. To address these concerns the House bill would increase funding in PE 63795N by $25.0 million to:

(1) accelerate the development of a long range guided projectile that would incorporate advanced low cost global positioning

system/inertial navigation system (GPS/INS) guidance;

(2) improve the existing MK–45 5-inch naval gun; and

(3) permit the Navy to place increased emphasis on satisfying long-term requirements for advanced gun systems in addition to its near-term focus on modifications to the MK–45 gun.

The Senate amendment would add $19.2 million to PE 63795N. The Senate's evaluation noted in the Senate report (S. Rept. 104–112) of the Navy's NSFS program, as reflected in the budget request, yielded conclusions similar to those of the House.

The conferees note that in May 1995 the Secretary of the Navy, based on a recently completed cost and operational effectiveness analysis (COEA), reported the following conclusions to Congress regarding NSFS:

(1) a 155 millimeter/60-caliber naval gun, employing precision guided munitions, is the most cost effective NSFS solution; and

(2) a combination of guns, missiles, and tactical aviation is needed to fully meet NSFS requirements.

The Secretary also reported that, as a result of the NSFS COEA, the Navy's NSFS program had been structured to:

(1) proceed with the long-term development of a 155 millimeter gun;

(2) develop a gun-launched precision guided munition; and

(3) modify the Navy's existing MK–45, 5-inch gun to deal with long-term and near-term challenges.

However, as reflected in the budget request, affordability constraints and a desire to field an enhanced NSFS capability prior to Fiscal Year 2001 have moved the Navy to embrace a near-term program reflecting the following priorities:

(1) develop a global positioning system/inertial navigation system 5-inch guided projectile;

(2) improve the existing MK–45 5-inch gun; and

(3) demonstrate the NSFS capabilities of Army Tactical Missile System (ATACMS), Sea Standoff Land Attack Missile (SLAM), and STANDARD Missiles.

To confirm the cost effectiveness of this near-term approach, which was not thoroughly evaluated in the NSFS COEA, the Navy has directed the Center for Naval Analysis to perform supplemental analysis to evaluate its cost effectiveness. The need for this supplemental analysis was reinforced by the General Accounting Office, which strongly recommended in May 1995 that the Navy revalidate its NSFS requirements and conduct a comprehensive supplemental analysis to the COEA that would include all available gun and missile alternatives.

The conferees agree to authorize $34.0 million, an increase of $22.0 million, in PE 63795N. Over the past several years, the conferees have repeatedly stressed the issue of NSFS, but have found the Navy's response to be highly variable as new programs or approaches have succeeded one another from year to year. Because of a strong need and the Navy's apparent commitment to pursue the program to completion, the conferees are willing to provide initial support, in fiscal year 1996, to the Navy's effort to upgrade the capability of its 5-inch guns and projectiles. The conferees take this action based on the Navy leadership's assurances that the Navy will follow through with consistent, stable, and adequate future years funding.

The conferees affirm their conclusion that the Navy needs to place increased emphasis on pursuing a long-term program to satisfy NSFS mission requirements. The conferees direct that the Secretary of the Navy include a report on the plans for such a program in the fiscal year 1997 budget submission. The conferees also affirm the need for an updated COEA that considers all available gun and missile alternatives, including extended range multiple launch rockets and existing and improved 5-inch guns, to support future acquisition milestone decisions related to the Navy's near-term and long-term programs.

AH–1W integrated weapons system upgrade

The budget request included $14.9 million in PE 64212N for engineering and manufacturing development of upgrades to the AH–1W Cobra attack helicopter for the Marine Corps.

The House bill recommended a reduction of $11.6 million to the budget request, based on the understanding that the Marine Corps had decided to suspend development of the integrated weapon systems (IWS) for the AH–1W.

The Senate amendment would authorize the budget request.

The House recedes. The conferees understand that the Department of the Navy has suspended the IWS upgrade, based on identification of other urgent requirements for modification of Marine Corps helicopters. The upgrade program would now focus on the adaptation of both the AH–1W attack helicopter and the UH–1N utility helicopter, and their respective power trains, to a 4-blade rotor system which will increase the operational safety power margin and useful mission payload of both helicopters. The IWS upgrade for the AH–1W will be deferred until later in the program. The conferees further understand, based upon the Department's analysis, that the revised program will provide growth potential to bridge the gap until the joint replacement aircraft would become available around the year 2020, and is reportedly more cost effective than the adoption of other, more modern attack and utility helicopters that have already been fielded or are under development.

The conferees note that the Department plans a defense acquisition milestone II decision to proceed with engineering and manufacturing development in late fiscal year 1996 and also plans to use the fiscal year 1996 funds made available for the program for pre-milestone IV/II engineering studies. The conferees are aware of a Department of the Navy experience with harmonic coupling problems encountered during a previous major helicopter power train upgrade that contributed to a number of aircraft mishaps. Accordingly, this issue must be addressed in detail during pre-milestone engineering studies and in the milestone II decision process, and the absence of the problem demonstrated prior to milestone III. The Secretary of the Navy is directed to report the results of these engineering studies and the milestone II decision with the submission of the fiscal year 1998 budget request.

AV–8B Harrier weapons system improvements

The budget request included $11.3 million in PE 64214N for integration and testing of weapons and aircraft improvements for the AV–8B Harrier aircraft.

The House bill would authorize an increase of $15.6 million to the budget request to support the United States' share of the AV–8B production memorandum of understanding between the United States, Spain, and Italy, and for concurrent integration of the AIM–120 missile and 1760 data bus during remanufacture of the day-only AV–8As to the AV–8B radar configuration.

The Senate amendment would authorize the budget request.

The Senate recedes. The conferees agree to authorize the increase of $15.6 million to the budget request with the understanding that the Department of the Navy would include in the fiscal year 1997 budget request the balance of the $11.7 million required by the memorandum of understanding.

S–3B Project Gray Wolf

The budget request included $12.9 million in PE 64217N for continued development of weapon system improvements for the S–3 aircraft.

The House bill would authorize an additional $15.0 million for continued evaluation and potential establishment of an advanced concept technology demonstration of ''Project Gray Wolf'', a fleet proof of concept demonstration of the ability of an S–3B aircraft equipped with a multi-mode synthetic aperture radar designed to provide real time stand-off surveillance, targeting, and strike support for littoral operations.

The Senate amendment would authorize an additional $13.2 million for the same purpose.

The conferees agree to authorize the requested amount.

The conferees agree that ''Project Gray Wolf'' demonstrates potential for providing the Department of the Navy with a versatile carrier-based capability to provide real time, stand-off surveillance, targeting, and strike support. The conferees encourage the Secretary of the Navy to consider a reprogramming request to support this program, should any funds become available during fiscal year 1996. The conferees further encourage the Secretary to include funds for the program in his fiscal year 1997 budget request.

P–3 maritime patrol aircraft sensor integration

The budget request included $1.9 million in PE 64221N for the P–3 maritime patrol aircraft (MPA) modernization program.

The House bill would authorize an increase of $15.0 million to the budget request. That increase would include $12.0 million to restore the schedule for integration of the improved extended echo ranging (IEER) and the anti-surface warfare improvement program (AIP) capabilities in the P–3, and $3.0 million for upgrade of P–3 stores management, to permit integration of advanced weapons systems. In relation to the fiscal year 1995 budget projections for fiscal year 1996, the House report (H. Rept. 104–131) noted that sharp funding reductions in the P–3 modernization program would result in an overall program cost increase and multi-year delays in fielding capability improvements needed to offset decreases in MPA force structure. The House report also expressed the House's expectation that the Navy's future budget requests would include the increased funding necessary to complete the IEER and AIP capabilities integration in the P–3, the P–3 stores management upgrades, and procurement of sufficient quantities of the AIP and update III kits to appropriately outfit the active and reserve MPA force.

The Senate amendment would authorize the budget request.

The Senate recedes.

Air crew systems development

The budget request included $9.8 million in PE 64264N for the development of aviation life support systems for air crews.

The House bill would authorize an increase of $7.9 million to transition the Navy's Day/Night/All Weather Helmet Mounted Display to operational evaluation in F/A–18 and AV–8B aircraft, to upgrade current escape systems, and to develop crashworthy troop seats in the H–1, H–3 and H–46 helicopters.

The Senate amendment would authorize the budget request.

The Senate recedes.

AEGIS combat systems engineering

The budget request included $105.9 million in PE 64307N, including $90.0 million for continued development of improvements in the AEGIS combat system.

The House bill would authorize $89.9 million, a reduction of $15.8 million from the requested amount. In support of the funding

reduction, the House report (H. Rept. 104–131) cited the deferred release of fiscal year 1995 funds, which led to a corresponding, but unnecessary, increase in the Navy's budget request. The House report (H. Rept. 104–131) also expressed concern about the Navy's revised strategy for development of the AEGIS baseline 6.

The Senate amendment would authorize the requested amount.

The conferees agree to a reduction of $11.0 million in PE 64307N for AEGIS combat systems engineering. The conferees note that the Navy included the $11.0 million in its budget request in anticipation of losing $15.8 million of fiscal year 1995 funds through the omnibus reprogramming process. The use of these fiscal year 1995 funds as a reprogramming source has been specifically denied by Congress. The conferees direct the Office of the Secretary of Defense to return these funds to the Navy without delay to permit orderly execution of the AEGIS program. Further, the navy should review its program for development of the AEGIS baseline 6 with a view to minimizing concurrency.

Enhanced modular signal processor

The budget request included $8.3 million in PE 64507N for development and risk mitigation testing of the AN/UYS–2 enhanced modular signal processor (EMSP) and software development, integration, testing, and critical engineering design support in the airborne low-frequency sonar (ALFS), surveillance towed array sensor system (SURTASS), AN/SQQ–89 surface combat system, and AN/BSY–2 submarine combat system.

Both the House bill and the Senate amendment would authorize the budget request.

The conferees understand that the Navy is considering development of a commercial-off-the-shelf (COTS) variant of the EMSP, as discussed in the House report (H. Rept. 104–131). The conferees authorize an increase of $6.5 million in PE 64507N for development of this COTS variant. The conferees encourage the Navy to include additional funds that may be required to complete the EMSP COTS development in its fiscal year 1997 budget request.

Submarine combat system

The budget request included $42.3 million in PE 64524N for development of the AN/BSY–2 submarine combat system.

The House bill would reduce the authorization by $6.2 million, the amount requested for delivery of the AN/BSY–2 system for the SSN–23.

The Senate amendment would authorize the budget request.

The House recedes.

Submarine tactical warfare system

The budget request included $38.5 million in PE 64562N for continued development of improvements in SSN combat control systems.

The House bill recommended a reduction of $18.0 million to the budget request.

The Senate amendment would authorize the requested amount.

The House recedes.

Advanced tactical air command central

The budget request included $8.4 million in PE 604719M to continue development of the advanced tactical air command central (ATACC) for the Marine Corps.

The House bill would reduce the PE by $5.0 million and direct that the details of the operational requirement and a revised program plan be provided with the fiscal year 1997 budget request. The house report (H. Rept. 104–131) expressed concerns regarding the marked growth in program costs for fiscal year 1996 and succeeding years, changes in the acquisition strategy, and significant revisions in the program schedule. These concerns raise questions regarding how well the operational requirement is defined and whether the system should continue in engineering and manufacturing systems development, or whether a demonstration/validation program would be more appropriate.

The Senate amendment would authorize the requested amount.

The House recedes.

The conferees agree that the concerns expressed by the House should be addressed following submission of the fiscal year 1997 defense budget request.

Ship self-defense system

SUMMARY

The budget request included $166.0 million in PE 64755N for the ship self-defense program.

The House bill would approve the budget request. The House report (H. Rept. 104–131) expressed concern that the Navy had failed to include funding in its budget request to continue development of either the infrared search and track (IRST) system or NULKA, an electronic warfare countermeasures system, despite the apparently high priority that the Navy has placed on these systems in the past. The House report argued that such funding lapses point to the absence of clearly defined program baselines in the ship self-defense programs.

The Senate amendment would authorize $184.5 million in PE 64755N, an increase of $18.5 million. It would authorize an additional $9.5 million for IRST and $9.0 million for NULKA. The Senate report (S. Rept. 104–112) also discussed evaluation of existing self-defense systems, such as the BARAK 1 missile system, for installation on active and new construction Navy ships.

The conferees agree to authorize $183.5 million for the ship self-defense program in PE 64755N. Funding increases and areas of emphasis are discussed in the following paragraphs. The conferees also agree that the year-to-year volatility of the Navy's budget requests for ship self-defense programs appear to contradict the Navy's oft stated emphasis on littoral warfare. Therefore, the conferees direct the Secretary of the Navy to provide to the congressional defense committees, as a part of the annual update of the ''Ship Anti-Air Warfare (AAW) Report'', an assessment of progress in establishing program baselines for the ship self-defense program and the degree to which these baselines are being met.

IRST

The budget requested reduced funding for and restructured the infrared search and track (IRST) program for affordability reasons. The conferees believe that the IRST system has the potential to play a very important role in defending naval ships against sea skimming antiship missiles. A recently completed cost and operational effectiveness analysis (COEA) supports this conclusion. The conferees agree that the Navy should emphasize early integration of the IRST system with both Aegis and non-Aegis ships, and place priority on early completion of its development. Therefore, the conferees authorize an increase of $9.5 million in PE 64755N to accelerate plans for combat system integration and design of the IRST system.

NULKA

NULKA is a joint United States/Australian project to develop an anti-ship missile decoy system. Increased funding in fiscal year 1996 would allow the Navy to integrate NULKA with the ship self-defense system (SSDS), for installation on amphibious ships and other self-defense ships, to conduct testing of the integrated system, and to commence development of improvements to the payload needed to counter improvements in anti-ship missile technology. The conferees strongly support these objectives and authorize an increase of $8.0 million in PE 64755N.

BARAK 1

The Senate report expressed concern about the need to protect Navy ships from the proliferation of maneuvering, sea-skimming, low observable, anti-ship cruise missiles. It also recognizes the fact that the Navy's evaluation of existing systems, such as the BARAK 1 missile, as candidates for the LPD–17 class's self-defense suite, could produce the most cost-effective solution to this threat. Development costs could be avoided through such an approach.

While addressing ship self-defense in some detail, the House report did not discuss this aspect of the requirement.

The conferees agree that the incorporation of weapons systems that are already in production, such as BARAK 1, into the combat systems of active or new construction ships could be a cost effective means to deal with a rapidly proliferating and evolving cruise missile threat. The conferees desire to be kept informed on the progress and results of the LPD–17 cost and operational effectiveness analysis (COEA). Furthermore, the conferees direct the Navy to present, by February 1996, a plan that could lead to testing of the BARAK 1 system in the United States during fiscal year 1996, should the LPD–17 COEA demonstrate that self-defense systems such as BARAK 1 would be cost effective.

Because of the advantage to the fleet of an early deployment of a robust ship self-defense system, the committee directs the Navy to also examine and report on BARAK 1 applicability to other ship classes. The results of this analysis should be provided to the congressional defense committees by February 1996.

Fixed distributed system—deployable

The budget request included $93.5 million in PE 64784N for the fixed distribution surveillance system (FDS), but included no funding for the deployable (FDS–D) prototype.

The House bill would add $10.0 million to the budget request to refurbish the FDS–D prototype and improve its capability to provide an interim deployable undersea surveillance, until the Advanced Deployable System becomes available.

The Senate amendment would authorize the budget request.

The conferees authorize $103.5 million in PE 64784N, of which $10.0 million would be used to refurbish the FDS–D prototype and improve its surveillance capability. Further guidance is contained in the classified annex.

SSBN security and survivability program

The budget request included $25.1 million in PE 12224N for the SSBN security and survivability program.

The House bill would provide an increase of $9.5 million to the budget request. The House bill would also direct the Secretary of the Navy to provide to the congressional defense committees, within 60 days of enactment, an assessment of the potential threat to the U.S. SSBN force an analysis of the SSBN security program needed to counter that threat.

The Senate amendment would authorize the budget request.

The conferees agree to authorize an additional $5.5 million in PE 12224N for the SSBN security and survivability program. The conferees agree with the House direction to the Secretary of Defense regarding the SSBN security program, contained in the House report (H. Rept. 104–131). Further guidance regarding the program is provided in the classified annex.

Cryptologic system trainer

The budget request included $7.0 million in PE 24571N to continue development and evaluation of the Navy's surface tactical team trainer.

The House bill would authorize an additional $3.0 million for:

(1) integration and evaluation of the cryptologic systems trainer in the battle force tactical training system; and

(2) the development of related information warfare/command and control warfare shipboard training systems.

The Senate amendment would authorize the budget request.

The conferees authorize $10.0 million in PE 24571N. Of this amount, $3.0 million is for the purposes discussed in the House report (H. Rept. 104–131).

Optoelectronics

The budget request did not include funding for optoelectronics manufacturing.

The House bill would provide $10.0 million to initiate partnerships with industry, government laboratories and other research organizations to allow the development of manufacturing technologies that would support optoelectronics devices and components.

The Senate amendment contained no similar provision.

The conferees agree to authorize an additional $10.0 million for this program in PE 78011N. The conferees also agree to authorize an additional $2.0 million for advanced bulk manufacturing of mercury cadmium telluride (MCT) for low cost sensors, also in PE 78011N.

Overview

The budget request for fiscal year 1996 contained an authorization of $12,598.4 million for Air Force, Research and Development in the Department of Defense. The House bill would authorize $13,184.1 million. The Senate amendment would authorize $13,087.4 million. The conferees recommended an authorization of $12,914.9 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

PE	No	Title	FY 1996 Request	House Authorized	Senate Authorized	Change to Request	Conference Agreement
ACCOUNT		RESEARCH DEVELOPMENT TEST & EVAL AF					
0601101F	1	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	-	-	-		-
0601102F	2	DEFENSE RESEARCH SCIENCES	239,893	244,893	235,893	9,585	249,478
0602101F	3	GEOPHYSICS	-	-	-		-
0602102F	4	MATERIALS	74,534	82,534	75,284		74,534
0602201F	5	AEROSPACE FLIGHT DYNAMICS	66,268	66,268	66,268	(1,918)	64,350
0602202F	6	HUMAN SYSTEMS TECHNOLOGY	90,311	90,311	75,311	(3,400)	86,911
0602203F	7	AEROSPACE PROPULSION	78,592	81,592	81,592	(3,522)	75,070
0602204F	8	AEROSPACE AVIONICS	74,256	74,256	74,256	(5,756)	68,500
0602205F	9	PERSONNEL, TRAINING AND SIMULATION	-	-	-		-
0602206F	10	CIVIL ENGINEERING AND ENVIRONMENTAL QUALITY	-	-	-		-
0602269F	11	HYPERSONIC TECHNOLOGY PROGRAM	19,900	19,900	19,900		19,900
0602302F	12	ROCKET PROPULSION AND ASTRONAUTICS TECHNOLOGY	-	-	-		-
0602601F	13	ADVANCED WEAPONS	124,446	130,446	124,446	11,000	135,446
0602602F	14	CONVENTIONAL MUNITIONS	44,954	44,954	44,954		44,954
0602702F	15	COMMAND CONTROL AND COMMUNICATIONS	98,477	96,477	98,477	(2,000)	96,477
0603106F	16	LOGISTICS SYSTEMS TECHNOLOGY	17,960	17,960	17,960		17,960
0603112F	17	ADVANCED MATERIALS FOR WEAPON SYSTEMS	23,283	23,283	23,283		23,283
0603202F	18	AEROSPACE PROPULSION SUBSYSTEMS INTEGRATION	29,818	29,818	29,818		29,818
0603203F	19	ADVANCED AVIONICS FOR AEROSPACE VEHICLES	32,131	32,131	32,131		32,131
0603205F	20	AEROSPACE VEHICLE TECHNOLOGY	10,793	10,793	10,793		10,793
0603211F	21	AEROSPACE STRUCTURES	13,269	13,269	13,269		13,269
0603216F	22	AEROSPACE PROPULSION AND POWER TECHNOLOGY	41,779	41,779	41,779		41,779
0603227F	23	PERSONNEL, TRAINING AND SIMULATION TECHNOLOGY	8,930	8,930	8,930		8,930
0603231F	24	CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY	18,953	21,953	18,953	3,000	21,953
0603238F	25	GLOBAL SURVEILLANCE	2,483	2,483	2,483		2,483
0603245F	26	ADVANCED FIGHTER TECHNOLOGY INTEGRATION	12,491	12,491	12,491		12,491
0603250F	27	LINCOLN LABORATORY	-	-	-		-
0603253F	28	ADVANCED AVIONICS INTEGRATION	20,421	20,421	20,421	(2,800)	17,621
0603269F	29	NATIONAL AERO SPACE PLANE TECHNOLOGY PROGRAM	-	-	-		-
0603270F	30	EW TECHNOLOGY	25,079	25,079	25,079	(2,500)	22,579
0603302F	31	SPACE AND MISSILE ROCKET PROPULSION	15,203	20,203	15,203	5,000	20,203
0603311F	32	BALLISTIC MISSILE TECHNOLOGY	3,085	8,785	8,085	5,700	8,785
0603319F	33	AIRBORNE LASER TECHNOLOGY	-	-	-		-
0603401F	34	ADVANCED SPACECRAFT TECHNOLOGY	32,627	140,127	52,627	70,000	102,627
0603410F	35	SPACE SYSTEMS ENVIRONMENTAL INTERACTIONS TECHNOLOGY	3,479	3,479	3,479		3,479
0603428F	36	SPACE SUBSYSTEMS TECHNOLOGY	-	-	-		-
0603601F	37	CONVENTIONAL WEAPONS TECHNOLOGY	31,637	34,137	31,637	2,500	34,137
0603605F	38	ADVANCED RADIATION TECHNOLOGY	47,919	47,919	47,919		47,919

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0603707F	39	WEATHER SYSTEMS TECHNOLOGY	4,577	4,577	4,577		4,577
0603723F	40	CIVIL AND ENVIRONMENTAL ENGINEERING TECHNOLOGY	9,835	9,835	9,835	(1,000)	8,835
0603726F	41	C3I SUBSYSTEM INTEGRATION	12,008	12,008	12,008		12,008
0603728F	42	ADVANCED COMPUTING TECHNOLOGY	11,005	11,005	11,005		11,005
0603771F	43	INDUSTRIAL PREPAREDNESS MANUFACTURING TECHNOLOGY	53,332	-	53,332	(53,332)	-
0603789F	44	C3 ADVANCED DEVELOPMENT	12,617	12,617	12,617		12,617
0603260F	45	INTELLIGENCE ADVANCED DEVELOPMENT	5,109	5,109	5,109		5,109
0603307F	46	AIR BASE OPERABILITY ADVANCED DEVELOPMENT	-	-	-		-
0603319F	47	AIRBORNE LASER TECHNOLOGY	19,954	19,954	19,954		19,954
0603402F	48	SPACE TEST PROGRAM	-	-	-		-
0603430F	49	ADVANCED MILSATCOM	30,038	30,038	30,038		30,038
	49a	POLAR SATCOM	-	-	58,000	58,000	58,000
0603434F	50	NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL SATELLITE SYSTEM	23,861	18,861	13,861	(5,000)	18,861
0603438F	51	SATELLITE SYSTEMS SURVIVABILITY	-	-	-		-
0603440F	52	BRILLIANT EYES	-	-	-		-
0603441F	53	SPACE BASED INFRARED ARCHITECTURE (SBIR) - DEM/VAL	130,744	265,744	265,744	135,000	265,744
0603617F	54	COMMAND, CONTROL, AND COMMUNICATION APPLICATIONS	6,437	6,437	6,437		6,437
0603714F	55	DOD PHYSICAL SECURITY EQUIPMENT - EXTERIOR	-	-	-		-
0603742F	56	COMBAT IDENTIFICATION TECHNOLOGY	4,571	4,571	4,571		4,571
0603800F	57	JOINT ADVANCED STRIKE TECHNOLOGY - DEM/VAL	151,186	125,686	151,186	(65,500)	85,686
0603851F	58	INTERCONTINENTAL BALLISTIC MISSILE - DEM/VAL	20,265	34,765	24,565		20,265
0603852F	60	C-130J - DEM/VAL	-	-	-		-
0603853F	61	EVOLVED EXPENDABLE LAUNCH VEHICLE (EELV) PROGRAM - DEM/VAL	39,226	39,226	39,226		39,226
0604301F	62	AIRCRAFT AVIONICS EQUIPMENT DEVELOPMENT	16,892	16,892	16,892		16,892
0604212F	63	AIRCRAFT EQUIPMENT DEVELOPMENT	-	-	-		-
0604218F	64	ENGINE MODEL DERIVATIVE PROGRAM (EMDP)	756	756	756		756
0604222F	65	NUCLEAR WEAPONS SUPPORT	4,822	4,822	4,822		4,822
0604226F	66	B-1B	173,838	194,838	287,638	28,600	202,438
0604227F	67	TRAINING SYSTEMS DEVELOPMENT	8,786	8,786	8,786		8,786
0604231F	68	C-17 PROGRAM	85,753	85,753	85,753	(11,950)	73,803
0604233F	69	SPECIALIZED UNDERGRADUATE PILOT TRAINING	63,042	63,042	63,042		63,042
0604237F	70	VARIABLE STABILITY IN-FLIGHT SIMULATOR TEST AIRCRAFT	-	-	-		-
0604239F	71	F-22 EMD	2,138,718	2,138,718	2,138,718		2,138,718
0604240F	72	B-2 ADVANCED TECHNOLOGY BOMBER	623,616	623,616	623,616		623,616
0604243F	73	MANPOWER, PERSONNEL AND TRAINING DEVELOPMENT	5,300	5,300	5,300		5,300
0604249F	74	NIGHT/PRECISION ATTACK	8,708	8,708	8,708		8,708
0604268F	75	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	-	-	-		-
0604270F	76	EW DEVELOPMENT	50,203	50,203	50,203		50,203
0604321F	77	COMBAT INTELLIGENCE SYSTEM -EMD	3,938	3,938	3,938		3,938

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0604441F	78	SPACE BASED INFRARED ARCHITECTURE (SBIR) - EMD	152,219	162,219	162,219	10,000	162,219
0604479F	79	MILSTAR LDR/MDR SATELLITE COMMUNICATIONS	649,666	649,666	577,666	(72,000)	577,666
0604480F	80	GLOBAL POSITIONING SYSTEM BLOCK IIF	19,699	19,699	29,699		19,699
0604600F	81	MUNITIONS DISPENSER DEVELOPMENT	53,254	53,254	53,254		53,254
0604601F	82	CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT	-	-	-		-
0604602F	83	ARMAMENT/ORDNANCE DEVELOPMENT	8,075	8,075	8,075		8,075
0604604F	84	SUBMUNITIONS	4,953	4,953	14,953	10,000	14,953
0604609F	85	R&M MATURATION/TECHNOLOGY INSERTION	-	-	-		-
0604617F	86	AIR BASE OPERABILITY	9,692	9,692	9,692		9,692
0604618F	87	JOINT DIRECT ATTACK MUNITION	92,161	92,161	99,161	475	92,636
0604703F	88	AEROMEDICAL/CHEMICAL DEFENSE SYSTEMS	6,235	6,235	6,235		6,235
0604704F	89	COMMON SUPPORT EQUIPMENT DEVELOPMENT	1,167	1,167	1,167		1,167
0604706F	90	LIFE SUPPORT SYSTEMS	4,035	4,035	4,035		4,035
0604707F	91	WEATHER SYSTEMS - ENG DEV	-	-	-		-
0604708F	92	CIVIL, FIRE, ENVIRONMENTAL, SHELTER ENGINEERING	2,737	2,737	2,737		2,737
0604711F	93	SYSTEMS SURVIVABILITY (NUCLEAR EFFECTS)	37	-	37	(37)	-
0604727F	94	JOINT STANDOFF WEAPONS SYSTEMS	44,025	44,025	44,025		44,025
0604733F	95	SURFACE DEFENSE SUPPRESSION	-	5,000	-		-
0604735F	96	COMBAT TRAINING RANGES	10,418	10,418	10,418		10,418
0604740F	97	COMPUTER RESOURCE TECHNOLOGY TRANSITION (CRTT)	2,166	2,166	2,166		2,166
0604750F	98	INTELLIGENCE EQUIPMENT	1,294	1,294	1,294		1,294
0604754F	99	JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS)	10,146	10,146	10,146		10,146
0604770F	100	JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM (JSTARS)	169,702	203,702	169,702	12,500	182,202
0604779F	101	JOINT INTEROPERABILITY OF TACTICAL COMMAND & CONTROL SYSTEMS (JINTACCS)	6,356	6,356	6,356		6,356
0604851F	102	INTERCONTINENTAL BALLISTIC MISSILE - EMD	192,719	200,719	192,719		192,719
0303806F	103	UHF SATELLITE COMMUNICATIONS	15,568	13,068	9,068	(2,500)	13,068
0603402F	104	SPACE TEST PROGRAM	57,710	64,710	57,710	(10,710)	47,000
0604256F	105	THREAT SIMULATOR DEVELOPMENT	53,377	53,377	53,377		53,377
0604258F	106	TARGET SYSTEMS DEVELOPMENT	5,362	5,362	5,362		5,362
0604759F	107	MAJOR T&E INVESTMENT	37,879	37,879	37,879		37,879
0605101F	108	RAND PROJECT AIR FORCE	25,924	25,924	25,924		25,924
0605306F	109	RANCH HAND II EPIDEMIOLOGY STUDY	3,139	3,139	3,139		3,139
0605502F	110	SMALL BUSINESS INNOVATIVE RESEARCH (H)	-	-	-		-
0605706F	111	NAVIGATION/RADAR/SLED TRACK TEST SUPPORT	-	-	-		-
0605712F	112	INITIAL OPERATIONAL TEST & EVALUATION	24,506	24,506	24,506		24,506
0605807F	113	TEST AND EVALUATION SUPPORT	454,067	444,167	424,167	(19,900)	434,167
0605808F	114	DEVELOPMENT PLANNING	6,745	6,745	6,745		6,745
0605853F	115	ENVIRONMENTAL CONSERVATION	14,169	4,169	14,169	(10,000)	4,169
0605854F	116	POLLUTION PREVENTION	14,046	14,046	14,046		14,046

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0605856F	117	ENVIRONMENTAL COMPLIANCE	26,423	26,423	26,423		26,423
0605860F	118	ROCKET SYSTEMS LAUNCH PROGRAM (RSLP)	5,949	5,949	5,949		5,949
0605863F	119	RDT&E AIRCRAFT SUPPORT	-	-	-		-
0605876F	120	MINOR CONSTRUCTION (RPM) - RDT&E	-	-	-		-
0605879F	121	MAINTENANCE AND REPAIR (RPM) - RDT&E	-	-	-		-
0605896F	122	BASE OPERATIONS - RDT&E	117,083	126,983	126,983	6,900	123,983
0604268F	125	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	103,700	103,700	135,200	29,530	133,230
0101113F	126	B-52 SQUADRONS	16,505	16,505	36,505	4,500	21,005
0101120F	127	ADVANCED CRUISE MISSILE	7,060	7,060	7,060		7,060
0101213F	128	MINUTEMAN SQUADRONS	-	-	-		-
0102325F	129	JOINT SURVEILLANCE SYSTEM	4,711	4,711	4,711		4,711
0102411F	130	NORTH ATLANTIC DEFENSE SYSTEM	9,351	9,351	9,351		9,351
0102412F	131	NORTH WARNING SYSTEM (NWS)	1,015	1,015	1,015		1,015
0207128F	132	F-111 SQUADRONS	597	597	597		597
0207133F	133	F-16 SQUADRONS	175,600	175,600	175,600		175,600
0207134F	134	F-15E SQUADRONS	171,337	171,337	171,337		171,337
0207136F	135	MANNED DESTRUCTIVE SUPPRESSION	2,908	12,908	2,908		2,908
0207141F	136	F-117A SQUADRONS	3,881	3,881	3,881		3,881
		JASSM	-	-	50,000	25,000	25,000
0207160F	137	TRI-SERVICE STANDOFF ATTACK MISSILE	-	37,500	-		-
0207161F	138	TACTICAL AIM MISSILES	20,082	20,082	20,082		20,082
0207163F	139	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	42,311	50,311	47,311	5,000	47,311
0207217F	140	FOLLOW-ON TACTICAL RECONNAISSANCE SYSTEM	-	-	-		-
0207247F	141	AF TENCAP	21,966	21,966	21,966		21,966
0207248F	142	SPECIAL EVALUATION PROGRAM	87,184	87,184	87,184		87,184
0207411F	143	OVERSEAS AIR WEAPON CONTROL SYSTEM	-	-	-		-
0207412F	144	THEATER AIR CONTROL SYSTEMS	290	290	290		290
0207417F	145	AIRBORNE WARNING AND CONTROL SYSTEM (AWACS)	96,696	96,696	96,696		96,696
0207419F	146	TACTICAL AIRBORNE COMMAND AND CONTROL SYSTEMS	2,093	2,093	2,093		2,093
0207422F	147	DEPLOYABLE C3 SYSTEMS	-	-	-		-
0207423F	148	ADVANCED COMMUNICATIONS SYSTEMS	1,934	1,934	1,934		1,934
0207424F	149	EVALUATION AND ANALYSIS PROGRAM	77,688	77,688	77,688		77,688
0207433F	151	ADVANCED PROGRAM TECHNOLOGY	157,397	157,397	157,397		157,397
0207438F	152	THEATER BATTLE MANAGEMENT (TBM) C4I	24,813	24,813	24,813		24,813
0207579F	153	ADVANCED SYSTEMS IMPROVEMENTS	105,548	105,548	65,548	(41,800)	63,748
0207590F	154	SEEK EAGLE	17,390	17,390	17,390		17,390
0207591F	155	ADVANCED PROGRAM EVALUATION	140,571	140,571	140,571		140,571
0207601F	156	USAF WARGAMING AND SIMULATION	19,762	19,762	19,762		19,762
0208006F	157	MISSION PLANNING SYSTEMS	20,585	20,585	20,585		20,585

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0208060F	159	THEATER MISSILE DEFENSES	25,102	25,102	53,102		25,102
0303110F	166	DEFENSE SATELLITE COMMUNICATIONS SYSTEM	32,555	32,555	32,555		32,555
0303131F	167	MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK (MEECN)	15,777	15,777	15,777		15,777
0303140F	168	INFORMATION SYSTEMS SECURITY PROGRAM	11,261	11,261	12,761	1,500	12,761
0303144F	169	ELECTROMAGNETIC COMPATIBILITY ANALYSIS CENTER (ECAC)	-	-	-		-
0303601F	170	MILSTAR SATELLITE COMMUNICATIONS SYSTEM	42,591	42,591	42,591		42,591
0303605F	171	SATELLITE COMMUNICATIONS TERMINALS	-	-	-		-
0305110F	173	SATELLITE CONTROL NETWORK	89,717	89,717	89,717	(5,100)	84,617
0305111F	174	WEATHER SERVICE	5,771	5,771	5,771		5,771
0305114F	175	AIR TRAFFIC CONTROL, APPROACH, AND LANDING SYSTEM (ATCALS)	3,968	3,968	3,968		3,968
0305119F	176	MEDIUM LAUNCH VEHICLES	21,898	21,898	21,898		21,898
0305128F	178	SECURITY AND INVESTIGATIVE ACTIVITIES	299	299	299		299
0305137F	179	NATIONAL AIRSPACE SYSTEM (NAS) PLAN	13,759	13,759	13,759		13,759
0305138F	180	UPPER STAGE SPACE VEHICLES	3,554	3,554	3,554		3,554
0305144F	182	TITAN SPACE LAUNCH VEHICLES	140,514	140,514	140,514	(5,000)	135,514
0305145F	183	ARMS CONTROL IMPLEMENTATION	998	998	998		998
0305158F	184	CONSTANT SOURCE	3,089	3,089	3,089		3,089
0305160F	185	DEFENSE METEOROLOGICAL SATELLITE PROGRAM (DMSP)	21,464	21,464	21,464		21,464
0305164F	186	NAVSTAR GLOBAL POSITIONING SYSTEM (USER EQUIPMENT)	17,371	17,371	17,371		17,371
0305165F	187	NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND CONTROL SEGMENTS)	26,921	26,921	26,921	(1,000)	25,921
0305181F	189	WESTERN SPACE LAUNCH FACILITY (WSLF)	-	-	-		-
0305182F	190	EASTERN SPACE LAUNCH FACILITY (ESLF)	52,272	52,272	52,272		52,272
0305887F	191	ELECTRONIC COMBAT INTELLIGENCE SUPPORT	-	-	-		-
0305905F	193	IMPROVED SPACE BASED TW/AA	-	-	-		-
0305908F	194	NCMC - TW/AA SYSTEM	60,897	60,897	60,897	7,900	68,797
0305910F	195	SPACETRACK	35,583	35,583	35,583		35,583
0305911F	196	DEFENSE SUPPORT PROGRAM	43,672	43,672	38,672	(6,231)	37,441
0305913F	197	NUDET DETECTION SYSTEM	16,277	16,277	16,277	(3,000)	13,277
0401119F	198	C-5 AIRLIFT SQUADRONS	-	-	-		-
0401218F	199	KC-135S	12,727	12,727	12,727		12,727
0401840F	200	AMC COMMAND AND CONTROL SYSTEM	-	-	-		-
0404102F	201	AEROSPACE RESCUE AND RECOVERY	5,369	5,369	5,369		5,369
0701111F	202	SUPPLY DEPOT OPERATIONS (NON-IF)	-	-	-		-
0702207F	203	DEPOT MAINTENANCE (NON-IF)	1,464	1,464	1,464		1,464
0708011F	204	INDUSTRIAL PREPAREDNESS	-	53,332	-	60,932	60,932
0708012F	205	LOGISTICS SUPPORT ACTIVITIES	-	-	-		-
0708026F	206	PRODUCTIVITY, RELIABILITY, AVAILABILITY, MAINTAIN. PROG OFC (PRAMPO)	15,719	15,719	15,719		15,719
0708054F	207	POLLUTION PREVENTION	-	-	-		-
0708611F	208	SUPPORT SYSTEMS DEVELOPMENT	5,906	5,906	5,906		5,906

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0804734F	209	CRYPTOLOGIC/SIGINT-RELATED SKILL TRAINING	1,139	1,139	1,139		1,139
0901218F	210	CIVILIAN COMPENSATION PROGRAM	5,827	5,827	5,827		5,827
1001004F	211	INTERNATIONAL ACTIVITIES	3,713	3,713	3,713		3,713
		Joint Seismic Program and Global Seismic Network		-	9,500		
		FY95 Unobligated Balances		-	(9,500)		
XXXXXXXXXX	999	Classified Programs	3,203,479	3,396,479	3,312,079	149,763	3,353,242
		POLAR SATCOM					-
		Total Air Force RDT&E	12,598,439	13,182,102	13,087,389	316,429	12,914,868

Defense research sciences

The budget request included $239.893 million for defense research sciences in PE 61102F.

The House bill would authorize an additional $5.0 million for adaptive optics research.

The Senate amendment would reduce the budget request by $9.0 million and authorize $5.0 million for adaptive optics research.

The conferees agree, that of the $249.5 million authorized in this program element, $5.0 million shall be authorized for adaptive optics research.

Robotics corrosion inspection system

The House bill would authorize $8.0 million in PE 62102F to conduct a competitive program to demonstrate the feasibility of non-contact robotic corrosion inspection for detection of hidden corrosion and metal fatigue.

The Senate amendment did not include such authorization.

The conferees strongly encourage the Air Force to consider environmentally benign technologies that demonstrate the potential to provide a 25 percent savings in cargo and fighter aircraft inspection and repair costs through the use of non-contact robotic corrosion inspection.

Firefighting clothing

The conferees encourage the Department of Defense to continue to make greater use of commercial off-the-shelf technologies that meet military requirements without extensive development programs. The conferees are aware of recent commercial developments in thermal absorbing materials that would have the potential to significantly increase personnel protection for fighting aircraft, ship-board, and chemical fires. Accordingly, the conferees authorize an additional $1.25 million in PE 62201F for the development of a firefighting suit that would incorporate these technologies.

Aerospace propulsion

The budget request included $3.7 million in PE 62203F for the high thermal stability and the endothermic hydrocarbon fuels project 3048.

The House bill and Senate amendment would authorize an additional $3.0 million for the acceleration of this project.

The conferees agree that of the $75.0 million authorized for this program element that $6.7 million be authorized for project 3048.

High frequency active auroral research program (HAARP)

The conferees agree to a $5.0 million increase in PE 62601F for the high frequency active auroral research program (HAARP).

Rocket propulsion technology

The House bill would authorize an additional $13.0 million for rocket propulsion technology programs in PE 62601F, PE 63302F, and PE 62111N.

The Senate amendment contained no similar provision.

The conferees agree to provide an additional $13.0 million, as specified in the House report (H. Rept. 104–131).

Computer security

The budget request included $98.5 million for Command, Control, and Communications in PE 62702F.

The House bill would authorize an additional $3.0 million to evaluate voice recognition computer security systems.

The Senate amendment contained no similar authorization.

The conferees direct that, of the $96.5 million authorized, $3.0 million be authorized for evaluation of voice recognition computer security systems, as specified in the House report (H. Rept. 104–131).

Aircraft ejection seats

The budget request included $19.0 million in PE 63231F for crew systems and personnel protection technology.

The House bill would authorize an additional $3.0 million to test existing Navy, Marine Corps, and Air Force front-line trainer and tactical aircraft ejection seats. Ejection seat tests would be conducted to verify predicted performance and to identify existing problems and the required corrective action.

The Senate amendment had no similar provision.

The conferees agree to authorize an additional $3.0 million in PE 63231F for the purposes specified in the House report (H. Rept. 104–131).

Micro-satellite development program

The budget request included $32.6 million in PE 63401F for Advanced Spacecraft Technology.

The Senate amendment would authorize an additional $20.0 million for a micro-satellite development program.

The House bill would authorize the budget request.

The House recedes.

The Air Force Phillips Laboratory, in conjunction with the Air Force Space Command's Space Warfare Center, has initiated a small satellite program to develop and demonstrate a variety of miniaturized space technologies. The micro-satellite program builds upon the highly successful Clementine satellite program. The conferees strongly support this effort and direct that it be placed under the control of the Space Warfare Center and be executed by the Clementine Team (Phillips Laboratory, Naval Research Laboratory, and Lawrence Livermore National Laboratory).

Intercontinental ballistic missile (ICBM) research and development and associated issues

ICBM DEMONSTRATION/VALIDATION

The budget request included $20.3 million in PE 63851F for six Minuteman-related projects.

The House bill would authorize an additional $14.5 million to complete acquisition and requirement documentation efforts and to conduct missile guidance technology experiments. The House report (H. Rept. 104–131) expressed concern that the budget request failed to include pre-milestone 0 and phase 0 funding for the command signal decoder, the modified miniature receive terminal for launch control centers, the safety enhanced reentry vehicle, and inertial measurement modifications.

The Senate amendment would authorize an additional $4.3 million to bolster the Air Force reentry vehicle applications project. The Senate report (S. Rept. 104–112) expressed concern that the reentry vehicle nose tip requirements were not adequately funded.

The conferees agree to authorize the budget request. The conferees also reiterate the concerns expressed in the House and Senate reports. The conferees understand that the Air Force is considering options to address these concerns from within their existing fiscal year 1996 budget, in particular the documentation issues identified in the House report. The conferees strongly urge the Air Force to fulfill these requirements.

ICBM ENGINEERING AND MANUFACTURING DEVELOPMENT

The budget request contained $192.7 million in PE 64851F to fund the Minuteman guidance and propulsion replacement programs.

The House bill would authorize an additional $8.0 million to fund the initial integration design and testing of the capability to integrate the Mk21 warhead on the new Minuteman guidance set. The House report (H. Rept. 104–131) endorsed using the Mk21, the safest warhead in the inventory, on the Minuteman, if and when it becomes available as a result of arms control treaties. The House report expressed concern that the current guidance replacement program fails to fund the design and testing necessary to ensure the Mk21 capability prior to initiation of the guidance set production.

The Senate amendment would authorize the budget request.

The conferees agree to authorize the budget request. The conferees, however, reiterate the concerns expressed in the House report (H. Rept. 104–131), and support the recommendations made therein. The conferees are concerned that the Department of Defense and the Air Force have failed to take the necessary action to ensure that the safest nuclear warheads are compatible with the new Minuteman guidance sets. Therefore, the conferees direct that, of the funds authorized for fiscal year 1996 in PE 64851F, up to $4.0 million shall be available to initiate efforts to ensure that the new Minuteman guidance sets are capable of accommodating the Mk21 warhead. The conferees further direct the Secretary of Defense to ensure that the funds necessary to continue this effort are included in the fiscal year 1997 budget request.

REENTRY VEHICLE MATERIALS

The Senate amendment would authorize $750,000 above the budget request in PE 62102F for the Thermal Protection Materials Reentry Vehicle project to purchase, test, and evaluate three nose tip billets and related technologies.

The House bill would not authorize additional funds for reentry vehicle materials.

The Senate recedes. Nevertheless, the conferees reiterate the concerns expressed in the Senate report (S. Rept. 104–112) regarding the adequacy of the reentry vehicle applications program, and, in particular, the reentry vehicle materials program. Therefore, the conferees direct that, of the funds available in PE 62102F, up to $750,000 shall be available for the Thermal Protection Materials Reentry Vehicle project to purchase, test, and evaluate three ICBM reentry vehicle nose tip billets and related thermal technologies.

BALLISTIC MISSILE TECHNOLOGY

The budget request contained $3.1 million in PE 63311F to conduct guidance and range safety technology experiments.

The House bill would authorize an additional $5.7 million for Minuteman class range tracking and safety equipment based on Global Positioning System (GPS) equipment developments.

The Senate amendment would authorize an additional $5.0 million for suborbital flight testing conducted at White Sands Missile Range for ballistic missile guidance, range tracking, and safety equipment, based on existing GPS equipment.

The conferees agree to authorize $5.7 million above the budget request to enhance ballistic missile technology experiments and to proceed with a follow-on to the successful Missile Technology Demonstration Flight 1 (MTD–1). The conferees commend the participants in this joint effort and encourage the Air Force, the Ballistic Missile Defense Organization, the Defense Nuclear Agency, and the Phillips Laboratory to continue to pursue such joint efforts. Prior to completing plans for a MTD follow-on, the conferees direct the Air Force to consult with the Senate Committee on Armed Services and the House Committee on National Security on

the issues and options associated with the following: (1) the technologies to be tested; (2) the type of booster configuration to be employed; and (3) the test range to be used.

PEACEKEEPER CONTINGENCY PLANNING

The conferees direct the Secretary of the Air Force to submit a report to the congressional defense committees, by March 1, 1996, that outlines the Air Force's current plans for retiring Peacekeeper, and maintaining the system in the interim. The report should also address the additional actions and funding that would be required to maintain the option of retaining up to 50 Peacekeeper ICBMs in an operational status beyond 2003. The report should include a timetable that outlines when such actions and funding would be needed.

Weapon impact assessment system

The conferees are aware of innovative technologies that may significantly resolve the battlefield damage assessment problems related to tactical aviation. The conferees support the priorities established in the fiscal year 1996 Department of Defense Small Business Innovative Research Program solicitation (96.1) to expeditiously pursue weapon impact assessment technology. Accordingly, the conferees authorize $950,000, distributed equally between PE 64618N and PE 64618F, for a joint Navy-Air Force flight demonstration of a weapon impact assessment system that uses a video sensor-transmitter with precision guided munitions.

Stand-off land attack missiles

The budget request contained $40.5 million in PE 64603N for continued development of the stand-off land attack missile-enhanced response (SLAM–ER) as an interim replacement for the canceled tri-service stand-off attack missile (TSSAM) for the Navy.

The House bill would authorize the budget request for SLAM–ER. However, the House report (H. Rept. 104–131) would prohibit the Navy from obligating more than $10.0 million for the program without specific approval by the congressional defense committees.

The House bill would also provide an additional $37.5 million in PE 64312N for the Navy and an additional $37.5 million in PE 27160F for the Air Force to establish a joint program for accelerated development and evaluation of candidate joint air-to-surface stand-off missile (JASSM) systems as a near-term replacement for TSSAM. The House report would direct the Secretary of Defense to establish immediately such a program and would further direct the Secretary to report to the congressional defense committees within 60 days of the enactment of the Act on:

(1) the Department's plan to address near-term Navy and Air Force requirements for an interim TSSAM replacement;

(2) the Department's plans to satisfy these near-term requirements; and

(3) the long-term plan for development of a TSSAM replacement that will satisfy the requirements of both services.

The Senate amendment would authorize the budget request in PE 64603N for continued development of SLAM–ER, and would provide an additional $50.0 million for the Air Force in PE 27160F to initiate a JASSM program, with the expectation that the Department of Defense would establish a joint program to meet Air Force and Navy needs for a replacement for TSSAM.

The House recedes with an amendment. The conferees agree to:

(1) authorize the SLAM–ER budget request;

(2) provide $25.0 million for JASSM in the Air Force budget; and

(3) require the Department to report on plans for meeting near-term and long-term Air Force and Navy requirements for stand-off weapons systems.

JOINT AIR-TO-SURFACE STAND-OFF MISSILE (JASSM)

In testimony before the Congress this year, the Air Force and the Navy continued to support the requirement for a survivable, precision strike stand-off weapon. The DOD decision to cancel the TSSAM program exacerbated an already significant shortfall in this capability. The conferees stress the urgent need for the operational capability that would be provided by the TSSAM, and expect the Secretary of Defense to establish a joint program in the Air Force and the Navy for development of a TSSAM replacement, as recommended in both the House report (H. Rept. 104–131) and the Senate report (S. Rept. 104–112).

The conferees are concerned about the approach the services may pursue to fulfill the JASSM requirement. The conferees note that there are a number of competing alternatives upon which the JASSM could be based. The conferees believe that JASSM could evolve from a existing, or planned interim weapons system. The conferees believe that, if the Department decides that a new weapon development is appropriate, the new development program should be based on technologies that have already been developed in the TSSAM program, or in other existing or planned stand-off weapons systems, including technologies relating to low and very low observability/stealth.

The conferees note that there are a number of competing alternatives upon which the JASSM could be based, and want to ensure that due consideration is given to all competing approaches. Therefore, the conferees direct the Department to consider the following in conducting the JASSM program: (1) the results of the TSSAM development program, and the potential for using technology and components derived from that program; and (2) the results of programs for development of other stand-off weapons systems, and the potential for using technologies derived from those programs. The conferees direct the Secretary of Defense to include, in his report on precision guided munitions, information on the extent to which the Department may avail itself of TSSAM-derivative components and technology, as well as, components and technologies derived from other stand-off weapons programs, in meeting the JASSM requirement.

REQUIRED REPORT

The conferees direct the Secretary of Defense to include in the report on the analysis required by the provision on precision guided munitions, the Department's plan for meeting near-term Navy and Air Force requirements for an interim TSSAM replacement and the long-term plan for development of a TSSAM replacement that will meet the requirements of both services. The conferees expect that the Department would establish the following for JASSM weapons system at the next milestone: design-to-unit cost goals; minimum performance parameters; and interface requirements between JASSM and launch platforms.

Mobile missile launch detection and tracking

The conferees are aware of a proposal to use specialized processing techniques on synthetic aperture radar data to detect medium-rage ballistic missiles shortly after launch. The conferees urge the Air Force to consider this promising concept and agree to authorize the use of up to $1.0 million in funds made available in PE 28060F to demonstrate the feasibility of this concept.

Rivet joint technology transfer program

The Senate amendment recommended a $28.0 million increase to the theater missile defense program element (PE 28060F) to initiate the migration of the Cobra Ball medium wave infrared acquisition technology for the Rivet Joint RC–135 tactical reconnaissance fleet.

The House bill did not contain a similar recommendation.

The Senate recedes.

The conferees encourage the Air Force to move forward with this near term, cost effective program. With the transfer of this mature technology, the Rivet Joint fleet would offer early deployment and provide a significant improvement to the Department of Defense's capabilities in long range surveillance, warning, rapid cueing for attack operations, and impact point prediction. To achieve this goal, the conferees would consider a reprogramming in fiscal year 1996. The conferees understand that funds for the completion of this technology migration are included in the Air Force future year defense plans for this program.

Information systems security

The budget request included $11.3 million in PE 33140F for the Air Force's Information Systems Security program.

The Senate amendment would authorize an additional $1.5 million to complete research and development of the Trusted RUBIX multi-level security database management system.

The House bill would authorize the budget request.

The House recedes.

Computer-assisted technology transfer

The conferees agree to authorize $7.2 million in PE 78011F to continue the computer-assisted technology transfer program.

Overview

The budget request for fiscal year 1996 contained an authorization of $8,802.9 million for Defense-Wide, Research and Development in the Department of Defense. The House bill would authorize $9,287.1 million. The Senate amendment would authorize $9,271.2 million. The conferees recommended an authorization of $9,419.5 million. Unless noted explicity in the statement of managers, all changes are made without prejudice.

PE	No	Title	FY 1996 Request	House Authorized	Senate Authorized	Change to Request	Conference Agreement
ACCOUNT		RESEARCH DEVELOPMENT TEST & EVAL DEFENSE-WIDE				-	
0601101D	1	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	3,551	3,551	3,551		3,551
0601101E	2	DEFENSE RESEARCH SCIENCES	89,732	84,732	89,732	(8,400)	81,332
0601103D	3	UNIVERSITY RESEARCH INITIATIVES	236,165	256,165	231,165	(5,000)	231,165
0601110D	4	FOCUSED RESEARCH INITIATIVES	14,009	9,009	14,009	(5,000)	9,009
0601384BP	5	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	23,947	28,547	23,947	4,600	28,547
0602160D	6	COUNTERPROLIFERATION SUPPORT	9,952	9,952	9,952		9,952
0602173C	7	SUPPORT TECHNOLOGIES/FOLLOW-ON TECHNOLOGIES EXPLORATORY DEVELOPMENT	93,308	93,308	93,308		93,308
0602227D	8	MEDICAL FREE ELECTRON LASER	13,258	13,258	21,258	13,000	26,258
0602228D	9	HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) SCIENCE AND ENGINEER	14,779	14,779	14,779		14,779
0602234D	10	LINCOLN LABORATORY RESEARCH PROGRAM	19,903	10,000	19,903	(7,000)	12,903
0602301E	11	COMPUTING SYSTEMS AND COMMUNICATIONS TECHNOLOGY	403,875	389,875	406,875	(7,550)	396,325
0602384BP	12	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	60,665	84,165	60,665	7,850	68,515
0602702E	13	TACTICAL TECHNOLOGY	113,168	122,868	101,818	(4,350)	108,818
0602708E	14	INTEGRATED COMMAND AND CONTROL TECHNOLOGY	48,000	48,000	48,000		48,000
0602712E	15	MATERIALS AND ELECTRONICS TECHNOLOGY	226,045	253,545	242,045	16,000	242,045
0602715H	16	DEFENSE NUCLEAR AGENCY	219,003	223,003	242,003	22,700	241,703
0602787D	17	MEDICAL TECHNOLOGY	7,501	7,501	7,501		7,501
0305108K	18	COMMAND AND CONTROL RESEARCH	1,999	1,999	1,999		1,999
		DEFENSE HEALTH R&D					-
0603002D	19	MEDICAL ADVANCED TECHNOLOGY	4,088	4,088	4,088		4,088
0603104D	20	EXPLOSIVES DEMILITARIZATION TECHNOLOGY	-	-	-	15,000	15,000
0603122D	21	COUNTERTERROR TECHNICAL SUPPORT	12,044	12,044	14,044	2,000	14,044
0603160D	22	COUNTERPROLIFERATION SUPPORT - ADV DEV	55,331	55,331	91,631		55,331
		ASAT PROGRAM		-		30,000	30,000
0603173C	23	SUPPORT TECHNOLOGIES/FOLLOW-ON TECHNOLOGIES - ADVANCED TECHNOLOGY	79,387	79,387	149,387	50,000	129,387
0603215C	24	LIMITED DEFENSE SYSTEM	-	-	-		-
0603216C	25	THEATER MISSILE DEFENSE ADVANCED DEVELOPMENT	-	-	-		-
0603218C	26	RESEARCH AND SUPPORT ACTIVITIES	-	-	-		-
0603225D	27	JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOPMENT	16,799	31,799	16,799	5,000	21,799
0603226E	28	EXPERIMENTAL EVALUATION OF MAJOR INNOVATIVE TECHNOLOGIES	618,005	673,805	626,005	(14,300)	603,705
0603384BP	29	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - ADVANCED DEVELOPMENT	25,684	38,284	25,684	10,000	35,684
0603569E	30	ADVANCED SUBMARINE TECHNOLOGY	7,473	30,473	7,473	23,000	30,473
0603570D	31	DEFENSE LABORATORY PARTNERSHIP PROGRAM	16,106	-	10,106	(16,106)	-
0603570E	32	DEFENSE DUAL USE TECHNOLOGY INITIATIVE	500,000	-	238,000	(305,000)	195,000
0603704D	33	SPECIAL TECHNICAL SUPPORT	18,187	18,187	18,187		18,187
0603711H	34	VERIFICATION TECHNOLOGY DEMONSTRATION	33,971	33,971	33,971		33,971
0603716D	35	STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	58,435	54,155	58,435	(280)	58,155
0603724D	36	BIOLOGICAL DEFENSE - ADVANCED DEVELOPMENT	-	-	-		-

PE	No	Title	FY 1996 Request	House Authorized	Senate Authorized	Change to Request	Conference Agreement
0603725D	37	COMPUTERS & COMMUNICATIONS TO REDUCE MEDICAL COSTS	-	-	-		-
0603726D	38	JOINT TECHNOLOGY INSERTION PROGRAM	4,976	-	4,976	(1,500)	3,476
0603736D	39	CALS INITIATIVE	6,545	6,545	18,545	12,000	18,545
0603738D	40	COOPERATIVE DOD/VA MEDICAL RESEARCH	-	-	-		-
0603739E	41	ADVANCED ELECTRONICS TECHNOLOGIES	419,863	421,221	369,863	(10,845)	409,018
0603744E	42	ADVANCED SIMULATION	5,799	5,799	5,799		5,799
0603745E	43	SEMICONDUCTOR MANUFACTURING TECHNOLOGY	89,554	89,554	89,554		89,554
0603746E	44	MARITIME TECHNOLOGY	49,657	49,657	49,657		49,657
0603747E	45	ELECTRIC VEHICLES	-	-	-		-
0603748E	46	NATURAL GAS VEHICLES	-	-	-		-
0603749E	47	EARTH CONSERVANCY	-	-	-		-
0603750D	48	ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS	63,251	71,251	59,851	(18,400)	44,851
0603755D	49	HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM	89,682	89,682	89,682		89,682
0603756D	50	CONSOLIDATED DOD SOFTWARE INITIATIVE	-	-	-		-
0603771S	51	INDUSTRIAL PREPAREDNESS MANUFACTURING TECHNOLOGY	7,007	-	7,007	(7,007)	-
0603800E	52	JOINT ADVANCED STRIKE TECHNOLOGY - DEM/VAL	30,675	30,675	30,675		30,675
0603832D	53	JOINT WARGAMING SIMULATION MANAGEMENT OFFICE	77,690	77,690	77,690		77,690
0305889E	55	COUNTERDRUG INTELLIGENCE SUPPORT	-	-	-		-
0603228D	56	PHYSICAL SECURITY EQUIPMENT	20,092	27,092	20,092		20,092
0603708D	57	INTEGRATED DIAGNOSTICS	10,266	10,266	10,266		10,266
0603709D	58	JOINT ROBOTICS PROGRAM	17,382	27,382	17,382	5,000	22,382
0603714D	59	ADVANCED SENSOR APPLICATIONS PROGRAM	25,923	35,923	35,923		25,923
0603715D	60	AIM-9 CONSOLIDATED PROGRAM	-	-	-		-
0603734J	61	ISLAND SUN SUPPORT	1,584	1,584	1,584		1,584
0603790D	62	NATO RESEARCH AND DEVELOPMENT	45,642	25,642	40,642	(22,142)	23,500
0603851D	63	ENVIRONMENTAL SECURITY TECHNICAL CERTIFICATION PROGRAM	14,939	14,939	26,939	12,000	26,939
0603881C	64	THEATER HIGH-ALTITUDE AREA DEFENSE SYSTEM - TMD - DEM/VAL	576,327	576,327	576,327		576,327
0603882C	65	THEATER MISSILE DEFENSE GROUND BASED RADAR (GBR-T) - DEM/VAL	-	-	-		-
0603883C	66	HAWK UPGRADES THEATER MISSILE DEFENSE ACQUISITION - DEM/VAL	23,188	23,188	23,188		23,188
0603884C	67	BATTLE MANAGEMENT AND C4I FOR TMD ACQUISITION - DEM/VAL	24,231	24,231	24,231		24,231
0603887C	68	NAVY LOWER TIER TMD ACQUISITION - DEM/VAL	-	-	-	185,000	185,000
0603888C	69	NAVY UPPER TIER TMD - DEM/VAL	30,442	200,442	200,442	170,000	200,442
0603889C	70	CORPS SURFACE-TO-AIR MISSILE - TMD - DEM/VAL	30,442	20,442	-	(10,000)	20,442
0603870C	71	BOOST PHASE INTERCEPT THEATER MISSILE DEFENSE ACQUISITION	49,061	29,061	-	(49,061)	-
0603871C	72	NATIONAL MISSILE DEFENSE - DEM/VAL	370,621	820,621	670,621	450,000	820,621
0603872C	73	OTHER THEATER MISSILE DEFENSE/FOLLOW-ON TMD ACTIVITIES ACQUISITION	460,470	423,470	475,470	(22,000)	438,470
0603884BP	74	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - DEM/VAL	32,461	36,861	32,461	1,600	34,061
0604225C	75	THEATER MISSILE DEFENSE ACQUISITION EMD PROGRAMS	-	-	-		-
0604705D	76	MOBILE OFFSHORE BASE ANALYSIS	-	-	-		-

PE	No	Title	FY 1996 Request	House Authorized	Senate Authorized	Change to Request	Conference Agreement
0201135J	77	CINC C2 INITIATIVES	-	-	-		-
0604160D	78	COUNTERPROLIFERATION SUPPORT - EMD	2,786	2,786	2,786		2,786
0604384BP	79	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - EMD	95,324	107,324	95,324	(3,707)	91,617
0604771D	80	JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS)	62,068	62,068	62,068		62,068
0604881C	81	THEATER HIGH-ALTITUDE AREA DEFENSE SYSTEM - TMD - EMD	-	50,000	-		-
0604884C	82	BATTLE MANAGEMENT AND C4I FOR TMD ACQUISITION - EMD	14,301	14,301	14,301		14,301
0604885C	83	PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION - EMD	247,921	247,921	352,421	104,500	352,421
0604886C	84	ERINT/PATRIOT PAC-3 RISK REDUCTION - TMD - EMD	19,485	19,485	19,485		19,485
0604887C	85	NAVY LOWER TIER TMD ACQUISITION - EMD	237,473	282,473	282,473	(140,000)	97,473
0604889K	86	COUNTERDRUG ENGINEERING AND MANUFACTURING DEVELOPMENT PROJECTS	-	-	-		-
0603710D	87	CLASSIFIED PROGRAM - C3I	2,510	2,510	2,510		2,510
0603712S	88	GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS	16,800	16,800	16,800	(4,500)	12,300
0605104D	89	TECHNICAL STUDIES, SUPPORT AND ANALYSIS	39,302	24,302	34,302	(15,000)	24,302
0605110D	90	TECHNICAL SUPPORT TO USD(A)--CRITICAL TECHNOLOGY	2,651	2,651	2,651		2,651
0605114E	91	BLACK LIGHT	4,745	4,745	4,745		4,745
0605117D	92	FOREIGN MATERIAL ACQUISITION AND EXPLOITATION	46,338	46,338	46,338		46,338
0605129D	93	TECHNICAL ASSISTANCE	4,927	-	-	(4,927)	-
0605160D	94	COUNTERPROLIFERATION SUPPORT	6,468	6,468	6,468		6,468
0605218C	95	BALLISTIC MISSILE DEFENSE RDT&E PROGRAM MANAGEMENT AND SUPPORT	185,542	165,542	155,542	(30,000)	155,542
0605384BP	96	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	4,936	4,936	4,936		4,936
0605502D	97	SMALL BUSINESS INNOVATIVE RESEARCH	-	-	-		-
0605790D	98	SMALL BUSINESS INNOVATIVE RESEARCH ADMINISTRATION	1,574	1,574	-		1,574
0605798S	99	DEFENSE SUPPORT ACTIVITIES	14,752	14,752	14,752		14,752
0605801S	100	DEFENSE TECHNICAL INFORMATION CENTER	42,989	42,989	42,989		42,989
0605898E	101	MANAGEMENT HEADQUARTERS (RESEARCH AND DEVELOPMENT)	32,643	32,643	32,643		32,643
0305154D	102	DEFENSE AIRBORNE RECONNAISSANCE PROGRAM	10,000	-	30,000		10,000
0305889D	103	COUNTERDRUG INTELLIGENCE SUPPORT	-	-	-		-
0708011S	104	INDUSTRIAL PREPAREDNESS	-	17,007	-	7,007	7,007
0201135J	105	CINC C2 INITIATIVES	200	200	200		200
0208045K	106	C3 INTEROPERABILITY (JOINT TACTICAL C3 AGENCY)	25,338	25,338	25,338		25,338
0302016K	109	NATIONAL MILITARY COMMAND SYSTEM-WIDE SUPPORT	2,153	2,153	2,153		2,153
0302019K	110	JOINT/DEFENSE INFORMATION SYSTEMS ENGINEERING AND INTEGRATION	5,138	5,138	5,138		5,138
0303126K	111	LONG-HAUL COMMUNICATIONS (DCS)	20,538	20,538	20,538		20,538
0303127K	112	SUPPORT OF THE NATIONAL COMMUNICATIONS SYSTEM	4,062	4,062	4,062		4,062
0303131K	113	MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK (MEECN)	2,269	2,269	2,269		2,269
0303140D	114	INFORMATION SYSTEMS SECURITY PROGRAM	23,884	23,884	23,884	(6,470)	17,414
0303153K	116	JOINT SPECTRUM CENTER	4,859	4,859	4,859		4,859
0303154J	117	WWMCCS ADP MODERNIZATION	-	-	-		-
0305139B	122	DMA MAPPING, CHARTING, AND GEODESY (MC&G) PRODUCTION SYSTEM IMPR	80,131	98,131	80,131	(5,386)	74,745

PE	No	Title	FY 1996 Request	House Authorized	Senate Authorized	Change to Request	Conference Agreement
0305141D	123	JOINT REMOTELY PILOTED VEHICLES PROGRAM	-	-	-		-
0305154D	124	DEFENSE AIRBORNE RECONNAISSANCE PROGRAM	515,148	646,748	528,148	115,800	630,948
0305154I	126	DEFENSE AIRBORNE RECONNAISSANCE PROGRAM	-	-	-		-
0305157I	127	LAND REMOTE SENSING SATELLITE SYSTEM	-	-	-		-
0305159B	128	DEFENSE RECONNAISSANCE SUPPORT ACTIVITIES	-	-	-		-
0305159I	130	DEFENSE RECONNAISSANCE SUPPORT ACTIVITIES	59,183	59,183	59,183		59,183
0305190D	131	C3I INTELLIGENCE PROGRAMS	7,907	7,907	7,907		7,907
1160401BB	136	SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT	4,090	4,090	4,090		4,090
1160402BB	137	SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT	13,288	14,788	13,288	1,500	14,788
1160404BB	138	SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT	101,602	107,102	109,895	8,293	109,895
	138a	ATV	-	-	-		-
1160405BB	139	SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPMENT	2,901	2,901	2,901		2,901
1160407BB	140	SOF MEDICAL TECHNOLOGY DEVELOPMENT	1,891	1,891	1,891		1,891
1160409BB	141	SOF OPERATIONAL ENHANCEMENTS	16,534	16,534	16,534		16,534
		NON-LETHAL WEAPONS TECHNOLOGIES		-	37,200	37,200	37,200
XXXXXXXXXX	999	Classified Programs	1,194,090	1,237,401	1,224,890	31,511	1,225,601
		READINESS FOR PROCUREMENT TECH ASST(Transfer to O&M)		-	(12,000)		
		Total Defense Wide	8,802,881	9,280,058	9,271,220	616,630	9,419,511
ACCOUNT		DIRECTOR OF TEST & EVAL DEFENSE					
0604940D	1	CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT (CTEIP)	119,714	119,714	109,714	(5,000)	114,714
0605130D	2	FOREIGN COMPARATIVE TESTING	34,062	14,062	34,062	(1,609)	32,453
0605131D	3	LIVE FIRE TESTING	-	-	-		-
0605804D	4	DEVELOPMENT TEST AND EVALUATION	105,565	105,565	95,565	(1,650)	103,915
			259,341	239,341	239,341	(8,259)	251,082
ACCOUNT		DIRECTOR OF OPERATIONAL TEST & EVALUATION					
0605118D	1	OPERATIONAL TEST AND EVALUATION	12,183	12,183	12,183		12,183
0605131D	2	LIVE FIRE TESTING	10,404	10,404	10,404		10,404
			22,587	22,587	22,587		22,587

University research initiative

The budget request included $236.2 million in PE 61103D.

The House bill would authorize an additional $20.0 million above the requested amount for the continuation of the Defense Experimental Program to Stimulate Competitive Research (DEPSCoR).

The Senate amendment would apply a general reduction of $15.0 million to the requested amount and would add $10.0 million for the acceleration of research activities at universities affecting combat readiness. The Senate amendment would also authorize $10.0 million within the authorized amount for the continuation of the DODDS Director's fund for Science, Mathematics, and Engineering.

The conferees agree to an authorization of $231.2 million in PE 61103D, of which $20.0 million shall be for the continuation of the DEPSCoR program and $10.0 million for the continuation of the DODDS Director's fund for Science, Mathematics and Engineering. The conferees also agree to authorize an additional $10.0 million for the Combat Readiness Research program described on page 169 of the Senate report (104–112) and direct that an institution awarded a contract, grant or agreement under the program be required to contribute at least three times the amount provided by the Federal government to execute the program.

Chemical-biological defense program

The budget request contained $383.5 million for the Department of Defense chemical-biological defense program, including $243.0 million for research, development, test and evaluation and $140.5 million for procurement of chemical and biological defense non-medical and medical systems.

The House bill would authorize a $57.1 million increase to the budget request for the following chemical-biological defense research and development programs: $4.6 million for PE 61384BP; $23.5 million for PE 62384BP; $12.6 million for PE 63384BP; $4.4 million for PE 63884BP; and $12.0 million for PE 64384BP. The House bill would also authorize a total of an additional $50.0 million in operations and maintenance funding for chemical defense training and chemical medical defense training in the Army, Navy, Marine Corps, and Air Force.

The Senate amendment would authorize the budget request.

The conferees agree to authorize an increase to the budget request in the following program elements: $4.6 million for PE 61384BP; $7.8 million for PE 62384BP; $10.0 million for PE 63384BP; and $1.6 million for PE 63884BP. The increased authorizations would augment and accelerate research and development in medical and non-medical chemical and biological defense. Prior to obligation or expenditure of funds authorized above the budget request, the conferees direct the Department to report on the projected use of these funds.

The conferees also agree to a $50.0 million increase in the military services operations and maintenance accounts for chemical defense training and chemical medical defense training. The conferees direct the Department to provide a report to Congress on the use of this increased funding in the Department's chemical defense training and chemical medical defense training. Additionally, the Department is directed to notify Congress 15 days in advance of obligation or expenditure of funds, and to provide a justification for the use of such funds in connection with the procurement of chemical-biological defense equipment.

Computing systems and communications technology

The budget request included $403.9 million for computing systems and communications technology in PE 62301E.

The House bill would reduce the budget request by $25.0 million. The House bill would authorize an additional $11.0 million for accelerated development of improved nuclear detection and forensic analysis capabilities.

The Senate amendment would authorize an additional $3.0 million for software reuse activities and $30.0 million in procurement for the global broadcast service.

The conferees agree to authorize $396.3 million in PE 62301E, to include: $11.0 million for nuclear monitoring and detection; $8.0 million for global broadcast service; $7.5 million for software reuse; and a general reduction of $29.6 million.

Global broadcast service

The budget request contained no funds for global broadcast service (GBS).

The Senate amendment would authorize $30.0 million in weapons procurement, Navy, for a GBS pilot program. The Senate report (S. Rept. 104–112) endorsed insertion of this technology into the military communications master plan and the Navy's proposal to use the ultra-high frequency follow-on (UFO) satellite system as a host for an interim GBS capability.

Neither the House bill nor the House report (H. Rept. 104–131) addressed the subject.

The Senate recedes on the $30.0 million authorization in weapons procurement, Navy. The conferees, however, agree to authorize $8.0 million for fiscal year 1996 in PE 62301E to support this effort.

The conferees endorse the Senate language regarding the insertion of DBS/GBS technology into the communications master plan. The conferees, however, do not believe that the Department of Defense (DOD) has adequately evaluated all alternatives and associated issues. The conferees support proceeding swiftly with this program, but require additional information before endorsing any particular technical approach or acquisition strategy.

The conferees are aware of the time-sensitivity surrounding the Navy's proposal to use UFO satellites 8, 9, and 10 as host platforms, and that a protracted period of study and review may preclude this option (insofar as it is dependent on use of satellite 8, which is currently scheduled to be launched no later than December 1997). The conferees are also aware that the Deputy Under Secretary of Defense for Space has tentatively endorsed the UFO approach as an interim bridge to an objective GBS system.

Nonetheless, the conferees remain concerned that no detailed analysis of options and requirements has been presented to Congress. Not wanting to prematurely endorse any particular GBS option nor preclude any promising alternative, the conferees direct the Under Secretary of Defense for Acquisition and Technology to submit a report to the congressional defense committees that addresses the following issues regarding the development and deployment of interim and objective GBS capabilities: (1) the military requirement to be satisfied; (2) the cost, schedule, technical risk, and operational effectiveness of all hosted and free-flyer options; (3) the issues involved with the use of competitive procedures or other than competitive procedures; and (4) the role of GBS capabilities in the DOD's future military satellite communications architecture and the Department's strategy for acquiring and integrating such capabilities.

The conferees encourage early involvement by the Commanders-in-Chief (CINCs) to ensure that GBS capabilities support a broad range of joint missions in the CINCs' areas of responsibility. The conferees also believe that the Under Secretary for Acquisition and Technology should conduct a broad survey of the capabilities and views of industry prior to selecting a particular technical approach or acquisition strategy.

Once the congressional defense committees have received the report described above, the conferees would consider a reprogramming request to satisfy any outstanding fiscal year 1996 funding requirements. The conferees' approval of such a request would depend largely on the content of the report submitted, the offsets identified, and the degree to which the chosen GBS acquisition strategy is funded in the Secretary of Defense's fiscal year 1997 budget request and Future Years Defense Program.

Materials and electronics technology

The budget request included $226.1 million for material and electronics technology.

The House bill would authorize an additional $3.0 million for chemical vapor deposition (CVD) and $2.0 million for chemical vapor composite (CVC) deposition. The bill would also provide an additional $5.0 million for higher transition temperature superconducting (HTS) materials, $7.5 million for seamless high off-chip connectivity (SHOCC) and $10.0 million for non-woven aramide fiber packaging.

The Senate amendment would authorize an additional $8.0 million for CVD and $8.0 million for HTS.

The conferees agree to authorize $242.0 million in PE 62712E, an increase of $16.0 million. This increase provides $4.0 million each for CVC deposition and CVD diamond material development and $8.0 million for HTS. The HTS authorization shall include HTS wire applications and precision band pass filters and high ''Q'' antennae for military communication systems that operate in signal rich environments.

Counterterror technical support

The budget request included $12.0 million for the counterterror technical support program.

The House bill would authorize the budget request.

The Senate amendment would authorize an increase of $2.0 million to the budget request for the continued development of pulsed fast neutron analysis (PFNA) cargo inspection technology.

The House recedes.

Joint Department of Defense/Department of Energy munitions technology development

The budget request included $16.8 million for the joint Department of Defense and Department of Energy munitions program.

The House bill would authorize $31.8 million for the program, a $15.0 million increase to the budget request for environmentally compliant demilitarization and disposal of unserviceable, obsolete, or non-treaty compliant munitions, rocket motors, and explosives.

The Senate amendment would authorize the budget request.

The conferees agree to a $5.0 million increase to the budget request for joint DOD/DOE munitions technology development (PE 63225D). In addition, the conferees agree to provide $15.0 million for explosives demilitarization technology (PE 63104D), discussed elsewhere in the report.

Experimental evaluation of major innovative technologies (EEMIT)

The budget request included $618.0 million for Experimental Evaluation of Major Innovative Technologies (EEMIT).

The House bill would authorize an additional $55.8 million for several programs, to include: global grid communications ($5.0 million); safety and survivability ($2.0 million); synthetic theater of war ($6.8 million); cruise missile defense ($35.0 million); and antisubmarine warfare (ASW) ($7.0 million).

The Senate amendment would authorize an increase of $18.0 million for several programs, to include: cruise missile defense

($10.0 million); thermophotovoltaics ($5.0 million); and funding for a large millimeter wave telescope ($3.0 million). The Senate would also authorize a general reduction of $10.0 million to the EEMIT program element.

The conferees agree to authorize $613.7 million in PE 63226E, the highest level of appropriation, and specifically identify the following programs for authorization: cruise missile defense ($10.0 million); large millimeter wave telescope ($3.0 million); safety and survivability ($2.0 million); ASW ($5.0 million); deep ocean relocation ($2.5 million); and Crown Royal ($5.0 million).

Safety and survivability

The House bill would authorize an additional $2.0 million in PE 65864N and an additional $2.0 million in PE 63226E for safety and survivability enhancements.

The Senate amendment contained no additional authorization for these purposes.

The conferees direct that of the funds authorized in PE 64864N and PE 63226E, $2.0 million each shall be used for safety and survivability enhancements, as specified in the House report (H. Rept. 104–131).

Shallow water anti-submarine warfare

The budget request included $16.5 million in PE 63226E for development and demonstration of advanced technologies for shallow water anti-submarine warfare operations.

The House bill would authorize an additional $7.0 million to begin an assessment by ARPA and the Navy of the use of newly developed and maturing multi-static acoustic, electromagnetic and electro-optic sensor technologies integrated into existing aircraft, ship, and submarine platforms in a combined system of sensors to provide the joint amphibious operational commander an integrated picture of the littoral maritime environment.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment. The conferees agree to authorize an additional $5.0 million to the budget request to continue the development and demonstration of advanced technologies for shallow water anti-submarine warfare.

Synthetic theater of war

The budget request included $79.1 million in PE 63226E for the Advanced Distributed Simulation program.

The House bill would authorize an additional $6.8 million to maintain the program and schedule for the 1997 Synthetic Theater of War (STOW–97) advanced concept technology demonstration.

The Senate amendment would authorize the budget request.

The House recedes. The conferees are impressed by the results of the STOW–95 demonstration and the potential to meet the warfighting commanders' requirements for development and integration of improved simulation technologies for training and mission rehearsal. The conferees recognize that the STOW program could prove to be the foundation for the future Joint Simulations System for all the military services. The conferees strongly encourage the Secretary of Defense to maintain funding levels necessary to sustain the objectives and schedule of the STOW–97 advanced concept technology demonstration.

Tactical technology

The budget request included $113.2 million for this tactical technology program.

The House bill would authorize an additional $7.0 million for the tactical landing system project and an additional $7.0 million for a high resolution, mobile multiple object tracking system project.

The Senate amendment would authorize an additional $6.5 million for the tactical landing system project.

The conferees agree to authorize an additional $6.5 million in PE 63226E for completion of the tactical landing system project and an additional $7.0 million in PE 63226E for a high resolution, mobile multiple object tracking system.

Advanced submarine technology development

The budget request included $7.5 million in PE 63569E for the Advanced Research Projects Agency's (ARPA's) advanced submarine technology program.

The House bill would authorize an additional $23.0 million in PE 63569E. This increase would permit ARPA to pursue innovative technologies that could improve the capability of Navy submarines to operate in littoral regions, develop and demonstrate new concepts for structural acoustics and management of submarine signatures, and enhance the multi-mission capabilities of Navy submarines.

The Senate amendment would authorize the budget request.

The conferees agree to authorize $30.5 million in PE 63569E, an increase of $23.0 million. Of the $23.0 million, $7.0 million shall only be available to continue transfer of technology to the Navy for active control of machinery platforms demonstrated in ARPA's Project M.

Rapid acquisition of manufactured parts

The House bill would authorize an increase of $12.0 million above the requested amount of $21.5 million in PE 63712N for the continuation of the rapid acquisition of manufactured parts (RAMP) program.

The Senate amendment would authorize an increase of $12.0 million above the requested amount of $6.5 million in PE 63736D for the RAMP program.

The House recedes.

Advanced lithography program

The budget request included $39.0 million in PE 63739E for advanced lithography programs.

The House bill would authorize an additional $25.0 million in PE 63739E for advanced lithography programs.

The Senate amendment would authorize the requested amount.

The conferees agree to authorize $60.0 million, an additional $21.0 million, in PE 63739E, for advanced lithography programs.

Advanced electronics technologies

The budget request included $420.0 million for advanced electronics technologies in PE 63739E.

The House bill would authorize an additional $25.0 million for advanced lithography and a reduction of $23.6 million in project MT–07.

The Senate amendment reduced the budget request by a cumulative $50.0 million for three separate programs.

The conferees agree to a funding level of $409.0 million, which includes an additional $21.0 million for advanced lithography, $7.5 million for seamless high off-chip connectivity, and full funding for project MT–08. The conferees consider the work of the Center for Advanced Technologies to be worthy of continuation. The conferees note that the Department of Defense may, at its discretion, use funds authorized in PE 61101E to continue the program at the requested level.

Joint robotics program

The budget request included $17.4 million for the joint robotics program.

The House bill would authorize an additional $10.0 million for the mobile detection assessment response system (MDARS).

The Senate amendment contained no similar provision.

The conferees agree to an increased funding authorization of $5.0 million for MDARS in PE 63709D.

Advanced sensor applications program

The budget request included $17.4 million in PE 63714D for the advanced sensor applications program.

The House bill would authorize an increase of $10.0 million to the budget request, including $5.0 million for continued development of a research prototype laser radar anti-submarine warfare (LIDAR ASW) system concept, which is being investigated by the Office of the Secretary of Defense advanced sensor applications program (OSD ASAP), and $5.0 million for continued development of the Navy ATD–111 LIDAR ASW system. The House bill would encourage comparative testing of the two systems as a basis for establishing the requirement for a follow-on system.

The Senate amendment would authorize an additional $10.0 million for upgrade test and evaluation of the ATD–111 system, and would direct the Secretary of the Navy to prepare a plan for acquisition and deployment of the ATD–111.

The conferees have agreed to provide $10.0 million in PE 63528N for the Navy ATD–111 non-acoustic anti-submarine warfare program, as discussed elsewhere in this statement of managers. The conferees strongly support the comparative evaluation of the LIDAR ASW alternatives, and direct the Department of the Navy and the OSD ASAP to develop jointly a plan for testing these two alternative approaches to LIDAR ASW. The conferees expect that funds to complete the evaluation will be included in the fiscal year 1997 defense budget request.

Industrial preparedness (manufacturing technology) programs

The budget request included $17.8 million for the Army, $41.2 million for the Navy, $53.3 million for the Air Force, and $7.0 million for the Defense Agencies to fund the manufacturing technology (MANTECH) programs within these agencies.

The House bill would include an additional $10.0 million for the Army, an additional $10.0 million for the Navy, and approve the requested amount for the Air Force and the Defense. The House bill would also transfer funding from advanced development (6.3) program elements to industrial preparedness (7.8) program elements.

The Senate amendment would authorize all the manufacturing technology programs at the requested amounts and would transfer the funding from the program elements in the budget request.

The conferees agree to authorize funding for manufacturing technology programs, as follows:

	Millions
Army (PE 78045A)	$26.8
Navy (PE 78011N)	88.0
Air Force (PE 78011F)	60.9
Def. Ag. (PE 78011S)	7.0

Integrated bridge system for MK V special operations craft

The budget request included $13.3 million in PE 1160402BB for special operations advanced technology development.

The House bill would authorize an additional $1.5 million for development of a prototype maritime integrated bridge system for the MK V special operations craft to demonstrate the potential for advanced display and control technologies to enhance mission performance.

The Senate amendment would authorize the budget request.

The Senate recedes.

Quiet Knight advanced concept and technology demonstration

The budget request included $101.6 million in PE 1160404BB for Special Operations tactical systems development, to include $3.5

million allocated by the U.S. Special Operations Command to continue the Quiet Knight advanced avionics technology demonstration.

The House bill would authorize the budget request. The House report (H. Rept. 104–131) expressed strong support for a Phase I (component development and demonstration) of an advanced concept technology demonstration of Quiet Knight for both fixed and rotary wing aircraft, and the continuation to a Phase II full scale demonstration and flight test of the integrated Quiet Knight capability. The House report also expressed the expectation that funding requirements for completion of the Phase II demonstration would be included in the fiscal year 1997 budget request.

The Senate amendment would authorize the budget request.

The conferees support completion of the Quiet Knight technology demonstration, and encourage the Department of Defense to validate the requirements for advanced low probability of intercept/low probability of detection avionics for special operations aircraft.

Advanced SEAL delivery system

The budget request included $24.6 million in PE 1160404BB to complete fabrication and integration of the first Advanced SEAL Delivery System (ASDS) and begin system level testing.

The House bill would authorize an additional $4.0 million to complete evaluation of the ASDS employed on the SSN–688 class submarine.

The Senate amendment contained a similar provision.

The conferees are pleased with the joint efforts of the U.S. Special Operations Command and the Navy in the development of ASDS. The conferees agree to increase the budget request by $4.0 million to complete evaluation of the ASDS.

Rigid hull inflatable boat

The budget request contained $11.7 million for procurement of special warfare equipment, including $10.1 million for procurement of the Naval Special Warfare 10 meter Rigid Hull Inflatable Boat (RHIB).

The House bill would authorize the budget request.

The Senate amendment noted that the U.S. Special Operations Command had reported that the 10 meter RHIB, on which initial developmental effort had been focused, performed unsatisfactorily during operational testing. As a result, a new strategy was adopted for development of a RHIB to meet Special Operations Forces' requirements. The Senate amendment would authorize an increase of $4.3 million in PE 1160404BB to support this developmental effort and would direct a corresponding reduction in the procurement account for special warfare equipment to offset the increase.

The House recedes. The conferees understand that the $4.3 million increase in PE 1160404BB for this purpose will support the competitive procurement of three to four prototype RHIBs for developmental testing and early operational assessment. The remaining $5.8 million authorized for procurement of special warfare RHIBs will be used to procure approximately 30 interim 24-foot RHIBs to alleviate deficiencies caused by the estimated three-year delay in initial operation capability for the new RHIBs.

Ballistic missile defense funding and programmatic guidance

The budget request contained $2,912.9 million for the Ballistic Missile Defense Organization (BMDO), including $2,442.2 million for Research, Development, Test, and Evaluation (RDT&E), $453.7 million for Procurement, and $17.0 million for Military Construction.

The House bill would authorize an additional $628.0 million for BMDO.

The Senate amendment would authorize an additional $490.5 million for BMDO.

The conferees agree to authorize a total of $3,516.9 million for BMDO, an increase of $603.9 million above the budget request. The conferees set forth specific funding allocations and programmatic guidance below.

BMDO FUNDING ALLOCATION

[In thousands of dollars]

Program	Budget Request	House Change	Senate Change	Conference Change	Conference Outcome
Support Tech	93,308				93,308
Support Tech	79,387		+70,000	+50,000	129,387
THAAD Dem/Val	576,327				576,327
Hawk	23,188				23,188
BM/C3 Dem/Val	24,231				24,231
Navy LT Dem/Val				+185,000	185,000
Navy UT Dem/Val	30,442	+170,000	+170,000	+170,000	200,442
Corps SAM	30,442	−10,000	+4,558	−10,000	20,442
BPI	49,061	−20,000	−49,061	−49,061	
NMD	370,621	+450,000	+300,000	+450,000	820,621
Other TMD	460,470	−37,000	+15,000	−22,000	438,470
THAAD EMD		+50,000			
BM/C3 EMD	14,301				14,301
PAC-3 EMD	247,921		+104,500	+104,500	352,421
PAC-3 EMD/RR	19,485				19,485
Navy LT EMD	237,473	+45,000	+45,000	−140,000	97,473
Management	185,542	−20,000	−30,000	−30,000	155,542
Patriot Proc	399,463		−104,500	−104,500	294,963
Navy LT Proc	16,897				16,897
Hawk Proc	5,106				5,106
BM/C3 Proc	32,242				32,242
BMDO Milcon	17,009				17,009

Theater High Altitude Area Defense (THAAD)—The conferees agree to authorize the budget request of $576.3 million in PE 63861C for THAAD Demonstration/Validation (Dem/Val).

The conferees endorse the language in the House report (H. Rept. 104–131) and the Senate report (S. Rept. 104–112) regarding the THAAD User Operational Evaluation System (UOES) option, and the need to ensure a smooth and timely transition from the Dem/Val phase to the Engineering and Manufacturing Development (EMD) phase. The conferees direct the Secretary of Defense to restructure the THAAD program so as to achieve a First Unit Equipped (FUE) by fiscal year 2000. The conferees believe that this objective can be facilitated by making only minor modifications to the UOES design and beginning Low-Rate Initial Production as soon as the EMD missiles have been adequately tested. Subsequent performance improvements to the initial system configuration should be incorporated through block upgrades, as appropriate and necessary. The conferees note that this approach would reduce overall THAAD development costs while significantly accelerating fielding of an operational system. Therefore, the conferees urge the Secretary of Defense to release the THAAD engineering and manufacturing development (EMD) request for proposal. Finally, the conferees direct the Secretary of Defense to promptly initiate development of all battle management software for the THADD system, including that necessary to receive cuing information from external sensors.

Navy Upper Tier—The budget request included $30.4 million in PE 63868C for the Navy Upper Tier program.

The conferees agree to authorize an increase of $170.0 million for a total Navy Upper Tier authorization of $200.4 million. The conferees direct the Secretary of Defense to include the Navy Upper Tier program in the core theater missile defense (TMD) program and to structure the Navy Upper Tier development and acquisition program so as to achieve an initial operational capability (IOC) not later than fiscal year 2001, with a UOES capability not later than fiscal year 1999. The conferees look forward to receiving the results of the various studies that are assessing Navy Upper Tier technical issues and deployment options. The conferees agree to require the Director of BMDO to provide a status report to the congressional defense committees, not later than March 1, 1996, that summarizes the findings and recommendations (as available) of these analyses. The Director of BMDO should include in such report an assessment of options for reducing risk and enhancing competition in the Navy Upper Tier program, including the option of establishing a competitive development and flight test program between the Lightweight Exoatomospheric Projectile (LEAP) and THAAD kill vehicles.

The conferees believe that competition within the Navy Upper Tier program is desirable, but do not support the notion of competition between the Navy Upper Tier and THAAD programs. The conferees are convinced that the United States can and should develop and deploy both sea-based and land-based upper tier programs. Although there may be an opportunity to reduce the number of TMD programs being developed by the Department of Defense, the conferees strongly oppose the notion of a competition and down-select between the THAAD and Navy Upper Tier systems. The conferees view these as critical and complementary systems.

Patriot—The budget request included $247.9 in PE 64865C for PAC–3 EMD, $19.5 million in PE 64866C for PAC–3 risk reduction, and $399.5 million for Patriot procurement.

The conferees agree to authorize the overall amount requested for the Patriot program and related activities. Within this overall authorization, the conferees agree to transfer $104.5 million from Patriot procurement to PAC–3 EMD, a total authorization of $352.4 million in PE 64865C.

Navy Lower Tier—The budget request included $237.5 million in PE 64867C for Navy Lower Tier EMD and $16.9 million for Navy Lower Tier procurement.

The conferees agree to authorize an increase of $45.0 million for Navy Lower Tier Dem/Val and to transfer $140.0 million from Navy Lower Tier EMD to Navy Lower Tier Dem/Val, a total of $185.0 million in PE 63867C.

Corps SAM—The budget request included $30.4 million in PE 63869C for the Corps Surface to Air Missile (Corps SAM) system.

The conferees agree to authorize $20.4 million for Corps SAM, a reduction of $10.0 million. Although the conferees support the Corps SAM requirement, they remain concerned by several aspects of the current Corps SAM program, now known as the medium extended air defense system (MEADS). The conferees support an effort to explore alternative means to satisfy the Corps SAM requirement. Given the investments that have already been made in developing systems such as PAC–3 and THAAD, reintegration of existing systems and technologies may offer an achievable, cost-effective, and expeditious alternative. The conferees direct the Secretary of Defense to submit a report to the congressional defense committees on the options associated with the use of existing systems, technologies, and program management mechanisms to satisfy the Corps SAM requirement, including an assessment of cost and schedule implications. The conferees direct that, of the funds authorized in fiscal year 1996 for the Corps SAM program, not more than $15.0 million may be obligated until such report has been submitted to the congressional defense committees.

Boost-Phase Intercept—The budget request included $49.1 million in PE 63870C for the kinetic energy Boost-Phase Intercept (BPI) program.

The House bill would authorize $29.1 million for the kinetic BPI program.

The Senate amendment would authorize no funds for the kinetic BPI program in PE 63870C. However, the Senate amendment would authorize $15.0 million in the Other TMD (OTMD) program element (PE 63872C) to initiate a joint United States-Israel BPI program based on unmanned aerial vehicles (UAVs).

The conferees agree to authorize no funds for the kinetic BPI program due to continuing skepticism about the operational and technical effectiveness of a BPI system based on a manned tactical aircraft. However, the conferees agree to authorize the use of up to $15.0 million, from within funds made available in the OTMD program element, for a UAV-based BPI program. The conferees support a joint U.S.-Israel UAV–BPI program focused on risk mitigation, provided that an equitable cost-sharing arrangement can be reached and that the program will be structured to satisfy the BPI requirements of both sides. The conferees also support continuation of the Atmospheric Interceptor Technology (AIT) program, which is being developed as an advanced multi-purpose kill vehicle. The conferees authorize the use of up to $30.0 million, from within funds made available in the OTMD program element, to continue the AIT program. The conferees are disappointed that the Department has not completed its review of BPI programs and options in time to inform the conferees' deliberations and decisions. Therefore, the conferees agree to require the Director of BMDO to submit a report to the congressional defense committees, not later than February 1, 1996, that summarizes the findings and recommendations of the Department's BPI study. This report should also address promising options and technical approaches associated with a UAV BPI program.

Other TMD—The budget request contained $460.5 million in PE 63872C for OTMD programs, projects, and activities.

The House bill would authorize $423.5 million for OTMD.

The Senate amendment would authorize $475.5 million, including the $15.0 million for the UAV–BPI program cited above.

The conferees agree to authorize $438.5 million for OTMD. Of this amount, the conferees authorize the use of up to $15.0 million to explore a UAV–BPI program and up to $30.0 million to continue the AIT advanced kill vehicle program.

National Missile Defense—The budget request contained $370.6 million in PE 63871C for National Missile Defense (NMD).

The House bill would authorize $820.6 million for NMD.

The Senate amendment would authorize $670.6 million for NMD.

The conferees agree to authorize $820.6 million for NMD.

Support Technologies—The budget request contained $93.3 million in PE 62173C and $79.4 million in PE 63173C for ballistic missile defense (BMD) support technologies.

The House bill would authorize the budget request for BMD Support Technologies.

The Senate amendment would authorize an increase of $70.0 million in PE 63173C for the Space-Based Laser (SBL) program.

The conferees agree to authorize the budget request in PE 62173C and to authorize an increase in the SBL program of $50.0 million, for a total authorization of $129.4 million in PE 63173C. The conferees believe that it is critical for the United States to continue developing the technology for space-based defenses, to preserve the option of deploying highly effective global defenses in the future. The conferees note that a space-based laser would likely be the most effective system for intercepting ballistic missiles of virtually all ranges in the boost phase. Therefore, the conferees direct the Secretary of Defense to take the following actions: (1) continue integration and testing of the laser, mirror, and beam control components of the Alpha-Lamp Integration program; (2) accelerate design activities on the StarLITE space demonstration configuration; (3) produce the concept of operations and design requirements for a follow-on operational space-based laser deployment; and (4) revitalize the technology development efforts most likely to yield significant cost and weight savings for a future SBL spacecraft. The conferees direct the Secretary of Defense to ensure that sufficient funds are provided in the outyears for continuation of a robust SBL effort, and submit to the congressional defense committees, by March 1, 1996, a report that outlines a program and funding profile that could lead to an on-orbit test of a demonstration system by the end of 1999 if approved.

The conferees note that the Director, BMDO, has testified to Congress that BMDO's follow-on technology programs are severely under-funded and that the Director is seeking to increase such funding to approximately 12 percent of the overall BMDO budget. The conferees support the efforts of the Director of BMDO to increase funding for advanced technology development. However, the conferees note that such increases will require an overall increase in the funds allocated to BMDO. The conferees support such an increase in order to reinvigorate and advanced technology programs and to help sustain the development and acquisition activities endorsed by the conferees.

BMDO is required to set aside 2.15 percent of extramural research, development, test, and evaluation authorized and appropriated (RDT&E) funds for Small Business Innovative Research (SBIR) efforts. Since the conferees recommend a level of funding for BMD programs exceeding the budget request, and programmed funding for SBIR represents a level below the mandated percentage, the Director of BMDO is authorized to transfer such funds as necessary from BMD program elements into PE 62173C to achieve the required percentage for SBIR.

BMDO Management—The budget request contained $185.5 million in PE 65218C for BMD Management.

The House bill would authorize $165.5 million for BMDO Management.

The Senate amendment would authorize $155.5 million for BMDO Management.

The conferees agree to authorize $155.5 million for BMDO Management. The conferees recognize that BMDO must maintain the integrity of its oversight of the overall BMD program. The conferees are concerned, however, that BMD management infrastructure may be unnecessarily duplicated in one or more of the services. Therefore, the conferees direct that BMDO identify any such duplication and take actions to eliminate it. The conferees request that the Director of BMDO consult with the Senate Committee on Armed Services and the House Committee on National Security regarding the Director's findings and proposed actions. The conferees further direct that BMDO show no increase in fiscal year 1997, after adjustments for inflation and any change in mission, over the level appropriated for management in fiscal year 1996.

Cruise missile defense funding

The House bill would authorize an increase of $76.0 million above the budget request for cruise missile defense programs, projects, and activities.

The Senate amendment would authorize an increase of $145.0 million above the budget request for a similar group of programs, projects, and activities.

The conferees agree to authorize an increase of $85.0 million above the budget request for cruise missile defense programs, projects, and activities. The conferees provide additional guidance in the classified annex.

ITEMS OF SPECIAL INTEREST

Anti-submarine warfare program

The conferees share the concerns raised in the House report (H. Rept. 104–131), and in the classified annex to that report, regarding the apparent decline in priority of the Navy's anti-submarine warfare (ASW) program. The conferees agree that there is a need for an assessment of the nation's overall ASW program. The conferees' concerns are addressed further in the classified annex to this Statement of Managers.

The conferees direct the Secretary of Defense to assess the current and projected United States ASW capability in light of the continuing development of quieter nuclear submarines, the proliferation of very capable diesel submarines, the sale of sophisticated, submarine launched weapons, and the declining trend in budget resources associated with ASW programs. This assessment should identify both short-term and long-term improvements that are needed to cope with the evolving submarine threat in both littoral and open ocean areas. The results of this assessment and the plan for the United States ASW program shall be reported to the congressional defense committees by July 1, 1996.

Geosat follow-on program

The House report (H. Rept. 104–131) addressed the issue of converging the Navy's

Geosat Follow-On (GFO) altimetry program with the National Aeronautics and Space Administration's TOPEX/Poseidon Follow-On (TPFO) altimetry program.

The Senate report (S. Rept. 104–112) did not address the issue.

The conferees share the concerns raised in the House report. The conferees are dismayed that the report to Congress on altimetry convergence was submitted more than three months later than an already extended deadline. The conferees are also troubled that the report recommends proceeding with the TPFO option, despite the fact that this approach would cost more, not involve U.S. construction and control of the satellite, and not provide the same level of data security. The TPFO option would require the Navy to spend an additional $5.2 million, for which it has not budgeted, to add global positioning system (GPS) and direct downlink capabilities critical for satisfying Navy requirements. The conferees direct that no funds authorized for the Department of Defense be obligated or expended during fiscal year 1996 for activities associated with adding GPS and direct downlink capabilities to TPFO.

High performance computing modernization program

In addition to supporting efforts to reduce the RDT&E infrastructure, the conferees continue to support investment in high performance computing (HPC) resources for use in the developmental test and evaluation (DT&E) community and recognize the need for a transition to HPC-based resources, integrated DT&E, and operational test and evaluation (OT&E). The conferees direct the Secretary of Defense to prepare a long-term plan for modernization of HPC resources at test and evaluation centers, and for the integration of HPC-based models, advanced data bases, and other decision support resources into the RDT&E infrastructure. In preparing the plan, the Secretary should rely on the collaborative input from the Director of Defense Research and Engineering, the Director of Test Systems Engineering and Evaluation, and the Director of Operational Test and Evaluation. The plan shall address budgeting options that provide for a realistic program and propose financing methods that can insure that needed infrastructure investments are made in a timely manner. The conferees direct the Secretary to submit the proposed plan with the Department of Defense budget recommendations to the congressional defense committees, no later than March 31, 1996.

Low-low frequency acoustics

The conferees share the understanding expressed in the House report (H. Rept. 104–131) that of the funds authorized and appropriated in fiscal year 1994 and 1995 for the low-low frequency acoustics (LLFA) technology program approximately $30.0 million remain available and are sufficient to continue the program through fiscal year 1996. The conferees further understand that the fiscal year 1996 program will focus on operational concepts for the LLFA, technical performance, command and control, environmental considerations, and the transition of the LLFA technology to existing fleet platforms. The conferees agree with the House that based on the emerging results of the fiscal year 1996 program consideration of additional funding for LLFA technology program, should be deferred until the fiscal year 1997 budget request.

Machine tool controller

The conferees are aware of a recent cooperative research and development agreement, entered into by the Department of Energy, two national laboratories, and a private sector consortium, to develop and test an open-architecture machine tool controller. The conferees encourage the Secretary of Defense to develop a plan to ensure a thorough evaluation of the technology and its application to the specific needs of defense contractors.

National security space policy, management, and oversight

The House report (H. Rept. 104–131) and the Senate report (S. Rept. 104–112) each contained reporting requirements concerning policy, management, and oversight of U.S. national security space programs. In lieu of the reporting requirements contained in those reports, the conferees direct the Secretary of Defense to submit a report to the Congress, not later than April 15, 1996, that addresses in detail the following matters:

(1) *The results of the Administration's reviews of U.S. national and military space policies*—The conferees direct that copies of any updated policy directives (including unclassified and classified forms) that result from the reviews be included as attachments to the Secretary's report. The conferees view the Administration's decision to initiate such reviews as appropriate in light of changes in the international security environment, and expect the reviews will be completed in time to permit Departmental witnesses to discuss the results in hearings on the President's fiscal year 1997 budget request.

(2) *The activities of the Joint Department of Defense Intelligence Community Space Management Board (JSMB)*—The report shall include a copy of the charter for the Board and a description of its planned functions, operations, and staffing. The report shall address the responsibilities for the development of an integrated national security space architecture and the integrated acquisition of national security space systems. In addition, the report shall describe the Board's plans for reviewing military and intelligence satellite communications architectures and systems. The conferees endorse the establishment of the JSMB, noting that improved integration of military and intelligence satellite architectures and systems can result in significant cost-savings and efficiencies in the acquisition and operation of those systems.

(3) *The status of and plans for completing a national security space master plan to guide investments in military and intelligence space architectures and systems for the coming decade*—The conferees note with concern that the Department failed in a similar, but more narrowly focused, undertaking when, in the Statement of Managers to accompany the National Defense Authorization Act for Fiscal Year 1993 (H. Rept. 102–966), the conferees directed the Department to develop ''a comprehensive acquisition strategy for developing, fielding, and operating DOD space programs.'' Nonetheless, the conferees applaud the decision of the Deputy Under Secretary of Defense for Space to begin drafting such a master plan, and request that the report include an estimated completion date for the plan.

(4) *The Department's plans for ensuring that, even as oversight of national security space acquisition and planning is centralized, each of the military services is able to influence decisions regarding space architectures and systems*—The conferees direct that the report include: (a) an assessment of progress to date in centralizing DOD space management; (b) the organizational structure that will be achieved upon completion of the planned consolidation, and an estimated completion date for such consolidation; (c) a description of how the DOD plans to protect service-unique interests and other equities in the new centralized organization; (d) the anticipated reductions in personnel and infrastructure that will result from such consolidation; and (e) the degree to which effectiveness and efficiency will be enhanced by the new structure and associated procedures.

The conferees are aware that the Department has established a Space Architect Office as part of the space management reorganization. Given that this is a new function and organization, budget planning was not completed prior to submittal of the amended fiscal year 1996 budget request. Therefore, the conferees agree to authorize the use of up to $10.0 million in Air Force research, development, test, and evaluation funds to operate the Space Architect Office in fiscal year 1996.

Shortstop

The conferees stress the need to move forward without delay on the Shortstop countermeasure system, and encourage the Secretary of the Army to maintain funding for the currently planned program leading to procurement.

Softwar operations

The conferees direct the Air Force's Phillips Laboratory Combat Space Operations Program Office to examine the use of commercially developed Information Warfare Systems that use television enhanced situational awareness for ''softwar'' operations. The Secretary of the Air Force shall report to the congressional defense committees by January 1, 1996 on the results of the Phillips Laboratory examination and the possibility to fund a technology demonstration in ''softwar'' operations. The conferees direct the Secretary to pursue this technology if the examination results in a favorable recommendation.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Modifications to strategic environmental research and development program (sec. 203)

The House bill contained a provision (sec. 203) that would make certain modifications to chapter 172 of title 10, United States Code, which governs the Strategic Environmental Research and Development Program.

Senate amendment contained no similar provision.

The Senate recedes with an amendment that would streamline and simplify program activities, facilitate program management, and promote cost effectiveness. The existing annual reporting requirement would continue until fiscal year 1997, at which point an abbreviated annual reporting requirement would become effective. The Senate amendment would ensure that the level of participation by the Secretary of Energy would not be subject to change. The conferees agree that there is a continuing need for Department of Energy participation in the program, and the retention of some reporting requirements.

Defense dual-use technology initiative (sec. 204)

The House bill would deny the entire funding request of $500.0 million for the Defense Reinvestment Program (PE 63570E).

The Senate amendment would rename the program the Defense Dual-Use Technology Initiative and reduce the requested authorization for the program by $262.0 million.

The conferees agree to change the name of the program and to authorize $195.0 million for the program. The conferees have included a provision that would limit the availability of the funds authorized in PE 63570E only for the purpose of continuation or completion of projects initiated before October 1, 1995. The conferees have also included language that would require the Secretary of Defense, prior to obligation of funds, to provide the congressional defense committees with notice

regarding the projects to be funded with $145.0 million of the amount authorized for the program. The conferees have also required that, for the remaining $50.0 million of the total amount authorized, the Secretary should certify, prior to obligation of funds, that the projects that would be carried out using such funds have been determined by the Joint Requirements Oversight Council to be of significant military priority.

Subtitle B—Program Requirements, Restrictions, and Limitations

Space launch modernization (sec. 211)

The House bill contained a provision (sec. 211) that would authorize $100.0 million for a competitive reusable rocket technology program, and $7.5 million for evaluation of prototype hardware of low-cost expendable launch vehicles.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize $50.0 million for a competitive reusable rocket technology program, provided that the National Aeronautics and Space Administration allocates at least an equal amount for its reusable space launch program.

Tactical manned reconnaissance (sec. 212)

The House bill contained a provision (sec. 213) that would prohibit the Air Force from conducting any research and development on tactical manned reconnaissance systems.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require a report explaining the Air Force's planned uses of funds for the tactical manned reconnaissance mission.

Joint advanced strike technology (JAST) program (sec. 213)

The budget request included three requests for research and development funding for the joint advanced strike technology (JAST) program: $149.3 million for the Navy, $151.2 million for the Air Force, and $30.7 million for the Advanced Research Projects Agency.

The House bill contained a provision (sec. 216) that would reduce the request for JAST by $51.0 million, evenly divided between the Navy and the Air Force, and limit to 75 percent the obligation of fiscal year 1996 appropriations until the Secretary of Defense provides a report to the congressional defense committees. The provision would require that the Secretary's report specify the numbers and capabilities of JAST-derivative aircraft and related weapons systems necessary to support two major regional contingencies.

The Senate amendment would approve the JAST request. The Senate amendment also contained a provision (sec. 211) that would require the Navy to evaluate a variant of the F–117 stealth fighter to fulfill Navy requirements within the JAST program. The Senate amendment would add $175.0 million to the Navy program for this propose, with $25.0 million to provide initial engineering analysis and specific risk reduction efforts, and $150.0 million to develop a flying prototype. Authorization of a flying prototype would be contingent on approval by the Secretary of the Navy's approval of results of initial analytical efforts.

The Senate report (S. Rept. 104–112) questioned whether the program could fulfill the needs of the three services, and directed the Department to include two separate approaches in the JAST program to reduce program risk. The Senate amendment directed the Secretary of the Navy to:

(1) ensure that the JAST program leads to competitive demonstration involving tests of full scale, full thrust aircraft by competitors to provide test data for evaluation by the services; and

(2) evaluate at least two propulsion concepts from competing engine companies as part of those demonstrations.

Subsequent to passage of the Senate amendment and the House bill, the Department redefined the JAST program. Although additional resources will be necessary, from fiscal year 1997 onward, to execute this new program, these changes have led to fiscal year 1996 deferral of $131.0 million.

The conferees share the concerns expressed in the Senate report (S. Rept. 104–112) regarding the lack of engine competition and the size of flying prototypes. The conferees direct the Under Secretary of Defense (Acquisition & Technology) (USD (A&T)) to ensure that: (1) the Department's JAST program plan provides for adequate engine competition in the program; and (2) the scale of the proposed demonstrator aircraft is consistent with both adequately demonstrating JAST concepts and lowering the risk of entering engineering and manufacturing development (EMD). The conferees direct the Secretary of Defense to include in the report required by section 213(d) the Department's plan for competitive engine programs and demonstrator aircraft.

The conferees recommend authorization of funds reflecting these changes, and agree to a provision (sec. 213) that would:

(1) require that the Secretary of Defense provide a report to the congressional defense committees specifying the:

(a) the numbers and capabilities of JAST-derivative aircraft and related weapons systems required to support two major regional contingencies; and

(b) the department's plan for competitive engine programs and demonstrator aircraft;

(2) limit obligations for the JAST program to no more than 75 per cent of fiscal year 1996 appropriations, until the Secretary of Defense provides this report;

(3) authorize up to $25.0 million from Navy Research, Development, Test and Evaluation to conduct a six month program definition phase for the A/F–117X to determine whether such an aircraft could affordably meet the Navy's next generation aircraft strike requirements;

(a) if the USD (A&T) determines that a six month definition phase is warranted, he shall provide a report on the results of the concept definition phase to the congressional defense committees, not later than May 1, 1996;

(b) if the USD (A&T) determines otherwise and certifies that an A/F–117X aircraft is not needed to meet the Navy requirements and is not a cost effective approach to meeting Navy needs, the provision would allow the Department to use the $25.0 million for other JAST activities.

(4) authorize $7.0 million for competitive engine concepts.

Continous wave, superconducting radio frequency, free electron laser (sec. 214)

The House bill contained a provision (sec. 217) that would authorize $9.0 million in PE 62111N for the establishment of a continuous wave, superconducting radio frequency, free electron laser program within the Office of the Secretary of the Navy.

The Senate amendment contained no similar provision.

The Senate recedes.

Navy mine countermeasure program (sec. 215)

The Senate amendment contained a provision (sec. 212) that would transfer primary responsibility for developing and testing naval mine countermeasures from the Director, Defense Research and Engineering to the Under Secretary of Defense for Acquisition and Technology. It would provide for the exercise of this responsibility during fiscal years 1997 through 1999.

The House bill contained no similar provision.

The House recedes with an amendment that would establish fiscal years 1996 through 1999 as the period for exercise of the responsibility.

The conferees note that section 216(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190) provides that the Secretary of Defense may waive this assignment of responsibility if he annually certifies the adequacy of:

(1) the mine countermeasures master plan prepared by the Department of the Navy; and

(2) the budget resources provided for implementation of the plan.

Space-Based Infrared System (sec. 216)

The Senate amendment contained a provision (sec. 214) that would accelerate development and deployment of the Space and Missile Tracking System (SMTS), formerly known as Brilliant Eyes, and that would require the Secretary of the Air Force to obtain the concurrence of the Director of the Ballistic Missile Defense Organization (BMDO) before implementing any decision that would impact the SMTS program.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to establish a program baseline for the overall Space-Based Infrared System (SBIRS) program. The baseline would include the following:

(1) overall program structure, including: (A) program cost and an estimate of the funds required in each fiscal year in which development and acquisition activities are planned, (B) a comprehensive schedule with program milestones and exit criteria, and (C) optimized performance parameters for each segment of the integrated system;

(2) a development schedule for SMTS structured to achieve the first launch of a Block I satellite in fiscal year 2002, and initial operational capability (IOC) of the system in fiscal year 2003;

(3) full integration of SMTS into the overall SBIRS architecture; and

(4) establishment of the performance parameters of all space segment components so as to optimize the performance of the integrated system while minimizing unnecessary redundancy and cost.

The provision adopted by the conferees would require the Secretary of Defense to provide a report to the congressional defense committees on the SBIRS program baseline not later than 60 days after the enactment of this Act.

The conference provision would also establish the following program elements for the SBIRS program:

(1) Space Segment High;

(2) Space Segment Low (SMTS); and

(3) Ground Segment.

The conference provision requires the SBIRS baseline to include an SMTS IOC by fiscal year 2003 to support national and theater missile defenses. The conferees understand that the Air Force has defined this IOC as consisting of 12–18 satellites. The conferees urge the Air Force to make every effort to achieve an 18 satellite IOC by fiscal year 2003.

In accelerating the SMTS program, it is not the conferees' intent to reduce the priority and importance of the SBIRS High components. The conferees endorse the schedule that the Air Force has established for the SBIRS High components. The SBIRS program should feature complementary and mutually supportive elements that do not include excessive technical and functional redundancy.

Although SMTS can, over time, become a multi-functional sensor system capable of

fulfilling missions such as technical intelligence and battlespace characterization, the conferees direct the Air Force to ensure that the SMTS Flight Demonstration System (FDS) and Block I system be designed primarily to satisfy the missile defense mission. Missions not related to theater and/or national ballistic missile defense should not be allowed to add significant cost, weight or delay to the SMTS FDS or Block I system. This scaled-down approach will ameliorate the technical challenges associated with an accelerated schedule while contributing to overall affordability.

To support this schedule and missile defense focus, the conferees direct the Secretary of Defense to commence SMTS pre-engineering and manufacturing development (EMD) activities in fiscal year 1996 and to ensure that the FDS and Block I satellites are equipped with long-wave infrared sensors. The conferees endorse the design characteristics specified in the Senate report (S. Rept. 104–112) regarding the objective SMTS system. The conferees have authorized sufficient funds in fiscal year 1996 to commence these activities and to prepare the way for a fiscal year 1998 FDS launch.

Over time, as the Air Force gains operational experience with the High and Low Block I systems, it is likely that SMTS will be able to assume a much larger share of the SBIRS requirements burden. In the meantime, the conferees urge the Secretary of Defense to initiate technical and cost trade studies among the SBIRS space systems and include any preliminary findings and recommendations in the SBIRS baseline report.

The budget request for SBIRS included $130.7 million for demonstration/validation (Dem/Val), $152.2 million for EMD, and $19.9 million for procurement. Of the funds requested for Dem/Val, $114.8 million was for SMTS. The conferees agree on the following authorizations:

(1) $265.7 million in PE 63441F for SBIRS Dem/Val, of which $249.8 million is for SMTS; and

(2) $162.2 million in PE 64441F for SBIRS EMD, of which $9.4 million is for the Miniature Sensor Technology Integration (MSTI) program.

The conferees are aware of a recent proposal to increase competition and reduce risk in the SMTS program through a low-cost flight experiment. The conferees direct the Air Force and BMDO to carefully assess the merits of this concept and to include their joint findings and recommendations in the SBIRS baseline report. If the Air Force Acquisition Executive and the Director of BMDO certify to the congressional defense committees that such a flight experiment is in the overall interest of the SMTS program (measured in terms of risk reduction and schedule acceleration), the conferees authorize the use of up to $40.0 million of the funds authorized for SMTS in fiscal year 1996 to begin a low-cost flight experiment.

The conferees congratulate the Air Force and BMDO for reaching agreement on the acquisition management relationship for execution of the SMTS program. In light of the Memorandum of Agreement between the Air Force Acquisition Executive and the Director of BMDO, the Senate recedes on its language dealing with management oversight of the SMTS program. As with all aspects of the SMTS program, however, the conferees will continue to monitor management oversight with great interest. If the present management structure does not fulfill the expectations of the conferees, or lead to implementation of the guidance provided above, the conferees will reconsider transferring SMTS back to BMDO.

Defense Nuclear Agency programs (sec. 217)

The budget request contained $219.0 million for research and development at the Defense Nuclear Agency.

The Senate amendment contained a provision (sec. 216) that would authorize $242.0 million for fiscal year 1996 for research and development programs (PE 62715H), a $23.0 increase to the budget request. The increase would provide: $3.0 million for the establishment of the tunnel characterization/neutralization program; $6.0 million for the establishment of a long-term radiation tolerant microelectronics program and require the Secretary to report to Congress on the program and future year funding; $4.0 million for the electro-thermal gun program; and transfer the Air Force thermionics program and any unobligated funds to the DNA and provide $10.0 to accelerate that program.

The House report (H. Rept. 104–131) would provide a $4.0 million increase to the budget request for the electro-thermal gun technology.

The conferees agree to a provision that would authorize $241.7 million, including a reduction of $5.0 for environmental pollutant research. This represents a $27.7 million increase over the budget request. Of that amount, $3.0 million shall be used for a tunnel characterization/neutralization program, $4.0 million shall be available for the electro-thermal gun technology program, $6.0 million shall be available for the establishment of a long-term radiation tolerant microelectronics program and development of long pulse, high power microwave technology, $10 million shall be available for the thermionics program; and $4.0 million shall be available for the counterterror explosives research program. Additionally, the Secretary is directed to provide a report to Congress, 120 days after enactment of this Act, on the conduct of the long-term radiation tolerant microelectronics program and future years funding for this program. The remainder of the increase should be used to supplement the tunnel characterization/neutralization program and the long-term radiation tolerant microelectronics program, as appropriate.

TUNNEL CHARACTERIZATION/NEUTRALIZATION PROGRAM

The conferees understand that the Department of Defense has allocated $10.0 million of funds requested in the budget for the counterproliferation support program for a tunnel characterization/neutralization program. Although the DNA tunnel characterization/neutralization target tests and program would be executed independently of the Department's counterproliferation efforts, the conferees expect close coordination between the two programs to ensure that common concerns are addressed. The conferees urge the DNA to utilize, to the maximum extent possible, the Nevada Test Site infrastructure for the tunnel target characterization/neutralization tests and program.

THERMIONICS

The conferees directed the transfer of the thermionics conversion technology from the Air Force Weapons program (PE 62601F), together with all unobligated funds authorized and appropriated in prior years, totalling up to $12.0 million, to the Defense Nuclear Agency program (PE 62715H).

Counterproliferation support program (sec. 218)

The budget request contained $108.2 million for the defense counterproliferation support program.

The Senate amendment contained a provision (sec. 217) that would authorize $144.5 million for the program, a $36.3 million increase to the budget request. Of the funds authorized in this section, $6.3 million would be available to the Special Operations Command (SOCOM) for purposes of broadening SOCOM's counterproliferation activities and $30.0 million would be available for the continuation of the Army tactical antisatellite technologies (ASAT) program (PE 63392A) for a user operation evaluation system (UOES) contingency capability. The provision would authorize the Department of Defense to transfer up to $50.0 million from fiscal year 1996 defense research and development accounts for counterproliferation support activities.

The House bill would authorize the budget request for the counterproliferation support program and include $11.0 million for the development of improved nuclear detection and forensics analysis by the Advanced Projects Research Agency (ARPA).

The conferees agree to a provision that would authorize $138.2 million for the counterproliferation support program, of which $30.0 million shall be available for the continuation of the Army tactical antisatellite technologies program. Of the funds authorized in fiscal year 1996, the conferees recommend that $1.5 million be available for the exploration of the ''deep digger'' concept for hard target characterization, and that $5.0 million be available for the high frequency active auroral research program (HAARP).

The conferees acknowledge concerns raised in the Senate report (S. Rept. 104–112) regarding the need for the Department to continue the aggressive pursuit of discriminate detection and attack capabilities of deep underground structures. The Department should continue to develop the capability to detect and defend against biological agents through the use of technologies, available through universities and non-profit industries, that have been developed for biological detection, emergency preparedness and response. The Department should also continue to develop a capability to counter technological gains by proliferant countries that could gain access to a broad mix of commercial-off-the-shelf space technologies which could provide these countries with significant space capabilities or access to space-derived data and could negatively impact a spectrum of multi-service and joint warfighting capabilities.

TACTICAL ANTISATELLITE TECHNOLOGY

The conferees direct the Secretary of Defense to include sufficient resources in fiscal year 1997, and throughout the future year defense plan (FYDP), for the following: a user operation evaluation system (UOES) contingency capability to produce 10 kill vehicles with the appropriate boosters by fiscal year 1999; a review to determine the appropriate management structure and military service responsibility; report on the current status of antisatellite development worldwide and the degree to which United States antisatellite development efforts may contribute to similar development among other nations and their impact on U.S. operational capabilities; and to report the Department's recommendations to Congress in the fiscal year 1997 budget request. To avoid significant or lengthy delays in developing a needed capability, the conferees direct the Department to leverage, or build upon the current Army tactical antisatellite technology program. The conferees note that authorization of funds for continued development of the tactical antisatellite system does not constitute a decision to deploy the system.

MISSION PLANNING AND ANALYSIS

The conferees recommend that $2.5 million from Air Force operation and maintenance (O&M) be made available for Strategic Air Command (STRATCOM) mission planning and analysis. The STRATCOM program provides support to the regional commanders-

in-chief (CINCs) in advance planning for counterproliferation contingencies. This program aids commanders in identifying and characterizing current and emerging proliferation threats. In instances in which proliferation activities challenge the interests of the United States and its military forces and operations, STRATCOM mission planning and analysis capabilities allow defense planners to: identify a variety of potential military targets; assess the effectiveness, consequences and costs of military options; and develop alternative contingency plans that would maximize mission effectiveness, and minimize the risks, costs, and collateral effects.

IMPROVED NUCLEAR DETECTION AND FORENSIC ANALYSIS CAPABILITIES

Due to an increase in international terrorism and attempts by criminal elements to acquire weapons-grade nuclear material, the conferees recommend $11.0 million to accelerate the development of improved nuclear detection and forensic analysis capabilities in PE 62301E, project ST23. The conferees direct the ARPA to closely coordinate its efforts in this area closely coordinate with the counterproliferation support program manager in the Department of Defense and the interagency group on counterproliferation.

Nonlethal Weapons Program (sec. 219)

The Senate bill contained a provision (sec. 218) that would establish a new, consolidated program for non-lethal systems and technology. The program would be managed by the Office of Strategic and Tactical Systems of the Under Secretary of Defense for Acquisition and Technology. The provision would create a new program element within the defense budget for this program, and transfer funds from PE 603570D, PE 603750D, PE 603702E, and PE 603226E into this new program element.

The House bill contained no similar provision.

The House recedes with an amendment that would express congressional recognition of the U.S. armed forces increasing role in operations other than war, recognition of support for the use of nonlethal weapons and systems across the spectrum of conflict, and concern that development of these technologies is being spread across the budgets of the military services and defense agencies. The conferees direct the Department of Defense to submit a report to Congress by February 15, 1996 and direct the Secretary of Defense to assign responsibility for the nonlethal weapons program to an existing office within the Office of the Secretary of Defense or designate an executive agent from the military services, to establish centralized responsibility for development and fielding of nonlethal weapons technology. The conferees authorize $37.2 million in a new defense program element for nonlethal weapons programs and nonlethal technologies programs.

The conferees believe that centralized responsibility for the nonlethal weapons program will ensure effective program management and expeditious development, acquisition, and fielding of nonlethal weapons and systems. The conferees further understand that both the Department of the Army and the Marine Corps are the primary users of these technologies and recommend the designation of either military service as the executive agent for this important program. Further, the conferees understand that the Department of the Army and the Marine Corps have closely coordinated their efforts in this area and expect this coordination to continue to ensure centralized management and improved budgetary focus for the nonlethal weapons program. The provision would also require the Department to report to Congress by February 15, 1996 on the designation of the executive agent for oversight of the program, the acquisition plan, the time frame for fielding systems, current and anticipated military requirements, and the Department of Defense policy regarding the nonlethal weapons program.

Federally-Funded Research and Development Centers (sec. 220)

The House bill contained a provision (sec. 257) that would require the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force to reevaluate the functions of Federally-Funded Research and Development Centers (FFRDCs) and to achieve certain reductions, consolidations and management goals. The provision would limit FFRDC funding to $1.15 billion and reduce funding for FFRDCs and University-Affiliated Research Centers (UARC) by $90.1 million.

The Senate amendment contained a provision (sec. 219) that would require an undistributed reduction in FFRDC funding of $90.0 million, below the ceiling for fiscal year 1995, and would establish a statutory ceiling for FFRDCs of $1.2 billion in fiscal year 1996.

The Senate recedes with an amendment. The conferees agree to reduce the funding for FFRDCs and UARCs by $90.0 million in fiscal year 1996 and direct that not more than $9.0 million of this reduction be applied to funding for UARCs. The conferees have included language that would require the Secretary of Defense to manage the UARCs at the fiscal year 1995 level. The conferees direct the Secretary of Defense to ensure adequate funding in fiscal year 1996 for those FFRDCs that engage in studies and analysis for the Office of the Secretary of Defense and the services. The conferees also direct the Secretary to examine the possibility of increasing the use of the Software Engineering Institute in support of command, control, communications, computing, and intelligence programs managed by the Office of the Secretary of Defense.

Joint seismic program and global seismic network (sec. 221)

The Senate amendment contained a provision (sec. 224) that would authorize $9.5 million of unobligated fiscal year 1995 funds in Air Force research and development for the joint seismic program (JSP) and the global seismic network (GSN) to provide more robust monitoring research and expanded seismic monitoring of potential nuclear tests.

The House bill contained no similar provision.

The conferees agree to a provision that would authorize $9.5 million in fiscal year 1996 for the joint seismic and global seismic network programs. The conferees understand that no future year funds would be required for this program. Further, the conferees direct the Department of Defense Comptroller to release the funds in a timely manner so that the programs can be completed.

Hydra–70 rocket product improvement program (sec. 222)

The Senate amendment contained a provision (sec. 113) that would prohibit the obligation of funds to procure Hydra–70 rockets until the Secretary of the Army submitted certifications regarding: identification of causes and technical corrections of Hydra–70 rocket failures; comparative cost of correcting all Hydra–70 rockets versus the non-recurring costs of acquiring improved rockets; review and qualification of commercial, nondevelopmental systems to replace Hydra–70 rockets; the availability of training rockets to meet Army requirements; and the attainment of competition in future procurements of training rockets.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees agree to authorize up to $10.0 million for full qualification and operational platform certification of a Hydra–70 rocket with a 2.75-inch rocket motor with composite propellant, for use on the AH–64D Apache helicopter.

Limitation on obligation of funds until receipt of electronic combat consolidation master plan (sec. 223)

The conferees agree to a provision that limits the obligation of appropriations for PE 65896A, PE 65864N, PE 65807F, and PE 65804D until 14 days after the Department of Defense submits to the congressional defense committees its master plan for the consolidation of electronic combat test and evaluation assets.

The House report (H. Rept. 103–499) directed the Secretary of Defense to develop a master plan for future consolidation of all DOD electronic combat test and evaluation assets. Further, the House report directed that no fiscal year 1995 or prior year funds be used to transfer or consolidate electronic combat test and evaluation assets until 30 days after the submission of the master plan to the congressional defense committees. To date, the master plan has not been provided to the congressional defense committees and funds continue to be obligated for purposes that contravene the House report language.

Requirement for report on reductions in research, development, test, and evaluation (sec. 225)

The conferees agree to a provision that requires the Under Secretary of Defense (Comptroller) to submit a report to the congressional defense committees by March 15, 1996 detailing the allocation of the following reductions in research, development, test, and evaluation required by the Department of Defense Appropriations Act of 1996: (1) general reductions; (2) reductions to reflect savings from revised economic assumptions; (3) reductions to reflect the funding ceiling for federally funded research and development centers; and (4) reductions for savings through improved management of contractor automatic data processing cost charged through indirect rates on Department of Defense acquisition contracts.

Advanced field artillery system (Crusader) (sec. 226)

The House bill contained a provision (sec. 255) that would impose spending authority limitations on the Secretary of the Army, unless certain technical performance criteria are achieved in the Crusader program. The provision would permit the Secretary to significantly alter the Crusader acquisition plan for the cannon propellant, if it is required to achieve the objectives of the Advanced Field Artillery System, provided notification is given to the defense committees of the Senate and House of Representatives.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would terminate funding for the liquid propellant portion of the Crusader program in the event that the Secretary fails to provide a report to the congressional defense committees by August 1, 1996, documenting that significant progress has been made in the liquid propellant and regenerative liquid propellant gun, in accordance with the acquisition program baseline objectives.

Demilitarization of conventional munitions, rockets, and explosives (sec. 227)

The House bill contained a provision (sec. 263) that would authorize $15.0 million for the establishment of an integrated program for the development and demonstration of environmentally compliant technologies for

the demilitarization of conventional munitions, explosives, and rocket motors, and indicated specific technologies that should be considered in the program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would delete reference to specific technologies that should be considered in the program. The amendment reflects a conference agreement to authorize $15.0 million in PE 63104D for the Conventional Munitions, Rockets, and Explosives Demilitarization account.

The conferees are concerned about requirements for disposal by the military services and defense agencies of growing numbers of unserviceable, obsolete, or non-treaty compliant munitions, rocket motors and explosives. As environmental constraints increasingly restrict the traditional disposal methods of open burning or open detonation, development and demonstration of environmentally compliant technologies for this purpose become even more urgent.

The conferees believe that a centralized conventional munitions and explosives disposal program should be established for this purpose within the Department of Defense (DOD) under a single program element, and that consideration should be given to the model of the Large Rocket Motor Demilitarization program, centrally managed by the Army as executive agent, with the requirements of the military services integrated through the Joint Ordnance Commanders' Group. In such a program, the conferees encourage the consideration of a range of competitively selected potential resource recovery and alternative demilitarization technologies, including (but not limited to) cryogenic washout, supercritical water oxidation, molten metal pyrolysis, plasma arc, catalytic fluid bed oxidation, molten salt pyrolysis, plasma arc, catalytic fluid bed oxidation, molten salt oxidation, incineration, critical fluid extraction and ingredient recovery, and underground contained burning.

The conferees direct the Secretary of Defense to submit a report of the DOD plan for the establishment of such a program to the congressional defense committees by March 31, 1996.

Defense airborne reconnaissance program (sec. 228)

The budget request included $525.2 million for research and development for the Defense airborne reconnaissance program (DARP).

The House bill would add a total of $121.6 million to the requested amount. The Senate amendment would increase the request by $33.0 million. Details of the adjustments in the House bill and the Senate amendment, as well as the final conference agreement, are displayed in the table below:

	Budget request	House bill	Senate amendment	Conference agreement
Total	$525.2	+$121.6	+$33.0	+$114.8
UAV programs:				
Joint tactical maneuver		−36.8		−10.0
Hunter				
Navy variant (VTOL)				+12.5
Tier II		+25.9		+25.3
Tier II+		+60.0		
Tier III		+35.0		+18.0
U–2 upgrade programs:				
SYERS		+14.0		+14.0
Defensive systems			+13.0	+10.0
SIGINT			+20.0	+20.0
PGMs		−10		
Other programs:				
CIGGS		+16.0		+11.0
Common data link		+0.5		
EO framing sensors		+5.0		+7.0
MSAG		+12.0		+8.0

MANNED AND UNMANNED RECONNAISSANCE SYSTEMS

The conferees remain optimistic about the future contributions of unmanned aerial vehicle (UAV) systems to the Department of Defense's (DOD) reconnaissance missions. However, the conferees remain unwilling to sacrifice proven manned systems in the near-term for the promise of unproven future systems. Further, the conferees believe five major UAV programs are overly redundant. The conferees are aware of the Department's intent to reduce the number of UAVs to satisfy the tactical, theater, and strategic missions. The conferees agree that it is important for the Department to satisfy these three distinct missions.

Further, the conferees believe the Department's endurance UAV programs must be viewed in the larger context of the broad area search/wide area surveillance missions. The conferees are concerned that the current and projected array of sensors (including Tier II+ and Tier III− UAVs, SR–71, U–2, and national systems) are not simply ''complementary'', but are ''duplicative''. The conferees will, therefore, remain extremely interested in the Department's future directions with respect to high altitude endurance UAV efforts.

MANEUVER UAV

The budget request included $36.8 million for the maneuver UAV.

The House will would deny any authorization for the maneuver UAV because the Department had failed to provide either a joint operational requirements document (JORD) or a cost and operational effectiveness analysis (COEA) in a timely manner.

The Senate amendment would approve the budget request.

The conferees agree to authorize $26.8 million for the maneuver UAV. The conferees are disappointed that the Department took so long to complete the JORD and the COEA. The conferees hope that the results of the ongoing review of the various UAV programs will be provided to the congressional defense and intelligence committees in a more timely fashion.

JOINT TACTICAL UAV

The conferees remain particularly concerned about the Department's inability to develop and pursue a cohesive joint tactical UAV (JT–UAV) master plan for longer than a four month period. The conferees direct the Department not to use appropriated fiscal year 1996 funds to procure production Hunter UAV systems or additional low rate initial production units beyond those already ordered. The conferees intend that this prohibition remain in effect until the Department provides the congressional defense and intelligence committees with the results of its UAV program review. Accordingly, if the Department's review results in the cancellation of one or more of the currently planned UAV programs, the conferees direct the Department to seek reprogramming actions to use those funds to satisfy other CINC near-term reconnaissance support requirements. Any funds made available as a result of Department decisions on UAVs will remain within the DARP account. Of any resources made available from UAV restructuring, the conferees direct that the Department use them to fully fund the U–2 sensor upgrades described later in this section. Any additional excess resources over those used for U–2 sensor upgrades may be used for the naval variant (VTOL). Further, the conferees specifically deny authorization of any fiscal year 1996 funds for marinization of the Hunter UAV.

NAVAL VARIANT UAV

The conferees agree that development and evaluation of a joint tactical UAV (JT–UAV) short or vertical take-off and landing (STOL/VTOL) variant for naval applications should be continued and structured on existing successful efforts. The conferees agree to authorize an additional $12.5 million to support continued development and evaluation of VTOL JT–UAV variants, as detailed in the Senate report (S. Rept. 104–112). The conferees intend that the Department limit its air vehicle evaluation to items that are low risk, currently available off-the-shelf, and have the demonstrated potential to meet joint tactical UAV interoperability and performance requirements.

MEDIUM ALTITUDE ENDURANCE UAV (PREDATOR)

The House bill would authorize an additional $25.9 million for the Tier II medium altitude endurance UAV (Predator).

The Senate amendment included a provision (sec. 131) that would deny funds for the Tier II system.

The Senate recedes.

The conferees agree to authorize an additional $25.3 million for another Predator system (air vehicles and ground station) and replacement air vehicles. The conferees are encouraged by the successes of the Predator advanced concept technology program, and particularly by the theater commanders' praise for its contributions in the Bosnia area. The conferees strongly support continuation of this ACTD, and encourage the Department to take the necessary steps to make a full production decision. The conferees believe this vehicle could satisfy multiple operational roles, including the theater and maritime roles. The conferees encourage the Department to develop plans for a maritime use of this vehicle. Such planning should include conducting an operational demonstration at sea. Finally, the conferees agree to authorize all prior year allocated funds.

HIGH ALTITUDE ENDURANCE UAVS

The House bill would authorize an additional $60.0 million for the Tier II+ and $35.0 million for the Tier III–.

The Senate amendment would authorize the budget request for both programs.

The House recedes on Tier II+. The Senate recedes on the Tier III–. The conferees agree to authorize an additional $18.0 million for Tier III–.

As with the JT–UAV, the conferees expect the Department to make acquisition decisions on this issue based on operational requirements. However, the conferees emphasize that the Department needs a more capable, low observable vehicle. The conferees agree that the Department should use the additional $18.0 million for Tier III– to buy the third air vehicle in fiscal year 1996, instead of fiscal year 1997. The conferees direct the Department to provide the congressional defense and intelligence committees with a report on the operational user needs for such a vehicle. If the current estimate of the Tier III– system capabilities fall short of those needs, the Department should outline its technical proposals to improve this vehicle, in response to those user requirements.

U–2 SENSOR UPGRADES

The House bill would authorize an additional $14.0 million to upgrade all Senior Year electro-optical reconnaissance sensors (SYERS) to the newest configuration, upgrade existing ground stations, and improve geolocational accuracy through various product improvements.

The Senate amendment would authorize an additional $20.0 million to initiate the remote airborne SIGINT system upgrade program.

The Senate report (S. Rept. 104–112) contained a technical error in the table for Research, Development, Test, and Evaluation (RDT&E), Defense-Wide, that shows an increase in the DARP PE 35154D, line 102, rather than in line 124. This error was facilitated

by the Department's budget exhibit for RDT&E programs (R–1) in which both of these budget lines are associated with the same program element. The conferees encourage the Defense Airborne Reconnaissance Office (DARO) to carry a single R–1 line for an individual program element in the future.

The conferees view with concern the DARO's lack of emphasis on manned reconnaissance upgrades, and include a provision that requires the Director of the DARO to expeditiously carry out those upgrades. The conferees agree to authorize $34.0 million to meet U–2 sensor upgrade requirements, and direct the Secretary of Defense to provide a report on the Department's plans to obligate funds for U–2 upgrades prior to February 1, 1996.

U–2 DEFENSIVE SYSTEMS

The conferees agree to authorize $10.0 million to upgrade U–2 defensive systems for the purposes specified in the Senate Report (S. Rept. 104–112).

COMMON IMAGERY GROUND/SURFACE SYSTEM (CIGSS)

The budget request included $161.8 million for the CIGSS effort.

The House bill would authorize an additional $16.0 million. This increase would be used to mitigate a near-term funding shortfall for DARO's ''migration'' of the various imagery ground stations to a common architecture.

The Senate amendment would approve the budget request.

The conferees agree to authorize an additional $11.0 million for this effort.

INTELLIGENCE DISSEMINATION

The budget request included funds for numerous intelligence dissemination systems and data links.

The House bill would restrict the use of funds pending the Department's development of a coherent, long-term intelligence dissemination architecture and a plan for development of a joint tactical transceiver (JTT).

The Senate amendment would authorize the requested amounts.

The House recedes.

The conferees are pleased with the Department's response to the House bill provision. The conferees believe that the Department is moving in the right direction to ensure service interoperability and to reduce the number of unique tactical intelligence transceivers. Additionally, the conferees are aware that the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence is monitoring efforts to develop advanced software reprogrammable radios. The conferees strongly encourage continued involvement in this technology development, as it appears to have great potential for future application in the JTT program. The conferees will continue to monitor the progress of the Department's approach.

ELECTRO-OPTICAL FRAMING SENSOR DEVELOPMENT

The House would authorize an additional $5.0 million to continue development and evaluation of airborne electro-optic framing sensor and multi-spectral framing technologies with on-chip forward motion compensation. These improved capabilities could be used to support precision targeting.

The Senate amendment included no similar adjustment.

The conferees agree to authorize $7.0 million for this purpose.

The conferees are pleased with the results of the four million picture element (four mega-pixel) framing demonstration. The conferees encourage the Department to program funding to accelerate the four mega-pixel and the 25 mega-pixel sensor initiatives.

MULTI-FUNCTION SELF-ALIGNED GATE TECHNOLOGY

The conferees agree to authorize $8.0 million for multi-function self-aligned gate (MSAG) technology for the purposes specified in the House report (H. Rept. 104–131).

JOINT AIRBORNE SIGINT ARCHITECTURE

The budget request included $88.8 million for the joint airborne signals intelligence (SIGINT) architecture (JASA) program.

The House bill would restrict obligation of fiscal year 1996 funds for JASA to no more than 25 percent of available funds until the Department submits an analysis and report that includes a comparison of future years defense programs (FYDP) and life cycle costs for development and fielding of the joint airborne SIGINT system (JASS), and that address a more conventional, evolutionary, product-improvement approach.

The Senate amendment would authorize the requested amount.

The House recedes on the funding restrictions.

Despite their support for the evolving concept and development of JASA, the conferees remain concerned about several issues:

(1) the Department's ability to sustain current operational systems;

(2) elimination of the potential for airborne SIGINT modernization gaps prior to fielding JASA components;

(3) the projected costs of the JASS program; and

(4) the risk that current approaches may sacrifice near and mid-term operational requirements for promised long-term common solutions.

The conferees believe that there is a need to continue interim, affordable, incremental upgrades, and to provide quick reaction capability improvements to meet emerging requirements, while continuing the JASA architectural approach. The conferees encourage competitive evolutionary solutions to satisfy existing and projected SIGINT requirements, and urge the earliest delivery of architecturally compliant components for evolving current and future systems. The conferees expect future budget requests for the DARO to include funding for these efforts. The conferees direct the DARO Director to certify to the congressional defense and intelligence committees that the individual SIGINT systems will be upgraded to incorporate these interim needs, as identified by the operational users.

The conferees direct the Department to provide an interim report by March 1, 1996, with a completed report by August 1, 1996, that includes:

(1) an independent cost and operational effectiveness analysis that compares the FYDP and life-cycle costs of the JASS program to an evolutionary product improvement approach, based on equivalent system performance;

(2) an evaluation of cost, technical and schedule risks, as well as a comparison of technical requirements and JASS performance; and

(3) the Department's assessment of its ability to predict both the future threat and technology environments necessary to determine whether a single approach is viable and in the nation's best interests.

Finally, to ensure that there are no airborne SIGINT capability gaps during the transition to JASA, DARO is directed to determine and implement necessary quick-reaction improvements to existing airborne systems. The conferees intend that the Department pursue a balanced approach to JASA development that allows the services to program funds for such evolutionary upgrades, provided there is compliance with an overall migration to the JASA architecture.

Ballistic missile defense policy (secs. 231–253)

The House bill contained eight provisions (secs. 231–238) that collectively would be called the ''Ballistic Missile Defense Act of 1995.'' The House bill contained four additional provisions (secs. 241–244) that would also deal with matters related to ballistic missile defense (BMD).

The Senate amendment contained eleven provisions (secs. 231–241) that collectively would be called the ''Missile Defense Act of 1995.'' The Senate amendment contained two additional provisions (secs. 227 and 243) that would also deal with matters related to BMD.

The conference agreement combines the House and the Senate BMD provisions into two subtitles as described below.

Subtitle C—Ballistic Missile Defense Act of 1995

Short title (sec. 231)

The House bill contained a provision (sec. 231) that would entitle this group of provisions the ''Ballistic Missile Defense Act of 1995.''

The Senate amendment contained a provision (sec. 231) that would use a different title—''Missile Defense Act of 1995''—reflecting the fact that the Senate version included a provision dealing with cruise missile defense.

The Senate recedes.

Findings (sec. 232)

The Senate amendment contained a provision (sec. 232) that would establish a series of congressional findings as the rationale for developing and deploying theater and national ballistic missile defenses.

The House bill contained a provision (sec. 242) that would make several similar findings.

The House recedes with an amendment merging the House and Senate findings.

Ballistic Missile Defense Policy (sec. 233)

The House bill contained a provision (sec. 232) that would establish a United States policy to: (1) deploy at the earliest practical date highly effective theater missile defenses; and (2) deploy at the earliest practical date a national missile defense (NMD) system that is capable of providing a highly effective defense of the United States against limited ballistic missile attacks.

The Senate amendment contained a similar provision (sec. 233) that would establish a United States policy to: (1) deploy as soon as possible affordable and operationally effective theater missile defenses; (2) develop for deployment a multiple-site national missile defense system (that can be augmented to a layered defense over time) while initiating negotiations to amend the Anti-Ballistic Missile (ABM) Treaty; (3) ensure congressional review prior to a decision to deploy the NMD system; (4) improve existing cruise missile defense systems and deploy as soon as practical defenses against advanced cruise missiles; (5) pursue a focused research and development program to provide follow-on ballistic missile defense options; (6) employ streamlined acquisition procedures in developing and deploying missile defenses; (7) seek a cooperative transition to a regime that does not feature mutual assured destruction and an offense-only form of deterrence as the basis for strategic stability; and (8) carry out the policies, programs, and requirements of the Missile Defense Act through processes specified within, or consistent with, the ABM Treaty.

The House recedes with an amendment to establish a United States policy to: (1) deploy affordable and operationally effective

theater missile defenses to protect forward-deployed and expeditionary elements of the armed forces of the United States and to complement and support the missile defense capabilities of the forces of coalition partners and allies of the United States; and (2) seek a cooperative transition to a regime that does not feature mutual assured destruction and an offense-only form of deterrence as the basis of strategic stability.

Theater Missile Defense Architecture (sec. 234)

The House bill contained a provision (sec. 233) that, in part, would direct the Secretary of Defense to develop and deploy at the earliest practical date advanced theater missile defense (TMD) systems. The House bill contained another provision (sec. 236) that would establish a ballistic missile defense program accountability report.

The Senate amendment contained a provision (sec. 234) that would provide detailed policy guidance related to theater missile defense. The provision would establish a core theater missile defense program (the Theater High Altitude Area Defense system, the Navy Upper Tier system, the Patriot PAC–3 system, and the Navy Lower Tier system) with programmatic milestones for each core system, require that the systems in the core program be interoperable and mutually supporting, establish guidelines for creating new core systems, and require the Secretary of Defense to provide the congressional defense committees a TMD Architecture report along with the fiscal year 1997 budget submission.

The House recedes with an amendment to integrate elements of the House's ballistic missile defense program accountability provision into a revised TMD reporting requirement, and to make technical and clarifying changes. Included is a requirement that the Secretary of Defense report on the following matters to the Senate Committee on Armed Services and the House Committee on National Security whenever the Secretary issues an ABM Treaty compliance certification for any TMD system: (1) the compliance policy applied in preparing such a certification; (2) how the policy applied differs from the policy stated in section 235(b)(1) of this Act (the so-called ''demonstrated standard''); and (3) how the application of that compliance policy (rather than the ''demonstrated standard'') will affect the cost, schedule, and performance of the TMD system being considered.

Prohibition on use of funds to implement an international agreement concerning theater missile defense systems (sec. 235)

The House bill contained a provision (sec. 235) that would establish a theater missile defense demarcation standard (the so-called ''demonstrated standard'' based on the range and speed of the target) and would prohibit the obligation or expenditure of funds appropriated for the Department of Defense to implement or employ any other standard.

The Senate amendment contained a related provision (sec. 238) that would: (1) express the sense of Congress that the ''demonstrated standard'' is the appropriate standard for defining a TMD demarcation; and (2) prohibit the use of funds appropriated for the Department of Defense in fiscal year 1996 to implement an international agreement that is inconsistent with this standard, unless such agreement receives Senate advice and consent to ratification, or is specifically approved in a subsequent Act.

The House recedes with a clarifying amendment.

Ballistic missile defense cooperation with allies (sec. 236)

The House bill contained a provision (sec. 242) that, in part, would endorse cooperation in the area of ballistic missile defense between the United States and its allies and coalition partners, and that would urge the President to: (1) pursue high-level discussions with allies of the United States and selected other states on the means and methods by which the parties can cooperate in the development, deployment, and operation of ballistic missile defenses; (2) take the initiative within the North Atlantic Treaty Organization to develop a consensus for deployment of BMD by the Alliance; and (3) seek agreement with U.S. allies and selected other states on steps the parties can take to reduce the risks posed by the threat of limited ballistic missile attacks.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to include the House language on BMD cooperation with allies as a free-standing provision.

ABM Treaty Defined (sec. 237)

The House bill contained a provision (sec. 237) that would define the ABM Treaty.

The Senate amendment contained a similar provision.

The Senate recedes with a technical amendment.

Repeal of Missile Defense Act of 1991 (sec. 238)

The House bill contained a provision, (sec. 238) that would repeal the Missile Defense Act of 1991.

The Senate amendment contained a similar provision (sec. 241(1)).

The Senate recedes.

Subtitle D—Other Ballistic Missile Defense Provisions

Ballistic Missile Defense Program Elements (sec. 251)

The Senate amendment contained a provision (sec. 239) that would establish seven program elements for the Ballistic Missile Defense Organization's budget.

The House bill contained no similar provision.

The House recedes with an amendment creating eight program elements.

Testing of theater missile defense interceptors (sec. 252)

The House bill contained a provision (sec. 243) that would amend subsection (a) of section 237 of Public Law 103–160, pertaining to the testing of theater missile defense interceptors.

The Senate amendment contained a similar provision (sec. 227) that also would relate to the testing of theater missile defense interceptors.

The Senate recedes.

Repeal of missile defense provisions (sec. 253)

The Senate amendment contained a provision (sec. 241) that would repeal ten outdated BMD-related provisions of law.

The House bill contained a similar provision (sec. 244) that would repeal six outdated BMD-related provisions of law.

The House recedes with an amendment. The Conferees agree to repeal nine outdated BMD-related provisions of law.

Subtitle E—Miscellaneous Reviews, Studies, and Reports

Precision guided munitions (sec. 261)

The Senate amendment contained a provision (sec. 215) that would require the Secretary of Defense, not later than February 1, 1996, to submit a report that contains an analysis of the full range of precision guided munitions (PGM) in production, and in research, development, test and evaluation. The analysis would address the following:

(1) The types of precision guided munitions needed to destroy various service target classes;

(2) The feasibility of joint development programs to meet the needs of various Services; and

(3) The economy and effectiveness of continued acquisition of ''interim'' PGMs.

The House bill contained no legislative provision on PGMs, but directed the Secretary to conduct a similar analysis in its report (H. Rept. 104–131) accompanying the bill.

The conferees agree to the Senate provision, with an amendment that would extend the reporting deadline to April 15, 1996.

Review of C4I by National Research Council (sec. 262)

The House bill contained a provision (sec. 256) that would direct the Secretary of Defense to enter into a contract with the National Research Council of the National Academy of Sciences to conduct a review of Department of Defense programs for command, control, communications, computers, and intelligence. The study would be conducted over a two-year period and $900.0 thousand would be available for the cost of the study.

The Senate amendment contained no similar provision.

The Senate recedes.

Analysis of consolidation of basic research accounts of military departments (sec. 263)

The House bill contained a provision (sec. 252) that would direct the Secretary of Defense to fund the equivalent of a cost and operational effectiveness study of the consolidation of the indivdiual services' basic research accounts to determine potential infrastructure savings.

The Senate amendment contained no similar provision.

The Senate recedes.

Change in the annual reporting period, from calendar to fiscal year, on certain contracts with colleges and universities. (sec. 264)

The House bill contained a provision (sec. 253) that would amend section 2361 of title 10, United States Code, to change the annual reporting period from the preceding ''calendar'' year to each preceding ''fiscal'' year on the use of competitive procedures for awards of research and development contracts, and the award of construction contracts to colleges and universities.

The Senate amendment contained no similar provision.

The Senate recedes.

Aeronautical research and test capabilities assessment (sec. 265)

The House bill contained a provision (sec. 260) that would require the Secretary of Defense to assess aeronautical research and test facilities and capabilities of the United States, and to provide a report to the congressional defense committees detailing the findings and recommendations of the assessment.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle F—Other Matters

Advanced lithography program (sec. 271)

The House bill contained a provision (sec. 214) that would amend section 216 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337). The provision would permit the Director of the Advanced Research Projects Agency (ARPA) to consider Semiconductor Industry Association and Semiconductor Technology Council recommendations as advisory and would allow ARPA to establish priorities and funding levels for the program, consistent with the best interests of national security. The provision would also add a goal that the program ensure that the use of lithographic processes, being developed by American-owned manufacturers in the United States, would lead to superior performance electronics systems for the Department of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify the term ''American-owned manufacturer'' to mean that it would be consistent with the definition of ''United States-owned company'' and ''United States incorporated company'' in section 278 (n) of title 15, United States Code.

Enhanced fiber optic guided missile system (sec. 272)

The House bill contained a provision (sec. 215) that would require the Secretary of the Army to certify whether there is a requirement for the enhanced fiber optic guided missile (EFOG–M) system, and whether there is a cost and effectiveness analysis supporting such requirement. The provision would also limit funding for the EFOG–M program if the test of operational missiles and associated fire units are not delivered on time and within current cost estimates.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the certification of the Secretary of the Army regarding a requirement and a cost and effectiveness analysis to support the requirement for the EFOG–M system to be provided following completion of the Advanced Concept Technology Demonstration (ACTD), instead of before the ACTD, as proposed by the House.

States eligible for assistance under Defense Experimental Program to Stimulate Competitive Research (DEPSCoR) (sec. 273)

The Senate amendment contained a provision (sec. 220) that would modify the graduation criteria for states participating in the Department of Defense EPSCoR program.

The House bill contained no similar provision.

The House recedes with an amendment that would provide for the use of a three year average to determine, on a state-by-state basis, whether a state institution of higher learning receives 60 percent of the average amounts for research and engineering obligated by the Department of Defense.

Cruise missile defense initiative (sec. 274)

The Senate amendment contained a provision (sec. 236) that would establish a cruise missile defense initiative. The provision would require the Secretary of Defense to strengthen and coordinate the cruise missile defense programs of the Department of Defense, and provide Congress with a report describing the Secretary's plans for implementing this provision.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

University research initiative support program (sec. 275)

The House bill contained a provision (sec. 254) that would amend Section 802 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160). The provision would change the university research initiative support program from a mandatory program to a voluntary program and provide for improved review procedures.

The Senate amendment contained no similar provision.

The Senate recedes.

Revisions of manufacturing of science and technology program (sec. 276)

The House bill contained a provision that would eliminate the technology-based focus for the manufacturing of science and technology program, and provide new emphasis on near-term cost reduction applications. The provision would also require a larger non-federal government cost share for 25 percent of the program appropriation, and eliminate cost share for academic institutions.

The Senate amendment contained a provision (sec. 222) that would amend section 2525 of title 10, United States Code, in two ways. The provision clarified the role of the Joint Directors of Laboratories in establishing the Manufacturing Science and Technology Program. The provision included a requirement that manufacturing equipment producers be more directly involved in projects funded under this program.

The conferees agree to an amendment that would combine the House and Senate provisions.

The conferees support the transfer of the MANTECH program from advanced development to a Research, Development, Test & Evaluation (RDT&E) production support account to ensure direct impact of manufacturing technology on reduction of production and repair costs for todays systems. However, the conferees direct that a balance be maintained between near-term manufacturing solutions for weapons systems and the long range manufacturing design needs, such as implementing Integrated Products and Process Development (IPPD) in future systems.

The conferees would include the House provision to set aside 25 percent of the funding for the manufacturing technology program for entering into contracts and cooperative agreements, on a cost-share basis, in which the ration of funding provided by non-federal and federal participants is 2 to 1. The conferees have included a provision that would allow the Under Secretary of Defense for Acquisition and Technology to waive the requirement after July 15 of each fiscal year. The conferees direct that contracts and cooperative agreements awarded to meet this requirement be on a project-by-project basis. The conferees direct that the Department maximize the number of contracts and cooperative agreements, to the extent practicable.

The conferees expect the Department of Defense and the services to request an aggressive fiscal year 1997 MANTECH budget that reflects program needs. As a goal, the Department should consider funding this program at approximately one percent of the services' RDT&E budgets. The conferees also believe that the Secretary of Defense should place the highest priority on addressing the management and budget process issues that have adversely affected the MANTECH program.

Five-year plan for consolidation of defense laboratories and test and evaluation centers (sec. 277)

The House bill contained a provision (sec. 259) that would require the Secretary of Defense to prepare a five year strategic plan to consolidate and restructure the Department's research and development laboratories and test and evaluation centers.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to include additional study parameters and to adjust the limitation on funding obligations; from 40 percent to 75 percent for the central test and evaluation investment development program pending submission of the report to Congress.

Limitation on T–38 avionics upgrade program (sec. 278)

The House bill contained a provision (sec. 261) that would allow the Department of the Air Force to consider foreign companies for the award of the contract for the T–38 aircraft avionics upgrade program only if such companies are headquartered in countries that allow equal access to United States companies for such contracts.

The Senate amendment contained no similar provision.

The Senate recedes.

Global Positioning System (sec. 279)

The Senate amendment contained a provision (sec. 1081) that would require the Secretary of Defense to suspend use of the selective availability feature of the Global Positioning System (GPS) by May 1, 1996, unless the Secretary develops a plan for dealing with the challenges associated with GPS jamming and denial.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Army support for the National Science Center for Communications and Engineering (sec. 280)

The Senate amendment contained a provision (sec. 1085) that would modify the authority of the Army to provide support to the National Science Center outreach program.

The House bill contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Maneuver variant unmanned aerial vehicle

The House bill contained a provision (sec. 212) that would prohibit the obligation of funds appropriated or otherwise made available pursuant to authorizations in fiscal year 1996 for the Maneuver Variant Unmanned Aerial Vehicle.

The Senate amendment contained no similar provision.

The House recedes.

National missile defense

The House bill contained a provision (sec. 233) that, in part, would direct the Secretary of Defense to develop for deployment at the earliest practical date a national missile defense system consisting of: (1) up to 100 ground-based interceptors at a single site or a greater number of interceptors at a number of sites, as determined necessary by the Secretary; (2) fixed, ground-based radars; (3) space based sensors, including those sensor systems that are capable of cuing ground-based interceptors and providing initial targeting vectors; and (4) battle management, command, control, and communications.

The Senate amendment contained a provision (sec. 235) that would direct the Secretary of Defense to take the following steps regarding national missile defense (NMD): (1) develop for deployment an affordable and operationally effective NMD system (consisting of ground-based interceptors capable of being deployed at multiple sites, ground-based radars, space-based sensors, and battle management, command, control, and communications) to counter a limited, accidential, or unauthorized ballistic missile attack, and which is capable of attaining initial operational capability by the end of 2003; (2) develop an interim operational capability plan that would give the United States the ability to field a limited NMD system by the end of 1999; (3) prescribe and use streamlined acquisition procedures; (4) employ additional cost saving measures; and (5) report on his plan for NMD deployment and an analysis of options for supplementing the initial NMD architecture to improve cost and operational effectiveness. The Senate amendment also contained a provision (sec. 235(d)(2)) that would prohibit the use of Minuteman boosters in any NMD architecture.

The conference agreement does not include a provision on national missile defense.

Ballistic missile defense follow-on technology research and development

The House bill contained a provision (sec. 234) that would provide guidance on follow-on

technology development for theater and national ballistic missile defense programs.

The Senate amendment contained no similar provision.

The House recedes.

Policy regarding the ABT Treaty

The Senate amendment contained a provision (sec. 237) that would clarify that the policies, programs, and requirements of the ''Missile Defense Act of 1995'' (subtitle C of title II of the Senate amendment) can be accomplished through processes specified in the ABM Treaty, and that would express the sense of Congress that the Senate should review the continuing value and validity of the ABM Treaty.

The House bill contained a provision (sec. 242(c)(2)) that would urge the President to pursue high-level discussions with Russia to amend the ABM Treaty.

The conference agreement does not include either provision.

Ballistic missile defense funding

The House bill contained a provision (sec. 241) that would authorize $3.070 billion in Defensewide research, development, test, and evaluation (RDT&E) funds for ballistic missile defense programs.

The Senate amendment contained no similar provision.

The House recedes. The conferees discuss funding for ballistic missile defense programs elsewhere in this Statement of Managers.

Allocation of funds for medical countermeasures against biowarfare threats

The House bill contained a provision (sec. 251) that would amend section 2370a of title 10, United States Code, to permit the obligation or expenditure of up to 50 percent of funds authorized for the medical component of the Department of Defense Biological Defense Research program for product development, or for research, development, test, or evaluation of medical countermeasures related to mid-term or far-term validated biowarfare threat agents.

The Senate amendment contained no similar provision.

The House recedes.

The conferees note with concern that the recent progress in bio-technology could potentially lead to the development of new biological warfare agents and capabilities among potential adversaries of the United States. The conferees direct that the Department report to the congressional defense committees by March 1, 1996 on the national security threats posed by such potential developments of new agents through advances in bio-technology and genetic engineering. The report should also include recommendations related to reducing the impact of progress in these areas, examine the utility of increased emphasis on research and development of medical countermeasures related to mid-term or far-term biowarfare threat agents; and identify other measures that could reduce the threat of these technological advances and reduce the threat of biological agent and weapons proliferation.

Cross reference to congressional defense policy concerning national technology and industrial base, reinvestment, and conversion in operation of defense research and development programs

The House bill contained a provision (sec. 262) that would cross-reference sections 2358(a)(2)(B) and 2371(a) with section 2501 of title 10, United States Code, to encourage the use of dual-use technology programs in defense research and technology programs.

The Senate amendment contained no similar provision.

The House recedes.

Fiber optic acoustic sensor system

The budget request included $21.3 million in PE 63504N for the advanced submarine combat systems development program.

The House bill contained a provision (sec. 264) that would authorize $28.2 million for the advanced submarine combat systems development program in fiscal year 1996, including $6.9 million for research and development for a fiber optic acoustic sensor system and common optical towed array. The provision also reduced funding for the advanced submarine systems development program (PE 63561N) by $6.9 million.

The Senate amendment contained no similar provision.

The House recedes.

The conferees agree to the authorization of an additional $6.9 million above the budget request in PE 63504N for advanced development of fiber optic acoustic sensor systems, including the development of common optical towed arrays.

Joint targeting support system testbed

The budget request included $141.4 million in PE 24229N for the Tomahawk missile and the Tomahawk mission planning center programs.

The House bill contained a provision (sec. 265) that would reallocate project funding within PE 24229N. The provision would increase funding for Tomahawk theater mission planning by $10.0 million in order to establish a joint targeting support system testbed and would reduce funding for Tomahawk missile development by $10.0 million, as an offset.

The Senate amendment contained no similar provision.

The House recedes.

The conferees agree to an additional authorization of $4.0 million in PE 24229N to initiate development of a joint targeting support system testbed (JTSST) for demonstration of potential joint targeting operations. The conferees understand that an initial study would investigate the relative roles of the existing systems installed in the Tomahawk mission planning center and other mission planning systems that are being developed by the individual military services. It is recognized that these systems are projected to have embedded precision weapons planning capabilities.

The conferees expect that the results of the initial JTSST study and follow-on demonstrations will contribute to the definition of long-term objectives, guidelines, and schedule milestones for convergence of the Navy/Marine Corps tactical aircraft mission planning systems and the Air Force mission support system, and should lead to the development of a joint mission planning system architecture for the military services.

The conferees direct the Secretary of Defense to report to the congressional defense committees as soon as possible, but no later than the submission of the fiscal year 1998 budget request. This report shall describe the Secretary's plan for implementing the recommendations that result from the study.

Battlefield Integration Center

The Senate amendment contained a provision (sec. 201(4)(C)) that would authorize the use of up to $25.0 million in Defensewide research, development, test, and evaluation (RDT&E) funds made available for Other Theater Missile Defense activities for the Army's Battlefield Integration Center (BIC).

The House bill contained no similar provision.

The Senate recedes.

The conferees agree to authorize an increase of $21.0 million in PE 63308A for the BIC.

Marine Corps shore fire support

The Senate amendment contained a provision (sec. 213) that would not allow more than fifty percent of the funds appropriated in fiscal year 1996 for the Tomahawk Baseline Improvement Program to be obligated until the Secretary of the Navy certifies that a program has been established and fully funded. That program would lead to a live fire test of an Army Extended Range Multiple Launch Rocket from an Army launcher on a Navy ship before October 1, 1997.

The House bill contained no similar provision.

The Senate recedes. Further guidance relative to the consideration of the Army Extended Range Multiple Launch Rocket System in the Navy Surface Fire Support program is contained elsewhere in the Statement of Managers.

Depressed altitude guided gun round (DAGGR)

The budget request contained no funds for the depressed altitude guided gun round (DAGGR).

The Senate amendment contained a provision (sec. 225) that would authorize $5.0 million for continued development of the DAGGR system.

The House bill contained no similar provision.

The Senate recedes. DAGGR technology has indicated potential capability which might be used to counter threats such as 122-millimeter rockets and cruise missiles. The conferees encourage the Secretary of the Army to include this program in the fiscal year 1997 budget request, and, if warranted, consider a reprogramming request to provide funding for DAGGR in fiscal year 1996.

Army echelon above corps communication

The budget request included $5.9 million for Army echelon above corps communications.

The House bill would authorize the budget request.

The Senate amendment included a provision (sec. 226) that would provide an increase of $40.0 million to procure additional communications equipment for the Army's echelons above corps.

The Senate recedes.

The conferees agree to authorize the increase of $40.0 million for the procurement of additional communications equipment for the Army's echelons above corps.

Sense of the Senate on the Director of Operational Test and Evaluation

The Senate amendment contained a provision (sec. 242) that would express a sense of the Senate that would discourage any attempt to diminish or eliminate the Office of the Director of Operational Test and Evaluation or its functions.

The House bill contained no similar provision.

The Senate recedes.

Ballistic missile defense technology center

The Senate amendment contained a provision (sec. 243) that would establish a ballistic missile defense technology center within the Space and Strategic Defense Command of the Army.

The House bill contained no similar provision.

The Senate recedes.

TITLE III—OPERATION AND MAINTENANCE

Overview

The budget request for fiscal year 1996 contained an authorization of $91,634.4 million for Operation and Maintenance in the Department of Defense and $1,852.9 for Working Capital Fund Accounts in fiscal year 1996. The House bill would authorize $94,420.2 million for Operation and Maintenance and $2,452.9 for Working Capital Fund Accounts. The Senate amendment would authorize $91,408.8 million for Operation and Maintenance and $1,962.9 for Working Capital Fund

Accounts. The conferees recommended an authorization of $92,616.4 million for Operation and Maintenance and $1,902.9 for Working Capital Fund Accounts for fiscal year 1996. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1996

(Dollars in Millions)

Account Title	Authorization Request 1996	House Authorized	Senate Authorized	Conference Change	Conference Authorization
TITLE III					
Operation and Maintenance, Army	18,184.736	19,339.936	18,064.436	561.959	18,746.695
Operation and Maintenance, Navy	21,225.710	21,677.510	21,346.910	267.445	21,493.155
Operation and Maintenance, Marine Corps	2,269.722	2,603.622	2,405.722	252.100	2,521.822
Operation and Maintenance, Air Force	18,256.597	18,984.162	18,230.097	462.680	18,719.277
Operation and Maintenance, Defense-wide	10,366.782	10,681.871	10,035.867	(456.306)	9,910.476
Defense Health Program,O&M	9,865.525	9,876.525	9,943.825	11.000	9,876.525
Defense Health Program,PROC	-	-	-	-	-
Operation and Maintenance, Army Reserve	1,068.591	1,139.591	1,062.591	60.600	1,129.191
Operation and Maintenance, Navy Reserve	826.042	838.042	840.842	42.300	868.342
Operation and Maintenance, Marine Corps Reserve	90.283	91.783	90.283	10.000	100.283
Operation and Maintenance, Air Force Reserve	1,485.947	1,507.447	1,482.947	30.340	1,516.287
Operation and Maintenance, Army National Guard	2,304.108	2,394.108	2,304.108	57.700	2,361.808
Operation and Maintenance, Air National Guard	2,712.221	2,734.221	2,734.221	47.900	2,760.121
Office of the Inspector General, O&M	138.226	177.226	138.226		138.226
Office of the Inspector General, Proc					
United States Courts of Appeals for the Armed Forces	6.521	6.521	6.521		6.521
Environmental Restoration, Defense	1,622.200	1,422.200	1,601.800	(200.000)	1,422.200
Drug Interdiction and Counter-drug Activities, Defense	680.432	680.432	680.432		680.432
Former Soviet Union Threat Reduction Account	371.000	200.000	365.000	(71.000)	300.000
Summer Olympics	15.000	15.000	15.000	-	15.000
Contributions for International Peacekeeping and Peace E	65.000	-	-	(65.000)	-
Humanitarian Assistance	79.790	-	60.000	(79.790)	-
Disposal and Lease of DOD Real Property	-	-	-		-
DOD 50th Anniversary of World War II Commemoration	-	-	-		-
Overseas Humanitarian, Disaster, & Civic Aid	-	50.000	-	50.000	50.000
National Science Center, Army	-	-	-	-	-
Total Operation & Maintenance	91,634.433	94,418.697	91,408.828	981.928	92,616.361

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	OPERATION AND MAINTENANCE, ARMY							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	LAND FORCES	9,069,646	300,000	9,369,646	25,000	9,094,646	191,270	9,260,916
10	COMBAT UNITS	1,882,069		1,882,069		1,882,069		1,882,069
20	TACTICAL SUPPORT	1,165,970		1,165,970		1,165,970		1,165,970
30	THEATER DEFENSE FORCES	178,670		178,670		178,670		178,670
40	FORCE RELATED TRAINING/SPECIAL ACTIVITIES	1,271,154		1,271,154		1,271,154		1,271,154
50	FORCE COMMUNICATIONS	73,584		73,584		73,584		73,584
60	DEPOT MAINTENANCE	861,426	100,000	961,426		861,426	89,270	950,696
70	JCS EXERCISES	54,467		54,467		54,467		54,467
80	BASE SUPPORT	3,582,306	200,000	3,782,306	25,000	3,607,306	100,000	3,884,306
	NTC INTERIM AIRHEAD						2,000	
85	REPROGRAMMING/CREDITS	0		0		0		0
	LAND OPERATIONS SUPPORT	251,301	0	251,301	0	251,301	0	251,301
90	COMBAT DEVELOPMENTS	214,364		214,364		214,364		214,364
100	UNIFIED COMMANDS	36,937		36,937		36,937		36,937
105	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 1:	9,320,947	300,000	9,620,947	25,000	9,345,947	191,270	9,512,217
	BUDGET ACTIVITY 2: MOBILIZATION							
	MOBILITY OPERATIONS	696,760	0	696,760	29,500	726,260	60,000	756,760
110	POMCUS	86,830		86,830		86,830		86,830
120	STRATEGIC MOBILIZATION	393,923		393,923		393,923		393,923
130	WAR RESERVE ACTIVITIES	72,166		72,166		101,666	60,000	132,166
	SWA AWR ACCELERATION	0		0	29,500			
140	INDUSTRIAL PREPAREDNESS	143,841		143,841		143,841		143,841
145	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 2:	696,760	0	696,760	29,500	726,260	60,000	756,760
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	ACCESSION TRAINING	314,798	0	314,798	0	314,798	0	314,798
150	OFFICER ACQUISITION	58,328		58,328		58,328		58,328
160	RECRUIT TRAINING	11,228		11,228		11,228		11,228
170	ONE STATION UNIT TRAINING	17,008		17,008		17,008		17,008
180	RESERVE OFFICER TRAINING CORPS (ROTC)	109,789		109,789		109,789		109,789
190	BASE SUPPORT (ACADEMY ONLY)	118,445		118,445		118,445		118,445
195	REPROGRAMMING/CREDITS	0		0		0		0
	BASIC SKILL/ ADVANCE TRAINING	2,060,143	20,000	2,080,143	45,000	2,105,143	75,000	2,135,143
200	SPECIALIZED SKILL TRAINING	236,760		236,760		236,760		281,760
	CHEMICAL DEFENSE TRAINING	0	10,000	10,000		0	10,000	
	CHEMICAL DEFENSE MEDICAL TRAINING	0	10,000	10,000		0	10,000	
	TNET						4,000	
	SIMULATION ENHANCEMENTS						21,000	
210	FLIGHT TRAINING	218,514		218,514		218,514		218,514
220	PROFESSIONAL DEVELOPMENT EDUCATION	68,981		68,981		68,981		68,981
230	TRAINING SUPPORT	375,528		375,528		375,528		375,528
240	BASE SUPPORT (OTHER TRAINING)	1,160,360		1,160,360	45,000	1,205,360	30,000	1,190,360
245	REPROGRAMMING/CREDITS	0		0		0		0
	RECRUITING/OTHER TRAINING	691,154	0	691,154	4,000	695,154	5,000	696,154
250	RECRUITING AND ADVERTISING	211,375		211,375	4,000	215,375	5,000	216,375
260	EXAMINING	64,333		64,333		64,333		64,333
270	OFF-DUTY AND VOLUNTARY EDUCATION	103,812		103,812		103,812		103,812
280	CIVILIAN EDUCATION AND TRAINING	81,108		81,108		81,108		81,108
290	JUNIOR ROTC	74,506		74,506		74,506		74,506
300	BASE SUPPORT (RECRUITING LEASES)	156,020		156,020		156,020		156,020
305	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 3:	3,066,095	20,000	3,086,095	49,000	3,115,095	80,000	3,146,095
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SECURITY PROGRAMS (ARMS CONTROL)	362,333	12,000	374,333	(6,000)	356,333	(6,000)	356,333
310	SECURITY PROGRAMS (ARMS CONTROL)	362,333		362,333	(6,000)	356,333	(6,000)	356,333
	CLASSIFIED PROGRAMS	0	12,000	12,000				
	LOGISTICS OPERATIONS	1,630,274	0	1,630,274	0	1,630,274	3,750	1,634,024

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
320	SERVICEWIDE TRANSPORTATION	542,910		542,910		542,910		542,910
330	CENTRAL SUPPLY ACTIVITIES	487,281		487,281		487,281		491,031
	ACQUISITION WORKFORCE SAVINGS/ACQUISITION REFORM						(12,000)	
	DEPOT MAINTENANCE LOGISTICS TAIL						15,750	
340	LOGISTIC SUPPORT ACTIVITIES	299,230		299,230		299,230		299,230
350	AMMUNITION MANAGEMENT	300,853		300,853		300,853		300,853
355	REPROGRAMMING/CREDITS	0		0		0		0
	SERVICEWIDE SUPPORT	2,826,103	10,000	2,836,103	0	2,826,103	7,000	2,833,103
360	ADMINISTRATION	275,238		275,238		275,238		275,238
	WASTE WATER TREATMENT PLANNING							
370	SERVICEWIDE COMMUNICATIONS	686,446		686,446		686,446		686,446
380	MANPOWER MANAGEMENT	124,676		124,676		124,676		124,676
390	OTHER PERSONNEL SUPPORT	175,832		175,832		175,832		182,832
	PERSONNEL MANAGEMENT EFFICIENCIES						(3,000)	
	NEW PARENT SUPPORT	0	10,000	10,000		0	10,000	
400	OTHER SERVICE SUPPORT	568,225		568,225		568,225		568,225
	CONSERVATION AND ECOSYSTEM MANAGEMENT							
410	ARMY CLAIMS ACTIVITIES	173,290		173,290		173,290		173,290
420	REAL ESTATE MANAGEMENT	86,930		86,930		86,930		86,930
430	BASE SUPPORT	735,466		735,466		735,466		735,466
	PENTAGON RENOVATION TRANSFER							
432	ENVIRONMENTAL RESTORATION	0		0		0		0
435	PENTAGON RENOVATION TRANSFER	0		0		0		0
	SUPPORT OF OTHER NATIONS	282,224	0	282,224	0	282,224	0	282,224
440	INTERNATIONAL MILITARY HEADQUARTERS	252,778		252,778		252,778		252,778
450	MISC SUPPORT OF OTHER NATIONS	29,446		29,446		29,446		29,446
455	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 4:	5,100,934	22,000	5,122,934	(6,000)	5,094,934	4,750	5,105,684
	UNDISTRIBUTED		813,200	813,200	(217,800)	(217,800)	225,939	225,939
	CIVILIAN PAY				(233,000)	(116,000)	(116,000)	(116,000)
	HISTORICAL BLACK COLLEGES FELLOWSHIPS				(300)	(300)		
	REAL PROPERTY MAINTENANCE		350,000	350,000	110,000	167,000	235,000	235,000
	CLASSIFIED PROGRAMS				500	500	4,789	4,789
	FOREIGN CURRENCY FLUCATION		329,000				59,300	59,300

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	MILITARY/CIVILAIN CONVERSION		130,000				19,350	19,350
	PENTAGON RENOVATION				(13,000)	(13,000)	(13,000)	(13,000)
	UNDISTRIBUTED (DSATS)		0	0	(15,000)	(15,000)		
	CIVILIAN UNDEREXECUTION		(65,000)	(65,000)	(67,000)	(67,000)	(67,000)	(67,000)
	EXCHANGE TRANSPORT MANAGEMENT		35,000	35,000			35,000	35,000
	MWR PORTABILITY		25,000	25,000			0	0
	AAFESS DOWNSIZING COMPENSATION		70,000	70,000			70,000	70,000
	EDCARS/DSREDS		2,000	2,000			2,000	2,000
	ADVANCE BILLING RELIEF		62,000	62,000			0	0
	MILITARY END STRENGTH		54,400	54,400			54,400	54,400
	PRINTING EFFICIENCIES		(3,000)	(3,000)			(3,000)	(3,000)
	INSPECTOR GENERAL CONSOLIDATION		(12,500)	(12,500)				
	REDUCED AUDITS		(10,000)	(10,000)			(5,000)	(5,000)
	TRANSPORTATION IMPROVEMENTS		(26,200)	(26,200)			(26,200)	(26,200)
	INVENTORY REFORM		(60,000)	(60,000)			(60,000)	(60,000)
	FUEL SAVINGS		(50,000)	(50,000)				
	AAFES 2nd DESTIONATION TRANSPORTATION		(17,500)	(17,500)			(17,500)	(17,500)
	FAMILY HOUSING SURVEY & DEFICIT REDUCTION PROGRAM						3,500	3,500
	ADMINISTRATIVE TRAVEL SAVINGS						(28,500)	(28,500)
	PROVIDE COMFORT/ENHANCED SOUTHERN WATCH						87,300	87,300
	SUPPLY MANAGEMENT REFORMS						(8,500)	(8,500)
	TOTAL, OPERATION AND MAINTENANCE, ARMY	18,184,736	1,155,200	19,339,936	(120,300)	18,064,436	561,959	18,746,695
	OPERATION AND MAINTENANCE, NAVY							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS	4,266,628	125,000	4,391,628	10,000	4,276,628	132,295	4,398,923
10	MISSION AND OTHER FLIGHT OPERATIONS	1,788,301		1,788,301		1,788,301		1,796,301
	P-3 FORCE STRUCTURE						8,000	
20	FLEET AIR TRAINING	627,871		627,871		627,871		642,166
	PACIFIC MISSILE RANGE FACILITY						14,295	
30	INTERMEDIATE MAINTENANCE	68,070		68,070		68,070		68,070
40	AIR OPERATIONS AND SAFETY SUPPORT	59,060		59,060		59,060		59,060
50	AIRCRAFT DEPOT MAINTENANCE	489,443	75,000	564,443		489,443	70,000	559,443

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
60	AIRCRAFT DEPOT OPERATIONS SUPPORT	28,232		28,232		28,232		28,232
70	BASE SUPPORT	1,205,651	50,000	1,255,651	10,000	1,215,651	40,000	1,245,651
75	REPROGRAMMING/CREDITS	0		0		0		0
	SHIP OPERATIONS	6,879,010	175,000	7,054,010	25,400	6,904,410	190,400	7,069,410
80	MISSION AND OTHER SHIP OPERATIONS	1,885,234		1,885,234	400	1,885,634	400	1,885,634
90	SHIP OPERATIONAL SUPPORT AND TRAINING	462,396		462,396		462,396		462,396
100	INTERMEDIATE MAINTENANCE	401,812		401,812		401,812		401,812
110	SHIP DEPOT MAINTENANCE	2,261,190	125,000	2,386,190		2,261,190	150,000	2,411,190
120	SHIP DEPOT OPERATIONS SUPPORT	758,320		758,320		758,320		758,320
130	BASE SUPPORT	1,110,058	50,000	1,160,058	25,000	1,135,058	40,000	1,150,058
135	REPROGRAMMING/CREDITS	0		0		0		0
	COMBAT OPERATIONS/SUPPORT	1,581,800	0	1,581,800	11,900	1,593,700	11,900	1,593,700
140	COMBAT COMMUNICATIONS	198,415		198,415		198,415		198,415
150	ELECTRONIC WARFARE	7,396		7,396		7,396		7,396
160	SPACE SYSTEMS AND SURVEILLANCE	153,881		153,881		153,881		153,881
170	WARFARE TACTICS	138,256		138,256		138,256		138,256
180	OPERATIONAL METEOROLOGY AND OCEANOGRAPHY	198,719		198,719		198,719		198,719
190	COMBAT SUPPORT FORCES	339,888		339,888		336,788		336,788
	NIMITZ CENTER			0	(3,100)		(3,100)	
200	EQUIPMENT MAINTENANCE	145,820		145,820		145,820		145,820
210	DEPOT OPERATIONS SUPPORT	1,127		1,127		1,127		1,127
220	BASE SUPPORT	398,298		398,298	15,000	413,298	15,000	413,298
225	REPROGRAMMING/CREDITS	0		0		0		0
	WEAPONS SUPPORT	2,119,219	10,000	2,129,219	0	2,119,219	(80,000)	2,039,219
230	CRUISE MISSILE	96,656		96,656		96,656		96,656
240	FLEET BALLISTIC MISSILE	788,463		788,463		788,463		788,463
250	IN-SERVICE WEAPONS SYSTEMS SUPPORT	25,945		25,945		25,945		35,945
	INSTALLATION SUPPORT AN/UYQ-70						10,000	
260	WEAPONS MAINTENANCE	401,879		411,879		401,879		411,879
	NAVY ORDNANCE		10,000				10,000	
270	BASE SUPPORT	111,176		111,176		111,176		111,176
275	REPROGRAMMING/CREDITS	0		0		0		0
276	DBOF SUPPORT	695,100		695,100		695,100	(100,000)	595,100
277	BRAC IV PROJECTED SAVINGS	0		0		0		0

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	TOTAL, BUDGET ACTIVITY 1:	14,846,657	310,000	15,156,657	47,300	14,893,957	254,595	15,101,252
	BUDGET ACTIVITY 2: MOBILIZATION							
	READY RESERVE AND PREPOSITIONING FORCES	511,034	0	511,034	0	511,034	0	511,034
280	SHIP PREPOSITIONING AND SURGE	511,034		511,034		511,034		511,034
285	REPROGRAMMING/CREDITS	0		0		0		0
	ACTIVATIONS/INACTIVATIONS	479,601	0	479,601	0	479,601	0	479,601
290	AIRCRAFT ACTIVATIONS/INACTIVATIONS	7,215		7,215		7,215		7,215
300	SHIP ACTIVATIONS/INACTIVATIONS	472,386		472,386		472,386		472,386
305	REPROGRAMMING/CREDITS	0		0		0		0
	MOBILIZATION PREPAREDNESS	39,593	0	39,593	0	39,593	0	39,593
310	FLEET HOSPITAL PROGRAM	16,162		16,162		16,162		16,162
320	INDUSTRIAL READINESS	1,917		1,917		1,917		1,917
330	COAST GUARD SUPPORT	21,514		21,514		21,514		21,514
335	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 2:	1,030,228	0	1,030,228	0	1,030,228	0	1,030,228
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
	ACCESSION TRAINING	249,069	0	249,069	0	249,069	0	249,069
340	OFFICER ACQUISITION	66,755		66,755		66,755		66,755
350	RECRUIT TRAINING	4,667		4,667		4,667		4,667
360	RESERVE OFFICERS TRAINING CORPS (ROTC)	64,836		64,836		64,836		64,836
370	BASE SUPPORT	112,811		112,811		112,811		112,811
375	REPROGRAMMING/CREDITS	0		0		0		0
	BASIC SKILLS AND ADVANCED TRAINING	1,087,406	10,000	1,097,406	0	1,087,406	10,000	1,097,406
380	SPECIALIZED SKILL TRAINING	212,121		212,121		212,121		222,121
	CHEMICAL DEFENSE TRAINING	0	5,000	5,000		0	5,000	
	CHEMICAL DEFENSE MEDICAL TRAINING	0	5,000	5,000		0	5,000	
390	FLIGHT TRAINING	273,004		273,004		273,004		273,004
400	PROFESSIONAL DEVELOPMENT EDUCATION	61,214		61,214		61,214		61,214
410	TRAINING SUPPORT	125,237		125,237		125,237		125,237
420	BASE SUPPORT	415,830		415,830		415,830		415,830

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
425	REPROGRAMMING/CREDITS	0		0		0		0
	RECRUITING, AND OTHER TRAINING AND EDUCATION	225,217	0	225,217	0	225,217	5,000	230,217
430	RECRUITING AND ADVERTISING	122,820		122,820		122,820	5,000	127,820
440	OFF-DUTY AND VOLUNTARY EDUCATION	54,970		54,970		54,970		54,970
450	CIVILIAN EDUCATION AND TRAINING	22,223		22,223		22,223		22,223
460	JUNIOR ROTC	24,382		24,382		24,382		24,382
470	BASE SUPPORT	822		822		822		822
475	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 3:	1,561,692	10,000	1,571,692	0	1,561,692	15,000	1,576,692
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SERVICEWIDE SUPPORT	1,758,993	5,600	1,764,593	27,000	1,785,993	32,000	1,790,993
480	ADMINISTRATION	605,287		605,287		605,287		605,287
490	EXTERNAL RELATIONS	21,684		21,684		21,684		21,684
500	CIVILIAN MANPOWER AND PERSON MANAGEMENT	63,166		63,166		63,166		61,166
	PERSONNEL MANAGEMENT EFFICIENCIES						(2,000)	
510	MILITARY MANPOWER AND PERSON MANAGEMENT	139,864		139,864		139,864		139,864
520	OTHER PERSONNEL SUPPORT	395,629		401,229		395,629		402,629
	NEW PARENT SUPPORT		5,600			0	7,000	
530	SERVICEWIDE COMMUNICATIONS	261,463		261,463		261,463		288,463
	CHALLENGE ATHENA	0			27,000	27,000	27,000	
540	BASE SUPPORT	271,900		271,900		271,900		271,900
542	MEDICAL ACTIVITIES (DRUG TESTING LABS)	0		0		0		0
545	REPROGRAMMING/CREDITS	0		0		0		0
	LOGISTICS OPERATIONS AND TECHNICAL SUPPORT	1,453,266	0	1,453,266	0	1,453,266	(13,500)	1,439,766
550	SERVICEWIDE TRANSPORTATION	147,132		147,132		147,132		147,132
560	PLANNING, ENGINEERING AND DESIGN	249,620		249,620		249,620		249,620
570	ACQUISITION AND PROGRAM MANAGEMENT	426,404		426,404		426,404		412,904
	ACQUISITION WORKFORCE SAVINGS/ACQUISITION REFORM						(17,000)	
	REVERSE OSMOSIS DESALINATIORS						3,500	
580	AIR SYSTEMS SUPPORT	302,011		302,011		302,011		302,011
590	HULL, MECHANICAL AND ELECTRICAL SUPPORT	60,022		60,022		60,022		60,022
600	COMBAT/WEAPONS SYSTEMS	41,632		41,632		41,632		41,632

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
610	SPACE AND ELECTRONIC WARFARE SYSTEMS	68,111		68,111		68,111		68,111
620	BASE SUPPORT	158,334		158,334		158,334		158,334
625	PENTAGON RENOVATION TRANSFER	0		0		0		0
	SECURITY PROGRAMS	567,479	5,500	572,979	(7,000)	560,479	(2,000)	565,479
630	SECURITY PROGRAMS (ARMS CONTROL)	556,805		562,305	(7,000)	549,805	(2,000)	554,805
	CLASSIFIED PROGRAMS	0	5,500			0		
640	BASE SUPPORT	10,674		10,674		10,674		10,674
	SUPPORT OF OTHER NATIONS	7,395	0	7,395	0	7,395	0	7,395
650	INTERNATIONAL HEADQUARTERS AND AGENCIES	7,395		7,395		7,395		7,395
	TOTAL, BUDGET ACTIVITY 4:	3,787,133	11,100	3,798,233	20,000	3,807,133	16,500	3,803,633
	UNDISTRIBUTED		120,700	120,700	53,900	53,900	(18,650)	(18,650)
	REAL PROPERTY MAINTENANCE		150,000	150,000	110,000	110,000	155,000	155,000
	CLASSIFIED PROGRAMS				(10,100)	(10,100)	2,350	2,350
	PENATGON RENOVATION				(13,000)	(13,000)	(13,000)	(13,000)
	ALLEGANNY BALLASTICS LAB				2,000	2,000		
	UNDISTRIBUTED(ALLEGANNY BALLASTICS LAB)				(2,000)	(2,000)		
	CIVILIAN UNDEREXECUTION		(125,000)	(125,000)	(33,000)	(33,000)	(17,000)	(17,000)
	FOREIGN CURRENCY FLUCTUATION		77,000	77,000			5,000	5,000
	MILITARY/CIVILIAN CONVERSIONS		60,000	60,000			9,000	9,000
	MWR PORTABILITY		10,000	10,000			0	0
	ADVANCE BILLING RELIEF		87,000	87,000			0	0
	MILITARY END STRENGTH		20,400	20,400			20,400	20,400
	PRINTING EFFICIENCIES		(4,000)	(4,000)			(4,000)	(4,000)
	INSPECTOR GENERAL CONSOLIDATION		(20,000)	(20,000)				
	REDUCED AUDITS		(10,000)	(10,000)			(5,000)	(5,000)
	TRANSPORTATION IMPROVEMENTS		(7,200)	(7,200)			(7,200)	(7,200)
	INVENTORY REFORM		(60,000)	(60,000)			(60,000)	(60,000)
	FUEL SAVINGS		(50,000)	(50,000)			(100,000)	(100,000)
	NEXCOM 2nd DESTINATION TRANSPORTATION		(7,500)	(7,500)			(7,500)	(7,500)
	ADMINISTRATIVE TRAVEL SAVINGS						(28,500)	(28,500)
	NSIPS						2,500	2,500
	PROVIDE COMFORT/ENHANCED SOUTHERN WATCH						75,300	75,300
	TOMAHAWK MISSILE RECERTIFICATION						(9,000)	(9,000)
	SUPPLY MANAGEMENT REFORMS						(37,000)	(37,000)

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	TOTAL, OPERATION AND MAINTENANCE, NAVY	21,225,710	451,800	21,677,510	121,200	21,346,910	267,445	21,493,155
	OPERATION AND MAINTENANCE, MARINE CORPS							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	EXPEDITIONARY FORCES	1,544,019	105,000	1,649,019	94,000	1,638,019	130,000	1,674,019
10	OPERATIONAL FORCES	334,133		334,133		334,133		344,133
	OPERATING TEMPO						10,000	
20	FIELD LOGISTICS	158,299		158,299		158,299		158,299
30	DEPOT MAINTENANCE	148,574	55,000	203,574	54,000	202,574	54,000	202,574
40	BASE SUPPORT	903,013	25,000	953,013	30,000	933,013	25,000	969,013
	PERSONNEL SUPPORT EQUIPMENT	0	25,000			0	25,000	
	EXTENDED COLD WEATHER CLOTHING/INITIAL ISSUE EQUIP	0		0	10,000	10,000	16,000	
45	REPROGRAMMING/CREDITS	0		0		0		0
	USMC PREPOSITIONING	85,435	0	85,435	(4,000)	81,435	(2,100)	83,335
50	MARITIME PREPOSITIONING	77,416		77,416		77,416		77,416
60	NORWAY PREPOSITIONING	8,019		8,019	(4,000)	4,019	(2,100)	5,919
65	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 1:	1,629,454	105,000	1,734,454	90,000	1,719,454	127,900	1,757,354
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
	ACCESSION TRAINING	74,165	4,000	78,165	0	74,165	5,000	79,165
70	RECRUIT TRAINING	7,343		7,343		7,343		7,343
80	OFFICER ACQUISITION	268		268		268		268
90	BASE SUPPORT	66,554		70,554		66,554		71,554
	NEW PARENT SUPPORT	0	4,000			0	5,000	
95	REPROGRAMMING/CREDITS	0		0		0		0
	BASIC SKILLS AND ADVANCED TRAINING	175,769	10,000	185,769	0	175,769	10,000	185,769
100	SPECIALIZED SKILLS TRAINING	25,057		35,057		25,057		35,057
	CHEMICAL DEFENSE TRAINING	0	5,000			0	5,000	

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	CHEMICAL DEFENSE MEDICAL TRAINING	0	5,000			0	5,000	
110	FLIGHT TRAINING	165		165		165		165
120	PROFESSIONAL DEVELOPMENT EDUCATION	5,792		5,792		5,792		5,792
130	TRAINING SUPPORT	74,964		74,964		74,964		74,964
140	BASE SUPPORT	69,791		69,791		69,791		69,791
145	REPROGRAMMING/CREDITS	0		0		0		0
	RECRUITING AND OTHER TRAINING EDUCATION	93,176	6,800	99,976	5,000	98,176	4,000	97,176
150	RECRUITING AND ADVERTISING	61,037	6,800	67,837	5,000	66,037	4,000	65,037
160	OFF-DUTY AND VOLUNTARY EDUCATION	11,055		11,055		11,055		11,055
170	JUNIOR ROTC	7,588		7,588		7,588		7,588
180	BASE SUPPORT	13,496		13,496		13,496		13,496
185	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 3:	343,110	20,800	363,910	5,000	348,110	19,000	362,110
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SERVICEWIDE SUPPORT	297,158	0	297,158	0	297,158	0	297,158
190	LOGISTICS SUPPORT	95,596		95,596		95,596		95,596
200	SPECIAL SUPPORT	131,023		131,023		131,023		131,023
210	SERVICEWIDE TRANSPORTATION	31,931		31,931		31,931		31,931
220	ADMINISTRATION	28,523		28,523		28,523		28,523
230	BASE SUPPORT	10,085		10,085		10,085		10,085
235	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 4:	297,158	0	297,158	0	297,158	0	297,158
	UNDISTRIBUTED		208,100	208,100	41,000	41,000	105,200	105,200
	REAL PROPERTY MAINTENANCE		100,000	100,000	40,000	40,000	100,000	100,000
	CLASSIFIED PROGRAMS				1,000	1,000	0	0
	FOREIGN CURRENCY FLUCTUATION		35,000	35,000			1,000	1,000
	MILITARY/CIVILIAN CONVERSIONS		20,000	20,000			10,000	10,000
	MWR PORTABILITY		2,000	2,000			0	0
	ADVANCED BILLING RELIEF		37,400	37,400			0	0
	MILITARY END STRENGTH		6,800	6,800			6,800	6,800
	TRANSPORTATION IMPROVEMENTS		(3,100)	(3,100)			(3,100)	(3,100)
	ADMINISTRTATIVE TRAVEL SAVINGS						(9,500)	(9,500)

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	INCLEMENT WEATHER GEAR		10,000	10,000			0	0
	TOTAL, O&M, MARINE CORPS	2,269,722	333,900	2,603,622	136,000	2,405,722	252,100	2,521,822
	OPERATION AND MAINTENANCE, AIR FORCE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS	7,260,977	100,000	7,360,977	25,000	7,285,977	70,200	7,331,177
10	PRIMARY COMBAT FORCES	2,684,913		2,684,913		2,684,913		2,720,113
	EXCESS FUNDED CARRYOVER						(27,000)	
	MISSION READINESS TRAINING						25,200	
	PRECISION WEAPONS						1,000	
	SPARES FUNDING						36,000	
20	PRIMARY COMBAT WEAPONS	409,701		409,701		409,701	(20,000)	389,701
30	COMBAT ENHANCEMENT FORCES	257,139		257,139		257,139		257,139
40	AIR OPERATIONS TRAINING	647,570		647,570		647,570		655,470
	CARIBEAN BASIN RADARS						3,000	
	SIMULATION ENHANCEMENTS						4,900	
50	COMBAT COMMUNICATIONS	854,442		854,442		854,442	(7,900)	846,542
60	BASE SUPPORT	2,407,212	100,000	2,507,212	25,000	2,432,212	55,000	2,462,212
65	REPROGRAMMING/CREDITS	0		0		0		0
	COMBAT RELATED OPERATIONS	1,509,701	0	1,509,701	0	1,509,701	4,000	1,513,701
70	GLOBAL C3I AND EARLY WARNING	826,526		826,526		826,526		830,526
	RIVET JOINT						4,000	
80	NAVIGATION/WEATHER SUPPORT	128,374		128,374		128,374		128,374
90	OTHER COMBAT OPS SUPPORT PROGRAMS	210,481		210,481		210,481		210,481
100	JCS EXERCISES	41,793		41,793		41,793		41,793
110	MANAGEMENT/OPERATIONAL HEADQUARTERS	111,914		111,914		111,914		111,914
120	TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	190,613		190,613		190,613		190,613
				0				
	SPACE OPERATIONS	1,245,644	0	1,245,644	0	1,245,644	0	1,245,644
130	LAUNCH FACILITIES	254,590		254,590		254,590		254,590
140	LAUNCH VEHICLES	117,482		117,482		117,482		117,482
150	SPACE CONTROL SYSTEMS	341,862		341,862		341,862		341,862
160	SATELLITE SYSTEMS	49,132		49,132		49,132		49,132

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
170	OTHER SPACE OPERATIONS	79,989		79,989		79,989		79,989
180	BASE SUPPORT	402,589		402,589		402,589		402,589
	TOTAL, BUDGET ACTIVITY 1:	10,016,322	100,000	10,116,322	25,000	10,041,322	74,200	10,090,522
	BUDGET ACTIVITY 2: MOBILIZATION							
	MOBILITY OPERATIONS	2,523,373	0	2,523,373	0	2,523,373	(31,000)	2,492,373
190	AIRLIFT OPERATIONS	1,544,785		1,544,785		1,544,785		1,533,785
	KC-135s						2,000	
	EXCESS FUNDING CARRYOVER						(13,000)	
200	AIRLIFT OPERATIONS C3I	10,961		10,961		10,961		10,961
210	MOBILIZATION PREPAREDNESS	160,110		160,110		160,110		160,110
220	PAYMENTS TO TRANSPORTATION BUSINESS AREA	293,027		293,027		293,027	(20,000)	273,027
230	BASE SUPPORT	514,490		514,490		514,490		514,490
	TOTAL, BUDGET ACTIVITY 2:	2,523,373	0	2,523,373	0	2,523,373	(31,000)	2,492,373
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
	ACCESSION TRAINING	183,970	0	183,970	0	183,970	0	183,970
240	OFFICER ACQUISITION	49,197		49,197		49,197		49,197
250	RECRUIT TRAINING	3,881		3,881		3,881		3,881
260	RESERVE OFFICER TRAINING CORPS (ROTC)	39,226		39,226		39,226		39,226
270	BASE SUPPORT (ACADEMIES ONLY)	91,666		91,666		91,666		91,666
275	REPROGRAMMING/CREDITS	0		0		0		0
	BASIC SKILLS AND ADVANCED TRAINING	1,230,608	10,000	1,240,608	0	1,230,608	0	1,230,608
280	SPECIALIZED SKILL TRAINING	204,465		204,465		204,465		214,465
	CHEMICAL DEFENSE TRAINING	0	5,000	5,000		0	5,000	
	CHEMICAL DEFENSE MEDICAL TRAINING	0	5,000	5,000		0	5,000	
290	FLIGHT TRAINING	336,956		336,956		336,956		326,956
	UNDERGRADUATE PILOT TRAINING						(10,000)	
300	PROFESSIONAL DEVELOPMENT EDUCATION	78,688		78,688		78,688		78,688
310	TRAINING SUPPORT	65,048		65,048		65,048		65,048
320	BASE SUPPORT (OTHER TRAINING)	545,451		545,451		545,451		545,451
325	REPROGRAMMING/CREDITS	0		0		0		0

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	RECRUITING, AND OTHER TRAINING AND EDUCATION	226,182	16,700	242,882	5,000	231,182	9,000	235,182
330	RECRUITING AND ADVERTISING	44,827	6,000	50,827	5,000	49,827	5,000	49,827
340	EXAMINING	3,122		3,122		3,122		3,122
350	OFF DUTY AND VOLUNTARY EDUCATION	75,537		75,537		75,537		79,537
	TUITION ASSISTANCE	0	10,700	10,700		0	4,000	
360	CIVILIAN EDUCATION AND TRAINING	77,304		77,304		77,304		77,304
370	JUNIOR ROTC	25,392		25,392		25,392		25,392
375	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 3:	1,640,760	26,700	1,667,460	5,000	1,645,760	9,000	1,649,760
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	LOGISTICS OPERATIONS	2,280,043	97,680	2,377,723	0	2,280,043	(36,020)	2,244,023
380	LOGISTICS OPERATIONS	790,324	85,000	875,324		790,324		754,304
	ACQUISITION WORKFORCE SAVINGS	0		0		0	(40,000)	
	B-1 MAINTENANCE	0	3,980	3,980		0	3,980	
390	TECHNICAL SUPPORT ACTIVITIES	365,535		365,535		365,535		365,535
400	SERVICEWIDE TRANSPORTATION	234,836		234,836		234,836		234,836
410	BASE SUPPORT	889,348		898,048		889,348	(9,200)	889,348
	TICARRS	0	8,700				8,700	
	CAMS/REMIS						500	
415	REPROGRAMMING/CREDITS	0		0		0		0
	SERVICEWIDE ACTIVITIES	1,335,859	3,600	1,339,459	0	1,335,859	(500)	1,335,359
420	ADMINISTRATION	118,319		118,319		118,319		112,819
	ADMINISTRATIVE EFFICIENCIES						(8,000)	
	STRATCOM						2,500	
430	SERVICEWIDE COMMUNICATIONS	318,240		318,240		318,240		318,240
440	PERSONNEL PROGRAMS	84,766		84,766		84,766	(3,000)	81,766
450	RESCUE AND RECOVERY SERVICES	40,426		40,426		40,426	4,400	44,826
460	SUBSISTENCE-IN-KIND	48,429		48,429		48,429		48,429
470	ARMS CONTROL	34,645		34,645		34,645		34,645
480	OTHER SERVICEWIDE ACTIVITIES	396,155		396,155		396,155		396,155
490	OTHER PERSONNEL SUPPORT	32,080		32,080		32,080		32,080
500	CIVIL AIR PATROL CORPORATION	14,704		14,704		14,704		14,704

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
510	BASE SUPPORT	248,095		248,095		248,095		251,695
	NEW PARENT SUPPORT	0	3,600	3,600		0	3,600	
515	PENTAGON RENOVATION TRANSFER	0		0		0		0
	SECURITY PROGRAMS	447,218	(18,515)	428,703	(8,000)	439,218	(2,000)	445,218
520	SECURITY PROGRAMS (ARMS CONTROL)	447,218		447,218	(8,000)	439,218	(2,000)	445,218
	CLASSIFIED PROGRAMS	0	(18,515)	(18,515)		0	0	0
	SUPPORT TO OTHER NATIONS	13,022	0	13,022	0	13,022	0	13,022
530	INTERNATIONAL SUPPORT	13,022		13,022		13,022		13,022
	TOTAL, BUDGET ACTIVITY 4:	4,076,142	82,765	4,158,907	(8,000)	4,068,142	(38,520)	4,037,622
	UNDISTRIBUTED		518,100	518,100	(48,500)	(48,500)	449,000	449,000
	REAL PROPERTY MAINTENANCE		320,000	320,000	15,000	15,000	205,000	205,000
	CLASSIFIED PROGRAMS				13,400	13,400	18,100	18,100
	REDUCTION(Civil Air Patrol)				(2,900)	(2,900)	0	0
	PENTAGON RENOVATION				(13,000)	(13,000)	(13,000)	(13,000)
	CIVILIAN UNDEREXECUTION		(65,000)	(65,000)	(61,000)	(61,000)	(72,000)	(72,000)
	FOREIGN CURRENCY FLUCTUATION		203,000	203,000			7,200	7,200
	MILITARY/CIVILIAN CONVERSIONS		90,000	90,000			13,500	13,500
	MWR PORTABILITY		13,000	13,000			0	0
	ADVANCE BILLING RELIEF		87,000	87,000			0	0
	MILITARY END STRENGTH		20,400	20,400			20,400	20,400
	EDCARS/DSREDS		2,000	2,000			2,000	2,000
	PRINTING EFFICIENCIES		(3,000)	(3,000)			(3,000)	(3,000)
	INSPECTOR GENERAL CONSOLIDATION		(11,000)	(11,000)				
	REDUCED AUDITS		(13,000)	(13,000)			(5,000)	(5,000)
	TRANSPORTATION IMPROVEMENTS		(15,300)	(15,300)			(15,300)	(15,300)
	INVENTORY REFORM		(60,000)	(60,000)			(60,000)	(60,000)
	FUEL SAVINGS		(50,000)	(50,000)				
	ADMINISTRATIVE TRAVEL SAVINGS						(28,500)	(28,500)
	PROVIDE COMFORT/ENHANCED SOUTHERN WATCH						393,200	393,200
	SUPPLY MANAGEMENT REFORMS						(13,600)	(13,600)
	TOTAL, O&M, AIR FORCE	18,256,597	727,565	18,984,162	(26,500)	18,230,097	462,680	18,719,277

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	OPERATION AND MAINTENANCE, DEFENSE-WIDE							
	BUDGET ACTIVITY 1: OPERATING FORCES	1,494,453	100,000	1,594,453	0	1,494,453	64,500	1,558,953
10	JOINT CHIEFS OF STAFF	475,977		475,977		475,977		530,977
	MOBILITY ENHANCEMENTS		100,000	100,000			50,000	
	NORTHERN EDGE						5,000	
20	SPECIAL OPERATIONS COMMAND	1,018,476		1,018,476		1,018,476		1,027,976
	SEAL DELIVERY VEHICLE TEAM ONE						1,000	
	PROVIDE COMFORT/ENHANCED SOUTHERN WATCH						8,500	
	TOTAL, BUDGET ACTIVITY 1:	1,494,453	100,000	1,594,453	0	1,494,453	64,500	1,558,953
	BUDGET ACTIVITY 2: MOBILIZATION	71,438	0	71,438	(45,438)	26,000	(45,438)	26,000
30	DEFENSE LOGISTICS AGENCY	26,000		26,000		26,000		26,000
35	OFFICE OF THE SECRETARY OF DEFENSE	0		0		0		0
40	WASHINGTON HQ SERVICES (DISASTER RELIEF)	45,438	0	45,438	(45,438)	0	(45,438)	0
	TOTAL, BUDGET ACTIVITY 2:	71,438	0	71,438	(45,438)	26,000	(45,438)	26,000
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING		0					121,160
50	DEFENSE ACQUISITION UNIVERSITY	112,991		112,991	0	112,991	(11,500)	101,491
60	DEFENSE BUSINESS MANAGEMENT UNIVERSITY	19,669		19,669	0	19,669		19,669
	TOTAL, BUDGET ACTIVITY 3:	132,660	0	132,660	0	132,660	(11,500)	121,160
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES	8,599,036	(35,178)	8,518,520	(245,982)	8,353,054	(372,806)	8,226,230
70	AMERICAN FORCES INFORMATION SERVICE	90,892	0	90,892		90,892		90,892
80	CORPORATE INFORMATION MANAGEMENT	127,967		127,967		127,967		139,167
	JOINT ANALYTIC MODEL IMPROVEMENT PLAN	0		0	11,200	11,200	11,200	
90	CLASSIFIED AND INTELLIGENCE	3,350,037	452	3,350,489		3,350,037		3,350,037
100	DEFENSE CIVILIAN PERSONNEL MANAGEMENT SERVICE	45,631		45,631		45,631	(2,400)	43,231
110	DEFENSE CONTRACT AUDIT AGENCY	342,926		342,926		342,926		332,126
	ACQUISITION WORK FORCE SAVINGS					0	(10,800)	
120	DEFENSE INVESTIGATIVE SERVICE	201,582		201,582		201,582	(2,000)	199,582
130	DEFENSE LOGISTICS AGENCY	1,055,996		1,070,996	(3,000)	1,052,996		1,059,296
	HOMELESS INITIATIVE						(3,000)	
	ACQUISITION WORK FORCE SAVINGS						(10,700)	
	PROCUREMENT TECHNICAL ASSISTANCE PROGRAM	0	10,000		12,000	12,000	12,000	

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	DEBT COLLECTION DEMONSTRATION	0	5,000			0	5,000	
140	DEFENSE LEGAL SERVICES AGENCY	6,540		6,540		6,540		6,540
150	DEFENSE MAPPING AGENCY	734,438		734,438		734,438		714,538
	MINOR EQUIPMENT						(13,800)	
	INTERNET ACCESS						(600)	
	PRODUCTIVITY IMPROVEMENTS						(4,500)	
	PERSONNEL REGIONALIZATION						(1,000)	
160	DEFENSE NUCLEAR AGENCY	96,105		96,105		96,105		96,105
170	DEFENSE POW/MIA OFFICE	13,486		13,486		13,486		13,486
180	FEDERAL ENERGY MANAGEMENT PROGRAM	234,682		234,682	(184,682)	50,000	(184,682)	50,000
190	DEPARTMENT OF DEFENSE DEPENDENTS EDUCATION	1,292,684		1,292,684		1,292,684		1,281,129
	OVERHEAD						(10,000)	
	RELOCATION ASSITANCE						(2,055)	
	DoDDS MATHMATICS TEACHERS LEADERSHIP PROJECT						500	
200	DEFENSE SUPPORT ACTIVITIES	82,562		82,562		82,562		82,562
210	DEFENSE TECHNOLOGY SECURITY ADMINISTRATION	10,858		10,858		10,858		10,858
220	JOINT CHIEFS OF STAFF	97,873		97,873		97,873		97,873
230	OFFICE OF ECONOMIC ADJUSTMENT	59,078	1,500	60,578		59,078	1,500	60,578
240	OFFICE OF THE SECRETARY OF DEFENSE	349,291		297,161		349,291		213,422
	ACQUISITION WORK FORCE SAVIINGS						(400)	
	DFAS SAVINGS						(20,000)	
	ACQUISITION PROGRAM GROWTH						(4,200)	
	MANAGEMENT EFFICIENCIES						(24,669)	
	CONSULTING SERVICIES						(20,700)	
	STAFFING REDUCTIONS						(6,400)	
	NG YOUTH & CIVIL/MILITARY COOPERATION PROGRAMS	0	(68,830)		(69,500)	(69,500)	(69,500)	
	JOINT RECRUITING ADVERTISING PROGRAM	0	16,700			0	10,000	
245	OFFICE OF THE SECRETARY OF DEFENSE (NO YEAR)	0		0		0		0
250	ON SITE INSPECTION AGENCY (ARMS CONTROL)	97,987		97,987	(12,000)	85,987	(12,000)	85,987
260	WASHINGTON HEADQUARTERS SERVICES	308,421		263,083		308,421		298,821
	INVENTORY GROWTH						(9,600)	
	PENTAGON RENOVATION TRANSFER							
	DISASTER RELIEF		(45,338)					
	TOTAL, BUDGET ACTIVITY 4:	8,599,036	(80,516)	8,518,520	(245,982)	8,353,054	(372,806)	8,226,230
	BUDGET ACTIVITY 6: INTEREST							
270	DEFENSE BUSINESS MANAGEMENT UNIVERSITY	0	0	0	0	0	0	0

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	TOTAL, BUDGET ACTIVITY 5:	0	0	0	0	0	0	0
	BUDGET ACTIVITY 6: CAPITAL LEASE							
280	DEFENSE BUSINESS MANAGEMENT UNIVERSITY	69,195	(69,195)	0	0	69,195	0	69,195
	TOTAL, BUDGET ACTIVITY 6:	69,195	(69,195)	0	0	69,195	0	69,195
	UNDISTRIBUTED	0	364,800	364,800	(39,495)	(39,495)	(91,062)	(91,062)
	CLASSIFEID PROGRAMS				(18,500)	(18,500)	(9,867)	(9,867)
	TROOPS TO TEACHERS				42,000	42,000	0	0
	TROOPS TO COPS				10,000	10,000	0	0
	UNDISTRIBUTED (JROTC)				(12,295)	(12,295)		
	PENTAGON RENOVATION				(14,000)	(14,000)	(14,000)	(14,000)
	UNDISTRIBUTED REDUCTION (Air Force Reserve)				(10,000)	(10,000)		
	UNDISTRIBUTED (OHDACA)				(40,000)	(40,000)		
	MULTI-TECH AUTO READER CARD				8,000	8,000	8,000	8,000
	CIVILIAN UNDEREXECUTION		(125,000)	(125,000)	(57,700)	(57,700)	(45,000)	(45,000)
	TRAVEL				(72,000)	(72,000)	(33,500)	(33,500)
	ONGOING OPERATION (Not Budgeted)				125,000	125,000	5,300	5,300
	JOINT MARKET RESEARCH PROGRAM		2,000	2,000			2,000	2,000
	FAMILY ADVOCACY		30,000	30,000			30,000	30,000
	FOREIGN CURRENCY FLUCTUATION		56,000	56,000			6,400	6,400
	INNOVATIVE PROCESSES		350,000	350,000			0	0
	EDUCATIONAL IMPACT AID		58,000	58,000			35,000	35,000
	CONTRACTOR OUTSOURCING TRAINING		10,000	10,000			0	0
	DIGITAL IMAGING I.D.		2,000	2,000			0	0
	TRANSPORTATION IMPROVEMENTS		(18,200)	(18,200)			(18,200)	(18,200)
	INFORMATION TECHNOLOGY						12,000	12,000
	UNDISTRIBUTED (DBMU)						(69,195)	(69,195)
	TOTAL, O&M, DEFENSE-WIDE	10,366,782	315,089	10,681,871	(330,915)	10,035,867	(456,306)	9,910,476
	OPERATION AND MAINTENANCE, ARMY RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	MISSION OPERATIONS	958,790	44,000	1,002,790	0	958,790	44,000	1,002,790

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
10	BASE SUPPORT	284,036		284,036		284,036		284,036
20	DEPOT MAINTENANCE	57,377		57,377		57,377		57,377
30	RECRUITING AND RETENTION	43,963	4,000	47,963		43,963	4,000	47,963
40	TRAINING OPERATIONS	573,414	40,000	613,414		573,414	40,000	613,414
	TOTAL, BUDGET ACTIVITY 1:	958,790	44,000	1,002,790	0	958,790	44,000	1,002,790
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES	109,801	0	109,801	0	109,801	0	109,801
50	INFORMATION MANAGEMENT	17,492		17,492		17,492		17,492
60	PUBLIC AFFAIRS	423		423		423		423
70	PERSONNEL ADMINISTRATION	61,941		61,941		61,941		61,941
80	STAFF MANAGEMENT	29,945		29,945		29,945		29,945
	TOTAL, BUDGET ACTIVITY 4:	109,801	0	109,801	0	109,801	0	109,801
	UNDISTRIBUTED		27,000	27,000	(6,000)	(6,000)	16,600	16,600
	CIVILIAN UNDEREXECUTION				(6,000)	(6,000)	(6,000)	(6,000)
	REAL PROPERTY MAINTENANCE		17,000	17,000			17,000	17,000
	RESERVE MILITARY/CIVILIAN TECHNICIAN RESTORATION		5,000	5,000			5,000	5,000
	MEDICAL/DENTAL COMPENSATION		5,000	5,000			5,000	5,000
	RESERVE COMPONENT AUTOMATION SYSTEM						(4,400)	(4,400)
	TOTAL, O&M, ARMY RESERVE	1,068,591	71,000	1,139,591	(6,000)	1,062,591	60,600	1,129,191
	OPERATION AND MAINTENANCE, NAVY RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	RESERVE AIR OPERATIONS	491,949	0	491,949	14,800	506,749	19,800	511,749
10	MISSION AND OTHER FLIGHT OPERATIONS	291,673		291,673		291,673		306,473
	P-3 SQUADRON OPERATIONS	0		0	14,800	14,800	14,800	
20	INTERMEDIATE MAINTENANCE	17,813		17,813		17,813		17,813
30	AIR OPERATION AND SAFETY SUPPORT	1,915		1,915		1,915		1,915
40	AIRCRAFT DEPOT MAINTENANCE	49,338		49,338		49,338	5,000	54,338
50	AIRCRAFT DEPOT OPS SUPPORT	356		356		356		356

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
60	BASE SUPPORT	130,854		130,854		130,854		130,854
	RESERVE SHIP OPERATIONS	157,940	0	157,940	0	157,940	0	157,940
70	MISSION AND OTHER SHIP OPERATIONS	60,895		60,895		60,895		60,895
80	SHIP OPERATIONAL SUPPORT AND TRAINING	658		658		658		658
90	INTERMEDIATE MAINTENANCE	23,990		23,990		23,990		23,990
100	SHIP DEPOT MAINTENANCE	70,930		70,930		70,930		70,930
110	SHIP DEPOT OPERATIONS SUPPORT	1,467		1,467		1,467		1,467
	RESERVE COMBAT OPERATIONS SUPPORT	78,434	0	78,434	0	78,434	0	78,434
120	COMBAT COMMUNICATIONS	817		817		817		817
130	COMBAT SUPPORT FORCES	25,207		25,207		25,207		25,207
140	BASE SUPPORT	52,410		52,410		52,410		52,410
	RESERVE WEAPONS SUPPORT	5,641	0	5,641	0	5,641	0	5,641
150	WEAPONS MAINTENANCE	5,641		5,641		5,641		5,641
	TOTAL, BUDGET ACTIVITY 1:	733,964	0	733,964	14,800	748,764	19,800	753,764
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES	92,078	0	92,078	0	92,078	0	92,078
160	ADMINISTRATION AND SERVICEWIDE ACTIVITIES			0				0
170	ADMINISTRATION	8,029		8,029		0		8,029
180	CIVILIAN MANPOWER AND PERSONNEL MANAGEMENT	3,222		3,222		8,029		3,222
190	MILITARY MANPOWER AND PERSONNEL MANAGEMENT	31,209		31,209		3,222		31,209
200	OTHER PERSONNEL SUPPORT	21,247		21,247		31,209		21,247
210	SERVICEWIDE COMMUNICATIONS	25,723		25,723		21,247		25,723
220	BASE SUPPORT	2,648		2,648		25,723		2,648
	COMBAT/WEAPONS SYSTEMS					2,648		0
	TOTAL, BUDGET ACTIVITY 4:	92,078	0	92,078	0	92,078	0	92,078
	UNDISTRIBUTED	0	12,000	12,000	0	0	22,500	22,500
	REAL PROPERTY MAINTENANCE		12,000	12,000			20,000	20,000
	NSIPS						2,500	2,500
	TOTAL, O&M, NAVY RESERVE	826,042	12,000	838,042	14,800	840,842	42,300	868,342

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	OPERATION AND MAINTENANCE, MARINE CORPS RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	MISSION FORCES	55,235	0	55,235	0	55,235	6,300	61,535
10	TRAINING	13,617		13,617		13,617	900	14,517
20	OPERATING FORCES	21,237		21,237		21,237	4,400	25,637
30	BASE SUPPORT	18,059		18,059		18,059		18,059
40	DEPOT MAINTENANCE	2,322		2,322		2,322	1,000	3,322
45	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 1:	55,235	0	55,235	0	55,235	6,300	61,535
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES	35,048	0	35,048	0	35,048	2,200	37,248
50	RECRUITING AND ADVERTISING	7,609		7,609		7,609		7,609
60	SPECIAL SUPPORT	9,064		9,064		9,064		9,064
70	SERVICEWIDE TRANSPORTATION	5,381		5,381		5,381		5,381
80	ADMINISTRATION	6,274		6,274		6,274		6,274
90	BASE SUPPORT	6,720		6,720		6,720	2,200	8,920
	TOTAL, BUDGET ACTIVITY 4:	35,048	0	35,048	0	35,048	2,200	37,248
	UNDISTRIBUTED		1,500				1,500	1,500
	REAL PROPERTY MAINTENANCE	0	1,500	1,500	0	0	1,500	1,500
	OPERATIONAL SUPPORT AIRCRAFT							0
	TOTAL, O&M, MARINE CORPS RESERVE	90,283	1,500	91,783	0	90,283	10,000	100,283
	OPERATION AND MAINTENANCE, AIR FORCE RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS	1,420,914	0	1,420,914	0	1,420,914	11,840	1,432,754
10	AIRCRAFT OPERATIONS	1,103,593		1,103,593		1,103,593	11,840	1,115,433
20	MISSION SUPPORT OPERATIONS	35,073		35,073		35,073		35,073
30	BASE SUPPORT	282,248		282,248		282,248		282,248

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
33	DEPOT MAINTENANCE	0		0		0		0
35	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 1:	1,420,914	0	1,420,914	0	1,420,914	11,840	1,432,754
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES	65,033	0	65,033	0	65,033	0	65,033
40	ADMINISTRATION	33,107		33,107		33,107		33,107
50	MILITARY MANPOWER AND PERSONNEL MANAGEMENT	17,746		17,746		17,746		17,746
60	RECRUITING AND ADVERTISING	7,743		7,743		7,743		7,743
70	OTHER PERSONNEL SUPPORT	6,063		6,063		6,063		6,063
80	AUDIOVISUAL	374		374		374		374
85	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 4:	65,033	0	65,033	0	65,033	0	65,033
	UNDISTRIBUTED		21,500	21,500	(3,000)	(3,000)	18,500	18,500
	CIVILIAN UNDER EXECUTION				(3,000)	(3,000)	(3,000)	(3,000)
	REAL PROPERTY MAINTENANCE		13,500	13,500			13,500	13,500
	RESERVE MILITARY/CIVILIAN TECHICIAN RESTORATION		8,000	8,000			8,000	8,000
	TOTAL, O&M, AIR FORCE RESERVE	1,485,947	21,500	1,507,447	(3,000)	1,482,947	30,340	1,516,287
	OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	MISSION OPERATIONS	2,110,418	60,000	2,170,418	0	2,110,418	42,600	2,153,018
10	TRAINING OPERATIONS	1,720,134	60,000	1,780,134		1,720,134	40,000	1,780,134
20	RECRUITING AND RETENTION	20,110		20,110		20,110		20,110
30	MEDICAL SUPPORT	19,109		19,109		19,109		19,109
40	DEPOT MAINTENANCE	100,687		100,687		100,687		100,687
50	BASE SUPPORT	250,378		250,378		250,378	2,600	252,978
	TOTAL, BUDGET ACTIVITY 1:	2,110,418	60,000	2,170,418	0	2,110,418	42,600	2,153,018

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES	193,690	0	193,690	0	193,690	(14,900)	178,790
60	INFORMATION MANAGEMENT	59,496		59,496		59,496	(14,900)	44,596
70	PUBLIC AFFAIRS	1,461		1,461		1,461		1,461
80	PERSONNEL ADMINISTRATION	89,665		89,665		89,665		89,665
90	STAFF MANAGEMENT	43,068		43,068		43,068		43,068
	TOTAL, BUDGET ACTIVITY 4:	193,690	0	193,690	0	193,690	(14,900)	178,790
	UNDISTRIBUTED		30,000	30,000	0	0	30,000	30,000
	REAL PROPERTY MAINTENANCE		21,000	21,000			21,000	21,000
	RESERVE MILITARY/CIVILIAN TECHNICIAN RESTORATION		9,000	9,000			9,000	9,000
	TOTAL, O&M, ARMY NATIONAL GUARD	2,304,108	90,000	2,394,108	0	2,304,108	57,700	2,361,808
	OPERATION AND MAINTENANCE, AIR NATIONAL GUARD							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS	2,704,107	0	2,704,107	38,000	2,742,107	30,400	2,734,507
10	AIRCRAFT OPERATIONS	1,977,786		1,977,786		1,977,786	28,900	2,006,686
	ANG PAA STRUCTURE				38,000	38,000		
20	MISSION SUPPORT OPERATIONS	346,687		346,687		346,687		346,687
30	BASE SUPPORT	361,224		361,224		361,224		361,224
40	DEPOT MAINTENANCE	18,410		18,410		18,410	1,500	19,910
45	REPROGRAMMING/CREDITS	0		0		0		0
	TOTAL, BUDGET ACTIVITY 1:	2,704,107	0	2,704,107	38,000	2,742,107	30,400	2,734,507
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SERVICEWIDE ACTIVITIES	8,114	0	8,114	0	8,114	0	8,114
50	ADMINISTRATION	3,127		3,127		3,127		3,127
60	RECRUITING AND ADVERTISING	4,987		4,987		4,987		4,987
	TOTAL, BUDGET ACTIVITY 4:	8,114	0	8,114	0	8,114	0	8,114

ID	ACCOUNT/BA/AG/SAG	FY 1996	House Change	House Authorized	Senate Change	Senate Authorization	Change to Request	Conference Agreement
	UNDISTRIBUTED		22,000	22,000	(16,000)	(16,000)	17,500	17,500
	REAL PROPERTY MAINTENANCE		15,000	15,000			15,000	15,000
	RESERVE MILITARY/CIVILIAN TECHNICIAN RESTORATION		7,000	7,000			18,500	18,500
	CIVILIAN UNDER EXECUTION				(16,000)		(16,000)	(16,000)
	TOTAL, O&M, AIR NATIONAL GUARD	2,712,221	22,000	2,734,221	22,000	2,734,221	47,900	2,760,121
	MISCELLANEOUS	12,843,694	(415,790)	12,427,904	(32,890)	12,810,804	(354,790)	12,488,904
				0				
10	INSPECTOR GENERAL	138,226	39,000	177,226		138,226		138,226
10	RIFLE PRACTICE, ARMY	0		0		0		0
10	COURT OF MILITARY APPEALS	6,521		6,521		6,521		6,521
10	SUMMER OLYMPICS	15,000		15,000		15,000		15,000
10	SPECIAL OLYMPICS	0		0		0		0
10	ENVIRONMENTAL RESTORATION	1,622,200	(200,000)	1,422,200	(20,400)	1,601,800	(186,600)	1,422,200
	DEFENSE AND STATE MOU				(15,900)		(10,900)	
	RESTORATION ADVISORY BOARDS				(3,500)		(1,500)	
	ENVIRONMENTAL MANAGEMENT				(1,000)		(1,000)	
10	HUMANITARIAN ASSISTANCE	79,790	(79,790)	0	(19,790)	60,000	(79,790)	
10	DRUG INTERDICTION	680,432		680,432		680,432		680,432
10	INTERNATIONAL PEACEKEEPING	65,000	(65,000)	0	(65,000)	0	(65,000)	0
10	PAYMENT TO KAHO'OLAWE ISLAND	0		0		0		0
10	WORLD UNIVERSITY GAMES	0		0		0		0
10	WORLD CUP	0		0		0		0
10	DEFENSE HEALTH PROGRAM	9,865,525	11,000	9,876,525	78,300	9,943,825	11,000	9,876,525
10	DISASTER RELIEF	0				0		
	OVERSEAS HUMAN , DISASTER & CIVIC AID	0	50,000	50,000			50,000	50,000
10	FORMER SOVIET UNION THREAT REDUCTION	371,000	(171,000)	200,000	(6,000)	365,000	(71,000)	300,000
	TOTALS	91,634,433	2,785,764	94,420,197	(225,605)	91,408,828	981,928	92,616,361

PACER COIN

The budget request included $5.5 million in procurement and $19.5 million in operations and maintenance funding for the PACER COIN aircraft.

The House bill would deny all funding, effectively terminating this program.

The Senate amendment would authorize the Department's request.

The House recedes.

The conferees agree to authorize the budget request. Nevertheless, the conferees have serious reservations about whether the PACER COIN program, within its current mission tasking, provides such unique intelligence collection as to justify continued spending of limited resources on this mission. However, the conferees agree that:

(1) terminating the PACER COIN program immediately this fiscal year would place unacceptable stresses on the personnel system;

(2) the Department has already obligated fiscal year 1996 funds for this mission; and

(3) the Air Force would need funds to terminate the program and provide proper aircraft/equipment disposition.

The conferees direct the Department to determine whether or not the PACER COIN aircraft could be used in a dual use role. The conferees believe that the analysis should answer several questions, including at least the following:

(1) Could the aircraft be used, without certain PACER COIN systems, in an air drop role?

(2) Could the aircraft be configured to simultaneously perform the PACER COIN mission and carry the SENIOR SCOUT tactical intelligence system?

(3) What alternatives are there for filling the requirements of the regional Commander in Chief if the PACER COIN program is terminated?

(4) What would be the effects of failing to meet the requirements of the regional Commander in Chief for the PACER COIN capability?

The conferees direct the Secretary of Defense to report to the congressional defense and intelligence committees on the results of this analysis by May 1, 1995.

If the Department determines that dual use of the aircraft is not practical, the conferees direct the Department to determine proper disposition of the PACER COIN mission aircraft (e.g. permanent aircraft storage or deconfiguration from the current mission configuration).

If the Department determines that dual use of the aircraft is practical, and that the operational unit can fulfill multiple missions, the conferees direct the department to:

(1) maintain the PACER COIN aircraft in a reconfigurable state for use in those multiple roles and retain the PACER COIN mission equipment for future contingency or national disaster mission uses; and

(2) begin training for those appropriate new missions, including air drop, as soon as possible to ensure a smooth transition from the PACER COIN-unique mission.

ITEMS OF SPECIAL INTEREST

DBOF transfers

The conferees reduced the civilian personnel funding request by $226.0 million. Of this amount, the conferees expect that $96.0 million will be realized from projected savings from Defense Business Operations Fund (DBOF) activities. The conferees direct that $96.0 million be transferred from the DBOF to the accounts from which the reductions are taken.

The conferees also reduced the operation and maintenance (O&M) accounts of the services by $180.0 million, in anticipation of savings from efficiencies in the management of Department of Defense inventories. The conferees direct that $180.0 million be transferred from the DBOF to the following O&M accounts: Army, $60.0 million; Navy, $60.0 million; Air Force, $60.0 million.

Restriction on devolving the Defense Environmental Restoration Account to the military services

In a memorandum dated May 3, 1995, the Deputy Secretary of Defense announced a proposal to devolve the Defense Environmental Restoration Account (DERA), a single transfer account administered by the Department of Defense, to four separate transfer accounts administered by the individual military services. The execution of the Deputy Secretary of Defense's proposal would require modification of the DERA statutory framework.

The conferees are concerned the devolution of DERA would impede congressional oversight of the management and use of funds authorized for and appropriated to the account. In relation to devolvement, the conferees desire a thorough description of the means by which the Department of Defense would ensure consistent funding and accountability for environmental restoration activities. Moreover, the Department of Defense needs to identify the monetary savings and administrative efficiencies associated with DERA devolvement. The Department of Defense also must specify funding and staffing reductions for the office of the Deputy Under Secretary of Defense for Environmental Security that would result from DERA devolution.

The conferees agree that, in the event that the Department of Defense intends to pursue legislation to authorize devolvement for fiscal year 1997, the Secretary of Defense must submit a report to Congress, no later than March 31, 1996. The report should provide full justification for DERA devolvement and address the matters outlined above. In the absence of the requested information this year, the conferees decline to authorize a change to the existing statutory scheme for DERA at this time.

National defense sealift fund

SUMMARY

The budget request included $974.2 million in the national defense sealift fund (NDSF) for the procurement of two new strategic sealift ships, operations and maintenance of the national defense reserve fleet (NDRF), acquisition and modification of additional ships for the ready reserve force (RRF) of the NDRF, and research and development of mid-term sealift ship technologies.

The House bill would authorize $974.2 million for the NDSF, the budget request.

The Senate amendment would authorize $1.08 billion for the NDSF, an increase of $110.0 million. This increase would be for the purpose of purchasing and converting one additional ship for enhancement of the Marine Corps' maritime prepositioning ship (MPS) program.

The conferees agree to authorize $1.02 billion for the NDSF, an increase of $50.0 million. Items of special interest are discussed in the following sections.

NATIONAL DEFENSE FEATURES

The House bill did not authorize the $70.0 million included in the NDSF budget request for the procurement and modification of additional roll-on/roll-off (RO/RO) ships for the RRF. Instead, it would authorize $70.0 million for the procurement and installation of national defense features (NDF) on commercial vehicle carriers built in and documented under the laws of the United States, as required by section 2218, title 10, United States Code.

The Senate amendment dealt with the $70.0 million included in the NDSF budget request for the procurement and modification of RRF RO/RO vessels as follows:

(1) $20.0 million to modify RO/RO vessels purchased in fiscal year 1995; and

(2) $50.0 million to procure and install defense features on commercial RO/RO vessels that would be built in United States shipyards.

The conferees agree that, of the amount authorized for the NDSF, $50.0 million shall be for the procurement and installation of NDF and $20.0 million shall be for modification of the RRF RO/RO vessels purchased in fiscal year 1995. The conferees also restrict the obligation of the $20.0 million authorized for the modification of RRF RO/RO vessels until 30 days after the Secretary of Defense has notified the congressional defense committees that a NDF program has been formally established and that at least $50.0 million has been made available to fund it.

MARITIME PREPOSITIONING SHIP ENHANCEMENT

The budget request of $974.2 million for the national defense sealift fund (NDSF) did not include funding for any enhancements to the Marine Corps' maritime prepositioning force.

In order to continue a program initiated last year, the Senate amendment would authorize $110.0 million above the NDSF budget request to purchase and convert an additional MPS ship.

The House bill would authorize the budget request. It did not address the issue of MPS enhancement.

The conferees would not authorize funds for MPS enhancement in the conference agreement. However, the conferees reaffirm their strong support for the MPS enhancement program. This program will enable the Marine Corps to add additional tanks, an expeditionary airfield, additional Navy construction battalion equipment, a fleet hospital, and other supplies to each MPS squadron, to better sustain the Marine Corps as an expeditionary force.

The conferees believe that there are substantial benefits inherent in an MPS enhancement program. Consequently, the conferees are troubled by the department's failure to include funding for a second MPS enhancement ship in the fiscal year 1996 budget request, and by the lack of progress in acquiring and converting the MPS enhancement ship authorized and appropriated in fiscal year 1995.

The conferees note, however, that the Navy appears to have made some recent progress in developing a well-defined program. In view of the above, the conferees strongly encourage the Secretary of Defense to accelerate the pace at which additional sealift capability is acquired (to include funding for a second MPS enhancement ship in fiscal year 1997). However, the conferees expect the Secretary to adhere to the prepositioning, surge, and RRF priorities established by the Mobility Requirements Study (MRS) and validated by the MRS Bottom Up Review Update.

The conferees also expect the Navy to aggressively pursue all possible procurement options, including multi-ship and commercial procurement, to achieve the cost savings associated with the acquisition, conversion, and delivery of MPS enhancement vessels. The Secretary of Defense is directed to report on the progress made in meeting this goal when he submits the fiscal year 1997 budget request.

ADVANCED SUBMARINE TECHNOLOGY RESEARCH

The conferees agree that, of the amount appropriated for fiscal year 1996 for the NDSF, $50.0 million shall be available only for the Director of the Advanced Research Projects Agency for advanced submarine technology activities.

National Security Agency oversight

The budget request included $5.0 million in operations and maintenance (O&M) funds and 82 new personnel billets for National Security Agency (NSA) oversight of tactical signals intelligence (SIGINT) system development.

The House bill would not authorize the $5.0 million O&M request.

The Senate amendment would authorize the budget request.

The conferees question the necessity for 82 persons to perform a function that could be significantly facilitated by automation and improved electronic connectivity, but recognize both the importance of the program and the commitment of the Deputy Secretary of Defense and the Director of NSA to this effort. Accordingly, the conferees agree to authorize the budget request, but direct that the 82 billets be transferred from the Consolidated Cryptological Program (CCP) to the Defense Cryptological Program (DCP), resulting in no net gain in United States SIGINT System activities. The conferees understand that this billet transfer may temporarily force NSA to exceed its personnel ceilings. The conferees agree to authorize NSA to remain above its personnel ceiling through fiscal year 1997 for this purpose, but expect that, as of September 30, 1997, NSA will meet its congressionally mandated 17.5 percent reduction target. The conferees also urge NSA to review the requirements for each of these billets for validity and consistency.

Department of Defense next generation weather radar-doppler

The Department of the Air Force operates 21 next generation weather radar-doppler (NEXRAD) weather radar equipment in CONUS that primarily function to protect military locations. Additionally, Department of Defense (DOD) radar provides supplementary data to the National Weather Service (NWS) and its national radar network.

DOD NEXRADs are maintained at operational standards that meet military requirements. Due to increasing NWS reliance on the DOD NEXRADS for primary and back-up coverage, efforts have been made to increase the reliability of the DOD radar to meet NWS operating standards.

The conferees direct the Secretary of the Air Force to report by March 31, 1996, on the measures needed to conform the operation of the NEXRADS to the NWS operating standards. The report should address any resource requirements, including personnel and funds.

Reengineering household goods moves

The conferees commend the Department of Defense for initiating efforts to incorporate efficient business practices in its household goods moving operations. The objective of these efforts should be to procure commercial services at the lowest possible cost while ensuring service members and their families receive the best possible service.

Current procurement practices are cumbersome and inefficient, resulting in clearly unacceptable costs for both DOD and the moving industry. It is not apparent that the time and expense associated with processing redundant paperwork and administering a government-unique system are necessary to ensure a level of service for DOD customers that meets the industry standard.

Further, current practices are structured in such a way that service members and their families are subjected to unnecessary administrative burdens. Claims procedures and the evaluation system are outdated and seemingly disconnected from the concept of quality control, and can be frustrating to customers. Because military relocations account for a substantial share of moving industry work, DOD should be able to implement simple, cost-effective procedures which simultaneously assure first class service for customers.

However, current DOD practices do not reflect best industry practices, such that the DOD operation should be reengineered, rather than simply reorganized. The conferees direct the Secretary of Defense to initiate a pilot program to reengineer household goods moves. The Secretary should direct the incorporation of commercial practices, and report on the program not later than February 15, 1996, prior to implementation of any element of the pilot program. The report should be accompanied by comments from the industry.

The Secretary may not implement any element of the pilot program that could adversely affect small businesses, including extension or application of Federal Acquisition Regulations into this matter, until 90 days after the submission of the report.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Armed Forces Retirement Home (sec. 303)

The House bill contained a provision (sec. 303) that would authorize an appropriation from the Armed Forces Retirement Home (AFRH) Trust Fund for operation of the AFRH in fiscal year 1996.

The Senate amendment contained a provision (sec. 303) that would authorize an identical appropriation from the trust fund, and authorize a new appropriation of $45.0 million to the trust fund. The recommendation for this new appropriation directly to the trust fund would address the problem of its potential insolvency due to unanticipated decreases in the long-established funding stream approved by Congress for operation of the AFRH.

The Senate recedes.

Congress established a funding program whereby the AFRH would be self-sustaining, and not dependent on public funds. The U.S. Soldiers' and Airmen's Home in Washington, DC, has operated successfully according to this program since its inception in 1851. The U.S. Naval Home (established in 1834 and located since 1976 in Gulfport, MS) had been funded differently, relying on public funds from 1935 until 1991, when both homes were incorporated into the AFRH (Armed Forces Retirement Home Act of 1991; P.L. 101–510). The Act brought both homes under the unified management of the Armed Forces Retirement Home Board and merged the trust funds of the two homes.

Subsequent to incorporation, the annual operating costs for both homes of the AFRH have been authorized by Congress, to be drawn (appropriated) from a single trust fund. Since the funding program provided that interest from the trust fund, fines and forfeitures, and a monthly assessment from the pay of active duty enlisted service members and warrant officers would maintain the solvency of the trust fund, no appropriation outside the fund was envisioned to be necessary.

However, Congress did not anticipate the magnitude of reductions in the armed forces prompted by the end of the Cold War. These reductions caused a decrease in the funding stream as the income derived from assessments decreased. The high quality of the force resulted in fewer disciplinary problems, which in turn resulted in less income from fines and forfeitures. This is significant because fines and forfeitures account for more than half the income.

The trust fund now has a negative cash flow because more money is required for operation of the AFRH than is available from income. The corpus of the trust fund is being depleted, and the conferees recognize the need to implement changes to prevent insolvency. The conferees believe it would be easier, preferable, and more advantageous to implement corrective measures in the next few years, rather than wait for the problem to become much more serious.

The conferees note that Congress addressed the funding problem in the National Defense Authorization Act for Fiscal Year 1995 by providing authority for an increase in the monthly assessment. The 1995 provision also established a schedule of increases for resident fees and required a comprehensive study by the Board on funding alternatives for the AFRH. However, the study will not be completed until December 1995, and the Department of Defense has declined to increase the assessment prior to completion of the study. The conferees note that an increase in the assessment, from 50 cents to one dollar per month, may not of itself resolve the cash flow problem. A combination of efficiencies and funding program changes may be appropriate.

The conferees strongly support the fine work of the Board, and agree to wait for the outcome of the study in order not to restrict the consideration of efficiencies. The conferees encourage the Secretary of Defense and the Board to continue their efforts to examine alternative methods of meeting the long-term financial requirements of the AFRH, while maintaining high quality service for the residents.

Transfer from National Defense Stockpile Transaction Fund (sec. 304)

The Senate amendment contained a provision (sec. 304) that would authorize the transfer of $150.0 million from the National Defense Stockpile Transition fund to the operation and maintenance accounts of the services.

The House bill contained no similar provision.

The House recedes.

Civil Air Patrol (sec. 305)

The Senate amendment contained a provision (sec. 305) that would reduce the level of Department of Defense support to the Civil Air Patrol (CAP) by $2.9 million from the budget request of $27.5 million.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

This reduction would realize savings by accelerating a CAP reorganization in which many of the functions performed by Air Force personnel in the past would then be performed by employees of the CAP. This reorganization, which was originally planned to be completed in fiscal year 1997, will now be completed during fiscal year 1996.

Subtitle B—Depot-Level Activities

Policy regarding performance of depot-level maintenance and repair for the Department of Defense (sec. 311)

The House bill contained a provision (sec. 395) that would amend current law to establish the importance to national security of maintaining a core depot-level maintenance and repair capability within Department of Defense (DOD) facilities. The provision would address core work determinations, interservicing, competition, and an exclusion from workload limitations for large individual maintenance projects. It would also repeal two limitations on the performance of depot-level work (10 U.S.C. 2466 and 2469), effective December 31, 1996.

The Senate amendment contained a provision (sec. 311) that would require the Secretary of Defense to develop a comprehensive

policy on the performance of depot-level maintenance and repair, and submit a report on the policy to the congressional defense committees by March 31, 1996. The provision would condition the repeal of the two current limitations on congressional approval of the recommended policy.

The House recedes with an amendment that would clarify both the content of the policy and considerations to be made by the Secretary. The amendment would also affirm that it is the sense of Congress that DOD must articulate core workload requirements as a necessary first step toward developing a policy.

The conferees believe that it would be extremely difficult for Congress to approve a policy that does not provide for the performance of core depot-level workload in public facilities.

Although the conferees do not wish to prescribe more than a broad outline of the areas to be addressed by the Secretary, the conferees believe it is useful to direct the Secretary to consider numerous matters in developing the policy, and to report on items of interest.

The conferees believe it is both preferable and entirely possible for DOD to develop an acceptable, comprehensive policy that will serve the best interests of national security. The conferees also believe that such a policy could achieve efficiencies, and result in resolving the constant debate over how to apportion work between the public and private sectors.

With respect to the exclusion for large individual maintenance projects contained in the House provision, the conferees note that certain projects may account for a large share of a military department's maintenance and repair budget. This is the case with respect to complex overhauls of naval vessels, particularly nuclear-powered aircraft carriers, whose overhaul and refueling can absorb a large percentage of the Navy's maintenance and repair budget in a given fiscal year. Amounts expended for such large projects could, if counted against the limitation prescribed under current law (10 U.S.C. 2466), affect the application of the formula for the apportionment of work between the public and private sectors.

The conferees note that the impact of large maintenance projects could have unintended consequences on the application of section 2466. Until the workload limitations are repealed, the conferees direct the Secretary of the Navy to monitor the assignment of large individual maintenance projects closely and continue to administer depot maintenance programs to avoid unintended imbalances in workload distribution insofar as practicable.

Management of depot employees (sec. 312)

The House bill contained a provision (sec. 332) that would prohibit the management of depot employees by endstrength constraints.

The Senate amendment contained no similar provision.

The Senate recedes.

Extension of authority for aviation depots and naval shipyards to engage in defense-related production and services (sec. 313)

The Senate amendment contained a provision (sec. 312) that would extend through fiscal year 1996 the authority provided by section 1425 of the National Defense Authorization Act of 1991, as amended, for naval shipyards and aviation depots of all the services to bid on defense-related production and services.

The House bill contained no similar provision.

The House recedes.

Modification of notification requirement regarding use of core logistics functions waiver (sec. 314)

The House bill contained a provision (sec. 374) that would modify section 2464(b) to title 10, United States Code, concerning notification to Congress regarding the effective date of the subject waiver.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle C—Environmental Provisions

Revision of requirements for agreements for services under the defense environmental restoration program (sec. 321)

The Senate amendment contained a provision (sec. 321) that would amend section 2701(d) of title 10, United States Code, to ensure Department of Defense accountability for reimbursements provided to states or territories. The Senate amendment would limit the basis for state reimbursement. First, states or territories participating in agreements under the defense environmental restoration program would only receive reimbursement for providing technical and scientific services. Second, the provision would require the submission of a reprogramming request for amounts in excess of $5.0 million.

The House bill contained no similar provision.

The House recedes with an amendment that would increase the funding authorization to $10.0 million.

Addition of amounts creditable to the defense environmental remediation account (sec. 322)

The House bill contained a provision (sec. 322) that would provide for transfer account credit of amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601, et seq.) or from other reimbursements to the Department of Defense for environmental restoration activities.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Sense of Congress on use of defense environmental restoration account (sec. 323)

The House bill contained a provision (sec. 326) that would express the sense of Congress that by the end of fiscal year 1997 no more than 20 percent of the annual funding for the Defense Environmental Restoration Account should be spent for administration, support, studies, and investigations.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would establish a goal that by the end of fiscal year 1997 no more than 20 percent of the annual funding for the Defense Environmental Restoration Account should be spent for administration, support, studies, and investigations. The amendment would also require the Department of Defense to submit a report to Congress by April 1, 1996. The report would specify issues related to attaining the 20 percent goal.

Revision of authorities relating to restoration advisory boards (sec. 324)

The Senate amendment contained a provision (sec. 323) that would amend section 2705 of title 10, United States Code, which authorizes establishment of restoration advisory boards (RABs) to assist the Department of Defense with environmental restoration activities at military installations. Section 2705 also provides a funding framework for local community members of RABs and existing technical review committees.

About 200 Restoration Advisory Boards have been established at operational and closing installations and formerly used defense sites. Under current law, the RAB funding sources for local community member participation and for technical assistance are the Defense Environmental Restoration Account (DERA) and the Base Realignment and Closure Account (BRAC). Section 2705(e)(3)(B) provides a $7.5 million limit on the use of DERA and BRAC funds to pay for RAB technical assistance and community participation in fiscal year 1995. Under section 2705(d)(3), routine administrative expenses for RABs may be paid out of funds available for the operation and maintenance of an installation, without any limit on the amount of funds that may be expended for that purpose.

The Senate amendment would amend section 2705 to limit funding sources to BRAC and DERA, not to exceed $4.0 million in fiscal year 1996. Funds would be made available only for routine administrative expenses and technical assistance. The installation commander could obtain technical assistance for a RAB to interpret scientific and engineering issues related to the environmental restoration activities at the installation where the RAB is functioning.

The House bill contained no similar provision.

The House recedes with an amendment that would increase the funding authorization to $6.0 million. As part of the amendment, the conferees have included language that would make funds unavailable after September 15, 1996, unless the Secretary of Defense publishes proposed final or interim final regulations. Based on section 2705(d)(2) of title 10, United States Code, the conferees anticipate that the Department would already have made some progress in the promulgation of regulations.

Funding for private sector sources of technical assistance would be contingent on the following: (1) a demonstration that the existing technical resources of the Federal, state, and local agencies responsible for overseeing environmental restoration at an installation could not serve the objective for which technical assistance is requested; or (2) outside assistance is likely to contribute to the efficiency, effectiveness, or timeliness of environmental restoration at an installation; and (3) outside assistance is likely to contribute to community acceptance of environmental restoration activities at an installation.

The conferees intend that the funds authorized pursuant to this section would be the primary funding source for technical assistance and administrative expenses associated with RABs. The conferees strongly encourage the Secretary of Defense to ensure that funds authorized for RABs are expended in a manner that is consistent with obtaining technical assistance and with payment of administrative expenses, and is dispensed in accordance with the funding mechanism established in this section. The RAB program should not serve as a drain on the Superfund.

Discharge from vessels of the Armed Forces (sec. 325)

The Senate amendment contained a provision (sec. 322) that would address incidental discharges from vessels of the armed forces through the development of uniform national discharge standards. The Federal Water pollution Control Act, 33 U.S.C. 1251 et seq., and implementing regulations currently exempt incidental vessel discharges from permitting requirements. Incidental discharges remain subject to varying state regulation. The lack of uniformity has presented operational problems for the Navy.

The Senate amendment is modeled after section 312 of the Federal Water Pollution Control Act, 33 U.S.C. 1322, which establishes uniform national discharge standards for sewage discharges from all vessels. The standards provision would extend this model to regulate non-sewage incidental discharges from vessels of the armed forces.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Subtitle D—Commissaries and Nonappropriated Fund Instrumentalities

Operation of commissary system (sec. 331)

The House bill contained a provision (sec. 341) that would revise the operation of the commissary store system, allow contracts with other agencies, and revise payments to vendor agents.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would eliminate the revision of payments to vendor agents.

The conferees are concerned about the high cost of the Defense Finance and Accounting Service procedures to process the 1.5 million annual commissary invoices. The conferees believe that innovative practices need to be pursued to reduce this burden. The administrative costs consume funding that could otherwise be used to improve patron services or reduce costs.

The conferees direct the Secretary of Defense to conduct a review of innovative practices to reduce this cost. Included in this review should be an examination of the relationship between the current distribution and invoicing practices. The Secretary of Defense should report to the Senate Committee on Armed Services and the House Committee on National Security by February 15, 1996 on the recommended actions, if any, to reduce these costs and how any savings will be used.

Additionally, the conferees note that the Defense Commissary Information System and the Point-of-Sale Modernization programs are essentially off-the-shelf commercial grocery systems designed to improve patron service and increase efficiency of commissary operations. As such, the conferees believe the Secretary of Defense should get these systems on line and operating with the minimum of review required to ensure interface with other government data systems and compliance with legislation and regulations essential to protect the interests of the government.

Limited release of commissary store sales information to manufacturers, distributors, and other vendors doing business with Defense Commissary Agency (sec. 332)

The House bill contained a provision (sec. 343) that would amend the procedures for the release of commissary stores sales information.

The Senate amendment contained no similar provision.

The Senate recedes.

Economical distribution of distilled spirits by nonappropriated fund instrumentalities (sec. 333)

The House bill contained a provision (sec. 344) that would amend the procedures for the determination of the most economical distribution of distilled spirits.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Transportation by commissaries and exchanges to overseas locations (sec. 334)

The House bill contained a provision (sec. 345) that would allow officials responsible for the operation of commissaries and military exchanges the authority to negotiate directly with private carriers for the most cost-effective transportation of supplies by sea, without relying on the Military Sealift Command or the Military Traffic Management Command.

The Senate amendment contained no similar provision.

The Senate recedes.

Demonstration project for uniform funding of morale, welfare, and recreation activities at certain military installations (sec. 335)

The House bill contained a provision (sec. 346) that would require the Secretary of Defense to conduct a demonstration program at six military installations under which funds appropriated for the support of morale, welfare, and recreation programs at the installations are combined with nonappropriated funds available for these programs and treated as nonappropriated funds.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment which would extend the test to two years.

Operation of combined exchange and commissary stores (sec. 336)

The House bill contained a provision (sec. 347) that would permit the continued operation of the base exchange mart at Fort Worth Naval Air Station, Texas, and would allow for the expansion of the Base Exchange Mart Program.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

The conferees approve this expansion with the understanding that they do not intend that exchange marts replace viable commissaries. When a commissary is identified for closure, the exchange system will be permitted to conduct a market survey to determine the viability of an exchange mart in the closing commissary facility. The conferees do not expect that an exchange mart would be in direct competition with a commissary operating in close proximity to a proposed exchange mart.

The conferees expect that exchange marts will operate in a manner in which nonappropriated funds are not required to sustain their operation. The conferees expect that every effort will be made to operate the exchange marts in a manner which requires only a minimal amount of appropriated fund support.

Deferred payment programs of military exchanges (sec. 337)

The House bill contained a provision (sec. 348) that would require the Secretary of Defense to establish a uniform exchange credit program that could use commercial banking institutions to fund and operate the deferred payment programs of the Army and Air Force Exchange Service and the Navy Exchange Service.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify the provision by ensuring that any proposal be competitively awarded and that prior to entering into any commercial program the Secretary determine that it is in the best interests of the exchange systems.

Availability of funds to offset expenses incurred by Army and Air Force Exchange Service on account of troop reductions in Europe (sec. 338)

The House bill contained a provision (sec. 349) that would require that the Secretary of Defense transfer not more than $70 million to the Army and Air Force Exchange Service to offset expenses incurred by the Army and Air Force Exchange Service on account of reductions in the number of military personnel in Europe.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

In order to avoid disruption of operations associated with currency fluctuations and, in recognition of the unique direct appropriation nature of commissaries as an entity of the Defense Business Operations Fund, the conferees direct that the military exchanges, other nonappropriated fund instrumentalities, and commissaries be permitted to be included in the Department of Defense foreign currency fluctuation fund.

Associated with the drawdown in Europe was an initiative to transfer operations of the Stars and Stripes Bookstores to the military exchanges. This transfer has a residual impact upon certain employees. The conferees direct that the Army and Air Force Exchange Service accept responsibility for resolving the issue of employment, severance, and back pay for the 15 local national employees formerly employed by the Stars and Stripes. The conferees expect that the Army and Air Force Exchange Service can, in conjunction with the Army and Air Force headquarters in Europe, resolve the current job action concerning these 15 local national employees using funds provided in this section.

Study regarding improving efficiencies in operation of military exchanges and other morale, welfare, and recreation activities and commissary stores (sec. 339)

The House bill contained a provision (sec. 350) that would require the Secretary of Defense to conduct a study and submit a report to Congress regarding the manner in which greater efficiencies can be achieved in the operation of military exchanges, commissary stores, and other morale, welfare, and recreation activities.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees agree with the findings and scope of the study called for in the House report (H. Rept 104–131). The conferees believe that the Department of Defense should seek opportunities to reduce labor costs in resale activities and to reduce excessive overhead. Additionally, the conferees agree that significant economies and revenue potential can be realized in the area of management and oversight of overseas slot machine operations. The conferees direct the Secretary of Defense consider and, if appropriate, submit a plan to have one service serve as the executive agent for the consolidated management and operation of this function.

Repeal of requirement to convert ships' stores to nonappropriated fund instrumentalities (sec. 340)

The House bill contained a provision (sec. 351) that would extend, to December 31, 1996, the deadline for the conversion of all Navy ships' stores to operate as nonappropriated fund activities.

The Senate amendment contained a provision (sec. 373) that would repeal section 371 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) requiring the Navy to convert ships' stores operations to a Navy Exchange System agency.

The House recedes with an amendment that would require the Inspector General of the Department of Defense to complete a review of the Navy Audit Agency report regarding the conversion of the Ships Stores pursuant to section 374 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

Disposition of excess morale, welfare, and recreation (MWR) funds (sec. 341)

The Senate amendment contained a provision (sec. 371) that would amend section 373 of the National Defense Authorization Act for Fiscal Year 1995 to permit the Marine Corps to retain the MWR funds transferred from Marine Corps installations.

The House bill contained no similar provision.

The House recedes.

Clarification of entitlement to use of morale, welfare, and recreation facilities by members of Reserve components and dependents (sec. 342)

The Senate amendment contained a provision (sec. 633) that would amend section 1065 of title 10, United States Code, to give members of the retired reserve who would be eligible for retired pay but for the fact that they are under 60 years of age the same priority of use of morale, welfare, and recreation facilities of the military services as members who retired after active duty careers.

The House bill contained no similar provision.

The House recedes.

Subtitle E—Performance of Functions by Private-Sector Sources

Competitive procurement of printing and duplication services (sec. 351)

The House bill contained a provision (sec. 359) that would direct the Defense Printing Service to procure at least 70 percent of printing and duplication work competitively.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would exempt classified printing and duplication work from this calculation.

Direct vendor delivery system for consumable inventory items of Department of Defense (sec. 352)

The House bill contained a provision (sec. 360) that would require the Department of Defense (DOD) to arrange for delivery of consumable inventory items directly from vendors to military installations in the United States. Complete implementation of this system would be required by September 30, 1997.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require DOD to use direct vendor delivery of consumable inventory items whenever practicable.

Payroll, finance, and accounting functions of the Department of Defense (sec. 353)

The House bill contained a provision (sec. 362) that would require the Secretary of Defense to submit a plan to Congress for the privatization of the payroll functions for civilian employees of the Department of Defense and to implement the plan not later than October 1, 1996.

The House bill contained a provision (sec. 368) that would require the Secretary of Defense to conduct a pilot program to test and evaluate the cost savings and efficiencies of private operation of accounting and payroll functions of nonappropriated fund instrumentalities of the Department of Defense.

The Senate amendment contained a provision (sec. 352) that would require the department of Defense to conduct a review of the need for further expansion of Defense Finance and Accounting Service (DFAS) operating locations, and to report to the appropriate committees of the Congress prior to establishing any new DFAS operating locations.

The House recedes with an amendment that would combine and clarify the three provisions.

Demonstration program to identify overpayments made to vendors (sec. 354)

The House bill contained a provision (sec. 363) that would require the Secretary of Defense to conduct a demonstration program at the Defense Personnel Support Center, Philadelphia, Pennsylvania, to evaluate the feasibility of using private contractors to audit accounting and procurement records of the Department of Defense.

The Senate amendment contained no similar provision.

The Senate recedes.

Pilot program on private operation of defense dependents' schools (sec. 355)

The House bill contained a provision (sec. 364) that would allow the Secretary of Defense to conduct a pilot program to assess the feasibility of using private contractors to operate overseas dependents' schools and to report the results of the pilot program to Congress.

The Senate amendment contained no similar provision.

The Senate recedes.

Program for improved travel process for the Department of Defense (sec. 356)

The House bill contained a provision (sec. 365) that would require the Secretary of Defense to conduct a pilot program including two prototype tests of commercial travel applications to improve management of the Department of Defense Travel System.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary to conduct a two-year test at a minimum of three sites and a maximum of six sites, and to report to the Senate Committee on Armed Services and the House Committee on National Security at the conclusion of the first year.

The conferees do not intend this provision to be viewed as authority for the Secretary of Defense to circumvent the requirement for civilians to use adequate government quarters where they are available.

Increased reliance on private-sector sources for commercial products and services (sec. 357)

The House bill contained a provision (sec. 367) that would require the Secretary of Defense to endeavor to obtain products and services from the private sector. The provision would require the Secretary of Defense to describe functions that can be performed by the private sector and specify impediments to outsourcing.

The Senate amendment contained a provision (sec. 386) that would require the Secretary to report on the use of private sector contractors to perform functions not essential to the warfighting mission of the Department of Defense.

The Senate recedes with an amendment.

The conferees agree that DOD should make a maximum effort to rely upon the private sector for commercial functions whenever the same level of service can be obtained at a reduced cost to the government, and the national security does not require the activity to be retained in-house. The conferees note with approval the many steps the Department has already taken in this direction and encourage the Department to continue in its efforts. The conferees urge the Department to maintain close coordination with the Committee on Armed Services of the Senate and the Committee on National Security of the House regarding its efforts to downsize the federal government while placing greater reliance upon the private sector.

Subtitle F—Miscellaneous Reviews, Studies, and Reports

Quarterly readiness reports (sec. 361)

The House bill contained a provision (sec. 371) that would require the Secretary of Defense to report quarterly to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives on the military readiness of the armed forces.

The Senate amendment contained no similar provision.

The Senate recedes.

Restatement of requirement for semiannual reports to Congress on transfers from high-priority readiness appropriations (sec. 362)

The House bill contained a provision (sec. 373) that would amend section 361 of the National Defense Authorization Act for Fiscal Year 1995 in order to provide more detailed guidance on the report required.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment. The conferees are disappointed that the Department of Defense has not been sufficiently thorough in reporting on transfers from high-priority readiness appropriations and expect future reports to be more substantive.

Report regarding reduction of costs associated with contract management oversight (sec. 363)

The House bill contained a provision (sec. 376) that would require the Comptroller General to submit a report to Congress that would identify methods to reduce the cost of Department of Defense management and oversight of contracts in connection with major defense acquisition programs.

The Senate amendment contained no similar provision.

The Senate recedes.

Reviews of management of inventory control points and Material Management Standard System (sec. 364)

The House bill contained a provision (sec. 391) that would direct the Secretary of Defense to conduct a review regarding consolidation of all inventory control points (ICP) under the Defense Logistics Agency. The provision would also prohibit implementation of the Materiel Management Standard System (MMSS) until submission of the Secretary's report to the Congressional defense committees.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to report by March 31, 1996, on the advisability of consolidating all ICP. The General Accounting Office would review the Secretary's report, and review the MMSS. The amendment would not impose a restriction on implementation of the MMSS.

Report on private performance of certain functions performed by military aircraft (sec. 365)

The Senate amendment contained a provision (sec. 390) that would require the Secretary of Defense to report on the feasibility of meeting requirements of VIP transportation, airlift, air cargo, in-flight refueling and other functions by using private contractors in lieu of military aircraft.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Strategy and report on automated information systems of Department of Defense (sec. 366)

The House bill contained a provision (sec. 375) that would prohibit the Secretary of Defense from obligating or expending amounts greater than $2.4 billion for the development and modernization of automated data processing programs pending a report by the Inspector General of the Department of Defense (DOD).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would remove the restriction on obligation of funds. The conferees believe that off-the-shelf automated information systems can improve DOD property management.

This includes software, laminate barcode printers, barcode readers, and storage devices.

The conferees also endorse the requirement contained in Title III of the House report (H. Rept. 104–131) in a paragraph of the Items of Special Interest section, entitled ''Off-the-shelf systems.'' The conferees direct the Secretary to include in this report a discussion of functional processes that can use existing private sector technology.

Subtitle G—Other Matters

Codification of Defense Business Operations Fund (sec. 371)

The House bill contained several provisions pertaining to the Defense Business Operations Fund (DBOF).

Section 311 would modify DBOF by adding or precluding various DBOF activities. The provision would also require certain costs to be included in DBOF charges, and revise the capital purchase authority threshold from $50,000 to $15,000. Further, the provision would extend discretionary authority to the Secretary of Defense or the Secretary of a military department to purchase goods and services from non-DBOF activities, if they are available at a more competitive rate.

Section 312 would require the Secretary of Defense to manage DBOF under the immediate authority of the Under Secretary of Defense (Comptroller). This would include central management of cash balances. The provision would also prohibit further expansion of the DBOF by adding new functions, activities, funds or accounts to the DBOF.

Section 313 would require the inclusion of the costs of military personnel, who perform duty in industrial fund activities, in determining costs in DBOF activities. The provision would also terminate the practice of billing in advance for goods and services provided through the DBOF.

The Senate amendment contained no similar provisions.

The Senate recedes with a single amendment that would codify DBOF, but amend the activities listed in the House bill (sec. 312), not revise the capital purchase threshold, and retain the prohibition on further expansion.

The amendment also would direct the Comptroller General of the United States to determine the advisability of managing DBOF at the Department of Defense (DOD) level. The conferees recommend the defense committees review this matter in fiscal year 1996 and consider the advisability of central management in light of the Comptroller General's report and improvements in the condition of the DBOF.

The amendment would permit advance billing for compelling reasons, but require DOD to notify the defense committees of the Congress after September 30, 1996 in the event the aggregate total of advance billing exceeds $100.0 million subsequent to enactment of the National Defense Authorization Act for Fiscal Year 1996. Another report would be required each time the aggregate amount of advance billing increases by $100.0 million after the date of the preceding report.

The conferees previously expressed support for the DOD plan to eliminate advance billing in fiscal year 1995 in the conference report accompanying the National Defense Authorization Act for Fiscal Year 1995. The practice of advance billing appears to cause DBOF customers to refrain from purchasing goods and services and it appears to promote confusion, rather than good business, at the unit or installation level.

The conferees also support the effort to capture total costs in order to conduct business operations in accordance with generally accepted business practices. The conferees direct the Secretary of Defense to annotate the justification books accompanying subsequent budget submissions for DBOF activities, to reflect the total costs for both military and civilian personnel. These costs should include items such as salaries, benefits, and retirement plans. The conferees believe it is necessary for Congress to evaluate the consequences of including such costs in DBOF rates and pricing.

Clarification of services and property exchanged to benefit the historical collection of the armed forces (sec. 372)

The House bill contained a provision (sec. 321) that would clarify the law concerning the exchange of services and property for the benefit of the historical collection of the armed services.

The Senate amendment contained no similar provision.

The Senate recedes.

Defense Business Management University (sec. 373)

The House bill contained a provision (sec. 381) that would prohibit the use of funds for any lease with respect to the Center for Financial Management Education and Training of the Defense Business Management University (DBMU) if the lease would be treated as a capital lease for budgetary purposes.

The Senate amendment contained a provision (sec. 351) that would require the Secretary of Defense to certify the need for the Center for Financial Management Education and Training of the DBMU, and report on Department of Defense financial management training, 90 days prior to obligating funds for a capital lease.

The House recedes with an amendment that would require the Secretary of Defense to make the determination of the location of the center using a merit-based selection process and report to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives on the details of this selection process at least 30 days prior to entering into a capital lease.

Permanent authority for use of proceeds from the sale of certain lost, abandoned, or unclaimed property (sec. 374)

The House bill contained a provision (sec. 388) that would provide permanent authority for a successful demonstration program for the disposal of certain personal property.

The Senate amendment contained a provision (sec. 383) that would provide similar permanent authority, but would provide further authority to credit the operation and maintenance account of a relevant installation for the costs incurred to collect, transport, store, protect, or sell such property. Net proceeds from a sale would be covered into the Treasury. A mechanism for subsequent claims by an owner, heir, etc., would also be provided.

The House recedes with a clarifying amendment.

Sale of military clothing and subsistence and other supplies of the Navy and Marine Corps (sec. 375)

The House bill contained a provision (sec. 393) that would provide to Navy and Marine Corps personnel the same authority that Army an Air Force personnel currently have to purchase replacement subsistence and other supplies.

The Senate amendment contained a similar provision (sec. 384).

The House recedes with a technical amendment.

Personnel services and logistical support for certain activities held on military installations (sec. 376)

The House bill contained a provision (sec. 385) that would clarify the authority of the Secretary of Defense in regard to jamborees conducted by the Boy Scouts of America on military installations.

The Senate amendment contained no similar provision.

The Senate recedes.

Retention of monetary awards (sec. 377)

The House bill contained a provision (sec. 386) that would permit the Secretary of Defense to accept any monetary award for excellence, given to the Department of Defense by a nongovernmental entity, as an award in a competition recognizing excellence or innovation in providing services or administering programs. Such an award would be credited to the appropriation of the command, installation, or activity that is recognized in the award, as provided in appropriation acts. Not more than 50 percent of the monetary award may be disbursed to the persons who are responsible for earning the award, up to $10.0 thousand per person.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would permit the Secretary to accept such monetary awards and disburse the award to the morale, welfare, and recreation nonappropriated fund account of the command, installation, or activity involved in earning the award. Certain incidental expenses could be reimbursed from the award amount.

Provision of equipment and facilities to assist in emergency response actions (sec. 378)

The House bill contained a provision (sec. 383) that would amend section 372 of title 10, United States Code, to authorize the Department of Defense to provide assistance in the form of training facilities, sensors, protective clothing, antidotes, and other materials and expertise to appropriate federal, state, or local law enforcement agencies for responding to emergencies involving chemical or biological agents.

The Senate amendment did not contain a similar provision.

The Senate recedes with a technical amendment.

Department of Defense military and civil defense preparedness to respond to emergencies resulting from a chemical, biological, radiological, or nuclear attack (sec. 379)

The Senate amendment contained a provision (sec. 223) that would require the Secretaries of the Departments of Defense and Energy, in consultation with the Federal Emergency Management Agency (FEMA), to submit a report to Congress that would describe the military and civil defense plans and programs to respond to the use of chemical, biological, nuclear, and radiological agents or weapons against a civilian population located in the United States or near a U.S. military installation.

The House bill did not contain a similar provision.

The House recedes with an amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Office of Economic Adjustment

The House bill contained a provision (sec. 304) that would increase the amount of funds available to the Office of Economic Adjustment by $1.5 million.

The Senate amendment contained no similar provision.

The House recedes.

Annual proposed budget for operation of defense business operations fund

The House bill contained a provision (sec. 314) that would require that the budget request for the Department of Defense include the amount of funds necessary to cover the operating losses of the Defense Business Operations Fund for the previous year.

The Senate amendment contained no similar provision.

The House recedes.

Reduction in requests for transportation funded through Defense Business Operations Fund

The House bill contained a provision (sec. 315) that would direct a reduction in requests for purchasing transportation through the Defense Business Operations Fund during fiscal year 1996 by $70.0 million from the amount purchased in fiscal year 1995. The provision would also require a report on achieving certain efficiencies.

The Senate amendment contained no similar provision.

The House recedes.

The conferees are concerned about the amount of overhead carried by the Department of Defense (DOD) to support its transportation infrastructure. The conferees direct the Secretary of Defense to submit a report to Congress by March 1, 1996. The Secretary should address changes to the transportation infrastructure and implementation of consolidation proposals, such as the elimination of duplication in component command structure. The Secretary should also address measures to reduce transportation overhead without adversely affecting operational and mobilization requirements. The conferees recommend a $70.0 million reduction in anticipation of savings from improvements and efficiencies.

Repeal of certain environmental education programs

The House bill contained a provision (sec. 323) that would repeal sections 1333 and 1334 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2701, note).

The Senate amendment contained no similar provision.

The House recedes.

Repeal of limitation on obligation of amounts transferred from environmental restoration transfer account

The House bill contained a provision (sec. 324) that would eliminate the statutory ''fence'' that precludes the transfer of funds from the Defense Environmental Restoration Account (DERA) for purposes unrelated to environmental remediation.

The Senate amendment contained no similar provision.

The House recedes.

Elimination of authority to transfer amounts for toxicological profiles

The House bill contained a provision (sec. 325) that would amend section 2704 of title 10, United States Code. The provision would eliminate authority for the Department of Defense to use Defense Environmental Restoration Account funds to reimburse the Agency for Toxic Substance and Disease Registry (ATSDR), a branch of the U.S. Public Health Service. Reimbursement is currently provided to ATSDR for performing statutorily required health assessments and health risk studies at Defense installations listed on the National Priorities List (NPL).

The Senate amendment contained no similar provision.

The House recedes.

Pricing policies for commissary store merchandise

The House bill contained a provision (sec. 342) that would reduce administrative costs in pricing commissary merchandise.

The Senate amendment contained no similar provision.

The House recedes.

The conferees recognize that there may be potential savings for the Defense Commissary Agency (DeCA) if variable pricing was permitted. Therefore, the conferees direct that the Secretary of Defense submit a report to the Senate Committee on Armed Services and the House Committee on National Security not later than May 1, 1996 describing how a variable pricing policy would be implemented; the estimated savings, if any; the impact on customers and suppliers; and a recommended legislative proposal, if appropriate.

Procurement of electricity from most economical source

The House bill contained a provision (sec. 357) that would require the Department of Defense (DOD) to procure electricity from the most economical source.

The Senate amendment contained no similar provision.

The House recedes.

The conferees direct the Department of Defense to consult with the Federal Energy Regulatory Commission (FERC) on methods to obtain lower prices for the electricity procured by the DOD, including procurement of such electricity through competitive sources. Decisions with regard to procurement of electricity by the DOD and the FERC should take into consideration the cost savings potential to the DOD and the recovery of the specific cost of utility investment that is directly attributable to existing arrangements and understandings with the DOD.

The conferees direct the Department of Defense to submit a report to Congress by March 1, 1996 on the feasibility of attaining the most economical price for electricity under existing statutes. In addition, the DOD shall report on all legislative or regulatory impediments to procuring electricity from the most economical source and the potential cost savings inherent to the elimination of such impediments. The report shall also identify those bases or facilities that are in the best position to use competitive sources of electricity.

Procurement of certain commodities from most economical source

The House bill contained a provision (sec. 358) that would enable the Department of Defense (DOD) to procure commodities from a source other than the General Services Administration (GSA) if the source can provide the commodities at a lower cost.

The Senate amendment contained no similar provision.

The House recedes.

The conferees are aware that the requirement for DOD to purchase commodities from GSA denies DOD the flexibility to pursue good business practices by preventing DOD from procuring items at the lowest cost. This inflexibility seems to run counter to the desire of Congress, and it does not promote good business practices within DOD. Encouraging managers at all levels to make sound business decisions is an underlying fundamental of the Defense Business Operations Fund concept.

The conferees direct the Secretary of Defense to report to the congressional defense committees by March 1, 1996, regarding the advisability of obtaining the authority to bypass GSA. The Secretary should identify any statutory relief necessary.

Private operation of functions of Defense Reutilization and Marketing Service

The House bill contained a provision (sec. 361) that would require the Secretary of Defense to solicit for performance, by commercial entities, of selected functions of the Defense Reutilization and Marketing Service (DRMS). The provision would require the Secretary to report on those functions that should continue to be performed by Department of Defense (DOD) civilian employees not later than July 1, 1996.

The Senate amendment contained no similar provision.

The House recedes.

The conferees expect the Secretary to address the privatization of DRMS functions as part of the DOD-wide review and report, regarding increased reliance on private sector sources for commercial products and services, required elsewhere in this bill.

Pilot program for private operation of consolidated information technology functions of Department of Defense

The House bill contained a provision (sec. 366) that would require the Secretary of Defense to enter into negotiations for contracting-out the workload of three Defense Megacenters. This effort would serve as a three-year pilot program to determine the advisability of having this type of work performed by the private sector. The goal of the program would be to achieve savings of at least 35 percent over current practices. Further consolidation of megacenters, to fewer than the 16 currently identified, would be prohibited until completion of the pilot program.

The Senate amendment contained no similar provision.

The House recedes.

The conferees believe there is significant potential to make improvements in the efficiency and effectiveness of the Department of Defense (DOD) data processing operations, to include the data megacenters. The conferees also believe there may be significant potential to achieve savings from contracting-out work that is not military-essential or otherwise unique to government. However, judgments on the advantages of contracting-out work should be based on economic and mission analyses, which the DOD has not performed.

The conferees direct the Secretary to submit a report on this matter to the defense committees by May 31, 1996. The report should include: the rationale for contracting-out work; an analysis of the costs and benefits of contracting-out a portion of the workload; a detailed description of information technology functions and services performed by megacenters that are not considered military essential; and the amount of savings anticipated to be achieved by contracting-out. The conferees note that functions considered to be military-essential, and those that pertain to information security, military readiness, certain aspects of training, and warfighting, are not required to be addressed in this report.

Authority of Inspector General over investigations of procurement fraud

The House bill contained a provision (sec. 382) that would consolidate responsibility for all investigations of procurement fraud within the Department of Defense under the Inspector General.

The Senate amendment contained no similar provision.

The House recedes. Under the Inspector General Act of 1978, as amended, the overall responsibility for investigations within the DOD, including procurement fraud investigations, rests with the Inspector General. The Inspector General has full authority to investigate any allegations of procurement fraud involving a DOD contractor. Day-to-day responsibility for the conduct of procurement fraud investigations is divided among the investigative organizations of the Department of Defense and each of the military departments. The Inspector General also has full authority to assume responsibility for any procurement fraud investigation initiated by one or more of the military departments.

The Defense Advisory Board on the Investigative Capabilities of the DOD unanimously recommended that fraud investigations be consolidated into the Office of the

Inspector General. The recommendation was based on several objectives that would include eliminating joint investigations, eliminating confusion over joint investigations, and increasing the capability to identify multiple acts of fraud by the same contractors.

The conferees note that there have been continuing concerns about duplication and coordination between the Department of Defense Inspector General and the investigative components of the military departments with respect to major procurement fraud investigations. The conferees agree that the Department must endeavor to concentrate procurement fraud efforts on investigations rather than jurisdictional disputes. Therefore, the conferees believe that the Secretary of Defense should make every effort to ensure that this important function is performed in the most efficient and effective manner, avoiding the necessity for joint investigations to the maximum extent practicable.

The conferees are encouraged to note that the Department recently established a coordinating council, headed by the DOD Inspector General, to address some of the concerns raised by the Defense Advisory Board. To ensure the effectiveness of the new procedures, the conferees direct that the Secretary review the newly constituted Secretary's Board on Investigations, with a particular emphasis on maximizing the efficiency and effectiveness of major procurement fraud investigations. As part of this review, the Secretary should assess: (1) the optimal level of resources required to ensure a robust oversight function within the Department; (2) which DOD investigative components should conduct procurement fraud investigations; and (3) the optimal organization required to increase the DOD capability to maximize procurement fraud recoveries and indictments.

The conferees direct the Secretary to provide a report by May 1, 1996, to the congressional defense committees on the results of this review. The conferees will assess this report to ascertain whether further legislation is necessary to address remaining concerns over duplication and coordination problems among the DOD investigative components.

Transfer of excess personal property to support law enforcement activities

The House bill contained a provision (sec. 389) that would amend section 1208(a)(1)(A) of the National Defense Authorization Act for Fiscal Years 1990 and 1991, concerning the transfer of excess personal property. This provision would expand current authority to permit the Secretary of Defense to transfer excess property to state and other federal agencies for use in law enforcement activities. Current authority contained in the above section addresses only transfers to such agencies for their use in counter-drug activities.

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that numerous avenues currently exist to transfer excess property to state and other federal agencies, including law enforcement agencies which do not have explicit counternarcotics responsibilities. However, there appears to be no coherent policy, priority, or central data base which allows such agencies to learn what is available at a given time, or to effect a transfer without inordinate administrative work.

The conferees direct the Secretary of Defense to review this matter and report to the defense committees of the Congress not later than March 30, 1996, on developing a comprehensive policy and establishing procedures which would assist state and federal law enforcement agencies in identifying and obtaining such equipment. The Secretary should consider Memoranda of Understanding as a means to effect transfers.

The Secretary should also give high priority consideration to state and federal law enforcement agencies that demonstrate their need for such equipment.

Development and implementation of innovative processes to improve operation and maintenance

The House bill contained a provision (sec. 390) that would direct that $350.0 million, of the funds authorized and appropriated for defense-wide operation and maintenance, be available for the development or acquisition of information technologies and reengineered functional processes.

The Senate amendment contained no similar provision.

The House recedes.

Sale of 50 percent of current war reserve fuel stocks and prepositioned war reserves

The House bill contained a provision (sec. 392) that would require the Secretary of Defense to reduce war reserve fuel stocks of the Department of Defense to a level equal to 50 percent of the level of such stocks on January 1, 1995.

The Senate amendment contained no similar provision.

The House recedes.

The conferees believe that the DOD has made considerable progress in identifying its fuel requirements necessary for wartime operations. This has led to a reduction in the required level of war reserves. The conferees urge the DOD to continue its efforts in this area in order to save money while maintaining military readiness.

The conferees further believe that there is considerable opportunity to address critical afloat and ashore war reserve deficiencies. The conferees agree to add $60 million for purchases of critical war reserve stocks. This funding is authorized in the operation and maintenance, defense-wide activities account for application to high priority war reserve requirements. The Secretary of Defense is requested to report on the expenditure of these funds to the congressional defense committees prior to their allocation and should seek the views of theater commanders-in-chief in determining the application of these resources.

Southwest border states anti-drug information system

The House bill included a provision (sec. 396) that indicated that the Southwest Border States Anti-Drug Information Systems program is an important element of the Department of Defense support of law enforcement agencies in the fight against illegal trafficking of narcotics.

The Senate amendment contained no similar provision.

The House recedes. The Southwest Border States Anti-Drug Information System is addressed elsewhere in this statement of managers.

Elimination of certain restrictions on purchases and sales of items by exchange stores and other morale, welfare, and recreation (MWR) facilities

The Senate amendment contained a provision (sec. 372) that would eliminate the cost, price, size, and country of origin limitations on purchases and sales of items sold in the military exchanges and morale, welfare, and recreation facilities.

The House bill contained no similar provision.

The Senate recedes.

Funding for Troops to Teachers and Troops to Cops Programs

The Senate amendment contained a provision (sec. 388) that would authorize $42.0 million for the Troops-to-Teachers program and $10.0 million for the Troops-to-Cops program from amounts authorized for military personnel for fiscal year 1996.

The House bill contained no similar provision.

The Senate recedes.

The conferees recognize that these programs address the economic dislocation among service members caused by the defense drawdown. Therefore, the conferees invite the Department of Defense to determine whether use of existing resources, if available, is appropriate to continue these programs.

Authorization of amounts requested in the budget for Junior ROTC

The Senate amendment contained a provision (sec. 389) that would restore the authorization to fund Junior Reserve Officer's Training Corps (JROTC) at the budget request.

The House bill authorized the JROTC program at the budget request.

The Senate recedes.

The conferees agree to authorize the JROTC program at the budget request.

Use of commissary stores by members of the ready reserve

The Senate amendment contained a provision (sec. 631) that would permit members of the ready reserve to use commissaries on the same basis as members on active duty.

The House bill contained no similar provision.

The Senate recedes.

Use of commissary stores by retired reserves under age 60 and their survivors

The Senate amendment contained a provision (sec. 632) that would permit survivors of ''gray area'' retirees, members of the retired reserve who have not attained the age of 60 years, to use commissaries as if the sponsor had attained 60 years of age and was receiving retirement benefits.

The House bill contained no similar provision.

The Senate recedes.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

ITEMS OF SPECIAL INTEREST

Minimum force structure levels for Navy Light Airborne Multipurpose System helicopters

The conferees note that the Navy Light Airborne Multipurpose System (LAMPS) antisubmarine warfare helicopter fleet provides an essential element to the Nation's overall antisubmarine warfare capability. The conferees understand that the Navy has no plans to reduce the number of active or reserve LAMPS squadrons below the 14 currently in the force structure during fiscal years 1996 or 1997. The conferees believe that 14 LAMPS squadrons is the minimum structure necessary and fully expect the Navy to continue to support that level of force structure.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Active Forces

End strengths for active forces (sec. 401)

The House bill contained a provision (sec. 401) that would establish active duty end strengths for fiscal year 1996.

The Senate amendment contained a similar provision (sec. 401), but would include an increase of 340, of which 65 would be officers, in Navy end strength to permit the Navy to retain an active P–3 squadron scheduled for inactivation in fiscal year 1996.

The following table summarizes the authorized active duty end strengths for fiscal year 1996.

	Fiscal year		
	1995 Authorization	1996 Request	1996 Recommendation
Army:			
Total	510,000	495,000	495,000
Officer		81,300	81,300
Navy:			
Total	441,641	428,000	428,340
Officer		58,805	58,870
Marine Corps:			
Total	174,000	174,000	174,000
Officer		17,978	17,978
Air Force:			
Total	400,051	388,200	388,200
Officer		75,928	75,928
Total	1,525,692	1,485,200	1,485,540
Officer		234,011	234,076

The House bill also contained a provision (sec. 521) that would establish permanent end strength levels beginning in fiscal year 1996.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would integrate the House bill provision (sec. 521) into this section.

Temporary variation in DOPMA authorized end strength limitations for active duty Air Force and Navy officers in certain grades (sec. 402)

The House bill contained a provision (sec. 402) that would authorize a temporary increase in the number of officers who can serve on active duty in the grade of major in the Air Force and in the grades of lieutenant commander, commander, and captain in the Navy until September 30, 1997.

The Senate amendment contained a similar provision (sec. 402).

The House recedes.

The conferees fully expect the Secretary of Defense to provide a comprehensive proposal to restructure the authorized strength tables for commissioned officers on active duty in time for the committee to address, in the National Defense Authorization Act for Fiscal Year 1997, a permanent solution to perceived recurring shortages of officers in controlled grades for each service.

Certain general and flag officers awaiting retirement not to be counted (sec. 403)

The Senate amendment contained a provision (sec. 403) that would exempt a retiring Chairman of the Joint Chiefs, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps from being included in the number of general and flag officers on active duty, authorized to be serving in the grade of general and admiral, during the period when they would complete those activities necessary to transition to the retired list after they have been relieved from their former position.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees agree that the five positions in this provision represent the totality of the critical positions for which an exemption of this type is appropriate. The conferees expect that the Department will not request exemptions for any additional general/flag officer positions.

The conferees intend that this authority would not be used for more than 60 calendar days.

Subtitle B—Reserve Forces

End strengths for selected reserve (sec. 411)

The House bill contained a provision (sec. 411) that would authorize selected reserve end strength levels for fiscal year 1996.

The Senate amendment contained a similar provision (sec. 411).

The following table summarizes the authorized end strength levels for the selected reserve for fiscal year 1996.

	Fiscal year		
	1995 Authorization	1996 Request	1996 Recommendation
The Army National Guard of the United States	400,000	373,000	373,000
The Army Reserve	242,000	230,000	230,000
The Naval Reserve	102,960	98,602	98,894
The Marine Corps Reserve	42,000	42,000	42,274
The Air National Guard of the United States	115,581	109,458	112,707
The Air Force Reserve	78,706	73,969	73,969
The Coast Guard Reserve	8,000	8,000	8,000

The conferees have approved an increase in the Naval Reserve end strength, which reflects the recommendation that the Navy retain one reserve P–3 squadron currently scheduled for inactivation in fiscal year 1996.

The conferees have approved an increase in the Marine Corps Reserve end strength, which reflects the conferees' recommendation that the authorized number or reservists on active duty in support of the Marine Corps Reserve be increased.

The conferees have approved an increase in the Air National Guard end strength, which reflects the conferees' recommendation that the Air Force maintain the PAA squadrons at 15 aircraft per squadron in fiscal year 1996.

End strengths for the Reserves on active duty in support of the Reserves (sec. 412)

The House bill contained a provision (sec. 412) that would authorize reserve full-time support end strength levels for fiscal year 1996.

The Senate amendment contained a similar provision (sec. 412).

The following table summarizes the reserve full-time support end strength levels for fiscal year 1996.

	Fiscal year		
	1995 authorization	1996 request	1996 recommendation
The Army National Guard of the United States	23,650	23,390	23,390
The Army Reserve	11,940	11,575	11,575
The Naval Reserve	17,510	17,490	17,587
The Marine Corps Reserve	2,285	2,285	2,559
The Air National Guard of the United States	9,389	9,817	10,066
The Air Force Reserve	648	628	628

The conferees have approved an increase in the authorized number of reservists on active duty (AR's) in support of the Marine Corps Reserve. The conferees note that this increase is intended to complement existing active duty support, and is not a substitute for any portion of the active duty support that is part of the Inspector-Instructor system. Therefore, the conferees direct that the Inspector-Instructor support system not be reduced as a result of any AR increase. Further, the conferees direct that the AR increase of 274 personnel be utilized to the extent that it is supported by a specific appropriation. The conferees do not support increasing the AR program if it means reducing any other reserve programs.

The increases in the number of reservists on active duty in support of the Naval Reserve reflects the conferees' approval of additional selected reserve strength to enable the Navy to retain a reserve P–3 squadron.

The increase in the number of reservists on active duty in support of the Air National Guard reflects the conferees' approval of selected reserve strength to enable the Air National Guard to retain the PAA squadrons at 15 aircraft per squadron.

Counting of certain active component personnel assigned in support of Reserve component training (sec. 413)

The House bill contained a provision (sec. 413) that would permit active duty personnel assigned to active duty units, that have been and continue to be established for the principal purpose of providing dedicated training support to reserve component units, to be counted toward the number of advisers required by section 414(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190).

The Senate amendment contained no similar provision.

The Senate recedes.

Increase in the number of members in certain grades authorized to serve on active duty in support of the Reserves (sec. 414)

The Senate amendment contained a provision (sec. 413) that would temporarily increase the number of members of certain grades authorized to serve on active duty in support of the reserves.

The House bill contained no similar provision.

The House recedes.

Reserves on active duty in support of Cooperative Threat Reduction Programs not to be counted (sec. 415)

The Senate amendment contained a provision (sec. 414) that would exempt members of a reserve component who participate in Cooperative Threat Reduction Act programs from being counted against the authorized active duty end strength.

The House bill contained no similar provision.

The House recedes.

Reserves on active duty for military-to-military contacts and comparable activities not to be counted (sec. 416)

The Senate amendment contained a provision (sec. 415) that would amend section 168 of title 10, United States Code, to exempt members of a reserve component who participate in activities or programs specified in section 168, for over 180 days, from counting against the end strengths for members of the armed services on active duty, authorized by section 115(a)(1) of title 10, United States Code.

The House bill contained no similar provision.

The House recedes.

Subtitle C—Military Training Student Loads

Authorization of training student loads (sec. 421)

The House bill contained a provision (sec. 421) that would approve the training students loads contained in the President's budget.

The Senate amendment contained an identical provision (sec. 421).

The conference agreement includes this provision.

Subtitle D—Authorization of Appropriations

Authorization for increase in active duty end strengths (sec. 432)

The House bill contained a provision (sec. 432) that would authorize $112.0 million in additional funds available for increasing military personnel end strengths within the Department of Defense above those levels requested by the President's budget.

The Senate amendment contained no similar provision.

The Senate recedes.

TITLE V—MILITARY PERSONNEL POLICY

ITEMS OF SPECIAL INTEREST

Funding for the Family Advocacy Program and the New Parent Support Program

The conferees are concerned about the adequacy of funding requested by the Department of Defense for the Family Advocacy Program (FAP) and the lack of funding for the New Parent Support Program (NPSP). The conferees agree to provide an increase of $30.0 million for the FAP and $25.6 for the NPSP. The conferees direct that the NPSP increase be allocated as follows: Army—$10.0 million; Navy—$7.0 million; Marine Corps—$5.0 million; Air Force—$3.6 million. The conferees take this action in response to the significant strains placed on military families as a result of the high operations tempo in all services. The conferees consider the FAP and the NPSP critical to the readiness and retention of quality people.

The conferees recognize that there is fierce competition within the Department of Defense, and among the services, for scarce operations and maintenance funds. The conferees are concerned that the FAP and NPSP funding may be used for other purposes. If the Department or a service attempt to reduce, divert, or reprogram the FAP or NPSP funding for some other purpose, the conferees would consider such an action to be in direct contravention of congressional intent.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Officer Personnel Policy

Joint officer management (sec. 501)

The Senate amendment contained a provision (sec. 501) that would amend joint officer management policies in four areas: (1) the number of required critical joint duty assignment positions; (2) joint duty assignment credit for certain qualifying joint task force positions; (3) the education and experience sequencing requirement for the award of the joint specialty to general and flag officers; and (4) tour length requirements for certain officers on a second joint tour.

The House bill contained no similar amendment.

The House recedes with a clarifying amendment.

The conferees note that this amendment is intended to provide to the civilian and military leadership of the Department of Defense some flexibility to manage the various joint officer programs, without undermining the fundamental tenets and goals of the Goldwater-Nichols Department of Defense Reorganization Act of 1986. Therefore, none of the changes included in the conference agreement should be perceived as diminishing the importance of joint duty assignments or the importance of rigorous preparation before the award of the joint specialty or the need for judicious management of those officers to whom that designator has been awarded. The conferees revised the Department's original proposal to preclude the Department from rapidly rotating officers through joint task force assignments and thereby circumventing the fundamental intent of the Goldwater-Nichols Department of Defense Reorganization Act of 1986.

Regarding credit for service in joint task force and multinational force positions, the conferees recognize that certain positions will provide real-world joint experience equal to or greater than that provided by some positions on the Joint Duty Assignment List. Additionally, the conferees believe that authorizing the Secretary of Defense to award joint duty credit for certain officers serving in joint task force positions will permit deserving in-service assignments to receive joint duty assignment credit. The conferees fully expect the Secretary of Defense to closely manage the award of joint duty credit for such positions.

Retired grade for officers in grades above major general and rear admiral (sec. 502)

The Senate amendment contained a provision (sec. 505) that would permit the retirement of three- and four-star generals and flag officers to be considered under the same standards and procedures as general and flag officer retirements at the one- and two-star level.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Wearing of insignia for higher grade before promotion (sec. 503)

The Senate amendment contained a provision (sec. 507) that would define ''frocking'' and limit the numbers of officers that could be frocked to grades 0–4 through 0–7.

Frocking is the practice of allowing an officer to wear the insignia of a higher grade prior to appointment to that higher grade. While the Department of Defense has attempted to control the extent of frocking through regulation, the practice remains a means by which the services routinely circumvent the statutory limits on the number of officers authorized to serve in certain grades.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Authority to extend transition period for officers selected for early retirement (sec. 504)

The House bill contained a provision (sec. 501) that would authorize the secretaries of the military departments to defer the date of retirement for officers selected for early retirement for up to 90 days, to avoid personal hardship or for other humanitarian reasons.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the service secretary to make the decision on a case-by-case basis and would prohibit any delegation of this authority.

The conferees expect the Secretary of Defense and the service secretaries to modify the instructions, regulations, and policies pertaining to enlisted personnel in order to provide an equivalent benefit for enlisted personnel.

Army officer manning levels (sec. 505)

The House bill contained a provision (sec. 522) that would require that, beginning in fiscal year 1999 and thereafter, the annual Army end strength be sufficient to meet at least 90 percent of active Army officer manpower requirements.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Authority for medical department officers other than physicians to be appointed as Surgeon General (sec. 506)

The Senate amendment contained a provision (sec. 503) that would amend sections 3036, 5137, and 8036 of title 10, United States Code, to permit educationally and professionally qualified officers, such as dentists, nurses, and clinical psychologists, as well as doctors, to be appointed as surgeon general of an armed force.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Deputy Judge Advocate General of the Air Force (sec. 507)

The Senate amendment contained a provision (sec. 504) that would amend section 8037 of title 10, United States Code, to adjust the tenure of the Deputy Judge Advocate General of the Air Force from two years to four years and authorize the grade of major general for that position.

The House bill contained no similar provision.

The House recedes.

Authority for temporary promotions for certain Navy lieutenants with critical skills (sec. 508)

The House bill contained a provision (sec. 552(d)) that would extend the authority for the Navy to ''spot promote'' certain lieutenants serving in positions involving critical skills.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would extend the authority until September 30, 1996 and limit the number of positions to which an officer could be promoted under this authority.

Retirement for years of service of Directors of Admissions of Military and Air Force Academies (sec. 509)

The Senate amendment contained a provision (sec. 508) that would authorize the Secretary of the Army to involuntarily retire the Director of Admissions, United States Military Academy, after 30 years of service as a commissioned officer.

The House bill contained no similar provision.

The House recedes with an amendment that would make the Air Force Academy subject to the application of the provision.

Subtitle B—Matters Relating to Reserve Components

Extension of certain reserve officer management authorities (sec. 511)

The House bill contained a provision (sec. 552) that would extend authorities that provide for the appointment, promotion, and retirement of reserve officers (sec. 552 a–c), and the promotion of certain officers on active duty in the Navy (sec. 552d).

The Senate amendment contained an identical provision (sec. 506), except for the authority to provide for the promotion of certain officers on active duty in the Navy.

The conference agreement includes the identical provisions.

The promotion of certain officers on active duty in the Navy is addressed elsewhere in the conference report.

Mobilization Income Insurance Program for members of Ready Reserve (sec. 512)

The House bill contained a provision (sec. 517) that would authorize an income protection insurance plan for members of the Ready Reserve.

The Senate amendment contained a similar provision (sec. 511).

The conference agreement includes this provision.

Military technician full-time support program for Army and Air Force Reserve components (sec. 513)

The House bill contained a provision (sec. 511) that would restore military technician end strength to nearly the fiscal year 1995 level and require that the Secretary of Defense, in the future, manage military technicians by annual end strength. This section would also prohibit military technicians in certain high priority units and activities, but not those at management-level headquarters, from being subject to broad civilian personnel reductions. In addition, this section would require the Secretary of Defense, within six months of enactment, to initiate measures to consolidate and streamline management-level headquarters at the National, regional, and state level in the Air Force and Army Reserve and National Guard. This section would also require that, after the date of enactment, only dual-status technicians be hired.

The Senate amendment contained a provision (sec. 331) that would establish a floor for military technicians in the Army and Air Force Reserve and National Guard for fiscal years 1996 and 1997.

The Senate recedes with an amendment that would establish a floor for military technicians in the Army and Air Force Reserve and National Guard at the House level.

The conferees recognize the critical importance of military technicians to reserve component readiness, and direct the use of end-strength floors to manage this special category of personnel. The conferees urge the Secretary of Defense and the Secretaries of the military departments to provide the requisite funding to ensure that the correct number of qualified military technicians are available to ensure a significant contribution to operational readiness.

Revisions to Army Guard combat reform initiative to include Army reserve under certain provisions and to make certain revisions (sec. 514)

The House bill contained a provision (sec. 513) that would change the requirement of section 1111 of the Army National Guard Combat Readiness Reform Act of 1992 (title XI, Public Law 102–484). As revised, the section would require the Army to annually provide at least 150 officers and 1,000 soldiers, with at least two years prior active duty experience, to national guard units.

This section would also expand the Army selected reserve requirements of sections 1112(b), 1113, 1115, 1116, and 1120 of the Army National Guard Combat Readiness Reform Act of 1992 (title XI, Public Law 102–484).

The Senate amendment contained no similar provision.

The Senate recedes.

Active duty associate unit responsibility (sec. 515)

The House bill contained a provision (sec. 519) that would amend section 1131 of the Army National Guard Combat Readiness Reform Act of 1992 (title XI, Public Law 102–484). As revised, the provision would require that each Army National Guard brigade and Army Selected Reserve unit, considered essential for execution of the national strategy, be associated with an active duty unit.

The Senate amendment contained no similar provision.

The Senate recedes.

Leave for members of reserve components performing public safety duty (sec. 516)

The Senate amendment contained a provision (sec. 513) that would amend section 6323(b) of title 5, United States Code, that would permit employees who elect, when performing public safety duty, to use either military leave, annual leave, or compensatory time, to which they are otherwise entitled.

The House bill contained no similar provision.

The House recedes.

Department of Defense funding for National Guard participation in joint disaster and emergency assistance exercises (sec. 517)

The Senate amendment contained a provision (sec. 361) that would provide funding authority for National Guard units to participate in joint exercises to prepare them to respond to civil emergencies or disasters.

The House bill contained no similar provision.

The House recedes.

Subtitle C—Decorations and Awards

Award of Purple Heart to persons wounded while held as prisoners of war before April 25, 1962 (sec. 521)

The Senate amendment contained a provision (sec. 541) that would authorize award of the Purple Heart to prisoners of war captured before April 1962 who were injured or wounded in conjunction with their capture or imprisonment.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Authority to award decorations recognized acts of valor performed in combat during the Vietnam conflict (sec. 522)

The Senate amendment contained a provision (sec. 542) that would authorize the Secretary of Defense or the secretaries of the military departments to award a decoration for an act, achievement, or service performed during the Vietnam era for which there was no award provided. The provision would establish a one-year period in which award recommendations could be submitted for consideration and existing award review procedures would be used. At the end of one year, the Secretary would be required to report to the Congress on the results on this review.

The House bill contained no similar provision.

The House recedes with an amendment to limit consideration of decorations for acts of valor.

Military intelligence personnel prevented by secrecy from being considered for decorations and awards (sec. 523)

The Senate amendment contained a provision (sec. 543) that would require the secretaries of the military departments, upon application, to review the records of personnel who performed military intelligence duties during the Cold War period.

The House bill contained no similar provision.

The House recedes.

The conferees expect the secretaries of the military departments to take reasonable actions to widely publicize the opportunity to submit requests for consideration of awards and decorations under this provision.

Review regarding upgrading of Distinguished Service Crosses and Navy Crosses awarded to Asian Americans and Native American Pacific Islanders for World War II Service (sec. 524)

The Senate amendment contained a provision (sec. 544) that would require the Secretary of Defense to review that records of Asian Americans who received the Distinguished Service Cross during World War II to determine if, except for racial prejudice, the act(s) would have merited award of the Medal of Honor.

The House bill contained no similar provision.

The House recedes with an amendment which would make all the services subject to the application of the provision.

Eligibility for Armed Forces Expeditionary Medal based upon service in El Salvador (sec. 525)

The House bill contained a provision (sec. 559) that would designate the country of El Salvador, during the period beginning on January 1, 1981, and ending on February 1, 1992, as an area and a period of time in which members of the Armed forces participated in operations in significant numbers and otherwise met the general requirements for award of the Armed Forces Expeditionary Medal.

The Senate amendment contained no similar provision.

The Senate recedes.

Procedure for consideration of military decorations not previously submitted in timely fashion (sec. 526)

The conference agreement includes a provision that would establish procedures under which Members of Congress can forward to the secretary of a military department a recommendation for a military award or decoration, including an upgrade of a previously approved award or decoration, for consideration by the Secretary, without regard to time limits established in law or policy. The secretary concerned will make a recommendation concerning the merits of the request to the Senate Committee on Armed Services and the House Committee on National Security.

In accordance with established standards, the conferees believe that the burden and costs for researching and assembling documentation to support approval of requested awards and decorations should rest with the requestor and should not cause an undue administrative burden within the Legislative or Executive Branch.

The conferees note that the Department of Defense has traditionally avoided consideration of requests for review of military awards on the merits by citing the expiration of various time limits. The conferees, in general, do not support the provision of military awards or decorations through private relief bills. The conferees intend that the secretaries' recommendations would be the basis for consideration of a waiver of time limits, if appropriate.

Subtitle D—Officer Education Programs

Revision of service obligation for graduates of the services academies (sec. 531)

The Senate amendment contained a provision (sec. 502) that would reduce the service obligation for graduates of the service academies from six years to five years.

The House bill contained no similar provision.

The House recedes.

Nomination to service academies from Commonwealth of the Northern Marianas Islands (sec. 532)

The House bill contained a provision (sec. 564) that would authorize the Resident Representative of the Commonwealth of the Northern Marianas Islands to nominate one cadet for attendance at each of the service academies.

The Senate amendment contained no similar provision.

The Senate recedes.

Repeal of requirement for athletic director and nonappropriated fund account for the athletics programs at the service academies (sec. 533)

The Senate amendment contained a provision (sec. 557) that would repeal sections 4357 and 9356 of title 10, United States Code, and subsections (b), (d), and (e) of sections 556 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

The House bill contained a similar provision (sec. 1032r).

The conference report includes this provision.

Repeal of requirement for program to test privatization of service academy preparatory schools (sec. 534)

The Senate amendment contained a provision (sec. 558) that would terminate any test program for determining the cost effectiveness of transferring, in whole or in part, the mission of the military academy preparatory schools to the private sector.

The House bill contained no similar provision.

The House recedes with a technical amendment.

ROTC access to campuses (sec. 541)

The House bill contained a provision (sec. 1034) that would deny Department of Defense grants and contracts to any institution that has an anti-ROTC policy, as determined by the Secretary of Defense.

The Senate amendment contained no similar provision.

The Senate recedes.

ROTC scholarships for the National Guard (sec. 542)

The House bill contained a provision (sec. 514) that would authorize the Secretary of the Army, with the agreement of the ROTC cadet involved, to redesignate ongoing scholarships as scholarships leading toward service in the Army National Guard and to make other technical changes.

The Senate amendment contained no similar provision.

The Senate recedes.

Delay in reorganization of Army ROTC regional headquarters structure (sec. 543)

The House bill contained a provision (sec. 518) that would delay the closure of an Army ROTC regional headquarters until the Secretary of the Army determines whether such closure is in the best interests of the Army.

The Senate amendment contained a similar provision (sec. 560).

The conference agreement includes this provision.

Duration of field training or practice cruise required under the Senior ROTC program (sec. 544)

The Senate amendment contained a provision (sec. 554) that would permit the secretary of a military department to prescribe the length of the field training portion or practice cruise that must be completed for enrollment in the Reserve Officers' Training Corps Advance Course by persons who have not participated in the first two years of Reserve Officers' Training Corps.

The House bill contained no similar provision.

The House recedes.

Active duty officers detailed to ROTC duty at senior military colleges to serve as commandant and assistant commandant of cadets and as tactical officers (sec. 545)

The House bill contained a provision (sec. 516) that would require that, upon the request of any of the six senior military colleges, the Secretary of Defense shall detail active duty officers to serve as the commandant or assistant commandant of cadets, and as tactical officers at the institution.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide the Secretary discretion in responding to a request from a senior military college.

The conferees expect that the service secretaries will respond positively to any request, from a senior military college, to provide an officer to serve as the commandant or assistant commandant, or as a tactical officer.

Subtitle E—Miscellaneous Reviews, Studies, and Reports

Report concerning appropriate forum for judicial review of Department of Defense personnel actions (sec. 551)

The Senate amendment contained a provision (sec. 559) that would establish a panel to

examine whether the existing practices with regard to judicial review of DOD administrative personnel actions are appropriate and adequate, whether a centralized judicial review of administrative personnel actions should be established, and whether the United States Court of Appeals for the Armed Forces should conduct such reviews. This approach has been recommended by the American Bar Association.

The House bill contained no similar provision.

The House recedes with an amendment that would require the panel to examine whether a single federal court should conduct such reviews, and, if so, which federal court should be assigned that responsibility. The amendment would provide the Secretary of Defense with the responsibility to establish the panel. The conference agreement required that the Secretary consult with the Attorney General and the Chief Justice of the United States concerning appointments to the panel. The conferees also required that the Secretary consult with the Attorney General prior to sending the report to Congress.

Comptroller General review of proposed Army end strength allocations (sec. 552)

The House bill contained a provision (sec. 523) that would require the Comptroller General of the United States to determine the extent to which the Army is able to fully man the combat and support forces required to carry out the national security strategy and operations other than war for fiscal years 1996 through 2001.

The Senate amendment contained no similar provision.

The Senate recedes.

Report on manning status of highly deployable support units (sec. 553)

The House bill contained a provision (sec. 524) that would direct each of the secretaries of the military departments to conduct a study to determine whether high-priority support units, that would deploy early in a crisis, are, as a matter of policy, manned at less than 100 percent of authorized strengths. The provision would further require the secretaries of the military departments to report the findings of their studies not later than September 30, 1996.

The Senate amendment contained no similar provision.

The Senate recedes.

Review of system for correction of military records (sec. 554)

The Senate amendment contained a provision (sec. 555) that would require the secretaries of the military departments to review the composition of the Boards for the Correction of Military Records and the procedures used by those boards. The provision would require the submission of a report to the appropriate committees of the Senate and the House of Representatives by April 1, 1996.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees are concerned that the Boards for the Correction of Military Records are perceived to be unresponsive, bureaucratic extensions of the uniformed services.

Report on the consistency of reporting of fingerprint cards and final disposition forms to the Federal Bureau of Investigation (sec. 555)

The House bill contained a provision (sec. 565) that would require the Secretary of Defense to submit a report on the consistency with which fingerprint cards and final disposition forms are reported by the Defense Criminal Investigation Organizations to the Federal Bureau of Investigation.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Subtitle F—Other Matters

Equalization of accrual of service credit for officers and enlisted members (sec. 561)

The House bill contained a provision (sec. 551) that would make the criteria for accrual of service credit for officers consistent with the criteria established for enlisted members.

The Senate amendment contained a similar provision (sec. 552).

The conference agreement includes this provision.

Army ranger training (sec. 562)

The House bill contained a provision (sec. 557) that would establish a baseline number of officers and enlisted personnel that would have to be assigned to the Army Ranger Training Brigade and would give the Secretary of the Army one year to achieve that level. This provision would also require that training safety cells be established in each of the three major phases of the Ranger training course.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment which would require the Ranger Training Brigade to be manned at 90 percent of the requirements for two years, at which time the statutory requirement would expire. The amendment would also require the Comptroller General to assess the effectiveness of corrective actions taken by the Army as a result of the February 1995 accident at the Florida Ranger Training Camp. The amendment also expresses the sense of the Congress that the Secretary of Defense review and enhance, if necessary, oversight of all high-risk training and consider establishment of safety cells similar to those prescribed in the Ranger Training Brigade.

The conferees direct the secretary of defense to undertake a comprehensive analysis of high-risk training activities, to include, but not limited to the following: Army-Ranger; Navy SEAL; Navy and Air Force Survival, Evasion, Resistance, and Escape; and Airborne training. The study should identify key contributing factors prejudicial to personnel safety. This study shall include sensitivity analysis for each high-risk training program, with particular emphasis on officer-enlisted ratios and instructor-student ratios. The conferees direct the Secretary to submit the study results to the Senate Committee on Armed Services and the House Committee on National Security not later than December 31, 1996.

Separation in cases involving extended confinement (sec. 563)

The Senate amendment contained a provision (sec. 553) that would authorize the administrative separation of a service member who is sentenced by court-martial to a period of confinement for one year or more.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize such a separation if the member has been sentenced to a period of confinement for more than six months.

Limitations on reductions in medical personnel (sec. 564)

The Senate amendment contained a provision (sec. 556) that would amend section 711 of the National Defense Authorization Act for Fiscal Year 1991, section 718 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, and section 518 of the National Defense Authorization Act for Fiscal Year 1993 to modify the limitations on reductions in medical personnel.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Sense of Congress concerning personnel tempo rates (sec. 565)

The House bill contained a provision (sec. 525) that would express the sense of Congress that the Secretary of Defense should continue to improve the Department's personnel tempo management techniques so that all personnel can expect a reasonable personnel tempo rate.

The Senate amendment contained no similar provision.

The Senate recedes.

Separation benefits during force reduction for officers of the commissioned corps of National Oceanic and Atmospheric Administration (sec. 566)

The House bill contained a provision (sec. 566) that would, at the discretion of the Secretary of Commerce, authorize for officers of the Commissioned Corps of the National Oceanic and Atmospheric Administration, the separation benefits available to the other uniformed services.

The Senate amendment contained no similar provision.

The Senate recedes.

Discharge of members of the armed forces who have the HIV–1 virus (sec. 567)

The House bill contained a provision (sec. 561) that would require the Secretary of Defense to separate or retire service members who are identified as HIV-positive.

The Senate amendment contained no similar provision

The Senate recedes with an amendment that would provide the discharged member with an entitlement to medical and dental care within the Military Health Care System, to the same extent and under the same conditions as a military retiree.

Revision and codification of Military Family Act and Military Child Care Act (sec. 568)

The House bill contained a provision (sec. 560) that would codify in title 10, United States Code, updated provisions of The Military Family Act of 1985 (title VII, Public Law 99–145), and The Military Child Care Act of 1989 (title XV, Public Law 101–189), which were instrumental in focusing Department of Defense attention on the needs of military families and on the importance of effective child care programs.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would eliminate a reporting requirement.

Determination of whereabouts and status of missing persons (sec. 569)

The House bill contained a provision (sec. 563) that would require the Secretary of Defense to centralize at the Department of Defense level, the oversight and policy responsibility for accounting for missing persons.

The Senate amendment contained a similar provision (sec. 551).

The Senate recedes with an amendment that would clarify and integrate the two provisions.

The conferees' intention in requiring the creation of the Office for Missing Persons (section 1501) is that this office will have a broad range of responsibilities that include those of all the individual offices that currently have responsibilities for POW/MIA matters.

The conferees expect that the Secretary of Defense will organize this new office to serve

as the single focal point in the Department of Defense for POW/MIA matters and consolidate the formulation and oversight of search, rescue, escape and evasion and accountability policies. The conferees further expect that the Secretary of Defense will make every effort to ensure a close working relationship with the national intelligence agencies.

In relation to the Special Rule for Persons Classified as KIA/BNR, the conferees believe that the evidence referred to in section 1509(c) should be compelling evidence, such as post-incident letters written by the supposedly-dead person while in captivity or United States or other archival evidence that directly contradicts earlier United States Government determinations.

Associate Director of Central Intelligence for Military Support (sec. 570)

The Senate amendment contained a provision (sec. 1096) that would exempt the position of Associate Director of Central Intelligence for Military Support from counting against the numbers and percentages of officers authorized to be serving in the rank and grade of such officer for the armed force of which such officer is a member when neither the Director for Central Intelligence or the Deputy Director for Central Intelligence is a military officer.

The House bill contained no similar provision.

The House recedes.

Subtitle G—Support for Non-Department of Defense Activities

Repeal and revision of certain Civil-Military Programs (secs. 571, 572, 573 and 574)

The House bill contained a provision (sec. 558) that would repeal the authority for three programs established by the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484): the Civil-Military Cooperative Action Program; the National Guard Youth Opportunities Program; and the Pilot Outreach Program to Reduce the Demand for Illegal Drugs. Additionally, this provision would preclude Department of Defense support to the Civilian Conservation Corps.

The Senate amendment contained several provisions that would address Civil-Military Programs as follows: (1) prohibit the use of funds for the Office of Civil-Military Programs within the Office of the Assistant Secretary of Defense for Reserve Affairs (sec. 362); (2) revise section 410 of title 10, United States Code, the Civil-Military Cooperative Action Program (sec. 363); (3) extend the authorization for the National Guard Youth Opportunities Program through Fiscal Year 1997 (sec. 1083); and (4) extend the duration of the Pilot Outreach Program to Reduce the Demand for Illegal Drugs for two additional years (sec. 1099A).

The conference agreement includes several provisions (secs. 571, 572, 573, and 574) that would: (1) replace section 410 of title 10, United States Code, with a new section, that would authorize support and services for certain eligible organizations and activities outside of the Department of Defense (sec. 2012); (2) prohibit the use of funds for the Office of Civil-Military Programs within the Office of the Assistant Secretary of Defense for Reserve Affairs or for any other entity within the Office of the Secretary of Defense that has an exclusive or principal mission of providing centralized direction for activities under section 572 of this Act; (3) extend that authorization for the National Guard Youth Opportunities Program for 18 months from enactment and limit the number of programs to the number in effect on September 30, 1995. The Conference Agreement did not extend the duration of the Pilot Outreach Program to Reduce Demand for Illegal Drugs.

Regarding the repeal of specific authority for the Civil-Military Cooperative Program and the absence of an extension of the Pilot Outreach Program to Reduce the Demand for Illegal Drugs, the conferees note that the Young Marines, the Seaborne Conservation Corps, and other programs operated under Department of Defense and service policy prior to the October 1992 enactment of the statutory authorities for the various civil-military programs. The conferees expect that the Young Marines, the Seaborne Conservation Corps and other similar programs should be able to continue operations in accordance with the pre-October 1992 authorities.

The conferees intend that the 18-month extension of the National Guard Youth Opportunities Program would permit these programs to develop non-Department of Defense sources of funding in order to continue operation after the authority in this extension expires.

Regarding support and services for eligible organizations and activities outside of the Department of Defense, the conferees intend that the ''customary community relations and public affairs activities'', referred to in section 572(b)(1), provide for the use of Department of Defense resources to support public events, including such activities as the honor guards, static displays of equipment, bands, and demonstrations, and rely heavily on volunteer support. Department of Defense resources should be considered available for community relations support only after all military needs have been met. Additionally, the conferees expect that, concerning the exception to the relationship to military training, referred to in section 572(d)(2), most manpower requests for assistance under this exception will be met by volunteers, and that any assistance other than manpower will be extremely limited. With respect to such exception, Government vehicles may be used, but only to provide transportation of military manpower to and from the work site. The use of government aircraft in assistance under this exception is prohibited.

LEGISLATIVE PROVISIONS NOT ADOPTED

Report on feasibility of providing education benefits protection insurance for service academy and ROTC scholarship students who become medically unable to serve

The House bill contained a provision (sec. 515) that would require the Secretary of Defense to conduct a study on the need and feasibility of establishing a no cost to the government disability insurance plan for service academy and Reserve Officers' Training Corps scholarship students.

The Senate amendment contained no similar provision.

The House recedes.

The conferees believe that private insurance companies could provide the needed coverage without requiring further study by the Secretary of Defense. Accordingly, the conferees direct the Secretary to cooperate with private insurers and to make insurance information available to students in a manner that the Secretary determines to be essentially consistent with the way private insurance information is handled elsewhere within the Department of Defense.

Authority to appoint Brigadier General Charles E. Yeager, United States Air Force (retired) to the grade of major general on the retired list

The House bill contained a provision (sec. 562) that would authorize the President to advance Brigadier General Charles E. Yeager (retired) to the grade of major general on the retired list.

The Senate amendment contained no similar provision.

The House recedes.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Pay and Allowances

Military pay raise for fiscal year 1996 (sec. 601)

The House bill contained a provision (sec. 601) that would provide a 2.4 percent military pay raise for all the uniformed services, except the National Oceanic and Atmospheric Administration. Additionally, the provision would increase by 5.2 percent the rates of the basic allowance for quarters for members of the uniformed services. These increases would be effective January 1, 1996.

The Senate amendment contained a similar provision that would apply to all uniformed services (sec. 601).

The House recedes with an amendment.

The conferees note that the President issued an Executive Order on December 28, 1995 to provide a 2.0 percent pay raise to military personnel under section 1009, title 10, United States Code to correspond with an increase in federal civilian pay effective January 1, 1996. Consequently, the conferees agree to amend the original provision to rescind the Executive Order and provide authority for an increase of 2.4 percent in the rates of military basic pay and basic allowance for subsistence and 5.2 percent in the basic allowance for quarters retroactively to January 1, 1996.

Limitation on basic allowance for subsistence for members residing without dependents in government quarters (sec. 602)

The House bill contained a provision (sec. 602) that would require the secretaries of the military departments to allow no more than 12 percent of the service members without dependents who reside in government quarters to receive basic allowance for subsistence (BAS). The provision would also require the Secretary of Defense to submit a report to confirm the current number of service members in this category and to establish a standard for the appropriate percentage of personnel who are eligible to receive BAS.

The Senate amendment contained no similar provision.

The Senate recedes.

Election of basic allowance for quarters instead of assignment to inadequate quarters (sec. 603)

The Senate amendment contained a provision (sec. 602) that would authorize payment of the basic allowance for quarters (BAQ) and variable housing allowance (VHA) (and overseas housing allowance (OHA) if assigned overseas) to single members in the paygrade E–6 and above who have been assigned to quarters that do not meet minimum adequacy standards established by the Department of Defense.

The House bill contained no similar provision.

The House recedes.

Payment of basic allowance for quarters to members in pay grade E–6 who are assigned to sea duty (sec. 604)

The House bill contained a provision (sec. 603) that would authorize payment of basic allowance for quarters and variable housing allowance to single E–6 personnel assigned to shipboard sea duty.

The Senate amendment contained a similar provision (sec. 603).

The conference agreement includes this provision.

Limitation on reduction of variable housing allowance for certain members (sec. 605)

The House bill contained a provision (sec. 604) that would authorize the Secretary of

Defense to establish a minimum amount of variable housing allowance (VHA) to meet the cost of adequate housing in high cost areas. The provision would also prevent the reduction of the amount of VHA paid to an individual, as long as the member retains uninterrupted eligibility to receive VHA in the housing area and the member's housing costs are not reduced.

The Senate amendment contained a provision (sec. 604) that would prevent reduction of the amount of variable housing allowance (VHA) paid to an individual, as long as the service member retains uninterrupted eligibility to receive VHA in the housing area and the service member's housing costs are not reduced.

The House recedes with a technical amendment.

The conferees believe that, if the current mechanism for determining VHA rates is inadequate, the Secretary of Defense should notify the Committee on Armed Services of the Senate and the Committee on National Security of the House. Such notification should include a recommended solution and all appropriate justification.

Clarification of limitation on eligibility for Family Separation Allowance (sec. 606)

The House bill contained a provision (sec. 605) that would authorize the payment of family separation allowance to service members on board a ship that is away from homeport, even though the service member elected to remain unaccompanied by dependents at the permanent duty station.

The Senate amendment contained a similar provision (sec. 605) that also authorized payment of family separation allowance when members are on temporary duty away from permanent duty station.

The House recedes.

Subtitle B—Bonuses and Special and Incentive Pays

Extension of certain bonuses for reserve forces (sec. 611)

The House bill contained a provision (sec. 611) that would extend until September 30, 1998 the authority for the selected reserve reenlistment bonus, the selected reserve enlistment bonus, the selected reserve affiliation bonus, the ready reserve enlistment and reenlistment bonus, and the prior service enlistment bonus.

The Senate amendment contained a similar provision (sec. 611) that would provide for extensions to September 30, 1997.

The House recedes.

Extension of certain bonuses and special pay for nurse officer candidates, registered nurses, and nurse anesthetists (sec. 612)

The House bill contained a provision (sec. 612) that would extend until September 30, 1998 the authority for the nurse officer candidate accession program, the accession bonus for registered nurses, and the incentive special pay for nurse anesthetists.

The Senate amendment contained a similar provision (sec. 612) that would provide for extensions to September 30, 1997.

The House recedes.

Extension of authority relating to payment of other bonuses and special pays (sec. 613)

The House bill contained a provision (sec. 613) that would extend until September 30, 1998 the authority for the aviation officer retention bonus, the reenlistment bonus for active members, enlistment bonuses for critical skills, special pay for enlisted members of the selected reserve assigned to certain high-priority units, special pay for nuclear-qualified officers extending the period of active service, and the nuclear career accession bonus. The provision would also extend the authority for repayment of education loans for certain health professionals who serve in the selected reserve and the nuclear career annual incentive bonus to October 1, 1998.

The Senate amendment contained a similar provision (sec. 613) that would provide for extensions to September 30 and October 1, 1997.

The House recedes with a clarifying amendment.

Codification and extension of special pay for critically short wartime health specialists in the selected reserves (sec. 614)

The House bill contained a provision (sec. 614) that would amend title 37, United States Code, to include authorization of special pay for critically short wartime health specialists in the selected reserves and extend the authority for the special pay to September 30, 1998.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to limit the extension of authority to September 30, 1997.

Hazardous duty incentive pay for warrant officers and enlisted members serving as air weapons controllers (sec. 615)

The Senate amendment contained a provision (sec. 614) that would authorize special hazardous duty incentive pay for enlisted members serving as air weapons controllers aboard airborne warning and control systems.

The House bill contained no similar provision.

The House recedes.

Aviation career incentive pay (sec. 616)

The House bill contained a provision (sec. 615) that would reduce the initial operational flying requirement for Aviation Career Incentive Pay from 9 of the first 12 years to 8 of the first 12 years of aviation service.

The Senate amendment contained a similar provision (sec. 615) that would also restrict to the service secretary the authority to grant waivers of the number of years.

The House recedes.

Clarification of authority to provide special pay for nurses (sec. 617)

The Senate amendment contained a provision (sec. 616) that would add military nurses to the list of health care professionals who are eligible to receive a special pay for being board certified in their specialty.

The House bill contained no similar provision.

The House recedes.

Continuous entitlement to career sea pay for crew members of ships designated as tenders (sec. 618)

The House bill contained a provision (sec. 616) that would authorize personnel assigned to tenders to receive career sea pay.

The Senate amendment contained a similar provision (sec. 617).

The conference agreement includes this provision.

Increase in maximum rate of special duty assignment pay for enlisted members serving as recruiters (sec. 619)

The House bill contained a provision (sec. 617) that would authorize payment of a maximum monthly rate of $375 of additional special duty assignment pay to recruiters.

The Senate amendment contained an identical provision (sec. 618).

The conference agreement includes this provision.

Subtitle C—Travel and Transportation Allowances

Repeal of requirement regarding calculation of allowances on basis of mileage tables (sec. 621)

The Senate amendment contained a provision (sec. 621) that would amend section 104(d)(1)(A) of title 37, United States Code, to repeal the requirement that travel mileage tables be prepared under the direction of the Secretary of Defense.

The House bill contained no similar provision.

The House recedes.

Departure allowances (sec. 622)

The Senate amendment contained a provision (sec. 622) that would equalize evacuation allowances to ensure equitable treatment of military dependents, civilians and their dependents, when officially authorized or ordered to evacuate an overseas area.

The House bill contained no similar provision.

The House recedes.

Transportation of nondependent child from member's station overseas after loss of dependent status while overseas (sec. 623)

The House bill contained a provision (sec. 621) that would authorize dependent children, who lose eligibility as dependents for any reason while overseas, to return to the United States one time at government expense prior to the sponsor receiving permanent-change-of-station orders.

The Senate amendment contained a similar provision (sec. 624).

The conference agreement includes this provision.

Authorization of dislocation allowance for moves in connection with base realignments and closures (sec. 624)

The House bill contained a provision (sec. 622) that would authorize the payment of dislocation allowance for service members directed to move as a result of the closure or realignment of an installation.

The Senate amendment contained a similar provision (sec. 623).

The conference agreement includes this provision.

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

Effective date for military retiree cost-of-living adjustments for fiscal years 1996, 1997 and 1998 (sec. 631)

The House bill contained a provision (sec. 633) that would conform the military retired pay cost-of-living adjustment (COLA) payment date with the payment date established for Federal civilian retirees by making the military retired pay COLA first payable during March 1996, rather than September 1996.

The Senate amendment contained a provision (sec. 641) that would provide that the 1996 military retired pay cost-of-living adjustment be effective the first day of March 1996. In subsequent years, the cost-of-living adjustment would be effective the first day of December of each year.

The House recedes with an amendment that would provide that the military retired pay COLAs for fiscal years 1996 and 1997 be effective the first day of March, 1996, and the first day of December, 1996, respectively. The provision would also require that the effective date for COLAs during fiscal year 1998 conform to the date prescribed for Federal civilian retirees.

The conferees acknowledge that restoring equity to the payment of COLAs to military retirees has been a priority concern since passage of the Omnibus Budget Reconciliation Act of 1993 which caused military retirees to receive their COLAs later than their civilian counterparts. The solution specified in this provision is a welcome end to the inequity between the two groups of retirees.

Denial of non-regular service retired pay for reserves receiving certain court-martial sentences (sec. 632)

The Senate amendment contained a provision (sec. 642) that would authorize the Secretaries of the military departments to deny

retired pay to non-regular service members who are convicted of an offense under the Uniform Code of Military Justice and whose sentence includes death, a dishonorable discharge, a bad conduct discharge, or dismissal. The provision would treat both regular and non-regular service members equitably.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Report on payment of annuities for certain military surviving spouses (sec. 633)

The Senate amendment contained a provision (sec. 648) that would require the Secretary of Defense to determine the number of surviving spouses of retired careerists who died before March 21, 1974 and retired pay eligible reserve retirees under age 60 who died before September 30, 1978, and report to the Senate Committee on Armed Services and the House Committee on National Security. These groups of surviving spouses have become known as ''Forgotten Widows'' since they were widowed before provisions of the Survivor Benefit Plan were applicable to them.

The House bill contained no similar provision.

The House recedes.

Payment of back quarters and subsistence allowances to World War II veterans who served as guerrilla fighters in the Philippines (sec. 634)

The conference agreement includes a provision that would require the service secretaries, on request, to pay the quarters and subsistence allowance that was not paid to certain guerrilla fighters in the Philippines during World War II.

Authority for relief from previous overpayments under minimum income widows program (sec. 635)

The conference agreement includes a provision that would permit the Secretary of Defense to waive the recovery of any overpayment made before enactment of the conference report and that is attributable to a failure by the Department of Defense to apply eligibility requirements correctly.

The conferees expect the Secretary of Defense to direct the Defense Finance and Accounting Service to stop sending collection letters to widows expected to be covered under this provision.

Transitional compensation for dependents of members of the armed forces separated for dependent abuse (sec. 636)

The House bill contained a provision (sec. 556) that would require the Secretary of Defense to retroactively provide compensation to certain eligible dependents inadvertently excluded from the program.

The Senate amendment contained a provision (sec. 649) that would amend section 1059(d) of title 10, United States Code, to include transitional compensation for dependents whose sponsor forfeited all pay and allowances, but was not separated from the service.

The Senate recedes with a clarifying amendment.

Subtitle E—Other Matters

Payment to survivors of deceased members for all leave accrued (sec. 641)

The Senate amendment contained a provision (sec. 647) that would permit survivors of deceased members of the uniformed services to be paid for all leave accrued. This provision will enable survivors to be paid for leave accrued above the 60 day limit.

The House bill contained no similar provision.

The House recedes.

Repeal of reporting requirements regarding compensation matters (sec. 642)

The House bill contained a provision (sec. 631) that would eliminate a report on dependents accompanying members on assignments to overseas locations and simplify the requirement for the President to submit to the Congress recommendations on military pay matters.

The Senate amendment contained a similar provision (sec. 1072(d)).

The Senate recedes with an amendment that would combine the two provisions.

Recoupment of administrative expenses in garnishment actions (sec. 643)

The Senate amendment contained a provision (sec. 643) that would amend section 5502 of title 5, United States Code, to shift the burden for payment of administrative costs, incurred incident to garnishment actions, from the employee to the creditor.

The House bill contained no similar provision.

The House recedes.

Report on extending to junior noncommissioned officers privileges provided for senior noncommissioned officers (sec. 644)

The Senate amendment contained a provision (sec. 646) that would require the Secretary of Defense to study and report to the Congress on methods of improving the working conditions of noncommissioned officers in pay grades E–5 and E–6. This report, and the accompanying legislative recommendations, should provide the committee a road map to continue quality of life improvements.

The House bill contained no similar provision.

The House recedes.

Study regarding joint process for determining location of recruiting stations (sec. 645)

The House bill contained a provision (sec. 632) that would require the Secretary of Defense to conduct a study of the process for determining the location and manning of recruiting stations. The study would be based on market research and analysis conducted jointly by the military departments.

The Senate amendment contained no similar provision.

The Senate recedes.

Automatic maximum coverage under Servicemen's Group Life Insurance (sec. 646)

The Senate amendment contained a provision (sec. 644) that would automatically enroll service members at the maximum insurance level of $200,000, instead of the $100,000 level currently in law.

The House bill contained no similar provision.

The House recedes with an amendment that would delay implementation until April 1, 1996.

Termination of servicemen's group life insurance for members of the Ready Reserve who fail to pay premiums (sec. 647)

The Senate amendment contained a provision (sec. 645) that would authorize the Secretary of Defense to terminate coverage under the Servicemen's Group Life Insurance for members of the ready reserve who fail to make premium payments for 120 days.

The House bill contained no similar provision.

The House recedes with an amendment that would delay implementation until April 1, 1996.

LEGISLATIVE PROVISIONS NOT ADOPTED

Repeal of prohibition on payment of lodging expenses when adequate Government quarters are available

The House bill contained a provision (sec. 623) that would repeal the prohibition on payment of lodging expenses when adequate government quarters are available.

The Senate amendment contained no similar provision.

The House recedes.

TITLE VII—HEALTH CARE PROVISIONS

ITEMS OF SPECIAL INTEREST

Follow-on medical care for certain members of former members of the Armed Forces and their dependents

The conferees note that some service members, as a result of receiving transfusions at military hospitals were placed at risk of contracting a serious communicable disease and subsequently transmitting it to their dependents.

The case of Douglas Simon of Eden Prairie, Minnesota, and his family, is an example of the very tragic situation that can arise following a transfusion of contaminated blood. In 1983, while serving in the Army National Guard, Mr. Simon was infected with the AIDS virus after undergoing a blood transfusion at Fort Benning, Georgia. Subsequently, he unknowingly transmitted the virus to his spouse, Nancy, who in turn, transmitted the virus to their daughter Candace. Candace became ill and died of AIDS in 1993 at the age of five. Both Mr. and Mrs. Simon are now in the terminal stages of AIDS and their two remaining children Brian, 11, and Eric, 9, will be orphaned. To date, the Department of Defense has not accepted any financial responsibility for the treatment of Mr. or Mrs. Simon, or the future of the two children. The conferees direct the Secretary of Defense to review the Department's role in this case and to determine whether the Department of Defense should provide fair compensation to these and other similarly affected persons.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Health Care Services

Modifications of requirements regarding routine physical examinations and immunizations under CHAMPUS (sec. 701)

The House bill contained a provision (sec. 701) that would amend section 1079(a) of title 10, United States Code, by expanding ''well-baby visits'' and immunizations to dependents under the age of six, by authorizing immunizations at age six and above and by adding coverage of health promotion and disease prevention visits associated with immunizations, pap smears and mammograms.

The Senate amendment contained a similar provision (sec. 703).

The conference agreement includes this provision.

Correction of inequities in medical and dental care and death and disability benefits for certain reservists (sec. 702)

The House bill contained a provision (sec. 702) that would authorize reservists the same death and disability benefits as active duty members, during off-duty periods between successive inactive duty training periods performed at locations outside the reasonable commuting distance from the member's residence.

The Senate amendment contained no similar provision.

The Senate recedes.

Medical care for surviving dependents of retired Reserves who die before age 60 (sec. 703)

The Senate amendment contained a provision (sec. 701) that would permit survivors of ''gray area'' retirees, members of the retired reserve who have not attained the age of 60 years, to receive medical care as if the sponsor had attained 60 years of age and was receiving retirement benefits.

The House bill contained no similar provision.

The House recedes.

Medical and dental care for members of the Selected Reserve assigned to early deploying units of the Army Selected Reserve (sec. 704) and dental insurance for members of the Selected Reserve (sec. 705)

The House bill contained a provision (sec. 703) that would require the Secretary of the Army to provide medical and dental screenings, physical exams for members over 40, and the dental care required to meet dental readiness standards for units scheduled for deployment within 75 days of mobilization.

The provision would also require the Secretary of Defense to conduct a demonstration program to offer members of the selected reserve dental readiness insurance on a voluntary basis, at no cost to the Department of Defense.

The Senate amendment contained a provision (sec. 702) that would require the Secretary of Defense to establish a dental insurance plan for members of the selected reserve. The provision would require a plan, similar to the active duty dependent dental insurance plan, with voluntary enrollment and premium sharing by the member.

The House recedes with two amendments. One requires the Secretary of Defense to establish a dental insurance plan for members of the selected reserve in fiscal year 1997. The amendment also provides authority for the Secretary to conduct the necessary surveys, preparation work, and a test of the plan in fiscal year 1996. The other amendment requires the Secretary of the Army to provide medical and dental care to members of early deploying units of the selective reserve.

Permanent authority to carry out Specialized Treatment Facility Program (sec. 706)

The Senate amendment contained a provision (sec. 704) that would amend section 1105 of title 10, United States Code, by repealing subsection (h), the sunset provision, to make the Specialized Treatment Facility Program permanent.

The House bill contained no similar provision.

The House recedes.

Subtitle B—TRICARE Program

Definition of TRICARE Program (sec. 711)

The Senate amendment contained a provision (sec. 711) that would define the TRICARE program and other terms of art in the statute.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Priority use of military treatment facilities for persons enrolled in managed care initiatives (sec. 712)

The House bill contained a provision (sec. 711) that would amend title 10, United States Code, to require the Secretary of Defense, as an incentive for enrollment, to establish reasonable priorities for services provided at military treatment facilities for TRICARE-enrolled beneficiaries.

The Senate amendment contained no similar provision.

The Senate recedes.

Staggered payment of enrollment fees for TRICARE program (sec. 713)

The House bill contained a provision (sec. 712) that would amend section 1097(e) of title 10, United States Code, to require the Secretary of Defense to allow beneficiaries to pay any required enrollment fees on a monthly or quarterly basis, at no additional cost to the beneficiary.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment limiting the payments to a quarterly basis.

The conferees direct the Secretary of Defense to establish procedures for retired service members to pay enrollment fees by allotment.

Requirement of budget neutrality for TRICARE program to be based on entire program (sec. 714)

The House bill contained a provision (sec. 713) that would clarify the requirement for the TRICARE HMO option to be budget neutral by requiring that the combined effect of all three TRICARE options be budget neutral.

The Senate amendment contained no similar provision.

The Senate recedes.

Training in health care management and administration for TRICARE lead agents (sec. 715)

The House bill contained a provision (sec. 714) that would direct the Secretary of Defense to ensure that military medical treatment facility commanders, selected to serve as lead agents for the Department's managed health-care program, TRICARE, receive appropriate training in health-care management and administration.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would add key subordinates to the training requirement.

Pilot program of individualized residential mental health services (sec. 716)

The House bill contained a provision (sec. 746) that would direct the Secretary of Defense to study the feasibility of expanding mental health services to include ''wraparound'' services, and to include the requirement that providers share financial risk through case-rate reimbursement, and then to report the results of the study to Congress by March 1, 1996.

The Senate amendment contained a provision (sec. 714) that would direct the Secretary of Defense to implement a program of residential treatment for seriously emotionally disturbed and complex-needs adolescents. This treatment would incorporate the concept of ''wraparound services'' in one TRICARE region. The Secretary would be required to report on the evaluation of this program not later than eighteen months after the program is implemented.

The House recedes with a clarifying amendment.

Evaluation and report on TRICARE program effectiveness (sec. 717)

The House bill contained a provision (sec. 715) that would require the Secretary of Defense to obtain an ongoing independent evaluation of the TRICARE program and to provide an annual report to Congress on the results of the evaluation. The evaluation should report on efforts to make TRICARE Prime, the HMO option, available in non-catchment and rural areas.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Sense of Congress regarding access to health care under TRICARE program for covered beneficiaries who are Medicare eligible (sec. 718)

The Senate amendment contained a provision (sec. 713) that would express the sense of the Senate that the Secretary of Defense should develop a program to ensure that covered beneficiaries who are eligible for Medicare and who reside in a region in which TRICARE has been implemented have access to health care services under TRICARE and that the Department of Defense be reimbursed for those services.

The house bill contained no similar provision.

The House recedes with an amendment that makes the provision a sense of Congress.

Subtitle C—Uniformed Services Treatment Facilities

Delay of termination of status of certain facilities as Uniformed Services Treatment Facilities (sec. 721)

The Senate amendment contained a provision (sec. 721) that would extend until September 30, 1997, the designation of Uniformed Services Treatment Facilities (USTF) as military treatment facilities (MTF).

The House bill amendment contained no similar provision.

The House recedes.

Limitation on expenditures to support Uniformed Services Treatment Facilities (sec. 722)

The House bill contained a provision (sec. 721) that would amend the National Defense Authorization Act for Fiscal Year 1984 (Public Law 98–94) to limit the amount authorized to $300.0 million for the Department of Defense Uniformed Services Treatment Facilities (USTFs) managed care plan. This section would limit beneficiary enrollment in the USTF program to the number enrolled as of September 30, 1995.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would eliminate the limit on the number of enrollees.

Application of CHAMPUS payment rules in certain cases (sec. 723)

The Senate amendment contained a provision (sec. 723) that would amend section 1074 of title 10, United States Code, to include the Uniformed Services Treatment Facilities (USTF) in the authority under which a USTF could be reimbursed for care provided to a Department of Defense eligible enrollee who receives care out of the local area of the USTF in which they are enrolled.

The House bill contained no similar provision.

The House recedes.

Application of federal acquisition regulation to participation agreements with Uniformed Services Treatment Facilities (sec. 724)

The House bill contained a provision (sec. 722) that would amend the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) by repealing the Federal Acquisition Regulation (FAR) exemption granted to the Uniformed Services Treatment Facilities (USTFs).

The Senate amendment contained a similar provision (sec. 722).

The Senate recedes.

Development of plan for integrating Uniformed Services Treatment Facilities in managed care programs of Department of Defense (sec. 725)

The House bill contained a provision (sec. 723) that would amend section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) to require the Secretary of Defense to submit to Congress a plan under which the 10 Uniformed Services Treatment Facilities (USTFs) would be integrated into the Department of Defense's managed health-care program by September 30, 1997. In addition, this section would require the Secretary to assess the feasibility of implementing a modified version of USTF option II.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Equitable implementation of uniform cost sharing requirements for Uniformed Services Treatment Facilities (sec. 726)

The House bill contained a provision (sec. 724) that would direct the Secretary of Defense to apply uniform cost shares to each of the 10 Uniformed Services Treatment Facilities (USTFs) only upon regional implementation of the TRICARE managed health care program in the USTF's service area. It would also direct the GAO to evaluate the effect of TRICARE cost shares on USTFs.

The Senate amendment contained a provision (sec. 712) that would require the Uniformed Services Treatment Facilities to implement the TRICARE uniform benefit concurrent with the implementation of TRICARE in that region. The recommended provision would exempt a covered beneficiary who has been continuously enrolled on and after January 1, 1995.

The Senate recedes with a technical amendment.

Elimination of unnecessary annual reporting requirements regarding Uniformed Services Treatment Facilities (sec. 727)

The House bill contained a provision (sec. 736) that would eliminate unnecessary annual reporting requirements regarding military health care.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle D—Other Changes to Existing Laws Regarding Health Care Management

Maximum allowable payments to individual health-care providers under CHAMPUS (sec. 731)

The House bill contained a provision (sec. 731) that would amend title 10, United States Code, to codify a provision of the Department of Defense Appropriations Act for Fiscal Year 1995 (Public Law 103–335) that establishes a process for gradually reducing CHAMPUS maximum payment amounts to those limits for similar services under Medicare.

The Senate amendment contained a similar provision (sec. 732).

The conference agreement includes this provision.

Notification of certain CHAMPUS covered beneficiaries of loss of CHAMPUS eligibility (sec. 732)

The House bill contained a provision (sec. 743) that would direct the administering secretaries to develop a mechanism for notifying beneficiaries of their ineligibility for CHAMPUS health benefits when the loss of CHAMPUS eligibility is due to disability status.

The Senate amendment contained no similar provision.

The Senate recedes.

Personal services contracts for medical treatment facilities of the Coast Guard (sec. 733)

The Senate amendment contained a provision (sec. 733) that would authorize the Secretary of Transportation to use the personal services contract authority, currently available to the Secretary of Defense, to contract for health care providers in support of the Coast Guard.

The House bill contained no similar provision.

The House recedes.

Identification of third-party payer situations (sec. 734)

The House bill contained a provision (sec. 733) that would authorize the Secretary of Defense to prescribe regulations for the collection of information from covered beneficiaries regarding insurance, medical service, or health plans of third-party payers.

The Senate amendment contained no similar provision.

The Senate recedes.

Redesignation of Military Health Care Account as Defense Health Program Account and two-year availability of certain account funds (sec. 735)

The House bill contained a provision (sec. 734) that would amend section 1100 of title 10, United States Code, to allow the Secretary of Defense to carry over three percent of the defense health plan annual operation and maintenance appropriations to the end of the next fiscal year.

The Senate amendment contained a similar provision (sec. 731).

The conference agreement includes this provision.

Expansion of financial assistance program for health care professionals in reserve components, to include dental specialties (sec. 736)

The House bill contained a provision (sec. 735) that would authorize financial assistance for qualified dentists engaged in training for a dental specialty which is critically needed in wartime.

The Senate amendment contained a similar provision (sec. 512).

The conference agreement includes this provision.

Applicability of limitation on prices of pharmaceuticals procured for Coast Guard (sec. 737)

The Senate amendment contained in provision (sec. 743) that would include the Coast Guard in the pharmaceutical purchase program administered by the Department of Veterans Affairs.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Expansion of existing restriction on use of defense funds for abortions (sec. 738)

The House bill contained a provision (sec. 732) that would amend section 1093 of title 10, United States Code, to restrict the Department of Defense (DOD) from using medical treatment facilities or other DOD facilities, as well as DOD funds, to perform abortions, unless necessary to save the life of the mother.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would prohibit the use of Department of Defense facilities to perform abortions except in cases where the pregnancy is the result of rape or incest or in cases when the life of the mother is endangered. The amendment would retain the prohibition on the use of Department of Defense funds for abortions except in cases when the life of the mother in endangered.

Subtitle E—Other Matters

Tri-service nursing research (sec. 741)

The Senate amendment contained a provision (sec. 741) that would authorize establishment of a tri-service research program at the Uniformed Services University of the Health Sciences.

The House bill contained no similar provision.

The House recedes.

Termination of program to train military psychologists to prescribe psychotropic medications (sec. 742)

The House bill contained a provision (sec. 741) that would direct the Department of Defense to terminate the pilot demonstration program and to withdraw the authority to prescribe psychotropic drugs from psychologists who participated in the demonstration program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would prohibit any new enrollments, permit current students to complete the training, and require a General Accounting Office evaluation of the program.

Waiver of collection of payments due from certain persons unaware of loss of CHAMPUS eligibility (sec. 743)

The House bill contained a provision (sec. 742) that would authorize the Secretaries of Defense, Transportation and Health and Human Services to waive the collection of certain payments described for beneficiaries of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). This waiver would apply to CHAMPUS beneficiaries who lost their CHAMPUS eligibility prior to Medicare entitlement because of a disability or end-stage renal disease.

The Senate amendment contained no similar provision.

The Senate recedes.

Demonstration program to train military medical personnel in civilian shock trauma units (sec. 744)

The House bill contained a provision (sec. 744) that would require the Secretary of Defense to conduct a demonstration program, through arrangements with civilian hospitals, to evaluate the feasibility of providing additional shock trauma training for military medical personnel.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees expect the Secretary of Defense to ensure that the program would be budget neutral and that the Department would receive compensation, payment in kind, or services of equivalent value to the government costs for providing services to the non-DOD agencies. The conferees further direct the Comptroller General to evaluate the costs and value of services or reimbursements to the government.

Study regarding Department of Defense efforts to determine appropriate force levels of wartime medical personnel (sec. 745)

The House bill contained a provision (sec. 745) that would direct the Comptroller General of the United States to evaluate the effectiveness of the modeling efforts of each of the three service surgeons general related to determination of the appropriate wartime military medical force-level requirements, and then to submit to Congress a report on this evaluation, not later than March 1, 1996.

The Senate amendment contained no similar provision.

The Senate recedes.

Report on improved access to military health care for covered beneficiaries entitled to Medicare (sec. 746)

The House bill contained a provision (sec. 747) that would require the Secretary of Defense to report on possible alternatives to improving access to the military health care system for those beneficiaries who are Medicare eligible and ineligible for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

The Senate amendment contained no similar provision.

The Senate recedes.

Report on effect of closure of Fitzsimons Army Medical Center, Colorado, on provision of care to military personnel, retired military personnel, and their dependents (sec. 747)

The Senate amendment contained a provision (sec. 744) that would require the Secretary of Defense to report to the Congress on the effect of the closure of Fitzsimons Army Medical Center, Colorado, on the capability of the Department of Defense to provide health care for members and former members of the armed services, and their dependents who suffer from undiagnosed illness

as a result of service in the Persian Gulf War.

The House bill contained no similar provision.

The House recedes with an amendment that would expand the requirement to include a report on the effect of the closure of Fitzsimons Army Medical Center on the capability of the Department of Defense to provide health care for all military members, retired military personnel, and their dependents.

Sense of Congress on continuity of health care services for covered beneficiaries adversely affected by closures of military medical treatment facilities (sec. 748)

The House bill contained a provision (sec. 748) that would express the sense of Congress that the Secretary of Defense should take all appropriate steps to ensure the continuation of medical and pharmaceutical benefits for covered beneficiaries adversely affected by the closure of military facilities.

The Senate amendment contained no similar provision.

The Senate recedes.

State recognition of military advance medical directives (sec. 749)

The House bill contained a provision (sec. 555) that would ensure advanced medical directives, prepared by members of the armed forces, their spouses, or other persons eligible for legal assistance, are recognized as valid by all states and possessions of the United States.

The Senate amendment contained a similar provision (sec. 1092).

The Senate recedes with a clarifying amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Waiver of Medicare Part B late enrollment penalty and establishment of special enrollment period for certain military retirees and dependents

The Senate amendment contained a provision (sec. 705) that would amend the Social Security Act to authorize a waiver of the penalty for late enrollment in Medicare Part B for Medicare-eligible Department of Defense beneficiaries who reside in geographic areas affected by the closure of military hospitals under the Base Realignment and Closure process.

The House bill contained no similar provision.

The Senate recedes.

Disclosure of information in Medicare and Medicaid coverage data bank to improve collection from responsible parties for health care services furnished under CHAMPUS

The Senate amendment contained a provision (sec. 734) that would amend section 1144 of the Social Security Act to extend to the Department of Defense access to information in the data bank to enhance the effectiveness of the Department of Defense third party collection program.

The House bill contained no similar provision.

The Senate recedes.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

ITEMS OF SPECIAL INTEREST

Ship repair contracts

The conferees are concerned with continued reports that Navy ship repair contractors are not being paid by the prime contractor in a timely manner. The House report accompanying H.R. 1530 (H. Rept. 104–131) addressed this issue by asking the Navy to pursue remedies necessary to ensure that the subcontractor community will be able to support the United States Navy fleet properly. The conferees support this language and urge the Navy to monitor this problem carefully and explore available remedies to ensure that Navy ship repair subcontractors are properly and promptly compensated for their services.

The conferees are similarly concerned with the Navy's practice of bundling ship repair contracts that include only a small number of drydocking requirements within several ship repair availabilities. The conferees are concerned that this may unnecessarily preclude competition for repair work that does not require a drydock. The conferees believe that if the Navy continues to bundle multiyear ship repair contracts that would in part require the use of a drydock, the Navy should give strong consideration to making available, at a reasonable cost, a public drydock, to ensure adequate competition.

Worker's compensation coverage on overseas contracts

The conferees agree with the requirement contained in the Senate report (S. Rept. 104–112) that would direct the Secretary of Defense to review the efforts of the State Department and the Agency for International Development to consolidate worker's compensation insurance coverage on overseas contracts. The conferees note that chapter 12 of title 42, United States Code, mandates that all United States citizens and legal permanent residents, employed for any duration by a defense contractor, be covered by uniform worker's compensation insurance.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Acquisition Reform

Limitation on expenditure of appropriations (sec. 801)

The House bill contained a provision (sec. 821(b)) that would repeal section 2207 of title 10, United States Code.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would apply section 2207 of title 10, United States Code, solely to contracts valued above the simplified acquisition threshold.

Delegation authority (sec. 802)

The Senate amendment contained a provision (sec. 806) that would repeal section 2356 of title 10, United States Code, which unnessarily duplicates inherent authority of the Secretary of Defense to delegate research contracting authorities.

The House bill contained an identical provision.

The conference agreement includes this provision.

Critical spare parts (sec. 803)

The House bill contained a provision (sec. 821(d)) that would repeal section 2383 of title 10, United States Code, regarding quality requirements for critical spare parts of ships or aircraft. The provision was intended to assist the Department of Defense in shifting from reliance on outdated military specifications and standards to the use of modern industrial manufacturing methods that would ensure quality in critical spare parts.

The Senate amendment contained an identical provision (sec. 809).

The conference agreement includes this provision.

Fees for certain testing services (sec. 804)

The House bill contained a provision (sec. 822) that would provide flexibility for the Secretary of Defense to require reimbursement of indirect, as well as direct costs, from private sector uses of Department of Defense testing facilities.

The Senate amendment contained an identical provision (sec. 812).

The conference agreement includes this provision.

Coordination and communication of defense research activities (sec. 805)

The House bill contained a provision (sec. 824) that would amend section 2364 of title 10, United States Code, to require that papers prepared by a defense research facility on a technological issue relating to a major weapon system be available for consideration at all decision reviews.

The Senate amendment contained an identical provision (sec. 807).

The conference agreement includes this provision.

Addition of certain items to domestic source limitation (sec. 806)

The House bill contained a provision (sec. 825) that would add certain named vessel components to domestic source limitations, as provided in section 2534(a) of title 10, United States Code. The provision would also extend, through October 1, 2000, current limitations related to anti-friction bearings and would require that these limitations be applicable to contracts and subcontracts below the simplified acquisition threshold, as well as for commercial subcontracts.

The Senate contained no similar provision.

The Senate recedes with an amendment that would modify the list of vessel components to be added to the domestic source limitations in section 2534 of title 10, United States Code. The provision includes language that would restrict the application of the domestic source limitations to the additional vessel components for contracts entered into after March 31, 1996.

The conferees have included language that would require, for a two-year period beginning on the date of enactment of this Act, a similar limitation on the purchase of propellers with a diameter of six feet or more. The conferees direct the Secretary of the Navy to provide the congressional defense committees by March 1, 1996 with an assessment of the impact on the Navy's ability to maintain and modernize the fleet, and address the impact of the limitation on the purchase of and the castings for such propellers. The conferees also remain concerned over the pressing need to sustain a robust ship propeller repair and maintenance commercial base. Therefore, the conferees strongly urge the Navy to take this critical objective fully into account in allocating propeller repair work in the future.

Encouragement of use of leasing authority for commercial vehicles (sec. 807)

The House bill contained a provision (sec. 827) that would direct the Secretary of Defense to use lease agreements for acquisition of equipment, whenever practicable and otherwise authorized by law. The House provision would also direct the Secretary to submit to Congress, within 90 days after enactment of this bill, a report indicating changes in legislation required to facilitate the Department of Defense use of leases for the acquisition of equipment.

The Senate amendment contained a provision (sec. 392), similar to the House provision, that would also provide authority for the Secretary of Defense to conduct a pilot program for lease of commercial utility cargo vehicles under certain prescribed conditions.

The House recedes with a clarifying amendment.

Cost reimbursement rules for indirect costs attributable to private sector work of defense contractors (sec. 808)

The House bill contained a provision (sec. 844) that would authorize the Secretary of Defense to enter into agreements with contractors performing or seeking to perform

private sector work. The House provision would apply modified accounting rules with respect to the allocation of indirect costs associated with a contractor's private sector work.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify the method for allocation of indirect costs to contractor private sector work and would require the Secretary of Defense to report on the use of the authority contained in this provision. The conferees expect the Secretary to act expeditiously on each defense contractor application for an agreement under this section.

Subcontracts for ocean transportation services (sec. 809)

The Senate amendment contained a provision (sec. 802(b)) that would delay, until May 1, 1996, the inclusion of section 1241(b) of title 46, United States Code, or section 2631 of title 10, United States Code, on a list promulgated under section 430(b) of title 41, United States Code.

The House bill contained no similar provision.

The House recedes.

Prompt resolution of audit recommendations (sec. 810)

The Senate amendment contained a provision (sec. 803) that would conform section 6009 of the Federal Acquisition Streamlining Act of 1994 to the reporting requirements of the Inspector General Act of 1978.

The House bill contained no similar provision.

The House recedes.

Test programs for negotiation of comprehensive subcontracting plans (sec. 811)

The Senate amendment contained a provision (sec. 804) that would amend the test authority to remove the limitation on the activities that may be included in a test. The provision would also reduce the number of contracts and the aggregate dollar value of those contracts required to establish a condition for a contractor's participation in the test program.

The House bill contained no similar provision.

The House recedes.

Authority to procure for test or experimental purposes (sec. 812)

The Senate amendment contained a provision (sec. 808) that would amend section 2373 of title 10, United States Code, to conform the newly-codified section to the scope of the service-specific statutes it replaced.

The House bill contained no similar provision.

The House recedes.

Use of funds for acquisition of rights to use designs, processes, technical data and computer software (sec. 813)

The Senate amendment contained a provision (sec. 810) that would clarify section 2386 of title 10, United States Code, regarding the types of information the Secretary of Defense may acquire from Department of Defense contractors.

The House bill contained no similar provision.

The House recedes.

Independent cost estimates for major defense acquisition programs (sec. 814)

The Senate amendment contained a provision (sec. 811) that would permit the military departments or defense agencies, independent of their respective acquisition executives, to prepare independent cost estimates for major defense acquisitions assigned to individual components for oversight. The provision would align the responsibility for independent cost estimates with the level of the decision authority.

The House bill contained no similar provision.

The House recedes.

Construction, repair, alteration, furnishing, and equipping of naval vessels (sec. 815)

The Senate amendment contained a provision (sec. 813) that would restore the policy regarding the application of the Walsh-Healey Act, repealed by the Federal Acquisition Streamlining Act 1994, to contracts for the construction, alteration, furnishing, or equipping of naval vessels.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Subtitle B—Other Matters

Procurement technical assistance programs (sec. 821)

The Senate amendment contained a provision (sec. 821) that would add $12.0 million to continue the procurement technical assistance center program in fiscal year 1996.

The House bill contained no similar provision, but authorized $10.0 million to continue the program in fiscal year 1996.

The House recedes.

Additional Department of Defense pilot programs (sec. 822)

The conferees have adopted a provision that would set forth criteria for designating a facility to participate in a Department of Defense pilot program and require that the Congress approve the designation in legislation enacted after the enactment of the National Defense Authorization Act for Fiscal Year 1996. The conferees intended that the pilot program be used to test, among other initiatives, the expansion of commercial practices throughout a facility in which work is being performed under contracts with the Department of Defense. Nothing in this provision is intended to authorize or award a contract, or to exempt a facility from competition requirements in the award of a contract.

Treatment of Department of Defense cable television franchise agreements (sec. 823)

The Senate amendment included a provision (sec. 822) that would require cable television franchise agreements between cable television operators and the Department of Defense to be considered contracts for the telecommunications services under Part 49 of the Federal Acquisition Regulation (FAR).

The House bill contained no similar provision.

The House recedes with an amendment. The amendment would require the United States Court of Federal Claims to render an advisory opinion to Congress on the power of the executive branch to treat cable franchise agreements as contracts under the FAR and, if so, whether the executive branch is required by law to treat these agreements as contracts under the FAR. If the answer to both questions is affirmative, the conferees expect the Department of Defense to implement regulations treating cable franchise agreements as contracts for purposes of the FAR. If the Court renders an affirmative answer to the first question, the conferees will regard that as significant basis for enacting a provision similar to that in the Senate amendment.

Mentor-protege program authority (sec. 824)

The conferees have adopted a provision that would extend for one year the authority for eligible businesses under the Mentor-Protege program to enter into new agreements. The conferees agree that this extension does not prejudge the outcome of ongoing reviews of programs with similar objectives.

LEGISLATIVE PROVISIONS NOT ADOPTED

Testing of defense acquisition programs

The House bill contained a provision (sec. 823) that would amend section 2366 of title 10, United States Code, regarding requirements for operational testing in defense acquisition programs.

The Senate amendment contained no similar provision.

The House recedes.

Waivers from cancellation of funds

The Senate amendment contained a provision (sec. 801) that would make funds available for satellite on-orbit incentive fees until such fees would be earned.

The House bill contained no similar provision

The Senate recedes.

Repeal of duplicative authority for simplified acquisition purchases

The Senate amendment contained a provision (sec. 817) that would repeal the authority for simplified acquisition purchases in section 427 of title 41, United States Code.

The House bill contained no similar provision.

The Senate recedes.

Restriction on reimbursement of costs

The Senate amendment contained a provision (sec. 819) that would prohibit reimbursement of allowable costs above $250,000 for individual compensation in fiscal year 1996. The provision also expressed the sense of the Senate that Congress should consider making such prohibition permanent.

The House bill contained no similar provision.

The Senate recedes.

The conferees question the appropriateness of the level of industry executive compensation reimbursement as an allowable expense under government contracts. The conferees direct the Secretary of Defense to conduct a thorough assessment of its current policies and procedures regarding standards of allowability, allocability, and reasonableness of compensation reimbursement by the Department of Defense. In carrying out such assessment, the Secretary should conduct a survey of the executive compensation practices of comparable non-defense firms involved with similar industries, taking into consideration size and geographic location.

The conferees direct the Secretary to submit a report to the congressional defense committees not later than March 31, 1996. The report should detail the results of the Secretary's assessment and any changes to current policies and procedures, implemented as a result of the assessment.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISION ADOPTED

Subtitle A—General Matters

Reorganization of the Office of the Secretary of Defense (sec. 901–903 and 905)

The House bill contained a provision (sec. 901) that would require that direct support activities and similar functions be included in the mandated personnel reduction. This provision would also reduce the number of authorized assistant secretaries of defense by two and require that the Secretary of Defense provide Congress with a comprehensive reorganization plan for the office. Additionally, it would repeal a number of the current statutorily mandated offices and positions within OSD.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to conduct a detailed review of the organization and functions of the Office of the Secretary of Defense, including the Washington Headquarters Service and the Defense Support Agencies. The amendment would also direct the following: a 25 percent reduction

of the Office of the Secretary of Defense over five years; reduction of the number of Assistant Secretaries of Defense by one, from eleven to ten; and, on January 31, 1997, repeal certain statutory mandated offices and positions within the Office of the Secretary of Defense. Additionally, the amendment would establish a charter for the Joint Requirements Oversight Council (JROC) effective January 31, 1997.

The conferees, while agreeing to provide the Secretary with broad latitude in recommending changes to the existing OSD structure, continue to strongly believe that the functional responsibilities associated with Special Operations and Low Intensity (SOLIC) should be carried out under a senior civilian official who can maintain clear and unambiguous civilian control over that element of the military. Therefore, the conferees urge that the Secretary, in formulating the plan required by this provision, vest the SOLIC responsibility in an official whose appointment is subject to the advice and consent of the Senate and for whom the SOLIC function shall be a principal responsibility.

Redesignation of the position of Assistant to the Secretary of Defense for Atomic Energy (sec. 904)

The Senate amendment contained a provision (sec. 901) that would change the name of the Assistant to the Secretary of Defense for Atomic Energy to be the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.

The House bill contained no similar provision.

The House recedes.

Restructuring of Department of Defense acquisition organization and workforce (sec. 906)

The House bill contained a provision (sec. 902) that would require the Secretary of Defense to submit a report to Congress including a plan for restructuring the current acquisition organizations in the Department of Defense as well as an assessment of specified restructuring options. The provision would also mandate a reduction of the acquisition workforce by 25 percent from October 1, 1995 to October 1, 1998, and require a reduction of 30,000 acquisition workforce positions in the Department of Defense in fiscal year 1996.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment requiring the Secretary to submit the report on a plan to reduce by October 1, 1998 the acquisition workforce, as defined by the Secretary, 25 percent below the baseline of October 1, 1994. The provision would also require the Secretary to reduce the number of acquisition personnel by 15,000 in fiscal year 1996.

Report on nuclear posture review and on plans for nuclear weapons management in event of abolition of Department of Energy (sec. 907)

The House bill contained a provision (sec. 903) that would require the Secretary of Defense to prepare and submit a report to Congress that describes the Secretary's plan to incorporate the national security programs of the Department of Energy (DOE) into the Department of Defense. In developing the plan the Secretary would be required to make every effort to preserve the integrity, mission, and functions of these programs. The Senate amendment contained a provision (sec. 3151) that would require the Secretary of Defense to provide the congressional defense committees with an assessment of the effectiveness of the DOE. The assessment should include: (1) maintaining the nuclear weapons stockpile; (2) management of its environmental, health, and safety requirements, and national security research and development, as compared with similar DoD operations; and (3) the fulfillment of DOE's Nuclear Posture Review requirements.

The Senate recedes with an amendment that combines both provisions.

Redesignation of Advanced Research Projects Agency (sec. 908)

The House bill contained a provision (sec. 908) that would change the designation of the Advanced Research Projects Agency to the Defense Advanced Research Projects Agency.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle B—Financial Management

Transfer authority regarding funds available for foreign currency fluctuation (sec. 911)

The Senate amendment contained a provision (sec. 1006) that would authorize a foreign currency fluctuation account for the military personnel appropriation. This authorization would be limited to fiscal year 1996 and subsequent appropriations.

The House bill contained no similar provision.

The House recedes.

Defense Modernization Account (sec. 912)

The Senate amendment contained a provision (sec. 1003) that would establish a Defense Modernization Account to encourage savings within the Department of Defense and to make those savings available to address the serious shortfall in funding for modernization.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Under the conference agreement, the Secretary of Defense could place in the Defenses Modernization Account funds saved from achieving economies and efficiencies in: (1) investment programs; and (2) installation management (to the extent that unobligated balances in installation management are available during the last 30 days of the fiscal year). The conferees fully expect the Department to protect current readiness of the forces, particularly in regard to funds for budget activities one and two in the operation and maintenance appropriations accounts.

In order to encourages savings by the military departments and the Department of Defense, funds placed in the account would be reserved for use by the department or component that generated the savings. No funds could be made available from the account by the department of defense except through established reprogramming procedures. Reprogramming procedures could not be used to exceed the statutory funding authorization or statutory quantity ceiling applicable to a given program. The amount of funds that could be reprogrammed by the Department of Defense could not exceed $500.0 million in any one fiscal year.

Disbursing and certifying officials (sec. 913)

The House bill contained a provision (sec. 1004) that would provide for the designation and appointment of disbursing and certifying officials within the Department of Defense.

The Senate bill contained a similar provision (sec. 1002) that would authorize the designation and appointment of disbursing and certifying officials, and would grant relief from liability in certain specific circumstances. Relief from liability would be based on demonstrated accountability for the loss is determined and diligent efforts to collect money owed to the government has been made.

The House recedes.

Fisher House Trust Funds (sec. 914)

The Senate amendment contained a provision (sec. 742) that would establish trust funds on the books of the Treasury for Fisher Houses. The interest earned by these trust funds would be used for the administration, operation, and maintenance of Fisher Houses within the Army and Air Force.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Limitation on use of authority to pay for emergency and extraordinary expenses (sec. 915)

The House bill contained a provision (sec. 372) that would require the Secretary of Defense to submit to Congress a quarterly report of expenditures for emergency and extraordinary expenses. The provision would also require the Secretary of Defense to provide congressional notification prior to an obligation or expenditure of $1.0 million or more.

The Senate amendment included a provision (sec. 1005) that would require the Secretary of Defense to notify Congress five days prior to an obligation or expenditure of emergency and extraordinary expenses authority in excess of $500,000 and 15 days prior to an obligation or expenditure of $1.0 million. The provision would allow the Secretary of Defense to waive the time period required for notification prior to obligation or expenditure of funds if a determination were made that such prior notification would compromise national security objectives. In the event the Secretary uses the authority to waive notification for national security reasons, notification would be required 30 days after the expenditure of funds or on the date the activity is completed.

The House recedes with an amendment that would require the Secretary of Defense to notify the congressional defense committees five days in advance of obligation or expenditure of funds in excess of $500,000 or 15 days in advance of obligation or expenditure of funds in excess of $1.0 million. In the event the Secretary determines that prior notification of the obligation or expenditure of funds would compromise national security objectives, the provision would allow the Secretary to waive the waiting period. In the event a national security waiver is necessary, the Secretary shall immediately notify the congressional defense committees of the need to expend funds, and provide the chairman and ranking member, or their designees, with any relevant information, including the amount and purposes for the obligation or expenditure.

The conferees remain concerned about the use of Department of Defense funds for purposes that are more appropriately funded through the international affairs budget. The conferees urge the administration to refrain recommending the use of the Department of Defense emergency and extraordinary expenses authority for non-defense purposes. The conferees also caution the Department to exercise minimal and judicious use of the national security waiver.

LEGISLATIVE PROVISIONS NOT ADOPTED

Change in titles of certain Marine Corps general officer billets resulting from reorganization of the Headquarters, Marine Corps

The House bill contained a provision (sec. 904) that would change references in current law to reflect the reorganization of Headquarters, Marine Corps.

The Senate amendment contained no similar provision.

The House recedes.

Inclusion of Information Resources Management College in the National Defense University

The House bill contained a provision (sec. 905) that would authorize the Secretary of Defense to establish a personnel system for

the Information Resources Management College that is consistent with the personnel system for other institutions within the National Defense University.

The Senate amendment contained no similar provision.

The House recedes.

Employment of civilians at the Asia-Pacific Center for Security Studies

The House bill contained a provision (sec. 906) that would authorize the Secretary of Defense to establish a personnel system for the Asia-Pacific Center for Security Studies.

The Senate amendment contained no similar provision.

The House recedes.

Naval nuclear propulsion program

The House bill contained a provision (sec. 909) that would establish that no department or agency may regulate or direct any Propulsion Program unless otherwise permitted or specified by law. It contained a second provision (sec. 1032(m)) that would repeal section 1634 of the National Defense Authorization Act for Fiscal Year 1985 (Public Law 98–525, 42 U.S.C. 7158 note). Section 1634 stipulates that the provisions of Executive Order 12344, dated February 1, 1982, pertaining to the Naval Nuclear Propulsion Program, shall remain in force until changed by law.

The Senate amendment contained no similar provision.

The House recedes on both section 909 and section 1032(m).

Aviation testing consolidation

The House bill contained a provision (sec. 910) that would prevent the Secretary of the Army from consolidating the Aviation Technical Test Center, Fort Rucker, Alabama, with any other aviation testing facility until 60 days after the date on which a report was received.

The Senate amendment contained no similar provision.

The House recedes.

Office of Humanitarian and Refugee Affairs

The Senate amendment contained a provision (sec. 364) that would eliminate the Office of Humanitarian and Refugee Affairs within the Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.

The House bill contained no similar provision.

The Senate recedes.

TITLE X—GENERAL PROVISIONS

ITEMS OF SPECIAL INTEREST

Assistance to local educational agencies when installation housing is located on leased land

The conferees note that the Secretary of Education has declined to recognize military connected students as residing on Federal property if the government owned housing in which they reside is located on leased land. In one case, recognition of on-installation residency was denied even though the housing is located within the security perimeter of the installation and is managed in the same manner as government housing located on government owned land.

The conferees believe that, for purposes of assistance to local educational agencies, residents of government owned housing, located on land leased by the government and managed in the same manner as government housing on government owned land, shall be considered residents of federal property.

Authority to conduct personnel demonstration projects

The National Defense Authorization Act for Fiscal Year 1995 made permanent the authority of the Secretary of the Navy to continue personnel demonstration projects at the Naval Air Warfare Center Weapons Division, China Lake, California, and the Naval Command, Control, and Ocean Center, San Diego, California, and at successor organizations resulting from the reorganization of Naval Air Warfare Center Weapons Division or the Naval Command, Control, and Ocean Center. Additionally, the National Defense Authorization Act for Fiscal Year 1995 provided expanded authority for the Secretary of Defense to conduct personnel demonstration projects at Science and Technology Reinvention Laboratories.

The conferees are concerned about what appears to be a lack of real progress in this area over the past year. Therefore, the conferees direct the Department of Defense to report to the Senate Committee on Armed Services and the House Committee on National Security, not later than February 1, 1996, the extent to which these expanded authorities have been used in each of the military departments. As a minimum, this report should include those demonstration projects proposed by the military departments, the status of each such proposal, and the projected date for final action on each proposal.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Financial Matters

Transfer authority (sec. 1001)

The House bill contained a provision (sec. 1001) that would allow the Department of Defense to transfer up to $2.0 billion between accounts using normal reprogramming procedures.

The Senate amendment contained a similar provision (sec. 1001).

The House recedes.

Incorporation of classified annex (sec. 1002)

The House bill contained a provision (sec. 1002) that would incorporate by reference the classified annex to the bill. In addition, the provision would authorize the expenditure of funds made available for programs, projects, and activities referred to in the classified annex according to the terms, conditions, limitations, restrictions, and requirements of those programs, projects, and activities.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Improved funding mechanisms for unbudgeted operations (sec. 1003), Operation Provide Comfort (sec. 1004), and Operation Enhanced Southern Watch (sec. 1005)

The House Bill contained a provision (sec. 1003) that would establish a procedure for the funding of contingency operations out of accounts other than those which are normally known as operational readiness accounts. This provision would also require the President to budget for any operations that are ongoing in the first quarter of a fiscal year and are expected to continue into the next fiscal year. If the President were to fail to request the necessary funds in his annual budget, then funding for these operations would be denied at the start of the next fiscal year.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would include three separate provisions that would: (1) modify the funding mechanism proposed by the House for contingency operations; (2) authorize $503.8 million for Enhanced Southern Watch and require that semi-permanent elements of this operation be designated as forward presence operations; and (3) authorize $143.3 million for Provide Comfort and require the Secretary of Defense to provide a report on this operation. The authorization includes both military personnel and operations and maintenance funding.

The conferees have observed with concern, the continuing growth of the Department of Defense involvement in unbudgeted peacekeeping and humanitarian contingency operations that negatively impact upon military readiness. The Secretary of Defense initially estimated the unbudgeted fiscal year 1996 costs to the Department for ongoing operations in Iraq, Haiti and Bosnia to be $1.2 billion. This amount excludes the estimated $1.5 billion incremental cost of the proposed deployment of U.S. ground forces to Bosnia. Lacking the budgeted resources, the Department has resorted to the practice of financing the cost of these operations from the military services' operational readiness accounts. This practice has resulted in the cancellation or deferral of some training exercises, necessary equipment maintenance, and other routine activities that degrade the readiness of the force. Depending on what activities are foregone, this adverse impact could be significant.

In recognition of this problem, the Administration's fiscal year 1996 legislative proposal contained a request to grant the Secretary of Defense extraordinary authority to transfer funds between accounts. The conferees instead recommend a provision that would more fully address this matter by providing new funding mechanisms for unforeseen and unbudgeted contingency operations.

To address unforeseen and unbudgeted operations, the provision would revise existing provisions of law to require the Secretary of Defense to draw upon the Defense Business Operating Fund (DBOF) to provide much of the funding for these operations. In addition, the provision authorizes a targeted transfer authority of $200.0 million from non-readiness accounts. These accounts are intended to serve as interim funding mechanisms until Congress approves a supplemental appropriations package to replenish the DBOF cash balances or other accounts from which funds were transferred.

To address ongoing operations in southern Iraq, the conferees recommend a provision that would authorize $503.8 million for Enhanced Southern Watch during fiscal year 1996 and would require that before obligating more than $250 million of this amount, the Secretary of Defense shall provide the Congressional Defense Committees with a report designating any elements of Operation Enhanced Southern Watch that are semi-permanent in nature as forward presence operations that should be budgeted in the future in the same manner as other forward presence operations routinely budgeted as part of the annual defense budget. The conferees believe that the aftermath of the Persian Gulf War has fundamentally altered the security situation in the region in a manner that will require a significant U.S. presence for years to come.

To address the operation designated as Provide Comfort, the conferees recommend a provision that would authorize $143.3 million in fiscal year 1996. This provision would also require the Secretary of Defense to submit a report that details the expected fiscal year 1996 costs of that operation, and the missions and functions expected to be performed by the Department of Defense and other agencies of the Federal Government. In addition, this report should discuss the options related to reduction of the level of the military involvement in the operation, and include an exit strategy for the United States.

Finally, the conferees express the view that costs borne by the Department of Defense in conducting contingency operations in support of another agency's mission, such as humanitarian relief, law enforcement and

immigration control, should not be assessed against the defense budget topline. The conferees are concerned with the increasing cost of these operations at a time of declining defense budgets and the negative impact this has had upon military readiness. The conferees endorse the historical principle of maintaining a peacetime defense budget designed to adequately fund the activities of the Department of Defense to organize, train and equip military forces in a manner sufficient to meet national security requirements.

In addition, the conferees note that the five year defense program remains underfunded relative to the national security strategy and recommended military force structure. The negative impact of these shortfalls will grow in the years ahead and threaten our ability to maintain adequate levels of short and long-term readiness, including sorely needed equipment modernization. Therefore, the conferees believe that funding for contingency operations should be provided in addition to what would have otherwise been made available for the Department of Defense for its normal peacetime activities.

Unauthorized appropriations for fiscal year 1995 (sec. 1006)

The House bill contained a provision (sec. 1005) that would allow the Department of Defense to obligate funds for all fiscal year 1995 programs, projects, and activities for which the amount appropriated exceeded the amount authorized.

The Senate amendment contained no such provision.

The Senate recedes.

Authorization of prior year emergency supplemental appropriations for fiscal year 1995 (sec. 1007)

The House bill contained a provision (sec. 1006) that would authorize the emergency supplemental appropriations enacted in the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Public Law 104–6). This Act provided funding for fiscal year 1995 expenses related to military operations in Southwest Asia, Haiti, Cuba, Somalia, Bosnia, and Korea.

The Senate amendment contained a similar provision (sec. 1004).

The Senate recedes.

Authorization reductions to reflect savings from revised economic assumptions (sec. 1008)

The conferees agree to a provision that would reflect revised economic assumptions that were not available prior to the conference report.

Subtitle B—Naval Vessels and Shipyards

Iowa class battleships (sec. 1011)

In February 1995, the Secretary of the Navy made a decision to strike the Navy's four inactive *Iowa* class battleships from the naval register. The Senate amendment contained a provision (sec. 1011) that would direct the Secretary of the Navy to restore at least two *Iowa* class battleships to the naval register in an inactive status. The Secretary would be required to retain them on the register until he is prepared to certify that the Navy has within the fleet an operational surface fire support capability that equals or exceeds the fire support capability that the battleships could provide if returned to active service.

The Senate provision would recognize the fact that battleships could provide a surface fire support capability unmatched by any other Navy weapons system and that there is an ongoing concern regarding the Department of the Navy's apparent lack of commitment to provide for the surface fire support capability necessary for amphibious assaults. The ability of the Marine Corps and the Navy to conduct forcible entry by amphibious assault is an essential element of the Department of the Navy's strategic concept for littoral warfare.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees believe that the Department of the Navy's future years defense program, presented with the fiscal year 1996 budget, could not produce a replacement fire support capability comparable to the battleships until well into the next century. The conferees consider retention of two battleships in the fleet's strategic reserve a prudent measure.

Transfer of naval vessels to certain foreign countries (sec. 1012)

The Senate amendment included a provision (sec. 1012) that would authorize the Secretary of the Navy to transfer eight FFG–7 class guided missile frigates to various countries. Seven of the frigates would be transferred by grant, and one by lease.

The House bill contained no similar provision.

The House recedes with an amendment that would:

(1) reduce the number of grant transfers from seven to four, and the remaining frigates would be transferred by lease or sale;

(2) require that, as a condition of the transfer of the eight frigates, any repair or refurbishment needed before the transfer, be performed at a shipyard located in the United States;

(3) amend section 2763 of title 22, United States Code, to permit foreign countries to use foreign assistance funds to lease vessels; and

(4) amend section 2321j of title 22, United States Code, to prohibit future grant transfers of any vessel that is in excess of 3,000 tons or that is less than 20 years old.

The conferees are aware that in some cases U.S. national security will be best served by a grant transfer, particularly when the recipient is an important coalition defense partner that is making valuable contributions to U.S. security or lacks the resources to obtain a vessel by lease or sale. Accordingly, the amendment to section 2321j would permit the President to request a future grant transfer if it is determined that it is in the national security interest of the United States.

Contract options for LMSR vessels (sec. 1013)

The House bill contained a provision (sec. 1021) that would recommend that the Secretary of the Navy negotiate a contract option price for a seventh large medium speed roll-on/roll-off (LMSR) strategic sealift ship at each of the two shipyards that currently have construction contracts.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify that the provision would not preclude the Secretary of the Navy from competing these two contract options between the two shipyards that currently have construction contracts.

National Defense Reserve Fleet (sec. 1014)

The Senate amendment contained a provision (sec. 381) that would permit the use of the National Defense Sealift Fund (NDSF) to budget for expenses of the national defense reserve fleet (NDRF). Beginning with the fiscal year 1996 request, funds for NDRF expenses would be included in the NDSF budget request within budget function 051.

The House bill contained no similar provision.

The House recedes with an amendment that would:

(1) clarify that NDRF vessels would not require retrofit to a double hull configuration as a consequence of this change in budgeting procedure;

(2) clarify that NDSF funds shall not be used for the acquisition of ships for the NDRF that are built in foreign shipyards; and

(3) permit the use of NDSF funds to complete the modifications needed to prepare two roll-on/roll-off ships that were purchased in fiscal year 1995 for incorporation into the ready reserve force of the NDRF.

The conferees intend that the Department of Defense seek and obtain specific legislative authorization prior to obligating and expending any funds for the acquisition of any vessels for the NDRF.

The conferees are aware of the importance of strategic sealift to national security. The conferees will revisit the prohibition on procurement of ships built in foreign shipyards but will only do so when the Department has established and funded a national defense features program, and they have had an opportunity to evaluate its effectiveness as an alternative source of strategic sealift.

Naval salvage facilities (sec. 1015)

The Senate amendment contained a provision (sec. 805) that would consolidate all sections in chapter 637 of title 10, United States Code, relating to naval salvage facilities.

The House bill contained no similar provision.

The House recedes with an amendment.

Vessels subject to repair under phased maintenance contracts (sec. 1016)

The House bill contained a provision (sec. 1022) that would require the Secretary of the Navy to ensure that vessels or classes of vessels, covered by phased maintenance contracts while in active Navy service, would continue to be covered by those contracts after being transferred to other operating commands, such as the Military Sealift Command.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would restrict this requirement to type AE ships covered by phased maintenance contracts as of the date of enactment of the National Defense Authorization Act for Fiscal Year 1996.

Clarification of requirements relating to repairs of vessels (sec. 1017)

Section 7310 of title 10, United States Code, places limits on the type of repairs that can be performed by foreign shipyards on Navy ships that are homeported in the United States. The House bill contained a provision (sec. 1023) that would amend section 7310 by designating Guam a United States homeport for purposes of that section.

The Senate recedes.

Naming amphibious ships (sec. 1018)

The Senate amendment contained a provision (sec. 1013) that would make the following findings:

(1) this is the fiftieth anniversary of the battle of Iwo Jima, one of the greatest victories in the Marine Corps' illustrious history;

(2) the Navy has recently retired the ship that honored that battle, U.S.S. *Iwo Jima* (LPH–2), the first ship in a class of amphibious assault ships;

(3) this Act authorizes the LHD–7, the final ship of the *Wasp* class of amphibious assault ships, to replace the *Iwo Jima* class of ships;

(4) the Navy is planning to start building a new class of amphibious transport docks, now called the LPD–17 class, and this Act also authorizes funds that will lead to procurement of these vessels;

(5) there has been some confusion in the rationale behind naming new naval vessels, with traditional naming conventions frequently violated; and

(6) although there have been good and sufficient reasons to depart from naming conventions in the past, the rationale for such departures has not always been clear.

The Senate amendment would also express the sense of the Senate that:

(1) the LHD–7, authorized in the Senate amendment, should be named the U.S.S. *Iwo Jima*; and

(2) the ships of the LPD–17 class amphibious ships should be named after a Marine Corps battle or a member of the Marine Corps.

The House bill contained no similar provision.

The House recedes with an amendment. The conferees agree to endorse the sense of the Senate expressed as a sense of Congress.

Naming of naval vessel (sec. 1019)

The House bill contained a provision (sec. 1024) that would express the sense of Congress that the Secretary of the Navy should name an appropriate naval vessel the U.S.S. Joseph Vittori.

The Senate amendment contained no similar provision.

The Senate recedes.

Transfer of riverine patrol craft (sec. 1020)

The House bill contained a provision (sec. 1025) that would authorize the Secretary of the Navy to transfer one *Swift* class riverine patrol craft to the Tidewater Community College, Portsmouth, Virginia, for scientific and educational purposes.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle C—Counter-Drug Activities

Counter-drug activities

The budget request for drug interdiction and counter-drug activities totals $680.4 million, plus $131.5 million for operational tempo which is included within the operating budgets of the military services.

Both the House bill and the Senate amendment would authorize the budget request of $680.4 million, with marginal differences in the allocation of these funds.

Both the House bill and the Senate amendment would delete funding for the Community Outreach Programs ($8.2 million). In addition, the Senate amendment included a provision (sec. 1022) that would prohibit continued Department of Defense (DOD) funding of the National Drug Intelligence Center (NDIC) ($34.0 million).

The House bill would authorize increased funding for the Tethered Aerostat Radar System ($1.5 million), Counterdrug Analysis ($1.2 million), Southcom Radars ($1.5 million), Special Operations Forces (SOF) Counterdrug Support ($2.5 million), and CARIBROC Communications ($1.5 million).

The Senate amendment would authorize an increase in funding for procurement of non-intrusive inspection devices for the Customs Service ($25.0 million), Source Nation Support Initiatives ($15.2 million) and the Gulf States Counterdrug Initiative ($2.0 million).

The conferees agree to delete DOD funding for the Community Outreach Programs and to reduce funding for the National Drug Intelligence Center to $20.0 million. The conferees also agree to an undistributed reduction of $12.3 million. Offsets to comply with the undistributed reduction may not be taken from items where increases have been provided.

The conferees agree to authorize additional funding for Law Enforcement Agency Support, with a $4.0 million increase to expand the intelligence activities of the Gulf States Coast Initiative and a $2.5 million increase for the Southwest Border States Information System. The conferees support continued DOD assistance for the Southwest Border States Anti-Drug Information System and urge the Secretary of Defense to continue to monitor and support this system through completion of the current program.

The conferees further agree to authorize an additional increase of $28.0 million for other Law Enforcement Agency Support. The conferees urge the Secretary of Defense, through normal reprogramming procedures, to use up to $25.0 million of these funds to procure low-energy/backscatter x-ray equipment for use as non-intrusive inspection devices. The conferees are aware that 70 percent of the illegal drugs that enter the United States come, primarily by air, into Mexico and then across the southwest border by truck and automobile. The conferees believe that the fielding of non-intrusive inspection devices at the southwest border would significantly contribute to the fight against illegal drug trafficking across the United States-Mexican border. The conferees also urge the Secretary of Defense, through normal reprogramming procedures, to consider using available funds for improvements and extension of the existing fence along the San Diego Border Patrol Sector.

Allocation of funds for counterdrug activities are indicated below:

Drug interdiction and counterdrug activities, operations and maintenance

	Thousands
Fiscal year 1996 drug and counterdrug request	$680,400
Source nation support	127,300
Dismantling cartels	64,300
Detection and monitoring	111,700
Law enforcement agency support	279,300
Demand reduction	97,800
Reductions:	
Community outreach programs	8,236
National Drug Intelligence Center	14,000
Undistributed reduction	12,264
Increases, law enforcement agency support:	
Gulf States counterdrug initiative	4,000
Southwest border States information system	2,500
Other (non-intrusive inspection devices, Southwest border fence)	28,000
Total	680,400

Revision and clarification of authority for Federal support of drug interdiction and counter-drug activities of the National Guard (sec. 1021)

The Senate amendment contained a provision (sec. 1021) that would revise and clarify authority for federal support of drug interdiction and counter-drug activities of the National Guard.

The House bill contained no similar provision.

The House recedes with an amendment which would further clarify the legal status of National Guard personnel participating in these programs.

National Drug Intelligence Center (sec. 1022)

The Senate amendment included a provision (sec. 1022) that would prohibit further Department of Defense (DOD) funding of the National Drug Intelligence Center (NDIC), but would allow the Secretary of Defense to continue to provide DOD intelligence personnel to support intelligence activities at NDIC, as long as the number of personnel provided by DOD does not exceed the number used to support intelligence activities at NDIC as of the date of enactment of this bill.

The House bill contained no similar provision.

The House recedes.

Subtitle D—Civilian Personnel

Management of Department of Defense civilian personnel (sec. 1031)

The House bill contained a provision (sec. 331) that would prohibit the use of full-time equivalent personnel ceilings in the management of the Department of Defense's civilian workforce.

The Senate amendment contained a similar provision (sec. 332).

The Senate recedes with a clarifying amendment.

The conferees direct the Secretary of Defense to report to the Senate Committee on Armed Services and the House Committee on National Security by February 15, 1996, on plans to manage civilian personnel in consideration of this provision.

Conversion of military positions to civilian positions (sec. 1032)

The House bill contained a provision (sec. 333) that would require the Secretary of Defense to convert not less than 10,000 military positions to performance by civilian employees of the Department of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would permit the conversion to be phased over two fiscal years.

Elimination of 120-day limitation on details of certain employees (sec. 1033)

The Senate amendment contained a provision (sec. 338) that would amend section 3341 of title 5, United States Code, to eliminate the requirement that the administration of details for civilian employees be managed in 120-day increments.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Authority of civilian employees of the Department of Defense to participate voluntarily in reductions in force (sec. 1034)

The Senate amendment contained a provision (sec. 340) that would allow employees who are not affected by a reduction-in-force (RIF) to volunteer to be RIF separated in place of other employees who are scheduled for RIF separation.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Authority to pay severance payments in lump sums (sec. 1035)

The Senate amendment contained a provision (sec. 341) that would amend section 5595 of title 5, United States Code, to permit the lump-sum payment of severance pay.

The House bill contained no similar provision.

The House recedes.

Continued health insurance coverage (sec. 1036)

The House bill contained a provision (sec. 337) that would extend continued health insurance coverage for certain employees affected by a force reduction or a base realignment and closure action.

The Senate amendment contained a similar provision (sec. 337).

The Senate recedes.

Revision of authority for appointments of involuntarily separated military reserve technicians (sec. 1037)

The Senate amendment contained a provision (sec. 336) that would amend section 3329 of title 5, United States Code, to eliminate

the requirement regarding separated technicians.

The House bill amendment contained no similar provision.

The House recedes.

Wearing of uniform by National Guard technicians (sec. 1038)

The Senate amendment contained a provision (sec. 333) that would require military technicians to wear military uniforms in their jobs. The provision would also place technician officers on the same footing as Active Guard and Reserve officers for purposes of qualifying for a uniform allowance.

The House bill contained no similar provision.

The House recedes.

Military leave for military reserve technicians for certain duty overseas (sec. 1039)

The House bill contained a provision (sec. 512) that would authorize military technicians an additional 44 workdays of leave, without loss of pay and other benefits, for periods the technician would serve on active duty, without pay, while in support of noncombat operations outside the United States.

The Senate amendment contained no similar provision.

The Senate recedes.

Personnel actions involving employees of nonappropriated fund instrumentalities (sec. 1040)

The House bill contained a provision (sec. 334) that would clarify the definition of nonappropriated fund instrumentality employees and permit the direct reporting of violations by nonappropriated fund employees to the Department of Defense Inspector General.

The Senate amendment contained no similar provision.

The Senate recedes.

Coverage of nonappropriated fund employees under authority for flexible and compressed work schedules (sec. 1041)

The House bill contained a provision (sec. 336) that would provide the same overtime exemption for nonappropriated fund employees as applies to other civilian employees of the Department of Defense.

The Senate amendment contained a similar provision (sec. 343).

The House recedes.

Limitation on provision of overseas living quarters allowances for nonappropriated fund instrumentality employees (sec. 1042)

The House bill contained a provision (sec. 335) that would, as of September 30, 1997, conform the allowance for overseas living quarters for nonappropriated fund employees to that provided for civilian employees of the Department of Defense paid from appropriate funds.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Elections relating to retirement coverage (sec. 1043)

The House bill contained a provision (sec. 338) that would increase the number of employees eligible to transfer between nonappropriated fund and appropriated fund morale, welfare, recreation programs without significant loss of benefits.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide for portability of retirement benefits by allowing: (1) election by employees of the nonappropriated fund or the Federal Employees Retirement System; (2) credit for years of service either as a nonappropriated fund employee or a civil service employee; (3) government-wide eligibility; and (4) creditability of nonappropriated fund service for reduction-in-force purposes.

Extension of temporary authority to pay civilian employees with respect to the evacuation from Guantanamo, Cuba (sec. 1044)

The Senate amendment contained a provision (sec. 334) that would extend the authorization for the Navy to continue to pay evacuation allowances until January 31, 1996 to civilian employees whose dependents were evacuated from Guantanamo, Cuba, in August and September 1994. The provision would also require a monthly report which would include the actions that the Secretary of the Navy is taking to eliminate the conditions making the payments necessary.

The House bill contained no similar provision.

The House recedes.

Subtitle E—Miscellaneous Reporting Requirements

Report on budget submission regarding reserve components (sec. 1051)

The Senate amendment contained a provision (sec. 1007) that would require the Secretary of Defense to submit a report that describes measures taken within the Department of Defense to ensure that the reserve components are appropriately funded, and, for fiscal year 1997, lists the major weapons and items of equipment, as well as, the military construction projects provided for the National Guard and Reserves.

The House bill included no similar provision.

The House recedes with an amendment.

The conferees agree to a provision that would require the report included in the original Senate provision, and would require the Secretary of Defense to display in all future-years defense programs the amounts requested for procurement of equipment and military construction for each of the reserve components.

Report on desirability and feasibility of providing authority for use of funds derived from recovered losses resulting from contractor fraud (sec. 1052)

The Senate amendment contained a provision (sec. 382) that would allow the secretary of a military department to receive an allocation from funds recovered in contractor fraud cases, for use by installations that carried out or supported investigations or litigation involving contractor fraud.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to report on the desirability and feasibility of authorizing the retention and use of a portion of such recovered amounts.

Review of national policy on protecting the national information infrastructure against strategic attack (sec. 1053)

The Senate amendment contained a provision (sec. 1097) that would require the President to submit a report that would set forth the national policy and architecture governing plans to protect the national information infrastructure against strategic attack.

The House bill contained no similar provision.

The House recedes.

The conferees intend that the President rely, to the maximum extent practicable, on the executive agent for the national communications system in the preparation and submission of the report.

Report on Department of Defense boards and commissions (see 1054)

The Senate amendment contained a provision (sec. 1084) that would require the Department of Defense to prepare a report listing certain boards and commissions. The Department would be required to indicate whether each board or commission merits continued support.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Change in reporting date (sec. 1055)

The Senate amendment contained a provision in its classified annex that would change the date that the Department of Defense is required to submit annually its budget materials for Special Access Programs, from February 1 to March 1.

The House bill contained no similar provision.

The House recedes.

Subtitle F—Repeal of Certain Reporting and Other Requirements and Authorities

Miscellaneous provisions of law (sec. 1061)

The House bill contained a provision (sec. 1032) that would repeal numerous provisions of law that have expired or are obsolete, or that were inconsistent with other provisions recommended by the House.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would retain portions of the suggested deletions.

Reports required by Title 10, United States Code (sec. 1062)

The Senate amendment contained seven provisions (secs. 1071–1077) that would delete a total of 67 reports currently required of the Department of Defense.

The House bill contained no similar provision.

The House recedes with an amendment that would retain several of the reporting requirements.

Subtitle G—Department of Defense Education Programs

Continuation of the Uniformed Services University of the Health Sciences (sec. 1071)

The House bill contained a provision (sec. 907) that would require the Secretary of Defense to budget for ongoing operations at the Uniformed Services University of the Health Sciences.

The Senate amendment contained a similar provision (sec. 1031) that would reaffirm the prohibition of the closure of the University, and establish minimum staffing levels.

The House recedes with a clarifying amendment.

Additional graduate schools and programs at the Uniformed Services University of the Health Sciences (sec. 1072)

The Senate amendment contained a provision (sec. 1032) that would authorize additional graduate schools and programs at the Uniformed Services University of the Health Sciences. This provision would permit the Board of Regents to establish a graduate school of nursing at the University.

The House bill contained no similar provision.

The House recedes.

Funding for adult education programs for military personnel and dependents outside the United States (sec. 1073)

The Senate amendment contained a provision (sec. 1033) that would authorize appropriations for the military continuing education programs of the armed services, and for adult members of military families stationed or residing outside the United States.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Assistance to local educational agencies that benefit dependents of members of the armed forces and Department of Defense civilian employees (sec. 1074)

The House bill contained a provision (sec. 394) that would authorize the appropriation of $58.0 million for assistance to local educational agencies in areas where there is an impact to school systems caused by dependents of members of the armed forces and Department of Defense (DOD) civilians.

The Senate amendment contained a provision (sec. 387) that would prohibit the Secretary of Education from considering payments to a local educational agency from DOD funds when determining the amount of impact aid to be paid from Department of Education funds. Additionally, the recommended provision would make technical changes to the previous year authorizations of impact aid.

The conferees agree to combine and clarify the two provisions and to change the authorized funding to $35.0 million.

Sharing of personnel of Department of Defense domestic dependent schools and defense dependents' education system (sec. 1075)

The Senate amendment contained a provision (sec. 335) that would authorize the Secretary of Defense to direct the sharing of personnel resources between the Department of Defense Overseas School System and the Defense Dependents' Education System, and to provide other support services to either system, for a period to be prescribed by the Secretary.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Increase in reserve component Montgomery GI Bill educational assistance allowance with respect to skills or specialties for which there is a critical shortage of personnel (sec. 1076)

The House bill contained a provision (sec. 553) that would authorize increased rates of educational assistance allowance for reserve members with specialties or skills in which there are critical shortages.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would expand the authority to include certain former active duty personnel with critical specialties or skills who become members of a selected reserve unit.

Date for annual report on reserve component Montgomery GI Bill educational assistance program (sec. 1077)

The Senate amendment contained a provision (sec. 1035) that would change the date on which the annual report on selected reserve educational assistance program is due to the Congress, from December 15 to March 1 of each year.

The House bill contained no similar provision.

The House recedes.

Scope of the education programs of Community College of the Air Force (sec. 1078)

The Senate amendment contained a provision (sec. 1034) that would amend section 9315 of title 10, United States Code, to limit the scope of the Community College of the Air Force (CCAF) to Air Force personnel.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees do not consider expanding the CCAF as an appropriate means of establishing a defense-wide community college. If the Secretary of Defense believes that establishment of a defense-wide community college is appropriate, he should forward such a recommendation, complete with justification, to the Congress.

Amendments to education loan repayment programs (sec. 1079)

The House bill contained a provision (sec. 554) that would authorize the repayment of loans that were made under the William D. Ford Federal Direct Loan Program.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle H—Other Matters

Termination and modification of authorities regarding national defense technology and industrial base, defense reinvestment, and defense conversion programs (sec. 1081)

The House bill contained a provision (sec. 1031) that would repeal portions of chapter 148 of title 10, United States Code, that would establish authorities similar to those provided elsewhere in law.

The Senate amendment contained a similar provision (sec. 221).

The conferees agree to a provision that would adopt both House and Senate provisions, with an amendment. The conferees have included a provision that would repeal subsection 2501 (b) and sections 2512, 2513, 2516, 2520, 2521, 2522, 2523, and 2524 of title 10, United States Code. The provision would also amend section 2525 of title 10, United States Code, by adding a series of guidelines to the requirement for the preparation of the manufacturing science and technology master plan. Finally, the conferees have included language that would modify the defense dual-use critical technology program authorized by section 2511 of title 10, United States Code. In using the authority under this section, the conferees expect the Secretary of Defense to give equal consideration to the development of both product and process technologies.

Ammunition industrial base (sec. 1082)

The Senate amendment contained a provision (sec. 823) that would require the Secretary of Defense to review ammunition procurement and management programs and report the findings to the congressional defense committees by April 1, 1996.

The House bill contained no similar provision.

The House recedes.

Policy concerning excess defense industrial capacity (sec. 1083)

The House bill contained a provision (sec. 1033) that would prohibit the use of appropriated funds for capital investment in, or the development and construction of, a government-owned, government-operated defense industrial facility unless the Secretary of Defense certifies to Congress that no similar capability or minimally used capability exists in another similar facility.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

Sense of Congress concerning access to secondary school student information for recruiting purposes (sec. 1084)

The Senate amendment contained a provision (sec. 1091) that would express the sense of the Senate that educational institutions, including secondary schools, should not deny military recruiters the same access to their campuses and directory information that is allowed other employers.

The House bill contained no similar provision.

The House recedes with an amendment expressing the sense of Congress.

Disclosure of information concerning unaccounted for United States personnel from the Korean Conflict, the Vietnam Era and the Cold War (sec. 1085)

The conference agreement includes a provision that would modify section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190) to change the criteria under which limitations to disclosure of information concerning United States personnel classified as prisoner of war or missing in action during the Vietnam conflict would not apply and to change the date by which a report is required to be delivered to the Congress.

Operational support airlift aircraft fleet (sec. 1086)

The Senate amendment contained a provision (sec. 1099E) that would require the Secretary of Defense to submit a Joint Chiefs of Staff report on operational support aircraft (OSA) to the congressional defense committees, and to reduce the flying hours of such aircraft in fiscal year 1996.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary to examine central scheduling and management of such aircraft in the report.

The conferees believe that the review of OSA operations should focus on savings and scheduling rationalization. The conferees believe that the Department of Defense can achieve efficiencies by revamping the current OSA program, and have included a reduction in OSA flying hours for fiscal year 1996 in this provision.

While prior studies of OSA organization have recommended realigning OSA management, the conferees refrain from directing the Department to make specific organizational changes at this time.

Civil Reserve Air Fleet (sec. 1087)

The House bill contained a provision (sec. 387) that would clarify the conditions under which a contractor under the Civil Reserve Air Fleet program is required to commit aircraft for use by the Department of Defense.

The Senate amendment contained a similar provision (sec. 814).

The House recedes.

Damage or loss to personal property due to emergency evacuation or extraordinary circumstances (sec. 1088)

The Senate amendment contained a provision (sec. 1087) that would provide for an increased level of reimbursement for claims that arise from emergency evacuations or extraordinary circumstances. The new limits would be retroactive to June 1, 1991.

The House contained no similar provision.

The House recedes with an amendment that would provide for retroactive application of the increased level of reimbursement when certain conditions are met.

Authority to suspend or terminate collection actions against deceased members (sec. 1089)

The Senate amendment contained a provision (sec. 1086) that would amend section 3711 of title 31, United States Code, to authorize the Secretary of Defense to suspend or terminate collection action against the estates of service members who die on active duty while indebted to the government.

The House bill contained no similar provision.

The House recedes.

Check cashing and exchange transactions for dependents of United States Government personnel (sec. 1090)

The Senate amendment contained a provision (sec. 1088) that would authorize United States disbursing personnel to extend check-cashing and currency exchange services to

the dependents of military and civilian personnel at government installations that do not have adequate banking facilities.

The House bill contained no similar provision.

The House recedes with a technical amendment.

National Maritime Center (sec. 1091)

The Senate amendment contained a provision (sec. 1099D) that would designate the Nauticus building, located at one Waterside Drive, Norfolk, Virginia, as the National Maritime Center.

The House bill contained no similar provision.

The House recedes.

Sense of Congress regarding historic preservation of Midway Islands (sec. 1092)

The Senate amendment contained a provision (sec. 1099b) that would express the sense of the Senate that Midway Island be memorialized and the historic structures relating to the Battle of Midway be maintained in accordance with the National Historic Preservation Act.

The House bill contained no similar provision.

The House recedes with an amendment that would make the provision a Sense of the Congress.

Sense of the Senate regarding federal spending (sec. 1093)

The Senate amendment contained a provision (sec. 1095) that would express a sense of the Senate regarding federal spending.

The House bill contained no similar provision.

The House recedes.

Extension of authority for vessel war risk insurance (sec. 1094)

The conferees agree to a new provision that would amend section 1214 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1294) to extend the Secretary of Transportation's authority to provide insurance against loss or damage as a result of marine war risks from June 30, 1995 to June 30, 2000. The conferees acknowledge the cooperation of the Committee on Commerce, Science, and Transportation of the Senate, the committee of jurisdiction in the Senate, for permitting inclusion of this important authority in the National Defense Authorization Act for Fiscal Year 1996.

LEGISLATIVE PROVISIONS NOT ADOPTED

Application of Buy America Act principles

The House bill contained a provision (sec. 1035) that would apply Buy American principles to reciprocal defense procurement memoranda of understanding with other countries.

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that section 849 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) contains identical language that is the operative law in this area.

Repeal of requirements for part-time career opportunity employment reports

The Senate amendment contained a provision (sec. 339) that would eliminate the requirement in section 3407 of title 5, United States Code, that agencies provide progress reports on the part-time career employment program.

The House bill contained no similar provision.

The Senate recedes.

Holidays for employees whose basic work week is other than Monday through Friday

The Senate amendment contained a provision (sec. 342) that would amend section 6103(b)(2) of title 5, United States Code, to authorize agencies some discretion in designating holidays for employees whose basic work week is other than Monday through Friday.

The House bill contained no similar provision.

The Senate recedes.

Assistance to Customs Service

The Senate amendment included a provision (sec. 1023) that would authorize the Department of Defense to procure or transfer funds to the Customs service for procurement of non-intrusive inspection devices for use at the ports of entry on the southwest border of the United States.

The House bill contained no similar provision.

The Senate recedes. The conferees agree, as stated elsewhere in this statement of managers, to urge the Secretary of Defense to procure non-intrusive inspection devices with funds available through reprogramming procedures.

Establishment of Junior ROTC units in Indian reservation schools

The Senate amendment contained a provision (sec. 1036) that would express the Sense of the Congress that secondary schools on Indian reservations be afforded full opportunity to be selected as locations for establishing new Junior Reserve Officers' Training Corps units.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree that current law affords full opportunity for secondary schools on Indian reservations to be selected as locations for establishing new Junior Reserve Officers' Training Corps units.

Defense cooperation between the United States and Israel

The Senate amendment contained a provision (sec. 1055) that would express the Sense of Congress for continued cooperation between the United States and Israel in military and technical areas.

The House bill contained no similar provision.

The Senate recedes. The conferees note that a provision virtually identical to that contained in the Senate amendment exists in the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337). The conferees recognize the numerous benefits to the United States resulting from our strategic relationship with Israel. The conferees strongly commend the United States' continuing commitment to maintaining Israel's qualitative edge over any combination of adversaries. Despite the great progress made in the Middle East peace process, Israel continues to face an unstable and highly dangerous environment, compounded by the proliferation of weapons of mass destruction and ballistic missiles.

International military education and training

The Senate amendment contained a provision (sec. 1058) that would, subject to the provisions of the Foreign Assistance Act of 1961, grant discretionary authority to the Secretary of Defense to provide up to $20.0 million for the provision of international military education and training (IMET) for countries allied and friendly with the United States.

The House bill contained no similar provision.

The Senate recedes.

The conferees strongly support Department of Defense funding for and management of the IMET program. IMET is a unique military program that fosters military-to-military relationships and contributes to greater inter-operability and coalition-building with the military organizations of allied and friendly nations. IMET has suffered in recent years from being part of the State Department's budget which has become increasingly unpopular with the American public and their elected representatives. The conferees are pleased to note, however, that the Foreign Operations Appropriations Conference Report for Fiscal Year 1996 fully funds the administration's IMET request.

The conferees intend to address this matter next year with a view towards transferring budgetary and execution responsibility for IMET to the Department of Defense. Accordingly, the conferees encourage the Secretary of Defense and the Secretary of State to work out a process for such a transfer to ensure smooth and effective functioning with robust future funding.

Sense of the Senate on protection of United States from ballistic missile attack

The Senate amendment contained a provision (sec. 1062) that would express the Sense of the Senate that all Americans should be protected from accidental, intentional, or limited ballistic missile attack, and that front line troops of the United States should be protected from missile attacks. The Senate provision would also provide funding for the Corps surface-to-air missile (SAM) program.

The House bill contained no similar provision.

The Senate recedes. Although the conferees fully support the views expressed in the Senate provision, they believe that such views are adequately represented elsewhere in the conference report. The conferees also address the Corps SAM issue elsewhere in the conference report.

Travel of disabled veterans on military aircraft

The Senate amendment contained a provision (sec. 1089) that would permit veterans eligible for compensation for a service-connected disability the same entitlement to space-available transportation as retired members of the Armed Forces.

The House bill contained no similar provision.

The Senate recedes.

The conferees note the unreliable nature of space-available flight, and that such flights would normally involve cargo-type aircraft, which are not equipped for handicapped access, seating and care. The conferees agree that concerns for the safety of disabled veterans were overriding in this decision.

Transportation of crippled children in the Pacific Rim region to Hawaii for medical care

The Senate amendment contained a provision (sec. 1090) that would authorize the Secretary of Defense to permit space-available transportation of crippled children in the Pacific Rim region to Hawaii for medical care in non-military medical facilities.

The House bill contained no similar provision.

The Senate recedes.

The conferees direct the Secretary of Defense to conduct a study, consulting with the Shriners Hospitals in the Pacific region, to determine the viability and potential liabilities of such a program. The report should be provided to the Senate Committee on Armed Services and the House Committee on National Security not later than May 1, 1996.

Sense of Senate regarding Ethics Committee investigations

The Senate amendment contained a provision (sec. 1094) expressing the Sense of the Senate concerning proceedings before the Senate Ethics Committee with respect to Senator Packwood.

The House bill contained no similar provision.

The Senate recedes.

TITLE XI—UNIFORM CODE OF MILITARY JUSTICE

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

References to Uniform Code of Military Justice (sec. 1102)

The House bill contained a provision (sec. 541) that would clarify references to the Uniform Code of Military Justice in the bill.

The Senate amendment contained an identical provision (sec. 521).

The conference agreement includes this provision.

Subtitle A—Offenses

Refusal to testify before courts-martial (sec. 1111)

The Senate amendment contained a provision (sec. 524) that would provide Federal District Courts the same power to punish individuals who fail to appear at courts-martial as they currently have to punish individuals who do not appear in civilian cases.

The House bill contained no similar provision.

The House recedes.

Flight from apprehension (sec. 1112)

The House bill contained a provision (sec. 544) that would make it clear that the offense of ''resisting apprehension'' under Article 95 of the Uniform Code of Military Justice includes flight from apprehension.

The Senate amendment contained an identical provision (sec. 531).

The conference agreement includes this provision.

Carnal knowledge (sec. 1113)

The Senate amendment contained a provision (sec. 532) that would amend Article 120(b) of the Uniform Code of Military Justice (10 U.S.C. 920 (b)) by making the crime of carnal knowledge gender neutral, bringing Article 120 into conformance with the Sexual Abuse Act of 1986. The provision also would add an affirmative defense of mistake of fact to conform Article 120 to federal civilian law (18 U.S.C. 2243).

The House bill contained a similar provision (sec. 545).

The House recedes.

Subtitle B—Sentences

Effective date for forfeitures of pay and allowances and reductions in grade by sentence of court-martial (secs. 1121 and 1122)

The Senate amendment contained provisions (secs. 526(a) and 526(b)) that would require those portions of a court-martial sentence extending to forfeiture of pay and allowances or reduction in grade to be effective 14 days after the date the sentence is adjudged or upon approval by the convening authority, whichever occurs earlier. The amendment would also require that sentences containing a punitive discharge, death, or more than 6 months confinement, result in total forfeitures of pay and allowances. If an accused were to make application to the convening authority, the forfeitures of pay and allowances, or reduction in grade or both could be deferred until the date on which the sentence is approved. Also under this provision, when convening authorities take action on sentences, any or all of the forfeitures of pay and allowances to be forfeited could be used to provide transitional compensation for the dependents of the accused.

The House bill contained a similar provision (sec. 542).

The House recedes with an amendment which would apply the automatic forfeitures to a sentence of death, punitive discharge, or confinement in excess of six months. The forfeiture in the case of a special court-martial would be limited to two-thirds of the pay due, which is the maximum punishment limitation of a special court-martial.

Deferment of confinement (sec. 1123)

The Senate amendment contained a provision (sec. 527) that would allow for the deferment of confinement adjudged by courts-martial in two situations beyond those authorized under current law. One would permit deferment of confinement while the case is being reviewed by the United States Court of Appeals for the Armed Forces under Article 67(a)(2). The other circumstance that would lead to deferment concerns individuals who are serving civilian confinement while they have a sentence pending that has been adjudged by a court-martial. The Senate amendment would defer the running of the court-martial sentence until completion of the civilian sentence, if the convening authority so directs.

The House bill contained no similar amendment.

The House recedes.

Subtitle C—Pretrial and Post-Trial Actions

Article 32 investigations (sec. 1131)

The Senate amendment contained a provision (sec. 523) that would revise the procedures for authorizing investigation of misconduct uncovered during a pretrial investigation under Article 32 of the Uniform Code of Military Justice.

The House bill contained no similar provision.

The House recedes. Under Article 32 of the Uniform Code of Military Justice, a formal pretrial investigation is conducted when a court-martial convening authority refers charges to an Article 32 investigating officer. Under current law, if the Article 32 officer uncovers evidence of additional misconduct in the course of the investigation, the information must be provided to the convening authority and then referred back to the Article 32 officer before it can be investigated by the Article 32 investigating officer.

The conferees agree that current law should be changed to permit the investigating officer to investigate new misconduct uncovered during the Article 32 investigation without requiring further administrative action by the convening authority. This change should reduce the time, delay, and administrative burden associated with obtaining the convening authority's approval for investigation of additional misconduct. The conferees emphasize, however, that the additional misconduct may not be investigated under Article 32 unless the accused is afforded the same rights as under current law with respect to investigation of the charges, presentation of evidence in defense or mitigation, and cross-examination as apply to the charges that were the basis of the Article 32 investigation.

Submission of matters to the convening authority for consideration (sec. 1132)

The Senate amendment contained a provision (sec. 528) that would require all post-trial material submitted to the convening authority by the accused to be in writing. Current law does not specify the medium for such submissions.

The House bill contained no similar provision.

The House recedes. The conferees agree that the intent of this section is not to restrict the accused's communications with the convening authority, but to ensure that formal submissions under Article 60(b) are made through a standard medium. The convening authority, in his or her discretion, may take into consideration other communications by the accused, such as a personal appearance or a videotape. The convening authority, however, is not required to review such other matters under Article 60, and a convening authority's decision to refuse consideration of matters other than written submissions is not subject to review. The conferees direct the Secretary of Defense to ensure that the explanatory ''Discussion'' accompanying the Manual for Courts-Martial reflect that this amendment does not restrict the ability of the convening authority to consider communications from the accused that are not written submissions.

Commitment of accused to treatment facility by reason of lack of mental capacity or mental responsibility (sec. 1133)

The Senate amendment contained a provision (sec. 525) that would establish procedures for handling individuals who are mentally incompetent to stand trial or found not guilty by reason of lack of mental responsibility.

The House bill contained no similar provision.

The House recedes.

This provision is in no way intended to conflict with Rule 706 of the Rules for Courts-Martial. To the extent that there is a provisions overlap, section 706 should be reviewed to make certain that it conforms with the new provision.

Subtitle D—Appellate Matters

Appeals by the United States (sec. 1141)

The Senate amendment contained a provision (sec. 530) that would apply to courts-martial the same protections with regard to classified information as apply to orders or rulings issued in Federal District Courts under the Classified Information Procedures Act (18 U.S.C. App. 7). This section incorporates Senate amendment section 522 concerning certain definitions.

The House bill contained no similar provision.

The House recedes with an amendment.

Repeal of termination of authority for Chief Justice of United States to designate Article III judges for temporary service on Court of Appeals for the Armed Forces. (sec. 1142)

The House bill contained a provision (sec. 549) that would make permanent the authority of the Chief Justice of the United States to fill temporary vacancies on the United States Court of Appeals for the Armed Forces. Section 1301 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 authorized the Chief Judge of the United States Court of Appeals for the Armed Forces to request the Chief Justice to make such appointments through September 30, 1995. This provision would eliminate the ''sunset'' provision.

The Senate amendment contained a similar provision (sec. 535).

The Senate recedes.

Subtitle E—Other Matters

Advisory committee on criminal law jurisdiction over civilians accompanying the Armed Forces in time of armed conflict (sec. 1151)

The Senate amendment contained a provision (sec. 536) that would create an advisory panel to determine which courts should have criminal jurisdiction over civilians accompanying the military outside the United States during times of armed conflict, including conflicts other than a declared war.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Time after accession for initial instruction in the Uniform Code of Military Justice (sec. 1152)

The House bill contained a provision (sec. 546) that would increase the time after accession for initial instruction in the Uniform Code of Military Justice.

The Senate amendment (sec. 533) contained an identical provision.

The conference agreement includes this provision.

Technical amendment (sec. 1153)

The House bill contained a provision (sec. 550) that would amend article 66(f) of the Uniform Code of Military Justice (10 U.S.C. 866) by striking out ''Courts of Military Review'' in both places it appears, and inserting in lieu thereof ''Courts of Criminal Appeals.''

The Senate amendment contained an identical provision (sec. 534).

The conference agreement includes this provision.

LEGISLATIVE PROVISIONS NOT ADOPTED

Persons who may appear before the United States Court of Appeals for the Armed Forces

The House bill contained a provision (sec. 547) that would provide that only attorneys and properly certified law students could practice and appear before the United States Court of Appeals for the Armed Forces.

The Senate amendment contained no similar provision.

The House recedes. The conferees believe that the question of who should be authorized to appear before the Court of Appeals for the Armed Forces normally should be addressed through the rules promulgated by the court, rather than through legislation. The conferees are concerned, however, that the Court has permitted undergraduate students to appear before the Court as amicus curiae. However laudable it may be to afford such students practical experience appearing before a federal court, the conferees believe such considerations are outweighed by the requirement that the Court of Appeals for the Armed Forces maintain the highest standards of judicial practice and procedure. The conferees are aware that the Court presently has this matter under review and look forward to a change in the Court's rules of procedure that will obviate the need for legislation on this subject.

Discretionary representation by government appellate defense counsel in petitioning the Supreme Court for writ of certiorari

The House bill contained a provision (sec. 548) that would amend section 870 of title 10, United States Code, to provide that representations of an accused, in the preparation of a petition for a writ of certiorari before the United States Supreme Court, shall be at the discretion of military appellate defense counsel. Current law requires appellate defense counsel to represent the accused before the Supreme Court when requested by the accused.

The Senate amendment contained no similar provision.

The House recedes.

Proceedings in revision

The Senate amendment contained a provision (sec. 529) that would authorize a proceeding in revision at courts-martial prior to authentication of the record under certain conditions.

The House bill contained no similar provision.

The Senate recedes.

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Cooperative threat reduction program (secs. 1201–1209)

The budget request included $371.0 million in defense operation and maintenance for the Cooperative Threat Reduction (CTR) Program.

The House bill contained provisions (secs. 1101–1108) related to the CTR program that would include the following: authorize $200.0 million for the CTR program, a $171.0 million reduction to the budget request (sec. 1101); place specific limitations on all CTR programs for fiscal year 1996 (sec. 1102); repeal authority for the Demilitarization Enterprise Fund (DEF) (sec. 1103); prohibit the use of CTR funds for peacekeeping exercises and related activities with Russia (sec. 1104); revise authority for assistance for weapons destruction (sec. 1105); require prior notice of obligation of funds (sec. 1106); require an annual accountability report to ensure that assistance is being used for its intended purpose (sec. 1107); and prohibit the obligation or expenditure of fiscal year 1996 funds until the President provides written certification to Congress that Russia has terminated its offensive biological weapons program.

The Senate amendment included several provisions (sec. 1041–1044) related to the CTR program that would include the following: authorize $365.0 million for the CTR program, a $6.0 million reduction to the budget request (sec. 1041); limit the obligation of CTR funds that would assist nuclear weapons scientists in the former Soviet Union, pending a written certification from the Secretary of Defense that funds would not contribute to the modernization of strategic nuclear forces or for research, development or production of weapons of mass destruction (sec. 1042); limit the obligation of $50.0 million, pending a written certification from the President that Russia is in compliance with its obligations under the Biological Weapons Convention (BWC); and limit the use of more than $52.0 million of fiscal year 1996 funds available for CTR, pending a presidential certification that a joint laboratory study to evaluate the Russian neutralization proposal has been completed and the United States agrees with that proposal, that Russia is in the process of preparing a comprehensive destruction and dismantlement plan for its chemical weapons stockpile, and that Russia is committed to resolving outstanding issues under the 1989 Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement.

The conferees agree to the CTR provisions, as follows: authorize $300.0 million in fiscal year 1996 for CTR and place limitations on the CTR projects in fiscal year 1996; provide authority for individual limitations to be exceeded by a specified percentage; authorize use of CTR funds to reimburse pay accounts for U.S. military reserve members participating in CTR activities; prohibit the use of CTR funds for peacekeeping activities and related activities with Russia; require a presidential determination that each recipient country is observing the criteria for assistance provided under the CTR program; require the Secretary of Defense to provide congressional defense committees with advance notification of obligation of funds; require an annual audit and examination report; limit assistance to nuclear weapons scientists; and limit the obligation of $60.0 million in fiscal year 1996 CTR funds for Russia, pending presidential certification that Russia is complying with its BWC obligations and that Russia has agreed to, and implemented, agreements and visits per the September 14, 1992 Joint Statement on Biological Weapons and that visits to the four declared military biological facilities of Russia by officials of the U.S. and United Kingdom have occurred. If the President is unable to certify Russian compliance with its BWC obligations, or that visits agreed to under the Joint Statement have not occurred, he may certify that fact and related funds would then be available for strategic offensive weapons elimination in Ukraine, Kazakhstan or Belarus. The provision would also prohibit obligation of more than half the funds authorized for chemical weapons destruction-related activities in Russia, pending a presidential certification.

The conferees direct that none of the funds authorized for CTR in fiscal year 1996 may be used to reimburse other departments and agencies for the travel and other expenses incurred by employees of those departments and agencies, even if those employees are engaged in CTR-related activities.

The Conventional Forces in Europe (CFE) Treaty requires signatories to be in full compliance with their obligations to reduce treaty limited equipment by November 16, 1995. The Russian government has generally been in overall compliance with its obligations since the treaty has been in force provisionally. Russia's compliance with the limits in the northern and southern flank zones has caused concern for a number of the signatories. Russian officials have indicated that they will not be in compliance with the flank limits in these zones because of the instability along their southern borders.

If Russia refuses to honor its legal and political obligations under the CFE Treaty, the conferees question the ability of the President to certify Russia's commitment to complying with its arms control obligations, necessary to make it eligible to receive CTR assistance. Further, the conferees believe that the President would only be in a position to certify Russia's commitment to comply with its arms control obligations under the following circumstances: (1) through an agreement to comply with a NATO-endorsed flank limit proposal and substantial progress toward withdrawing any excess equipment by the May 1996 Treaty Review Conference; (2) demonstrated fulfillment of obligations to meet agreed-upon reductions in levels of military equipment in the naval infantry and coastal defense forces, and in holdings east of the Ural mountains; and (3) through an agreement on an offset package that would add to the flank limit proposal additional verification measures, additional information sharing arrangements on the flank areas, and additional constraints on Treaty-limited equipment contained in areas formerly defined as flank areas.

TITLE XIII—MATTERS RELATING TO OTHER NATIONS

ITEMS OF SPECIAL INTEREST

Waiver of foreign assistance reimbursement requirements to the Department of Defense and the armed forces

The conferees are concerned about the inadequate funding in the fiscal year 1996 international affairs budget for activities identified by the administration as presidential priorities, such as drawdown authority for defense articles and services for Jordan and the transfer of non-lethal defense articles to Central European countries.

While the conferees are generally supportive of both activities, the conferees do not support efforts to waive requirements under Sections 519(f) and 632(d) of the Foreign Assistance Act of 1961. Those provisions of the Foreign Assistance Act require reimbursement of the Department of Defense and military services for costs to transport defense articles, or replace defense items that are not excess to the military services.

The conferees appreciate the role that Jordan played in the Middle East peace process and believe that the Government of Jordan should have the defense items, services, and military training, that would enable them to protect their borders and respond to terrorist threats. However, the conferees are concerned by the use of defense funds to pay for this authority.

In a letter supporting the special drawdown authority for Jordan, the Secretary of Defense stated that military readiness would suffer unless the non-excess defense items are replaced and the military services are reimbursed for transportation and other costs. The conferees direct the Secretary of Defense to provide a report to the congressional defense committees 60 days after enactment of this Act that would address the cost to replace non-excess defense items provided to Jordan and an identification of funds included in the President's fiscal year 1997 budget for this purpose.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Peacekeeping Provisions

Limitation on use of Department of Defense funds for international peacekeeping assessments and drawdown of Department of Defense articles (sec. 1301)

The House bill contained a provision (sec. 1202) that would amend chapter 20 of title 10, United States Code, to prohibit the use of Department of Defense funds for voluntary or assessed financial contributions to the United Nations for the United States share of peacekeeping costs, effective October 1, 1995.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle B—Humanitarian Assistance Programs

Overseas humanitarian, disaster, and civic aid (secs. 1311–1312)

The House bill contained a provision (sec. 1211) that would specify five programs operated by the Department of Defense to be funded through the budget account known as Overseas Humanitarian, Disaster, and Civic Aid (OHDACA).

The House bill also contained a provision (sec. 1212) that would eliminate the current authority to transfer funds from DOD to the Department of State to provide for the administrative costs associated with the transportation of humanitarian supplies. In addition, this provision would remove the Secretary of State's authority over the DOD's program for the transportation of humanitarian relief, and it would provide for technical changes to the existing reporting requirements for the DOD's humanitarian programs.

The Senate amendment contained a provision (sec. 365) that would require the General Accounting Office (GAO) to submit a report to Congress on existing funding mechanisms that would facilitate the funding of programs within the OHDACA account through the Department of State or the Agency for International Development. If such mechanisms do not currently exist, the GAO would be required to identify those actions necessary to institute such mechanisms.

The conference agreement includes these provisions.

The conferees agree that although the DOD is uniquely capable of performing some humanitarian or disaster relief operations, these operations are fundamentally the responsibility of the Department of State and the Agency for International Development and, in general, are more appropriately funded through these agencies. Therefore, the conferees have reduced the amount of DOD funds available to the OHDACA account for fiscal year 1996 and have requested that the GAO provide a report that would identify necessary changes in existing law or regulations to transfer the funding responsibility for these programs, where appropriate, to other federal agencies, beginning in fiscal year 1997.

Landmine clearance program (sec. 1313)

The House bill contained a provision (sec. 1213) that would amend humanitarian and civic assistance authorities in section 401 of title 10 United States Code to include humanitarian demining activities.

The Senate amendment contained a provision (sec. 1054) that would amend section 1413 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) to include the following: require the Secretary of Defense to certify to the Congress that humanitarian activities satisfy military training requirements for the personnel involved; authorize $20.0 million in fiscal year 1996 for the humanitarian landmine clearing assistance program; terminate authority for the Department of Defense to provide funds for the humanitarian landmine clearing assistance program after fiscal year 1996; and revise the definition of a landmine.

The conferees agree to a provision that would amend section 401 of title 10 United States Code to include humanitarian demining activities; limit activities of United States military personnel participating in humanitarian landmine clearing activities; and, repeal section 1413 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

Unlike other types of humanitarian and civic assistance activities, the conferees realize that the activities of detection and clearing of landmines will often be the sole or primary focus of the military operation in question. In such cases, the approving authority would have to determine that the specific operational readiness skills of the participating United States forces—usually special operations forces whose skills are based upon the activities listed in section 167(j) of title 10, United States Code—will be promoted by participation in those activities.

Subtitle C—Arms Export and Military Assistance

Defense export loan guarantees (sec. 1321)

The House bill contained a provision (sec. 1224) that would require the Secretary of Defense to create a defense export loan guarantee program for certain eligible countries.

The Senate amendment contained a similar provision (sec. 1053) with different criteria for eligible countries.

The House recedes with an amendment that would authorize use of fees generated under the program for payment of start-up costs for administration of the program and for payment of ongoing administrative expenses. The conferees intend to monitor the administration of this program closely to ensure that the method of funding the administrative fees does not impact the process of approval of the loan guarantees.

National security implications of United States export control policy (sec. 1322–1323)

The Senate amendment contained a provision (sec. 1052) that would express the sense of Congress regarding the national security implications of maintaining effective export controls on dual-use items and technologies that are critical to the military capabilities of the United States. This provision would require the Department to review export licenses for class 2, 3, and 4 biological pathogens with a potential use in biological warfare programs and to determine if export would be contrary to U.S. national security interests.

The House bill did not contain a similar provision.

The House recedes. The conferees concur with concerns identified in the Senate report (S. Rept. 104–112) that the lowering of export controls on dual-use items and technologies may place current U.S. technologies and defense capabilities at risk. The conferees continue to be concerned with administration support for admittance of nations into the Missile Technology Control Regime (MTCR) and the New Forum absent a record of compliance with the spirit of these regimes prior to their inclusion.

Two years ago in the House report (H. Rept. 103–357), the conferees expressed concern that ''. . .loosening the restrictions on space launch vehicle technology within the MTCR could, over time, result in the proliferation of offensive ballistic missiles. . .'' and expressed particular concern about the new MTCR members being permitted to retain space launch vehicle programs. Despite written administration assurances that Congress would be consulted on MTCR-related issues, to include the addition of new members, the conferees were disappointed to learn in the summer of 1995 that new countries would be admitted to the MTCR, despite retention of a SLV program and a history of evading program controls. The conferees believe that the current administration approach facilitates a growing and perhaps irreversible danger that the MTCR, despite its auspicious early history, will increasingly become an avenue for technology proliferation.

The conferees strongly encourage the administration to emphasize the use of controls on sensitive technologies in any new administration proposals to reauthorize the Export Administration Act, and that no attempts be made to repeal or substantially alter the missile sanction provisions in Title XVII of the National Defense Authorization Act for Fiscal Year 1991, as was the case in the administration proposal submitted in the last Congress.

American firms are conducting discussions and negotiations with a number of foreign governments, or other entities, on the purchase of high-resolution U.S. commercial reconnaissance and imaging satellites and high-resolution imagery or imagery distribution systems. The conferees understand that the Secretary of Defense is authorized under Presidential Directive/National Security Council-23 and the Remote Sensing Act of 1992 to determine when national security interests call for controls on such satellite imagery. The Secretary of State is similarly empowered to determine when international obligations would require imagery controls. The conferees emphasize the following: that determinations on national security and international obligations should be communicated to U.S. firms in discussions regarding issuance of operating licenses to U.S. firms, to the extent such determinations can be made in advance of the actual operation of the satellites; that the Secretary of Defense or the Secretary of State should ensure that license agreements and distribution agreements include adequate provisions to ensure that the sharing of imagery or procurement of U.S. commercial imagery systems or products with foreign governments or foreign entities would not be used against U.S. military forces deployed overseas; and that provisions in the license agreements should deny terrorist governments and entities controlled by these governments access to imagery of neighboring countries. The conferees continue to be concerned that the national security issues involved in the proliferation of high-resolution satellites and satellite imagery have not been adequately thought through by the executive branch and hope that the report mandated by this section will serve to clarify DoD policy on these issues.

The conferees also note the recent decision to relax export restrictions on supercomputers and are concerned about the potential impact of this decision on the United States' nonproliferation efforts and the maintenance of the U.S. military technological edge. The conferees direct the Secretary of Defense to submit a report, not

later than December 31, 1995, that describes the impact of the export decision on the ability of nations to acquire and use high-performance computing capabilities to develop advanced conventional weaponry, weapons of mass destruction, and delivery vehicles, including missiles.

Reports on arms export control and military assistance (sec. 1324)

The Senate amendment contained a provision (sec. 1064) that would require the following reports to be submitted to Congress: (1) a report by the Secretary of State on the firms that are on the Department of State watch list for export of sensitive or dual use technologies, and a description of the measures taken to strengthen United States export controls; (2) an evaluation of the watch list screening process by the Department of State Inspector General; and (3) an annual report on the aggregate dollar value and quantity of defense articles, services, and military education and training furnished by the United States to each foreign country and international organization.

The House bill did not contain a similar provision.

The conferees agree to a provision that would require the Department of State and the Department of Commerce, in consultation with the Department of Defense, to report jointly to the Congress on United States export control mechanisms and measures taken to strengthen export controls. The provision would also require the President to submit a report to Congress on military assistance and military exports authorized or furnished to foreign countries and international organizations.

Report on personnel requirements for control of transfer of certain weapons (sec. 1325)

The Senate amendment contained a provision (sec. 1093) that would require the Secretary of Defense and the Secretary of Energy to report to the Congress on the personnel resources necessary to implement nonproliferation policy responsibilities of both departments and would require both Secretaries to explain the failure to provide the report, as previously required by legislation.

The House bill did not contain a similar provision.

The House recedes.

Subtitle D—Burdensharing and Other Cooperative Activities Involving Allies and NATO

Accounting for burdensharing contributions (sec. 1331)

The House bill contained a provision (sec. 1225) that would authorize the United States to accept burdensharing contributions in the currency of the host nation or in United States dollars. This provision would maintain this funding in a separate account that would be available until expended.

The Senate bill contained no similar provision.

The Senate recedes.

Authority to accept contributions for expenses of relocation within host nations of United States armed forces overseas (sec. 1332)

The House bill contained a provision (sec. 1226) that would establish authorization and procedures to accept contributions from host nations for the purpose of relocating United States armed forces within the host nation.

The Senate amendment contained no similar provision.

The Senate recedes.

Revised goal for allied share of costs for United States installations in Europe (sec. 1333)

The House bill contained a provision (sec. 1228) that would require the Department of Defense to reduce United States military personnel assigned in European North Atlantic Treaty Organization (NATO) countries during fiscal years 1996–1999. Military personnel would be reduced by 1,000 for each scheduled percentage point that allied contributions in cash and in-kind payments fail to offset U.S. non-personnel costs of operating military installations in Europe.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment.

The conferees agree to a provision that would amend section 1304 of the National Defense Authorization Act of 1995 (Public Law 103–337) to require the President to seek an agreement with European member states of NATO to increase to 42.5 percent by September 30, 1997 their share of the nonpersonnel costs for United States military installations in those nations.

Exclusion of certain forces from European end strength limitation (sec. 1334)

The conference agreement includes a provision that would exclude personnel performing duties in Europe for more than 179 days under a military-to-military contact program.

Cooperative research and development agreements with NATO organizations (sec. 1335)

The Senate bill contained a provision (sec. 1051) that would make a technical and conforming amendment to section 2350b of title 10, United States Code, to make it consistent with section 2350a, which was amended in the National Defense Authorization Act for Fiscal Year 1995.

The House bill did not contain a similar provision.

The House recedes.

Support services for the Navy at the Port of Haifa (sec. 1336)

The Senate amendment contained a provision (sec. 1056) that would express the sense of Congress that the Secretary of the Navy should promptly undertake actions to:

(1) improve the services available to the Navy at the Port of Haifa; and

(2) ensure that the continuing increase in commercial activities at the Port of Haifa does not have an adverse impact on the services required by the Navy at Haifa.

The House bill contained no similar provision.

The House recedes with an amendment.

Subtitle E—Other Matters

Prohibition on financial assistance to terrorist countries (sec. 1341)

The Senate amendment contained a provision (sec. 1057) that would prohibit the use of any Department of Defense funds to assist nations that support acts of terrorism. A determination to prohibit funds may be based on a determination by the Secretary of State under section 6(j)(1)(A) of the Export Administration Act of 1979; or that a nation provided significant support for international terrorism, as identified in a report to Congress, pursuant to section 140 of the Foreign Relations Authorization Act, Fiscal Year 1988 and 1989; or a determination by the President that a nation has supported international terrorism or has granted sanctuary from prosecution to a group or individual that has committed an act of international terrorism.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Judicial assistance to the International Tribunal for Yugoslavia and to the International Tribunal for Rwanda (sec. 1342)

The Senate amendment contained a provision (sec. 1098) that would provide authority for the United States to surrender persons and provide judicial assistance to the International Tribunals for Yugoslavia and Rwanda, pursuant to the agreement between the Government of the United States and the International Tribunals.

The House bill did not contain a similar provision.

The House recedes with a technical amendment.

United States-China Joint Defense Conversion Commission (sec. 1343)

The House bill included a provision (sec. 1223) that would prohibit the use of funds authorized in fiscal year 1996 for the Department of Defense activities associated with the United States-People's Republic of China Joint Defense Conversion Commission.

The Senate bill did not include a similar provision.

The House recedes with an amendment.

The conferees agree to a provision that would require the Secretary of Defense to submit semi-annual reports to Congress on the United States-People's Republic of China (PRC) Joint Defense Conversion Commission. The report shall include: a description of activities that could directly, or indirectly, assist the military modernization efforts of the PRC; information on the activities and operations of the Commission; a discussion of the relationship of PRC defense conversion activities and PRC defense modernization efforts; steps taken by the United States to safeguard against use of western technology to modernize the PRC military industrial base; and an assessment of U.S. benefits derived from participation in the commission, to include an increase in the transparency of the military budget and doctrine of the PRC. In preparing the reports required by this section, the Secretary shall seek and obtain the views of appropriate U.S. intelligence agencies and shall be consulted on the matters assessed in the reports and those views shall be included as an annex to the reports.

The conferees agree that a continued dialogue on security matters between the United States and the PRC can promote stability in the region, and help protect American interests and the interests of America's Asian allies. The conferees note that the Senate Armed Services Committee and the House National Security Committee intend to review the status of the U.S.–PRC security dialogue on a regular basis to determine the extent to which the dialogue has produced tangible results in the areas of human rights, transparency in military spending and doctrine, missile and nuclear nonproliferation, and other important security issues.

LEGISLATIVE PROVISION NOT ADOPTED

Placement of United States forces under United Nations operational or tactical control

The House bill contained a provision (sec. 1201) that would limit the use of Department of Defense funds and the circumstances under which the President could commit U.S. armed forces to United Nations (UN) command and control, and provide exceptions under which armed forces could be placed under UN command and control. The President would be required to certify to the Congress, prior to the placement of U.S. armed forces under UN command and control, the following: that U.S. national security interests require the placement of Armed Forces under UN command and control; that U.S. armed forces commander would retain the right to report independently to U.S. military authorities and decline orders that are illegal, militarily imprudent, or beyond the scope of the mission; that U.S. forces would remain under U.S. administrative command; and that U.S. forces involved would retain the authority to withdraw and take necessary protective actions, if engaged by hostile forces.

The Senate amendment contained a provision (sec. 1061) that would express the sense of Congress that: U.S. armed forces should not be placed under the operational control of the UN without close and prior consultation with Congress; U.S. armed forces should only be placed under UN command and control when clearly in the national interest; U.S. armed forces should only be placed under qualified commanders with clear and effective command and control; and that U.S. armed forces should only be placed under operational control of foreign commanders in peace enforcement missions, except in the most extraordinary circumstances.

The conference agreement did not include either provision.

The conferees remain gravely concerned over the administration's stated willingness, as articulated by Presidential Decision Directive 25, to place U.S. forces under UN operational control during peacekeeping operations. The conferees are pleased to note that the peacekeeping deployment to Bosnia does not involve such an arrangement. The conferees strongly urge the Secretary of Defense to ensure that clearly defined and effective command and control relationships are maintained for U.S. forces participating in this deployment.

TITLE XIV—ARMS CONTROL MATTERS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Revision of definition of landmine for purposes of landmine export moratorium (sec. 1401)

The House bill contained a provision (sec. 1221) that would amend the definition of ''anti-personnel landmine'', contained in section 1423(d)(3) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), by deleting ''remote controlled, manually-emplaced munitions or devices''.

The Senate amendment contained a provision (sec. 1054) that would include a subsection to redefine the definition of an antipersonnel landmine.

The conferees agree to an amendment that would amend section 1423(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), to redefine an antipersonnel landmine to exclude command detonated anti-personnel landmines, such as M18A1 ''Claymore'' mines, from the definition.

Reports on moratorium on use by Armed Forces of antipersonnel landmines (sec. 1402)

The Senate amendment contained a provision (sec. 1099) that would express the sense of Congress that the President should actively support proposals to modify protocol II on landmines in the 1980 Conventional Weapons Convention at the United Nations Conference, to immediately implement the United States goal of eventual elimination of antipersonnel landmines, and place a one year moratorium on the use of antipersonnel landmines by the United States military, except along internationally recognized borders and demilitarized zones. Consistent with the provision, the President should also encourage governments of other nations to implement a moratorium on the use of antipersonnel landmines.

The House bill did not contain a similar provision.

The House recedes with amendment.

The conferees agree to a provision that would require the Chairman of the Joint Chiefs of Staff to provide an annual report to Congress on the projected effects of a moratorium on the defensive use of antipersonnel landmines and antitank mines by the United States military forces.

Extension and amendment of counterproliferation authorities (sec. 1403)

The House bill contained a provision (sec. 1222) that would extend, through fiscal year 1996, the authorities in section 1505 of title XV of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484). The provision would authorize the Department of Defense to provide up to $15.0 million to support international nonproliferation activities, such as, the United Nations Special Commission on Iraq (UNSCOM). Authority for the Secretary of Defense to provide assistance under this section would terminate at the end of fiscal year 1996.

The Senate bill contained no similar provision.

The Senate recedes.

The conferees understand that the extension of authority in fiscal year 1996 for the Department of Defense support of international nonproliferation activities would be used primarily to support the United Nations Special Commission on Iraq (UNSCOM). The conferees do not intend to provide the Department of Defense with authority to use defense funds to support chemical weapons and ballistic missile dismantlement, nuclear materials control and removal, or to destroy weapons of mass destruction and their delivery systems in foreign countries, such as Brazil, South Africa, or countries in Africa or the Middle East generally. These disarmament activities are more appropriately funded from the international affairs budget. Authorities for dismantlement of weapons of mass destruction in the former Soviet Union are provided elsewhere in this Act.

In accordance with the conference report to accompany the National Defense Authorization Act for Fiscal Year 1994, the conferees direct the Secretary of Defense to provide to the congressional defense committees, 30 days in advance of any U.S. commitment to support international nonproliferation activities, a report on the international nonproliferation activities which the Department seeks to support. The report should identify potential future funding for this support, the extent to which the United States is obligated to provide such support, the extent to which funds are provided for in the international affairs budget, and the national security objective for providing the support.

Limitation on retirement or dismantlement of strategic nuclear delivery systems (sec. 1404)

The Senate amendment contained a provision (sec. 1082) that would express the sense of Congress that until the START II Treaty enters into force, the Secretary of Defense should not retire or dismantle any B–52H bombers, Trident ballistic missile submarines, Minuteman III intercontinental ballistic missiles (ICBMs), or Peacekeeper ICBMs. The provision would also prohibit the use of funds appropriated to the Department of Defense during fiscal year 1996 for retiring or dismantling any such systems.

The House bill contained a similar provision (sec. 1229) that would express the sense of Congress that the Secretary of Defense should not implement any reduction in strategic forces that is called for in the START II Treaty unless and until that treaty enters into force.

The House recedes.

The conferees reiterate the importance of not having the United States unilaterally and prematurely begin to implement reductions under the START II Treaty. Until it is clear that the treaty will actually enter into force, the United States must retain options for maintaining a larger force of strategic nuclear delivery systems, to include 500 Minuteman III ICBMs, 50 Peacekeeper ICBM's 18 Trident II ballistic missile submarines, and 94 B–52H bombers. The conferees believe that by retaining such options, the United States increases Russia's incentives to ratify and fully implement the START II Treaty.

Additionally, the conferees believe that it is prudent to delay, beyond fiscal year 1996, the decision to retire or dismantle 28 B–52H bombers, as currently planned by the Department of Defense. At the same time, the conferees do not believe that the Air Force should take any action that prejudge a decision in fiscal year 1997 to retire or dismantle those 28 B–52H bombers. Therefore, the conferees direct the Secretary of Defense to retain 94 B–52H bombers during fiscal year 1996, while minimizing additional expenditures on the 28 aircraft that may be retired in the near future.

The conferees understood that the Air Force would require $17.4 million in procurement funds, $45.3 million in operations and maintenance funds, and $4.3 million in military personnel funds to retain the 28 B–52H bombers in a fully operational status and to provide them with system updates and modifications. The conferees believe that with system updates and modifications. The conferees believe that this level of funding may not be required merely to preserve the option of retaining the 28 aircraft for one more year. In particular, it may not be necessary to expand procurement funds on aircraft that may be retired in fiscal year 1997. Therefore, the conferees agree to authorize the use of up to $17.4 million in Air Force procurement funds, up to $45.3 million in Air Force operations and maintenance funds, and up to $4.3 million in Air Force personnel funds to retain in an attrition reserve status the 28 B–52H bombers that would otherwise be retired in fiscal year 1996.

Congressional findings and Sense of Congress concerning treaty violations (sec. 1405)

The House bill contained a provision (sec. 1227) that would express a sense of Congress that the government of the former Soviet Union intentionally violated its legal obligation under the 1972 Anti-Ballistic Missile Treaty in order to advance its national security interests, and that the United States should remain vigilant to ensure compliance with arms control obligations.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment that would outline the legislative history behind the provision.

Sense of Congress on ratification of the Chemical Weapons Convention and the Strategic Arms Reduction Talks (sec. 1406)

The House bill contained a provision (sec. 1230) that would express the sense of Congress that the United States should ratify the Chemical Weapons Convention (CWC) as a signal of its commitment to reduce the threat posed by chemical weapons.

The Senate amendment contained a provision (sec. 1099F) that would express the sense of Congress that it is in the national security interests of the United States and Russia, as signatories of the Strategic Arms Reduction Talks (START II), and the United States and all parties to the Chemical Weapons Convention (CWC), to ratify and fully implement the agreements, as negotiated.

The conferees agree to a provision that would express the sense of Congress that it is in the national security interests of the United States, that the United States and Russia, as parties to START II and the CWC, and all other signatories to the CWC, to ratify and fully implement these arms control agreements, as negotiated.

The conferees note that a full Senate debate on the ratification of START and the CWC treaties has not taken place. It is not the intention of the Congress, through this provision, to predetermine the outcome of the Senate debate on the advice and consent to ratification of the two arms control treaties.

Implementation of arms control agreements (sec. 1407)

The budget request included $261.9 million in procurement, operation and maintenance, and research and development in the defense and military service accounts for the implementation of arms control agreements.

The Senate amendment contained a provision (sec. 1060) that would authorize $228.9 million for implementing arms control agreements, a $33.0 million reduction to the budget request. The provision would also prohibit the use of defense funds to reimburse expenses of signatories to arms control treaties, other than the United States, pursuant to treaties or agreements with the United States that have entered into force, if the Congress has not received 30-day notice prior to agreement between the parties.

The House bill did not contain a similar provision, but would provide $261.9 million for implementation of arms control agreements.

The House recedes with an amendment that would make available up to $239.9 million for implementing arms control agreements, a $22.0 million reduction to the budget request. The reductions are reflected in the following table. The conferees endorse the views stated in the Senate report (S. Rept. 104–112), that reiterate the concern expressed in the conference report accompanying the National Defense Authorization Act for Fiscal Year 1994 (H. Rept. 103–357). That conference report required the Congress to be notified 30 days in advance of a U.S. agreement to accept the recommendations of any consultative commissions that result in either technical changes to a treaty or agreement affecting inspections and monitoring provisions, or that result in increased U.S. implementation costs.

The conferees limit the expenditure of funds to provide reimbursement for arms control implementation inspections costs borne by the inspected party to a treaty or agreement. Funds may only be expended if the Congress has been notified 30 days in advance of an agreement by the President to a policy or policy agreement, and that policy or policy agreement does not modify any obligation imposed by the arms control agreement.

The provision would not prohibit the use of funds to implement two policy agreements under the Intermediate-Range Nuclear Forces (INF) Treaty and strategic Arms Reductions Treaty (START), concluded in May 1994 and February 1995. The conferees understand that the Department of Defense agreed to reimburse Belarus, Kazakhstan, and Ukraine for the costs of U.S. inspections conducted within those territories for each six-month period, expenses for which those countries are obligated under the treaties, if Belarus, Kazakhstan, and Ukraine do not conduct inspections in the United States. Further, the conferees understand that if Belarus, Kazakhstan, or Ukraine conduct an inspection of a U.S. facility, the U.S. will not provide reimbursement during the applicable six-month time period.

The Intermediate Range Nuclear Forces Treaty and Strategic Arms Reduction Treaty permit the United States to conduct inspections to verify compliance with the treaties within the territories of Belarus, Kazakhstan, and Ukraine. The conferees are concerned about assertions by the administration that failure to reimburse Belarus, Kazakhstan, and Ukraine would prevent the United States from conducting INF and START inspections in these countries in the future. The Senate provided its advice and consent to ratification of INF and START based on the ability of the United States to fully exercise its inspection rights.

In a September 21, 1994 letter from the Secretary of Defense to Congress, the Secretary emphasized that the policy statements exchanged between the United States and the three Parties expressed ''. . . strictly a policy understanding.'' He also stated ''that they are not legally binding'' and that no treaty provisions would be changed. Further, the Secretary stated ''[T]he Administration would not consider this to be a precedent for any other area of START implementation.''

The conferees express their continuing concern that arms control consultative commissions are being used to facilitate changes or modifications to arms control treaties and agreements that should be brought to the Senate for its review and subsequent advice and consent. There may be very good reasons for changes in implementation of specific arms control treaties or agreements. However, if a change or modification to the treaty or agreement would result in a change to the understanding under which the Senate provided its advice and consent to ratification, the Congress must be consulted about the recommended change or modification in advance of any agreement in the consultative commissions, and must provide its subsequent agreement to the change or modification.

FISCAL YEAR 1996 ARMS CONTROL IMPLEMENTATION BUDGET

Account	Program	Request	Recomm	Rec Auth
WPN	Arms control compliance.	14.800	0.000	14.800
OPAF	Spares & repairs	0.467	0.000	0.467
PDA	OSIA	2.941	0.000	2.941
RDT&E, AF	Arms control implementation.	0.998	0.000	0.998
RDT&E, DA	Ver tech dem, DNA (603711).	33.971	0.000	33.971
O&M, Army		40.778	−6.000	34.778
O&M, Navy		35.354	−2.000	33.354
O&M, AF		34.645	−2.000	32.645
O&M, DA	OSIA	97.987	−12.000	85.987
Total		261.941	−22.000	239.941

Iran and Iraq arms nonproliferation (sec. 1408)

The Senate amendment included a provision (sec. 1063) that would amend sections 1604(a) and 1605(a) of Title XVI of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484), to apply sanctions and controls to persons or countries who transfer or retransfer goods or technology that would contribute to the Iran or Iraq efforts to acquire chemical, biological, or nuclear weapons, in addition to sanctions and controls on the acquisition of destabilizing advanced conventional weapons. The provision would also amend section 1608(7) to clarify the meaning of ''United States assistance'' to conform to the definition of such term in the Foreign Assistance Act of 1961 (section 2151 et seq. of Title 10, United States Code).

The House bill did not contain a similar provision.

The House recedes with an amendment.

The conferees also agree to an amendment to section 73(e)(2) of the Arms Export Control Act (section 2797b(e)(2) of title 22, United States Code) that would require that the notification of certain waivers under the Missile Technology Control Regime procedures be submitted to the congressional defense committees and the congressional foreign relations committees, not less than 45 working days before issuance of the waiver.

TITLE XV—TECHNICAL AND CLERICAL AMENDMENTS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Technical and clerical amendments (sec. 1501–1506)

The Senate amendment contained eight sections (secs. 1101 through 1108) that made numerous technical and clerical amendments to existing laws.

The House bill contained no similar provision.

The House recedes.

TITLE XVI—CORPORATION FOR THE PROMOTION OF RIFLE PRACTICE AND FIREARMS SAFETY

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Corporation for the Promotion of Rifle Practice and Firearms Safety (secs. 1601–1624)

The House bill contained a provision (sec. 384) that would convert the Civilian Marksmanship Program (CMP) to a federally chartered nonprofit corporation.

The Senate amendment contained a similar provision (sec. 385) that would convert the CMP to a nonappropriated fund instrumentality.

The Senate recedes with an amendment that would convert the CMP to a private, nonprofit corporation. The provision would require the Secretary of the Army to provide for the transition of the CMP from an appropriated fund activity of the Department of Defense to a viable nonprofit corporation.

The conferees recognize the value of the CMP, and believe the program should continue as a non-federal government entity.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

OVERVIEW

The budget request for fiscal year 1996 included $10,697,955,000 for military construction and family housing.

The House bill would authorize $11,197,995,000 for military construction and family housing.

The Senate amendment would provide $10,902,988,000 for this purpose.

The conferees recommend authorization of appropriations of $11,177,009,000 for military construction and family housing, including general reductions and termination of prior year projects.

The conferees are deeply concerned about the current quality of facilities at military installations and the condition of the housing stock for military families and unaccompanied personnel. The conferees are concerned about the possible long-term deleterious effects of deteriorating military infrastructure and military housing on the readiness of the armed forces and the retention of personnel. The conferees are especially concerned about the backlog of construction, repair, and maintenance required to resolve serious problems affecting the quality of life for personnel and their families. The increases in funding recommended by the conferees is targeted at enhancing quality of life programs, particularly housing and needed operational requirements for the military services.

The conferees are pleased with the attention the Secretary of Defense has devoted to improving family housing, housing for unaccompanied personnel, and other quality of life improvements. The conferees note the Secretary's proposal to establish new authorities for alternative means to construct or improve military housing. The conferees have worked closely with the Secretary in the development of the proposal and have agreed to include these authorities in this Act.

The conferees have also included a provision to expand the authority previously granted to the Department of the Navy to enter into limited partnerships with the private sector to acquire family housing. The conferees note the efforts of the Navy to utilize existing authority to provide critically needed housing in Corpus Christi, Texas and Everett, Washington. The conferees understand that agreements to provide housing in

those two locations may be ready for contract execution in fiscal year 1996.

In addition to these new initiatives, the conferees also support a pilot program that provides qualified junior enlisted and junior officer personnel with greater access to private home ownership opportunities through an interest rate buydown program managed by the Department of Veterans' Affairs. The conferees encourage the Secretary of Defense to promote this program and to continue exploring creative ways to stimulate interest in and availability of home ownership among servicemembers.

The conferees recognize that these authorities have the long-term potential to produce critically needed housing for the armed forces. To rectify immediate problems, the conferees recommend $417,169,000 above the Administration's budget request for family housing, unaccompanied personnel housing, child development centers, health care facilities, and other projects to enhance the quality of life for currently serving personnel.

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1996

(Dollars in Millions)

Account Title	Authorization Request 1996	House Authorized	Senate Authorized	Conference Change	Conference Authorization
DIVISION B					
Military Construction, Army	472.724	631.608	547.877	144.865	617.589
Military Construction, Navy	488.086	588.243	542.885	60.203	548.289
Military Construction, Air Force	495.655	586.841	587.517	91.915	587.570
Military Construction, Defense-wide	857.405	728.332	601.450	(235.179)	622.226
North Atlantic Treaty Organization Infrastructure	179.000	161.000	179.000	(18.000)	161.000
Military Construction, Army Reserve	42.963	42.963	79.895	30.553	73.516
Military Construction, Naval Reserve	7.920	19.655	7.920	11.135	19.055
Military Construction, Air Force Reserve	27.002	31.502	35.132	9.230	36.232
Military Construction, Army National Guard	18.480	72.537	148.586	116.322	134.802
Military Construction, Air National Guard	85.647	118.267	160.807	78.570	164.217
Foreign Currency Fluctuations, Construction	-	-	-	-	-
Base Realignment and Closure Account	3,897.892	3,897.892	3,799.192	-	3,897.892
Total Military Construction	6,572.774	6,878.840	6,690.261	289.614	6,862.388
Family Housing, Army	43.500	126.400	66.552	73.156	116.656
Family Housing Support, Army	1,337.596	1,333.596	1,337.596	-	1,337.596
Family Housing, Navy and Marine Corps	465.755	531.289	486.247	56.944	522.699
Family Housing Support, Navy and Marine Corps	1,048.329	1,045.329	1,048.329		1,048.329
Family Housing, Air Force	249.003	294.503	287.965	49.300	298.303
Family Housing Support, Air Force	849.213	846.213	849.213		849.213
Family Housing, Defense-wide	25.772	25.772	25.772	-	25.772
Family Housing Support, Defense-wide	30.467	40.467	30.467	10.000	40.467
Homeowners Assistance Fund, Defense	75.586	75.586	75.586	-	75.586
Sec 2809-Authority to convey Family Housing	-		5.000		-
Total Family Housing	4,125.221	4,319.155	4,212.727	189.400	4,314.621

FISCAL YEAR 1996 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPIATIONS

(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement
1	Alabama	Army	Ft. Rucker	Ammunition Supply Point	0	5,900	0	5,900
2	Alabama	Army	Redstone Arsenal	Hypervelocity Ballistic Range Facility	0	5,000	0	5,000
3	Alabama	Air Force	Maxwell AFB	Child Development Center Complex	3,700	3,700	3,700	3,700
4	Alabama	Air Force	Maxwell AFB	Computer Software Facility	0	0	1,500	1,500
5	Alabama	Section 6 Schools	Maxwell AFB	Add/Alter Maxwell Elementary School	5,479	5,479	5,479	5,479
6	Alabama	Defense Medical Facilities Office	Maxwell AFB	Ambulatory Healthcare Center (Phase I)	0	0	10,000	10,000
7	Alabama	Defense Logistics Agency	Defense Dist Anniston	Vehicle Storage Shelter	3,550	3,550	3,550	3,550
8	Alabama	Air National Guard	Birmingham Mun Airport (ANG)	Alter KC-135 Aircraft Shops	4,400	4,400	4,400	4,400
9	Alabama	Air National Guard	Dannelly Field (ANG)	Fire Station	1,445	1,445	1,445	1,445
10	Alabama	Army Reserve	USARC Jasper	Add/Alter USARC/OMS/AMSA	2,500	2,500	2,500	2,500
11	Alabama	Air Force Reserve	Maxwell AFB	Composite Maintenance Shops	3,608	3,608	3,608	3,608
12	Alaska	Air Force	Eielson AFB	Alter Dormitory	3,850	3,850	3,850	3,850
13	Alaska	Air Force	Eielson AFB	Boiler Rehabilitation	0	0	4,000	4,000
14	Alaska	Air Force	Elmendorf AFB	Visiting Officers Quarters	7,350	7,350	7,350	7,350
15	Alaska	Air Force	Elmendorf AFB	MILSTAR Communications Ground Terminal	850	850	850	850
16	Alaska	Air Force	Elmendorf AFB	Repair Airfield Taxiway	900	900	900	900
17	Alaska	Air Force	Tin City LRRS	Aboveground Fuel Tanks	2,500	2,500	2,500	2,500
18	Alaska	Defense Medical Facilities Office	Elmendorf AFB	Hospital Replacement (Phase IV)	28,100	28,100	28,100	28,100
19	Alaska	Air National Guard	Eielson AFB	Aircraft Engine Shop	0	0	2,550	2,550
20	Alaska	Air National Guard	Eielson AFB	Base Engineering Maintenance Facility	0	0	4,400	4,400
21	Alaska	Army Reserve	Ft. Wainwright	USARS/OMS/STORAGE	4,779	4,779	4,779	4,779
22	Arizona	Army	Ft. Huachuca	Whole Barracks Complex Renewal	16,000	16,000	16,000	16,000
23	Arizona	Army	Ft. Huachuca	Child Development Center	0	2,550	0	0
24	Arizona	Air Force	Davis-Monthan AFB	Dormitory	3,800	3,800	3,800	3,800
25	Arizona	Air Force	Davis-Monthan AFB	Alter Aircraft Corrosion Control Facility	1,000	1,000	1,000	1,000
26	Arizona	Air Force	Luke AFB	Dormitory	5,200	5,200	5,200	5,200
27	Arizona	Defense Medical Facilities Office	Luke AFB	Add/Alter Hospital Life Safety Upgrade	8,100	8,100	8,100	8,100
28	Arizona	Air National Guard	Tucson IAP	Add/Alter Aircraft Spt. Equipment Shop	600	600	600	600
29	Arizona	Army National Guard	Papago Military Reservation (Phoenix)	Medical Facility	0	1,084	0	1,084
30	Arkansas	Air Force	Little Rock AFB	Upgrade Sanitary Sewer System	2,500	2,500	2,500	2,500
31	Arkansas	Chemical Demilitarization	Pine Bluff Arsenal	Ammunition Demilitarization Fac (Phase II)	40,000	40,000	0	0
32	Arkansas	Army National Guard	Camp Robinson	Military Ops in Urban Terrain Facility	0	0	2,853	0
33	Arkansas	Air National Guard	Little Rock AFB	Base Supply Complex	0	0	4,800	4,800
34	California	Army	Ft. Irwin	Consolidated Maintenance Facility	15,500	15,500	15,500	15,500
35	California	Army	Ft. Irwin	National Training Center Airfield (Phase II)	0	10,000	0	10,000
36	California	Army	Presidio, San Francisco	Regional Sewer System	3,000	3,000	3,000	3,000
37	California	Navy	MCB Camp Pendleton	Sensitive Compartmented Info Facility Add	2,246	2,246	2,246	2,246
38	California	Navy	MCB Camp Pendleton	Child Development Center	3,000	3,000	3,000	3,000

FISCAL YEAR 1996 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPIATIONS

(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement
39	California	Navy	MCB Camp Pendleton	Bachelor Enlisted Quarters	11,940	11,940	11,940	11,940
40	California	Navy	MCB Camp Pendleton	Water Distribution System	1,410	1,410	1,410	1,410
41	California	Navy	MCB Camp Pendleton	Tactical Vehicle Maintenance Facility	1,088	1,088	1,088	1,088
42	California	Navy	MCB Camp Pendleton	Multi-Purpose Machine Gun Range	3,800	3,800	3,800	3,800
43	California	Navy	MCB Camp Pendleton	Physical Fitness Center	4,100	4,100	4,100	4,100
44	California	Navy	NCCOSC RDT&E Div, San Diego	Test Facility Demolition	3,170	3,170	3,170	3,170
45	California	Navy	MCAGCC Twentynine Palms	Infantry Squad Battle Course	2,490	2,490	2,490	2,490
46	California	Navy	NAWCWD Point Mugu	Child Development Center	1,300	1,300	1,300	1,300
47	California	Navy	NAWCWD China Lake	Industrial Wastewater Collect /Treatment Fac	3,700	3,700	3,700	3,700
48	California	Navy	Naval Station, San Diego	City Waste Collection and Treatment Facility	19,980	19,980	19,980	19,980
49	California	Navy	NAS North Island	Controlled Industrial Facility	42,500	42,500	42,500	42,500
50	California	Navy	NAS North Island	Berthing Wharf	56,650	56,650	56,650	56,650
51	California	Navy	NAS Lemoore	Jet Engine Test Cell	7,600	7,600	7,600	7,600
52	California	Navy	Port Hueneme NCBC	Bachelor Enlisted Quarters (Phase I)	0	16,700	0	9,000
53	California	Air Force	Beale AFB	Landfill Closure	7,500	7,500	7,500	7,500
54	California	Air Force	Edwards AFB	Dormitory	10,600	10,600	10,600	10,600
55	California	Air Force	Edwards AFB	Add/Alter F-22 Engineering Test Facility	12,100	12,100	12,100	12,100
56	California	Air Force	Edwards AFB	Add/Alter Anechoic Chamber	11,100	11,100	11,100	11,100
57	California	Air Force	Travis AFB	Dormitories	10,500	10,500	10,500	10,500
58	California	Air Force	Travis AFB	Dormitory	6,400	6,400	6,400	6,400
59	California	Air Force	Travis AFB	Squadron Operations/Aircraft Maintenance Unit	7,400	7,400	7,400	7,400
60	California	Air Force	Travis AFB	KC-10 Add to Flight Simulator Facility	2,400	2,400	2,400	2,400
61	California	Air Force	Vandenberg AFB	Fire Station	2,000	2,000	2,000	2,000
62	California	Air Force	Vandenberg AFB	SLFI - Chemical Test and Analysis Lab	4,000	4,000	4,000	4,000
63	California	Defense Logistics Agency	DFSC, Point Mugu	Fuel Storage	750	750	750	750
64	California	Defense Logistics Agency	Defense Dist Stockton	General Purpose Whse Replacement	15,000	15,000	15,000	15,000
65	California	Defense Medical Facilities Office	MCB Camp Pendleton	Environmental Health/Industrial Hygiene	1,700	1,700	1,700	1,700
66	California	Defense Medical Facilities Office	Vandenberg AFB	Life Safety/Seismic/Utility Upgrade	5,700	5,700	5,700	5,700
67	California	Defense Medical Facilities Office	Ft. Irwin	Ambulatory Healthcare Clinic	6,900	6,900	6,900	6,900
68	California	Special Operations	Camp Pendleton	SOF Training Complex	5,200	5,200	5,200	5,200
69	California	Air National Guard	Sepulveda ANG Station	Replace Underground Fuel Storage Tanks	320	320	320	320
70	California	Air National Guard	Sepulveda ANG Annex (Van Nuys)	Supply and Civil Engineer Complex	0	1,800	0	1,800
71	California	Army Reserve	Parks RFTA	Battle Projection Center	5,868	5,868	5,868	5,868
72	California	Air Force Reserve	March ARB	Fire Training Facility	1,550	1,550	1,550	1,550
73	Colorado	Army	Ft. Carson	Sanitary Sewer Line	1,750	1,750	1,750	1,750
74	Colorado	Army	Ft. Carson	Whole Barracks Renewal (Phase I)	0	20,000	0	20,000
75	Colorado	Army	Ft. Carson	Sewer Treatment Plant	9,100	9,100	9,100	9,100
76	Colorado	Air Force	Peterson AFB	Add/Alter Dormitory	3,000	3,000	3,000	3,000
77	Colorado	Air Force	Peterson AFB	Fire Station	1,390	1,390	1,390	1,390

FISCAL YEAR 1996 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPIATIONS

(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement
78	Colorado	Air Force	USAF Academy	Upgrade Facilities Heating System	4,950	4,950	4,950	4,950
79	Colorado	Air Force	USAF Academy	Child Development Center	4,200	4,200	4,200	4,200
80	Colorado	Air Force	USAF Academy	Sailplane Hangar	3,724	3,724	0	3,724
81	Colorado	Air Force	Buckley ANGB	Troop Support Facilities	5,500	5,500	5,500	5,500
82	Colorado	Air National Guard	Buckley ANGB	Upgrade Heating Systems	950	950	950	950
83	Colorado	Air National Guard	Buckley ANGB	Base Engineer Pavements and Grounds Facility	450	450	450	450
84	Colorado	Air Force Reserve	Peterson AFB	Composite Maintenance Facility	0	0	3,150	0
85	Delaware	Air Force	Dover AFB	C-5 Sqd Operations/ACFT Maint	5,500	5,500	5,500	5,500
86	Delaware	Defense Logistics Agency	DFSC, Dover AFB	Replace Hydrant Fuel System	15,554	15,554	15,554	15,554
87	Delaware	Defense Medical Facilities Office	Dover AFB	Life Safety Upgrade	4,400	4,400	4,400	4,400
88	Delaware	Air National Guard	New Castle County AP	Fire Station	0	0	2,300	0
89	District of Columbia	Army	Ft. McNair	Whole Barracks Complex Renewal	5,500	5,500	5,500	5,500
90	District of Columbia	Army	Ft. McNair	National Defense Univ Fac Renovation (Phase I)	8,000	8,000	8,000	8,000
91	District of Columbia	Army	Walter Reed Medical Center	Fitness Center	0	0	4,300	0
92	District of Columbia	Air Force	Bolling AFB	Airlift Dormitory	6,500	6,500	6,500	6,500
93	District of Columbia	Air Force	Bolling AFB	Honor Guard Dormitory	5,600	5,600	5,600	5,600
94	District of Columbia	Defense Intelligence Agency	Bolling AFB	Boiler DIAC	498	498	498	498
95	District of Columbia	Defense Intelligence Agency	Bolling AFB	Parking DIAC	1,245	1,245	1,245	0
96	Florida	Navy	NTTC Corry Station	Child Development Center	2,565	2,565	2,565	2,565
97	Florida	Navy	Naval School EOD, Eglin AFB	Explosive Ordnance Disposal Trng Complex	14,200	14,200	14,200	14,200
98	Florida	Navy	Naval School EOD, Eglin AFB	Underwater Ordnance Disposal Trng Fac	1,950	1,950	1,950	1,950
99	Florida	Air Force	Eglin AFB	Repair Runway	6,200	6,200	6,200	6,200
100	Florida	Air Force	Eglin AFB	Upgrade Dormitory	0	7,300	8,300	7,300
101	Florida	Air Force	Tyndall AFB	Fire Training Facility	1,200	1,200	1,200	1,200
102	Florida	Air Force	Cape Canaveral AFS	Fire Training Facility	1,600	1,600	1,600	1,600
103	Florida	Defense Logistics Agency	DFSC, Eglin AFB	SOF Fuel Storage	2,400	2,400	2,400	2,400
104	Florida	Special Operations	Eglin AFB	SOF Squadron Operations/AMU	2,400	2,400	2,400	2,400
105	Florida	Special Operations	Eglin Aux Field 9	SOF Benson Tanks Storage Facility	1,550	1,550	1,550	1,550
106	Florida	Special Operations	Eglin Aux Field 9	SOF Squadron Ops/AMU MH-53	7,100	7,100	7,100	7,100
107	Florida	Special Operations	Eglin Aux Field 9	SOF Helicopter Hangar	5,500	5,500	5,500	5,500
108	Florida	Army National Guard	Camp Blanding	Water Distribution System Upgrade	0	4,200	4,200	4,200
109	Florida	Army National Guard	Camp Blanding	Wastewater Treatment Plant (Phase II)	0	5,300	5,300	5,300
110	Georgia	Army	Ft. Benning	Whole Barracks Complex Renewal	33,000	33,000	33,000	33,000
111	Georgia	Army	Ft. Benning	Close Combat Tactical Trainer Building	4,900	4,900	4,900	4,900
112	Georgia	Army	Ft. Gordon	Battalion Headquarters	3,150	3,150	3,150	3,150
113	Georgia	Army	Ft. Gordon	General Purpose Warehouse	2,600	2,600	2,600	2,600
114	Georgia	Army	Ft. Stewart	Deployment Staging Area	8,400	8,400	8,400	8,400
115	Georgia	Navy	Marine Corps Logistics Base, Albany	Child Development Center (Phase II)	0	1,300	0	0
116	Georgia	Navy	Strategic Weapons Facility, LANT	Security Force Facility	2,450	2,450	2,450	2,450

FISCAL YEAR 1996 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPIATIONS

(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement
117	Georgia	Air Force	Moody AFB	Upgrade Storm Drainage System	690	690	690	690
118	Georgia	Air Force	Moody AFB	Child Development Center	0	3,600	0	0
119	Georgia	Air Force	Moody AFB	C-130 Squadron Operations/AMU	3,200	3,200	3,200	3,200
120	Georgia	Air Force	Moody AFB	Alter Dormitory	0	2,500	0	0
121	Georgia	Air Force	Moody AFB	C-130 Aerial Delivery Facility	4,600	4,600	4,600	4,600
122	Georgia	Air Force	Moody AFB	C-130 Aircraft Washrack Facility	1,700	1,700	1,700	1,700
123	Georgia	Air Force	Moody AFB	Control Tower	2,700	2,700	2,700	2,700
124	Georgia	Air Force	Moody AFB	Repair and Extend Runway	0	0	12,300	12,300
125	Georgia	Air Force	Robins AFB	JSTARS Aircraft Fuel System Maintenance Dock	6,900	6,900	6,900	6,900
126	Georgia	Air Force	Robins AFB	Upgrade Dormitory (Phase I)	0	0	11,000	5,500
127	Georgia	Defense Medical Facilities Office	Ft. Benning	Life Safety Upgrade	5,600	5,600	5,600	5,600
128	Georgia	Section 6 Schools	Ft. Benning	Faith Middle School Addition	1,116	1,116	1,116	1,116
129	Georgia	Air National Guard	Savannah IAP	Alter Aircraft Maintenance Shops	1,300	1,300	1,300	1,300
130	Georgia	Air National Guard	Glynn County ANGS (Brunswick)	Upgrade Communication Squadron Complex	0	5,000	0	3,000
131	Georgia	Air National Guard	Glynn County ANGS (Brunswick)	Replace Underground Fuel Storage Tanks	320	320	320	320
132	Georgia	Air National Guard	Hunter ANG Station No. 2	Replace Underground Fuel Storage Tanks	400	400	400	400
133	Hawaii	Army	Schofield Barracks	Whole Barracks Complex Renewal (Phase I)	0	15,000	35,000	30,000
134	Hawaii	Navy	Naval SUBASE Pearl Harbor	Berthing Pier	22,500	22,500	22,500	22,500
135	Hawaii	Navy	NAVCAMS EASTPAC, Honolulu	Fire Protection System	1,980	1,980	1,980	1,980
136	Hawaii	Navy	Intel Center Pacific, Pearl Harbor	Operations Building Alterations	2,200	2,200	2,200	2,200
137	Hawaii	Air Force	Hickam AFB	Repair Airfield Pavements	4,550	4,550	4,550	4,550
138	Hawaii	Air Force	Hickam AFB	Alter Dormitory	3,100	3,100	3,100	3,100
139	Hawaii	Air Force	Hickam AFB	Alter Transient Dormitory	3,050	3,050	3,050	3,050
140	Idaho	Air Force	Mountain Home AFB	Idaho Training Range (North Site)	8,000	8,000	0	0
141	Idaho	Air Force	Mountain Home AFB	Large Aircraft Maintenance Hangar	0	0	8,000	8,000
142	Idaho	Air Force	Mountain Home AFB	Upgrade Storm Drainage System	800	800	800	800
143	Idaho	Air Force	Mountain Home AFB	Wastewater Treatment and Disposal Plant	9,850	9,850	9,850	9,850
144	Idaho	Air Force	Mountain Home AFB	Avionics Shop	0	0	4,900	0
145	Idaho	Air Force	Mountain Home AFB	Base Civil Engineering Warehouse	0	0	1,800	0
146	Idaho	Air National Guard	Boise Air Term (Gowen Field)	Remove Underground Fuel Storage Tanks	320	320	320	320
147	Idaho	Air National Guard	Boise Air Term (Gowen Field)	Maint Hangar Upgrade	0	0	4,000	4,000
148	Illinois	Navy	NTC Great Lakes	Uniform Issue Building	12,440	12,440	12,440	12,440
149	Illinois	Air Force	Scott AFB	Dormitory	8,000	8,000	8,000	8,000
150	Illinois	Air Force	Scott AFB	Global Reach Planning Center Visiting Quarters	4,700	4,700	4,700	4,700
151	Illinois	Army National Guard	ARNG Marseilles Training Area	TRNG Site, Util Upgrade	1,350	1,350	1,350	1,350
152	Illinois	Air National Guard	Greater Peoria Airport (ANG)	Add to Aircraft Parking Apron	630	630	630	630
153	Illinois	Air National Guard	Greater Peoria Airport (ANG)	Add/Alter Squadron Operations Facility	970	970	970	970
154	Illinois	Air National Guard	Greater Peoria Airport (ANG)	Add to Aircraft Maintenance Hangar	1,200	1,200	1,200	1,200
155	Illinois	Air National Guard	Greater Peoria Airport (ANG)	Alter Aerial Port Training Facility	710	710	710	710

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(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement
156	Illinois	Air National Guard	Greater Peoria Airport (ANG)	Aircraft Deicing Facility	400	400	400	400
157	Illinois	Air National Guard	Greater Peoria Airport (ANG)	Alter Aircraft Maintenance Shops	1,450	1,450	1,450	1,450
158	Illinois	Army Reserve	Ft Sheridan	Add/Alter RTS-Intelligence	3,300	3,300	3,300	3,300
159	Illinois	Army Reserve	USARC Arlington Heights	Battle Projection Center	4,860	4,860	4,860	4,860
160	Indiana	Navy	Crane Naval Surface Warfare Center	Hydroacoustics Test Complex	0	3,300	0	3,300
161	Indiana	Army National Guard	Stout Field (Indianapolis)	Combined Support Maintenance Shop	0	10,846	10,846	10,846
162	Indiana	Air National Guard	Hulman Field (Terre Haute)	Base Civil Engineer Maintenance Complex	0	4,100	0	4,100
163	Indiana	Air Force Reserve	Grissom AF Reserve Base	Fire Station	0	4,250	0	4,250
164	Indiana	Air Force Reserve	Grissom AF Reserve Base	Fire Training Facility	1,500	1,500	1,500	1,500
165	Iowa	Air National Guard	Sioux City Airport (185th ANG)	Runway Upgrade	0	4,050	4,000	4,000
166	Iowa	Air National Guard	Sioux City Gateway AP	Access Taxiway	0	0	750	0
167	Kansas	Army	Ft. Riley	Whole Barracks Renewal (Phase I)	0	0	15,300	7,000
168	Kansas	Air Force	McConnell AFB	Dormitory	0	6,500	0	0
169	Kansas	Air Force	McConnell AFB	Alter Dormitory	2,200	2,200	2,200	2,200
170	Kansas	Air Force	McConnell AFB	Deicing Pad	1,150	1,150	1,150	1,150
171	Kansas	Air Force	McConnell AFB	KC-135 Squadron Operations/AMU	6,100	6,100	6,100	6,100
172	Kansas	Army National Guard	Ft. Leavenworth	Corps Sim Center (Phase II)	4,400	4,400	4,400	4,400
173	Kansas	Air National Guard	McConnell AFB	Alter B-1 Squadron Operations Facility	800	800	800	800
174	Kansas	Air National Guard	McConnell AFB	B-1 Fuel Maintenance Hangar	0	0	7,900	7,900
175	Kansas	Air National Guard	Forbes Field	Medical Training Communications Facility	0	0	5,200	5,200
176	Kansas	Army Reserve	Olathe	Land Acquisition	539	539	539	539
177	Kansas	Army Reserve	USARC Topeka	USARC/OMS/AMSA	6,487	6,487	6,487	6,487
178	Kansas	Army Reserve	Wichita ARNG	HQ 89th ARCOM (Phase I)	0	0	8,389	8,389
179	Kansas	Air Force Reserve	McConnell AFB	KC-135 Operation/Training	0	0	4,980	4,980
180	Kentucky	Army	Ft. Campbell	Whole Barracks Renewal (Phase I)	0	0	10,000	10,000
181	Kentucky	Army	Ft. Knox	Close Combat Tactical Trainer Building	5,600	5,600	5,600	5,600
182	Kentucky	Army National Guard	W. Kentucky Training Range	Training Complex	0	0	4,656	4,656
183	Louisiana	Air Force	Barksdale AFB	B-52 Training Complex	2,500	2,500	2,500	2,500
184	Louisiana	Defense Agencies	Naval Support Activity, New Orleans	SOF Small Craft Breakwater	0	730	0	0
185	Louisiana	Defense Logistics Agency	DFSC, Barksdale AFB	Replace Hydrant Fuel System	13,100	13,100	13,100	13,100
186	Louisiana	Defense Medical Facilities Office	Barksdale AFB	Life Safety Upgrade	4,100	4,100	4,100	4,100
187	Louisiana	Army National Guard	Plaquemine	OMS (Rehab/Renovation)	0	0	776	0
188	Louisiana	Army National Guard	Ruston	OMS #2	0	0	1,638	1,638
189	Louisiana	Naval Reserve	Joint Reserve Base, NAS New Orleans	Bachelor Enlisted Quarters Addition	0	5,035	0	5,035
190	Louisiana	Naval Reserve	Naval Support Activity New Orleans	Bachelor Enlisted Quarters	0	6,100	0	6,100
191	Maryland	Navy	Naval Academy, Annapolis	Bachelor Enlisted Quarters	3,600	3,600	3,600	3,600
192	Maryland	Air Force	Andrews AFB	Dormitory	6,000	6,000	6,000	6,000
193	Maryland	Air Force	Andrews AFB	Underground Fuel Storage Tanks	6,886	6,886	6,886	6,886
194	Maryland	Defense Medical Facilities Office	WRAIR, Forest Glen	Armed Forces Inst of Path Repository Add	1,550	1,550	1,550	1,550

FISCAL YEAR 1996 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPIATIONS

(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement
195	Maryland	Defense Medical Facilities Office	WRAIR, Forest Glen	Army Institute of Research (Phase III)	119,000	27,000	27,000	27,000
196	Maryland	Defense Medical Facilities Office	Bethesda NNMC	Potable Water Line Replacement	1,300	1,300	1,300	1,300
197	Maryland	National Security Agency	Ft. Meade	SPL Steam Generation Plant	632	632	632	632
198	Maryland	National Security Agency	Ft. Meade	Friendship Airport Annex II Purchase	14,800	14,800	14,800	14,800
199	Maryland	National Security Agency	Ft. Meade	Critical Utilities Control (Phase I)	3,301	3,301	3,301	3,301
200	Maryland	Army National Guard	Camp Frettard	OMS	0	0	2,700	2,700
201	Massachusetts	Air National Guard	Barnes Mun Airport (ANG)	Vehicle Maintenance Complex	2,000	2,000	2,000	2,000
202	Massachusetts	Air National Guard	Worcester ANG Station	Paint and Refueling Vehicle Maint Bays	350	350	350	350
203	Massachusetts	Naval Reserve	MCRTC Camp Edwards	Reacon/Combat Vehicle Maintenance Fac Addition	3,130	3,130	3,130	3,130
204	Michigan	Air National Guard	Alpena City RAP	Airfield Pavements Additions	0	0	6,400	6,400
205	Michigan	Air National Guard	Selfridge ANGB	Upgrade Heating Systems	2,900	2,900	2,900	2,900
206	Michigan	Air National Guard	Selfridge ANGB	Sanitary Sewer Upgrade	0	0	520	0
207	Minnesota	Air National Guard	Minneapolis St. Paul IAP	Upgrade Heating System	780	780	780	780
208	Minnesota	Air National Guard	Minneapolis St. Paul IAP	Aircraft Deicing Facility	400	400	400	400
209	Minnesota	Air National Guard	Camp Ripley	CSMS (Phase II)	0	0	8,150	0
210	Mississippi	Air Force	Columbus AFB	Fire Training Facility	1,150	1,150	1,150	1,150
211	Mississippi	Air Force	Keesler AFB	Dormitory	0	8,300	0	0
212	Mississippi	Air Force	Keesler AFB	Upgrade Student Dormitory	6,500	6,500	6,500	6,500
213	Mississippi	Army National Guard	Camp Shelby	Multipurpose Range Complex (Phase I)	0	0	5,000	5,000
214	Mississippi	Army National Guard	Gulfport	AVCRAD Equipment Electronic Test Facility	1,100	1,100	1,100	1,100
215	Mississippi	Air National Guard	Gulfport-Biloxi RAP	Road Relocation	0	0	10,200	5,100
216	Mississippi	Air National Guard	Thompson Field	Add/Alter Communications Facility	0	2,400	0	2,400
217	Mississippi	Air National Guard	Key Field ANGB	Add/Alter Base Communications Facility	0	1,500	0	1,500
218	Missouri	Army	Ft. Leonard Wood	Child Development Center	0	3,900	0	0
219	Missouri	Air Force	Whiteman AFB	B-2 Aircraft Maintenance Docks/Hydrant Fuel Sys	15,500	15,500	15,500	15,500
220	Missouri	Air Force	Whiteman AFB	B-2 Add to ACFT Apron/Convoy Road/Taxiway	1,500	1,500	1,500	1,500
221	Missouri	Air Force	Whiteman AFB	B-2 Add to Flight Simulator Training Facility	4,100	4,100	4,100	4,100
222	Missouri	Air Force	Whiteman AFB	B-2 Add/Alter Dock Fire Protection	3,500	3,500	3,500	3,500
223	Missouri	Defense Mapping Agency	DMA Aerospace Center	Replace Destroyed/Damaged Fac w/Land Acq	40,300	40,300	40,300	40,300
224	Missouri	Army National Guard	Jefferson City	Multipurpose Baffle Range	0	0	2,236	2,236
225	Missouri	Air National Guard	Jefferson Barracks	Upgrade Sewer Systems	0	0	2,700	2,700
226	Montana	Army National Guard	Ft. Harrison	Training Site Improvements	0	0	681	681
227	Montana	Army National Guard	Ft. Harrison	Training Site Support Facility	0	0	7,854	7,854
228	Montana	Army National Guard	Regional Airport Helena	Army Aviation Support Facility	0	0	12,506	12,506
229	Nebraska	Army National Guard	Camp Ashland	Admin/Education/Medical/Supply Facility	0	0	1,406	1,406
230	Nebraska	Army National Guard	Hastings Training Range	Instructional Facility	0	0	761	0
231	Nevada	Air Force	Nellis AFB	Upgrade Storm Drainage System	600	600	600	600
232	Nevada	Air Force	Nellis AFB	Visiting Quarters	9,900	9,900	9,900	9,900
233	Nevada	Air Force	Nellis AFB	Transient Housing	0	0	9,550	7,000

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(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement
234	Nevada	Army Reserve	Las Vegas	Armed Forces Reserve Center/OMS (Phase II)	0	0	9,000	9,000
235	New Hampshire	Army Reserve	Manchester	AMSA/OMS	0	0	17,893	12,376
236	New Jersey	Army	Picatinny Arsenal	Upgrade Electrical System (Phase II)	0	5,500	0	5,500
237	New Jersey	Navy	NAWCAD Lakehurst	Child Development Center	1,700	1,700	1,700	1,700
238	New Jersey	Air Force	McGuire AFB	Fire Training Facility	1,600	1,600	1,600	1,600
239	New Jersey	Air Force	McGuire AFB	Dining Facility	0	5,000	0	0
240	New Jersey	Air Force	McGuire AFB	KC-10 Squadron Operations/AMU	7,600	7,600	7,600	7,600
241	New Jersey	Air Force	McGuire AFB	Dormitory	0	7,300	7,300	7,300
242	New Jersey	Defense Logistics Agency	DFSC, McGuire AFB	Replace Hydrant Fuel System	12,000	12,000	12,000	12,000
243	New Jersey	Air National Guard	McGuire AFB	Fuel Cell and Corrosion Control Facility	5,700	5,700	5,700	5,700
244	New Jersey	Air National Guard	Warren Grove Range	Composite Range Operations Facility	1,100	1,100	1,100	1,100
245	New Jersey	Air National Guard	Atlantic City Airport (ANG)	Upgrade Sanitary and Water System	650	650	650	650
246	New Mexico	Army	WSMR - Stallion Range Center	Stallion Range Center Water Development	0	2,050	0	2,050
247	New Mexico	Air Force	Cannon AFB	Upgrade Storm Drainage System	620	620	620	620
248	New Mexico	Air Force	Cannon AFB	Wastewater Treatment and Disposal Plant	9,800	9,800	9,800	9,800
249	New Mexico	Air Force	Cannon AFB	Add/Alter Dormitory	0	3,000	0	3,000
250	New Mexico	Air Force	Holloman AFB	Academic Center	0	0	6,000	6,000
251	New Mexico	Air Force	Kirtland AFB	Upgrade Storm Drainage System	1,500	1,500	1,500	1,500
252	New Mexico	Air Force	Kirtland AFB	Upgrade Electrical Distribution System	7,656	7,656	7,656	7,656
253	New Mexico	Air National Guard	Kirtland AFB	Composite Engine and NDI Shop	2,700	2,700	2,700	2,700
254	New Mexico	Air National Guard	Kirtland AFB	LANTIRN Maintenance Facility	620	620	620	620
255	New Mexico	Air National Guard	Kirtland AFB	Aircraft Corrosion Control Facility	1,800	1,800	1,800	1,800
256	New Mexico	Air National Guard	Kirtland AFB	Alter Aircraft Maint Hangar and Shops	900	900	900	900
257	New York	Army	Ft. Drum	Shipping and Receiving Building	0	2,650	0	0
258	New York	Army	Ft. Drum	Anti-Armor Tracking and Live-Fire Range	0	5,000	0	5,000
259	New York	Army	Ft. Drum	Infantry Platoon Battle Course	0	3,800	0	3,800
260	New York	Army	USMA	Child Development Center	0	8,300	0	8,300
261	New York	Army	Watervliet ARS	Oil Runoff Containment Facility	680	680	680	680
262	New York	Air National Guard	Hancock Field (ANG)	Composite Medical Training Facility	1,990	1,990	1,990	1,990
263	New York	Air National Guard	Niagara Falls IAP	Upgrade Storm Water and Sanitary Sewer System	400	400	400	400
264	New York	Air National Guard	Niagara Falls IAP	Upgrade Runway Overrun	1,950	1,950	1,950	1,950
265	New York	Air National Guard	Stratton ANGB (Schenectady)	Maintenance Hangar and Shops	0	10,000	0	10,000
266	New York	Naval Reserve	NMCRC Buffalo	Reserve Training Building Addition	3,836	3,836	3,836	3,836
267	New York	Air Force Reserve	Niagara Falls ARS	Fuel System Maintenance Hangar	4,895	4,895	4,895	4,895
268	North Carolina	Army	Ft. Bragg	Staging Area Complex	11,200	11,200	11,200	11,200
269	North Carolina	Army	Ft. Bragg	Whole Barracks Complex Renewal	18,500	18,500	18,500	18,500
270	North Carolina	Navy	MCAS Cherry Point	Jet Engine Test Cell	7,730	7,730	7,730	7,730
271	North Carolina	Navy	MCAS Cherry Point	Missile Magazine	1,650	1,650	1,650	1,650
272	North Carolina	Navy	MCAS Cherry Point	Enclose Water Survival Training Tank	2,050	2,050	2,050	2,050

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(Dollars in Thousands)

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273	North Carolina	Navy	MCAS New River	Bachelor Enlisted Quarters	14,650	14,650	14,650	14,650
274	North Carolina	Navy	MCB Camp LeJeune	Bachelor Enlisted Quarters	8,300	8,300	8,300	8,300
275	North Carolina	Navy	MCB Camp LeJeune	Infantry Platoon Battle Course	5,500	5,500	5,500	5,500
276	North Carolina	Navy	MCB Camp LeJeune	Wastewater Treatment Plant (Phase II)	45,500	45,500	45,500	45,500
277	North Carolina	Air Force	Pope AFB	Underground Fuel Storage Tanks	2,150	2,150	2,150	2,150
278	North Carolina	Air Force	Pope AFB	C-130 Squadron Ops/AMU and Audiovisual Svs Ctr	6,100	6,100	6,100	6,100
279	North Carolina	Air Force	Seymour Johnson AFB	Upgrade Storm Drainage System	830	830	830	830
280	North Carolina	Air Force	Seymour-Johnson AFB	Visiting Officers Quarters	0	2,000	0	0
281	North Carolina	Air Force	Seymour-Johnson AFB	Dining Hall and Troop Issue Warehouse	0	4,700	0	4,700
282	North Carolina	Special Operations	Ft. Bragg	SOF Group Headquarters Building	2,600	2,600	3,900	2,600
283	North Carolina	Defense Agencies	Ft. Bragg	COSCOM Health Clinic	0	13,200	0	13,200
284	North Carolina	Defense Agencies	Ft. Bragg	SOF Barracks	0	8,000	0	8,000
285	North Carolina	Defense Agencies	Ft. Bragg	SOF Barracks	0	0	5,500	0
286	North Carolina	Air National Guard	Charlotte ANGB	Aeromedical Evacuation Training Facility	0	1,900	0	1,900
287	North Carolina	Army Reserve	Hickory	USARC	2,713	2,713	2,713	2,713
288	North Dakota	Air Force	Grand Forks AFB	Dormitory	8,500	8,500	8,500	8,500
289	North Dakota	Air Force	Grand Forks AFB	KC-135 Squadron Operations/AMU	6,300	6,300	6,300	6,300
290	North Dakota	Air Force	Minot AFB	Underground Fuel Storage Tanks	1,550	1,550	1,550	1,550
291	North Dakota	Army National Guard	Camp Grafton (Devils Lake)	Combined Support Maintenance and Paint Shop	0	2,050	2,050	2,050
292	Ohio	Air Force	Wright-Patterson AFB	Upgrade Electrical Distribution System	4,100	4,100	4,100	4,100
293	Ohio	Defense Finance & Accounting Svc	Columbus Center	DFAS Operations Facility (Phase I)	72,403	37,400	37,400	37,400
294	Ohio	Army National Guard	Rickenbacker ANGB	Barracks	0	1,750	0	1,750
295	Ohio	Air National Guard	Blue Ash ANG Station	Replace Underground Fuel Storage Tanks	380	380	380	380
296	Ohio	Air National Guard	Camp Perry ANG Station	Replace Underground Fuel Storage Tanks	320	320	320	320
297	Ohio	Air National Guard	Rickenbacker ANGB	Replace Underground Fuel Storage Tanks	310	310	310	310
298	Ohio	Air National Guard	Rickenbacker ANGB	Squadron Operations Building	0	0	6,100	0
299	Ohio	Air Force Reserve	Youngstown ARS	Add/Alter Electric Substation	4,230	4,230	4,230	4,230
300	Ohio	Air Force Reserve	Youngstown ARS	Upgrade Base Water Distribution System	1,000	1,000	1,000	1,000
301	Ohio	Air Force Reserve	Youngstown ARS	Construct Aircraft Parking Apron	3,350	3,350	3,350	3,350
302	Oklahoma	Army	Ft. Sill	Whole Barracks Complex Renewal	0	8,000	0	8,000
303	Oklahoma	Army	Ft. Sill	Central Vehicle Wash Facility	6,300	6,300	6,300	6,300
304	Oklahoma	Air Force	Altus AFB	Fire Training Facility	1,200	1,200	1,200	1,200
305	Oklahoma	Air Force	Altus AFB	Child Development Center	0	4,000	3,600	3,600
306	Oklahoma	Air Force	Tinker AFB	Add/Alter Dormitories	5,100	5,100	5,100	5,100
307	Oklahoma	Air Force	Tinker AFB	Corrosion Control Facility (B-2) (Phase I)	0	0	11,400	6,000
308	Oklahoma	Army National Guard	Ft. Sill	Organizational Maintenance Shop (MLRS)	2,400	2,400	2,400	2,400
309	Oklahoma	Air National Guard	Tulsa IAP	Composite Communications Facility	1,900	1,900	1,900	1,900
310	Oklahoma	Air National Guard	Will Rogers World Airport	Composite Fire Station	1,950	1,950	1,950	1,950
311	Oklahoma	Air National Guard	Will Rogers World Airport	Aerial Port Training Facility	2,550	2,550	2,550	2,550

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(Dollars in Thousands)

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312	Oklahoma	Air National Guard	Will Rogers World Airport	Petroleum Operations Facility	400	400	400	400
313	Oregon	Chemical Demilitarization	Umatilla Depot	Ammunition Demilitarization Facility (Phase II)	55,000	55,000	0	0
314	Oregon	Army National Guard	Camp Withycombe	CSMS	0	0	4,769	4,769
315	Oregon	Army National Guard	Salem	Airfield Operations Building	0	0	2,972	2,972
316	Oregon	Air National Guard	Klamath Falls	Operations/Training Facility	0	0	4,600	4,600
317	Pennsylvania	Navy	Philadelphia Naval Shipyard	Foundry Renovation and Modernization (Phase III)	0	6,000	0	6,000
318	Pennsylvania	Defense Logistics Agency	Def Dist New Cumberland - DDSP	Transport Control Facility	4,600	4,600	4,600	4,600
319	Pennsylvania	Special Operations	Olmstead Field, Harrisburg IAP	SOF Mobility Storage Warehouse	1,200	1,200	1,200	1,200
320	Pennsylvania	Special Operations	Olmstead Field, Harrisburg IAP	SOF Refueling Vehicle Shop	443	443	443	443
321	Pennsylvania	Army National Guard	Indiantown Gap Annville	Military Training/Barracks/Dining (Phase III)	0	0	9,877	9,877
322	Pennsylvania	Army National Guard	Scranton Regional Maintenance Facility	Regional Maintenance Shop	0	3,320	0	3,320
323	Pennsylvania	Air National Guard	Greater Pittsburgh IAP (ANG)	Fuel Systems Maintenance Facility	5,332	5,332	5,332	5,332
324	Rhode Island	Navy	Naval War College, Newport	Strategic Maritime Center (Phase II)	0	0	18,000	0
325	South Carolina	Army	Ft. Jackson	Whole Barracks Complex Renewal	32,000	32,000	32,000	32,000
326	South Carolina	Army	NWS Charleston	Army Strategic Maint Complex (Phase II)	16,500	16,500	16,500	16,500
327	South Carolina	Army	NWS Charleston	Wharf Additions	9,200	9,200	9,200	9,200
328	South Carolina	Navy	Beaufort MCAS	Bachelor Enlisted Quarters	0	15,000	15,000	15,000
329	South Carolina	Air Force	Shaw AFB	Upgrade Storm Drainage System	1,300	1,300	1,300	1,300
330	South Carolina	Air Force	Charleston AFB	Dormitory	5,600	5,600	5,600	5,600
331	South Carolina	Air Force	Charleston AFB	C-17 Squadron Operations/AMU	5,600	5,600	5,600	5,600
332	South Carolina	Air Force	Charleston AFB	C-17 Add to Flight Simulator Facility	1,300	1,300	1,300	1,300
333	South Carolina	Section 6 Schools	Ft. Jackson	Pierce Terrace Elem School Addition	576	576	576	576
334	South Carolina	Army National Guard	Eastover	Region C Leadership Brigade Facility	0	0	15,229	15,229
335	South Dakota	Air Force	Ellsworth AFB	Consolidated Admin. Support Complex	0	0	7,800	7,800
336	South Dakota	Army National Guard	Camp Rapid (Rapid City)	Combined Battalion Barracks/Mess/Admin. Area	0	2,650	2,631	2,631
337	South Dakota	Army National Guard	Rapid City	AASF Ramp	0	0	3,100	0
338	South Dakota	Air National Guard	Joe Foss Field (ANG)	Base Supply Complex	4,000	4,000	4,000	4,000
339	South Dakota	Air National Guard	Joe Foss Field (ANG)	Vehicle Maintenance and Storage Complex	0	0	4,400	0
340	Tennessee	Air Force	Arnold AFB	Upgrade Fire Protection Systems	2,700	2,700	2,700	2,700
341	Tennessee	Air Force	Arnold AFB	Upgrade Engine Test Facilities Refrigeration	2,300	2,300	2,300	2,300
342	Tennessee	Army National Guard	Johnson City	OMS/AMSA/VMF	0	1,937	1,937	1,937
343	Tennessee	Army National Guard	Tullahoma Training Site	Modified Record Fire Range	0	2,623	0	2,623
344	Tennessee	Air National Guard	McGhee Tyson Airport	PMEC School Training Quarters	4,400	4,400	4,400	4,400
345	Tennessee	Air National Guard	McGhee Tyson Airport	Squadron Operations Facility	0	0	4,400	4,400
346	Tennessee	Air National Guard	Memphis IAP	Add/Alter Security Police Operations Facility	1,100	1,100	1,100	1,100
347	Tennessee	Air National Guard	Memphis IAP	Add/Alter Base Engineer Maintenance Complex	990	990	990	990
348	Texas	Army	Ft. Bliss	Dining Facility	0	4,900	0	4,900
349	Texas	Army	Ft. Bliss	Child Development Center	0	4,000	0	4,000
350	Texas	Army	Ft. Bliss	Whole Barracks Complex Renewal	48,000	48,000	48,000	48,000

FISCAL YEAR 1996 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPIATIONS

(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement
351	Texas	Army	Ft. Hood	Whole Barracks Complex Renewal	17,500	17,500	17,500	17,500
352	Texas	Army	Ft. Hood	Whole Barracks Renewal (Phase I)	0	15,000	15,000	15,000
353	Texas	Army	Ft. Sam Houston	IH-35 Overpass	0	7,000	0	7,000
354	Texas	Navy	Corpus Christi NAS	Bachelor Enlisted Quarters Expansion and Upgrade	0	4,400	0	4,400
355	Texas	Navy	Ingleside NS	Small Craft Berthing Pier	0	2,640	0	2,640
356	Texas	Navy	Kingsville NAS	Land Acquisition for Airfield Safety Clear Zones	0	2,710	0	2,710
357	Texas	Air Force	Dyess AFB	Add/Alter Dormitories	0	5,400	5,400	5,400
358	Texas	Air Force	Goodfellow AFB	Child Development Center Addition	0	1,000	0	1,000
359	Texas	Air Force	Kelly AFB	Wing Headquarters Facility	3,244	3,244	3,244	3,244
360	Texas	Air Force	Laughlin AFB	Fire Training Facility	1,400	1,400	1,400	1,400
361	Texas	Air Force	Randolph AFB	Fire Training Facility	1,200	1,200	1,200	1,200
362	Texas	Air Force	Randolph AFB	Upgrade Airfield Lighting	1,900	1,900	1,900	1,900
363	Texas	Air Force	Reese AFB	Fire Training Facility	1,200	1,200	1,200	0
364	Texas	Air Force	Sheppard AFB	Upgrade Airfield Lighting	1,500	1,500	1,500	1,500
365	Texas	Ballistic Missile Defense Org.	Ft. Bliss	Theater Area Defense Facilities	13,600	13,600	13,600	13,600
366	Texas	Defense Medical Facilities Office	Ft. Hood	Consolidated Troop Medical Clinic	5,500	5,500	5,500	5,500
367	Texas	Defense Medical Facilities Office	Lackland AFB	Add/Alter Emergency Department	6,100	6,100	6,100	6,100
368	Texas	Defense Medical Facilities Office	Reese AFB	Life Safety/Utility Upgrade	1,000	1,000	1,000	0
369	Texas	Air National Guard	Kelly AFB	Upgrade Heating and Cooling Systems	1,400	1,400	1,400	1,400
370	Utah	Air Force	Hill AFB	Consolidated Range/Dormitory/Operations Facility	0	0	8,900	8,900
371	Utah	Air Force	Hill AFB	Depot Fire Protection	0	0	3,700	0
372	Utah	Army National Guard	Camp Williams (Lehi)	Training Site, Storage Facility	340	340	340	340
373	Utah	Army National Guard	Camp Williams (Lehi)	Region V Barracks	0	5,197	0	0
374	Utah	Army National Guard	Camp Williams (Lehi)	Replace/Upgrade Potable Water Distribution Sys	0	800	800	800
375	Vermont	Air National Guard	Burlington IAP	Add/Alter Operations/Training Facility	0	0	2,650	2,650
376	Virginia	Army	Ft. Eustis	Deployment Training Facility	5,400	5,400	5,400	5,400
377	Virginia	Army	Ft. Eustis	Whole Barracks Complex Renewal	0	11,000	11,000	11,000
378	Virginia	Army	Ft. Myer	Army Museum Land Acquisition	17,000	17,000	0	0
379	Virginia	Navy	Fleet & Indus Supply Cen, Williamsburg	Bachelor Enlisted Quarters	6,140	6,140	6,140	6,140
380	Virginia	Navy	Fleet & Indus Supply Cen, Williamsburg	Electrical Distribution Sys Alterations	2,250	2,250	2,250	2,250
381	Virginia	Navy	Henderson Hall, Arlington	Land Acquisition	0	0	1,900	1,900
382	Virginia	Navy	MCCDC Quantico	Ammunition Storage Facility	3,500	3,500	3,500	3,500
383	Virginia	Navy	Naval Hospital, Portsmouth	Bachelor Enlisted Quarters	9,500	9,500	9,500	9,500
384	Virginia	Navy	Naval Station, Norfolk	Oily Waste Collection System (Phase I)	10,580	10,580	10,580	10,580
385	Virginia	Navy	NWS Yorktown	Explosive Ordnance Disposal Ops Fac	1,300	1,300	1,300	1,300
386	Virginia	Navy	Norfolk Naval Station	Bachelor Enlisted Quarters	0	18,000	0	0
387	Virginia	Air Force	Langley AFB	Upgrade Storm Drainage System	1,000	1,000	1,000	1,000
388	Virginia	Defense Logistics Agency	Defense Dist Depot - DDNV	General Purpose Whse Replacement	10,400	10,400	10,400	10,400
389	Virginia	Defense Medical Facilities Office	Portsmouth Naval Hospital	Hospital Replacement (Phase VII)	71,900	47,900	47,900	47,900

FISCAL YEAR 1996 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPIATIONS

(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement
390	Virginia	Defense Medical Facilities Office	Northwest NAVSECGRUACT	Medical/Dental Clinic	4,300	4,300	4,300	4,300
391	Virginia	Special Operations	Dam Neck	SOF Amphibious Operations Support Building	4,500	4,500	4,500	4,500
392	Virginia	Special Operations	Little Creek	SOF Operations Support Facility	6,100	6,100	6,100	6,100
393	Virginia	Army National Guard	Danville	Expand Squire Armory	0	0	1,789	0
394	Virginia	Air National Guard	Camp Pendleton Mil Res	Vehicle Maintenance Complex	2,000	2,000	2,000	2,000
395	Virginia	Air National Guard	Richmond IAP (Byrd Field)	Add/Alter F-16 AC Maintenance Complex	2,700	2,700	2,700	2,700
396	Washington	Army	Ft. Lewis	Tank Trail Erosion Mitigation (Yakima)	2,000	2,000	2,000	2,000
397	Washington	Army	Ft. Lewis	Consolidated Fuel Station	3,400	3,400	3,400	3,400
398	Washington	Army	Ft. Lewis	Multi-Purpose Training Range (Yakima)	8,500	8,500	8,500	8,500
399	Washington	Army	Ft. Lewis	Tactical Equipment Shop	15,000	15,000	15,000	15,000
400	Washington	Army	Ft. Lewis	Rail Spur and Tank Trails (Yakima)	3,200	3,200	3,200	3,200
404	Washington	Navy	NUWC Division, Keyport	Metal Treatment Facility	5,300	5,300	5,300	5,300
401	Washington	Navy	Puget Sound NSY Bremerton	Fleet Support Facilities	6,870	6,870	6,870	6,870
402	Washington	Navy	Puget Sound Naval Shipyard	Physical Fitness Center	0	10,400	10,400	10,400
403	Washington	Navy	Puget Sound NSY Bremerton	Metal Preparation Fac Improvements	2,600	2,600	2,600	2,600
405	Washington	Air Force	Fairchild AFB	Alter Dormitories	7,500	7,500	7,500	7,500
406	Washington	Air Force	Fairchild AFB	Dormitory	0	8,200	0	8,200
407	Washington	Air Force	McChord AFB	Squadron Operations/AMU	5,600	5,600	5,600	5,600
408	Washington	Air Force	McChord AFB	Dormitory	4,300	4,300	4,300	4,300
409	West Virginia	Navy	NSGD Sugar Grove	Bachelor Enlisted Quarters	0	0	7,200	7,200
410	Wisconsin	Army National Guard	West Bend	Army Aviation Complex	0	0	5,235	0
411	Wisconsin	Air National Guard	Truax Field	Alter Munitions Facility	670	670	670	670
412	Wisconsin	Army Reserve	USARC Green Bay	USARC/OMS/AMSA	6,523	6,523	6,523	6,523
413	Wyoming	Air Force	F E Warren AFB	Upgrade Central Heat Plant	3,500	3,500	3,500	3,500
414	Wyoming	Air Force	F E Warren AFB	Alter Dormitories	5,500	5,500	5,500	5,500
415	Wyoming	Air Force	F.E. Warren AFB	Child Development Center	0	4,000	0	0
416	Wyoming	Army National Guard	Camp Guernsey	Utility Upgrade	0	0	6,055	6,055
417	Wyoming	Army National Guard	Cody	Organizational Maintenance Subshop	342	342	342	342
418	Wyoming	Army National Guard	Newcastle	Organizational Maintenance Subshop	348	348	348	348
419	CONUS Classified	Army	CONUS Classified	Classified Project	1,900	1,900	1,900	1,900
420	CONUS Classified	Air Force	Classified Location	Special Tactical Unit Detachment Facility	700	700	700	700
421	CONUS Classified	OSD	Classified Location	Classified Location	11,500	11,500	11,500	11,500
422	CONUS Various Loc	Navy	Various Locations	Supply Warehouse	1,200	1,200	1,200	1,200
423	Germany	Air Force	Vogelweh Annex	Child Development Center	2,600	2,600	2,600	2,600
424	Germany	Air Force	Spangdahlem AB	Dormitory	5,900	5,900	5,900	5,900
425	Germany	Air Force	Spangdahlem AB	Add to Missile Maintenance Facility	930	930	930	930
426	Germany	Air Force	Spangdahlem AB	Sound Suppressor Foundation	950	950	950	950
427	Germany	Air Force	Spangdahlem AB	Sound Suppressor Foundation	600	600	600	600
428	Germany	DODDS	Ramstein AFB	Elementary/Junior High School Additions	19,205	19,205	19,205	19,205

FISCAL YEAR 1996 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPIATIONS

(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement
429	Greece	Air Force	Araxos RRS	Dormitory	1,950	1,950	1,950	1,950
430	Guam	Navy	NPWC Guam	Wastewater Treatment Plant Upgrades	16,180	16,180	16,180	16,180
431	Guam	Navy	NAVCAMS WESTPAC	Bachelor Enlisted Quarters Modernization	2,250	2,250	2,250	2,250
432	Guam	Special Operations	Naval Station, Guam	SOF Operations Support Facility	8,800	8,800	8,800	8,800
433	Italy	Navy	Naval Support Activity, Naples	Quality of Life Facilities (Phase III)	14,950	14,950	14,950	14,950
434	Italy	Navy	Naval Support Activity, Naples	Operations Support Center	10,000	10,000	10,000	10,000
435	Italy	Navy	NAS Sigonella	Fire Protection System	870	870	870	870
436	Italy	Navy	NAS Sigonella	Bachelor Enlisted Quarters	11,300	11,300	11,300	11,300
437	Italy	Air Force	Aviano AB	Communications Maintenance Facility	1,400	1,400	1,400	1,400
438	Italy	Air Force	Ghedi RRS	Dormitory	1,450	1,450	1,450	1,450
439	Italy	Air Force	Aviano AB	Squadron Operations Facility	950	950	950	950
440	Italy	Defense Medical Facilities Office	Naval Support Activity, Naples	Dispensary (Capodichino)	5,000	5,000	5,000	5,000
441	Italy	DODDS	NAS Sigonella	Elementary/High School Additions	7,595	7,595	7,595	7,595
442	Korea	Army	Camp Casey	Dining Facility	4,150	4,150	4,150	4,150
443	Korea	Army	Camp Hovey	Whole Barracks Complex Renewal	7,300	7,300	7,300	7,300
444	Korea	Army	Camp Hovey	Whole Barracks Complex Renewal	6,200	6,200	6,200	6,200
445	Korea	Army	Camp Pelham	Whole Barracks Complex Renewal	5,600	5,600	5,600	5,600
446	Korea	Army	Camp Stanley	Whole Barracks Complex Renewal	6,800	6,800	6,800	6,800
447	Korea	Army	Yongsan	Child Development Center	0	1,450	4,500	4,500
448	Puerto Rico	Navy	NAVSECGRUACT Sabana Seca	Road Improvements	2,200	2,200	2,200	2,200
449	Puerto Rico	Navy	Naval Station, Roosevelt Roads	Sanitary Landfill	11,500	11,500	11,500	11,500
450	Puerto Rico	Defense Logistics Agency	DFSP, Roosevelt Roads	Fuel Storage	6,200	6,200	6,200	6,200
451	Puerto Rico	Air National Guard	Puerto Rico IAP	Munitions Maintenance and Storage Complex	3,800	3,800	3,800	3,800
452	Puerto Rico	Air National Guard	Puerto Rico IAP	Add/Alter Composite Support Facility	510	510	510	510
453	Puerto Rico	Air National Guard	Puerto Rico IAP	Upgrade Security System	1,350	1,350	1,350	1,350
454	Spain	Defense Logistics Agency	DFSC Rota	Hydrant Fuel System	7,400	7,400	7,400	7,400
455	Turkey	Air Force	Incirlik AB	Child Development Center	1,600	1,600	1,600	1,600
456	Turkey	Air Force	Incirlik AB	Upgrade Sewage Treatment Plant	2,900	2,900	2,900	2,900
457	Turkey	Air Force	Ankara AS	Long Period Seismic Array	3,000	3,000	3,000	3,000
458	Turkey	Air Force	Ankara AS	Short Period Seismic Array	4,000	4,000	4,000	4,000
459	United Kingdom	Air Force	RAF Mildenhall	Add/Alter Child Development Center	2,250	2,250	2,250	2,250
460	United Kingdom	Air Force	RAF Lakenheath	Add to Missile Maintenance Facility	1,820	1,820	1,820	1,820
461	United Kingdom	National Security Agency	Menwith Hill Station	Warehouse Sprinklers	677	677	677	677
462	Overseas Classified	Army	Classified Location - Outside U.S.	Strategic Logistical Prepo Complex (Phase I)	48,000	48,000	48,000	48,000
463	Overseas Classified	Air Force	Classified Location - Outside U.S.	Vehicle Maintenance Facility	1,600	1,600	1,600	1,600
464	Overseas Classified	Air Force	Classified Location - Outside U.S.	War Readiness Material Warehouses	15,500	15,500	15,500	15,500
465	Unspecified Worldwide	Army	Unspecified Worldwide Locations	Host Nation Support	20,000	20,000	20,000	20,000
466	Unspecified Worldwide	Army	Unspecified Worldwide Locations	Unspecified Minor Construction - Army	9,000	9,000	9,000	9,000
467	Unspecified Worldwide	Army	Unspecified Worldwide Locations	Planning and Design - Army	32,894	50,778	36,194	34,194

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(Dollars in Thousands)

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468	Unspecified Worldwide	Army	Unspecified Worldwide Locations	Termination Fiscal Year 1992 Projects	0	0	(6,245)	0
469	Unspecified Worldwide	Army	Unspecified Worldwide Locations	General Reductions	0	0	0	(6,385)
470	Unspecified Worldwide	Special Operations	Unspecified Worldwide Locations	Planning and Design - Special Operations	5,407	5,407	5,407	5,407
471	Unspecified Worldwide	Navy	Unspecified Worldwide Locations	Unspecified Minor Construction - Navy	7,200	7,200	7,200	7,200
472	Unspecified Worldwide	Navy	Unspecified Worldwide Locations	Planning and Design - Navy	46,477	66,184	48,774	50,515
473	Unspecified Worldwide	Navy	Unspecified Worldwide Locations	General Reductions	0	0	0	(6,385)
474	Unspecified Worldwide	Air Force	Unspecified Worldwide Locations	Planning and Design - Air Force	30,835	49,021	34,980	30,835
475	Unspecified Worldwide	Air Force	Unspecified Worldwide Locations	Unspecified Minor Construction - Air Force	9,030	9,030	9,030	9,030
476	Unspecified Worldwide	Air Force	Unspecified Worldwide Locations	Termination Fiscal Year 1992 Projects	0	0	(16,005)	0
477	Unspecified Worldwide	Air Force	Unspecified Worldwide Locations	General Reductions	0	0	0	(6,385)
478	Unspecified Worldwide	OSD	Unspecified Worldwide Locations	Unspecified Minor Construction - OSD	23,007	23,007	23,007	23,007
479	Unspecified Worldwide	OSD	Unspecified Worldwide Locations	Contingency Construction Projects - OSD	11,037	11,037	11,037	11,037
480	Unspecified Worldwide	OSD	Unspecified Worldwide Locations	Energy Conservation	50,000	50,000	50,000	40,000
481	Unspecified Worldwide	OSD	Unspecified Worldwide Locations	Planning and Design - OSD	13,000	13,000	13,000	13,000
482	Unspecified Worldwide	Ballistic Missile Defense Office	Unspecified Worldwide Locations	Planning and Design - BMDO	500	500	500	500
483	Unspecified Worldwide	Defense Medical Facilities Office	Unspecified Worldwide Locations	Planning and Design - DMFO	28,330	28,330	28,330	28,330
484	Unspecified Worldwide	Defense Agencies	Unspecified Worldwide Locations	Termination Fiscal Year 1991 Projects	0	0	(3,234)	0
485	Unspecified Worldwide	Defense Agencies	Unspecified Worldwide Locations	Termination Fiscal Year 1994 Projects	0	0	(8,131)	(8,131)
486	Unspecified Worldwide	Defense Agencies	Unspecified Worldwide Locations	Termination Fiscal Year 1992 Projects	0	0	(6,800)	0
487	Unspecified Worldwide	Defense Agencies	Unspecified Worldwide Locations	Termination Fiscal Year 1993 Projects	0	0	(8,590)	0
488	Unspecified Worldwide	Homeowners Assistance Fund	Unspecified Worldwide Locations	Homeowners Assistance Fund	75,586	75,586	75,586	75,586
489	Unspecified Worldwide	NATO	Unspecified Worldwide Locations	NATO Security Investment Program	179,000	161,000	179,000	161,000
490	Unspecified Worldwide	Army National Guard	Unspecified Worldwide Locations	Unspecified Minor Construction - Army National Guard	5,300	5,300	5,300	5,300
491	Unspecified Worldwide	Army National Guard	Unspecified Worldwide Locations	Planning and Design - Army National Guard	2,900	15,200	5,000	5,100
492	Unspecified Worldwide	Air National Guard	Unspecified Worldwide Locations	Unspecified Minor Construction - Air National Guard	4,100	4,100	4,100	4,100
493	Unspecified Worldwide	Air National Guard	Unspecified Worldwide Locations	Planning and Design - Air National Guard	4,580	6,450	8,566	6,450
494	Unspecified Worldwide	Army Reserve	Unspecified Worldwide Locations	Planning and Design - Army Reserve	3,694	3,694	5,344	4,482
495	Unspecified Worldwide	Air National Guard	Unspecified Worldwide Locations	Termination Fiscal Year 1994 Projects	0	0	(6,700)	(6,700)
496	Unspecified Worldwide	Army Reserve	Unspecified Worldwide Locations	Unspecified Minor Construction - Army Reserve	1,700	1,700	1,700	1,700
497	Unspecified Worldwide	Naval Reserve	Unspecified Worldwide Locations	Planning and Design - Naval Reserve	954	1,554	954	954
498	Unspecified Worldwide	Air Force Reserve	Unspecified Worldwide Locations	Planning and Design - Air Force Reserve	2,700	2,950	2,700	2,700
499	Unspecified Worldwide	Air Force Reserve	Unspecified Worldwide Locations	Unspecified Minor Construction - AF Reserve	4,169	4,169	4,169	4,169
500	Unspecified Worldwide	BRAC II	BRAC Act Part II	Base Realignment & Closure Part II	964,843	964,843	964,843	964,843
501	Unspecified Worldwide	BRAC III	BRAC Act Part III	Base Realignment & Closure Part III	2,148,480	2,148,480	2,148,480	2,148,480
502	Unspecified Worldwide	BRAC IV	BRAC Act Part IV	Base Realignment & Closure Part IV	784,569	784,569	685,869	784,569
503	Various Locations	Chemical Demilitarization	Various Locations	Planning and Design - Chemical Demilitarization	13,000	13,000	13,000	13,000
504	Various Locations	Defense Finance & Accounting Svc	Various Locations	Planning and Design - DFAS	8,600	8,600	8,600	8,600
505	Alabama	Army-FHC	Redstone Arsenal	Family Housing Replacement Construction (116 units)	0	12,000	0	0
506	Alaska	Army-FHC	Ft. Wainwright	Neighborhood Improvement (44 units)	0	0	7,300	0

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507	Alaska	Air Force-FHC	Elmendorf AFB	Housing Office and Maintenance Facility	3,000	3,000	3,000	3,000
508	Arizona	Air Force-FHC	Davis-Monthan AFB	Replace 80 Military Family Housing Units	9,498	9,498	9,498	9,498
509	Arkansas	Air Force-FHC	Little Rock AFB	Replace 1 General Officer's Quarters Unit	210	210	210	210
510	California	Navy-FHC	MCB Camp Pendleton	Family Housing Construction (69 units)	0	20,080	0	10,000
511	California	Navy-FHC	MCB Camp Pendleton	Community Center	1,438	1,438	1,438	1,438
512	California	Navy-FHC	MCB Camp Pendleton	Housing Office	707	707	707	707
513	California	Navy-FHC	MCB Camp Pendleton	69 Units New Construction Family Housing	10,000	10,000	10,000	10,000
514	California	Navy-FHC	NAS Lemoore	Replace 240 Military Family Housing Units	34,900	34,900	34,900	34,900
515	California	Navy-FHC	PMTC, Point Mugu	Housing Office/Self Help (New Construction)	1,020	1,020	1,020	1,020
516	California	Navy-FHC	PWC San Diego	Replace 348 Military Family Housing Units	49,310	49,310	49,310	49,310
517	California	Air Force-FHC	Beale AFB	Construct Family Housing Management Office	842	842	842	842
518	California	Air Force-FHC	Edwards AFB	Replace 67 Military Family Housing Units	11,350	11,350	11,350	11,350
519	California	Air Force-FHC	Edwards AFB	Replace 60 Family Housing Units	0	9,400	0	9,400
520	California	Air Force-FHC	Vandenberg AFB	Replace 143 Military Family Housing Units	20,200	20,200	20,200	20,200
521	California	Air Force-FHC	Vandenberg AFB	Family Housing Management Office	900	900	900	900
522	Colorado	Air Force-FHC	Peterson AFB	Family Housing Office	570	570	570	570
523	District of Columbia	Air Force-FHC	Bolling AFB	Replace 32 Military Family Housing Units	4,100	4,100	4,100	4,100
524	Florida	Air Force-FHC	Eglin AFB	Construct Family Housing Management Facility	500	500	500	500
525	Florida	Air Force-FHC	Eglin Aux Field 9	Family Housing Office & Maintenance Facility	880	880	880	880
526	Florida	Air Force-FHC	Patrick AFB	Replace 70 Military Family Housing Units	7,947	7,947	7,947	7,947
527	Florida	Air Force-FHC	MacDill AFB	Construct Housing Office	646	646	646	646
528	Florida	Air Force-FHC	Tyndall AFB	Replace 52 Military Family Housing Units	5,500	5,500	5,500	5,500
529	Florida	Air Force-FHC	Tyndall AFB	Replace 30 Family Housing Units	0	4,300	0	4,300
530	Georgia	Air Force-FHC	Moody AFB	3 General and Senior Officer's Quarters	513	513	513	513
531	Georgia	Air Force-FHC	Robins AFB	Replace 83 Family Housing Units	0	0	9,800	9,800
532	Hawaii	Navy-FHC	Naval Complex, Oahu	Replace 252 Military Family Housing Units	48,400	48,400	48,400	48,400
533	Idaho	Air Force-FHC	Mountain Home AFB	Construct Housing Management Facility	844	844	844	844
534	Kansas	Air Force-FHC	McConnell AFB	Replace 39 Military Family Housing Units	5,193	5,193	5,193	5,193
535	Kentucky	Army-FHC	Ft. Knox	Family Housing Replacement Construction (150 units)	0	19,000	0	19,000
536	Louisiana	Air Force-FHC	Barksdale AFB	Replace 62 Military Family Housing Units	10,299	10,299	10,299	10,299
537	Maryland	Navy-FHC	US Naval Academy, Annapolis	Housing Office/Self Help (New Construction)	800	800	800	800
538	Maryland	Navy-FHC	NATC Patuxent River	Warehouse/Self Help (New Construction)	890	890	890	890
539	Massachusetts	Air Force-FHC	Hanscom Air Force Base	Replace 32 Family Housing Units	0	4,900	5,200	4,900
540	Mississippi	Air Force-FHC	Keesler AFB	Replace 98 Military Family Housing Units	9,300	9,300	9,300	9,300
541	Missouri	Air Force-FHC	Whiteman AFB	Construct 72 Military Family Housing Units	9,948	9,948	9,948	9,948
542	Nevada	Air Force-FHC	Nellis AFB	Family Housing Replacement (96 units)	0	21,000	0	15,000
543	Nevada	Air Force-FHC	Nellis AFB	Replace 6 Senior Officers Housing	1,357	1,357	1,357	1,357
544	Nevada	Air Force-FHC	Nellis AFB	45 Units	0	0	6,000	0
545	New Mexico	Army-FHC	White Sands	Whole Neighborhood House Improvements (36 units)	0	0	3,400	0

FISCAL YEAR 1996 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPIATIONS

(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement	
546	New Mexico	Air Force-FHC	Holloman AFB	Replace 1 General Officer's Housing	225	225	225	225	
547	New Mexico	Air Force-FHC	Kirtland AFB	Replace 105 Family Housing Units, Phase 2	11,000	11,000	11,000	11,000	
548	New York	Army-FHC	USMC West Point	Family Housing Replacement Construction (119 Units)	16,500	16,500	16,500	16,500	
549	North Carolina	Navy-FHC	MCAS Cherry Point	Community Center	1,003	1,003	1,003	1,003	
550	North Carolina	Air Force-FHC	Pope AFB	Construct 104 Military Family Housing Units	9,984	9,984	9,984	9,984	
551	North Carolina	Air Force-FHC	Seymour Johnson AFB	Replace 1 General Officers Quarters	204	204	204	204	
552	Ohio	Air Force-FHC	Wright Patterson AFB	66 Units	0	0	5,900	0	2
553	Pennsylvania	Navy-FHC	NSPCC Mechanicsburg	Housing Office (New Construction)	300	300	300	300	
554	South Carolina	Air Force-FHC	Shaw AFB	Housing Maintenance Facility	715	715	715	715	
555	Texas	Air Force-FHC	Dyess AFB	Construct Housing Maintenance Facility	580	580	580	580	
556	Texas	Air Force-FHC	Lackland AFB	Replace 67 Military Family Housing Units	6,200	6,200	6,200	6,200	
557	Texas	Air Force-FHC	Sheppard AFB	Construct Management Office	500	500	500	500	
558	Texas	Air Force-FHC	Sheppard AFB	Replace Family Housing Maintenance Facility	600	600	600	600	
559	Virginia	Army-FHC	Ft. Lee	Replace 135 Family Housing Units	0	19,500	0	19,500	
560	Virginia	Navy-FHC	NSWC Dahlgren	Housing Office/Self Help (New Const)	520	520	520	520	
561	Virginia	Navy-FHC	PWC Norfolk	Replace 320 Military Family Housing Units	42,500	42,500	42,500	42,500	
562	Virginia	Navy-FHC	PWC Norfolk	Housing Office/Warehouse	1,390	1,390	1,390	1,390	
563	Washington	Army-FHC	Ft. Lewis	Family Housing (84 Units)	10,800	10,800	10,800	10,800	
564	Washington	Navy-FHC	Bangor NSB	141 Units	0	0	4,690	0	3
565	Washington	Air Force-FHC	McChord AFB	Replace 50 Family Housing Units, Phase I	9,504	9,504	9,504	9,504	
566	West Virginia	Navy-FHC	Sugar Grove NSGD	23 Units	0	0	3,560	3,560	
567	Guam	Air Force-FHC	Andersen AFB	Housing Maintenance Facility	1,700	1,700	1,700	1,700	
568	Puerto Rico	Navy-FHC	Naval Station, Roosevelt Roads	Housing Office (New Construction)	710	710	710	710	
569	Turkey	Air Force-FHC	Incirlik AB	Replace 150 Military Family Housing Units	10,146	10,146	10,146	10,146	
570	Unspecified Worldwide	Army-FHC	Unspecified Worldwide Locations	Planning/Army FH	2,000	2,000	2,340	2,000	
571	Unspecified Worldwide	Army-FHC	Unspecified Worldwide Locations	Construction Improvements/Army FH	14,200	46,600	26,212	48,856	
572	Unspecified Worldwide	Navy-FHC	Unspecified Worldwide Locations	Construction Improvements/Navy FH	247,477	292,931	259,489	290,831	
573	Unspecified Worldwide	Navy-FHC	Unspecified Worldwide Locations	Planning/Navy FH	24,390	24,390	24,390	24,390	
574	Unspecified Worldwide	Air Force-FHC	Unspecified Worldwide Locations	Planning/Air Force FH	8,989	8,989	9,039	8,989	
575	Unspecified Worldwide	Air Force-FHC	Unspecified Worldwide Locations	Construction Improvements/Air Force FH	85,059	90,959	97,071	90,959	
576	Unspecified Worldwide	Defense Logistics Agency-FHC	Unspecified Worldwide Locations	Construction Improvements/DLA FH	3,722	3,722	3,722	3,722	
577	Unspecified Worldwide	Def. Fam. Housing Impr. Fund-FHC	Unspecified Worldwide Locations	Private Sector Housing Ventures - FH	22,000	22,000	22,000	22,000	
578	Unspecified Worldwide	National Security Agency-FHC	Unspecified Worldwide Locations	Construction Improvements/NSA FH	50	50	50	50	
579	Unspecified Worldwide	Army-FHS	Unspecified Worldwide Locations	Leasing - AFH	243,840	243,840	243,840	243,840	
580	Unspecified Worldwide	Army-FHS	Unspecified Worldwide Locations	Mortgage Insurance Premiums/Army FH	11	11	11	11	
581	Unspecified Worldwide	Army-FHS	Unspecified Worldwide Locations	Operations/Army FH	459,453	455,453	459,453	459,453	
582	Unspecified Worldwide	Army-FHS	Unspecified Worldwide Locations	Maintenance/Army FH	634,292	634,292	634,292	634,292	
583	Unspecified Worldwide	Navy-FHS	Unspecified Worldwide Locations	Mortgage Insurance Premiums/Navy FH	82	82	82	82	
584	Unspecified Worldwide	Navy-FHS	Unspecified Worldwide Locations	Leasing/Navy FH	103,582	103,582	103,582	103,582	

FISCAL YEAR 1996 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPIATIONS

(Dollars in Thousands)

	Location	Service	Installation	Project Title	FY 1996 Request	House Authorized	Senate Authorized	Conference Agreement
585	Unspecified Worldwide	Navy-FHS	Unspecified Worldwide Locations	Maintenance of Real Property/Navy FH	534,023	534,023	534,023	534,023
586	Unspecified Worldwide	Navy-FHS	Unspecified Worldwide Locations	Operating Expenses/Navy FH	410,642	407,642	410,642	410,642
587	Unspecified Worldwide	Air Force-FHS	Unspecified Worldwide Locations	Maintenance of Real Property/Air Force FH	408,971	408,971	408,971	408,971
588	Unspecified Worldwide	Air Force-FHS	Unspecified Worldwide Locations	Operating Expenses/Air Force FH	324,548	321,548	324,548	324,548
589	Unspecified Worldwide	Air Force-FHS	Unspecified Worldwide Locations	Mortgage Insurance Premiums/Air Force FH	29	29	29	29
590	Unspecified Worldwide	Air Force-FHS	Unspecified Worldwide Locations	Leasing/Air Force FH	115,665	115,665	115,665	115,665
591	Unspecified Worldwide	OSD-FHS	Unspecified Worldwide Locations	VA Loan Buy Down Pilot Project	0	10,000	0	10,000
592	Unspecified Worldwide	OSD-FHS	Unspecified Worldwide Locations	Authority to Convey Family Housing	0	0	5,000	0
593	Unspecified Worldwide	Defense Intelligence Agency-FHS	Unspecified Worldwide Locations	Leasing/DIA FH	13,638	13,638	13,638	13,638
594	Unspecified Worldwide	Defense Intelligence Agency-FHS	Unspecified Worldwide Locations	Operating Expenses/DIA FH	2,590	2,590	2,590	2,590
595	Unspecified Worldwide	Defense Logistics Agency-FHS	Unspecified Worldwide Locations	Operating Expenses/DLA FH	566	566	566	566
596	Unspecified Worldwide	Defense Logistics Agency-FHS	Unspecified Worldwide Locations	Maintenance of Real Property/DLA FH	574	574	574	574
597	Unspecified Worldwide	National Security Agency-FHS	Unspecified Worldwide Locations	Leasing/NSA FH	11,236	11,236	11,236	11,236
598	Unspecified Worldwide	National Security Agency-FHS	Unspecified Worldwide Locations	Maintenance of Real Property/NSA FH	223	223	223	223
599	Unspecified Worldwide	National Security Agency-FHS	Unspecified Worldwide Locations	Operating Expenses/NSA FH	1,640	1,640	1,640	1,640
				Totals	10,697,995	11,197,995	10,902,988	11,177,009

1 - Funded as 7,300 in Construction Improvements/Army FH.
2 - Funded as 5,900 in Construction Improvements/Air Force FH.
3 - Funded as 4,800 in Construction Improvements/Navy FH.

TITLE XXI—ARMY

FISCAL YEAR 1996

Overview

The House bill would authorize $2,167,190,000 for Army military construction and family housing programs for fiscal year 1996.

The Senate amendment would authorize $2,027,613,000 for this purpose.

The conferees recommend authorization of $2,147,427,000 for Army military construction and family housing for fiscal year 1996.

The conferees agree to a general reduction of $6,385,000 in the authorization of appropriations for the Army military construction account. The general reduction is to be offset by savings from favorable bids, reduction in overhead costs, and cancellation of projects due to force structure changes. The general reduction shall not cancel any military construction authorized by title XXI of this Act.

Planning and design, Army

The conferees direct that, within authorized amounts for planning and design, the Secretary of the Army conduct planning and design activities for the following project:

Pohakuloa Training Site, Hawaii, Road Improvement—$2,000,000.

The conferees note that this project is required to correct hazardous road conditions which impact readiness. The conferees urge the Secretary to make every effort to include this project in the fiscal year 1997 budget request.

Aerial Port and Intermediate Staging Base, The National Training Center, Fort Irwin, California

The budget request included no military construction funds to expand the airport at Barstow-Daggett, California, to meet the operational and training requirements of the National Training Center, Fort Irwin, California.

The House bill would authorize $10.0 million for phase II of the Barstow-Daggett expansion project.

The Senate amendment included no funding for phase II of this project.

The conferees agree to authorize $10.0 million for phase II of the Barstow-Daggett expansion project, contingent upon the Secretary of Defense's certification that the project best meets the operational and training requirements of the National Training Center, Fort Irwin, California.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Improvements to military family housing units (sec. 2103)

The conferees direct that, within authorized amounts for construction improvements of military family housing and facilities, the Secretary of the Army execute the following projects:

Fort Wainwright, Alaska, Whole Neighborhood Revitalization—$7,300,000.

Fort Campbell, Kentucky, Whole Neighborhood Revitalization—$17,356,000.

Fort Bragg, North Carolina, Whole Neighborhood Revitalization—$10,000,000.

LEGISLATIVE PROVISIONS NOT ADOPTED

Reduction in amounts authorized to be appropriated for fiscal year 1992 military construction projects

The Senate amendment contained a provision (sec. 2105) that would rescind $6.25 million from the amount authorized for the Department of the Army in section 2105 of the National Defense Authorization Act for Fiscal Year 1992 (Public Law 102–190).

The House bill amendment contained no similar provision.

The Senate recedes.

TITLE XXII—NAVY

FISCAL YEAR 1996

Overview

The House bill would authorize $2,164,861,000 for Navy military construction and family housing programs for fiscal year 1996.

The Senate amendment would authorize $2,077,459,000 for this purpose.

The conferees recommend authorization of $2,119,317,000 for Navy military construction and family housing for fiscal year 1996.

The conferees agree to a general reduction of $6,385,000 in the authorization of appropriations for the Navy military construction account. The general reduction is to be offset by savings from favorable bids, reduction in overhead costs, and cancellation of projects due to force structure changes. The general reduction shall not cancel and military construction authorized by title XXII of this Act.

Planning and design, Navy

The conferees direct that, within authorized amounts for planning and design, the Secretary of the Navy conduct planning and design activities for the following projects:

Naval Station, Mayport, Florida, Wharf Improvements—$2,340,000.

Naval Air Station, Fallon, Nevada, Galley—$50,000.

Naval Air Station, Fallon, Nevada, Child Development Center—$150,000.

The conferees note that the projects at Naval Air Station, Fallon, Nevada, are necessary to correct facility deficiencies which impact readiness, quality of life, and productivity. The conferees urge the Secretary to make every effort to include these projects in the fiscal year 1997 budget request.

Improvements to military family housing units (sec. 2203)

The conferees direct that, within authorized amounts for construction improvements of military family housing and facilities, the Secretary of the Navy execute the following projects:

Naval Station, Mayport, Florida, Whole House Revitalization—$7,300,000.

Public Works Center, Great Lakes, Illinois, Whole House Revitalization—$15,300,000.

Naval Education Training Command, Newport, Rhode Island, Whole House Improvements—$8,795,000.

Marine Corps Air Station, Beaufort, South Carolina, Whole House Rehabilitation—$6,784,000.

Naval Submarine Base, Bangor, Washington, Construction Improvements—$4,890,000.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Revision of fiscal year 1995 authorization of appropriations to clarify availability of funds for large anechoic chamber, Patuxent River Naval Warfare Center, Maryland (sec. 2205)

The Senate amendment contained a provision (sec. 2205) that would amend section 2204 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–307) to authorize the $10.0 million appropriated for the Large Anechoic Chamber Facility at the Naval Air Warfare Center, Patuxent River, Maryland in the Military Construction Appropriations Act for Fiscal Year 1995 (Public Law 103–307).

The Senate provision would permit the Navy to proceed with the award of a contract in the amount of $30.0 million for the first phase of the $61.0 million project.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Authority to carry out land acquisition project, Hampton Roads, Virginia (sec. 2206)

The Senate amendment contained a provision (sec. 2206) that would amend section 2201(a) of the National Defense Authorization Act for Fiscal Year 1993 to authorize the Secretary of the Navy to acquire 191 acres of land in Hampton Roads, Virginia. This acquisition is in addition to the land acquisition at Dam Neck, Virginia, authorized in the National Defense Authorization Act for Fiscal Year 1993.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees direct the Secretary of Navy to make every possible attempt to acquire both parcels of land using the $4.5 million previously authorized. If additional funds are required, the conferees expect the Secretary to utilize cost variation and reprogramming procedures.

Acquisition of land, Henderson Hall, Arlington, Virginia (sec. 2207)

The Senate amendment contained a provision (sec. 2207) that would authorize the Secretary of the Navy to acquire a 0.75 acre parcel of land located at Henderson Hall, Arlington, Virginia. The parcel, which is currently occupied by an abandoned and vandalized mausoleum, is required to construct a public works complex to support the Headquarters Battalion, United States Marine Corps. The provision would authorize the demolition of the mausoleum and the use of appropriated funds to remove and provide appropriate disposal of the remains abandoned in the mausoleum.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Acquisition or construction of military family housing in the vicinity of San Diego, California (sec. 2208)

The conferees include a new section that would direct the Secretary of the Treasury to make available, upon request from the Secretary of the Navy, funds paid to the United States upon final settlement in the case of Rossmoor Liquidating Trust, initiated against the United States, in the United States District Court for the Central District of California. From those funds, the Secretary of the Navy would be authorized to acquire or construct no more than 150 military family housing units in the San Diego, California region for the Department of the Navy. The authority would be subject to the expiration of a 21-day period, beginning on the day on which the Secretary transmits to the congressional defense committees a report containing the details of the contract to acquire or construct the units authorized by this section.

TITLE XXIII—AIR FORCE

FISCAL YEAR 1996

Overview

The House bill would authorize $1,727,557,000 for Air Force military construction and family housing programs for fiscal year 1996.

The Senate amendment would authorize $1,724,699,000 for this purpose.

The conferees recommend authorization of $1,735,086,000 for Air Force military construction and family housing for fiscal year 1996.

The conferees agree to a general reduction of $6,385,000 in the authorization of appropriations for the Air Force military construction account. The general reduction is to be offset by savings from favorable bids, reduction in overhead costs, and cancellation of projects due to force structure changes. The general reduction shall not cancel any military construction authorized by title XXIII of this Act.

Improvements to military family housing units (sec. 2303)

The conferees direct that, within authorized amounts for construction improvements

of military family housing and facilities, the Secretary of the Air Force execute the following project:

Wright-Patterson Air Force Base, Ohio, Family Housing Improvements	$5,900,000

ITEMS OF SPECIAL INTEREST

Bonaire housing complex, Presque Isle, Maine

The conferees are aware of the economic impact and the difficult redevelopment effort facing Limestone, Maine, as a result of the closure of Loring Air Force Base. To ensure that the community has maximum flexibility in its redevelopment effort, the conferees direct the Secretary of the Air Force to obtain written concurrence of the designated local reuse authority, or its designee, before any land, tangible property or interest in the Air Force property known as the Bonaire housing complex in Presque Isle, Maine, is transferred to the Department of Interior, or to any other entity. The conferees believe that a cooperative effort should be maintained by all parties seeking property and that the designated local redevelopment authority is the most appropriate entity to coordinate reuse efforts.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Retention of accrued interest on funds deposited for construction of family housing, Scott Air Force Base, Illinois (sec. 2305)

The House bill contained a provision (sec. 2305) that would amend section 2310 of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160) to permit the retention of accrued interest on funds previously transferred to the County of St. Clair, Illinois, for the purpose of constructing military family housing at Scott Air Force Base. Upon completion of construction all funds remaining, and any interest accrued thereon, shall be deposited in the general fund of the United States Treasury.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of the Air Force to submit to congressional defense committees an annual report describing the amount of interest accrued and retained by the County for the housing project. The Secretary would be required to submit the report by March 1 of each year, until the construction project is completed.

LEGISLATIVE PROVISIONS NOT ADOPTED

Reduction in amounts authorized to be appropriated for fiscal year 1992 military construction projects

The Senate amendment contained a provision (sec. 2305) that would rescind $16.0 million from the amount authorized for the Department of the Air Force in section 2305 of the National Defense Authorization Act for Fiscal Year 1992 (Public Law 102–190).

The House bill contained no similar provision.

The Senate recedes.

TITLE XXIV—DEFENSE AGENCIES

FISCAL YEAR 1996

Overview

The House bill would authorize $4,692,463,000 for Defense Agencies military construction and family housing programs for fiscal year 1996.

The Senate amendment would authorize $4,456,883,000 for this purpose.

The conferees recommend authorization of $4,629,491,000 for Air Force military construction and family housing for fiscal year 1996.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Military family housing private investment (sec. 2402)

The House bill contained a provision (sec. 2402) that would authorize the Secretary of Defense to enter into agreements to construct, acquire, and improve family housing, for the purpose of encouraging private investment, in the amount of $22,000,000.

The Senate amendment contained a similar provision.

The House recedes.

Energy conservation projects (sec. 2404)

The House bill contained a provision (sec. 2404) that would authorize the Secretary of Defense to carry out energy conservation projects using funds authorized pursuant to the authorization of appropriations in section 2405.

The Senate amendment contained a similar provision.

The Senate recedes.

Limitations on use of Department of Defense Base Closure Account 1990 (sec. 2406)

The conferees include a new section that would prohibit the obligation of funds authorized for appropriation in section 2405 (a)(10) of this Act, to carry out a construction project with respect to military installations approved for closure or realignment in 1995, until after the date the Secretary of Defense submits to Congress a five-year program for executing the 1995 base realignment and closure plan. The limitation would not preclude any activities associated with environmental cleanup activities or planning and design for such construction projects.

Modification of authority to carry out fiscal year 1995 projects (sec. 2407)

The House bill contained a provision (sec. 2406) that would amend the table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (Division B of Public Law 103–337) to provide for full authorization of projects to support chemical weapons and munitions destruction at Pine Bluff Arsenal, Arkansas and Umatilla Army Depot, Oregon.

The Senate amendment contained a similar provision.

The Senate recedes.

Reduction in amounts authorized to be appropriated for fiscal year 1994 contingency construction projects (sec. 2408)

The Senate amendment contained a provision (sec. 2407) that would terminate authorization of appropriations for prior year projects including:

(1) $3.2 million from the amount authorized for the Department of Defense in section 2405(a) of the Military Construction Authorization Act for Fiscal Year 1991 (Division B of Public Law 101–510);

(2) $6.8 million from the amount authorized for the Department of Defense in section 2404(a) of the Military Construction Authorization Act for Fiscal Year 1992 (Division B of Public Law 102–190); and

(3) $8.6 million from the amount authorized for the Department of Defense in section 2403(a) of the Military Construction Authorization Act for Fiscal Year 1993 (Division B of Public Law 102–484).

The House bill contained no similar provision.

The House recedes with an amendment that would reduce $8.1 million from the amount authorized to be appropriated for the Department of Defense in section 2403(a) of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160).

LEGISLATIVE PROVISIONS NOT ADOPTED

Limitation of expenditures for a construction project at Umatilla Army Depot, Oregon

The House bill contained a provision (sec. 2407) that would prohibit the expenditure of funds prior to March 1, 1996, for the construction of a chemical weapons and munitions incinerator facility at Umatilla Army Depot, Oregon.

The Senate amendment contained no similar provision.

The House recedes.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATIONS INFRASTRUCTURE

FISCAL YEAR 1996

Overview

The House bill would authorize $161,000,000 for the U.S. contribution to the NATO Infrastructure program for fiscal year 1996.

The Senate amendment would authorize $179,000,000 for this purpose.

The conferees authorize $161,000,000 for the U.S. contribution to the NATO Infrastructure program.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Authorization of appropriations, NATO (sec. 2502)

The House bill contained a provision (sec. 2502) that would authorize funding for the North Atlantic Treaty Organization Infrastructure program in the amount of $161.0 million.

The Senate amendment contained a provision (sec. 2502) that would authorize funding for the North Atlantic Treaty Organization Infrastructure program in the amount of $179.0 million.

The Senate recedes.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

FISCAL YEAR 1996

Overview

The House bill would authorize $284,924,000 for military construction and land acquisition for fiscal year 1996 for the National Guard and reserve components.

The Senate amendment would authorize $432,339,000 for this purpose.

The conferees recommend authorization of $436,522,000 for military construction and land acquisition for fiscal year 1996. This authorization would be distributed as follows:

Army National Guard	$134,802,000
Army Reserve	73,516,000
Naval/Marine Corps Reserve	19,055,000
Air National Guard	170,917,000
Air Force Reserve	36,232,000

Planning and design, Guard and Reserve Forces

The conferees direct that, within authorized amounts for planning and design, the Guard and Reserve Forces conduct planning and design activities for the following projects:

Army Reserve:	
Fort Dix, New Jersey, Intelligence Training Center	$788,000
Army National Guard:	
Lincoln, Nebraska, Medical Training Facility	$200,000
Fort Dix, New Jersey, Technical Training Facility	$750,000
Billings, Montana, Armed Forces Reserve Center	$1,200,000
Air National Guard:	
Robins Air Force Base, Georgia, B–1 Site and Utility Upgrades	$270,000
Hickam Air Force Base, Hawaii, Squadron Operations Facility	$790,000

The conferees note that these projects are required to accommodate new missions and to correct facility deficiencies that impact readiness, quality of life, and productivity. The conferees urge the service secretaries to make every effort to include these projects in the fiscal year 1997 budget request.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Reduction in amount authorized to be appropriated for fiscal year 1994 Air National Guard Projects (sec. 2602)

The Senate amendment contained a provision (sec. 2602) that would rescind funds authorized for appropriation by the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) for land acquisition for the Idaho Training Range.

The House bill contained no similar provision.

The House recedes.

Correction in authorized uses of funds for Army National Guard projects in Mississippi (sec. 2603)

The House bill contained a provision (sec. 2602) that would clarify amounts authorized to be appropriated in section 2601(1)(A) of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–360) for the addition or alteration of Army National Guard Armories at various locations in the State of Mississippi. The House provision would direct the use of authorized funds for the addition, alteration, or new construction of armory facilities and an operations and maintenance shop, including the acquisition of land for such facilities at such locations.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary of the Army to submit a report to congressional defense committees that would describe the intended use of funds and to wait 21 days before any of the funds could be obligated.

TITLE XXVIII—GENERAL PROVISIONS

ITEMS OF SPECIAL INTEREST

Damage to facilities from Hurricane Opal

The conferees note that, on October 5, 1995, military facilities in the Southeastern United States sustained damage as a direct result of Hurricane Opal. The conferees direct the Secretary of Defense to conduct a comprehensive assessment of infrastructure and facilities at installations affected by Hurricane Opal, to include: Fort Benning and Fort McPherson in Georgia; Fort Rucker, Fort McClellan, and Anniston Army Depot in Alabama; Tyndall Air Force Base, Eglin Air Force Base, and Hulbert Field and facilities in and around Naval Air Station, Pensacola, Florida. The Secretary shall submit a report on the Department's findings to the congressional defense committees, no later than February 15, 1996.

The assessment should include:

(1) a report on all property damage;

(2) the estimated cost to repair or replace damaged or destroyed facilities;

(3) the impact on operations and readiness caused by any loss of facilities;

(4) any actions taken to repair or replace damaged or destroyed facilities; and

(5) recommendations for funding the required facility repairs or replacements.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Military Housing Privatization Initiative

Alternative authority for construction and improvement of military housing (sec. 2801)

The House bill contained a provision (sec. 2801) that would authorize a series of authorities, as alternative methods of acquiring and improving family housing and support facilities for the armed forces. Such authorities would include the ability to contract and lease family housing. Use of the authorities would be targeted at installations where there is a shortage of suitable family housing. For housing acquired under the authorities provided in this section, the unit size and type limitations in current law would be waived to encourage private sector development of military family housing. The Department of Defense (DOD) would be authorized to contribute up to 35 percent of the investment cost in any project. Such investment could take a number of forms, including cash, existing housing, and/or real property. The provision would also establish the Defense Family Housing Improvement Fund as the sole source of funding for projects constructed or renovated under the authorities of this provision. The provision would require DOD to submit a 21-day notice-and-wait announcement to Congress before entering into contract agreements associated with these new authorities and would require DOD to submit a 30-day notice-and-wait announcement before transferring funds from the family housing construction accounts to the Fund. Each of the authorities contained in this provision would expire on September 30, 2000.

The Senate amendment contained a similar provision (sec. 2811) that would expand the authorities to include acquisition or renovation of unaccompanied housing on or near military installations. The provision would also establish a Department of Defense Housing Improvement Fund, for use as the sole source to finance costs associated with the acquisition of housing and support facilities.

The House recedes with an amendment that would establish the Department of Defense Family Housing Improvement Fund and the Department of Defense Military Unaccompanied Housing Improvement Fund as the sources to finance costs associated with the acquisition of housing and supporting facilities, including costs defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)). The provision would also establish certain reporting requirements for the DOD and would limit the transfer of funds previously authorized and appropriated to funds associated with the construction of family housing or unaccompanied housing. The provision would also limit the obligation of funds by DOD to $850.0 million for family housing and $150.0 million for unaccompanied housing.

Expansion of authority for limited partnerships for development of military family housing (sec. 2802)

The Senate amendment contained a provision (sec. 2807) that would provide each of the military services with the limited partnership authority provided to the Department of the Navy by section 2803 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337). The provision would also extend the expiration of the authority to September 30, 2000.

The House bill contained a similar provision.

The House recedes with a technical amendment.

Subtitle B—Other Military Construction Program and Military Family Housing Changes

Special threshold for unspecified minor construction projects to correct life, health, or safety deficiencies (sec. 2811)

The Senate amendment contained a provision (sec. 2801) that would amend 2805 of title 10, United States Code, to include as a minor military construction project any military construction project intended solely to correct a life, health, or safety deficiency, if the approved cost is equal to or less than $3.0 million. The provision would authorize the expenditure of operation and maintenance funds to carry out projects to correct a life, health, or safety deficiency costing no more than $1.0 million.

The House bill contained a similar provision.

The House recedes.

Clarification of scope of unspecified minor construction authority (sec. 2812)

The Senate amendment contained a provision (sec. 2802) that would amend section 2805(a)(1) of title 10, United States Code, to clarify the definition of minor military construction.

The House bill contained a similar provision.

The House recedes.

Temporary authority to waive net floor area limitation for family housing acquired in lieu of construction (sec. 2813)

The Senate amendment contained a provision (sec. 2803) that would waive, for a five year period, beginning in fiscal year 1996, the net floor area limitation established in section 2826 of title 10, United States Code, if existing family housing is acquired in lieu of construction.

The House bill contained no similar provision.

The House recedes with an amendment that would give the service secretary discretionary authority to waive the floor limitation.

Reestablishment of authority to waive net floor area limitation on acquisition by purchase of certain military family housing (sec. 2814)

The Senate amendment contained a provision (sec. 2804) that would make permanent section 2826(e) of title 10, United States Code, that allows a waiver for a 20 percent increase in the square footage limitation when acquiring, through purchase, military family housing units for members of the Armed Forces in pay grades below O–6.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Temporary authority to waive limitations on space by pay grade for military family housing units (sec. 2815)

The Senate amendment contained a provision (sec. 2805) that would waive section 2826 of title 10, United States Code, for housing authorized for construction for five years, beginning in fiscal year 1996. The waiver would permit the construction of family housing units without regard to space limitations, as long as the total number of housing units is the same as authorized by law.

The House bill contained no similar provision.

The House recedes with an amendment that would give the service secretary discretion to waive the authority for five years beginning in fiscal year 1996.

Rental of family housing in foreign countries (sec. 2816)

The House bill contained a provision (sec. 2805) that would authorize an increase in the number of high-cost family housing units that may be leased in foreign countries.

The Senate amendment contained a similar provision.

The Senate recedes.

Clarification of scope of report requirement on cost increases under contracts for military family housing construction (sec. 2817)

The Senate amendment contained a provision (sec. 2808) that would amend section 2853

to title 10, United States Code, by eliminating the requirement for congressional notification on cost increases that exceed established limitations when the increase is related to settlement of a court ordered contract claim.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Authority to convey damaged or deteriorated military family housing (sec. 2818)

The Senate amendment contained a provision (sec. 2809) that would authorize the secretaries of the military departments to sell, at fair market value, family housing facilities at non-base closure installations that have deteriorated beyond economical repair, or are no longer required. The sale may include the parcel of land on which the family housing facilities are located.

The provision directs that the proceeds from the sale of the property be used to replace or revitalize housing at the existing installation, or at another installation. The provision also requires the secretary concerned to notify Congress before proceeding with conveyance of family housing facilities under this authority.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Energy and water conservation savings for the Department of Defense (sec. 2819)

The Senate amendment contained a provision (sec. 2810) that would amend section 2865 of title 10, United States Code, to include water conservation in the Department of Defense's comprehensive energy conservation plan.

The House bill contained no similar provision.

The House recedes.

Extension of authority to enter into leases of land for special operations activities (sec. 2820)

The Senate amendment contained a provision (sec. 2812) that would make permanent the authority provided in section 2680 of title 10, United States Code, which grants the Secretary of Defense the authority to lease property required for special operations activities conducted by the Special Operations Command.

The House bill contained no similar provision.

The House recedes with an amendment that would extend the authority to lease property required for special operations until September 30, 2000.

Disposition of amounts recovered as a result of damage to real property (sec. 2821)

The House bill contained a provision (sec. 2804) that would authorize the military departments to retain the proceeds recovered as a result of damages to real property instead of depositing those proceeds into the miscellaneous receipts account in the United States Treasury. Such proceeds would be made available for repair or replacement of damages to real property.

The Senate amendment contained no similar provision.

The Senate recedes.

Pilot program to provide interest rate buy down authority on loans for housing within housing shortage areas at military installations (sec. 2822)

The House bill contained a provision (sec. 2806) that would authorize a three-year pilot program to provide additional housing assistance to military personnel. Under the program, as administered by the Secretary of Veterans Affairs (VA), the VA would buy down the interest rate on VA home loans for qualified applicants. The Secretary of Defense would reimburse the VA for the costs of the interest rate buy down. Authorization of the program would be limited to $10.0 million and could only be utilized at military installations which the Secretary of Defense considers to have a military family housing deficit.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit the scope of the program to active duty enlisted members, warrant officers, and officers at a pay grade of O–3 and below.

Subtitle C—Defense Base Closure and Realignment

Deposit of proceeds from leases of property located at installations being closed or realigned (sec. 2831)

The House bill contained a provision (sec. 2812) that would authorize the Secretary of Defense to deposit proceeds from leases of property located at installations being closed or realigned into the relevant account established in the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) or the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510).

The Senate amendment contained a similar provision.

The Senate recedes.

In-kind consideration for leases at installations to be closed or realigned (sec. 2832)

The Senate amendment contained a provision (sec. 2821) that would permit the service secretaries to accept in-kind services (improvements, maintenance, protection, repair, or restoration services performed on any portion of the installation) from a lessee in lieu of cash rental payments for leases of property that will be disposed of as a result of a base closure or realignment.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Interim leases of property approved for closure or realignment (sec. 2833)

The Senate amendment contained a provision (sec. 2830B) that would facilitate the use of limited term leases (one to five years) by the Department of Defense in connection with reuse of military installations selected for closure. The provision would make it clear that any environmental impact analysis prepared in connection with an interim lease of Department of Defense property approved for closure or realignment shall be limited to the scope of environmental consequences related to the lease activities.

The House bill contained no similar provision.

The House recedes.

The conferees agree that under current law the Department of Defense has been reluctant to enter into limited term leases before an environmental review has been completed, pursuant to the National Environmental Policy Act (42 U.S.C. 4321, et. seq.), that would address the disposal of the entire installation. Such concerns have impeded private sector use of base closure property for short term capital investments.

Authority to lease property requiring environmental remediation at installations approved for closure or realignment (sec. 2834)

The Senate amendment contained a provision (sec. 2824) that would allow the Department of Defense to enter into long-term lease agreements at military installations selected for closure, while environmental restoration is ongoing. Specifically, the section would provide that section 120(h)(3)(B) of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. 9620(h)(3)(B)) does not apply to leases at Department of Defense installations. The provision would also provide for Environmental Protection Agency consultation on the determination that property is suitable for lease in those instances involving long term leases at installations approved for closure under a base closure law.

The House bill contained no similar provision.

The House recedes.

The conferees agree that the provision is necessary to ensure that the Department may enter into long-term leases while cleanup is ongoing. The provision addresses a recent federal district court decision that could undermine reuse plans at military installations selected for closure with similar reuse plans. The provision serves to clarify the legislative intent on this issue.

Final funding for Defense Base Closure and Realignment Commission (sec. 2835)

The Senate amendment contained a provision (sec. 2825) that would amend section 2902(k) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510, 10 U.S.C. 2657) to authorize the Secretary of Defense to transfer unobligated funds from the Department of Defense Base Closure Account to fund the operations of the Defense Base Closure and Realignment Commission until December 31, 1995.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the transfer authority to $300,000.

Exercise of authority delegated by the Administrator of General Services (sec. 2836)

The Senate amendment contained a provision (sec. 2827) that would amend the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510) to expand the authority of the Secretary of Defense, with the concurrence of the Administrator of the General Services Administration, to prescribe general policies and issue regulations for utilizing excess property and disposing of surplus property. The provision would also make certain technical changes.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Lease back of property disposed from installations approved for closure or realignment (sec. 2837)

The Senate amendment contained a provision (sec. 2828) that would amend the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510) to allow base closure property that is still needed by the Department of Defense or another federal agency to be transferred to the local redevelopment authority, providing that the redevelopment authority leases back the property to the Department of Defense or federal agency. Such a lease should not exceed 50 years and could not require rental payments by the United States.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Improvement of base closure and realignment process regarding disposal of property (sec. 2838)

The House bill contained a provision (sec. 2814) that would amend the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10

U.S.C. 2687 note) and the Defense Base Closure and Realignment Act of 1990 (Part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687). The provision would preclude consideration of Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) in the transfer or disposal of real property located at military installations closed or realigned under the base closure law.

The Senate amendment contained a provision (sec. 2826) that would amend the Defense Base Closure and Realignment Act of 1990 (Part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687) to authorize the Secretary of Defense to approve local redevelopment authorities' base reuse plans. Before making any property disposal decisions, the Secretary of Defense would be required to consult with the Secretary of Housing and Urban Development to determine if the needs of the homeless were appropriately considered. In reviewing disposal plans, the Secretary of Defense could give deference to local communities' plans in making the final property disposal decisions.

The House recedes with a technical amendment that would recognize the preeminence of local redevelopment authorities' plans for reuse of properties and facilities on installations closed or realigned under the base closure procedures. The amendment would further enhance the ability of the Secretary of Defense to give final approval of local communities' base reuse plans.

Agreements for certain services at installations being closed (sec. 2839)

The House bill contained a provision (sec. 2813) that would clarify current law that authorizes the Secretary of Defense to enter into agreements with local governments for the provision of police, security, fire protection, air field operations, or other community services provided by such governments at military installations scheduled to be closed.

The Senate amendment contained a similar provision.

The Senate recedes with a technical amendment.

Authority to transfer property at military installations to be closed to persons who construct or provide military family housing (sec. 2840)

The House bill contained a provision (sec. 2811) that would authorize the Secretary of Defense to enter into an agreement to transfer property or facilities at a closed installation, or an installation designated to be closed, under current law, to a person who agrees to provide, in exchange for the property or facilities, housing units located at another military installation where there is a shortage of suitable housing. Under the provision, the Secretary would not be permitted to select property or facilities for transfer that have been identified in the redevelopment plan for the installation as essential for base reuse and development.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Use of single base closure authorities for disposal of property and facilities at Fort Holabird, Maryland (sec. 2841)

The Senate amendment contained a provision (sec. 2830) that would consolidate disposal of all property affected by the 1988 and 1995 base closure actions at Fort Holabird, Maryland under the provisions of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421).

The House bill contained no similar provision.

The House recedes with a technical amendment.

Subtitle D—Land Conveyances Generally

PART I—ARMY CONVEYANCES

Transfer of jurisdiction, Fort Sam Houston, Texas (sec. 2851)

The House bill contained a provision (sec. 2821) that would authorize the Secretary of the Army to transfer, without reimbursement, approximately 53 acres, with improvements, to the Secretary of Veterans Affairs. The property would be conveyed for use as a national cemetery.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment deleting the reversionary interest of the Secretary of the Army in the property.

Transfer of jurisdiction, Fort Bliss, Texas (sec. 2852)

The House bill contained a provision (sec. 2838) that would authorize the Secretary of the Army to transfer to the Secretary of Veteran Affairs jurisdiction of approximately 22 acres, comprising a portion of Fort Bliss, Texas. The property transferred would be used as an addition to the Fort Bliss National Cemetery.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would delete the Secretary of the Army's reversionary interest in the property.

Tranfer of jurisdiction and land conveyance, Fort Devens Military Reservation, Massachusetts (sec. 2853)

The House bill contained a provision (sec. 2831) that would require the Secretary of the Army to convey to the Secretary of the Interior, without reimbursement, a portion of the Fort Devens Military Reservation, Massachusetts, at any time after the date on which the property is determined to be excess to the needs of the Department of Defense. The property is to be conveyed for inclusion in the Oxbow National Wildlife Refuge. The cost of any surveys necessary for the conveyance shall be borne by the Secretary of the Interior.

This section would also require the Secretary of the Army to convey to the Town of Lancaster, Massachusetts, without reimbursement, a parcel of real property consisting of approximately 100 acres of the parcel available for transfer to the Secretary of the Interior. The cost of any surveys necessary for the conveyance would be borne by the town.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Modification of land conveyance, Fort Belvoir, Virginia (sec. 2854)

The Senate amendment contained a provision (sec. 2863) that would require the Secretary of the Army to submit a report to the Senate Armed Services Committee and the House National Security Committee on the status of the negotiations related to the land conveyance at the Engineer Proving Grounds, Fort Belvoir, Virginia authorized by subsection (a) of section 2821 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189).

The House bill contained no similar provision.

The House recedes with an amendment that would delete the reporting requirement and would amend section 2821 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 to authorize the Secretary of the Army to convey to the County of Fairfax, Virginia, all right, title and interest of the United States in and to all or a portion of the parcel of real property, including improvements thereon, at Fort Belvoir, Virginia, consisting of approximately 820 acres and known as the Engineer Proving Ground. In consideration, the County shall construct facilities for the Department of the Army; grant title, free of liens and other encumbrances, to the facilities and, if not already owned by the Department, to the underlying land; and make infrastructure improvements for the Department of the Army, as may be specified by the Secretary of the Army. The value of the consideration provided by the County shall not be less than the fair market value of the property conveyed to the County, as determined by the Secretary. The amendment would prohibit the Secretary from entering into any agreement under this provision until the expiration of 60 days following the date on which the Secretary transmits to the congressional defense committees a report containing details of the agreement between the Army and the County.

Land exchange, Fort Lewis, Washington (sec. 2855)

The House bill contained a provision (sec. 2836) that would authorize the Secretary of the Army to convey to Weyerhaeuser Real Estate Company, Tacoma, Washington two parcels of real property at Fort Lewis, Washington totaling 1.26 acres. As consideration the Weyerhaeuser Real Estate Company would convey 0.39 acres located within the boundaries of Fort Lewis together with other considerations acceptable to the Secretary. The total consideration conveyed to the United States would be no less than the fair market value of the property conveyed by the Army.

The Senate amendment contained a similar provision.

The Senate recedes with a technical amendment.

Land exchange, Army Reserve Center, Gainsville, Georgia (sec. 2856)

The Senate amendment contained a provision (sec. 2846) that would authorize the Secretary of the Army to convey to the City of Gainesville, Georgia, a 4.2 acre parcel of real property, including a reserve center, located on Shallowford Road in Gainsville, Georgia. As consideration, the City of Gainesville would convey to the Secretary approximately 8 acres of real property located in the Atlas Industrial Park in Gainesville. The City would construct replacement facilities in accordance with the requirements of the Secretary of the Army for training activities of the Army Reserve, and fund the costs of relocating the Reserve units to the new location. The City's contribution of land and facilities would be no less than the fair market value of the property conveyed by the Secretary.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Land conveyance, Holston Army Ammunition Plant, Mount Carmel, Tennessee (sec. 2857)

The House bill contained a provision (sec. 2829) that would authorize the Secretary of the Army to convey to the City of Mount Carmel, Tennessee, without reimbursement, a parcel of real property consisting of approximately 6.5 acres. The property would be conveyed for expansion of the existing Mount Carmel Cemetery.

The Senate amendment contained no similar provision.

The Senate recedes.

Land conveyance, Indiana Army Ammunition Plant, Charlestown, Indiana (sec. 2858)

The House bill contained a provision (sec. 2825) that would authorize the Secretary of the Army to convey to the State of Indiana,

without consideration, a parcel of real property, with improvements, consisting of approximately 1,125 acres. The property to be conveyed would be used for recreational purposes.

The Senate amendment contained no similar provision.

The Senate recedes.

Land conveyance, Fort Ord, California (sec. 2859)

The House bill contained a provision (sec. 2824) that would authorize the Secretary of the Army to convey to the City of Seaside, California, at fair market value, all right, title, and interest in approximately 477 acres of real property (comprising the Black House and Bayonet gold courses and a portion of the Hayes Housing Facilities) comprising a portion of the former Fort Ord Military Complex. From the amount paid by the City in consideration for the conveyance, the Secretary would deposit in the Morale, Welfare, and Recreation Fund (MWR) account of the Department of the Army an amount equal to the fair market value of the golf courses conveyed under this section. The balance of the amount paid by the City would be deposited in the Department of Defense Base Closure Account 1990.

The Senate amendment contained a provision (sec. 2841) that would require the Secretary of Defense, within 60 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 1996, to provide to Congress a report that would describe the disposal plans for the 477 acres of property at the former Fort Ord Military Complex.

The Senate recedes to Senate amendment, section 2841. The Senate recedes with an amendment to House bill section 2824. The amendment to section 2824 would direct the Secretary to deposit into the MWR account only those proceeds from the sale of golf courses that are required to support MWR activities in the vicinity of Fort Ord for the next five years. The amount deposited into the MWR account would not exceed the fair market value of golf courses conveyed to the City. The amendment would also require the Secretary to certify his findings on the disposition of the proceeds in a report to Congress 90 days after the date of the conveyance.

Land conveyance, Parks Reserve Forces Training Area, Dublin, California (sec. 2860)

The House bill contained a provision (sec. 2828) that would authorize the Secretary of the Army to convey to the County of Alameda, California, approximately 42 acres, with improvements, located at the Parks Reserve Forces Training Area, Dublin, California. The conveyance shall not include any oil, gas, or mineral interests of the United States, and shall be subject to the condition that the County would pay for road improvements, utility upgrades, and construction improvements at the portion of the Army Training Area retained by the Army.

The Senate bill contained no similar provision.

The Senate recedes with a a technical amendment.

Land conveyance, Army Reserve Center, Youngstown, Ohio (sec. 2861)

The House bill contained a provision (sec. 2834) that would authorize the Secretary of the Army to convey to the City of Youngstown, Ohio, without consideration, a parcel of real property. The property is located at 399 Miller Street in Youngstown, Ohio, and comprises the vacant Kefurt Army Reserve Center.

The Senate amendment contained no similar provision.

The Senate recedes.

Land conveyance, Army Reserve property, Fort Sheridan, Illinois (sec. 2862)

The Senate amendment contained a provision (sec. 2843) that would authorize the Secretary of the Army to convey to a transferee, selected through a competitive process, all right, title, and interest of the United States in a parcel of real property, and improvements thereon, at Fort Sheridan, Illinois, consisting of approximately 114 acres and comprising two Army Reserve areas. As consideration, the transferee would convey to the United States a parcel of land, acceptable to the Secretary, located not more than 25 miles from Fort Sheridan and in an area having similar social and economic conditions as the area in which Fort Sheridan is located. The transferee would also be required to construct replacement facilities and infrastructure, and pay the cost of relocating the Army personnel. The Secretary of the Army would be required to ensure that the fair market value of the consideration provided by the transferee is not less than the fair market value of the real property conveyed by the Secretary.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Land conveyance, property underlying Cummins Apartment Complex, Fort Holabird, Maryland (sec. 2863)

The Senate amendment contained a provision (sec. 2830A) that would authorize the Secretary of the Army to convey to the owner of the Cummins Apartment Complex, at fair market value, six acres of real property at Fort Holabird, Maryland that underlies the Cummins Apartment Complex.

The House bill contained no similar provision.

The House recedes.

Modification of existing land conveyance, Army property, Hamilton Air Force Base, California (sec. 2864)

The House bill contained a provision (sec. 2837) that would modify section 9099(e) of the National Defense Appropriations Act for Fiscal Year 1993 (Public Law 102–396), which permitted the Secretary of the Army to sell certain parcels of property at the former Hamilton Air Force Base, California, as described in the Agreement and Modification, dated September 25, 1990, between the Department of the Defense, the General Services Administration, and the purchaser. The House provision would authorize the Secretary of the Army to convey to the City of Novato, California, any unpurchased property described in section 9099(e) of the National Defense Appropriations Act for Fiscal Year 1993 (Public Law 102–396), for use in establishing schools and park areas. Under this provision, the City would be required to provide any proceeds received from subsequent sale of the property, within the next ten years, to the Secretary of the Army.

The Senate amendment contained no similar provision.

The Senate recedes with technical amendment.

PART II—NAVY CONVEYANCES

Transfer of jurisdiction, Naval Weapons Industrial Reserve Plant, Calverton, New York (sec. 2865)

The House bill contained a provision (sec. 2823) that would authorize the Secretary of the Navy to transfer to the Secretary of Veterans Affairs, without reimbursement, approximately 150 acres at the Naval Weapons Industrial Reserve Plant, Calverton, New York. The property would be conveyed for use as a national cemetery.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Modification of land conveyance, Naval Weapons Industrial Reserve Plant, Calverton, New York (sec. 2866)

The House bill contained a provision (sec. 2835) that would modify the condition of conveyance of the Naval Weapons Industrial Reserve Plant, Calverton, New York, as authorized in the Military Construction Authorization Act for Fiscal 1995 (Division B of Public Law 103–335; 108 Stat. 3061). The modification would amend the purpose of the conveyance. The provision would also strike the Department of Navy's reversionary interest in the property, and, in lieu thereof, authorize the Secretary to lease the facility to the Community Development Agency, in exchange for security, fire protection, and maintenance services, until the property is conveyed by deed.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would retain the purpose of the conveyance, as currently authorized by law.

Land conveyance alternative to existing lease authority, Naval Supply Center, Oakland, California (sec. 2867)

The House bill contained a provision (sec. 2833) that would amend section 2834(b) of the Military Construction Authorization Act for Fiscal Year 1993, (Division B of Public Law 103–160) and section 2821 of the Military Construction Authorization Act for Fiscal Year 1995 (Division B of Public Law 103–337) to authorize the Secretary of the Navy to convey to the City of Oakland, California, the Port of Oakland, California, or the City of Alameda, California, without consideration, in lieu of an existing lease, property at the Naval Supply Center, under such terms as the Secretary considers appropriate. The exact acreage of the real property that would be conveyed would be determined by a survey that is satisfactory to the Secretary, and the cost for such survey shall be borne by the recipient of the property.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would include the City of Richmond, California as an authorized recipient of the property to be conveyed.

Land conveyance, Naval Weapons Industrial Reserve Plant, McGregor, Texas (sec. 2868)

The House bill contained a provision (sec. 2830) that would authorize the Secretary of the Navy to convey to the City of McGregor, Texas, without consideration, all right, title, and interest of the United States in a parcel of real property, including improvements thereon, containing the Naval Weapons Industrial Reserve Plant. The conveyed property would be used for purposes of economic redevelopment. Until the real property is conveyed by deed, the Secretary would be permitted to lease the facility of the City in exchange for security, fire protection, and maintenance services. The Secretary would be authorized to convey other fixtures located on the property if such equipment can be reinstituted after the conveyance.

The Senate amendment contained no similar provision.

The Senate recedes.

Land conveyance, Naval Surface Warfare Center, Memphis, Tennessee (sec. 2869)

The Senate amendment contained a provision (sec. 2838) that would authorize the Secretary of the Navy to convey to the Memphis and Shelby County Port Commission, Memphis, Tennessee, 26 acres of land, including a 1250 ton stiff leg derrick crane, located at the Carderock Division, Naval Surface Warfare Center, Memphis Detachment, President's Island, Memphis, Tennessee. As consideration

for the conveyance, the Port Commission shall grant a restrictive easement consisting of approximately 100 acres that is adjacent to the Memphis Detachment. If the value of the easement granted by the Port is less than the fair market value of the real property conveyed by the Navy, the Secretary and the Port would jointly determine the appropriate additional compensation. The Secretary would deposit any cash proceeds received as part of the transaction, into the special account established under section 204(h)(2) of the Federal Property and Administrative Services Act of 1949.

The House bill contained no similar provision.

The House recedes.

Land conveyance, Navy property, Fort Sheridan, Illinois (sec. 2870)

The Senate amendment contained a provision (sec. 2842) that would authorize the Secretary of the Navy to convey to a transferee, selected through a competitive process, all right, title, and interest of the United States in a parcel of real property, and improvements thereon, at Fort Sheridan, Illinois, consisting of approximately 182 acres and comprising the Navy housing areas at Fort Sheridan. As consideration, the transferee would convey to the United States a parcel of land, acceptable to the Secretary, located not more than 25 miles from the Great Lakes Naval Training Center, Illinois, and located in an area having similar social and economic conditions as the area in which Fort Sheridan is located. The transferee would also be required to: construct replacement housing, support facilities, and infrastructure; pay the cost of relocating the Navy personnel; and provide for the education of dependents in schools that meet, and would continue to meet, standards established by the Secretary of the Navy, even after the enrollment of dependents, regardless of the receipt of federal impact aid by such schools or school districts. The Secretary of the Navy would be required to ensure that the fair market value of the consideration provided by the transferee is not less than the fair market value of the real property conveyed by the Secretary.

The House bill contained no similar provision.

The House recedes with technical amendment.

Land conveyance, Naval Communications Station, Stockton, California (sec. 2871)

The Senate amendment contained a provision (sec. 2844) that would authorize the Secretary of the Navy, with the concurrence of the Administrator of General Services and the Secretary of Housing and Urban Development, to convey to the Port of Stockton, California, all right, title, and interest in approximately 1,450 acres of real property at the Naval Communications Station, Stockton, California. The conveyance may be as a public benefit conveyance if the Port satisfies the criteria established in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484). If the Port does not satisfy such criteria, the conveyance would be for fair market value. As a condition for the conveyance, the Port would be required to agree to maintain, under current terms and conditions, existing Federal leases of property at the Station. The Secretary would be authorized to lease the property to the Port until the property is conveyed by deed.

The House bill contained no similar provision.

The House recedes with an amendment that would delete the requirement that the conveyance be subject to the concurrence of the Administrator of General Service and the Secretary of Housing and Urban Development. The conferees intend that the Secretary would not carry out the conveyance unless it is determined that no department or agency of the Federal Government will accept the transfer of the property.

Lease of property, Naval Air Station and Marine Corps Air Station, Miramar, California (sec. 2872)

The conferees include a new section that would authorize the Secretary of the Navy to enter into a lease agreement with the City of San Diego, California, that would provide for the City's use of land at the Naval Air Station or Marine Corps Air Station Miramar, California, as a municipal solid waste landfill, and for other purposes related to the management of solid waste. The provision would also allow the Secretary to receive in-kind consideration under the lease, and to use any rental money received to carry out environmental programs or improvement projects to enhance quality of life programs for personnel stationed at the Naval Air Station or Marine Corps Air Station. This provision would provide the sole authority for entering into the described lease with the City of San Diego.

PART III—AIR FORCE CONVEYANCES

Land acquisition or exchange, Shaw Air Force Base, South Carolina (sec. 2874)

The House bill contained a provision (sec. 2822) that would authorize the Secretary of the Air Force to acquire, by means of an exchange of property, acceptance as a gift, or other means that would not require the use of appropriated funds, all right, title, and interest in a parcel of real property, with improvements, consisting of approximately 1,100 acres adjacent to Shaw Air Force Base, Sumter, South Carolina.

The Senate amendment contained an identical provision. The conference agreement includes this provision.

Land conveyance, Elmendorf Air Force Base, Alaska (sec. 2875)

The House bill contained a provision (sec. 2832) that would authorize the Secretary of the Air Force to sell to a private person a parcel of real property consisting of approximately 32 acres located at Elmendorf Air Force Base, Alaska. As consideration for the sale, the purchaser would be required to provide appropriate maintenance for the apartment complex located on the property to be conveyed and used by members of the armed forces and their dependents stationed at the Elmendorf Air Force Base. The cost of any surveys necessary for the sale of real property would be borne by the purchaser.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Land conveyance, Radar Bomb Scoring Site, Forsyth, Montana (sec. 2876)

The Senate amendment contained a provision (sec. 2839) that would authorize the Secretary of the Air Force to convey to the City of Forsyth, Montana, without consideration, approximately 58 acres, with improvements, comprising the support complex and recreational facilities of the former Radar Bomb Scoring Site, Forsyth, Montana. The conveyance would be subject to the condition that the City use the property for housing and recreational purposes.

The House bill contained no similar provision.

The House recedes.

Land conveyance, Radar Bomb Scoring Site, Powell, Wyoming (sec. 2877)

The Senate amendment contained a provision (sec. 2840) that would authorize the Secretary of the Air Force to convey to the Northwest College Board of Trustees, without consideration, approximately 24 acres, with improvements, comprising the support complex, recreational areas, and housing facilities at the former Radar Bomb Scoring Site, Powell, Wyoming. The conveyance would be subject to the condition that the Board use the property conveyed for housing and recreational purposes, and for such other purposes as the Secretary and the Board jointly determine appropriate.

The House bill contained no similar provision.

The House recedes.

Land conveyance, Avon Park Air Force Range, Florida (sec. 2878)

The House bill contained a provision (sec. 2827) that would authorize the Secretary of the Air Force to convey, without consideration, a parcel of real property, with improvements, within the boundaries of the Avon Park Air Force Range near Sebring, Florida to Highlands County, Florida. The property would be conveyed for the operation of a juvenile or other correctional facility.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Subtitle E—Land Conveyances Involving Utilities

Conveyance of resources recovery facility, Fort Dix, New Jersey (sec. 2881)

The House bill contained a provision (sec. 2841) that would authorize the Secretary of the Army to convey to Burlington County, New Jersey, a parcel of real property at Fort Dix, New Jersey, consisting of approximately two acres and containing the Fort Dix resource recovery facility.

The Senate amendment contained a similar provision.

The Senate recedes with an amendment that would increase the acreage to be conveyed to six acres and would make other technical corrections.

Conveyance of water and wastewater treatment plants, Fort Gordon, Georgia (sec. 2882)

The House bill contained a provision (sec. 2842) that would authorize the Secretary of the Army to convey to the City of Augusta, Georgia, all rights, title, and interest of the United States in several parcels of real property consisting of approximately seven acres each and containing water and wastewater treatment plants and distribution and collection systems. In consideration of the conveyance, the City of Augusta would accept the water and wastewater treatment plants and distribution and collection systems in their existing condition and provide water and sewer service to Fort Gordon, Georgia at a rate established by the appropriate State or Federal regulatory authority.

The Senate amendment contained a similar provision.

The Senate recedes with a technical amendment.

Conveyance of electricity distribution system, Fort Irwin, California (sec. 2883)

The House bill contained a provision (sec. 2843) that would authorize the Secretary of the Army to convey to the Southern California Edison Company, California, all right, title, and interest of the United States in the electrical distribution system located at Fort Irwin, California. In consideration for the conveyance, the Southern California Edison Company would be required to accept the electrical distribution system in its existing condition and provide electrical service to Fort Irwin at a rate established by the appropriate State or Federal regulatory authority.

The Senate amendment contained a similar provision.

The Senate recedes with a technical amendment.

Conveyance of water treatment plant, Fort Pickett, Virginia (sec. 2884)

The Senate amendment contained a provision (sec. 2835) that would authorize the Secretary of the Army to convey to the Town of Blackstone, Virginia, without reimbursement, the water treatment plant located at Fort Pickett, Virginia. In exchange, the town would provide water and sewer services to Fort Pickett, at a rate negotiated by the Secretary of the Army and approved by the appropriate federal and state regulatory authorities.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the Secretary of the Army to convey to the Town of Blackstone, Virginia, the water treatment plant located at Fort Pickett, Virginia. The amendment would also modify paragraph (c) by clarifying that the water rights granted to the town would be determined pursuant to the law of the Commonwealth of Virginia.

SUBTITLE F—OTHER MATTERS

Authority to use funds for certain educational purposes (sec. 2891)

The Senate amendment contained a provision (sec. 2813) that would amend section 2008 of title 10, United States Code, to authorize the Department of Defense to continue the use of appropriated funds for repair, maintenance, and construction of Department of Education school facilities located on military installations.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Department of Defense Laboratory Revitalization Demonstration Program (sec. 2892)

The Senate amendment contained a provision (sec. 2861) that would establish a test program to allow the heads of selected defense laboratories greater flexibility to undertake facility modernization initiatives. For test program laboratories, the provision would raise the minor construction threshold, from $1.5 million to $3.0 million, for projects that the Secretary of Defense may carry out without specific authorization. The provision would also raise the threshold for minor military construction projects requiring prior approval of the Secretary of Defense, from $500,000 to $1.5 million. Finally, the provision would raise, for the selected laboratories, the threshold, from $300,000 to $1.0 million, for the value of any unspecified military construction project for which operation and maintenance funds may be used.

The provision would provide for the expiration of the test authority on September 30, 2000. It would also require the Secretary of Defense to designate participating laboratories before the test may begin, establish a review procedure for each project to be funded under this section, and report to Congress on the lessons learned from the test program one year before the program is terminated.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Authority for Port Authority of State of Mississippi to use Navy property at Naval Construction Battalion Center, Gulfport, Mississippi (sec. 2893)

The House bill contained a provision (sec. 2852) that would authorize the Secretary of the Navy to enter into an agreement with the Port Authority of the State of Mississippi to permit joint use of real property and associated improvements comprising up to 50 acres located at the Naval Construction Battalion Center, Gulfport, Mississippi. The requirement would be for a period not to exceed 15 years, and the Port Authority would be required to pay fair market rental value as determined by the Secretary. The Secretary could not enter into any agreement until after the end of a 21-day period beginning on the date on which the Secretary submits a report to Congress explaining the terms of the proposed agreement and describing the consideration that the Secretary would expect to receive under the agreement.

The Senate amendment contained a similar provision.

The Senate recedes.

Prohibition on joint use of Naval Air Station and Marine Corps Air Station, Miramar, California (sec. 2894)

The House bill contained a provision (sec. 2853) that would prohibit the Secretary of the Navy from entering into any agreement that would provide for the regular use of Naval Air Station, Miramar, California, by civil aircraft.

The Senate amendment contained a similar provision.

The Senate recedes with a clarifying amendment.

Report regarding Army water craft support facilities and activities (sec. 2895)

The House bill contained a provision (sec. 2854) that would require the Secretary of the Army to submit, not later than February 15, 1996, a report describing the Army's water craft support facilities and activities. The report would include actions that can be taken to close the Army Reserve Facility located in Marcus Hook, Pennsylvania.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Residual value reports (sec. 2896)

The Senate amendment contained a provision (sec. 2864) that would require the Secretary of Defense, in coordination with the Director of the Office of Management and Budget, to submit to the congressional defense committees a status report on the results of residual value negotiations between the United States and Germany. The report would be provided within 30 days after the Office of Management and Budget receives the results of the negotiations.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Sense of Congress and report regarding Fitzsimons Army Medical Center, Colorado (sec. 2897)

The Senate amendment contained a provision (sec. 2830C) that would express the Sense of Congress that the Secretary of the military departments should consider the expedited transfer of facilities to local redevelopment authorities while the facilities are still operational. The provision would also require the Secretary of the Army to provide a report, within 180 days of enactment of the National Defense Authorization Bill for Fiscal Year 1996, on the actions taken to convey the Fitzsimons Army Medical Center, Colorado.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees agree that this section is intended to support current efforts to redevelop the Fitzsimons Army Medical Center. The conferees agree that this section is not intended to circumvent the 1995 recommendations of the Defense Base Closure and Realignment Commission, or other applicable laws.

LEGISLATIVE PROVISIONS NOT ADOPTED

Land conveyance, Naval Air Station, Pensacola, Florida

The House bill contained a provision (sec. 2826) that would authorize the Secretary of the Navy to convey to West Florida Developers, Inc. a parcel of unimproved real property, consisting of approximately 135 acres. As consideration for the conveyance of real property, West Florida Developers, Inc. would agree to restrict the use of all lands located within the Accident Potential Zone of Naval Air Station Pensacola, owned by West Florida Developers, Inc. The cost of any surveys necessary for the conveyance shall be borne by West Florida Developers, Inc.

The Senate amendment contained no similar provision.

The House recedes.

Expansion of authority to sell electricity

The House bill contained a provision (sec. 2851) that would amend section 2483(a) of title 10, United States Code, to expand the authority of the Department of Defense to permit the military departments to take advantage of changing electric power marketing conditions by increasing the available option to outsource for energy on military installations.

The Senate amendment contained no similar provision.

The House recedes.

Clarification of funding for environmental restoration at installations approved for closure or realignment in 1995

The Senate amendment contained a provision (sec. 2823) that would authorize the Department of Defense to fund environmental restoration at installations selected for closure by the 1995 Defense Base Closure and Realignment Commission with funds authorized for the Defense Environmental Restoration Account for fiscal year 1996. After fiscal year 1996, environmental restoration for these installations would be funded using the Defense Base Closure and Realignment Account.

The House bill contained no similar provision.

The Senate recedes.

Report on the disposal of property, Fort Ord Military Complex, California

The Senate amendment contained a provision (sec. 2841) that would require the Secretary of Defense to submit a report to the Congress describing the plans for the disposal of a parcel of real property consisting of approximately 477 acres at the former Fort Ord Military Complex.

The House bill contained no similar provision.

The Senate recedes.

Land conveyance, William Langer Jewel Bearing Plant, Rolla, North Dakota

The Senate amendment contained a provision (sec. 2845) that would authorize the Administrator of the General Services Administration to convey to the Job Development Authority of the City of Rolla, without consideration, approximately 9.77 acres of real property, comprising the former Army-owned William Langer Jewel Bearing Plant, Rolla, North Dakota. The property and facility are to be used for economic development in order to replace economic activity lost at the plant.

The House bill contained no similar provision.

The Senate recedes.

Renovation of the Pentagon Reservation

The Senate amendment contained a provision (sec. 2865) that would require the Secretary of Defense to take such actions necessary to reduce the total cost of the renovation of the Pentagon Reservation to not more than $1.1 billion.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that, as required by section 8149 of the Fiscal Year 1995 Department of Defense Appropriations Act (Public Law 103–335), the Secretary of Defense certified on December 19, 1994 that the total cost of the renovation would not exceed $1.2 billion. Although the department is in the fifth year of a 15 year renovation of the Pentagon, the conferees reiterate their view that this project should be executed at the lowest cost possible. Earlier this year, the Secretary of Defense appointed a steering committee to review the ongoing renovation project. The Secretary of Defense is directed to submit a report to the Senate Committee on Armed Services and the House Committee on National Security by February 15, 1996 on the findings of the steering committee review and on opportunities to achieve further savings.

TITLE XXIX—LAND CONVEYANCES INVOLVING JOLIET ARMY AMMUNITION PLANT

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Title XXIX—Land Conveyances involving Joliet Army Ammunition Plant, Illinois

The Senate amendment contained provisions (secs. 2851–2857) that would authorize the Secretary of the Army to transfer to the Secretary of Agriculture approximately 19,000 acres of land located at the Joliet Army Ammunition Plant to establish the Midewin Tallgrass Prairie. The provision would also authorize the Secretary of the Army to convey, without compensation, to the Secretary of Veterans Affairs 910 acres of land at Joliet Army Ammunition Plant to establish a national cemetery.

The provision would further authorize the Secretary of the Army to convey to the County of Will, Illinois, without consideration, 425 acres of land at Joliet Army Ammunition Plant to be used for a landfill. As a part of this conveyance, the County of Will would be required to permit Federal Government use of the landfill at no cost.

The provision would also authorize the Secretary of the Army to convey, at fair market value, 1,900 acres and 1,100 acres of land located at the Joliet Army Ammunition Plant to the Village of Elwood, Illinois, and the City of Wilmington, Illinois, respectively, to establish industrial parks. All proceeds from any future sale of these parcels or portions of these parcels would be remitted to the Secretary of the Army.

The House bill contained no similar provision.

The House recedes with an amendment that would incorporate the language contained in H.R. 714, an act that would establish the Midewin National Tallgrass Prairie in the State of Illinois, as passed by the House of Representatives in the 104th Congress. The House amendment would modify H.R. 714 to:

(1) make technical corrections;

(2) authorize the Secretary of the Army to transfer 982 acres of real property to the Secretary of Veterans Affairs to establish a national cemetery;

(3) authorize the Secretary of the Army to convey to Will County, Illinois, without consideration, 455 acres of real property for use as a landfill;

(4) authorize the Secretary of the Army to convey to the State of Illinois, at fair market value, 3,000 acres of real property to the State of Illinois for economic redevelopment. The State of Illinois would be required to pay the Army fair market value for the property within twenty years after the date of the conveyance;

(5) require the Governor of the State of Illinois to consult with the Mayors of the Village of Elwood, Illinois, and the City of Wilmington, Illinois, in establishing a redevelopment authority to oversee the development of the real property conveyed to the State; and

(6) clarify the responsibility of the Department of the Army, and other parties to the conveyance, for environmental remediation and restoration of the real property comprising the Joliet Army Ammunition Plant.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Overview

The budget request for fiscal year 1996 contained an authorization of $11,178.5 million for the Department of Energy National Security Programs. The House bill would authorize $10,403.6 million. The Senate amendment would authorize $11,178.7 million. The conferees recommended an authorization of $10,618.2 million. The funding level was largely due to a reduced funding in Environmental Restoration and Waste Management. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1996

(Dollars in Millions)

Account Title	Authorization Request 1996	House Authorized	Senate Authorized	Conference Change	Conference Authorization
TITLE XXXI, XXXII					
Weapons Activities	3,540.175	3,610.914	3,666.219	(79.861)	3,460.314
Defense Nuclear Waste Disposal	198.400	198.400	198.400	50.000	248.400
Defense Environmental Restoration and Waste Managem	6,008.002	5,265.478	5,905.955	(450.470)	5,557.532
Other Defense Activities	1,432.159	1,328.841	1,408.162	(80.183)	1,351.976
Salaries and Expenses	18.500	17.000	18.500	(1.500)	17.000
Total DOE	11,197.236	10,420.633	11,197.236	(562.014)	10,635.222

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
ATOMIC ENERGY DEFENSE ACTIVITIES							
WEAPONS ACTIVITIES							
A. Stockpile stewardship							
1. Core stockpile stewardship							
Operating expenses	948,548	-948,548	0	-948,548	0	-948,548	0
Capital equipment	67,355	-67,355	0	-67,355	0	-67,355	0
Subtotal	1,015,903	-1,015,903	0	-1,015,903	0	-1,015,903	0
Operations & Maintenance	0	1,098,403	1,098,403	1,305,308	1,305,308	1,078,403	1,078,403
Construction:							
GPD -101 General plant projects, various locations	12,500	-12,500	0	-12,500	0	-12,500	0
96-D-102 Stockpile stewardship facilities revitalization, phase VI, various locations	2,520	0	2,520		2,520	0	2,520
96-D-103 ATLAS, Los Alamos National laboratory	8,400	0	8,400		8,400	0	8,400
96-D-104 Process and environmental technology laboratory, SNL	1,800	0	1,800		1,800	0	1,800
96-D-105 Contained firing facility addition, LLNL	6,600	0	6,600		6,600	0	6,600
95-D-102 Chemistry and metallurgy research (CMR) upgrades project, LANL	9,940	0	9,940		9,940	0	9,940
94-D-102 Nuclear weapons research, development and testing facilities revitalization, phase V, VL	12,200	0	12,200		12,200	0	12,200

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
93-D-102 Nevada support facility, NV	15,650	0	15,650		15,650	0	15,650
90-D-102 Nuclear weapons research, development and testing facilities revitalization, phase III, various locations	6,200	0	6,200		6,200	0	6,200
88-D-106 Nuclear weapons research, development and testing facilities revitalization, phase II, VL	17,995	10,000	27,995	0	17,995	0	17,995
Total, Construction	93,805	-2,500	91,305	-12,500	81,305	-12,500	81,305
Total, Core stockpile stewardship	1,109,708	80,000	1,189,708	276,905	1,386,613	50,000	1,159,708
2. Inertial fusion							
Operating expenses	195,349	-195,349	0	-195,349	0	-195,349	0
Capital equipment	7,918	-7,918	0	-7,918	0	-7,918	0
Operations & Maintenance		203,267	203,267	193,267	193,267	203,267	203,267
Construction:							
96-D-111 National ignition facility, TBD	37,400	0	37,400	0	37,400	0	37,400
Total, Inertial fusion	240,667	0	240,667	-10,000	230,667	0	240,667
3. Technology transfer/education							
Operating expenses		25000	25000		0	0	0
Technology transfer	225405	-225405	0	-225405	0	-75,405	150,000
Education	20000	-20000	0	-20000	0	-10,000	10,000
Total, Operating expenses	245405	-220405	25000	-245405	0	-85,405	160000

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
Capital equipment	4,000	-4,000	0	-4,000	0	-4,000	0
Total, Technology transfer/education	249,405	-224,405	25000	-249,405	0	-89,405	160,000
4. Marshall island/Dose reconstruction							
Operating expenses	6,330	-6,330	0	-6,330	0	-6,330	0
Capital equipment	470	-470	0	-470	0	-470	0
Operations and Maintenance	0	6,800	0	6,800	6800	6,800	6,800
Total, Marshall island/Dose reconstruction	6,800	0	0	0	6,800	0	6,800
Total, Stockpile stewardship	1,606,580	-144,405	1462175	17,500	1,624,080	-39,405	1,567,175
B. Stockpile management							
Operating expenses	1,762,168	-1,762,168	0	-1,762,168	0	-1,762,168	0
Capital equipment	33,290	-33,290	0	-33,290	0	-33,290	0
Subtotal	1,795,458	-1,795,458	0	-1,795,458	0	-1,795,458	0
Operations & Maintenance	0	2,028,458	2,028,458	1,911,858	1,911,858	1,911,458	1,911,458
Construction:							
Core stockpile management							
Stockpile support facilities:							
GPD-121 General plant projects, various locations	10,000	-10,000	0	0	10,000	-10,000	0
Production Base							
88-D-122 Facilities capability assurance Program (FCAP), various locations	8,660	0	8,660	0	8,660	0	8,660
96-D-126 Tritium Loading Line Modifications,							

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
Savannah River Site, South Carolina	0	12,200	12,200	12,200	12,200	12,200	12,200
Total Production Base	18,660	2,200	20,860	12,200	30,860	2,200	20,860
Environmental, safety and health							
96-D-122 Sewage treatment quality upgrade (STQU), Pantex plant	600	0	600	0	600	0	600
96-D-123 Retrofit HVAC and chillers, for ozone protection, Y-12 plant	3,100	0	3,100	0	3,100	0	3,100
95-D-122 Sanitary sewer upgrades, Y-12 plant	6,300	0	6,300	0	6,300	0	6,300
94-D-124 Hydrogen fluoride supply system, Y-12 plant	8,700	0	8,700	0	8,700	0	8,700
94-D-125 Upgrade life safety, Kansas City plant	5,500	0	5,500	0	5,500	0	5,500
94-D-127 Emergency notification system, Pantex plant	2,000	0	2,000	0	2,000	0	2,000
94-D-128 Environmental safety and health analytical laboratory, Pantex plant	4,000	0	4,000	0	4,000	0	4,000
93-D-122 Life safety upgrades, Y-12 plant	7,200	0	7,200	0	7,200	0	7,200
Total, Environmental, safety and health	37,400	0	37,400	0	37,400	0	37,400

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
Safeguards and Security							
88-D-123 Security enhancement, Pantex plant	13,400	0	13,400	0	13,400	0	13,400
Nuclear Weapons Incident Response							
96-D-125 Washington measurement operations facility, Andrew Air Force Base, MD	900	0	900	0	900	0	900
Reconfiguration							
93-D-123 Non-nuclear reconfiguration various locations	41,065	0	41,065	0	41,065	0	41,065
Total, Construction	111,425	2,200	113,625	12,200	123,625	2,200	113,625
Total, Stockpile management	1,906,883	235,200	2,142,083	128,600	2,035,483	118,200	2,025,083

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
C. Program Direction							
Weapons program direction - OE	136,169	-136,169	0	-136,169	0	-136,169	0
Capital equipment	1,887	-1,887	0	-1,887	0	-1,887	0
Operations & Maintenance	0	118,000	118,000	118,000	118,000	115,000	115,000
Total, Program direction	138,056	-20,056	118,000	-20,056	118,000	-23,056	115,000
Subtotal, Weapons activities	3,651,519	70,739	3,722,258	126,044	3,777,563	55,739	3,707,258
Adjustments							
Use of prior year balances	-86,344	0	-86,344	0	-86,344	-123,400	-209,744
Streamline DOE Contractors (undistributed)	-25,000	0	-25,000	0	-25,000	-12,200	-37,200
Total, Adjustments	-111,344	0	-111,344	0	-111,344	-135,600	-246,944
TOTAL, WEAPONS ACTIVITIES	3,540,175	70,739	3,610,914	126,044	3,666,219	-79,861	3,460,314

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT							
A. Corrective Activities							
Construction:							
93-D-103 Environment, safety and health improvements, weapons R&D complex, LANL	3,406	0	3,406	0	3,406	-3,406	0
Total, Corrective activities	3,406	0	3,406	0	3,406	-3,406	0
B. Environmental Restoration							
Operating Expenses	1,575,973	0	1,575,973	-25,047	1,550,926	60,000	1,635,973
C. Waste management							
Operating expenses	2,196,766	-2,196,766	0	-2,196,766	0	-2,196,766	0
Capital equipment	91,500	-91,500	0	-91,500	0	-91,500	0
Subtotal	2,288,266	-2,288,266	0	-2,288,266	0	-2,288,266	0
Operations & Maintenance	0	2,168,994	2,168,994	2,151,266	2,151,266	2,295,994	2,295,994
Construction:							
GP-D-171 General plant projects, various locations	30,728	-30,728	0	-15,000	15,728	-30,728	0
96-D-400 Replace industrial waste piping, Kansas City Plant, Kansas City, MO	200	-200	0	0	200	-200	0
96-D-401 Comprehensive treatment & management plan immobilization of miscellaneous wastes, Rocky Flats Environmental Technology Site, Golden, CO	1,400	-1,400	0	0	1,400	-1,400	0

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
96-D-402 Comprehensive treatment & management plan building 374/774 sludge immobilization, Rocky Flats Environmental Technology Site, Golden, CO	1,500	-1,500	0	0	1,500	-1,500	0
96-D-403 Tank farm service upgrades, Savannah River, S	3,315	-3,315	0	0	3,315	-3,315	0
96-D-405 T-Plant secondary containment & leak detection upgrades, Richland, WA	2,100	-2,100	0	0	2,100	-2,100	0
96-D-406 K-Basin operations program, Richland, WA	26,000	0	26,000	15,000	41,000	16,000	42,000
96-D-407 Mixed waste, low level waste treatement projects, Rocky Flats, CO	0	2,900	2,900	0	0	2,900	2,900
96-D-408 Waste Management upgrades/various locations	0	5,615	5,615	0	0	5,615	5,615
96-D-409 Advance mixed waste treatment facility, Idaho National Engineering Lab, Idaho	0	0	0	5,000	5,000	0	0
96-D-410 Specific manufacturing characterization facility assesment and upgrade, Idaho National Engineering Laboratory, Idaho	0	0	0	2,000	2,000	0	0
95-D-402 Install permanent electrical service, WIPP, New Mexico	4,314	0	4,314	0	4,314	0	4,314
95-D-405 Industrial landfill V and construction/							

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
demolition landfill VII, Y-12 Plant, Oak Ridge, TN	4,600	0	4,600	0	4,600	0	4,600
95-D-406 Road 5-01 reconstruction, area 5, NV	1,023	0	1,023	0	1,023	0	1,023
95-D-407 219-S Secondary containment upgrade, Richland, WA	0	0	0	0	0	1,000	1,000
94-D-400 High explosive wastewater treatment system, LANL	4,445	0	4,445	0	4,445	0	4,445
94-D-402 Liquid waste treatment system, NTS	282	0	282	0	282	0	282
94-D-404 Melton Valley storage tank capacity increase, ORNL	11,000	0	11,000	0	11,000	0	11,000
94-D-407 Initial tank retrieval systems, Richland, WA	9,400	0	9,400	0	9,400	2,600	12,000
94-D-411 Solid waste operation complex, Richland, WA	5,500	0	5,500	0	5,500	1,106	6,606
94-D-417 Intermediate-level and low-activity waste vaults, Savannah River, SC	2,704	0	2,704	0	2,704	-2,704	0
93-D-178 Building 374 liquid waste treatment facility, Rocky Flats Plant, CO	3,900	0	3,900	0	3,900	0	3,900
93-D-181 Radioactive liquid waste line replacement, Richland, WA	0	0	0	0	0	5,000	5,000

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
93-D-182 Replacement of cross-site transfer system, Richland, WA	19,795	0	19,795	0	19,795	0	19,795
93-D-183 Multi-function waste remediation facility, Richland, WA	31,000	0	31,000	0	31,000	-31,000	0
93-D-187 High level waste removal from filled waste tanks, Savannah River, SC	19,700	0	19,700	15,000	34,700	0	19,700
92-D-171 Mixed waste receiving and storage facility, LANL	1,105	0	1,105	0	1,105	0	1,105
92-D-188 Waste management ES&H, and compliance activities, various locations	1,100	0	1,100	0	1,100	0	1,100
90-D-172 Aging waste transfer line, Richland, WA	2,000	0	2,000	0	2,000	0	2,000
90-D-177 RWMC transuranic (TRU) waste characterization and storage facility, ID	1,428	0	1,428	0	1,428	0	1,428
90-D-178 TSA retrieval enclosure, ID	2,606	0	2,606	0	2,606	0	2,606
89-D-173 Tank farm ventilation upgrade, Richland, WA	800	0	800	0	800	0	800
89-D-174 Replacement high level waste evaporator, Savannah River, SC	11,500	0	11,500	0	11,500	0	11,500

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
86-D-103 Decontamination and waste treatment facility, LLNL, Livermore, CA	8,885	0	8,885	0	8,885	0	8,885
83-D-148 Non-radioactive hazardous waste management, Savannah River, SC	1,000	0	1,000	0	1,000	0	1,000
Total, Construction	213,330	-30,728	182,602	22,000	235,330	-38,726	174,604
Total, Waste management	2,501,596	-150,000	2,351,596	-115,000	2,386,596	-30,998	2,470,598
D. Technology development		390,510	390,510	505,510	505,510	440,510	440,510
Operating expenses	367,587	-367,587	0	-367,587	0	-367,587	0
Capital equipment	22,923	-22,923	0	-22,923	0	-22,923	0
Construction:	0	0	0	0	0	0	0
Total, Technology development	390,510	0	390,510	115,000	505,510	50,000	440,510
E. Transportation management	0	10,158	10,158	16,158	16,158	13,158	13,158
Operating expenses	15,918	-15,918	0	-15,918	0	-15,918	0
Capital equipment	240	-240	0	-240	0	-240	0
Total, Transportation management	16,158	-6,000	10,158	0	16,158	-3,000	13,158
F. Program direction							
Operating expenses	0	0	0	0	0	0	0
Capital equipment	0	0	0	0	0	0	0
Total, Program direction	0	0	0	0	0	0	0

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
G. Nuclear materials and facilities stabilization							
Operating expenses	1,413,987	-1,413,987	0	-1,413,987	0	-1,413,987	0
Capital equipment	53,397	-53,397	0	-53,397	0	-53,397	0
Subtotal	1,467,384	-1,467,384	0	-1,467,384	0	-1,467,384	0
Operations & Maintenance	0	1,427,108	1,427,108	1,463,384	1,463,384	1,447,108	1,447,108
Construction:							
GP-D-171 General plant projects, var. locations	34,724	-34,724	0	-20,000	14,724	-34,724	0
96-D-457 Thermal treatment system, Richland, WA	0	0	0	0	0	1,000	1,000
96-D-458 Site drainage control, Mound Plant, Miamisburg, OH	885	0	885	0	885	0	885
96-D-461 Electrical distribution upgrade, Idaho National Engineering Laboratory, ID	1,539	0	1,539	0	1,539	0	1,539
96-D-462 Health physics instrument laboratory, Idaho National Engineering Laboratory, ID	1,126	0	1,126	0	1,126	-1,126	0
96-D-463 Central facilities area (CFA) craft shop Idaho National Engineering Laboratory, ID	724	-724	0	0	724	-724	0
96-D-464 Electrical & utility systems upgrades, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, ID	4,952	0	4,952	0	4,952	0	4,952
96-D-465 200 Area sanitary sewer system, Richland, W	1,800	-1,800	0	0	1,800	-1,800	0

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
96-D-468 Residue Elimination Project, Rocky Flats, CO	0	0	0	0	0	33,100	33,100
96-D-470 Environmental monitoring laboratory, Savannah River Site, Aiken , SC	3,500	0	3,500	0	3,500	-3,500	0
96-D-471 CFC HVAC/chiller retrofit, Savannah River Site, Aiken,SC	1,500	0	1,500	0	1,500	0	1,500
96-D-472 Plant engineering & design, Savannah River Site, Aiken, SC	4,000	-4,000	0	0	4,000	-4,000	0
96-D-474 Dry Fuel Storage Facility, INEL	0	0	0	15,000	15,000	0	0
96-D-475 High Level Waste Volume Reduction Demo (Pentaborane), INEL	0	0	0	5,000	5,000	0	0
96-D-473 Health physics site support facility, Savannah River, South Carolina	2,000	0	2,000	0	2,000	-2,000	0
95-D-155 Upgrade site road infrastructure, Savannah River, South Carolina	2,900	0	2,900	0	2,900	0	2,900
95-D-156 Radio trunking system, Savannah River, SC	6,000	0	6,000	4,000	10,000	0	6,000
95-D-454 324 Facility compliance/renovation, Richland, WA	3,500	0	3,500	0	3,500	0	3,500
95-D-456 Security facilities consolidation, Idaho							

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
Chemical Processing Plant, INEL, Idaho	8,382	0	8,382	0	8,382	0	8,382
94-D-122 Underground storage tanks, Rocky Flats Plant, CO	5,000	0	5,000	0	5,000	0	5,000
94-D-401 Emergency response facility, INEL, ID	5,074	0	5,074	0	5,074	0	5,074
94-D-412 300 area process sewer piping system upgrade, Richland, WA	1,000	0	1,000	0	1,000	0	1,000
94-D-415 Idaho national engineering laboratory medical facilities, INEL, ID	3,601	0	3,601	0	3,601	0	3,601
94-D-451 Infrastructure replacement, Rocky Flats Plant, CO	2,940	0	2,940	0	2,940	0	2,940
93-D-147 Domestic water system upgrade, Phase I & II, Savannah River, South Carolina	7,130	0	7,130	0	7,130	0	7,130
93-D-172 Idaho national engineering laboratory electrical upgrade, INEL, ID	124	0	124	0	124	-124	0
92-D-123 Plant fire/security alarm system replacement, Rocky Flats Plant, Golden, CO	9,560	0	9,560	0	9,560	0	9,560
92-D-125 Master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, CO	7,000	0	7,000	0	7,000	0	7,000

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
92-D-181 Idaho national engineering laboratory fire and life safety improvements, INEL, ID	6,883	0	6,883	0	6,883	0	6,883
91-D-127 Criticality alarm & plant annunciation utility replacement, Rocky Flats plant, Golden, CO	2,800	0	2,800	0	2,800	0	2,800
Total, Construction	128,644	-41,248	87,396	4,000	132,644	-13,898	114,746
Total, Nuclear materials and fac. stabilization	1,596,028	-81,524	1,514,504	0	1,596,028	-34,174	1,561,854
H. Compliance and program coordination							
Operating expenses	65,551	-65,551	0	-65,551	0	-65,551	0
Capital equipment	700	-700	0	-700	0	-700	0
Subtotal	66,251	-66,251	0	-66,251	0	-66,251	0
Operations & Maintenance	0	16,251	16,251	66,251	66,251	31,251	31,251
Construction:							
95-E-600 Hazardous materials training center, Richland, Washington	15,000	0	15,000	0	15,000	0	15,000
Total, Compliance and program coordination	81,251	-50,000	31,251	0	81,251	-35,000	46,251
I. Analysis, education, and risk management		77,022	77,022	80,022	80,022	78,522	78,522
Operating expenses	155,616	-155,616	0	-155,616	0	-155,616	0
Capital equipment	1,406	-1,406	0	-1,406	0	-1,406	0
						0	
Total, Analysis, education, and risk management	157,022	-80,000	77,022	-77,000	80,022	-78,500	78,522
Subtotal, Defense environment restoration & waste mgmt	6,321,944	-367,524	5,954,420	-102,047	6,219,897	-75,078	6,246,866

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
Savannah river pension refund	-37,000	0	-37,000	0	-37,000	0	-37,000
Use of prior year balances	-276,942	-375,000	-651,942	0	-276,942	-375,392	-652,334
TOTAL, DEFENSE ENVIRONMENTAL REST. & WASTE MG	6,008,002	-742,524	5,265,478	-102,047	5,905,955	-450,470	5,557,532
A. Other national security programs							
1. Verification and control technology							
a. Nonproliferation and verification R&D	0	163,500	163,500	226,142	226,142	224,905	224,905
Operating expenses	212,642	-212,642	0	-212,642	0	-212,642	0
Capital equipment	13,500	-13,500	0	-13,500	0	-13,500	0
Total, Nonproliferation & verification R&D	226,142	-62,642	163,500	0	226,142	-1,237	224,905
b. Arms control	0	147,364	147,364	162,364	162,364	160,965	160,965
Operating expenses	138,391	-138,391	0	-138,391	0	-138,391	0
Capital equipment	23,973	-23,973	0	-23,973	0	-23,973	0
Total, Arms Control	162,364	-15,000	147,364	0	162,364	-1,399	160,965
c. Intelligence	0	42,336	42,336	42,336	42,336	42,336	42,336
Operating expenses	40,936	-40,936	0	-40,936	0	-40,936	0
Capital equipment	1,400	-1,400	0	-1,400	0	-1,400	0
Total, Intelligence	42,336	0	42,336	0	42,336	0	42,336
Total, Verification and Control Technology	430,842	-77,642	353,200	0	430,842	-2,636	428,206
2. Nuclear safeguards and security	0	83,395	83,395	83,395	83,395	83,395	83,395
Operating expenses	86,121	-86,121	0	-86,121	0	-86,121	0
Capital equipment	3,395	-3,395	0	-3,395	0	-3,395	0

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
Total, Nuclear Safeguards and Security	89,516	-6,121	83,395	-6,121	83,395	-6,121	83,395
3. Security investigations - OE	33,247	-8,247	25,000	-8,247	25,000	-13,247	20,000
4. Security evaluations - OE	14,707	0	14,707	0	14,707	0	14,707
5. Office of Nuclear Safety	0	15,050	15,050	15,050	15,050	17,679	17,679
Operating expenses	24,629	-24,629	0	-24,629	0	-24,629	0
Capital equipment	50	-50	0	-50	0	-50	0
Total, Office of Nuclear Safety	24,679	-9,629	15,050	-9,629	15,050	-7,000	17,679
6. Worker and community transition	100,000	-25,000	75,000	0	100,000	-17,500	82,500
7. Fissile materials control and disposition	0	70,000	70,000	70,000	70,000	70,000	70,000
Operating expenses	69,500	-69,500	0	-69,500	0	-69,500	0
Capital equipment	500	-500	0	-500	0	-500	0
Total, Fissile Materials Control and Disposition	70,000	0	70,000	0	70,000	0	70,000
8. Emergency Management	0	23,321	23,321	0	0	23,321	23,321
Total, Other National Security Programs	762,991	-103,318	659,673	-23,997	738,994	-23,183	739,808
B. Naval reactors							
1. Naval reactors development	0	659,168	659,168	659,168	659,168	652,568	652,568
a. Plant development - OE	127,000	-127,000	0	-127,000	0	-127,000	0
b. Reactor development - OE	327,851	-327,851	0	-327,851	0	-327,851	0

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
c. Reactor operation and evaluation - OE	135,517	-135,517	0	-135,517	0	-135,517	0
d. Capital equipment	43,000	-43,000	0	-43,000	0	-43,000	0
e. Construction:							
GPN-101 General plant projects, various locations	6,600	-6,600	0	-6,600	0	0	6,600
95-D-200 Laboratory systems and hot cell upgrades, various locations	11,300	0	11,300	0	11,300	0	11,300
95-D-201 Advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, ID	4,800	0	4,800	0	4,800	0	4,800
93-D-200 Engineering services facilities Knolls Atomic Power Laboratory, Niskayuna, NY	3,900	0	3,900	0	3,900	0	3,900
90-N-102 Expanded core facility dry cell project, Naval Reactor Facility, ID	3,000	0	3,000	0	3,000	0	3,000
Total, Construction	29,600	-6,600	23,000	-6,600	23,000	0	29,600
f. Program direction - OE	19,200	-19,200	0	-19,200	0	-19,200	0
Total, Naval Reactors Development	682,168	0	682,168	0	682,168	0	682,168
2. Enrichment materials - OE	0	0	0	0	0	0	0
Total, Naval Reactors	682,168	0	682,168	0	682,168	0	682,168

Fiscal Year 1996 Department of Energy National Security Programs
[Amounts in thousands of dollars]

	FY 1996 Request	House Change to Request	House Authorization	Senate Change to Request	Senate Authorization	Change to Request	Conference Agreement
Savannah river pension refund	0	0	0	0	0	0	0
Use of prior year balances	-13,000	0	-13,000	0	-13,000	-57,000	-70,000
Total, Adjustments	-13,000	0	-13,000	0	-13,000	-57,000	-70,000
TOTAL, OTHER DEFENSE ACTIVITIES	1,432,159	-103,318	1,328,841	-23,997	1,408,162	-80,183	1,351,976
DEFENSE NUCLEAR WASTE DISPOSAL							
Defense nuclear waste disposal	198,400	0	198,400	0	198,400	50,000	248,400
TOTAL, ATOMIC ENERGY DEFENSE ACTIVITIES	11,178,736	-775,103	10,403,633	0	11,178,736	-560,514	10,618,222

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—National Security Programs Authorizations

Weapons Activities (sec. 3101)

The budget request included $3.540 billion for weapons activities. The House bill contained a provision (sec. 3101) that would authorize $3.599 billion for operating expenses, plant projects, and capital equipment for activities necessary to carry out the Department of Energy stockpile stewardship and stockpile management programs.

The Senate amendment contained a provision (sec. 3101) that would authorize Department of Energy weapons activity funding for fiscal year 1996 in the amount of $3.654 billion.

The conferees agree to authorize $3.460 billion for weapons activities, a reduction of $80.0 million from the requested amount. This overall net reduction is the result of a $55.7 million increase to the requested amount for all authorized weapons activities, combined with $135.6 million in adjustment reductions. The adjustment reductions are primarily based on larger amounts of prior year balances than those proposed in the Department of Energy (DOE) budget request. The $55.7 million increase in weapons activities is necessary to fund the requirements levied on the DOE as a result of the Nuclear Posture Review. The increase is required for two major reasons: to fund a modern stockpile refabrication capacity sized to the requirements of the Nuclear Posture Review and to fund a means to assure confidence in stockpile reliability and safety without full-scale, underground nuclear testing. The increase is also appropriate given the historic downward trend in funding for weapons activities (75% from fiscal year 1985 to fiscal year 1995).

The conferees remain concerned about the near-term viability of U.S. strategic deterrence, particularly if the United States refrains from remanufacturing the weapons in the nuclear stockpile with the most efficient fabrication techniques. In relation to the needs of nuclear weapons refabrication and recertification, the conferees recommend that the DOE laboratories and plants enter into appropriate industrial partnerships of mutual benefit.

The budget request included $1.016 billion for core stockpile stewardship. The conferees agree to authorize $1.078 billion for core stockpile stewardship. The conferees authorize the use of stockpile stewardship funds, as follows: (1) accelerated strategic computing initiative, $40.0 million (2) hydronuclear experiment preparation, $30.0 million; (3) dual revalidation, $10.0 million.

Of the $150.0 million authorized for a redirected technology transfer program, the conferees recommend the following amounts: (1) advanced design & production technology (ADAPT), $20.0 million; (2) AMTEX, $10.0 million; (3) enhanced stockpile surveillance, $20.0 million; (4) industrial partnerships in direct support of stockpile stewardship program, $25.0 million; (5) industrial partnerships in direct support of stockpile management program, $25.0 million; (6) completion of highest priority CRADA's that remain from fiscal year 1995, $50.0 million.

The budget request included $1.907 billion for the stockpile management program. The conferees agree to authorize $2.025 billion for the stockpile management program. The conferees authorize the following: (1) manufacturing infrastructure/technology modernization at the four production plants, $143.0 million; (2) fellowship program (four plants), $10.0 million; (3) radiological/nuclear accident response, $70.9 million; (4) tritium source, $50.0 million.

The conferees agree to authorize an additional $118.2 million for stockpile management activities. The increase is necessary to remedy weapons refabrication planning deficiencies identified at the DOE production complex. These remedies are required to begin meeting the objectives of the Nuclear Posture Review.

The conferees recommend that in following fiscal years the Department request the full amount required to meet Department of Defense and programmatic requirements for weapons activities. The conferees find that the DOE Five Year National Security Budget Plan, which assigns major, arbitrary, out-year budget cuts to weapons activities, and to other critical programs within Atomic Energy Defense Activities, does not adequately address the budget requirements necessary to implement the Nuclear Posture Review.

Environmental restoration and waste management (sec. 3102)

The budget request included $6.008 billion for environmental restoration and waste management.

The House bill contained a provision (sec. 3102) that would authorize $5.265 billion for operating expenses, plant projects, and capital equipment for defense environmental restoration and waste management activities.

The Senate amendment contained a provision (sec. 3102) that would authorize $5.906 billion.

The conferees authorize $5.557 billion for defense environmental restoration and waste management activities, a reduction of $451.0 million from the request. The reduction would be partially offset by the availability of prior year funds that have not been obligated, or if obligated, have not been expended and would not be needed for the projects that were the basis for obligation.

The conferees support the recent Department of Energy strategic realignment initiatives, taken in connection with the Department's headquarters functions, to include the consolidation of space, the elimination of duplication between field and headquarters activities, and the reduction of headquarters support service contractors. The conferees direct that funding cuts, to the maximum extent possible, continue to be absorbed through reduction of headquarters personnel and activities. With limited budgets, it is critical that every available dollar be used for actual cleanup activities in the field and that the Department continue its efforts to reduce bureaucratic layers and organizational redundancies at headquarters.

The conferees understand that the Department has employed support service contractors to perform inherently governmental or core governmental functions at the headquarters level. The conferees direct the Department to discontinue that practice and to transfer savings to field operations. The conferees recognize that in some cases it may be more cost effective to seek outside technical expertise rather than employ permanent government personnel.

The conferees authorize an additional $60.0 million above the budget request in the environmental restoration sub-account to initiate an accelerated cleanup program at sites where such action could result in long-term cost savings to the Department. The conferees intend for the Department to carefully evaluate opportunities for such savings at all Department of Energy sites. Guidelines for selection of sites that are eligible for accelerated cleanup are discussed elsewhere in this report.

The conferees are particularly concerned about the projected use of several Department of Energy facilities for additional responsibilities with respect to the processing, treatment, and interim storage of foreign and domestic sourced spent fuel rods. Therefore, the conferees direct, elsewhere in this statement of managers, the initiation of several projects to mitigate these effects. The conferees also direct the initiation of the preconstruction design and engineering for dry storage and advanced mixed waste treatment facilities at the Idaho National Engineering Laboratory. In this regard, the conferees agree to authorize additional funding for the spent nuclear fuels canister storage and stabilization facility at Hanford, Washington.

Prior to, and during conference, the Department submitted to the Congress several separate amendments (additions and deletions) to the list of projects included in the original budget request. Consistent with the amended budget submission, the conferees agree to provide additional funding for certain projects and to delete a number of other projects. Given the lead times associated with budget preparation, the conferees recognize that it is difficult to accurately project the status or requirements for every activity. However, the conferees encourage the Department to refrain from submitting multiple amendments to budget requests during conference.

In an effort to track carryover balances, the conferees direct the Department to submit a report to the congressional defense committees, contemporaneous with the fiscal year 1997 budget request. The report should contain the following: (1) an end of current fiscal year projection of uncosted and unobligated carryover balances; (2) target end of current fiscal year carryover balances, by program, based on a model of the minimum amount necessary for program operations and continuity; (3) a comparison of the differences between the projected and target carryover balances, by program; (4) a justification for the difference between the projected and targeted carryover balances; and (5) the amount of unjustified carryover balances, based on the calculation in (2). The conferees direct the Department to report the carryover balances within the Environmental Restoration and Waste Management Program, and those balances across all Atomic Energy Defense Activities accounts. The conferees believe that unjustified carryover balances should be applied to reduce the Department's budget request for the next fiscal year.

Other Defense Activities (sec. 3103)

The budget request included $1.432 billion for Other Defense Activities of the Department of Energy (DOE) for fiscal year 1996. The House bill contained a provision (sec. 3104) that would authorize $1.329 billion for Other Defense Activities.

The Senate amendment contained a provision (sec. 3103) that would authorize $1.408 billion for this group of programs, a decrease of $24.0 million below the requested amount.

The conferees agree to authorize $1.352 billion for these programs.

The conferees also direct that the five-year plans for the following activities be provided, not later than January 15, 1996, to the congressional defense committees: security investigations; nuclear safeguards and security; nuclear safety; worker and community transition; fissile materials disposition; naval reactors; nonproliferation; and arms control.

Naval Reactors

The conferees urge the Naval Reactors Program to maintain the high health and safety standards that have resulted in both an unprecedented record of safe operation and have become the standard for safe nuclear power operations around the world.

The conferees also support the program's continued use of the Advanced Test Reactor (ATR). This facility is completely unique in the United States and is essential to the continuation of the advanced materials subprogram. This subprogram provides experimental data that is the basis for both present safety standards and future power plant designs.

Other National Security Programs

Nuclear Safeguards and Security

The conferees believe that the Secretary of Energy should carefully balance investment within the sub-programs of the Nuclear Safeguards and Security Program to safeguard Department of Energy nuclear weapons, nuclear materials, and facilities against theft, sabotage, and terrorist activity. Such a balanced approach should remain the highest priority of the program. The conferees authorize additional funding for declassification activities elsewhere in this statement of managers, but this should not be construed as an indication that the Congress in any way is indifferent to the protection of these DOE properties. In view of the growing severity of domestic and international terrorism, the conferees urge the DOE to take increased steps to safeguard the weapons grade material and weapons under its control.

Office of Security Investigations

As a result of recent major incidents of domestic and international terrorism, the conferees believe that the Office of Security Investigations should determine the need for more frequent reinvestigations of individuals with actual access to weapons grade material. The conferees direct that the Secretary provide the congressional defense committees with a description of the determination rendered, not later than March 30, 1996. The Secretarial submission should include the Department's recommendations and the rationale for the determination. The conferees also recommend a more detailed treatment of any new initiatives and emphases in the fiscal year 1997 budget submission.

Office of Security Evaluations

The conferees believe that the Office of Security Evaluations should reevaluate its present policies, and evaluate and develop new policies and actions, if required, to improve the effectiveness of its program. The conferees direct that the Secretary provide an explanation of the results of this reevaluation to the appropriate congressional defense committees, not later than March 30, 1996. The conferees also recommend a more detailed treatment of the results of its policies in the fiscal year 1997 budget submission.

Office of Nuclear Safety

The conferees believe that the Office of Nuclear Safety should implement the program with an overall cost/benefit analysis applied as a major consideration. That approach would ensure that available resources would be used in a fiscally responsible manner, and provide reductions in significant risks to employees. Resources should not be used to fund marginal improvements that provide minimal safety benefits. The conferees direct the Secretary to implement cost/benefit performance as a criterion for the Office of Nuclear Safety.

Worker and Community Transition

The conferees direct the Worker and Community Transition program to provide more detailed information on the effectiveness of its activities, through the end of fiscal year 1995, in the fiscal year 1997 budget request.

Fissile Materials Control and Disposition

The conferees are concerned that the Fissile Materials Control and Disposition Program does not have a wide range of technology and cost effectiveness assessments in its programmatic environmental impact statement (PEIS). Specific direction is provided in this Act to consider a variety of nuclear reactors in this regard. The committees of jurisdiction intend to explore these issues in greater depth with the Department of Energy during future congressional hearings.

Emergency Response

The conferees direct that the funds for the Office of Emergency Response, within the Office of Non-proliferation and National Security, shall be allocated within the Other Defense Programs category, not from within any other part of the Atomic Energy Defense Activities. The conferees further direct that in fiscal year 1997, and subsequent fiscal years, the funding requested for Atomic Energy Defense Activities Program Direction should be allocated separately within each of the four top level categories of that account, and not aggregated within one such category, as was done in the fiscal year 1996 budget request.

Nonproliferation and verification research and development and arms control

The budget request included $226.1 million for nonproliferation and verification research and development, and $162.3 million for arms control.

The House bill would authorize $163.5 million for nonproliferation and verification research and development, a $62.6 million reduction to the budget request; and $147.4 million for arms control, a $14.9 million reduction to the budget request.

The Senate amendment would authorize the budget request.

The conferees authorize $224.9 million for nonproliferation and verification research and development, consistent with the amended budget request from the Department of Energy, and $161.0 million for arms control.

Due to the increase in international terrorism and attempts to acquire weapons grade nuclear materials by criminal organizations, the conferees authorize $3.0 million be available from nonproliferation and verification research and development for the development of forensics capability to detect and track shipments abroad. Further, the conferees direct the Secretary of Energy to broaden involvement in this area to include the entire Department of Energy weapons complex, including the Savannah River Site, Pacific Northwest Laboratory, Idaho National Engineering Laboratory, and industry.

The conferees direct the Secretary of Energy to submit a five-year nonproliferation research and development program plan to Congress by March 30, 1996. The plan shall include a program strategy, description of the program and project objectives, deliverables, and milestones for each project within the program. The plan shall also identify the specific organization customers for each project and subprogram.

The conferees concur with recommendations in the Senate report (S. Rept. 104–112) that the Department of Energy, in coordination with the International Atomic Energy Agency (IAEA), should conduct a study on nuclear reactor safety issues in the Ukraine and report, with recommendations, to Congress on the safety issues that need to be addressed. The conferees direct that the report be broadened to include nuclear reactors in Russia. However, the conferees agree that funding to conduct a study on nuclear reactor safety study in Ukraine and Russia would more appropriately be funded in the international affairs budget and the civilian nuclear reactor portion of the energy budget, and therefore, no funds are authorized to conduct this study from nonproliferation and verification research and development or any other Atomic Energy Defense Activities account.

Defense nuclear waste disposal (sec. 3104)

The budget request included $198.4 million for defense nuclear waste disposal activities of the Department of Energy for fiscal year 1996.

The House bill contained a provision (sec. 3105) that would authorize $198.4 million for this purpose.

The Senate amendment contained an identical provision.

The conference agreement includes a provision that would authorize $248.4 million for defense nuclear waste disposal activities of the Department of Energy for fiscal year 1996.

Subtitle B—Recurring General Provisions

Reprogramming (sec. 3121)

The House bill contained a provision (sec. 3121) that would prohibit the reprogramming of funds in excess of 110 percent of the amount authorized for the program concerned, or in excess of $1.0 million above the amount authorized for the program unless the Secretary of Energy notifies the congressional defense committees and a period of 30 days has elapsed subsequent to the receipt of notification. Should the Department demonstrate that it has improved its procedures for handling reprogramming requests, the Armed Services Committee of the Senate and the National Security Committee of the House would consider a return to a more flexible reprogramming process.

The Senate amendment contained a similar provision.

The Senate recedes.

Limits on general plant projects (sec. 3122)

The House bill contained a provision (sec. 3122) that would limit the initiation of ''general plant projects'' authorized by the bill if the current estimated cost for any project exceeds $2.0 million. However, the provision would require the Secretary of Energy to provide the congressional defense committees with notification and an explanation for a general plant project cost variation that raises the cost of any project above $2.0 million.

The Senate amendment contained a similar provision.

The Senate recedes.

Limits on construction projects (sec. 3123)

The House bill contained a provision (sec. 3123) that would permit initiation and continuation of a Department of Energy construction project if the estimated cost for the project does not exceed 125 percent of the higher of: (1) the funds authorized for the project; or (2) the most recent total estimated cost presented to the Congress as justification for such project. The Secretary of Energy would submit a detailed report to the congressional defense committees for any project that exceeds such limits, and the report would be submitted within the 30 legislative days following a decision to initiate or continue such a project.

The House provision would also specify that the 125 percent limitation would not apply to any project with an estimated cost below $5.0 million.

The Senate amendment contained a similar provision.

The Senate recedes.

Fund transfer authority (sec. 3124)

The Senate amendment contained a provision (sec. 3124) that would authorize the transfer of Department of Energy funds to other agencies of the government for performance of work for which the funds were

authorized and appropriated. The provision would permit another agency to merge the transferred funds with that agency's authorized and appropriated funds.

The provision would also authorize the Department to transfer funds internally among its appropriations accounts, up to a limit of five percent of the authorized amount.

The House bill contained a similar provision.

The House recedes with an amendment that would stipulate that, for any such internal transfers or reprogrammings pursuant to this section, weapons activities shall be regarded by the Department as having higher priority than environmental management activities or other defense activities.

Authority for conceptual and construction design (sec. 3125)

The House bill contained a provision (sec. 3125) that would limit the Secretary of Energy's authority to request construction funding until the Secretary has certified a conceptual design. If the cost of the conceptual design exceeds $3.0 million, the Secretary must request the amount from Congress before submitting a request for the construction project. The Secretary may carry out construction design services if their cost is less than $0.6 million. Greater costs for construction design would be required to be authorized by law.

The Senate amendment contained a similar provision.

The Senate recedes.

Authority for emergency planning, design, and construction activities (sec. 3126)

The House bill contained a provision (sec. 3126) that would permit the Secretary of Energy to utilize available funds to perform planning and design for any unauthorized Department of Energy national security program construction project based on the Secretary's determination that the design must proceed expeditiously for the protection of public health, safety, and property, or to meet the needs of the national defense.

The Senate amendment contained a similar provision (sec. 3126).

The Senate recedes.

Funds available for all national security programs of the Department of Energy (sec. 3127)

The House bill contained a provision (sec. 3127) that would authorize amounts appropriated for management and support activities and for general plant projects to be made available for use, when necessary, in connection with all national security programs of the Department of Energy.

The Senate amendment contained a similar provision.

The Senate recedes.

Availability of funds (sec. 3128)

The House bill contained a provision (sec. 3128) that would authorize amounts appropriated for operating expenses or for plant and capital equipment to remain available until expended.

The Senate amendment contained a similar provision.

The Senate recedes.

Subtitle C—Program Authorizations, Restrictions, and Limitations

Authority to conduct a program relating to fissile materials (sec. 3131)

The House bill contained a provision (sec. 3131) that would authorize the Secretary of Energy to conduct a program to improve fissile material protection, control, and accountability in Russia. The provision would also require notification to the Congress prior to obligation of funds.

The Senate amendment did not contain a similar provision.

The Senate recedes with an amendment.

The conferees agree to a provision that would authorize the Secretary of Energy to conduct a program to improve fissile material protection, control, and accountability in Russia. The provision would also require the Secretary to provide a semi-annual report to Congress on the obligation of funds for the preceding six month period and on the plans for obligation of those funds.

The conferees direct that each report shall include the following: a forecast of planned expenditures, broken out by major program elements and program achievements; and a description of procedures to ensure that funds are used for the purposes and activities for which they were authorized. The report shall be submitted in classified and unclassified forms.

National Ignition Facility (sec. 3132)

The House bill contained a provision (sec. 3132) that would limit the expenditure of funds appropriated for the National Ignition Facility (NIF) until the Secretary of Energy determines that the NIF does not impede U.S. nuclear non-proliferation objectives and then notifies the Congress.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit the expenditure of construction funds for the NIF until the Secretary makes the determination and notifies the Congress.

Tritium production program (sec. 3133)

The House bill contained a provision (sec. 3133a) that would authorize $50.0 million, for a project that would provide a long-term source of tritium, subsequent to the Secretary of Energy's completion of a record of decision on the tritium production program and the conclusion of congressional hearings.

The Senate amendment contained a provision (sec. 3131) that would authorize $50.0 million to conduct an assessment of various types of reactors and an accelerator. The provision would ensure that any new tritium production facility would be located at the Savannah River Site. It would also authorize $5.0 million from weapons activity funds for tritium target work in reactors.

The Senate recedes with an amendment that would provide for: $50.0 million to establish a program to provide a tritium production source; $5.0 million for tritium target work to be administered by the Idaho National Engineering Laboratory; a new tritium facility at the Savannah River Site; the Secretary's cost/benefit comparison between performance of the tritium production mission and the fissile materials disposition mission with a single multi-purpose reactor project and performance of these missions with two separate projects; and a long-term tritium production funding plan to Congress within 45 days of enactment of this Act.

The conferees direct the Secretary of Energy to establish both headquarters and field offices for the national tritium production program within Defense Programs. The conferees direct that these offices be adequately staffed by Federal technical experts in accelerators, reactors, and other relevant areas of science and technology. The conferees further direct that the Savannah River Operations Office be designated as the tritium production field office.

Payment of penalties assessed against Rocky Flats site (sec. 3134)

The House bill contained a provision (sec. 3103) that would authorize the Secretary of Energy to pay for civil penalties assessed in accordance with a federal facility agreement and consent order against the Rocky Flats site in Colorado.

The Senate amendment contained a similar provision (sec. 3105).

The Senate recedes.

As indicated in the Senate report (S. Rept. 104–112), the conferees are concerned about the diversion of Department of Energy funds for payment of fines and penalties. The conferees agree that this is an issue that warrants continued monitoring.

Fissile materials disposition (sec. 3135)

The budget request included $70.0 million for the fissile materials disposition program.

The Senate amendment contained a provision (sec. 3132) that would authorize $70.0 million for the storage and disposition of fissile materials that are excess to U.S. national security needs. Of this amount, $10.0 million would be available for a plutonium resource assessment.

The House bill contained a provision (sec. 3133(b)) that would authorize $70.0 million for plutonium storage and disposition, including the multipurpose advanced light water reactor. Of that amount, $5.0 million would be available for evaluating the conversion of plutonium to oxide fuel material for the multipurpose reactor. Sufficient funds would also be made available to fully assess the multipurpose reactor in the Department of Energy's (DOE's) programmatic environmental impact statement on fissile materials disposition.

The Senate recedes with an amendment.

The conferees authorize $70.0 million be made available for evaluation and implementation of interim- and long-term storage and disposition of plutonium, highly enriched uranium, and other fissile materials that are excess to the national security needs of the U.S. The conferees direct that the evaluation include full consideration of light water and gas turbine reactors. The conferees further direct that sufficient funds be made available for the complete consideration of multipurpose reactors in the DOE programmatic environmental impact statement on fissile materials disposition. The conferees endorse the views expressed in the House Report (H. Rept. 104–131) regarding the National Resource Center for Plutonium.

Tritium recycling (sec. 3136)

The Senate amendment contained a provision (sec. 3133) that would require Department of Energy weapons program tritium recycling to be carried out at the Savannah River Site. The Senate provision would allow the Los Alamos National Laboratory to conduct the following activities related to tritium: (1) research on tritium properties; (2) inertial confinement fusion tritium research; (3) technical assistance for the Savannah River Site regarding the weapons surveillance program, as directed by the Savannah River Site Office. Except as noted above, the Savannah River Site Office and its on-site contractor would be responsible for all tritium-related national security activities of the U.S. Department of Energy.

The House bill contained no similar provision.

The House recedes.

Manufacturing infrastructure for refabrication and certification of nuclear weapons stockpile (sec. 3137)

The Senate amendment included a provision (sec. 3134) that would authorize $143.0 million to carry out a program to meet the manufacturing infrastructure requirements of the President's Nuclear Posture Review through near-term modernization of technology at the four production plants cited in this section.

The House bill contained no similar provision.

The House recedes with an amendment. The conferees require that this initiative provide for enhanced stockpile surveillance, advanced manufacturing, and core stockpile

management activities at these plants. This requirement includes fundamental initiatives in advanced manufacturing, and additional emphasis on advanced computerized manufacturing and revalidation techniques at these plants. The conferees direct the Secretary of Energy to ensure that requirements for primary pit refabrication are addressed in the on-going Programmatic Environmental Impact Statement (PEIS) on Stockpile Stewardship and Management. Should it be determined, based on the PEIS, that there is a need for such a capacity, the conferees require the Secretary to undertake a conceptual design study of an appropriately sized weapon primary pit refabrication, manufacturing and reuse facility and to consider the Savannah River Site for that role. Up to $5.0 million would be available for this study from the stockpile management program resources.

The conferees direct the Secretary to treat this initiative as a high weapons activity program priority with new budget authority. Further, the conferees authorize $118.2 million above the DOE Stockpile Management budget request to pursue this initiative in fiscal year 1996 at the four production plants, without an impact on the current planned program activities at these plants. The conferees further direct that the remaining $24.8 million required for this initiative be made available from core stockpile management, reconfiguration and materials surveillance funds. The conferees recommend that the rate of expenditure for this initiative at each plant be proportionate to the plant's allocation of the entire initiative.

Hydronuclear experiments (sec. 3138)

The Senate amendment contained a provision (sec. 3135) that would authorize $50.0 million in fiscal year 1996 to prepare the Nevada Test Site for hydronuclear experiments that would yield four pounds (TNT equivalent) or less. The experiments would be conducted to maintain confidence in the safety and reliability of the nuclear weapons stockpile. Zero yield experiments could be included in the fiscal year 1996 experiments as part of the test site preparation.

The House bill contained no similar provision.

The House recedes with an amendment providing $30.0 million for such purposes.

Limitation on authority to conduct hydronculear tests (sec. 3139)

The Senate amendment contained a provision (sec. 3108) that would limit this Act by confirming that nothing in this Act authorizes hydronuclear tests and that nothing in this Act amends or repeals the Exon-Hatfield Amendment (section 507 of Public Law 102–377) which places limitations on U.S. nuclear testing.

The House bill contained no similar provision.

The House recedes with an amendment.

Fellowship program for development of skills critical to the Department of Energy nuclear weapons complex (sec. 3140)

The Senate amendment contained a provision (sec. 3136) that would provide $10.0 million from Stockpile Management funds to begin a science and engineering fellowship program for the Pantex Plant, the Kansas City Plant, the Savannah River Site and the Y–12 Plant. The program would provide educational and research assistance to attract scientists and engineers with the skills most relevant to plant employment opportunities and mission requirements.

The House bill contained no similar provision.

The House recedes.

Limitation on use of funds for certain research and development purposes (sec. 3141)

The Senate amendment contained a provision (sec. 3138) that would limit the obligation of fiscal year 1996 Atomic Energy Defense Activity funds for the Department of Energy laboratory directed research and development (LDRD) program and the Department of Energy technology transfer programs, unless such activities support the national security missions of the Department.

The House bill contained no similar provision.

The House recedes.

The conferees believe the scientific and engineering challenges embodied in the emerging stockpile stewardship and stockpile management programs are more than sufficient to maintain the laboratories' preeminence in science and engineering. Therefore, the laboratories should expeditiously begin to focus the program resources on the pressing needs of the nuclear weapons program.

Processing and treatment of high level nuclear waste and spent nuclear fuel rods (sec. 3142)

The Senate amendment contained a provision (sec. 3139) that would recommend $2.5 million for the electrometallurgical processing activities at the Idaho National Engineering Laboratory. This amendment would also recommend $45.0 million to develop technologies for the processing of spent fuel rods at the Savannah River Site and at the Idaho National Engineering Laboratory.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize $45.0 million for the development of a program to respond effectively to the new management requirements for spent fuel. These new requirements are the result of a decision set forth in the Department of Energy's Record of Decision, dated May 30, 1995, prepared in relation to the Department's spent nuclear fuel management program. That decision provided for the consolidation at the Savannah River Site and at the Idaho National Engineering Laboratory of spent nuclear fuel that has been transported from various sites in the United States, spent fuel from naval reactors, and spent fuel from foreign reactors. The conferees authorize $30.0 million for the Savannah River Site for the development of a program for the processing and interim storage of aluminum clad spent fuel rods and foreign spent fuel rods. The conferees authorize $15.0 million for the Idaho National Engineering Laboratory for a similar program for nonaluminum clad spent fuel rods, foreign spent fuel rods, and naval spent fuel. The conferees require the Secretary of Energy to submit to Congress a detailed five-year implementation plan that would provide cost estimates, completion dates, and technological requirements for completion of the program.

The conferees also authorize, from technology development program funds within Environmental Restoration and Waste Management, $25.0 million for the development of electrometallurgical waste treatment technologies at the Argonne National Laboratory.

Protection of workers at nuclear weapons facilities (sec. 3143)

The Senate amendment contained a provision (sec. 3142) that would authorize $10.0 million from the operations and maintenance resources of the Environmental Restoration and Waste Management Program to carry out activities related to worker protection at nuclear weapons facilities.

The House bill contained no similar provision.

The House recedes.

Department of Energy declassification productivity initiative (sec. 3144)

The budget request did not identify funding for the Declassification Productivity Initiative that began in fiscal year 1995.

The Senate amendment contained a provision (sec. 3140) that would authorize $3.0 million from other national security programs for the Declassification Productivity Initiative (DPI) at the Department of Energy.

The House bill contained no similar provision.

The House recedes.

The conferees note that Executive Order 12958, signed by the President on April 9, 1995, mandates that millions of classified documents be declassified by the year 2000. While it remains paramount that the Department maintain the integrity of its national security information, the conferees agree that substantial savings can be realized by reducing the volumes of unduly classified documents, and by modifying unnecessary and overly-burdensome classification policies. The conferees authorize $3.0 million for the DPI and recommend that the Department request appropriate funding for the initiative in future budget submissions.

Subtitle D—Other Matters

Report on foreign tritium purchases (sec. 3151)

The House bill contained a provision (sec. 3141) that would require the President to submit a report to Congress by February, 1996, on the feasibility, cost, and ramifications of purchasing tritium for the nuclear weapons program from foreign suppliers.

The Senate amendment contained a similar provision (sec. 3163) that would require the President to submit the same report to the congressional defense committees by May 30, 1997.

The Senate recedes with an amendment that would require the report by May 1, 1996.

Study on nuclear test readiness postures (sec. 3152)

The House bill contained a provision (sec. 3142) that would require the Secretary of Energy to submit a report to Congress by February 15, 1996. The report would address cost and other issues related to the Department of Energy's capability to conduct underground nuclear testing within 6 months, 18 months, and 36 months from the date that the President determines that such testing is necessary to ensure the national security of the United States.

The Senate amendment contained no similar provision.

The Senate recedes.

Master plan for the certification, stewardship, and management of warheads in the nuclear weapons stockpile (sec. 3153)

The House bill contained a provision (sec. 3143) that would require the Secretary of Defense, in consultation with the Secretary of Energy, to submit a plan to Congress that would describe in detail the proposed means of demonstrating the capability to refabricate and certify old warheads and to design and build new warheads. The provision would require submission of the report not later than March 15, 1996.

The Senate amendment contained a provision (sec. 3165) that would require the Secretary of Energy to produce, by March 15, 1996, and every year thereafter, a plan for maintaining the enduring nuclear weapons stockpile. That plan would involve at least six specific elements, to include a plan for the manufacturing infrastructure, necessary to maintain the nuclear weapons stockpile stewardship and management programs.

The House recedes with an amendment that would explicitly incorporate the requirements of the House provision into the manufacturing infrastructure requirements section of the Senate provision. Both sets of requirements are based on the Department of Energy infrastructure requirements section of the Nuclear Posture Review.

Prohibition on international inspections of Department of Energy facilities unless protection of restricted data is certified (sec. 3154)

The House bill included a provision (sec. 3144) that would prohibit international inspections of Department of Energy facilities unless the Secretary of Energy certifies that sensitive and/or restricted data has been adequately safeguarded.

The Senate amendment did not contain a similar provision.

The Senate recedes with an amendment.

The conferees agree to a provision that would prohibit an inspection of a nuclear weapons facility by the International Atomic Energy Agency (IAEA) until the Secretary of Energy certifies to Congress that no restricted data would be revealed during the inspection.

The conferees direct the Secretary to ensure that the certification to Congress is made prior to the inspection. If the Secretary of Energy cannot provide certification in advance of an inspection because of a short-notice (24-hour) request, the Secretary shall provide certification no later than seven days after the inspection has been conducted. The certification shall also describe the steps taken by the Secretary to ensure the protection of the restricted data during the inspection.

Review of certain documents before declassification and release (sec. 3155)

The conference agreement includes this provision to strongly urge the President to immediately review and revise Executive Order 12958, which provides for the automatic declassification and public release of documents containing National Security Information within five years, regardless of prior review. Included under this order are Department of Energy documents that potentially contain restricted data on nuclear weapons design, production and testing, and Department of Defense documents that potentially contain information on nuclear weapons operations and support. Automatic declassification thereby creates the risk of releasing nuclear weapons information to potential proliferators. This would constitute a grave risk to U.S. national security and to non-proliferation efforts.

The conferees believe that the automatic declassification of national security records that contain restricted data would constitute a violation of the legal protections for restricted data, mandated by the Atomic Energy Act of 1954, as amended. The conferees recognize that the Executive Order provides an exemption for the automatic declassification of restricted data. However, the conferees are concerned that some classified documents may contain restricted data information without reflecting that fact on the classification records. Therefore, there is no practical means to ensure the protection of restricted data and apply an automatic declassification system.

Accelerated schedule for environmental management activities (sec. 3156)

The House bill contained a provision (sec. 3145) that would permit the Secretary of Energy to accelerate the schedule for environmental management activities and projects for any specific Department of Energy defense nuclear facility site, if such efforts would yield substantial long-term cost savings and speed up the release of land for development.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment. The amended provision would require the Secretary of Energy to submit a report to Congress by May 1, 1996 regarding site selection for the accelerated program.

Sense of Congress on certain environmental restoration requirements (sec. 3157)

The Senate amendment contained a provision (sec. 3107) that would express the sense of Congress that individuals in the executive branch should not be held personally liable for failure to comply with an environmental cleanup requirement when the failure to comply is due to congressional appropriations decisions.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees agree that no individual acting within the scope of employment with a Federal agency or department should be personally subject to civil or criminal sanctions for any failure to comply with an environmental cleanup requirement that is the result of inadequate funding.

Responsibility for defense programs emergency response program (sec. 3158)

The Senate amendment contained a provision (sec. 3161) that would require the Assistant Secretary of Energy for Defense Programs to retain the responsibility for the Defense Programs Radiological/Nuclear Accident Response Program. That program includes the seven emergency response assets needed to carry out the mission: the Aerial Measuring System; the Atmospheric Release Advisory Capability; the Accident Response Group; the Federal Radiological Monitoring and Assessment Center; the Nuclear Emergency Search Team; the Radiological Assistance Program; and the Radiation Emergency Assistance Center/Training Site.

The House bill contained no similar provision.

The House recedes.

Requirements for Department of Energy weapons activities budgets for fiscal years after fiscal year 1996 (sec. 3159)

The Senate amendment contained a provision (sec. 3162) that would require the Department of Energy (DOE) to remedy past and present items of congressional criticism related to the clarity of the Department's budget submission. The Senate provision would require the Department to explicitly relate its budget submission to the requirements of the Nuclear Posture Review.

The House bill contained no similar provision.

The House recedes.

Report on hydronuclear testing (sec. 3160)

The Senate amendment contained a provision (sec. 3164) that would require the Secretary of Energy to direct the Los Alamos and Lawrence Livermore National Laboratories to prepare a report that would assess the advantages and disadvantages of permitting alternative limits for nuclear test yields, from at least four pounds to 20 tons, as related to the safety and reliability of the nuclear weapons stockpile. In addition to the yields explicitly cited, the report would address other yields, as appropriate, but would remain focused on the advantages and disadvantages of sub-kiloton testing, as related to stockpile safety and reliability.

The House bill contained no similar provision.

The House recedes with an amendment that adjusts the nuclear test yields of interest.

Applicability of Atomic Energy Community Act of 1955 to Los Alamos, New Mexico (sec. 3161)

The Senate amendment contained a provision (sec. 3166) that would amend and specify certain requirements of the Atomic Energy Community Act of 1955 for the community of Los Alamos, New Mexico.

The House bill contained no similar provision.

The House recedes.

Sense of Congress regarding shipments of spent nuclear fuel (sec. 3162)

The Senate amendment contained a provision (sec. 3167) that would express a sense of the Senate that the Secretary of Defense, the Secretary of Energy, and the Governor of the State of Idaho should continue good faith negotiations for the purpose of reaching an agreement on the issue of shipments of spent nuclear fuel from naval reactors.

The House bill included no similar provision.

The House recedes with an amendment that would express the sense of Congress that: (1) the Congress recognizes the need to implement the terms, conditions, rights, and obligations contained in the settlement agreement reached between the United States and the State of Idaho regarding shipment, examination, and storage of naval spent nuclear fuel at Idaho; and (2) that funds requested by the President to carry out the settlement agreement and consent order should be appropriated for that purpose.

LEGISLATIVE PROVISIONS NOT ADOPTED

Education program for personnel critical to the nuclear weapons complex

The Senate amendment contained a provision (sec. 3137) that would authorize $10.0 million from the Stockpile Stewardship Program to conduct an education program designed to establish a long-term supply of personnel with skills critical to the nuclear weapons complex. The program would: (1) encourage and assist students in the study of science, mathematics, and engineering; (2) enhance teaching skills in critical areas; and (3) increase scientific understanding of the general public.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree to authorize $10.0 million from the Stockpile Stewardship Program. The conferees note that because existing legislation authorizes such activities, up to $10.0 million would be authorized for this purpose, without a separate authorization provision.

Applicability of Atomic Energy Community Act of 1955 to Los Alamos, New Mexico (sec. 3161)

The Senate amendment contained a provision (sec. 3166) that would amend and specify certain requirements of the Atomic Energy Community Act of 1955 for the community of Los Alamos, New Mexico.

The House bill contained no similar provision.

The House recedes.

Authority to reprogram funds for disposition of certain spent nuclear fuel

The Senate amendment contained a provision (sec. 3141) that would authorize the Secretary of Energy to reprogram up to $5.0 million in fiscal year 1996 funds available to the Department for the disposition of spent nuclear fuel in the Democratic People's Republic of Korea (DPRK), in order to meet International Atomic Energy Agency (IAEA) safeguard standards and fulfill the October 21, 1994 agreement between the United States and the DPRK.

The House bill did not contain a similar provision.

The Senate recedes.

In order to meet International Atomic Energy Agency safeguard standards and fulfill the October 21, 1994 agreement between the United States and the DPRK, the conferees recommend $3.6 million for the disposition of

spent nuclear fuel. In authorizing these funds, the conferees make no judgment regarding the merits of the October 1994 agreement.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Authorization (sec. 3201)

The House bill contained a provision (sec. 3201) that would authorize $17.0 million for the Defense Nuclear Facilities Safety Board.

The Senate amendment contained an identical provision (sec. 3201).

the conferees recommend $17.0 million for the Board.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Disposals and Use of Funds

Disposal of chromite and manganese ores and chromium ferro and manganese metal electrolytic (sec. 3303)

The House bill contained a provision (sec. 3302) that would require the granting of right of first refusal to domestic ferroalloy upgraders, for certain disposals.

The Senate amendment contained a similar provision (sec. 3403).

The House recedes with a technical amendment regarding the definition of a domestic ferroalloy upgrader.

Restrictions on disposal of manganese ferro (sec. 3304)

The House bill contained a provision (sec. 3303) that would require that certain grade manganese ferro not be disposed of from the National Defense Stockpile until the disposal of lower grade inventory material had been completed. The provision would also require that certain grade manganese ferro only be sold for remelting in a submerged arc ferromanganese furnace.

The Senate amendment contained a similar provision (sec. 3404) that would require certain grade manganese ferro to be sold only for remelting by a domestic ferroalloy producer.

The House recedes.

Titanium initiative to support battle tank upgrade program (sec. 3305)

The House bill contained a provision (sec. 3304) that would direct the transfer of titanium sponge from the National Defense Stockpile to the Army for use in the weight reduction portion of the main battle tank upgrade program. The transfer would be without cost to the Army, except for transportation and similar costs.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle B—Programmatic Change

Transfer of excess defense-related materials to stockpile for disposal (sec. 3311)

The Senate amendment contained a provision (sec. 3405) that would direct the transfer of suitable, uncontaminated Department of Energy inventory items to the National Defense Stockpile for disposal.

The House bill contains no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Disposal of obsolete and excess materials contained in the National Defense Stockpile

The Senate amendment contained a provision (sec. 3402) that would authorize the disposal of materials from the National Defense Stockpile.

The House bill contained no similar provision.

The Senate recedes.

The defense committees and the conferees have recommended that new disposal authority be granted in the reconciliation process, rather than authorization.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Administration of Naval Petroleum Reserves

Authorization of appropriations (sec. 3401)

The House bill contained a provision (sec. 3401) that would authorize fiscal year 1996 appropriations for the operation of the Naval Petroleum Reserves.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Price requirement on sale of certain petroleum during fiscal year 1996 (sec. 3402)

The House bill contained a provision (sec. 3402) that would require that the sale of any oil produced at the Naval Petroleum Reserves be transacted for a price that is not less than 90 percent of the sales price of comparable petroleum from the same area, as estimated by the Secretary of Energy.

The Senate amendment contained no similar provision.

The Senate recedes.

Extension of operating contract for naval petroleum reserve numbered 1. (sec. 3403)

The conference agreement contains a provision which amends Section 3503 of the National Defense Authorization Act of Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3111) to extend the Department of Energy's authority to operate the Naval Petroleum Reserve Numbered 1.

Subtitle B—Sale of Naval Petroleum Reserve

Future of Naval Petroleum and Oil Shale Reserves (secs. 3411–3416)

The House bill contained a provision (sec. 3403) that would provide for the sale of the Naval Petroleum Reserve Numbered 1 (NPR–1), also known as Elk Hills located in Kern County, California. The House bill also contained a provision (sec. 3404) that would require the Secretary of Energy to conduct a study to determine what should be done with the other five remaining reserves in the Naval Petroleum and Oil Shale Reserves.

The Senate amendment contained similar provisions (secs. 3301 and 3302).

The conference agreement includes several provisions related to the future of the Naval Petroleum and Oil Shale Reserves that would provide for the sale of NPR–1 by competitive bid within two years of enactment. The agreement would also require the Secretary of Energy to submit a report that would recommend a course of action that would maximize the value of the five remaining reserves to the federal government.

The conferees believe that the sale of NPR–1 can be justified based on the fact that there is no longer a military need for these reserves. Since the Arab oil embargo, the likelihood of a sustained interruption in supply has fallen and the market has shown itself to be responsive in pricing and allocating oil during periods of uncertain supply.

In addition, the conferees are concerned about the long-term implications of government participation in what has become a commercial oil business. The conferees believe that producing and selling oil and natural gas should be performed within the private sector. That belief is shared by the administration which also proposed the sale of the reserve.

The sale of NPR–1 will help save the federal government over a billion dollars in operating costs and several hundred million dollars in interest payments. These savings are in addition to the increased tax revenues and the $1.5 to $2.5 billion in receipts that will result from the sale. Even after deducting the lost annual revenues resulting from the sale, these savings and receipts will result in a substantial net increase to the Treasury.

The conference agreement contains a number of safeguards so that the sale of NPR–1 will ensure the government realizes the maximum amount of revenues possible. The provisions would require the Secretary of Energy to obtain credible appraisals of the value of the reserve before setting a minimum acceptable sales price. In addition, the valuation must include all existing infrastructure, the estimated quantity of petroleum and natural gas in the reserve, and the anticipated revenue stream that the Treasury would receive if the reserve was not sold. The Secretary could not accept bids lower than the minimum acceptable price and could not enter into contracts for sale until the end of a 31-day period following notification to Congress. The proceeds from the sale would be deposited in the Treasury.

In addition, if the Secretary of Energy and the Director of the Office of Management and Budget jointly determine that the sale of NPR–1 is proceeding in a manner that is inconsistent with the best interests of the United States, the Secretary may suspend the sale. The Secretary must then wait for further legislation authorizing the continuation of the sale. The conferees believe the Secretary should suspend the sale only after all efforts have been made to ameliorate any difficulties in the sale of the reserve.

In the event the Secretary is not able to comply with the deadlines included in these provisions, the Secretary and the Director of the OMB would be required to notify Congress and submit a plan of alternative action.

The conference agreement provides for the transfer of a current environmental permit (50 CFR 13.25) in order to allow the purchaser to continue the operation of the field with all the environmental safeguards provided by the federal government. In addition, the conferees expect that this will ensure that the value of the field will not be diminished by the uncertain timing of obtaining a new permit.

In response to a potential legal claim by the State of California, on behalf of the California State Teachers Retirement Fund, the provisions would set aside nine percent of the net proceeds in a contingent fund. These funds would be available, subject to appropriations, for the payment of any valid claims resulting from a settlement between the Secretary of Energy and the State of California or a judgement by a court of competent jurisdiction. The conferees expect that California's release of its claim would be contingent upon an appropriation of funds per any settlement agreement or court decision.

TITLE XXXV—PANAMA CANAL COMMISSION

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Panama Canal Commission (Title XXXV)

The House call contained several provisions (secs. 3501–3503) that would provide the authorization of expenditures for the Panama Canal Commission revolving fund.

The Senate amendment contained similar provisions (secs. 3501–3502).

The Panama Canal Commission does not draw from U.S. taxpayer funds for operation of the Canal, but operates on a self-sustaining basis, utilizing tolls and other revenues to cover its operating, administrative, and

capital improvements expenses. The Senate amendment would provide for slightly greater allowances for official representation expenses than the House bill. The Senate amendment would also limit the cost of vehicles purchased for use by the Commission. The House bill contained a requirement that the vehicles be built in the United States.

The House recedes on these items. However, the conferees note that the Commission has in the past purchased vehicles built in the United States and would encourage that practice to continue.

The House bill included additional provisions (secs. 3521–3531), not in the Senate amendment, that would facilitate the transition and the operation of the Canal as an autonomous entity after it is transferred to Panama at the end of 1999. Section 3522 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) required that the President review and report on possible changes that would ease the transition process. The legislative provisions contained in sections 3521–3531 of the House bill would implement, with only minor clarifying changes, the administration's recommendations contained in the report transmitted to the Congress on April 12, 1994.

The Senate recedes with an amendment that would delete section 3524 of the House bill entitled ''International Advisors''.

The conferees agree that the Canal's governing board of supervisors can consult with and obtain expert advice from those in the international shipping and financial community without the necessity of a legislative provision.

DIVISION D—FEDERAL ACQUISITION REFORM LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Overview

Acquisition reform provisions with government-wide application were included in title VIII of the House bill. Subsequently, the House passed H.R. 1670, a freestanding bill which addressed many of the same, as well as, other issues. The Senate amendment contained a number of acquisition policy provisions. The conferees considered all of these provisions before agreeing to include the following legislation in the conference agreement. The following is a section-by-section description of the provisions adopted by the conferees.

TITLE XLI—COMPETITION

Efficient competition (sec. 4101)

The conference agreement includes a provision that would amend section 2304 of title 10 and section 253 of title 41. United States Code. The provision would direct that the Federal Acquisition Regulation ensure that the requirement to obtain full and open competition is implemented in a manner that is consistent with the need to efficiently fulfill the government's requirements. This provision makes no change to the requirement for full and open competition or to the definition of full and open competition.

Efficient approval procedures (sec. 4102)

The conference agreement includes a provision that would amend section 2304 of title 10 and section 253 of title 41, United States Code, by raising the dollar thresholds for contracts that require the approval of the use of other than competitive procedures by higher level agency officials.

Efficient competitive range determinations (sec. 4103)

The conference agreement includes a provision that would allow a contracting officer, in procurements involving competitive negotiations, to limit the number of proposals in the competitive range to the greatest number that would permit an efficient competition among the most highly rated competitors. The conferees intend that the determination of the competitive range be made after the initial evaluation of the proposals, on the basis of the rating of those proposals. The rating shall be made on the basis of price, quality and other factors specified in the solicitation for the evaluation of the proposals.

Preaward debriefings (sec. 4104)

The conference agreement includes a provision that would require that, prior to a contract award, a contracting officer provide a debriefing to any interested offerors on the reasons for that offeror's exclusion from the competitive range in a competitive negotiation. The provision would specify information that must be provided to an unsuccessful offeror upon written request for a debriefing, as well as limitations on the types of information that may be provided. The provision also would require the Federal Acquisition Regulation to include a provision encouraging the use of alternative dispute resolution techniques to provide informal, expeditious, and inexpensive procedures for an offeror to consider using before filing a protest.

Design-build selection procedures (sec. 4105)

The conference agreement includes a provision that would authorize the use of two-phase selection procedures for entering into contracts for the design and construction of a public building, facility, or work. The provision details the considerations that would be used by a contracting officer to determine whether to use two-phase selection procedures and describes the process to be followed under the two-phase selection procedure. The provision would also limit the number of proposals to be considered in the second phase to no more than five, unless the agency determines that a greater number is in the government's interest. This provision is not intended to modify the Brooks Architect-Engineers Act.

TITLE XLII—COMMERCIAL ITEMS

Commercial item exception to requirement for cost or pricing data (sec. 4201)

The conference agreement includes a provision that would amend section 2306a of title 10 and section 254b of title 41, United States Code, to exempt suppliers of commercial items under contracts and subcontracts with federal agencies from the requirement to submit certified cost and pricing data. The provision would include the requirement that, in the cases of such contracts or subcontracts, contracting officers shall require the submission of data other than certified cost or pricing data to the extent necessary to determine price reasonableness. In recognition of the authority of the General Accounting Office to audit contractor records, the conferees have removed the specific audit authorities in the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) that relate to information supplied by commercial suppliers in lieu of certified cost and pricing data.

Application of simplified procedures to certain commercial items (sec. 4202)

The conference agreement includes a provision that would allow the use of simplified procedures for the acquisition of commercial items with a purchase value of $5.0 million or less when a contracting officer reasonably expects that offers in response to a solicitation would only include commercial items. The provision would specify that implementing regulations provide that all responsible offerors in procurements conducted under this authority be permitted to submit a bid, proposal, or quotation that shall be considered by the agency. The conferees intend that the flexible notice provision be implemented in a manner that would provide offerors with a reasonable opportunity to respond. The provision would also prohibit sole source procurement unless the need is justified in writing in accordance with section 2304 of title 10 or section 253 of title 41, United States Code. The authority for the use of simplified procedures under this section would expire at the end of the three-year period, beginning on the date of the issuance of the final implementing regulations.

Inapplicability of certain procurement laws to commercially available off-the-shelf items (sec. 4203)

The conference agreement includes a provision that would require that the Federal Acquisition Regulation include a list of provisions that are inapplicable to contracts for the procurement of commercially available off-the-shelf items. The list would be required to include each provision of law that, in the opinion of the Administrator of the Office of Federal Procurement Policy, imposes on persons who have been awarded contracts by the federal government for the procurement of commercially available off-the-shelf products government-unique policies, procedures, requirements, or restrictions for the procurement of property or services unless the Administrator determines that to do so would not be in the best interest of the United States. The list would include provisions of law uniquely applicable to government contractors, but would not include generally applicable provisions of law. The provision would specifically preclude several categories of statutes from being included on the list, such as any provision of law that provides for civil or criminal penalties. The provision would define commercially available off-the-shelf items as commercial items that are sold in substantial quantities to the general public and that are offered to the federal government in the same form in which they have been sold to the general public. The provision would specifically exclude from that definition bulk cargo such as agricultural products and petroleum products.

Amendment to commercial items definition (sec. 4204)

The conference agreement includes a provision that would make a clarifying amendment to the definition of ''commercial services'' in section 403(12)(F) of title 41, United States Code. For the purpose of this section, market prices are current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated from sources independent of the offeror.

Inapplicability of cost accounting standards to contracts and subcontracts for commercial items (sec. 4205)

The conference agreement includes a provision that would exempt contracts and subcontracts for commercial items from the application of the cost accounting standards promulgated under section 422 of title 41, United States Code. The Cost Accounting Standards Board, in consultation with the Director of the Defense Contract Audit Agency, shall establish guidance, consistent with commercial accounting systems and practices, to ensure that contractors appropriately assign costs to contracts (other than firm, fixed-price contracts) that are covered by the exemption for contracts or subcontracts where the price negotiated is based on established catalog or market prices of commercial items sold in substantial quantities to the general public. The conferees direct that the Board issue standards to implement this provision.

TITLE XLIII—ADDITIONAL REFORM PROVISIONS

Subtitle A—Additional Acquisition Reform Provisions

Elimination of certain certification requirements (sec. 4301)

The conference agreement includes a provision that would eliminate a number of statutory certification requirements for contractors and subcontractors with the federal government. The conferees note that the underlying requirement to comply with the specified statutes is not affected by the elimination of the contractor or subcontractor certification requirements. The conferees have included a general requirement that the Administrator of the Office of Federal Procurement Policy (OFPP) amend the Federal Acquisition Regulation to remove regulation-based certification requirements after a suitable period for public notice and comment. The provision would mandate the heads of executive agencies to follow a similar process. The provision also includes a prohibition on the imposition of future contractor and subcontractor certification requirements, unless such certification is imposed by statute or is justified in writing and approved by the Federal Acquisition Regulatory Council and the Administrator of OFPP.

Authorities conditioned on Federal Acquisition Computer Network (FACNET) capability (sec. 4302)

The conference agreement includes a provision that would amend section 5061 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–484) to allow a test of alternative procurement procedures. The amendment would remove a requirement that the test of alternative procurement procedures be contingent on the implementation of full federal acquisition computer network (FACNET) electronic commerce procedures. The Provision would also amend subsection (e) of section 427 of title 41, United States Code, to limit the linkage between full FACNET implementation and federal agency use of simplified acquisition procedures to a requirement that an agency must deploy a full FACNET capability by December 31, 1999 or revert back to a threshold of $50,000 on the value of procurements below which simplified procedures are authorized.

International competitiveness (sec. 4303)

The conference agreement includes a provision that would amend section 21(e)(2) of the Arms Export Control Act to allow the President to waive recoupment charges for non-recurring research and development costs on foreign military sales of major defense equipment under certain conditions. The provision would authorize the presidential waiver if it is determined that the levy of charges would likely result in the loss of a sale or the elimination of charges would result in savings to the government in the form of lower per unit costs for a particular item of equipment. Under this provision, the President would also be authorized to waive any portion of a recoupment charge attributable to a correction in an earlier estimate of a production quantity base used to calculate the *pro rata* recoupment charges for a particular item. The provision includes language that would render the use of the waiver subject to the President's identification and Congressional appropriation of an offset for any revenue lost as a result of the waiver authority, from fiscal year 1997 through fiscal year 2005.

Procurement integrity (sec. 4304)

The conference agreement includes a provision that would amend section 423 of title 41, United States Code, to revise the restrictions on obtaining or disclosing contractor bid or proposal information or source selection information. The provision would prohibit, except as provided by law, present or former federal employees from knowingly obtaining or disclosing such information before the award of a contract to which information relates. This provision would authorize criminal penalties for a violation of such prohibition when such information is exchanged for something of value or for the purpose of allowing anyone to obtain a competitive advantage in the award of a federal contract. The provision would authorize civil and administrative penalties for such violations as well.

The provision would also replace the current agency-specific recusal and post-employment restrictions applicable to agency employees involved in certain specified procurement actions with uniform standards applicable to all federal agencies. The post-employment restrictions would apply to designated officials involved in procurements over $10.0 million for a one-year period.

The recusal requirements apply to employees who are participating personally and substantially in a procurement. These requirements cover employees who participate personally and substantially in one or more of the following activities: the drafting of a specification developed for that procurement; the review and approval of a specification developed for that procurement; the preparation or issuance of a procurement solicitation in that procurement; the evaluation of bids or proposals for that procurement; the selection of sources for that procurement; the conduct of negotiations in the procurement; the review and approval of the award, modification, or extension of a contract in that procurement; such other specific procurement actions as may be specified in implementing regulations.

The provision also would provide civil and administrative penalties for contractors as well as for agency employees who violate the recusal requirements or the post-employment restrictions.

Further acquisition streamlining provisions (sec. 4305)

The conference agreement includes a provision that would consolidate a number of provisions in the Office of Federal Procurement Policy Act concerning findings, policies, and purposes. The provision would also repeal the reporting requirements in section 8 of the Act as well as make clarifying changes to section 11 of the Act regarding the permanent authorization of appropriations for the Office of Federal Procurement Policy.

Value engineering for federal agencies (sec. 4306)

The conference agreement includes a provision that would amend the Office of Federal Procurement Policy Act by adding a new section that would require federal agencies to establish and maintain cost-effective value engineering procedures and processes.

Acquisition workforce (sec. 4307)

The conference agreement includes a provision that would establish a series of policies and procedures for the management of the acquisition workforce in executive agencies other than the Department of Defense. The provision would require the head of each executive agency, after consultation with the Administrator of the Office of Federal Procurement Policy, to establish procedures and policies for the accession, education, training, and career development and performance incentives for the acquisition workforce of the agency. The provision would place primary management authority for the acquisition workforce under the control of the senior procurement executive of each agency. The provision would establish statutory standards for the executive agencies in areas such as career development and worker qualification requirements. The provision would also require each agency to establish separate funding levels for acquisition workforce education and training, and would authorize tuition reimbursement programs for personnel serving in acquisition positions.

Demonstration project relating to certain personnel management policies and procedures (sec. 4308)

The conference agreement includes a provision that would encourage the Secretary of Defense to embark on a demonstration program, or programs, to test the feasibility and desirability of proposals to improve personnel management policies or procedures for the Department of Defense acquisition workforce. The provision would modify authority under section 4703 of title 5, United States Code, with respect to a demonstration project carried out under this section for the three-year period, beginning on the date of enactment of this Act.

Cooperative purchasing (sec. 4309)

The conference agreement includes a provision that would suspend the authority of the Administrator of General Services under section 481(b)(2) of title 40, United States Code, to allow state and local governments to use the federal supply schedules. The provision would suspend the authority until the later of the period ending 18 months after the date of enactment of this Act or the period ending 30 days after the date after the Administrator has reviewed a General Accounting Office report that assesses the effects of state and local governments use of the federal supply schedules and has submitted the report and comments on the report to Congress. The conferees direct that the General Accounting Office include an assessment of the impact on costs to federal agencies from the use of federal supply schedules by state and local governments.

Procurement notice technical amendment (sec. 4310)

The conference agreement includes a provision that would make a clarifying amendment to section 18(c)(1)(E) to the Office of Federal Procurement Policy Act.

Micro-purchases without competitive quotations (sec. 4311)

The conference agreement includes a provision that would amend section 428 of title 41, United States Code, to provide greater flexibility to executive agencies in determining who may make purchases below $2,500 without being required to receive competitive quotations.

Subtitle B—Technical Amendments

Amendments related to Federal Acquisition Streamlining Act of 1994 (sec. 4321)

The conference agreement includes a provision that would make a series of technical and clarifying changes to the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355).

Miscellaneous amendments to federal acquisition laws (sec. 4322)

The conference agreement includes a provision that would make a series of clarifying and technical changes to acquisition statutes throughout the United States Code.

TITLE XLIV—EFFECTIVE DATES AND IMPLEMENTATION

Effective date and applicability (sec. 4401)

The conference agreement includes a provision that would provide that amendments made by this division would take effect on the date of enactment except as otherwise

provided. The provision would provide that amendments made by this division apply to solicitations issued, unsolicited proposals received, any contract entered into pursuant to such a solicitation or proposal, and ongoing contracting actions, on or after the date 30 days after final implementing regulations are published but no later than January 1, 1997.

Implementing regulations (sec. 4402)

The conference agreement includes a provision that would establish a regulatory implementation schedule for the amendments within this division.

DIVISION E—INFORMATION TECHNOLOGY MANAGEMENT REFORM

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Overview

The Senate amendment contained provisions with government-wide acquisition and management issues related to information technology. The House bill also contained provisions relating to bid protest jurisdictions. The conferees considered all of these provisions before agreeing to include Division E in the conference agreement.

The conferees agree that:

(1) federal information systems are critical to the lives of every American;

(2) the efficiency and effectiveness of the federal government is dependent upon the effective use of information;

(3) the federal government annually spends billions of dollars operating obsolete information systems;

(4) the use of obsolete information systems severely limits the quality of the services that the federal government provides, the efficiency of federal government operations, and the capabilities of the federal government to account for how taxpayer dollars are spent;

(5) the failure to modernize federal government information systems and the operations they support, despite efforts to do so, has resulted in the waste of billions of dollars that cannot be recovered;

(6) despite improvements achieved through implementation of the Chief Financial Officers Act of 1990, most federal agencies cannot track the expenditures of Federal dollars and, thus, expose the taxpayers to billions of dollars in waste, fraud, abuse, and mismanagement;

(7) poor planning and program management and an overburdened acquisition process have resulted in the American taxpayers not getting their money's worth from the expenditure of $200,000,000,000 on information systems during the decade preceding the enactment of this Act;

(8) the federal government's investment control processes focus too late in the system lifecycle, lack sound capital planning, and pay inadequate attention to business process improvement, performance measurement, project milestones, or benchmarks against comparable organizations;

(9) many federal agencies lack adequate personnel with the basic skills necessary to effectively and efficiently use information technology and other information resources in support of agency programs and missions;

(10) federal regulations governing information technology acquisitions are outdated, focus on paperwork and process rather than results, and prevent the federal government from taking timely advantage of the rapid advances taking place in the competitive and fast changing global information technology industry;

(11) buying, leasing, or developing information systems should be a top priority for federal agency management because of the high potential for the systems to substantially improve Federal Government operations, including the delivery of services to the public; and,

(12) structural changes in the federal government, including elimination of the Brooks Act (section 111 of the Federal Property and Administrative Services Act of 1949, as amended), are necessary in order to improve federal information management and to facilitate federal government acquisition of the state-of-the-art information technology that is critical for improving the efficiency and effectiveness of federal government operations.

The conferees agree that action is necessary on the part of Congress in order to:

(1) create incentives for the federal government to strategically use information technology in order to achieve efficient and effective operations of the federal government, and to provide cost effective and efficient delivery of federal government services to the taxpayers;

(2) provide for the cost effective and timely acquisition, management, and use of effective information technology solutions;

(3) transform the process-oriented procurement system of the federal government, as it relates to the acquisition of information technology, into a results-oriented procurement system;

(4) increase the responsibility and authority of officials of the Office of Management and Budget and other federal government agencies, and the accountability of such officials to Congress and the public, in the use of information technology and other information resources in support of agency missions;

(5) ensure that federal government agencies are responsible and accountable for achieving service delivery levels and project management performance comparable to the best in the private sector;

(6) promote the development and operation of multiple-agency and government-wide, inter-operable, shared information resources to support the performance of federal government missions;

(7) reduce fraud, waste, abuse, and errors resulting from a lack of, or poor implementation of, federal government information systems;

(8) increase the capability of the federal government to restructure and improve processes before applying information technology;

(9) increase the emphasis placed by federal agency managers on completing effective capital planning and process improvement before applying information technology to the executing of plans and the performance of agency missions;

(10) coordinate, integrate, and, to the extent practicable, establish uniform federal information resources management policies and practices in order to improve the productivity, efficiency, and effectiveness of federal government programs and the delivery of services to the public;

(11) strengthen the partnership between the federal government and state, local, and tribal governments for achieving federal government missions, goals, and objectives;

(12) provide for the development of a well-trained core of professional federal government information resources managers; and,

(13) improve the ability of agencies to share expertise and best practices and coordinate the development of common application systems and infrastructure.

The following is a section-by-section description of the provisions adopted by the conferees. Section 5001 sets forth a short title ''The Information Technology Management Reform Act of 1996'' and Section 5002 sets forth definitions.

TITLE LI—RESPONSIBILITY FOR ACQUISITION OF INFORMATION TECHNOLOGY

Subtitle A—General Authority

Repeal of central authority of the Administrator of General Services (sec. 5101)

The conference agreement includes a provision that would repeal section 111 of the Federal Property and Administrative Services Act of 1949, as amended.

Subtitle B—Director of the Office of Management and Budget

Responsibility of Director (sec. 5111)

The conference agreement includes a provision that would require the Director of the Office of Management and Budget to comply with this title. The conferees anticipate that these provisions will be reviewed upon reauthorization of the Paperwork Reduction Act prior to September 30, 2001.

The conferees agree that in undertaking activities and issuing guidance in accordance with this subtitle, the Director shall promote the integration of information technology management with the broader information resource management processes in the agencies.

The conferees encourage the establishment of interagency groups to support the Director by examining areas of information technology, to include: telecommunications, software engineering, common administrative and programmatic applications, computer security and information policy, all of which would benefit from a government-wide or multi-agency perspective; the promotion of cooperation among agencies in information technology matters; the review of major or high risk information technology acquisitions; and the promotion of the efficient use of information technology that supports agency missions. The interagency groups should: identify common goals and requirements; develop a coordinated approach to meeting certain agency requirements, such as budget estimates and procurement programs; identify opportunities to share information that would improve the agency performance and reduce costs of agency programs; make recommendations regarding protocols and other standards for information technology, including security standards; and make recommendations concerning interoperability among agency information systems. The conferees also encourage the establishment of temporary special advisory groups, composed of experts from industry, academia, and the Federal Government, to review government-wide information technology programs, major or high risk information technology acquisitions, and information technology policy.

Capital planning and investment control (sec. 5112)

The conference agreement includes a provision that would describe the Director's responsibilities under 44 USC 3504(h) that relate to promoting and sustaining responsibility and accountability for improvement of the acquisition, use, and disposal of information technology by executive agencies.

The conferees agree that the Director, in developing a process related to major agency capital investments, should: ensure that the process identifies opportunities for interagency cooperation; ensure the success of high risk and high return investments; develop requirements for agency submission of investment information needed to execute the process; ensure that agency information resources management plans are integrated into the agency's program plans, financial management plans, and budgets for the acquisition and use of information technology designed to improve agency performance and the accomplishment of agency missions; and identify three categories of information systems investments—(1) high risk—those

projects that, by virtue of their size, complexity, use of innovative technology, or other factors, have an especially high risk of failure; (2) high return—those projects that by virtue of their total potential benefits, in proportion to their costs, have particularly unique value to the public; and (3) cross-cutting—those projects of individual agencies, with shared benefit to or impact on other federal agencies and state or local governments, that require enforcement of operational standards or elimination of redundancies. Finally, the conferees also agree that the Director, to encourage the use of best business and administrative practices, should identify and collect information regarding best practices, to include information on the development and implementation of best practices by the executive agencies. The Director should provide the executive agencies with information on best practices, and advice and assistance regarding the use of best practices.

Performance-based and results-based management (sec. 5113)

The conference agreement includes a provision that would require the Director to encourage performance and results-based management for agency information technology programs. The Director is required to review agency management practices based on the performance and results of its information technology programs and investments. The Director is required to issue clear and concise directions to ensure that agencies have effective and efficient capital planning processes that are used to select, control, and evaluate the results of major information systems investments and to ensure that agency information security is adequate.

The conferees agree that the Director's direction to agencies regarding performance and results-based management of information technology resources shall contain the following: (1) that each executive agency and its major subcomponents institute effective and efficient capital planning processes for selecting, controlling, and evaluating the results of all of its major information systems investments; (2) that the agency maintain a current and adequate information resources management plan, and to the maximum extent practicable, specifically identify the method for acquisition of information technology expected to improve agency operations, and otherwise benefit the agency; (3) that the agency provide for adequate integration of the agency's information resources management plans, strategic plans prepared pursuant to 5 U.S.C. 306, performance plans prepared pursuant to 31 U.S.C. 1115, financial management plans prepared pursuant to 31 U.S.C. 902(a)(5), and the agency budgets for the acquisition and use of information technology and other information resources. In addition, the conferees agree that OMB shall provide the needed oversight, through the budget process and other means, to ensure that executive agencies assume responsibility, and effectively implement suitable performance and results-based management practices.

Subtitle C—Executive Agencies

Responsibilities (sec. 5121)

The conference agreement includes a provision that would require the head of each executive agency to comply with this subtitle. The conferees anticipate that these provisions will be reviewed upon reauthorization of the Paperwork Reduction Act prior to September 30, 2001.

The conferees encourage the establishment and support of independent technical review committees, composed of diverse agency personnel (including users) and outside experts selected by the agency head, to advise an agency head about information systems programs.

Capital planning and investment control (sec. 5122)

The conference agreement includes a provision that would require agencies to develop a process for furthering their responsibilities under 44 U.S.C. 3506(h). The head of the agency is required to design and develop a process for maximizing the value and assessing and managing the risk of the agency's information technology acquisitions.

Performance and results-based management (sec. 5123)

The conference agreement includes a provision that would require agencies to establish goals for and report on the progress of improving efficiency and effectiveness of agency operations through use of information technology, as required by 44 U.S.C. 3506(h). The head of an executive agency must ensure that performance measures are established to support evaluating the results and benefits of information technology investments.

The conferees agree that, in fulfilling the responsibilities under this section, agency heads should ensure that: (1) before investing in information technology to support a function, the agency determines whether that function should be performed in the private sector or by an agency of the federal government; (2) the agency adequately provides for the integration of the agency's information resources management plans, strategic plans prepared pursuant to 5 U.S.C. 306, performance plans prepared pursuant to 31 U.S.C. 1115, financial management plans prepared pursuant to 31 U.S.C. 902(a)(5), and adequately prepares budgets for the acquisition and use of information technology; (3) the agency maintains a current and adequate information resources management plan, and to the maximum extent practicable, specifically identifies how acquired information technology would improve agency operations and otherwise benefit the agency; and (4) the agency invests in efficient and effective interagency and government-wide information technology to improve the accomplishment of common agency missions or functions.

Acquisitions of information technology (sec. 5124)

The conference agreement includes a provision that would authorize the head of an executive agency to acquire information technology and, upon approval of the Director of OMB, enter into multi-agency information technology investments. The conferees intend that the requirements and limitations of the Economy Act, and other provisions of law, apply to these multiagency acquisitions. This section also authorizes the General Services Administration (GSA) to continue the management of the FTS–2000 program and coordinate the follow-on effort to FTS–2000.

Agency chief information officer (sec. 5125)

The conference agreement includes a provision that would amend the Paperwork Reduction Act of 1995 by replacing the ''senior information resources management official position'' established within each executive agency with an agency Chief Information Officer (CIO). The agency CIO is responsible for providing information and advice regarding information technology and information resources management to the head of the agency, and for ensuring that the management and acquisition of agency information technology is implemented consistent with the provisions of this law.

The conferees anticipate that agencies may establish CIOs for major subcomponents or bureaus, and expect agency CIOs will possess knowledge of, and practical experience in, information and information technology management practices of business or government entities. The conferees also intend that deputy chief information officers be appointed by agency heads that have additional experience in business process analysis, software and information systems development, design and management of information technology architectures, data and telecommunications management at government or business entities. The conferees intend that CIOs, in agencies other than those listed in 31 U.S.C. 901(b), perform essentially the same duties as CIOs in agencies listed in 31 U.S.C. 901(b).

The conferees expect that an agency's CIO will meet periodically with other appropriate agency officials to advise and coordinate the information technology and other information resources management activities of the various agencies.

Accountability (sec. 5126)

The conference agreement includes a provision that would require the head of each agency, in consultation with agency Chief Information Officers and Chief Financial Officers, to ensure the integration of financial and information systems. The conferees intend that the information resources management plan, required under 44 U.S.C. 3506(b)(2), support the performance of agency missions through the application of information technology and other information resources, and include the following: (1) a statement of goals to improve the extent to which information resources contribute to program productivity, efficiency, and effectiveness; (2) the development of methods to measure progress toward achieving the goals; (3) the establishment of clear roles, responsibilities, and accountability to achieve the goals; (4) a description of an agency's major existing and planned information technology components (such as information systems and telecommunications networks); (5) the relationship among the information technology components, and the information architecture; and (6) a summary of the project's status and any changes in name, direction or scope, quantifiable results achieved, and current maintenance expenditures for each ongoing or completed major information systems investment from the previous year. The conferees also intend that agency heads will periodically evaluate and improve the accuracy, security, completeness, and reliability of information maintained by or for the agency.

Significant deviations (sec. 5127)

The conference agreement includes a provision that would require agencies to identify in their information resources management plans any major information technology acquisition program, or phase or increment of such program, that has significantly deviated from the established cost, performance, or schedule baseline.

Interagency support (sec. 5128)

The conference agreement includes a provision that would authorize the utilization of funds for interagency activities in support of the Information Technology Reform Act.

Subtitle D—Other Responsibilities.

Responsibilities regarding efficiency, security, and privacy of federal computer systems (sec. 5131)

The conference agreement includes a provision that would set forth the authority for the Secretary of Commerce, in consultation with the National Institute of Standards and Technology, to promulgate standards to improve the operation, security, and privacy of Federal information technology systems.

Sense of Congress (sec. 5132)

The conference agreement includes a provision stating that agencies, over the next

five years, should achieve a five percent per year decrease in costs incurred for operation and maintenance of information technology, and a five percent increase in operational efficiency through improvements in information resources management.

Subtitle E—National Security Systems

The conference agreement includes a provision that would exclude national security systems from provisions of this Act, unless otherwise provided in this Act.

TITLE LII—PROCESS FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

Procurement procedures (sec. 5201)

The conference agreement includes a provision that would direct the Federal Acquisition Regulatory Council to ensure, to the maximum extent practicable, that the information technology process is simplified, clear, and understandable. The process should specifically address the management of risk, incremental acquisitions, and the need to incorporate commercial information technology in a timely manner.

The conferees agree that, in performing oversight of information technology acquisitions, the Director of the Office of Management and Budget, agency heads, and agency inspectors general should emphasize program results and established performance measurements, rather than reviews of the acquisition process.

Incremental acquisition of information technology (sec. 5202)

The conference agreement includes a provision that would provide for procedures in the Federal Acquisition Regulations for the incremental acquisition of major information technology systems by the Department of Defense and the civilian executive agencies.

TITLE LIII—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS

Subtitle A—Conduct of Pilot Programs

The conference agreement includes provisions that would authorize the Administrator of Office of Federal Procurement Policy, in consultation with the Administrator of Office of Information and Regulatory Affairs, to: conduct pilot programs to test alternative acquisition approaches for information technology; conduct no more than two pilots, not to exceed $750 million for a period not to exceed five years; require agency heads to develop evaluation and test plans; prepare and submit test plans to Congress prior to implementation; report on results within 180 days after completion; and make recommendations for legislation.

Subtitle B—Specific Pilot Programs

The conference agreement includes provisions that would provide for two specific pilot programs, the share-in-savings pilot program and the solutions-based contracting pilot program.

TITLE LIV—ADDITIONAL INFORMATION RESOURCES MANAGEMENT MATTERS

On-line multiple award schedule contracting (sec. 5401)

The conference agreement includes a provision that would require the Administrator of General Services to provide for on-line access to multiple award schedules for information technology. The system would provide basic information on prices, features, and similar matters, allow for information updates, enable comparison of product information, enable on-line ordering and invoicing, permit on-line payment, and archive order data. The provision would also authorize a pilot program to test streamlined procedures for the automated system. The conference agreement directs the Administrator of General Services to incorporate its information technology multiple award schedules into Federal Acquisition Computer Network (FACNET) by January 1, 1998, and would make the pilot program discretionary. The conferees agree that the procedures established by the Administrator for use of FACNET be consistent with the Federal Property and Administrative Services Act requirements regarding the multiple award schedule (41 U.S.C. 259(B)(3)). If the Administrator determines it is not practicable to provide such access through FACNET, the Administrator shall provide such access through another automated system that has the capability to perform the functions listed in subsection 259(b)(1) and meets the requirement of subsection 259(b)(2).

Disposal of excess computer equipment (sec. 5402)

The conference agreement includes a provision that would require agencies to inventory all agency computer equipment and to identify excess or surplus property. The conferees direct that the Administrator of General Services, in exercising current authority under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), donate federal surplus personal property to public organizations. The conferees direct the Administrator to prescribe regulations that establish a priority for the donation of surplus computer equipment in the following sequence: (1) elementary and secondary schools, and schools funded by the Bureau of Indian Affairs; (2) public libraries; (3) public colleges and universities; and (4) other entities eligible for donation of federal surplus personal property under title II of that Act.

Access of certain information in information systems to the directory established under section 4101 of title 44, United States Code (sec. 5403)

The conference agreement includes a provision that would ensure that, for agency information systems that disseminate information to the public, an index of information is included in the Government Printing Office (GPO) directory established under 44 U.S.C. 4101.

In 1993, Congress directed the GPO to create an online directory, of federal public information in electronic form (Public Law 103–40). Today, that system is accessible to the general public directly and through the Federal Depository Libraries. Yet, in the two years since enactment of the GPO access bill, technology has moved forward dramatically in its ability to support location and search of the physically-distributed, locally-maintained databases. Congress recognized this shift in the Paperwork Reduction Act of 1995 (Public Law 104–13). That Act requires Federal agencies to ensure access to agency public information by ''encouraging a diversity of public and private sources''. It also directs the Office of Management and Budget to establish a distributed, electronic, agency-based Government Information Locator Service (GILS) to identify the major information dissemination products of each agency. As the Senate report noted (S. Rept. 104–112), GILS: ''* * * will provide multiple avenues for public access to government information by pointing to specific agency information holdings. To make this possible, agencies' systems must be compatible. Thus, agency GILS information should be available to the public through the Government Printing Office Locator System (established pursuant to Public Law 103–40) in addition to any other required methods, agencies may choose to efficiently and effectively provide public and agency access to GILS.''

Section 5403 further clarifies the intent of Congress to ensure the widest possible access to Federal public information through a diversity of compatible sources.

TITLE LV—PROCUREMENT PROTEST AUTHORITY OF THE COMPTROLLER GENERAL

The conference agreement includes a provision that would require the Comptroller General to issue a decision relating to a bid protest within 100 days.

TITLE LVI—CONFORMING AND CLERICAL AMENDMENTS

The conference agreement includes a series of clarifying and technical changes to acquisition statutes throughout the United States Code.

TITLE LVII—EFFECTIVE DATE, SAVINGS PROVISIONS, AND RULE OF CONSTRUCTION

Effective date (sec. 5701)

The conference agreement includes a provision that would provide for this division and the amendments made by this division to take effect 180 days after the date of the enactment of this Act.

Savings provisions (sec. 5702)

The conference agreement includes a provision that would allow selected information technology actions and acquisition proceedings, including claims or applications, that have been initiated by, or are pending before, Administrator of the General Services or the General Services Administration Board of Contract Appeals to be continued under original terms, until terminated, revoked, or superseded in accordance with law, by the Director of OMB, by a court, or by operation of law. The Director of OMB is authorized to establish regulations for transferring such actions and proceedings.

FLOYD SPENCE,
BOB STUMP,
DUNCAN HUNTER,
HERBERT H. BATEMAN,
CURT WELDON,
G.V. MONTGOMERY,
JOHN M. SPRATT, Jr.,
Managers on the Part of the House.

STROM THURMOND,
JOHN WARNER,
BILL COHEN,
TRENT LOTT,
SAM NUNN,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BENTSEN) to revise and extend their remarks and include extraneous material:)

Mr. POMEROY, for 5 minutes, today.
Mr. BENTSEN, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GINGRICH, (at the request of Mr. SMITH of Texas) notwithstanding the fact that it exceeds two pages and is estimated to cost $4,982.

(The following Members (at the request of Mr. BENTSEN) and to include extraneous matters:)

Mr. BERMAN.
Mr. STARK, in four instances.
Mr. KANJORSKI.

Ms. DELAURO, in two instances.

(The following Members (at the request of Mr. SMITH of Texas) and to include extraneous matter:)

Mr. OXLEY.

Mr. RADANOVICH.

(The following Member (at the request of Mr. OWENS) and to include extraneous matter:)

Mr. BONIOR.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On January 6, 1996:

H.R. 1358. An act to require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3:30 p.m.), under its previous order, the House adjourned until Tuesday, January 23, 1996, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1931. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of January 1, 1996, pursuant to 2 U.S.C. 685(e), (H. Doc. No. 104–166); to the Committee on Appropriations and ordered to be printed.

1932. A letter from the Adjutant General, the Veterans of Foreign Wars of the United States, transmitting proceedings of the 96th National Convention of the Veterans of Foreign Wars of the United States, held in Phoenix, AZ, August 19 to 25, 1995, pursuant to 36 U.S.C. 118 and 44 U.S.C. 1332 (H. Doc. No. 104–163); to the Committee on National Security and ordered to be printed.

1933. A communication from the President of the United States, transmitting notification that the national emergency regarding terrorists who threaten to disrupt the Middle East peace process is to continue in effect beyond January 23, 1996, pursuant to 50 U.S.C. 1622(d) (H. Doc. No. 104–167); to the Committee on International Relations and ordered to be printed.

1934. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1935. A letter from the Acting Chairman, National Bankruptcy Review Commission, transmitting, the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1936. A letter from the Chief Administrative Officer, Postal Rate Commission, transmitting, a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

1937. A letter from the Secretary, Postal Rate Commission, transmitting, a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

1938. A letter from the Secretary of Energy, transmitting, the annual report under the Federal Managers; Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1939. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b; to the Committee on Government Reform and Oversight.

1940. A letter from the Special Counsel, U.S. Office of Special Counsel, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1941. A letter from the Assistant Attorney General of the United States, transmitting a draft of proposed legislation entitled, the ''Enhanced Prosecution of Dangerous Juvenile Offenders Act of 1995''; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SPENCE: Committee of Conference. conference report on S. 1124. An act to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. 104–450). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

[The following action occurred on January 12, 1996]

H.R. 1816. Referral to the Committee on Commerce extended for a period ending not later than July 1, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. KENNELLY (for herself, Mr. SABO, Mr. GIBBONS, Mr. MATSUI, Mr. KLECZKA, Mr. STARK, Mr. NEAL of Massachusetts, Mr. MCDERMOTT, Mr. LEVIN, Mr. RANGEL, Mr. FORD, Mr. CARDIN, Mr. PAYNE of Virginia, Mr. COYNE, Mr. LEWIS of Georgia, and Mr. GEPHARDT):

H.R. 2862. A bill to permanently increase the public debt limit; to the Committee on Ways and Means.

By Ms. MCKINNEY.

H.R. 2863. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes; to the Committee on Appropriations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

193. By the SPEAKER. Memorial of the General Assembly of the State of California, relative to the enactment of a National Spaceport Program; to the Committee on Science.

194. Also, memorial of the General Assembly of the State of California, relative to the Veterans' hospital facilities at Travis Air Force Base; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 42: Mr. KENNEDY of Massachusetts.

H.R. 205: Ms. HARMAN.

H.R. 1143: Ms. HARMAN.

H.R. 1144: Ms. HARMAN.

H.R. 1145: Ms. HARMAN.

H.R. 1189: Mr. MEEHAN.

H.R. 1462: Mr. OLVER, Mr. KILDEE, Mrs. JOHNSON of Connecticut, Mr. VOLKMER, Mr. MANTON, and Mr. STOCKMAN.

H.R. 1547: Mr. DEFAZIO.

H.R. 1573: Mr. LOBIONDO.

H.R. 1771: Mr. LEWIS of Georgia.

H.R. 2270: Mr. BACHUS, Mr. COOLEY, Mr. COBLE, and Mr. MCKEON.

H.R. 2276: Mr. STARK, Mr. SISISKY, and Mr. PICKETT.

H.R. 2364: Mr. CRAPO.

H.R. 2463: Mrs. MINK of Hawaii.

H.R. 2618: Mr. STARK.

H.R. 2657: Mr. MARTINI.

H.R. 2697: Mr. MCDERMOTT, Mr. DEFAZIO, and Mr. FRANK of Massachusetts.

H.R. 2755: Mr. GEJDENSON and Mrs. SCHROEDER.

H. Con. Res. 63: Mr. BARR and Mr. DORNAN.

H. Res. 30: Mr. BREWSTER and Mrs. LINCOLN.

H. Res. 333: Mr. LUTHER and Mr. HAMILTON.

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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

Vol. 142 WASHINGTON, MONDAY, JANUARY 22, 1996 No. 7

Senate

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, who calls strategic leaders to shape history, we pray for the women and men of this Senate. Once again, today, may they feel awe and wonder that You have chosen them through the voice of Your people. May they live this day humbly on the knees of their hearts, honestly admitting their human inadequacy and gratefully acknowledging Your power. Dwell in the secret places of their hearts to give them inner peace and security. Help them in their offices, with their staffs, in committee meetings, and when they are here together in this sacred, historic Chamber. Remind them of their accountability to You for all they say and do. Reveal Yourself to them. Be the unseen friend beside them in every changing circumstance. Give them a fresh experience of Your palpable and powerful spirit. Banish weariness and worry, discouragement and disillusionment. Often today may we all hear Your voice saying, ''Come to me, all who are weary and heavy laden and I will give you rest.'' Lord, help us to rest in You and receive the incredible resiliency You provide. Thank You in advance for a truly productive day. In the name of our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

SCHEDULE

Mr. DOLE. Mr. President, there will be a period for morning business until the hour of 1 p.m. We will not have any rollcall votes during today's session. I am not anticipating any rollcall votes for the remainder of the week. If a rollcall vote becomes necessary, ample notification will be given to all Members.

We will, obviously, turn to any matters we can clear by unanimous consent on the Legislative Calendar. There will be a continuing resolution coming over from the House on, I believe, Wednesday of this week, and it is my hope that we can dispose of that by consent. If not, we would have to give Members at least 24 hours' notice on each side. I am not certain how many Members plan to be in town this week. Many are back in their States doing official business. But the continuing resolution expires Friday, January 26. Therefore, we need to act on it before that date.

It is also my understanding that the Presiding Officer would like to bring up this week the conference report on the Defense authorization bill. Again, it is our hope that if that does come up, as I understand it, it now has bipartisan support. The conference report has been signed by Senators NUNN and KENNEDY on that side and by all the Republican conferees, as I understand it. It is our hope that if that comes up, it can be done by consent. If not, we would either have to postpone that vote or give our colleagues notice, because we have indicated we would do that, and we will follow through on that.

THE SENATE RETURNS TO SESSION

Mr. DOLE. Mr. President, we do return to session today ending a recess that began on January 10. Much of what has occurred across America these past 12 days has to do with the weather. I know all Senators join me in saying that our thoughts and prayers are with all those who were victims of ''The Blizzard of '96.'' One of the hardest hit States was Pennsylvania. I saw Governor Ridge on television this morning expressing his concern that the Federal Emergency Management Administration has not been as helpful as Pennsylvania had hoped. I understand that is being worked out. I hope it is, and I hope FEMA does their usual good job, as they have in the past. We will follow that closely.

I would expect that once Federal officials look at the devastation caused by the flooding, they will provide the necessary assistance. I know the Senate stands ready to work with our Governors and with the President to ensure that that occurs as quickly as possible.

Not only was much of America frozen this past week and a half, but so, too, were the negotiations for a balanced budget. We do have from the President, finally, a certified CBO balanced budget. But I must say to my colleagues that, unfortunately, if you take a close look at that budget—and I commend the President for submitting it—much of the savings do not take place until the next century. This is 1996. If the President were reelected, he would be long gone before most of the savings in the discretionary spending occur. Ninety-five percent of the savings in the President's proposal in discretionary spending occur in the last 2 years, 2001, 2002.

We were concerned about our budget because we think ours is a little bit backloaded, but I do not believe, knowing the Congress as I do, that it would be possible for the appropriators to do that much cutting in the final 2 years. Ninety-five percent of $295 billion would have to be done in the last 2 years.

So it seems to me that there is still some glimmer of hope that we might come together on a balanced budget agreement. It is not that we have not

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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tried. We have spent over 50 hours and, as far as I am concerned, everyone was there in good faith. The discussions were long, frank, and candid. In fact, I read about a lot of them in the Washington Post. If I had missed all the meetings, I would have known all about them because they were fairly accurate renditions of what happened. It was in four installments. It did not have everything in there, but almost.

I think the basic problem is just this fundamental difference we have on each side of the aisle on the role of Government and giving power back to the States, letting the Governors and legislatures, whether it is on welfare or Medicaid, make the decisions, and whether or not we should have tax cuts for families with children—not for the rich, but for families with children. I must say, in that area both the President and the Republicans have a tax credit. So it is not that we think tax credits are bad. We cap ours. The President caps his. We are trying to get the package together. We also know we are not going to be successful unless we deal with entitlements. Everybody will recognize, including the entitlement commission, which was chaired by Senator KERREY of Nebraska and Senator Danforth of Missouri, who recognized that entitlements were out of hand and needed to be addressed. If we do not do something to preserve and strengthen Medicare, it is going to be in real trouble in a few years.

So if there is movement—again, I say this without any criticism—I think the movement has to come from the President. We have indicated many, many times that we have moved substantially on the Republican side, whether it was on Medicare or Medicaid, or whether it was the earned income tax credit, or whether it was tax reductions. All those four programs we put in a little box and we have indicated how much we have come in the President's direction and how little he has come in our direction.

So if there is to be an agreement—and I say it as fairly as I can—I think the President needs to make a response. Until that happens, I do not see any real reason to sit down for additional meetings. There is still an opportunity and still some glimmer of hope, as I said.

With reference to the continuing resolution, which is currently funding Government, it does expire at the end of this week. I do not find much support, as I travel around the country, for another Government shutdown. We can point our fingers at the President for vetoing three major appropriations bills, which would have put nearly every one of the workers back to work. He can point his finger at us saying we permitted the Government to shut down.

I think the American people really do not understand. They do not like it. I know the Federal employees do not like it, and others do not know why we pay people for not working, although in this case the Federal employees were willing workers and were prepared to go to work.

Our response this week is clear: Keep faith with our principles and keep our word to the American people and also to keep faith with Federal employees who should not be the pawns in this game, I think, as the Washington Post said in an editorial 2, 3, or 4 weeks ago.

That is what we have coming up this week. The President will address the Congress and the American people tomorrow night on the State of the Union. I think I will respond to that. I think that will happen.

Then, as far as I know, if we can work it out, there will be no votes the remainder of the week. We will let Members know on each side. I will discuss this with the Democratic leader, Senator DASCHLE. Then we will also outline plans for the next week and the week after that as we go into February.

PROVIDING FOR THE STATE OF THE UNION ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 39, submitted earlier today.

The PRESIDING OFFICER (Mr. GRAMS). The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 39) providing for the State of the Union Address by the President of the United States.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 39) was agreed to, as follows:

S. CON. RES. 39

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, January 23, 1996, at 9 p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

Mr. DOLE. I move to reconsider that motion, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for up to 5 minutes each.

AGRICULTURE CONCERNS

Mr. COCHRAN. Mr. President, one of the things that I learned when I was back in my State was that there is serious concern in the agriculture community about the failure to have a farm bill in place before this new crop season begins.

Already, farmers are having to make decisions about the kinds of activity that they will pursue on their lands this year, and without the guidance of the provisions as to agriculture programs from the Government, a lot are put in a position of having to guess and to simply operate on the basis of faith in the fact that Government might come to some agreement on agriculture programs sometime this crop year.

It was one of the casualties of the veto by the President of the Balanced Budget Act that we do not have in place now commodity programs to guide our agriculture producers in making their decisions. Lenders are reluctant to make loans for funds to begin the operations of this crop year without that same kind of certainty, as well.

What I am suggesting is that another high priority for legislative action, as soon as possible, in addition to the conference report on the defense authorization bill mentioned by our majority leader, is action on a farm bill, or action that will put in place some temporary arrangement for income protection, the other provisions that are usually found in commodity programs in the Agriculture Act.

One suggestion that I know is being discussed today among House and Senate Members is whether or not this continuing resolution that could come over from the House include provisions of the Balanced Budget Act as they pertain to the agriculture programs. That is something that is being discussed.

I do not know how that will come out in terms of trying to get bipartisan agreement. I support that. We have passed that twice now in the House and in the Senate. It was part of the Balanced Budget Act sent to the President. I hope we can come to some resolution of this. I urge the Senate and particularly those on our Committee on Agriculture to weigh in with their thoughts and advice and counsel on this subject so we can reach a decision at the earliest possible time.

We will put at risk, Mr. President, a lot of farmers all over the country—not just in my State but all over the country—who do not know what the program is going to be. Is there going to be a program? The Secretary says he will implement himself a rice program if no action is taken by the Congress. In my State, that is an important commodity. What is the program going to be? We do not know.

I think it is an obligation, and it would be a very serious act of irresponsibility if this Congress does not soon settle on a farm program for this crop

year, put it in place in the statute book, and let this agriculture sector of ours, which has become so productive and so important to our national pride, continue to flourish and to do so in an environment of partnership with the Federal Government to make sure that it continues to be a successful part of our national economy.

Mr. DORGAN. Mr. President, I came to the floor to speak about a number of issues. I ask unanimous consent to be allowed to proceed for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARM PROGRAM

Mr. DORGAN. Mr. President, the statement by the Senator from Mississippi is absolutely correct. I do not agree with the conclusion that we ought to include the provisions that were in the last Balanced Budget Act as to the next farm plan, but I certainly agree with him that this Congress owes a decision on what kind of a farm program we will have for the family farmers in this country—not just the family farmers, but especially for them—for the lenders, for the agribusinesses that rely on them. They need to understand as they head toward spring planting what kind of a farm program do we have in this country.

We did not enact a 5-year farm plan last year. There are a lot of reasons for that. We do owe them, it seems to me, a response; if nothing else, an expanded and accelerated debate now to try to figure out what we could agree on for a decent farm program. I support that, although the Senate will not be in session with votes for some days and some weeks, perhaps, so that may not be possible.

It will be my intention tomorrow to introduce a piece of legislation in the Senate to extend the current farm program for 1 year and provide some additional flexibility for planting decisions by farmers in that extension and, additionally, to provide forgiveness for some of the advance deficiency payments for those farmers who suffered a crop failure last year.

I do not necessarily think the best solution is to extend the previous farm program or the current farm program, but it is a solution that is preferable to doing nothing. I do believe we owe an answer to farmers, to their lenders, to agribusinesses and others, and I appreciate the Senator from Mississippi raising the issue.

All of us have a responsibility to work together to provide some certainty. My best guess is that the way to provide certainty at this point would be to extend the current farm program for 1 year, then during this year to have a substantial debate about what kind of farm policy we want in the future, for Republicans and Democrats to reach some consensus and agreement, and then move forward with it.

Again, I share most of the issues and concerns expressed by the Senator from Mississippi.

Mr. COCHRAN. Will the Senator yield?

Mr. DORGAN. I am happy to yield to the Senator.

Mr. COCHRAN. Will the Senator yield for a response?

Mr. DORGAN. I will be happy to yield.

Mr. COCHRAN. I appreciate the kind comments of the Senator from North Dakota. I just want to say, too, I agree with him that some changes are indicated. We just do not want the status quo. I think we can do better than the status quo. There is too much insistence on the status quo right now from the administration on a number of subject areas, vetoing a number of initiatives for change and for improvement of programs.

We have some very good improvements in the agriculture programs included in that Balanced Budget Act, and to just say that we are not going to consider that I think would be a big mistake. So I was heartened by the comments the Senator made about the fact that he would suggest in his legislation changes for more flexibility, for more sensitivity to the realities of the current situation in agriculture. We have had a lot of changes. We have had higher commodity prices in a number of areas. But we do need to get on with it.

I applaud the Senator and assure him that my interest, this Senator's interest, is working in a positive way to reach agreement so we can put it in place. I am glad he is going to introduce legislation along that line.

Mr. DORGAN. Mr. President, I have never indicated that I do not believe there are changes that are necessary. There are changes needed. The current farm program is frightfully complicated. It has the Government hip deep in trying to tell farmers where to plant, what to plant, and when to plant. We can have, in my judgment, a much better farm program that has much greater flexibility for producers.

I do not like the so-called Freedom To Farm Act in terms of where it leaves us after 7 years, because my fear is we are in a situation, then, where there is no safety net at all and when international prices drop and stay down, family farmers just get washed away. That is my major concern. But there are some aspects of the plan that was put in the reconciliation bill which I could support. Flexibility is one of them. So I hope we can get together and have a thoughtful debate and do this the right way. Republicans and Democrats can join hands here and reach a common solution.

A BUDGET COMPROMISE

Mr. DORGAN. I did want to mention a couple of other points on the floor today. This is a new year. It is January. I hope all of us have thought through some New Year's resolutions, one of which ought to be for all of us in the Congress, both in the House and the Senate, and for all of us on both sides of the political aisle, to see if we cannot, in 1996, solve problems rather than create problems.

It has been a year in which we have had shutdowns, threatened defaults, and chaos, and a year in which there were days when this looked a lot more like a food fight than it did serious legislating in the U.S. Congress. I think most of us coming back would believe it would serve the country's interests if there were less rancor, if there were a little more understanding, and if we turned down the volume just a bit.

It does not mean that these are not very important issues that are being debated. But it does mean you cannot, in a democracy, create a situation where you say, ''Here is the way we approach our legislative duties. You are all wrong, and we are all right.'' That does not make sense. That is not the way it works. One side is not all right and the other side is not all wrong. There are good ideas on both sides of the political aisle. But you cannot, in this process, say it is all or nothing, it is our way or no way, and we have seen too much of that in 1995.

Both political parties, in my judgment, contribute to the well-being of this country. I have said it a dozen times and I will say it again: The Republicans do this country a service by advancing and continuing to push on the issue of Federal deficits. The Democrats do a service to this country by saying, yes, let us balance the budget, let us deal with the deficit, but let us also worry about the priorities, let us worry about a program like Medicare, which is important to low-income elderly people in this country. Both sides do us a service. But we ought to, it seems to me, be willing to engage in more thoughtful discussion about how we get the best from each rather than ending up with the worst of both.

Most of all, we ought not be in a circumstance in January 1996, again, in which we see another Government shutdown. That, it seems to me, pokes taxpayers in the eye by saying to taxpayers, ''We are going to insist you pay for work that we prevent from being completed,'' and dangles Federal workers out there on the end of a string saying, ''You are the pawns in this dispute we have about the Federal budget.''

The majority leader talked about the budget debate. He did so, in my judgment, in very thoughtful terms. I just want to respond to a couple of points.

If you simply took the offers of the Republicans and the Democrats that were last laid on the table in these negotiations and said we will accept the least savings in each of these categories offered by either Republicans or Democrats, and just took the lowest amount of savings from each proposal, you end up in 7 years with $711 billion in savings. That is sufficient to balance the budget, if you simply take the

lower of both offers that have been laid on the table in the last meetings that occurred on the balanced budget.

We are not so far apart. But the major difference is over the tax cut, about $130 billion extra in tax breaks especially for upper income people. I am not talking about the lower tax cut for children. I am talking about the upper income tax breaks in the corporate welfare area and $132 billion in extra cuts for Medicare, Medicaid, and the earned income tax credit. That really represents the see-saw, the difference between the two positions in negotiations.

There ought to be a way to bridge that, and I hope there will be. I hope, in the next month or so, this issue will be put behind us and we will have balanced the budget and we will have balanced the budget with a plan that does it in the right way for this country.

FLAT TAX

Mr. DORGAN. Mr. President, in just a couple of moments I wanted to make an observation about the topic of the week last week, and I expect the topic for the next couple of months, that will generate a lot of interest. That is the so-called flat tax, or the ''Grey Poupon plan,'' I call it. The flat tax is a fascinating one. I call it that because it is kind of entertaining, always, for someone who comes from a small town of 300 people to watch a debate between millionaires and billionaires about who can propose a tax plan that will allow investors to get to a zero tax rate the most quickly.

We have the Armey plan, the Forbes plan, and some others. I just wanted to mention, in case people hear about flat taxes and they think, ''Gee, that sounds like a good idea, flat, curved, rolling hills, up or down,'' I mean, I do not know what the geometry of all of this is. But if you think that we should not allow a deduction for your home mortgage interest on your tax return, then you would really like the flat tax because the flat tax says you cannot deduct your home interest mortgage. If you think you ought to be required to take your fringe benefits, like your health insurance that your employer might provide and now start paying taxes on that, declare it as income and pay taxes, then you would really like the flat tax because that is what you would have to do. No home mortgage interest deduction, no charitable deduction, and they would take all your fringe benefits, add them up, and you start paying taxes on that income.

Then they say flat tax, except it is not flat. It is a tax that has a flat rate for those who work and a zero tax rate for those who invest. Here is the way it works. You go to work every day and work and you are going to pay whatever flat tax rate they talk about. But if you happen to have an enormous amount of money and your income comes from dividends and interest and you make $10 million a year in dividends and interest and capital gains, your tax rate is not flat, it is zero—zero. So it is not appropriately called a flat tax. It is flat for people who work and zero for people who invest.

That might sound good, I guess, if you are a millionaire or billionaire and you might debate, if you are a millionaire or a billionaire, about which plan gets you to a zero rate first. But, in my judgment, the more the American people dissect this they will understand more what Mr. Forbes and others are talking about, that they really want to say, if you work for a wage you pay an income tax, but if you get your money through capital gains or interest or dividends and get $10 million a year or $1 million a year or $50 million a year, guess what, you do not have to pay taxes in this country because you are going to get an exemption.

I tell you, I think our tax system is frightfully complicated. It needs to be radically simplified. But we do not need a plan that says, if you work you pay taxes, and if you invest you have a massive exemption. That is not a fair tax plan. They might call it flat, but it is flat and no tax, a flat tax and no tax, flat tax for those who work, no tax for those who invest. I think when the American people dissect it and take a good look at it, they are going to say, no, let us radically simplify the tax program, but let us have everybody pay a little something. If you make $10 million from interest, dividends, or capital gains, you pay a tax. Maybe it is flat, maybe it is not, but it seems to me everybody ought to contribute.

I find it interesting in this discussion that we always hear people say, ''Why should you penalize success?'' Whenever they use those terms, they all define success as someone who has had a capital gain or gets a dividend or interest. What about the success of someone working? What about someone who goes to work every day all year and takes care of his or her family and earns a wage; is that not success? Of course it is. Working is achieving success as well. Work, investing, managing, entrepreneurship, all of that is success. It is not just investment that is successful. Work is successful. Let us just make sure we have a tax system that recognizes that all of those folks in this country are successful.

We do not want to create a circumstance where we say America has an income tax, but it only applies to those who work for a wage. Those who are fortunate enough to have inherited $100 million or reached a position in life where they have $50 million and they collect $1 million or $10 million a year in dividends, they have decided that they do not have to pay taxes.

So I hope, as we think through this this year, that we will come to an understanding of what all these proposals are and how they affect various parts of this country.

Let me end where I began, Mr. President. I know that no one is waiting for time, and you have been generous with the time today.

I hope that all of us, no matter how passionately we feel about all of these issues this year, will decide that we can work together. We might have deep disagreements about a lot of issues. But democracy only works if all of us in this room decide to work together to try to bridge our differences. We can spend all of our time building walls, or we can spend some of our time starting to build bridges. It makes a whole lot of sense for us to tone down the rhetoric just a bit and have the deep disagreements and work through these things but start solving problems for the American people rather than creating problems for the American people.

I hope that at the end of 1996 the legacy will have been that we turned the corner and created a much more productive role in the life of this country than we did in 1995.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may speak as in morning business for a few minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S BUDGET PROPOSAL

Mr. MURKOWSKI. Mr. President, I recently returned from my State of Alaska, where I had the opportunity to speak to our legislature in a joint session and visit constituents in Juneau, Anchorage, and Fairbanks.

Mr. President, what I heard from my constituents was, I think, best reflected in their inability to simply understand why we could not reach an accord on a balanced budget. We have seen from the administration several budgets come before the Congress. I think we all recall the first one that came before this body, which did not receive one vote, neither Republican or Democrat.

Subsequently, we have had a series of more than five budgets, until the administration has progressed to the point where they claim they have submitted a balanced budget. But virtually everyone is aware of the reality that the sixth and seventh years are where the Clinton cuts occur. As a consequence, I think it is fair to say that virtually everyone who analyzes that proposal finds it unrealistic.

It is unrealistic for two reasons. First of all, in the sixth or seventh year, whatever Members are in office clearly are not going to have the ability to make those cuts in just 2 years. Those are going to be draconian cuts,

and the political fallout, obviously, will make such cuts unacceptable.

The other realization, Mr. President, is that regardless of the outcome of the Presidential election, President Clinton will not be in office when those cuts arrive in 2001 and 2002. Nor will he bear any responsibility as a President in office.

So what the President has sent us is basically a proposal that amounts to a charade because, as you and I both know, if you are going to be realistic, you are going to have a proportionate reduction in each of those 7 years so you can reach a balanced budget in the seventh year. It just points up another instance where we will do anything or go to any length to ensure that we do not have to make the tough decisions up front, take the tough medicine and address the cure up front.

I think it is fair to say we all know from our own personal experience if we have a tough situation, you make the decisions early and do not put them off. That is just what has happened with the President's proposal, where in the 7-year so-called balanced budget, all the cuts are basically in the last year.

Now, Mr. President, we are going into a situation on January 26 where we will have to address the merits of reauthorizing the extension of Government to operate. And then, by probably in March, we will have to face the reality that we will have to increase the debt ceiling.

As we reflect in the extended debate and discussion in this country over the balanced budget on the one hand, and then find that in order to keep Government from being in default, when one thinks of the merits of that, the Federal Government being in default, by increasing the debt ceiling from the current authorization of $4.9 trillion, it really marks the reality of the seriousness of the problem.

Make no mistake about it, Mr. President: We are in dire straits. It is one thing to talk about the $4.9 trillion debt, which is the maximum debt ceiling; the other is to recognize we will be asked to increase that to $5.3, $5.4, or $5.6 trillion.

That is not the end of it, Mr. President. The realization is we have to pay interest on that debt, and the interest, Mr. President, currently is more than our annual deficit. Think about that. The interest on the $4.9 trillion is more than our annual deficit, and our annual deficit is a consequence of spending more than we generate in revenue.

A member of my staff is expecting a child in May. It is estimated that this child will inherit approximately $158,000 as his or her portion of that accumulated $4.9 trillion. Now, if we do not turn this thing around now, Mr. President, at some point in time it will be too late.

I know there are many Members here who feel very strongly that they are not going to vote for an increase in the debt ceiling unless there is a commitment from the administration to address a balanced budget that is attainable and that is real.

Mr. President, as we enter this week where the President will be giving his State of the Union Message, and as we enter this week, further, where we are asked to reauthorize an extension of Government because the continuing resolution is voted, I point out a few things relative to cause and effect, because when I was home there was concern about why Government was shut down and who bore that responsibility. Some suggested it was the responsibility of Congress alone.

I remind the President that this body and the House passed a series of appropriations bills. About 12 of those appropriations bills were passed, and the President vetoed about half of them. In vetoing, the President bore the responsibility of basically not funding those particular agencies. The consequences of this, Mr. President, are a difference of opinion between the administration and the Congress as to the adequacy or inadequacy of those various appropriations bills. To suggest it was all the fault of Congress is unrealistic. Congress did its job.

When you look at the vote on the welfare reform bill, Mr. President, I think it deserves particular examination because many of us assume that we have negotiated with the administration to a point that was acceptable. I think it passed this body, Mr. President, about 87 to 12. It is fairly significant that those on the other side of the aisle felt we had a pretty good bill, but the President saw fit, kind of in the dark of night, to veto that bill. One has to wonder just what the objection of that veto message was. I never did quite understand it.

Now, we have heard time and time again from the White House that this is the fault of an unresponsive Republican-controlled Senate and House who are proposing to balance the budget on the backs of the elderly and on the backs of the low-income groups, on the backs of children; it will affect education and it will affect the environment. Yet, the President's own members of his Cabinet, several members of his Cabinet, earlier did an evaluation of the Medicare Program and found that the Medicare Program would be in default, it would be broke, if it was not addressed at this time.

In 7 years we would not be able to meet our obligations with regard to Medicare. After an extended discussion with the leadership of both the House and the Senate, negotiations took place, and the only alternative available to address the runaway increase in Medicare was simply to reduce the rate of Medicare's growth. It had been growing at a rate of almost 10 percent. The agreement finally came down to reducing that rate of growth from approximately 10 percent to just under 6 percent.

How did the administration respond to this? ''Draconian cuts,'' they called it. But it was not a cut; it was a reduction of the rate of growth. Those recipients of Medicare would receive an increase this year over last year and next year over this year. Yet, the American people, the elderly and those dependent on Medicare, I think, were frightened by the misleading statements from the White House and the inability of the national media to address the alternative, Mr. President. The alternative was that if we did not reduce the rate of growth, the system would be bankrupt, and then what is the capability of the system to meet its obligation for those who are recipients of Medicare? That was simply excluded from the discussions, excluded from the conversations, and of course excluded from the wire stories, blaming the Republicans for this dilemma.

Mr. President, it has been said time and time again on this floor that this is the opportunity to redirect America, to reduce Government control, to reduce Government spending, and bring Government back to the people.

Now, the Republicans have dug in and said if we do not do it now, it probably will not be done. Our children and grandchildren are going to share the increasing burden. At some point in time, somebody will have to take that medicine, Mr. President, because as you go back and reflect on that 4.9 trillion dollars' worth of accumulated debt and the realization that we cannot afford to put this Nation in default, the only alternative is to reduce the rate of growth of that debt and that simply mandates a balanced budget.

That is what this is all about. It is redefining the direction of our Government to make it simple, to make it smaller, to make it more responsive, to put control back where it belongs, back to the States, back to the people.

I urge my colleagues as we address the significance of several events taking place this week that we keep our eye on our objective and the realization, Mr. President, that if we do not do it now, then the question is, When? If it is not now, it may be too late.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

(The remarks of Mr. DOLE pertaining to the introduction of S. 1519 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from Utah.

KEMP TAX COMMISSION REPORT

Mr. BENNETT. Mr. President, last year, I delivered a rather lengthy speech on the issue of taxes. I talked

about flat taxes. I talked about capital gains taxes. I talked about the relationship of tax revenue to tax rates and mentioned at that time the work of the Kemp Commission that was studying all of these issues. In the time that we have been in recess the Kemp Commission has reported, and I wish to make a brief comment now, perhaps reserving the right to make a longer comment at some point in the future.

I salute the Kemp Commission for the work that they have done. I note with some degree of pride and satisfaction that in my statement on the floor I talked about four basic principles that should guide our tax system: neutrality, simplicity, stability, and fairness. In its report, the Kemp Commission incorporated all four of those but added a fifth that I wish I had thought of, and that is visibility. That is, they pointed out that people should know how much taxes they are paying. Taxes should be visible so that the average American will be aware of what is happening.

The Kemp Commission did another thing that I find salutary. They talked about the impact of payroll taxes on the lives of Americans. In all of our discussion, both here and out on the campaign trail, among those who are seeking the Presidency of the United States, the entire focus is on the income tax. I wish to talk a little bit about that this afternoon and point out the wisdom of the Kemp Commission's focus not only on the income tax but also on the payroll tax.

If you were to draw a line between all Americans at roughly 50 percent, you could with fairness say everyone above that line in terms of his or her earning power pays income taxes, and everyone below that line does not. Now, it is not exactly that clear, but roughly 97 percent of the taxes paid as income taxes are paid by people in the top 50 percent of our wage earners, which means that the bottom 50 percent of our wage earners pay virtually no income tax at all. That means then that if you focus all of your attention on the income tax and the various flat tax proposals that are out there, you are leaving out any kind of tax relief for roughly 50 percent of America's wage earners and that 50 percent that are doing the most poorly in terms of the amount of money they are bringing home.

Now, let us talk about the tax burden of the payroll tax on that bottom 50 percent. Some will say, well, the payroll tax is only 7.5 percent or some such number, depending on where you fall. It may be a little more when you add the Medicare taxes to it. The other is paid by the employer. The fact, of course, is, Mr. President, all of that money is paid by the employee. I have run a business. I know that when the time comes to decide whether or not you are going to hire a new employee, you look at the total cost of that employee. If this is an employee that is going to be earning $20,000 a year in pay that shows up on that employee's W–2 form, you as the employer know that he is actually going to cost you $30,000 a year because you have to pay these payroll taxes, unemployment compensation taxes to the State, Medicare taxes, et cetera, on behalf of that employee. So you never think in terms of a $20,000 employee. You think in terms of a $30,000 employee.

That means that in order for you to hire him, he has to produce at least $30,000 worth of economic benefit to your firm. If he cannot generate at least $30,000 benefit to you, you cannot afford him, even though his paycheck stub shows that he is earning $20,000. So if he is earning $30,000 for your company, clearly the employer's share is really money that he has earned and it is deposited in his name in the various trust funds that are set up around here to handle the entitlements.

So that means in the economic value that employee is generating not 7.5 percent, 8 percent, whatever is taken out of that value for taxes, but twice that amount—the amount he puts in and the amount the employer puts in in his name. This means that for our lowest paid workers in this country, they are sending to Uncle Sam and to State legislatures and State tax collectors approximately 25 percent of the gross economic value that their earnings represent—25 percent. Yet none of that is dealt with when we are talking about income tax reform because none of those payments are income tax payments.

What are they for? It is interesting, the debate we are having on the floor about slashing Medicare—I should put ''slashing'' in quotation marks because, of course, everyone knows that every proposal dealing with Medicare proposes increasing the spending on Medicare—but in all of this discussion about Medicare, where does the money come from? The money going into Medicare does not come from the income taxpayer; it comes from the payroll taxpayer.

It is payroll taxes that support the Social Security trust fund, so when Ross Perot starts to draw Social Security, on top of the benefits and blessings that he has by virtue of being a billionaire, that will be paid for by someone in the lowest half of the earnings scale making his or her payroll tax contributions to the Government every pay period.

That is why I say it is salutary that the Kemp Commission not only focused on income tax, but spent some time talking about the payroll tax, saying that the payroll tax should be made deductible for the individual as it now is for the corporation or the employer.

Yet there is a problem with that, Mr. President, because, as I say, it is only the top 50 percent that pay any income taxes at all. So, if your payroll taxes are deductible from your income tax but you are not paying any income tax, the deductibility of payroll taxes, while a nice concept, does not do you any good.

So, Mr. President, on this occasion I rise to commend the Kemp Commission for the work they have done. I think they have done a first-class job of opening the debate and laying out basic principles. I rise to commend them on their adoption of the five basic principles: that taxes should be neutral, simple, stable, fair, and visible. I rise to commend them on their opening wedge, if you will, on the issue of fairness of payroll taxes.

But I make the point that we have in fact just opened the door to deal with payroll taxes, and, if we are going to truly start with a clean sheet of paper and build a tax system in this country that makes sense, we are not only going to have to toy with the idea of abolishing the IRS and the present income Tax Code, we are also going to have to address the question of what we do about payroll taxes that have become so burdensome and, in many ways, so unfair in the way they operate in the lives of the people who live below that center line that divides the income taxpayers from the other half of the country.

This, I think, is perhaps the source of greatest anger on the part of people who recognize that the tax burden is crushing and unfair, and they feel a sense of helplessness as they deal with it.

If you are a person living below that 50 percent line, you have absolutely no options. If you are above the 50 percent line and someone comes along and changes the tax law, you are earning enough money that you can change your behavior to take advantage of the changes in the tax law.

I pointed out here on the floor before a study by Dr. Feldstein—and it has been placed in the RECORD—that the tax increase supported by President Clinton and pushed through the Congress in 1993 has in fact produced only one-third of the amount of revenue that was promised at the time it was formed.

Why? Clearly because the people in the top 50 percent changed their behavior in reaction to that bill, did other things with their money, and avoided paying taxes, an activity which the Supreme Court of the United States says is perfectly appropriate and legal. Tax avoidance, they have said, is not illegal. Tax evasion is. That is a different thing. But changing the way you handle your money to avoid taxes has become a time-honored American activity.

The bill was passed on this floor. President Clinton signed it with great fanfare. ''Now we're going to get this additional revenue to deal with the budget deficit.''

The study by Dr. Feldstein says they only got one-third as much revenue as they projected. That makes the people who live in that top 50 percent feel kind of smart that they were able to do different things with their investments and avoid the taxes. But the people at the bottom 50 percent have no such options. Their taxes are entirely payroll

taxes. If they get a raise, their taxes go up automatically because it is a percentage of everything they earn up to the level in which they can cross the line into the top 50 percent. That is where much of the anger is coming from. That is where much of the frustration is. And, frankly, it is appropriate anger and frustration.

So I hope as we deal with this issue in our debates here on the floor, we will include, as I have not done but the Kemp Commission has opened the door for us to do, the people in the lower 50 percent as well as the people in the upper 50 percent.

Mr. President, it is very clear we will not have a structural reform of the tax system in either area, income taxes or payroll taxes, in this Congress. We do not have time for it. The Finance Committee calendar is jammed. We have long since learned that this kind of legislation is very complex and requires a great deal of study and work. All we can do is open the dialog, begin the debate in this Congress, and look for the time in the next Congress when we will have an opportunity for genuine tax restructuring.

I was asked by a newsman today, will we have serious restructuring of the tax system in 1997? Well, my crystal ball is as cloudy as everybody else's. I cannot make a prediction of that kind with any sort of accuracy. But I did make this comment, and I repeat it here, debate over the tax structure, I believe, will be a central issue in the 1996 Presidential and congressional campaigns. It will become one of the defining issues in that debate.

If I may, should the Republican nominee prevail in the 1996 election, then a serious attempt to restructure the tax system will indeed begin in January 1997. Should President Clinton prevail in the elections this fall, then I believe that conversation about restructuring the tax system will remain conversation and nothing will happen beyond that which we have seen for the last 40 years, which is tax reform by name, tinkering around the edges, in fact, with the basic tax system that we currently have remaining intact, except for those marginal changes for the remainder of President Clinton's second term, should he receive one.

This is a fundamental issue. We have a tax system now that is clearly unfair, that has spun out of control to the point where it is unpredictable in terms of Government policy and which creates tremendous antagonism and anger on the part of the citizens who are subjected to it.

The time has come to begin the serious debate of restructuring it, top to bottom, not just income taxes, but also payroll taxes. And while we are at it, we might as well look at the user fees we charge and the tariff structure.

Let us take a completely clean sheet of paper for every way in which the Government raises revenue and see if we are not smart enough, as we look forward to the next century, to put together a system that works better than the one that was crafted roughly 70 years ago.

So, Mr. President, again, I commend the Kemp Commission for the contribution that it has made in prying open these issues and the principles it has laid down and look forward to the time when we can have this debate through this Congress, and, as a partisan, if I may say so, I look forward to the time when a new President will help us tackle this in a very serious legislative way in January 1997.

I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. KYL. Mr. President, I would like to begin by complimenting the Senator from Utah for presenting, I think, a very erudite discussion of the need for revisions in our tax policy and for his comments on the so-called Kemp Commission for the report which it released last week.

I think he indicated the reasons why it is time to begin this debate. I will not repeat those. But he also showed his extensive knowledge in the area, and I appreciate the experience and the expertise which he brings to the Senate on this important topic and look forward to his continued counsel as we debate these issues during the next year and, hopefully, begin actual legislative work in fundamentally changing the Tax Code beginning in 1997.

I thank the Senator from Utah.

Mr. BENNETT. Mr. President, if I may, I thank the Senator from Arizona for his kind words.

FUNDAMENTAL TAX POLICY AND BALANCING THE FEDERAL BUDGET

Mr. KYL. Mr. President, let me discuss in the context of the budget impasse, with which we are currently faced, both the Kemp Commission report and a few items with respect to this budget impasse, because, frankly, they represent two sides of the same coin. I do not think we have adequately identified the relationship between fundamental tax policy on the one hand, as addressed by the Kemp Commission, and on the other hand our efforts to balance the Federal budget. There are some people who spend, I think, most of their time focusing on the need for a balanced budget, and that is important, but that is only half of the equation. The other half is the revenue side of the equation.

As we, as families, look at how we can continue to sustain our standard of living, to pay our bills, to make sure we come out right at the end of the year and to make decisions with respect to savings and investment, we really look at two separate things.

First of all, we look at how much income we are making in the year, and then we also look at how much we are going to spend. Much of the balanced budget debate, Mr. President, has focused on the spending side at the Federal level, watching our pennies, how can we reduce the growth in spending each year, how can we begin to save money at the Federal Government level so that we get our budget into balance. We are focused on the savings side there, primarily.

We also need to focus on the revenue side of it. For those of us who do not support new tax revenues, tax increases, we look at what kind of fundamental changes might not only produce a simpler and fairer tax system but also one which, ironically, might bring in more Federal revenue without raising taxes.

One thing that the Senator from Utah did not mention but I know he knows is that for the last 40 or 50 years, whether we have had Republicans or Democrats in power, war or peace, good times or bad times economically, the Federal Government has collected about 19 percent of the gross national product in revenues to the Federal Treasury. In other words, what the American people are willing to contribute to the Government has remained virtually static as a relationship or percent of the gross national product or the gross domestic product. The reason is, as the Senator from Utah pointed out, because people make changes in their behavior to adjust to tax policy.

When the Government decided to collect more revenue on raising the luxury tax on yachts, furs, and cars, it did not bring in more revenue, it brought in less, because people adjusted their behavior and they stopped buying the fancy fur coats and the yachts. The result was, not only did the Federal Government lose the revenue they made before, they did not make more revenue. People lost their jobs and paid less in the way of taxes.

So changing tax rates up has not produced more revenue. By the same token, as John F. Kennedy learned in the early 1960's and as Ronald Reagan confirmed in the 1980's, a tax cut can actually produce just as much revenue as a higher level tax rate, because when tax rates are reduced, let us say capital gains tax, for example, the commercial intercourse which raises the money increases to the point that even with a lower rate, the Federal Government makes the same or more revenue. It is a lot like a sale at the holiday time. The retailer does not intend to lose money when he puts all of his items on sale. He knows he will make up in volume what he may lose in terms of the price for each particular item. That is much the way with tax rates. So we know reducing tax rates can actually produce more revenue.

As we begin to look at how we are going to fundamentally revise the Tax Code, as the Kemp Commission did, I think we can anticipate that we can produce as much or more revenue with lower tax rates than is currently being produced with our current rates.

That is why the Kemp Commission concludes that if we can provide for a simpler and fairer single rate kind of tax, and if we can eliminate, as it recommends, the tax on estates, the tax on capital gains and provide a deduction for the payroll tax, it is likely that the economy will grow substantially and that we can, in effect, at a relatively low income tax rate produce at least the same amount of revenues.

That is why I think it is important, Mr. President, as we look at the opportunities for growth and economic expansion in the future, that we not just focus on balancing the Federal budget. That has been pretty much what we have been talking about in the last 3 or 4 months in the House and Senate, but it is really only half of the equation. The other half is how we can continue to produce at least as much revenue with lower tax rates, a simpler and fairer tax rate structure. I hope that debate will continue throughout the Presidential campaigns and actually take root in the congressional action that we will engage in in the early part of 1997.

I said I want to talk about both subjects, because we not only have the issue of the Kemp Commission report and what it begins in terms of a debate—and I think that will dominate much of the Presidential campaign—but we also have the probable failure of the budget negotiations, and I want to present the second half of my remarks on that point.

I think it is very unlikely now that there will be a budget agreement, because the congressional negotiators have conceded about all that they can concede, as a recent article in the Wall Street Journal noted, and the President has come very little distance toward the Republican position, with the result that it is not likely that there is going to be a successful conclusion to the budget talks.

What does that mean for America for the next year? Why is it so important that we get to a balanced budget, that we do that in 7 years using honest numbers? What do we give up if we do not do that? And what are some of the myths that surround this debate?

I think it is important for us to understand that, because then as we begin to point fingers of blame—and inevitably that will happen because we are not going to have a budget deal—at least our colleagues and the American people will appreciate the direction in which that finger ought to point.

It will not come as any surprise that I think that finger needs to be pointed at the President. I am hoping if enough public pressure is applied to the White House that the President might relent and actually sit down and seriously negotiate with the Speaker and the majority leader. That really has not occurred up to this point.

As the Wall Street Journal article noted on January 10, the Republicans have moved about $390 billion toward the President's position. He has moved about $8 billion further away from our position. The net result is about a $400 billion movement by the Republicans and very little movement by the President.

So as I say, that represents very little opportunity, it seems to me, for a negotiated settlement at this point unless the President is willing to sit down and say, ''All right, you met me halfway, now I'll do the same.'' From the President's rhetoric, it does not appear he is willing to do that.

So what is the consequence of not reaching a budget agreement this year? First of all, the four or five key areas of reform, of policy, which are embodied in the budget will not be translated into public policy, into legislation and, therefore, America will forgo the benefits of those policy changes over the course of the next year, and depending upon how the elections, perhaps for a long, long time.

The President campaigned saying he would like to end welfare as we know it. The Senate passed a bill ending welfare as we know it with 87 votes, with Democrats and Republicans alike supporting welfare reform. Yet, the President vetoed the bill. So failing to arrive at a budget agreement will mean that we will not have reformed welfare and we will extend for another year a system which most people in this country believe is broken and is desperately in need of fixing; we will not have made the fundamental changes necessary to preserve and strengthen and save Medicare. Again, almost all of us recognize the need to do that, including the President. His ideas are, in many respects, not substantially different from ours. Nonetheless, he says that that is veto bait, and he does not support our fundamental reform of Medicare in order to save that program and keep it from going bankrupt, which his own trustees say will happen within the next 7 years unless we take action today.

We need fundamental reforms like more choice to be offered to seniors, such as the Medisave account, physician-hospital networks, and other things, creating products, creating competition, and keeping the costs down. That is another consequence of the failure to reach a budget agreement.

A third area is Medicaid. My State of Arizona has handled the Medicaid Program through a program it calls Access from virtually the very beginning, through waivers from the Federal Government to provide for managed care for those needy in our population that qualify for Medicare. Yet, this fundamental change will also fail to be put into effect. We will not be block granting the Medicaid funds because that is part of the overall budget reform.

A fourth area is in the area of tax relief for working families. Again, the President had assured the American people that he wanted tax relief for working families. We provided for that in our budget. The CBO said we can do both tax relief and balance the Federal budget in 7 years. Yet, that, too, remains a substantial area of disagreement between the White House and congressional negotiators. So this, too, will fail to take place.

Now, what does that mean? The President has been fond of saying that the Republican plan is a ''tax cut for the rich.'' Here is one thing that it means. The $500 per child tax credit means that in the State of Arizona over 47,000 low-income taxpayers will not have to pay any more income tax because that $500 child tax credit is just enough to take them from the position of taxpayer to the position of being able to deduct enough not to pay any taxes. It is about 3.5 million people in the United States. A tax cut for the rich, when 3.5 million low-income families in this country will literally have their income tax liability eliminated as a result of the Republican tax relief? That does not sound like tax cuts for the rich to me, Mr. President. That sounds like Republicans trying to do something for the low-income people in this country, who have children and who can really use that $500 child tax credit.

In fact, about three-fourths of the tax relief benefits go to families making less than $75,000 a year. With two-income families in this country today, I do not think there are a lot of people in this country that think if you are making $75,000, you are necessarily rich. In any event, about three-fourths of the benefits go to families making less than that.

I think, too, most people realize that since, as the Senator from Utah was just pointing out, the wealthy in our society pay most of the taxes, it is pretty hard to design a tax relief program that does not benefit those who pay most of the taxes, and that is the wealthier in society. Is that bad for people that are less well off? No, because it takes capital and it takes money to invest in our free enterprise economy in order to promote growth in businesses, to provide job opportunities. That is what John F. Kennedy referred to when he said that ''a rising tide lifts all boats.'' In other words, if you have the entrepreneurs, capitalists who can create a business and provide job opportunities, that helps everybody, including those looking for a job or greater job opportunities.

So if we fail to reach a budget agreement, we will have failed to reform welfare, Medicare, Medicaid, our tax structure, and the Republican plan will clearly help the poor in our society. Also, we will fail to create about 2 million jobs, which is the estimate that can be created by capital gains tax relief.

On the negative side, Mr. President, we will have consigned ourselves to yet another year of payment for more and more interest on the national debt—money that could be used to spend on other things. There will be $233 billion in interest payments on the Federal

debt this year. It is money that could be spent on job training, education, or medical relief for needy citizens, or even tax relief, or reducing the Federal debt. But, no, that is money that we have to pay as interest on the ever-increasing debt. It is a lost and missed opportunity. Yet, it is one more year we will have to make those kinds of payments.

It also means something else. My grandson, Jonathan, was born last year and, in effect, we handed Jonathan a credit card and said, ''You owe $187,000 to the Federal Government.'' That is how much he is going to have to pay in his lifetime to just pay the interest on the Federal debt that exists today. It does not count what he will have to pay for defense, Medicaid, Medicare, Social Security, education, or anything else. The debt is even getting bigger. That is just what he owes today as his share of interest on the national debt. It is not fair to Jonathan or our other two grandchildren, or all of the children and grandchildren in this country who, in effect, are being handed the credit card bill for what we run up in obligations.

We also know that we are missing out on a wonderful opportunity that we can begin to pocket, literally beginning tomorrow. There are an awful lot of people in this country who have home mortgages, a student loan, or a car loan, and who appreciate what interest costs them. By most experts' analyses, if we are able to pass a balanced budget in the next 7 years, interest costs will go down at least 2 percent. One of the estimates is about 2.7 percent. DRI-McGraw/Hill, one of the economic forecasters, provided data to the Heritage Foundation, which made estimates. According to the estimates, that kind of rate reduction would, in my own State of Arizona, save the average Arizona homeowner about $2,655 every year. The average home mortgage in Arizona is a little over $98,000. Therefore, that kind of an interest rate reduction would save over $2,600 for the average Arizona homeowner. That is a lot of money, Mr. President. For the average student loan, it is like $547 in my State. This is money in your pocket, money that you would not have to pay if the Federal Government can balance the budget, because interest rates would go down if we do that. When interest rates go down, it reduces everybody's cost of living.

Lawrence Lindsey, one of the Federal Reserve Board Governors, said, ''We can bring interest rates down to where people today could have 5.5 percent mortgage loans like we used to have.'' My first mortgage loan was 5¾ percent. That may tell you how old I am, but it may also suggest what would happen because that is about 2.5 percent below where you could get a 30-year fixed-rate home mortgage for today. Think about what that would save in terms of money.

So we are forgoing a tremendous opportunity for a higher standard of living, beginning today, beginning tomorrow, if we cannot commit to a balanced budget over the next 7 years. That is why, Mr. President, I think it is a very sad and disappointing thing that the President has not been willing to negotiate in good faith with the congressional Representatives. We are trying very hard to get him to commit to some of these fundamental reforms and agree to a 7-year balanced budget. We are forgoing so much that would improve our lives and our children's lives. It is not fair, it is not right, and it does not support the values that the President purports to support and which we have all committed ourselves to here. I think that, as a result, it will be a very sad day if we finally conclude that we are not able to reach a budget agreement with the President.

In conclusion, Mr. President, as President Clinton gives his State of the Union speech tomorrow night—and I am sure challenges America to a greater tomorrow, since most of us believe that our best days are ahead of us as a country and as a people—and we respond, as I am sure we will, to a very positive message of the President, we also ought to be asking him what he can do to help today to provide a better tomorrow by sitting down and seriously negotiating with the congressional negotiators for a budget agreement that reaches a balanced budget in 7 years, which commits us to true welfare reform, Medicaid, Medicare, and tax relief for working families in America.

If we do that, we will truly be able to say that our best days are ahead of us.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCERN OVER FAILED BUDGET TALKS

Mr. SPECTER. Mr. President, during the course of the past several weeks, there has been an opportunity to talk to constituents at home to discuss the problems in Washington, DC, and, as many of my colleagues have reported, I have found great concern about the inability, the failure, of the negotiators to come to an agreement on the budget talks.

I urge the negotiators to continue to talk. As I have reviewed the details as to what has been undertaken, talking to my colleagues in the Senate and the House, talking to administration officials, it is my view that the parties are not too far apart. I believe that the absence of an agreement is a lose-lose situation for everyone in Washington. There is no real opportunity, as I see it, for political advantage, and the American people watch what goes on in Washington, DC, with amazement and frequently revulsion at our failure to come to some terms.

I go back to a wise statement made by the former distinguished Senator from Maine, Margaret Chase Smith, who said, ''We have to distinguish between the compromise of principle and the principle of compromise,'' and when we are talking about the budget issues, we are talking really about compromising mostly on a dollars-and-cents basis.

There are some structural issues which have to be addressed, and it is my sense that they can be solved as well, but we are not talking about first amendment issues, freedom of speech, or freedom of religion, so we are not compromising principle. We do have to have the principle of compromise and accommodation in Washington, DC, to come out of this matter.

As I look at the figures overall, the parties have come much closer together than they were at the original stage. With respect to Medicare, initially the conference report adopted by the Congress called for cuts in Medicare of $270 billion, with the administration at one point insisting that the cuts—rather it is not cuts, but it is a reduction in the growth of increase. That is a characterization which is very, very hard to avoid.

Before going further on that point, Mr. President, let me cite some statistics which are very, very frequently overlooked as too often the Medicare situation and the Medicaid situation has been characterized as proposals, especially by the Republican Congress, for cuts when the fact of the matter is that there are very, very substantial increases. What we are really talking about is slowing the rate of increase.

In fiscal year 1996, for example, Medicare expenditures will be $193 billion. These are figures from the Congressional Budget Office which have been rescored as recently as last month. After an expenditure of $193 billion in 1996, the figures are as follows: 1997, $207 billion; 1998, $218 billion; 1999, $229 billion; the year 2000, $248 billion; 2001, $267 billion; 2002, $289 billion. So that from 1996 until the year 2002, on Medicare expenditures it is projected to move from $193 to $289 billion for a 50-percent increase.

Similarly, in Medicaid, where there is frequently talk about cuts, there are, in fact, not cuts but there are increases. What we are dealing with is trying to slow the rate of increase. In fiscal year 1996, Medicaid expenditures totaled $97 billion; 1997, $104 billion; 1998, $109 billion; 1999, $113 billion; the year 2000, $118 billion; the year 2001, $122 billion; the year 2002, $127 billion, for a total increase from 1996 to the year 2002 of some 31 percent.

I think it is very important to focus on that basic fact. There are not cuts, but what we are talking about are ways to slow the rate of increase. As the negotiators have discussed the matters, they have come much closer together.

In the original conference report agreed to by the House and Senate, the rate of increase on Medicare would have been slowed by some $270 billion. The initial position taken by the administration was to slow the rate of increase by $102 billion. Now, in the most recent proposals advanced by the negotiators for the Congress, as recent as January 6, the figure is cutting the rate of increase to $168 billion, and the administration now talks about cutting the rate of increase to $124 billion. So the gap has been very, very materially narrowed. Originally, the gap was $168 billion. Now it has been narrowed to $44 billion.

Similarly, on cutting the rate of increase in Medicaid, the original conference report from the House and Senate placed the curtailment of the rate of growth by $133 billion. In the most recent negotiations advanced by the congressional negotiators, the rate of increase was at $85 billion, with the administration at $59 billion. So, there again, the figures are much, much closer.

Similarly, on the tax cut, the original conference report was at $245 billion. That has been reduced to $203 billion, with the administration at a tax cut of $130 billion, so that difference has been narrowed quite considerably.

When we talk about the objective of a balanced budget, we are talking about something which is really critical for the future financial stability of this country. That is an objective which is very important to reach and is worth an accommodation. When this body, the U.S. Senate, took up the reconciliation bill, this Senator was very concerned about a number of items in it and disagreed with the majority on many of the items. For example, it seemed to me that there ought not to be a tax cut at all. I took that position not because I did not want a tax cut, because I would very much like to see a tax cut. I favored the IRA's, the independent retirement accounts, when we voted them out, back in 1986. I would like to see a child tax credit. But at a time when we are seeking to balance the budget, it seems to me it is inappropriate, when we are asking so many Americans to tighten their belts, to talk about a tax cut for some Americans at the same time. It is my view that Americans are willing to have shared sacrifice and to balance the budget so long as it is fair. But when we are asking people, with the earned-income tax credit, earning about $20,000, to pay more taxes at a time when we are offering certain tax cuts to those who earn $120,000, then it is bad public policy, and it is very bad politics.

So that when many accommodations have been made and many of us have seen the reconciliation bill come for final passage, with many provisions that individually we did not like, nonetheless we supported that with a majority vote. After having voted against many of the individual items, I voted for final passage because I think the balanced budget is that important. I understand there are many in Congress, some in the Senate and even more in the House, who do not like the present arrangement and who want to have more by way of tax cuts and who want to have more by way of decreases in Medicare and Medicaid, on their rate of increase. But I believe that the balanced budget is so important that when the administration agreed to the balanced budget in 7 years with the Congressional Budget Office figures, that was the time to declare a victory, to say we will accept the deal, and then to work out the balance of the arrangements as best we could. But the core of the arrangement was in place. I believe we ought to do that yet. That ought to be our principal objective, to obtain the balanced budget within 7 years.

We are talking about structural changes in addition, but I believe that they are not well understood. After talking to key people in the administration as well as my colleagues in the Congress, going through these structural changes, it is my view that there can be a reasonable accommodation. I am in the process of putting together a side-by-side comparison, which I will share with my colleagues in the course of the next several days, with a suggestion as to what ought to be middle ground.

There is a philosophical difference between the block grants, where we give more authority to the States, and the categorical requirements, where the Congress of the United States establishes the rules and regulations. My own sense is that it is time to give more authority to the States under the 10th amendment, that the States are much closer to the problems than we are here in Washington, DC. I am going to talk about that in a few minutes under a separate topic on the problems of the disaster across the northeastern part of the United States, and especially my home State of Pennsylvania, why disaster relief could be much better handled at the local level than out of Washington, DC. But I think we see opportunities to do that, especially in the welfare line, where the Senate passed a welfare reform bill with a very, very substantial majority, and we had block grants on AFDC and emergency assistance and the jobs program into a single mandatory block grant. We had separate allocations for child care. We had the maintenance of the foster care and the adoption system which is retained as an entitlement. But I believe as we go through these lines one by one on the many considerations as to how we deal with the illegal immigrants, how we deal with children under SSI, addicts under SSI, teen mothers, how we deal with education under the student loan provisions and the direct lending programs, and what we are going to do with many of these structural matters, that there is middle ground. There is middle ground on allowing flexibility to the States on many of the items and retaining congressional control on specific requirements as to some others. But we are at this point very, very close and yet very, very far.

Last week on the Senate floor I made a few comments about the necessity to continue funding the Government with a continuing resolution without another threat of a shutdown on the Government, and that if, in fact, we are ultimately unable to come to terms on a budget agreement, that I believe today, as I articulated on this floor from this podium back on November 14th on the second day of the first shutdown, that we ought to crystallize the issues and submit them to the American people in the 1996 election. But the way to do business is not to have a shutdown of the Federal Government which makes the Congress and the administration really the laughingstock of the country.

At that time, I expressed the hope that we would not use the debt ceiling as a lever, as a blackjack, or as blackmail; that the full faith and credit of the United States is too important to be maintained, so that it ought not to be used to try to coerce concessions from the administration in the context of political blackmail; that the American people can well discern the difference between legitimate political pressure and what is political blackmail.

One of the illustrations is from the very famous statement by former Supreme Court Justice Potter Stewart about obscenity, saying that he could not define it but that he knew it when he saw it. Or I think of the famous statement by Justice Oliver Wendell Holmes that even a dog knows the difference between being kicked and being stumbled over. When there is inappropriate political pressure, when it is political blackmail by coercing the Federal Government, or political blackmail by attempting to have the debt ceiling as a hostage, the American people are well aware of what is going on. And although some in this body and some in the other body may have thought that there was political advantage to closing the Government, the American people responded with a resounding no.

With the polls showing that more people favor the President's handling of the emergency than the Congress, the figures were close. But with the Presidential advantage of 50 to 46—50 percent approved of what the President did, 46 percent disapproved—when it came to the Congress, only 22 percent approved and 78 percent disapproved. So that when we were really articulating bad public policy on closing the Government, we were articulating bad politics as well.

So it is my hope that we will not close the Government again, that we will have a continuing resolution which will maintain the status quo, difficult as that is, without cherry picking and trying to fix some programs that some may like better than

others, because once we get into that kind of a selection process, there will be no end to it. If the House sends us a bill financing programs which some of them like but eliminating programs that they do not like, when the issue comes to the Senate with our opportunity for unlimited amendments, we will never agree to that kind of cherry picking with financing programs that one group likes and eliminating all others; and that we will keep the Government going as it need be, crystallize the issue for the 1996 election, and not use the debt ceiling as political blackmail.

But most fundamentally, Mr. President, as I look over these complex charts and look over the figures, they are very, very close indeed. And even with the structural changes, there is middle ground available.

So it is my hope that the negotiators will continue talking. There is a bipartisan group of some 20 U.S. Senators evenly divided—almost evenly divided between Democrats and Republicans—who will seek to come to middle ground and to accommodate these differences of opinion, most of which boil down to dollars and cents, and structural changes themselves boil down to dollars and cents, remembering the foremost point that there is agreement on a balanced budget within 7 years with the real figures, the Congressional Budget Office figures; and we ought to declare victory on both sides, make it a win-win situation, and not try to achieve political advantage in the context where it is a lose-lose for all parties if we continue this stalemate.

But, as I say, to repeat very briefly, I intend to put before the Senate a side-by-side comparison showing how close we are on the figures themselves and on the structural changes.

EMERGENCY RELIEF

Mr. SPECTER. Mr. President, during the course of the past few days, I have been touring Pennsylvania looking at very, very extensive damage from the heavy snows and from the flood.

Earlier today I came from Harrisburg, where I was present with my colleague, Senator SANTORUM, looking over the tremendous damage which has been inflicted at several points from the swollen Susquehanna River. It is a very distressing sight. The walk bridge which spans the Susquehanna from Harrisburg over to the island has been destroyed in part. Many houses have been destroyed. My staff director of northern Pennsylvania, Tom Bowman, in Potter County, has several feet of water in his basement. His furnace is ruined. Appliances are ruined. And that is characteristic as well and has been going on over all of the State.

On Saturday early, I flew to Pittsburgh, where I met Pennsylvania Gov. Tom Ridge looking at the tremendous devastation and destruction which is present there. At Three Rivers Stadium, at the confluence of the three rivers in Pittsburgh, water was all the way up to the Hilton Hotel and was extraordinarily serious.

Later on Saturday, I saw the swollen Susquehanna in Wilkes-Barre, where some 100,000 people had been evacuated, and the flooding had spread through Pennsylvania, and what a very, very serious situation it is.

As of this morning, only 6 counties had been declared disaster areas in Pennsylvania, which I found just a little surprising. On Saturday, I talked to Mr. James Lee Witt, who is the FEMA national director. Mr. Witt was on the job and promised to have the emergency declaration promptly executed. And, in fact, it was done on Sunday morning, with some question, some misunderstanding, perhaps, about how fast the facts and figures got through. But as of this morning, only 6 counties had been declared a disaster area, and 19 counties were added. Yet, we do not have all the appropriate counties identified.

In western Pennsylvania, Beaver County, immediately north of Allegheny County, was not declared a disaster area. I can attest personally to the disaster there. Nor was Greene County so declared. It is important that those counties be extended, and that the Federal emergency relief be moved in there very expeditiously on temporary housing, on the grants that are available, on the low SBA loans which are available, and on the extension of unemployment compensation when people lose out on their work because of this flood damage.

I might share with you one factor as to how serious the situation is. I declared this with my distinguished colleague, Senator SANTORUM. But on the banks of the Susquehanna earlier today, Senator SANTORUM said that he hoped FEMA would be ''liberal.'' But I quickly modified that to ''moderate.'' There we have the ''L'' word from Senator SANTORUM. May the RECORD show a smile coming to the face of the distinguished Presiding Officer. But it is that serious that a call has been made for that kind of treatment by the Federal management corps.

As I have earlier today on some of the radio networks, I would like to repeat the 800 number which people can call for assistance. They can make application by telephone. It is 1–800–462–9029. I will repeat that. It is 1–800–462–9029, where applications can be made on the phone.

Yesterday, I also talked to Secretary of Transportation Peña, who has advanced $1 million for highway cleanup and bridge cleanup, and urged that a more realistic figure be assessed because of the tremendous damage done to the highways and bridges in Pennsylvania.

Last year, the Congress appropriated $6.4 billion largely for the earthquakes in California but also for emergencies such as are now plaguing Pennsylvania and many other States in the mid-Atlantic area where we sustained a snowfall 2 weeks ago today of 30 inches. In Philadelphia, it measured 30.7 inches. And then with the high temperatures last Thursday into the sixties, with the tremendous melting and flooding, there is a very serious situation indeed. So I urge FEMA and the Department of Transportation to take all action possible to bring relief to those people who are in need of emergency assistance.

I thank the Chair, and in the absence of any other Senator in the Chamber, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNETT). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. I thank the Chair.

FLOODING IN PENNSYLVANIA

Mr. SANTORUM. Mr. President, I wanted to follow up the remarks of my senior Senator from Pennsylvania [Mr. SPECTER], and talk about the problems that we are having in Pennsylvania today. The first thing I wanted to do was make sure the record is very clear in my use of the word ''liberal.'' I suggested that FEMA be more liberal than what they have been to date, as of early this morning, in declaring counties in Pennsylvania eligible for individual assistance, for emergency disaster relief funds. I think that was an appropriate call given the fact that the Governor of Pennsylvania, who knows a little bit about the Emergency Relief Act that is in place here because he helped write it several years ago and knows it cover to cover, declared 58 of Pennsylvania's 67 counties disaster areas and was seeking Federal grant recognition for, if not all, certainly a great majority of those counties.

Senator SPECTER, I know, has been traveling the State extensively, as have I. We have seen the tremendous damage done by this heavy snowfall and subsequent quick melting and floods and then freezing again, causing ice jams and horrible damage on our Commonwealth's rivers and streams. We do believe that several more counties should be included in the list that are eligible for individual assistance, and obviously the process will commence to determine whether those counties and municipalities will be eligible for public assistance, for reimbursing municipalities and counties for the cost of cleanup and dealing with the problems of this horrible storm.

I understand that the senior Senator has already talked about how today James Lee Witt, the head of FEMA, has been up to the State of Pennsylvania and he has added to the list of 6 counties an additional 19 counties, bringing to 25 the number of counties that will now be eligible for some assistance.

We were in Harrisburg this morning. I know he mentioned we saw some of

the devastation on City Island, which is a recreational park in Harrisburg that is just literally covered with big boulders of ice and destroying all the public buildings there that I would say are relatively brand new. They in the last 10 years constructed a AA baseball stadium there that is severely damaged from ice.

That has really made this disaster a lot different because Harrisburg was hit back in 1972 with very severe flooding as a result of Hurricane Agnes. In fact, the mayor and others have been telling us that while the flood levels were not as high as Hurricane Agnes, although in some areas they were almost as high, the damage, they believe, actually will be more because of the ice. Literally, Senator SPECTER and I were walking around an area that was 5 feet underwater just 24 hours before, and sitting there all over the place were boulders of ice almost my size and probably bigger, with trees frozen to them. It was really a rather gruesome picture. You could actually see the water level because on the houses and the fences and on the trees you could see where the ice had frozen around the tree, around the houses, sort of jutting out from the houses. So you could pretty well tell everywhere where the water levels had risen to.

We were through that area and saw the damage that the ice had caused to streets and to houses, the buckling effect of having water there and then freezing and then unfreezing. It looks almost like an earthquake on some of the roads; they are just sort of warped, with big sinkholes and things like that as a result of this freezing and thawing and freezing again and the amount of water pressure.

In fact, Senator SPECTER and I met with Mayor Reed of Harrisburg, whom I have to commend; he has done a tremendous job in rallying the troops in Harrisburg, one of our hardest hit cities, and is doing an outstanding job personally. He is someone whom I have known for quite some time and know he puts every ounce of his person in his job. I am sure he has not slept for days. He met us in boots and blue jeans and looked like he had not been able to get into his house, probably even to eat a meal, in a few days. He has really just been on the go.

They had a horrible fire in this area I was talking about that was 5 feet under water. They had, unfortunately, a fire break out last night that destroyed four historic town homes. And luckily no one was injured. The area was evacuated obviously and no one was injured as a resident. But several of the firefighters, they had to cut their way through the ice and wade through water, waist high at that time, and fight the fire without obviously any fire hoses. They had to string them literally blocks to get fire hoses there.

My understanding is that a dozen firefighters were carried from the scene with hypothermia—a horrible situation. I know Mayor Reed was there the entire time working on it. He showed us the Walnut Street bridge, which is the oldest—I am not going to get this right—it is the oldest of some type of bridge having to do with metal construction. That bridge was expected to collapse during the 1972 flood when actually the river went up over the platform of the bridge.

In this case it was several feet below it. But a section of the bridge—you may have seen on television—was knocked away. The reason was not because of the water flow. Again, it was the ice jams. An ice jam had a large amount of ice collected at this one abutment, and eventually with all the pressure it was knocked over, was knocked into the river. They expect another one of those pillars to fall relatively soon.

So there has been a severe amount of damage. Senator SPECTER and I are very concerned about the Federal response to the damage across Pennsylvania. We believe that in some instances the response was delayed. I know the President would like to see all the people and communities that have been severely hurt by this storm to get the kind of assistance that they need to begin to clean up and rebuild their lives.

I am hopeful that we can move forward. As Senator SPECTER said, initially only six counties were listed as qualifying for this assistance. One of the counties that did not qualify originally, and did not qualify until this afternoon, was a county where there were 6 people known dead, 75 people missing from an area that was a large housing development that was literally just swept away. Water rose rapidly. People were given no warning. The consequences were terrible. Yet that county was not listed originally on the disaster list, which amazed many of us and frankly was very discouraging.

I had occasion to talk to people up in Williamsport, Lycoming County. And they were very discouraged. Somehow they were suffering to this degree, and in fact accounted, from my understanding, for over half the deaths related to this storm in the Northeast, and yet were not listed as a county eligible for disaster assistance. That caused some legitimate uneasiness to where actually their needs and concerns were being paid attention to. I am happy to report they were listed in the second round.

There are other counties that we need to look at that I believe have legitimate needs to be met. Hopefully we can do that, we can do that expeditiously. I want to join Senator SPECTER in congratulating Secretary Peña and Director Witt for being up in Pennsylvania today to survey the damage, to see the extent of what seemed to be just a flood.

I remind you the compounding effect of the ice is something I do not think anyone recognized. I was in Lancaster County, which unfortunately has yet to be declared a disaster county.

I was in Marietta which was flooded, at least the parts nearest the river were flooded. Their big concern right now is the freezing that is going on. They were flooded. They have something like a dike. It is actually a railroad track that runs between the river and the town that is very high up and serves like a dike. But they got flooded through their storm sewers, and the water reaching its level filled up both sides of the dike. Now they are concerned with the storm sewers. Because of the very cold temperatures, they are now frozen. If they get any more rain, which is anticipated tomorrow, or any other precipitation, they will have the same problem all over again.

Many counties and many cities, they have that same problem with either frozen surface areas that prevent water from draining or the infrastructure underneath the ground itself containing ice and frozen debris is going to cause a real problem with drainage.

So we are not out of the woods yet. There is unfortunately still a lot of snow on the ground. The possibility exists, with the warm weather today, we could even see some more problems. So I want to congratulate Governor Ridge and Lt. Gov. Mark Schweiker for their tremendous role in responding to this emergency. They have been all over the State, have been very aggressive in trying to seek aid, and have also been very aggressive in trying to help municipalities trying to deal with the problems that have beset them.

I think we have seen a very good effort on the part of locally elected officials, and the Governor and Lieutenant Governor. I think—at least I hope that we can be proud of the Federal role that is being played in Pennsylvania. I think we are coming along a little slowly, but maybe today with some fly-arounds and other things that are going on, we can impress upon officials here in Washington and in the regional office that this is a true emergency, a disaster that needs to be attended to, and the Federal Government has a role to play in helping those individuals and municipalities that were affected by it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORST OILSPILL IN RHODE ISLAND HISTORY

Mr. PELL. Mr. President, I rise to share with my colleagues the latest news on what has been identified as the worst oilspill in Rhode Island's history.

As many of you may know from news accounts, the barge *North Cape,* carrying a cargo of about 4 million gallons of heating oil, and the tug *Scandia*

grounded off the southern Rhode Island coast in the early evening on Friday.

The grounding followed a fire that broke out Friday afternoon on the tug, later engulfed the vessel and required the subsequent last minute evacuation of the captain and crew by the U.S. Coast Guard.

That evacuation was successful because of the enormous courage and skill of the Coast Guard rescue team, who did not hesitate to put themselves at great personal risk to rescue the captain and crew.

Coast Guard Fireman Adam Cravey and Seaman Walt Trimble, who were the first to arrive at the scene aboard a 44-foot Coast Guard boat, found six men wearing survival suits huddled on the bow of the tug—which was engulfed by fire.

The six jumped into the water to swim to the Coast Guard boat and Fireman Cravey, who was in a wet suit and was tethered to the Coast Guard boat, jumped in to assist them. All were safely ashore about 2½ hours after the first emergency call.

Mr. President, I want to emphasize that this rescue was conducted under extremely difficult conditions, including high winds and rough seas, in the frigid waters of the North Atlantic.

I understand that the Coast Guard had warned mariners from Maine to New Jersey of a period of potentially dangerous winds from 40 to 50 knots, with higher gusts, and seas from 15 to 25 feet.

It was under extraordinarily difficult winter storm conditions that the Coast Guard effected the rescue and attempted, unsuccessfully, to prevent the barge and burning tug from running aground. The barge, dragging the burning tug, grounded in shallow water off Matunuck Point Beach, near Point Judith.

Pounded by strong winds and high seas, the 340-foot, single-hull barge began to spill oil early Saturday from holes in at least two places. Current estimates of the spill are in the range of 828,000 gallons.

Transporation Secretary Frederico Peña, Coast Guard Commandant Admiral Kramek, and other Federal officials came to us in Rhode Island to evaluate the spill on Saturday, as efforts continued to contain the escaping oil and offload what oil remained aboard the barge.

Rhode Island Gov. Lincoln Almond appealed for Federal help on Sunday, declaring a state of emergency and identifying the spill as ''the worst in Rhode Island's history and one of the worst ever off the coast of New England.''

The toll on marine life apparently has already been heavy. Thousands of oil-coated lobsters, dead and living, have washed up along several hundred yards of beach near the barge. Dozens of seabirds have died and scores more have been coated in oil.

The barge is close to Moonstone Beach, a breeding ground for the endangered piping plover and the Trustom Pond National Wildlife Refuge, an environmentally fragile habitat. An estimated 75,000 waterfowl live in the refuge area, including rare harlequin ducks.

Fishing also was banned in a 105 square-mile area, from Point Judith south to waters east of Block Island. A number of shellfishing areas also were closed.

The good news is that Rhode Islanders rose to the occasion. Hundreds of Rhode Islanders, their efforts coordinated by Save the Bay, volunteered to help the emergency response crews by cleaning everything from beaches to birds. The Coast Guard was magnificent in its response.

Additional good news came with a phone call from President Clinton to Governor Almond, assuring him that funds would be made available for the cleanup and fishing industries.

This tragedy has not yet played itself out, but we should ask some hard questions when we have all the facts.

Among the most obvious questions, that have crossed my mind: Why were the tug and barge underway in such treacherous and dangerous weather conditions? Should we have weather related restrictions on the transportation of toxic or hazardous materials in coastal waterways? Could this incident have been avoided by better fire-safety procedures or by a more rapid response? Could it have been mitigated by more aggressive prevention and containment measures?

It is unfortunate, Mr. President, that this barge was not of the new double-hulled design—which I have long advocated. I understand that it leaked from 9 of its 14 containment holds. A double-hull might have made all the difference between an incident and a disaster.

Finally, I think that everyone would benefit from a thorough review of the coordination of our emergency response to oilspills. We should make sure that every agency with a role in this crisis, worked smoothly with every other agency.

It has been a difficult time in Rhode Island and, unfortunately, our difficulties are not over. We do not yet know the extent of our disaster. On the Federal level, we should do all we can to expedite the assistance and expertise that is required for that recovery.

In closing, I emphasize the fine job the Coast Guard did and my own respect for their gallant service.

I yield the floor.

HYPOCRISY

Mr. SIMPSON. Mr. President, I rise to call the attention of my colleagues today to an item or two that have been in the news of late. The theme that unites them loosely is the theme of ''hypocrisy.'' ''Hypocrisy,'' I have said, may well be the ''original sin'' in American political life.

The first of these subjects has been reported upon in many of this Nation's newspapers, but as of yet has been insufficiently remarked about among the denizens here in the village of Washington.

Lately we have been in the midst of one horrific battle over the budget, gnashing our teeth, wailing, and howling to the heavens—it would be the envy of King Lear—and referring to each other by every manner of cruel epithets.

What are the differences that divide us, to occasion this level of hysteria, hype, and hoorah and fingerpointing? Often the differences are in reality very minimal, such as a difference of all of the sum of $7 as to where Medicare part B premium should be in the year 2002. That was the entirety of the difference between the President's first position and the Congress' position. That is where we drew the first ''battle line,'' the first line, the first gauntlet thrown.

In my view, it would be just as silly to let this difference sink a budget agreement as it would be to let the size of the tax cut sink an agreement. These are not sufficient causes, in my estimation, to fail to meet our obligation to future generations.

One would know little of the minimal size of this difference from watching the evening news, but coincidentally, 7 bucks was the amount that part B premium stood to go up next year, from $46 a month to $53 a month, regardless of one's net worth or income, really not too destructive in society, especially when we do not have any test of income or wealth.

I wonder if all of my colleagues fully realize what has been happening out there in the private insurance market while these wretched hostilities have been taking place here in Washington. We have seen some most remarkable increases in insurance premiums, and one of them, ironically enough, comes to our gentle citizens courtesy of the American Association of Retired Persons, the AARP. You have heard me speak of them before. Yes, I have from time to time gently touched upon their activities.

Now I have in hand an article describing how this determined, dedicated and obsessed nonprofit organization is raising its medigap insurance premiums for the next 6 months, after which, who knows, they might even rise again. This is the same AARP, I remind my colleagues, the courageous and dogged defenders of the poor, the downtrodden, and the elderly, these are the very same folks who descend upon Washington in droves and hordes to tell us if Medicare part B premiums were to go up—these being voluntary premiums, please recall, voluntary premiums; you do not have to join—but that when this terrible thing happens, mind you, going from $46 to $53 next year regardless of your net worth or your income—and you were not forced into it and it was not any part of an original contract, you got in because it was the best deal in town—and if it

goes up 7 bucks, seniors will be hurled out into the streets in their ragamuffin garb. Now, that is bah humbug.

Meanwhile—hear this—according to this article, a typical medigap customer of the AARP will see his or her monthly premiums rise from $147 to $178 next year, an increase of $31 a month.

Now, this was very striking to me. Let me read from their letter to their aggrieved legions of customers: ''* * * because of rising claim costs, a rate increase will become necessary as of January 1, 1996. Your new rates are guaranteed for six months.''

Let me be sure that every one of us understands. If there is any increase at all in Medicare part B premiums, a voluntary program in which 69 percent of the cost is paid by the ordinary, unbenefited taxpayer, this is decried as a ''benefit cut'' says the AARP. In their own propaganda, pumping their health care program, premiums must inevitably skyrocket because of inevitably, unavoidably—choke, gasp, sob—''rising costs.'' What unadulterated hypocrisy.

I do not see anything said here about a ''benefit cut'' to AARP's members although they are sticking it to their customers more than twice as severely as anything yet contemplated here for Medicare part B. No, with Medicare part B, their yowling answer, eternally hurled into the heavens, is always, just keep sticking it to the general taxpayers, never the beneficiary, regardless of their wealth, net worth or income. But when the AARP's own finances are right on the line, their customers are simply told curtly they are going to have to ''pay up.''

Yes, Mr. President, health care costs are going up. Who missed that in America? Some of that burden has to be shared. Who has missed that? With Medicare, most of it will be taken up by taxpayers, but the beneficiaries need to pick up some of that burden, too, if this country is going to avoid bankruptcy. That is the truth, and everyone in Washington knows it.

It has always been the height of deception for the AARP or the National Committee for the Preservation of Social Security and Medicare, or all of the similar tub-thumpers or anyone else to claim that it is some God-given right for beneficiaries to be held completely harmless in this process, or even to pretend that any sharing of Medicare cost increases is a ''benefit cut.'' We see so well here from the AARP's own actions that they know full well that their own stance has been stunningly hypocritical.

I do now have a sensible proposal for the AARP. If they can find a way to bring their own membership's premiums back down to where they were before, then only, and only then, can they rightly continue to fight so vehemently against all premium increases in Medicare part B. If and when the AARP find this presently unknown and occult way to avoid all premium increases, perhaps they will share the great secret with us and then we can logically do the same and avoid any changes in Medicare part B premiums.

But so long as the AARP continues to rake in hundreds of millions annually in tax-exempt insurance income, I trust they will see the unseemliness of any further disgustingly patronizing lecture to our Government about ''what to do with Medicare.''

Let me remind my colleagues again that the AARP is getting a huge share of the take of this premium increase. They pull in more than $100 million annually—their current share of the take, their take—from the contract with Prudential Insurance. They could, I readily note, give up that pile of new cash and return that money right to their membership to offset some of the effects of this premium increase. It seems fair. It certainly does.

Does anyone believe that they will? Would any of my colleagues ever believe that the AARP will give up its share of the profit from this lucrative insurance business and return it to the membership, 3.2 million of their own members, who are getting stuck with this increase? No. For this might make it a little tougher for the AARP to meet the annual—you want to hear this one—the annual payments of $17 million in rent each year on its palatial building downtown genially dubbed the ''Taj Mahal,'' or the payment of more than $69 million a year in salaries to themselves—many of them in chunks of more than $100,000 per year per person. There are many on the AARP payroll who make over $100,000 a year. And they lease their building for 17 million big ones every year on a 20-year lease. Figure that up for $8 a month dues. That will run the string for you.

No, I suspect they will continue to live in splendor here on E Street and leave their poor old customers scrambling to pay out the extra hundreds of dollars a year which they will have to shell out for this premium increase.

I trust my colleagues will remember this action the next time the AARP wanders in here—led by ''Edna the Enforcer''—claiming to represent the interests of America's elderly. The bottom line for this organization is big business, and big profit, pure, and simple. Believe it.

The other item which I wish to describe for my genial colleagues is an excellent editorial by Gerald Eickhoff in Investor's Business Daily, entitled ''What About Social Security?''

I ask unanimous consent this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Investor's Business Daily]

WHAT ABOUT SOCIAL SECURITY?

(By Gerald E. Eickhoff)

Labor Secretary Reich's worthy campaign against pension fraud begs a more serious question: Where is he on Social Security?

The secretary is sounding the alarm on private pension fraud. Yet he has said nary a word about the condition of America's public pension system.

Reich's current campaign means to help workers ''know what to look for'' so they can ''ask the right questions'' about their pensions.

Yet he must know that Americans would be well-advised to be at least as concerned with Social Security. After all, as a member of its Board of Trustees, he is well-acquainted with the trouble that lies ahead.

Fraud in a handful of 401(k) plans deserves attention, but it is trivial next to the potential for Social Security failure. Without reform, Social Security will surely either go bankrupt or bankrupt the nation. And trouble begins in just 10 years.

In 2005, the Social Security trust fund surpluses are expected to start declining. In other words, the program will begin to spend more than it takes in. Instead of masking the true size of the budget deficit, as it does now, it will begin to add to it.

By 2012, entitlement costs and interest on the debt together will consume all federal tax revenues.

By 2013, Social Security's surpluses will turn into deficits. And the overall federal budget deficit will explode.

The numbers are staggering. By the year 2020, annual Social Security obligations will exceed income from payroll taxes by an estimated $232 billion. That grows to $766 billion by 2030.

The demographic outlook tells why. In 1940, the average American lived to the age of 61, yet today average life expectancy is 76. In the next 35 years the number of Americans over age 70 will double to 48 million. That leaves just 2.2 workers to support one retiree, as opposed to 3.3 today and 159 in 1940.

Part of the problem is the looming retirement of the Baby Boom. But it goes much deeper, to Social Security's pay-as-you-go system—less charitably, a Ponzi scheme.

The private pension funds that so concern Secretary Reich are funded programs. Social Security is a mere promise to pay.

Yes, that promise is backed up by the full taxation power of the federal government. But because the trust fund is filled with IOUs from the government to the government, it is no more capable of paying future benefits than a dry well is of yielding water.

The notion of a trust fund, therefore, is at best misleading. At worst, it is accounting gimmickry of the highest order.

Future retirees have little chance of receiving benefits on a scale anything like those of today. Benefits such as they are will be paid either from borrowed money, from new debt piled onto the existing $5 trillion national debt or from tax receipts.

Because the federal government's ability to borrow is finite, however, increased taxes will be the inevitable last resort.

Current projections assume workers will be squeezed by taxes to prop up a failing system. Social Security payroll taxes will have to rise from today's 12.4% of pay to 16.5% in 2030. Under less optimistic assumptions, they could run as high as 37%.

Contrast this with the fact that in 1950, the average family of four paid just 2% of its income to the federal government. That included income and Social Security taxes.

You'd get hardly an inkling of this from a casual reading of the Social Security Trustee's report. Rather than blowing the whistle on the trust fund illusion, the Trustees confidently report that the fund ''will be able to pay benefits for about 36 years.''

The picture of Social Security's future is disturbing. But action now can avert a crisis. Lawmakers can prevent Social Security bankruptcy, devastating taxes, job loss and an uncertain retirement for millions. With

determination and a clear goal, it is possible to not only save, but to vastly improve Social Security and its ultimate value to Americans.

No other issue has greater potential for future prosperity or calamity than Social Security reform. We must act now.

Reich's educational campaign on private pensions is a good place to start. Social Security is where we need to end up.

Mr. SIMPSON. Mr. Eickhoff notes again the hypocrisy of Washington's concern about private pension fraud while, at the same time, ignoring the massive problems looming in Social Security. As Mr. Eickhoff notes, ''the private pension funds that so concern Secretary Reich are funded programs. Social Security is a mere promise to pay.'' That is correct—it is only a promise. The payments promised bear no relation to contributions made by past or current workers.

As the article notes, ''Future retirees will have little chance of receiving benefits on a scale anything like those of today. Benefits such as they are will be paid either from borrowed money, from new debt piled onto the existing $5 trillion national debt or from tax receipts.''

Absolutely. That is the way it will be. And let us not forget the projections we currently have, that under current law, if we did everything of the hideous programs presented by the majority party, we will still be saddled $6.2 trillion in debt by the end of this century. We are not doing any heavy lifting of any great import.

''Tax receipts,'' that is the phrase. That is what will darned sure be sought to pay for the benefits that have been promised—especially that pressure to pay it from tax receipts will come from the various seniors' lobbies. We will just hike the old payroll tax again, just as we did in 1983, and keep hiking it and keep hiking it on up to 30 percent of payroll by the year 2030, unless we ''do something'' about the growth of Social Security and Medicare benefits.

Everybody knows that, too. And the people who are telling us about the demise of Social Security are the trustees of Social Security, one of whom is my friend, Robert Reich, whom I enjoy thoroughly. A delightful gentleman. He and I do not concur on various philosophical items or ideologically. Another one is Donna Shalala, I have a similar regard for her, a very able lady. And Robert Rubin, another very capable person, even though we disagree heartily.

Those are the trustees. Those are three of them, telling us about the doomsday coming. While the present Commissioner of Social Security does nothing, nothing to tell us how do we get out of this box. Quit joshing us. What are your recommendations? You are the Commissioner, Shirley Chater. You are free of the influence of Congress and the President. You are an independent agency, so tell us. And we have nothing coming back except resounding speeches, tales, anecdotal material about how great Social Security is. ''But it will need some attention in the years to come.''

You betcha it will. It is $360 billion a year and we are not even touching it. We have a COLA attached to it that can be between $4 and $8 billion a year which goes out to people regardless of their net worth or their income. It cannot possibly succeed because it was never a pension. It was an income supplement. People are living longer and eating it all up. Now, every day, almost 8,000 people, since the 1st of January, will become 50 years old and they—not intentionally—will destroy the system. And we know it. And they know it. The trustees know it.

At least I hope, again, as we open this session, that my good colleagues will take a good look at the bipartisan work of Senator BOB KERREY and myself, eight bills to restore the solvency of Social Security in the years to come, starting now. Now—not 10 years from now, not 20 years from now—extending the age of retirement over the next 30 years so it is an easy step, allowing people to invest 2 percent of that contribution in a personal investment plan and the other 4.5 percent can go into, then, the system.

''That means a reduction of benefits.''

Indeed it does. Doing something with the current ratios with regard to retirement, not only for ourselves as Congresspersons but all Federal retirees. Doing 30-year budgeting in this particular area. Doing something with the Consumer Price Index. This is absurd. This is a no-brainer.

We heard testimony from everyone in the United States, the CPI [Consumer Price Index] was overestimated, from the figure of 0.5 to 2.2. If you just made the change and let it come down minus half a percent it comes $157 or $158 billion in the year 2002. But 10 years out it is nearly $700 billion in savings.

These are small items now that will overwhelm us 10 or 15 years from now. And no one is doing anything about it.

I say again, for the life of me I cannot understand what happened to the people in society between the ages of 18 and 45. They must be totally asleep or numb, or gone, because they will be gone when they are my age because there will be nothing there unless we begin to make the corrections. And that is the trustees telling us that, not some leftover specter of the past, some right-wing cuckoo from 20 years back or some left-wing zany. That is the trustees telling us this is what is going to happen to Social Security, and we do not even touch it. The President does not touch it. Congress does not touch it. And there are groups out there dedicated to see that you do not touch it.

So, I always say to them, ''Do you care about your children and grandchildren?''

They always say, ''Oh, yes, that is the purpose of our existence, caring for our children and grandchildren.''

I say, ''Forget it. I do not want to hear that one anymore. That is so much opium smoke. That is a phony.'' They cannot possibly care if they will not allow us to make the adjustments, or at least begin to make the adjustments now. And we all know what we have to do, all of us. And everybody downtown knows it. And the people of America, if they cannot figure all this out in the next 10 months, then get into the old booth and pull the trigger for the other party and say, ''Well, we have had enough of that. I do not know what that great experiment was, but, boy, when they touched Medicare, oh, God, I tell you I rose up. I showed them. And Medicaid and Federal retirement and Social Security.''

So, in that scenario, those of the other faith will come into the Halls of Congress, take over the majority party, and say, ''Boy, aren't we glad we saved you from them because now we are really going to get back to where we were before. We are going to let Medicare go up 10.5 to 12 percent per year. We will show them. Never do that cruel thing where we are going to let it go up only 7 percent a year, or 6.4. We are going to let Medicare and Medicaid go up 10 percent a year. Those were evil people trying to let it go up only 6 percent. We are not going to touch Social Security. We are just going to—well, we might—just add a little payroll tax. That will fall on the people in society who are not organized, who are not paying $8 a year dues to some organization which is dedicated to seeing how much more they can get out of the Treasury.''

So, that is what is out there and this can all be averted if, as Mr. Eickhoff notes, we act now to prevent a crisis. We simply cannot keep waiting until after the next election. We cannot keep saying that Social Security should be ''off the table.'' We have to adjust to the Consumer Price Index, as more and more are beginning to recognize, from the bipartisan Senate group to the ''Blue Dog'' Democrats to the Washington Post, for Heaven's sake, and we have to phase upward the retirement age and make a number of other changes if we are to have any chance of repairing this situation.

So I am very pleased to be working continually with my colleague and friend from Nebraska, BOB KERREY, in this effort. I continue to hold very serious hearings on this matter in the Social Security Subcommittee which I chair. But I will be having individuals there before us between the ages of 18 and 50 coming to testify, rather than a continual stream of people over 60 coming to testify. I remind my colleagues that Social Security is a promise to them, too. It does not exist simply to harvest the votes from today's retirees. That is what it has become.

We all know that even the Washington Post has been noting of late that it is folly to say that Social Security is ''off the table.'' A $360 billion program headed toward certain bankruptcy is ''off the table''? It is absurd. It is stupid. That cannot work. The very least

we can do now is to fix the CPI. As I say, groups are working to do at the present time. Others have lately joined in these suggestions.

So I do hope my colleagues will read that article and recall that everything and all things we are doing right now on this budget is, or should be, for the benefit of future generations. I tell people at my town meetings; they do not hear it always. I tell it wherever I am. Nobody over 60 is going to get dinged at all in this process unless they are loaded. And if they are loaded, they might get stuck 20 to 40 bucks more a month. If they are not loaded, they will not get hit at all. People cannot even hear that. We cannot go on to ignore this ghastly problem in Social Security and yet ever be able to continue to claim that we have done right by them.

Finally, Mr. President, I wish to call the attention of my colleagues to a recent article in the Washington Post regarding the recommendations forthcoming from the Social Security Advisory Council. This is very important. People are ignoring these things because you are not supposed to mention these two detonating words—Social Security.

But that council was unable to agree upon a prescribed solution to the impending Social Security solvency crisis, and that is a similar experience with which I am very familiar. I served on the President's Bipartisan Commission on Entitlement and Tax Reform. We have no difficulty defining the problem, and by a vote of 30 to 1 we agreed that it certainly existed. I have just shared with you moments ago what it is. But when it came time to solve it, only a hardy few were willing to give answers—Senator Bob KERREY, Senator Jack Danforth, Congressman Alex McMillan, Congressman PORTER GOSS, PETE PETERSON, and myself, to name a few of them—out of a 32–Member commission. So I do know what it is like to struggle for a year to get colleagues to confront a most serious problem, only to be overcome and overwhelmed by the ponderous difficulty of getting a majority to face before us political perils inherent in the solution.

Although the advisory council was unable to develop a consensus solution, there is much that is worth noting in the work that they have done. My colleagues would do well to study it. I myself again plan to have serious hearings on this subject this year in my Finance Committee's capacity as the chairman of the Subcommittee on Social Security and Family Policy.

Three plans were voted on by the council. One is called the privatization plan, which would take roughly half of the existing contributions to Social Security and refund them to taxpayers to be invested in IRA's or 401(k)-type accounts which would earn retirement income for them while their previous Social Security benefits would be cut accordingly.

A few years ago, you could not even pose a discussion about such a plan without someone charging that you were out to destroy Social Security. Yet, this plan received five votes from these advisory council members. I think that shows a deep recognition of the need for fundamental reform of the system.

Another plan was backed by former Social Security Commissioner Robert Ball. He would stick very close to some of the more traditional solutions, as Mr. Ball has always done in the past. It would turn to increased taxation: imposing existing payroll taxes on State and local employees; imposing higher taxes on Social Security benefits, and, of course, raising the payroll tax rate. We have heard so much of that before.

But I draw my colleagues' attention to some of their other proposals. One is to reform the Consumer Price Index. Bear in mind that this is from the old guard, the most traditional defenders of the existing Social Security system, the people on this committee, this advisory committee, saying now that the CPI needs to be reformed for the sake of Social Security solvency. We need to hear that. If we cannot get that done at all in our current budget process, we are truly ''missing the boat.''

Here is something else they suggest. Having the Government invest the Social Security trust funds in stock market index funds as opposed to simply buying Government bonds. That is something which Senator KERREY and I have also proposed here in the Senate. That would have been absolute heresy a short time ago. These members of the advisory council will not go so far as to set up individual accounts; they would retain the pooled nature of the program. But, still, this would represent a most significant shift from current practice.

So I review all of that for my able colleagues so that they will see that the entire spectrum and scholars and ''experts'' on this issue tell us that fundamental reform is absolutely necessary in order for Social Security to survive. At the very least we must reform the CPI and get these retirement funds somewhere else other than where they are currently are, either into stock funds, or into private retirement accounts, if we are ever to generate the return that will be critically necessary to fund future benefits.

I would also note that a third option was described in this article as a ''halfway house'' measure. This plan would provide for two percentage points of the payroll tax to go into a 401(k) or an IRA-style plan. And the chairman of the council voted for that one. That intrigued me greatly because I had also joined Senator KERREY in offering a plan which had exactly this option as one of its components. Here they have described it as a ''halfway house'' measure.

So I, Mr. President—and you have known me a lifetime—have become, I whimsically conjecture, a ''moderate'' now when it comes to Social Security reform, which is touching. It is a touching thing. My colleague might surely be most intrigued to know that. But this Kerrey-Simpson-style proposal is now viewed by the advisory council itself as a compromise between differing approaches to reform of the system. Who would believe it?

So I trust that my colleagues will give their earnest attention to the deliberations of the Social Security Advisory Council, and note that all those who study this issue have concluded that fundamental reforms need to be made, starting at the very least with reforming the Consumer Price Index.

I look forward to working with my colleagues in the year to come with regard to those issues that will come before the subcommittee which I chair.

I thank the Chair. I thank my colleagues.

I yield the floor.

CHARLES L. KADES—A FOUNDING FATHER OF MODERN JAPAN

Mr. KENNEDY. Mr. President, 50 years ago next month, Col. Charles L. Kades, an aide on the staff of Gen. Douglas MacArthur, was placed in charge of an historic project to monitor and assist in the drafting of a new constitution for Japan. Colonel Kades worked in obscurity at the time, but he did his work brilliantly, and the resulting constitution he helped draft laid the groundwork for Japan to recover from the ashes of World War II and become one of the world's strongest democracies and one of the world's strongest economies. In no small measure, that historic success is the result of the vision, talent, and commitment of Charles Kades.

After his landmark service in Japan, Colonel Kades returned to the United States and practiced law with great distinction for many years in New York City. He retired in 1976, and moved to Heath, MA, where he now lives at the age of 89.

Over the years, the true magnitude of his historic contribution to Japanese democracy has become better known. As the golden anniversary of his golden achievement approaches, it is a privilege for me to take this opportunity to commend the extraordinary leadership he demonstrated 50 years ago. The dramatic story of his work was told in detail in an excellent article last year in the Springfield Sunday Republican, and I ask unanimous consent that the article may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Sunday Republican, Springfield, MA, Feb. 19, 1995]

HEATH RETIREE AN UNLIKELY FOUNDING FATHER OF JAPAN—LAWS WRITTEN 49 YEARS AGO

(By Eric Goldscheider)

HEATH.—In recent years scores of Japanese journalists and constitutional scholars have made the trek up to this Western Massachusetts hill town to see an 89-year-old retiree named Charles L. Kades.

Not only did he write the Japanese constitution but he owns one of the only readily accessible transcripts of the proceedings that led to its ratification 49 years ago.

Kades (pronounced KAY-dees) is an unlikely founding father of the country that today boasts the world's second biggest economy. Before arriving there as a colonel in Gen. Douglas A. MacArthur's occupation force two weeks after VJ Day in August 1945 he had never even read anything about Japan.

''I wasn't in Japan because I knew anything about Japan, I didn't know a damn thing about Japan,'' he said during a recent interview in his unassuming house a couple of miles from the Vermont border.

Nor did he have any special expertise in constitutional law. He had studied law and practiced in New York City before the war. He had some knowledge of the New York State constitution because he had to learn it for some of the corporate cases he handled. He had also served as the assistant general counsel under two cabinet secretaries in the Roosevelt administration.

None of this adequately prepared him, he said, for a day he remembers well—February 3, 1946. That was the day Major General Courtney Whitney put him in charge of a 16-member task force assigned to write a draft constitution for the country they were occupying.

''I said, 'When do you want it?' '' Kades recalls. ''He said you better give it to me by the end of the week.'' That was six or seven days. ''I was completely flabbergasted because I thought he was going to say 'a few months or June or something like that,' '' said Kades.

The story of how he came to be in this position is more involved than simply being called into his boss's office and being given a task to perform. Kades is glad to tell it but he imposes one rule on himself. He absolutely will not comment on current Japanese political debates even though he is often called upon to do so.

''They're none of my business,'' he tells all comers.

When Kades arrived in Japan as a member of the Government Section of the General Headquarters of the Supreme Commander of the Allied Powers (SCAP) there was no talk of his office being involved in the business of constitution writing. That was to be a job for the Japanese to do themselves in a commission headed by Joji Matsumoto, a corporate lawyer and a professor of law at the Tokyo Imperial University.

PROGRESS WAS NIL

The problem was that they weren't making very much progress. Then an even bigger problem emerged. A reporter from a leading Japanese newspaper swiped a copy of the draft they were working on and published it.

''That is what you would call a 'scoop,' '' Kades recounts as a grin spreads across his face. ''The commissioners left a draft on the table and went to lunch.''

The Americans had this purloined document translated and found that it was short on democratic reforms and that it didn't substantially revise the Meiji constitution of 1889 under which militarism flourished that led to the war. For example, in the Meiji constitution the emperor's rule was ''sacred and inviolable,'' and in the revised version the emperor's rule was to be ''supreme and inviolable.''

The government protested and said that the published draft didn't accurately reflect the work of the commission. ''When the government denied that was the correct version we asked them to hand over the correct version—it wasn't very different,'' says Kades.

As it happens, just before the Japanese government was caught with its pants down by an alert reporter, Kades was in the process of preparing a memo arguing that Gen. MacArthur had the legal authority to revise the constitution. This argument rested on the text of the Potsdam Declaration in which the leaders of the United States, England and China proclaimed that among the terms under which hostilities would cease the Japanese government had to ''remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people. (And that) freedom of speech, of religion, and of thought, as well as respect for the fundamental human rights, shall be established.''

STANDARDS LACKING

The document the Japanese were working on didn't live up to this standard. At first Whitney wanted Kades to prepare a memo outlining the American objections to the draft. Then word came down from MacArthur that this would only be a waste of time ''ending up with a lot of exchanged memos.'' The decision was made that the Americans would prepare their own draft.

This is the point at which a mystery about the Japanese constitution ensued that remains unsolved to this day.

When Whitney charged Kades and his group with the task of writing the constitution within the week, he handed him some hand-written notes for him to use as a starting point. Scholars are still curious whether these notes reflected the thoughts of Whitney or MacArthur.

There are three possibilities, said Kades: the notes were written by MacArthur, they were written by Whitney or they were dictated to Whitney by MacArthur. Kades said he kept those notes in his field safe until the end of his 3½-year tour of duty. When he left Japan he returned them to Whitney and they have since disappeared. His hunch is that the notes reflected MacArthur's thinking.

CONSTITUTION TEAM

When Kades and his group set to work on the constitution, the first thing they did was to divide up the task according to their various talents and areas of expertise. Five of the 16 officers had been lawyers in civilian life. There was a former congressman, the editor and publisher of a chain of weekly newspapers in North Dakota who had also served as the public relations officer for the Norwegian embassy in Washington. A few university professors, a foreign service officer and a partner in a Wall Street investment firm were also part of the team.

Committees comprised of one to three people were formed to draft articles on such things as the roles of the executive, the legislature and the judiciary. An academic who had at one time edited a journal on the Far East headed the committee on the executive. The foreign service officer was told to deal with questions surrounding treaties. A social science professor dealt with civil rights, the banker was the sole member of the finance committee and so it went.

Between them they collected constitutions of a dozen other countries from libraries around Tokyo. Some of them were familiar with various state constitutions from the United States. Kades emphasizes, though, that the primary sources they drew on for their work was the existing Japanese constitution of 1889 as well as drafts prepared by some of the political parties in existence at the time.

Kades isn't sure why MacArthur was in such a hurry for his group to finish the draft. His best guess is that elections had been set for the middle of March 1946 and that it was anticipated that the constitution would become a campaign issue. Also, if they delayed, MacArthur feared that their work would be hampered because, with the passage of time, China and the Soviet Union would get into the position of being able to veto any new constitution.

FINISHED ON SCHEDULE

Kades' group finished their work on schedule. On Feb. 13 Whitney met with the Japanese group telling Matsumoto that their revision was ''wholly unacceptable to the supreme commander as a document of freedom and democracy'' before handing him a copy of the document drafted by the Americans.

The next weeks were devoted to meetings with the Japanese constitutional commission to hammer out the final wording of the document that would be submitted to the Japanese Diet (the equivalent of the U.S. Congress) for ratification.

The last negotiating session went 34 hours without a break.

They finished on March 4. Two days later the cabinet and the Emperor accepted it and it was approved by MacArthur that night.

OVERSAW RATIFICATION

But this isn't the end of the story.

In the following months and through the summer, Kades was responsible for overseeing the ratification process of new the constitution. His instructions were to let the newly elected legislature amend his document in any way as long as they didn't violate the basic principles laid out in the Potsdam Declaration.

Kades recalls that he would be asked what kinds of changes would violate these principles. His response was along the lines of Justice Stewart Potter's observations on pornography, ''I can't define it but I know it when I see it.''

A number of things were changed, such as the striking of a clause under which aliens would be accorded equal protection under the law. Kades was sorry to see that go but he didn't think he had the mandate to intervene on such questions.

The deliberations of the Diet were transcribed and sent to Kades every day. He kept those documents and has since had them bound. Unlike in the U.S. where the Congressional Record publishes the proceedings of Congress, under Japanese law only members of the Diet have access to transcripts of legislative deliberations and they are not allowed to remove or copy those transcripts. That is how Kades came to be in possession of one of the only sources scholars interested in the proceedings can go to. There are other copies but they are in disarray.

Once the draft constitution was debated, revised and ultimately ratified by the Diet it was promulgated by the Emperor on November 3, 1946, nine months to the day after it was conceived by MacArthur, Kades wrote in an account of the process published in an American academic journal six years ago. The process by which it was introduced by the emperor to take effect six months later was in accordance with the process for amending the constitution laid out by the Meiji constitution of 1889. ''We wanted as much legal continuity as possible,'' said Kades, in order to give the new document ''more force.''

LAWS NEEDED REWRITE

Still Kades' work wasn't finished. After the constitution was in place, many of the laws had to be rewritten in order to bring them into line with the new order. Kades had a hand in this process and was sent a team of legal experts from the U.S. to help him. Among them was Alfred Oppler, a judge in prewar Germany who had been purged by Hitler. He went to the United States and worked as a gardener while teaching himself English. His help was invaluable, Kades says, because of his knowledge of German law. The Meiji constitution Kades had taken as a template was based on the Prussian constitution

of its time and was grounded in statutory law rather than the common law traditions of England and the United States.

DURABLE DOCUMENT

The Kades constitution has been remarkably durable, a point Kades offers to support his contention that it reflected substantive input from those who would later live under it. ''I don't think it could have lasted 50 years'' had it been forced on the Japanese, he says. Another reason for its durability, he says, is that there are enough groups such as women, labor unions, and local government entities who could stand to lose protection if the constitution were tampered with.

''Women have more rights under the Japanese constitution than in the U.S.,'' Kades says.

Whenever the idea of revision is raised, all these groups band together to forestall it.

The strongest push to revise the constitution came out of the Gulf War in 1990.

One of the most unusual aspects of the Kades document is Article 9 which prevents Japan from having an army other than a minimal self-defense force. This is the basis on which the Japanese say they are precluded from participating in multi-national military operations like Desert Storm.

REVISIONS PUSHED

A leading Tokyo newspaper, Yomiuri Shimbun, (not the same paper that published the unauthorized copy of the draft constitution 49 years ago) is pushing to revise the Kades constitution so as to allow the Japanese to increase the strength and scope of its armed forces. A think tank associated with that newspaper has even drafted a revised constitution.

Partly as a result of this controversy, Kades has become a much sought after interview subject in recent years. Television crews from England, Australia and the U.S. in addition to several from Japan have come to his home. He estimates that he has given 60 interviews in the last several years.

He was invited to Japan where he was interviewed by a documentary film crew. He also appeared on the equivalent of one of our Sunday morning political talk shows on which two leading politicians debated the issue. He has also been sought out by journalists and scholars seeking comments on aspects of the post-war occupation about which he has no particular expertise such as educational reform and civil liberties. Study of the occupation ''is a whole industry in Japan,'' Kades says.

Out of these experiences, Kades has learned that anything he says about current debates can be distorted. Statements he has made in his home in Heath, he says, have resulted in ''indignant'' phone calls from half way around the globe. Even if his statements aren't distorted, he says, he feels he simply isn't competent to be involved in current controversies.

To make it easier for him to stick to his self-imposed rule not to talk about potential revisions of his constitution, he keeps next to his phone a typed message that he took from a speech by former Secretary of State Cyrus Vance saying that ''outsiders should keep their hands off'' Japan's internal affairs.

One of the people most interested in Kades' comments was Kikuro Takagi, a senior editor of Yomiuri Shimbun—the largest circulating newspaper in the world. Takagi lives in New York City and he is among those who trekked to Heath to seek a comment on the new draft constitution his newspaper is promoting. Kades refused to even read it in his presence.

MODEL FOR PEACE

Reached in New York, Takagi says he thinks Kades opposes the revisions and that he shares the view of one of his former assistants, Beate Sirota-Gordon. She maintains that the Japanese have undergone remarkable political and economic development for 49 years under the old document that precludes all but a minimal defense force. ''Article 9 is really a model for peace that should not be amended, rather it should be copied by other countries . . . changing Article 9 would be a very sad thing,'' says Sirota-Gordon who, at the age of 22, drafted the women's rights section of the Kades constitution.

Sirota-Gordon gives Kades a lot of credit for what she considers to be a shining moment in world history. ''It is an unusual situation when an occupation force is inclined to do something beneficent rather than vengeful,'' she said in an interview from her home in New York.

When pressed on Kades' reactions to attempts to update the constitution Takagi said, ''he gave us a very delicate reply.'' Takagi said his paper didn't publish Kades' thoughts because ''we are trying to push up our revision to our leaders . . . this is a very delicate political and psychological issue so we are holding on to Mr. Kades' reply for now.''

After the war, Kades returned to the relative obscurity of a New York City lawyer. He bought the house in Heath in 1967 as a summer residence and moved there full time when he retired in 1978. He lives there now with his wife Phyllis.

Asked what he likes to do when he isn't fielding questions about the Japanese constitution Kades smiles and says, ''drink beer.'' Then he adds, ''in the summer time I have to take care of some of the grass around here.'' He also likes to read about current events and he keeps up on the books that come out about Japan. He has been to the Far East sometimes visiting the children of people he knew when he was there during the occupation. One of them took him to the office where he and his team wrote the constitution. It now houses the Dai Ichi Insurance Co.

Reflecting on the heady days 49 years ago, Kades looks briefly into the fireplace warming his living room and says matter of factly, ''it certainly has changed my retirement.''

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, before discussing today's bad news about the Federal debt, how about another go, as the British put it, with our pop quiz. Remember—one question, one answer.

The question: How many millions of dollars in a trillion? While you are thinking about it, bear in mind that it was the U.S. Congress that ran up the enormous Federal debt that is now about $12 billion shy of $5 trillion.

To be exact, as of the close of business Friday, January 19, the total Federal debt—down to the penny—stood at $4,988,397,941,589.45. Another depressing figure means that on a per capita basis, every man, woman, and child in America owes $18,934.39.

Mr. President, back to our quiz—how many million in a trillion?: There are a million million in a trillion, which means that the Federal Government will shortly owe $5 million million.

Now who's not in favor of balancing the Federal budget?

HONORING LAUZON MAXWELL FOR HIS WORK ON BEHALF OF THE MID-CONTINENT LIBRARIES

Mr. ASHCROFT. Mr. President, today I rise to salute the tireless efforts of a Missourian who has worked and given of his time, and himself for one of our country's most precious resource, our libraries. The Mid-Continent Public Libraries serve Clay, Jackson, and Platte counties in the Kansas City, MO, area and provide a valuable service to the community.

Lauzon Maxwell was selected as building manager for the Mid-Continent Public Libraries in 1985, after the library was given authority to oversee its own building projects. In the next 8 years, Mr. Maxwell oversaw the task of building and remodeling 25 facilities, many times having between three and five projects under construction at the same time. Most projects were completed under budget. These projects translated into an additional four branch libraries, four expanded buildings, and a warehouse for the Mid-Continent Library system totaling an additional 381,769 square feet of new or remodeled facilities between 1985–95.

Through his hard work and leadership in the Mid-Continent Library's expansion project, the libraries have provided better library services to their clientele in the Kansas City area. Our libraries are an investment in our communities, and the outstanding services of Mid-Continent Libraries are a credit to their communities. I commend Lauzon Maxwell for his outstanding service and dedication in the leadership of the building projects of the libraries of Kansas City. They are noteworthy and exemplary.

TRIBUTE TO THE LATE TOM GARTH

Mr. THURMOND. Mr. President, the new year started out sadly for the members, friends, staff, and alumni of the Boys & Girls Clubs of America when the president of that organization, Mr. Tom Garth, passed away.

What is today the Boys & Girls Clubs of America can trace its history back to 1860, when the first Boys Club was opened in Hartford, CT. The streets of America's cities during that period were not friendly places, they were often dirty, crowded, and dangerous. The establishment of Boys and Girls Clubs gave young men and women not only a safe haven from the temptations and evils of urban settings, but also allowed them to pursue activities that developed their minds and bodies.

While our Nation has grown and changed in many ways in the last 136 years, much remains the same. Contemporary America is a place with an abundance of obstacles for our youngest citizens. In our cities, drugs and gangs present a deadly lure to urban children; and in our suburbs, teenagers are easily bored by the stale environment which monotonous suburbs create and juveniles are often enticed into

destructive activities. If anything, there is an equal, and perhaps even greater, need for Boys & Girls Clubs in the United States of today. As the president of the Boys and Girls Clubs of America, Tom Garth recognized that fact, and he worked hard to create an organization that would effectively reach out to today's children and offer them an attractive alternative to running afoul of the law.

Mr. Garth began his career with the Boys & Girls Clubs as the games room director of the Boys Club in East Saint Louis, a city well known for being a tough town where opportunities for its citizens, especially its children, are scarce. Working in such an environment had a tremendous effect on Mr. Garth and would help influence how he would run the Boys & Girls Clubs of America when he became president of that organization in 1988.

By all accounts, the tenure of Tom Garth was a successful period in the history of the Boys & Girls Clubs of America. Under his leadership, this organization established hundreds of new clubs in areas where positive activities for children were desperately needed, contributions to the organization increased, and most significantly, the membership of the organization has more than doubled, growing to include 2,300,000 boys and girls. This is an impressive accomplishment and a proud legacy for Mr. Garth to have achieved.

Mr. President, I have long been a supporter of the Boys & Girls Clubs of America, and it was a pleasure to come to know Mr. Garth over the many years he was with the organization. He was a man with a clear vision of what he wanted the Boys & Girls Clubs to be and what it would take to meet those goals. I am told that one of his last requests was to those who he left behind at the Boys & Girls Clubs of America, urging them to work to ensure that by the year 2000, 3 million children would be served by the clubs. That is a worthy goal and one which each of us in this Chamber would do well to support and help bring to fruition.

Tom Garth was a man with tremendous drive and determination, and without question, he could have risen to head any of America's leading corporations. Instead of being motivated by the notion of a successful and financially rewarding business career, Tom Garth was motivated by a desire to make a difference and to make sure that the young people of the United States who needed a helping hand, a safe haven, or a role model, were given them. Through his 40-year career with the Boys & Girls Clubs, he gave millions of children more than a fighting chance to grow into productive members of society, and he has truly had a positive impact on this Nation through his work. He will be missed by all those who knew him, and we join his widow, Irene, in mourning his loss.

TRIBUTE TO THE LATE ADRIENNE BROWN

Mr. THURMOND. Mr. President, earlier this month a tragedy befell James Brown, one of South Carolina's most famous sons and one of America's most beloved entertainers, when his wife Adrienne passed away.

James and ''Alfie,'' as Adrienne was affectionately called, had been married for 10 years and were fixtures of Augusta, Georgia and the ''Georgialina'' area, a region of the Savannah River Valley which includes a number of cities and towns on both sides of the South Carolina and Georgia stateline. The two met back in 1981 when James Brown appeared on the popular syndicated television show ''Solid Gold''. A native of California, Adrienne was working in the entertainment industry at that time, contributing to the production of programs such as ''Days of Our Lives'' and ''The Young and the Restless'', as well as being employed as an artist by NBC television.

After their courtship began, Adrienne became very active in Mr. Brown's entertainment ventures, and some have even credited her as being a key element in his becoming popular with a whole new generation of music lovers. Her passion for the entertainment industry and sense for business led her to become chief executive officer of Alfie Enterprises and the James Brown Dancing Stars, as well as the executive producer of the ''James Brown's Living in America'' pay-per-view television show. The Browns were married in 1985, and their decade long marriage was one that was filled with strong feelings between husband and wife, and many marveled at the bonds that held the two together.

On January 16, after a memorial service that was attended by an overflow crowd of more than 800 family, friends, and admirers, Alfie Brown was laid to rest. The Charleston Post & Courier carried an article about the service which I think captures the esteem in which this woman was held and I ask unanimous consent that it be included in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Charleston Post & Courier, Jan. 16, 1996]

SOUL SINGER BROWN BURIES HIS WIFE

AUGUSTA.—Soul singer James Brown buried his wife Tuesday after a funeral in a historic theater overflowing with mourners.

New York activist the Rev. Al Sharpton was among the more than 800 friends, relatives and fans who filled the Imperial Theatre to console Brown on the death of his wife, Adrienne.

''She was one of the few people around him who didn't want anything from him except to be James Brown,'' Sharpton said.

''Mr. Brown, you face a lonely time. Remember you have what most stars never have—someone who loves you,'' he said.

Mrs. Brown, 45, died in Los Angeles Jan. 6, two days after undergoing cosmetic surgery.

Officials at the Los Angeles County coroner's office have ruled out foul play, but they haven't determined what caused her death.

Brown, dressed in black and wearing sunglasses, blew a kiss to the 100 or so people lining the street outside who were unable to get a seat in the theater.

He did not speak during the funeral.

''She loved James very much,'' said Al Miller, a family friend. He was so distraught he could speak only a few words.

The glossy black casket was covered with a hugh spray of red roses, and scores of other flower arrangements covered the stage around it.

A large portrait of Mrs. Brown was suspended over the casket, and a white cross was projected on the curtain at the back of the stage.

After the service, Mrs. Brown was buried at Walker Memorial Gardens.

Nancy Thurmond, wife of Sen. Strom Thurmond, R-S.C., and a close friend of Mrs. Brown, said she had ''devoted herself to helping James Brown continue leading the world as the Godfather of Soul.''

''She showed great courage in combining the public arena with private life. She was often in the lonely fringe throughout it all. She had a tremendous giving heart,'' Mrs. Thurmond said.

The Rev. Reginald D. Simmons, who officiated at the service, said the Browns' 10-year marriage was strong despite some tumult.

He said he talked to her two days before she died, and she was looking forward to coming home.

''God gave her a husband. Despite things down, up or turned around, he was steadfast and unyielding,'' Simmons said. ''Their relationship was going to be for better or for worse. Her life was filled with mostly good things.''

Mrs. Brown had accused her husband at least three times of assault, but each time she either withdrew the accusations or the charges were dismissed.

Brown, 62, denied beating his wife and said in November that she was being treated for drug addiction.

The Browns met in 1981 on the set of the TV music show ''Solid Gold,'' where she was a hair stylist.

They lived in nearby Beech Island, but Brown maintained his offices and recording studio in Augusta, where he got his start.

A memorial service was held last week in Los Angeles, Mrs. Brown's hometown.

Several stars, including singer Little Richard, attended.

NOTICE OF ADOPTION OF PROCEDURAL RULES

Mr. THURMOND. Mr. President, pursuant to the Congressional Accountability Act of 1995, a Notice of Adoption of Regulations and Submission for Approval and Issuance of Interim Regulations, together with a copy of the adopted regulations, was submitted by the Office of Compliance, U.S. Congress. These regulations relate to irregular work schedules and interns. The notice announces the adoption of the final regulation as an interim regulation on the same matters. The Congressional Accountability Act specifies that the Notice and regulations be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice and adopted regulations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938 (INTERNS; IRREGULAR WORK SCHEDULES)

NOTICE OF ADOPTION OF REGULATIONS AND SUBMISSION FOR APPROVAL AND ISSUANCE OF INTERIM REGULATIONS

Summary: The Board of Directors, Office of Compliance, after considering comments to its general Notice of Proposed Rulemaking published October 11, 1995 in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations to implement sections 203(a)(2) and 203(c)(3) of the Congressional Accountability Act of 1995 (''CAA''). The Board is also adopting and issuing such regulations as interim regulations for the House, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540–1999. Telephone: (202) 724–9250.

Background and Summary

Supplementary Information: The Congressional Accountability Act of 1995 (''CAA''), Pub. L. 104–1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. sections 1301 et seq. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. In addition, the statute establishes the Office of Compliance (''Office'') with a Board of Directors (''Board'') as ''an independent office within the legislative branch of the Federal Government.'' Section 203(a) of the CAA applies the rights and protections of subsections a(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (''FLSA'') (29 U.S.C. 206(a)(1) and (d), 207, and 212(c)) to covered employees and employing offices. 2 U.S.C. section 1313. Sections 203(c) and 304 of the CAA directs the Board to issue regulations to implement the section. 2 U.S.C. sections 1313(c), 1384.

Section 203(c)(2) of the CAA directs the Board to issue substantive regulations that ''shall be the same as substantive regulations issued by the Secretary of Labor . . . except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under'' the CAA. 2 U.S.C. section 1313(c)(2). However, section 203(a)(2) excludes ''interns'' as defined by Board regulations from the definition of ''covered employee'' for the purpose of FLSA rights and protections. Additionally, section 203(c)(3) of the CAA directs the Board to issue regulations for employees ''whose work schedules directly depend on the schedule of the House of Representatives or the Senate'' that shall be ''comparable to'', rather than ''the same as'', the provisions of the FLSA that apply to employees who have irregular work schedules.

On October 11, 1995, the Board published a Notice of Proposed Rulemaking (''NPR'') in the Congressional Record (141 Cong. R. S15025 (daily ed., October 11, 1995)), inviting comments from interested parties on the proposed regulations relating to ''interns'' and ''irregular work schedules.'' Six comments were received responding to the proposed regulatory definition of ''interns,'' and thirteen on the proposed irregular work schedules regulation. Comments were received from employing offices, trade and professional associations, advocacy organizations, a labor organization, and Members of Congress. In addition, the Office has sought consultations with the Department of Labor regarding the proposed regulations, pursuant to section 304(g) of the CAA. After considering the comments received in response to the proposed rule, the Board has adopted and is submitting these regulations for approval by the Congress. Moreover, pursuant to sections 411 and 304, the Board is issuing such regulations as interim regulations. The Board is also adopting and issuing such regulations as interim regulations for the House, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively.

I. DEFINITION OF ''INTERNS''

A. Summary of Proposed Regulation

The proposed regulation defined the term ''intern'' to be any individual who: ''(a) is performing services in an employing office as part of the pursuit of *the individual's educational objectives*,'' and ''(b) is appointed on a temporary basis for a period not to exceed one academic semester (including the period between semesters); provided that an intern may be reappointed for one succeeding temporary period.''

B. Summary of Comments

Six comments were received regarding the proposed definition of ''intern'' in the Notice of Proposed Rulemaking. The commenters agreed with the approach taken in the proposed regulation. However, commenters suggested that the proposed definition of ''interns'' was vague or overbroad in one or more respects. After considering these comments, the Board has decided to modify the regulation, as discussed below.

1. Subpart (a): Requirement that an intern ''*perform[] service as part of the pursuit of the individual's educational objectives*''

Subpart 1(a) of the proposed regulation established as the first criterion for eligibility as an ''intern'' that the individual must be ''performing services in an employing office as part of the pursuit of *the individual's educational objectives*'' (emphasis added).

Two commenters expressly approved of this subpart, and recommended that the Board not change it. One commenter argued that this criterion was overbroad and would be subject to potential abuse by employing offices because the intern need not be enrolled in an educational program in a degree-awarding institution. This commenter opined that virtually all employees view their employment as a way to achieve some ''educational objective,'' since most hope to get on-the-job experience that will qualify them for better paying opportunities. In the view of this commenter, an employing office could easily characterize the individual's work as ''in pursuit of educational objectives'' to avoid its FLSA obligations. This commenter recommended that an alternative definition of ''intern'' be adopted—one that would be modeled on the elements used to determine the status of ''trainees'' under the FLSA, which specifies that the individual must be a student enrolled in a degree program at an educational institution to qualify.

In the Board's considered judgment, requiring an intern to be enrolled in a degree program at an educational institution would be unduly restrictive because such a requirement would exclude arrangements considered valid under current internship practice. The Board does not believe Congress intended to preclude internships during a teacher's sabbatical year or between undergraduate and graduate school. Therefore, the Board does not recommend that such a requirement be imposed. Instead, the Board shall modify subpart (a) of the regulation to state that an employee must be performing services in the employing office as part of a demonstrated educational plan which should be in writing and signed by both. In the Board's view, this requirement would be satisfied where the intern is enrolled in a degree program at an educational institution or where the intern's employment is part of an educational program or plan agreed upon between the employing office and the intern. In the Board's view, these requirements will satisfactorily decrease the risk of abuse of this provision by any employing office.

2. Subpart (b): Requirement that the individual be appointed ''*on a temporary basis for a period not to exceed one academic semester (including the period between semesters); provided that an intern may be reappointed for one succeeding temporary period*''

Subpart (b) of the proposed rule set out the second criterion for determining whether an individual in an employing office would be an ''intern'': that the individual be appointed ''on a temporary basis for a period not to exceed one academic semester (including the period between semesters); provided that an intern may be reappointed for one succeeding temporary period.''

All six commenters suggested that the Board modify the proposed regulation to define a specific, determinative time limit for an internship to qualify under the regulation's definition. The commenters suggested that the length of time for a qualifying internship (and any extension thereof) under this part be expressed as a defined term of days or months. Commenters suggested periods ranging from ''120 days in any 12-month period,'' to ''5 months,'' to ''9 months.''

Three commenters suggested that the term ''academic semester'' is ambiguous because many educational institutions divide their academic calendars into ''trimesters'' or ''terms'' of varying duration as well as ''semesters.'' Similarly, some commenters found the provision that an intern may be reappointed for one succeeding ''temporary period'' ambiguous because the term ''temporary period'' was not defined and could be subject to varying interpretations.

One commenter quoted the following provision of section 3 of H.Res. 359, contained in 2 U.S.C. section 92 (Note): ''interns shall be employed primarily for their educational experience in Washington, District of Columbia, for a period not to exceed one hundred and twenty days in one year . . .'' This commenter suggested that the reference to one academic semester be changed to ''120 days in any 12 month period'' to ensure consistency with this provision.

One commenter stated that the one semester time limit may be too short, since many of the schools from which employing offices recruit interns administer their internship programs on an annual, as opposed to semester, basis. This commenter suggested that, under the current definition, employing offices will be unable to attract top-level interns and the efficiency of the offices will be undermined. The commenter suggested the applicable time limit for an intern position should be one year, defined as two consecutive semesters.

Another commenter suggested the regulation should specify that summer internships are acceptable under the rule. This commenter also recommended that the regulation expressly state that the definition of

''intern'' ''is not intended to cover other similar job positions such as volunteers or fellows, nor does it cover pages,'' which is stated in the Summary section of the NPR regarding this proposed regulation (141 Cong. R. S15025 (daily ed., October 11, 1995)).

The Board agrees that subpart (b) of the proposed regulation should be modified (1) to allow for the appointment and reappointment of interns for periods of varying length and (2) to state a definite maximum term for the entire internship, including any reappointment periods. After considering the alternatives suggested by the commenters, the Board shall modify the proposed regulation to state that an intern may be appointed for periods of any length, so long as the total period of internship does not exceed 12 months. This definition expresses the Board's understanding of the term ''academic semester'' in the proposed regulation and adopts the suggestion that the internship be subject to a defined time period unconnected to the academic calendar of any particular educational institution.

The Board notes that, since the final regulation allows internships for periods of longer than 120 days in one year, under H.Res. 359, a Member who chooses to employ an intern for longer than 120 days in a year may be required by House rules to count that intern against the 18 permanent clerk-hire allotment. However, nothing in the Board's final regulation requires an employing office to employ an intern for the entire period permitted by the definition; the final regulation simply sets a maximum period within which an internship may qualify to meet the exclusion of section 203(a)(2) of the CAA. Employing offices (or the House itself) are free to impose more stringent limitations on their employment of interns. The definition of ''intern'' in the final regulation establishes only the CAA's ceiling on the period of time an intern may be employed and still meet the exclusion of section 203(a)(2) of the CAA.

The regulation shall also state that the definition of ''intern'' does not cover volunteers, fellows or pages, as suggested by a commenter. The Board believes that, as modified, this definition makes clear that summer internships may meet the definition, provided that the other criteria of the regulation are met. Therefore, the explicit statement to that effect suggested by a commenter is unnecessary.

II. IRREGULAR WORK SCHEDULES

A. Introduction

Section 203(c)(3) of the CAA directs the Board to issue regulations for employees ''whose work schedules directly depend on the schedule of the House of Representatives or the Senate that shall be comparable to the provisions of the Fair Labor Standards Act of 1938 that apply to employees who have irregular schedules.'' Section 203(a)(3) states that, ''[e]xcept as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation.''

Section 1 of the rule proposed in the NPR developed a standard for determining whether an individual's work schedule ''directly depends'' on the schedule of the House of Representatives or the Senate.'' In sections 2 and 3 of the rule proposed in the NPR, the Board proposed two irregular work schedule provisions which would be applicable to such employees. Section 2 of the proposed regulation, which allowed for the use of so-called ''Belo'' agreements, was modeled almost verbatim on the requirements of section 7(f) of the FLSA. (*See* 29 U.S.C. section 207(f)). Section 3 of the proposed regulation, which was modeled on section 7(o) of the FLSA, established conditions under which employing offices could provide compensatory time off in lieu of overtime compensation to employees whose work schedules ''directly depended'' on the schedules of the House or the Senate. (*See* 29 U.S.C section 207 (o)).

In addition to inviting general comments on the regulation proposed in the NPR, the Board invited comments on four specific issues: (1) whether the regulation should be considered the sole irregular work schedules provision applicable to covered employees or whether, in addition, section 203 of the CAA applies the irregular hours provision of section 7(f) of the FLSA with respect to covered employees whose work schedules do not directly depend on the schedules of the House or the Senate; (2) whether the contracts and agreements referenced in section 2 of the proposed regulation (so-called ''Belo'' agreements) can or should be permitted to provide for a guaranty of pay for more than 60 hours and whether the terms and use of such contracts and agreements should differ in some other matter from those permitted in the private sector; (3) whether and to what extent the regulations may and should vary in any other respect from the provisions of section 7(f) of the FLSA; and (4) whether and to what extent section 7(o) of the FLSA is an appropriate model for the Board's compensatory time off regulations and whether and to what extent the Board's regulations should vary from the provisions of section 7(o) of the FLSA.

The Board has carefully reviewed the public comments received in response to the NPR and has further studied both the text and the legislative history of sections 203(a)(3) and 203(c)(3), as well as the provisions governing overtime compensation under section 7 of the FLSA. After doing so, the Board has concluded that the regulations relating to irregular work schedules should, consistent with both the special rules of sections 203(a)(3) and 203(c)(3) and established interpretations of the FLSA, be as follows:

First, for employees whose schedules directly depend upon the schedules of the House of Representatives or the Senate, the substantive regulations shall provide that an eligible employee is entitled to overtime compensation for working in excess of 40 hours but less than 60 hours in a workweek and is further entitled to overtime compensation or compensatory time off for hours worked in excess of 60 hours in a workweek. An employee's schedule shall be deemed to ''directly depend'' upon the schedule of the House or the Senate where the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House or the Senate.

Second, for other employees whose schedules do not ''directly depend'' upon the House or Senate schedule but who nevertheless work irregular or fluctuating work schedules, the provisions of sections 203(a)(3) and 203(c)(3) of the CAA do not apply and compensatory time off should not be available. Employing offices may nevertheless adopt any of several options, generally available under the FLSA, which satisfy overtime payment requirements in the context of irregular or fluctuating work schedules. The availability of these options addresses many of the concerns expressed in the comments received in response to the NPR.

B. Summary of Comments

1. Applicability of 7(f) of the FLSA under the CAA

In the NPR the Board asked several questions regarding the applicability of section 7(f) of the FLSA under the CAA. The commenters were divided on the question of whether the proposed regulation should be considered the sole irregular work schedule provision applicable to covered employees or whether, in addition, section 203 of the CAA applies the irregular hours provision of section 7(f) of the FLSA to covered employees whose work schedules do not directly depend on the schedule of the House or Senate.

Two commenters believed that the CAA allows an irregular work schedule provision only for employees whose work schedules directly depend on the schedules of the House or the Senate. Thus, the proposed regulation should be the sole irregular work schedule provision.

Conversely, three commenters suggested that the proposed rule should not be the sole irregular work schedule provision but that the Board should implement a second rule on irregular work schedules which applies to covered employees other than those whose schedules directly depend on the schedule of the House or Senate. These commenters noted that section 203 of the CAA expressly applies the entirety of section 7 of the FLSA to covered employees. Consequently, under the view of these commenters, section 7(f), the irregular work schedule provision of the FLSA, should apply to all covered employees, not just to those whose schedules directly depend on that of the House or Senate.

In addition to the issue of the general applicability of 7(f), the NPR posed the more specific questions of (1) whether the contracts or agreements referenced in 7(f) can or should be incorporated into the CAA's regulations so as to provide for a guaranty of pay for more than 60 hours; and (2) whether the terms and use of such contracts or agreement should differ in some other manner from those permitted in the private sector.

Three commenters specifically stated that the 60-hour maximum should apply to the proposed regulation, again relying on the rationale that the CAA requires that the Board's rules be the same as those which apply to the private sector. Further, several commenters stated that, in general, the Board's regulations which implement the CAA should not deviate from those regulations applicable under the FLSA to the private sector—which implicitly includes ''Belo'' plans.

Several commenters addressed the question of whether, as a general matter, the rule on irregular work schedules should vary from section 7(f) of the FLSA. All agreed that the regulation should not vary from section 7(f) of the FLSA. Two commenters contended that the CAA applies the FLSA to the legislative branch in the identical manner that the FLSA applies to the private sector. One commenter argued that the rule on irregular work schedules should include provisions for compensatory time off because the Board's rule need only be ''comparable'' to section 7(f) of the FLSA.

2. Definition of ''directly depends'' under section 1 of the proposed regulation

Section 1 of the proposed regulation stated that a covered employee's work schedule ''directly depends'' on the schedule of the House of Representatives ''only if the employee's workweek arrangement requires that the employee be scheduled to work during the hours that the House or Senate is in session and the employee may not schedule vacation, personal or other leave or time off during those hours, absent emergencies and leaves mandated by law.'' The proposed rule further stated that an employee's schedule on days the House or the Senate is not in session does not affect the question of whether the employee's schedule directly depends on that of the House or the Senate. Seven commenters had concerns about the definition of when an employee's work schedule ''directly depends'' on the schedule of the House or the Senate.

Four commenters found the definition too narrow, citing examples of covered employees who work for committees or support offices or agencies who they thought would not fit into a strict reading of the proposed regulation. These commenters said that employees of those offices who frequently must serve the Senate or the House ''until the conclusion of specified legislative sessions or specified legislative business'' have schedules that are determined by the House or the Senate, and not by their employing offices. Further, these commenters said that employing offices frequently limit severely their employees'' ability to take leave during these times, absent an emergency. The commenters claimed that, because the proposed rule requires that the employee's position must require them to be on duty whenever the House or the Senate is in session, it excludes the employees of those offices and committees whose schedules are clearly mandated by that of the House or the Senate but who are not necessarily required to be at work during every hour the House or the Senate is in session. These commenters further asserted that these employees may, on occasion, take leave while the House or the Senate is in session, when their issue areas or responsibilities are not scheduled for debate and that this too would make them ineligible under the proposed irregular work schedule provision. These commenters expressed concern that, if such employees do not qualify for the irregular work schedule provision, many employing offices will not be able to afford the overtime their employees presently put in on a regular basis. Apart from the actual monetary cost, these commenters could not see how such offices would be able to anticipate adequately the amounts of overtime they will have to pay when planning their budgets because of the uncertainty in their schedules.

Another commenter suggested that the rule should also make clear that employees can be granted time away from work, or work on a reduced hour schedule, while the House or the Senate is not in session, and still be covered by the irregular work schedule provision. This commenter also suggested that the regulations should give employing offices authority to determine whether schedules for their employees directly depend on the schedule of the House or the Senate.

A third commenter suggested that the Board specifically state in the rule that the irregular work schedule provisions apply to employees of committees, joint committees, and (presumably) other offices in similar situations. Alternatively, this commenter suggested that, if the Board does not wish to take that approach, the rule should be changed to state that the employee's work schedule ''directly depends'' on the schedule of the House or the Senate if that employee's ''normal workweek schedule is determined based in whole or in part on the hours the House or Senate is in session and on the legislative calendar of the House or the Senate.''

Conversely, two commenters believed that the definition in the proposed regulation of when an employee's schedule ''directly depends'' on that of the House or the Senate was too broad. One of these commenters suggested that the definition in the NPR (1) is not in keeping with what the Secretary of Labor deems an irregular work schedule in the private sector and (2) is subject to abuse by employing offices because it is too easy to meet, in this commenter's view.

This commenter asserted that the Department of Labor's regulations make it clear that employees who fall within the irregular work schedule provisions must have schedules that ''fall *above and below* the normal work week.'' According to this commenter, section 774.406 of those regulations states that, if the employee's hours fluctuate only *above* the maximum workweek prescribed in the statute, the employee's schedule is not considered irregular. This commenter insisted that the Board's proposed rule failed to include a provision that would require the employee's hours, at some point, to fall below the normal workweek schedule. This commenter saw this omission as creating an opportunity for employing offices simply to mandate that these employees be at work whenever the House or the Senate is in session, as well as working a regular forty-hour week when the House or the Senate is not in session.

A second commenter read the proposed rule as potentially allowing employing offices to include employees under the irregular work schedule provision when, in fact, those employees do not work irregular hours or have workweeks of fewer than forty hours. This commenter suggested that the Board should clarify the rule to provide that an employee's schedule ''directly depends'' on the schedule of the House or the Senate when ''the employees must, as a result of that schedule, actually work workweeks which fluctuate significantly.''

Finally, one commenter read the proposed definition as either too narrow, or too broad, depending on the intended meaning of the phrase ''during the hours that the House or Senate is in session.'' This commenter observed that, if one interprets this phrase as requiring only that some of the employee's work hours coincide with the hours the House or the Senate is in session, the definition is too broad because virtually every House or Senate employee that works on Capitol Hill would qualify. This commenter also observed that, if the phrase is read strictly to mean that an employee must work all of the hours that the House or the Senate is in session, the definition is too narrow, for the same reasons given by the four commenters discussed above. This commenter suggested that a better definition of when an employee's schedule ''directly depends'' on the schedule of the House or the Senate is when ''the employee's work schedule is dictated primarily by the schedule of the [House or the] Senate.''

3. Availability of compensatory time off and the applicability of section 7(o) of the FLSA

In the regulations proposed in the NPR, the Board also invited comment on the propriety and advisability of using section 7(o) of the FLSA, which authorizes public sector employees to give compensatory time off in lieu of overtime compensation to public sector employees, as the model for determining whether employees whose schedules directly depend on the schedule of the House or the Senate should receive compensatory time off. The commenters were divided on this issue.

Six commenters opposed the provision of compensatory time off, asserting that the Board should not use section 7(o) as a model for the Board's regulations. These commenters stated that authorization of compensatory time off under section 203(c)(3) of the CAA would be inconsistent with the strict private sector prohibition against the use of compensatory time off in lieu of overtime compensation under the FLSA.

In these commenters' view, compensatory time off under section 7(o) is not available to the private sector and, consequently, should not be available to Congress, since the CAA allegedly requires Congress to ''live by the rules of the private sector.'' Moreover, these commenters cite legislative activity of the 103rd Congress, in which various compensatory time provisions were proposed and rejected. Finally, these commenters cite various floor statements given during the debate on the CAA, which, they claim, state that compensatory time off is not available under the CAA.

One commenter argued that section 203(c)(3) of the CAA gives the Board discretion to authorize the use of compensatory time only if the ''provisions of the [FLSA] that apply to employees who have irregular schedules'' authorize such overtime. This commenter pointed to the Interpretative Bulletin found at 29 C.F.R. section 778.114, which allows fixed salaries for fluctuating workweeks, and argued that the Board is not permitted to authorize compensatory time off under its irregular work schedule regulation except insofar as time off would have to be offered and utilized pursuant to this Interpretative Bulletin, i.e., not at all.

Conversely, five commenters suggested that authorizing compensatory time off in lieu of overtime pay under the proposed regulations is appropriate under the FLSA as applied by section 203 of the CAA. Further, three of these commenters specifically stated that section 7(o) of the FLSA is an appropriate model for the Board's regulations on compensatory time off. One commenter, citing a report that accompanied H.R. 4822, in the 103rd Congress, the predecessor to the CAA (S. Rep. No. 397, 103d Cong., 2d Sess. 18 (1994)), stated that the question of compensatory time off was specifically addressed by the Congress and that section 7(o) of the FLSA was approved as the appropriate model for determining accrual and use of compensatory time off. Since H.R. 4822 was substantially the same as S.2, the bill which ultimately was enacted as the CAA, this commenter concluded that this ''legislative history'' suggests that a regulation authorizing compensatory time off and modeled after section 7(o) must also be acceptable under the CAA.

One commenter offered two further comments on the proposed rule. First, this commenter suggested that compensatory time off earned prior to January 23, 1996, should be used in accordance with the policies in effect at the time that the compensatory time was accrued, including policies governing payment for unused compensatory time upon termination of employment. According to this commenter, if no prior policies existed for use of compensatory time off, then the use of that accrued compensatory time should be governed by the new regulations. Further, this commenter argued that the 240-hour cap on accrued compensatory time should only apply to compensatory time accrued as of January 23, 1996 and that anything earned prior to that date (under the old system) should not count toward the 240-hour cap.

C. Final Regulation: The Board shall authorize employing offices to provide compensatory time off, subject to limitations, for employees whose work schedules ''directly depend'' on the schedule of the House or the Senate. In addition, the provisions of the FLSA as applied to covered employers under section 203 of the CAA authorize employing offices to utilize several methods of computing pay for employees who work irregular or fluctuating hours.

In addition to the options available to private sector employers under the FLSA for addressing irregular or fluctuating work hours, the regulations adopted by the Board shall allow employing offices additional flexibility in the case of employees whose work schedules ''directly depend'' on the schedule of the House or the Senate. Specifically, for these employees, the Board's regulations shall provide for compensatory time off in lieu of overtime compensation to a limited extent.

1. Compensatory time-off

At the outset, the Board rejects the argument made by several commenters that allowing compensatory time off in lieu of overtime pay is not within the Board's discretion. Section 203(c)(3) provides that the Board may issue regulations for covered employees whose schedules ''directly depend'' on the schedule of the House or the Senate ''that shall be comparable to the provisions of the [FLSA] that apply to employees who have irregular schedules.'' In turn, section 203(a)(3) of the CAA provides that, ''[e]xcept as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation.'' The plain import of this statutory language is that the Board may provide for compensatory time off in its irregular work schedule regulations; indeed, any other construction of the statute would render the exception clause of section 203(a)(3) meaningless, which traditional canons of construction generally forbid.

While legislative history cannot in any event rewrite such statutory text, the Board also notes that, contrary to the argument of some commenters, nothing in the CAA's legislative history in fact forbids the Board from authorizing compensatory time off in lieu of overtime compensation for employees whose schedules directly depend on the schedule of the House or the Senate. The only legislative materials of the 104th Congress referenced by these commenters are a floor statement by a Senator and the section-by-section analysis submitted during the Senate's consideration of the CAA. See 141 Cong. Rec. S445 (daily ed., Jan. 5, 1995); 141 Cong. Rec. S623-S624 (daily ed., Jan. 9, 1995). However, the referenced floor statement and section-by-section analysis were made in the context of discussing the general prohibition of compensatory time off under section 203(a)(3) of the CAA (and under section 7(a) of the FLSA). They were not made in reference to the specific terms of sections 203(a)(3), which explicitly do not proscribe the authorization of compensatory time off in the context of employees whose schedules directly depend on the schedule of the House or the Senate. Indeed, not only do these sections not explicitly proscribe the authorization of compensatory time-off in this context, they in fact implicitly authorize compensatory time-off in this one specified circumstance.

Some commenters referred to legislative activity of the 103rd Congress in arguing that compensatory time-off may not be allowed. But, as noted above, legislative history is not law and cannot properly be used to rewrite statutory text. Moreover, to the extent that legislative history of a prior Congress is relevant in determining the meaning of an act passed by the current Congress (but see *Landgraf* v. *USI Film Products*, 114 S.Ct. 1483, 1496 (1994)), the ''legislative history'' cited is, in all events, consistent with the approach taken by the Board.

For example, S. 1824, which was considered by the 103rd Congress, applied the protections of the FLSA to the Senate, but exempted employees whose work schedules are dependent on the legislative schedule of the Senate. See S. 1824, section 304(b); S. Rep. 103–297 (103d Cong., 2d Sess.) at p. 31 (1994). Because employees whose schedules are ''dependent'' on the Senate's schedule were completely excluded from FLSA protections under S. 1824, there was no need to consider the compensatory time off issue for those employees. Similarly, H.R. 4822, which was sent to the Senate on August 12, 1994, expressly allowed compensatory time off for all covered employees to the same extent that section 7(o) of the FLSA authorized compensatory time off for state and local government employees. See H.R. 4822, section 103(a)(3); S. Rep. 103–397 (103d Cong., 2d Sess.) at p. 18 (1994). Finally, H.R. 4822, as reported by the House, gave the Office of Compliance authority to consider the appropriate rule for employees with irregular schedules. See H.Rep. 103–650 (Part 2) (103d Cong., 2d Sess.) at p. 15 (1994). Clearly, to the extent that it is relevant, the available legislative history from the 103rd Congress does not reflect an intent categorically to prohibit the Board from allowing compensatory time off for employees with schedules that directly depend on the schedules of the House or the Senate.

Some commenters also referred to statements of legislators written after the CAA was passed regarding Congress's alleged intent regarding compensatory time off. However, courts do not view after-the-fact statements by proponents of a particular interpretation of a statute as a reliable indication of what Congress intended when it passed a law, even assuming that extra-textual sources are to any extent reliable for this purpose. See *Gustafson* v. *Alloyd Co., Inc.*, 115 S.Ct. 1061, 1071 (1995). The Board thus does not find such statements to limit its discretion under the statute as enacted.

The Board also does not agree with the commenters who asserted that the CAA uniformly adopts all aspects of private sector law in applying rights and protections to covered employees and employing offices within the legislative branch. The Board notes, for example, that section 225(c) of the CAA prohibits any award of civil penalties or punitive damages against offending employers, even though such penalties and damages would be available in private sector actions. Similarly, the Board notes that section 203(a)(2) excludes ''interns'' from the rights and protections of the FLSA, even though in many cases such interns would be entitled to such rights and protections under the same circumstances in the private sector. The Board further notes that covered employees asserting FLSA rights and protections must first exhaust confidential counseling and mediation remedies prior to filing an action in federal court; in contrast, private sector FLSA plaintiffs may proceed directly to court. In addition, the Board notes that, whereas private sector FLSA plaintiffs enjoy a limitations period of two years (three in the case of willful violations), 29 U.S.C. section 255, covered employees must initiate claims within 180 days of an alleged violation. See sections 402 and 225(d)(1) of the CAA. In short, private sector employers and employing offices under the CAA are treated differently in several instances; and sections 203 (a)(3) and (c)(3) indicate that the use of compensatory time off in the context of employees whose schedules directly depend on the schedules of the House and the Senate is one of the allowable differences.

That the CAA does not foreclose the Board from authorizing compensatory time off, of course, does not end the inquiry. The question remains whether the Board in its discretion should allow the use of compensatory time off in connection with employees whose schedules directly depend on the schedules of the House and the Senate, and if so, to what extent it should do so. In the rule proposed in the NPR, the Board proposed to do so and to use section 7(o) as the model for doing so. However, in the NPR, the Board also specifically invited comment on both its approach and the advisability of using section 7(o) as the regulatory model for this purpose. Upon both further reflection and consideration of the comments received, the Board has determined that, while use of compensatory time off should still be allowed in this context, section 7(o) may not be the most apt analogy.

The Board continues to find that the use of compensatory time off in lieu of overtime pay should be allowed in the context of employees whose schedules ''directly depend'' upon the schedules of the House or the Senate. The import of section 203(a)(3) is that Congress contemplated that compensatory time off could be allowed in this unique context. Moreover, section 203(c)(3) suggests a special concern and desire by Congress for providing flexibility in connection with employees whose schedules ''directly depend'' on the schedules of the House and the Senate. The comments received confirm that the work schedules of these unique employees justify special rules that both protect these employees' rights and yet allow for flexibility and cost-control on the part of their employing offices. In the Board's judgment, use of compensatory time off is thus appropriate in this context.

The Board is now convinced, however, that section 7(o) of the FLSA is not the proper model for compensatory time off regulations in this context. Section 7(o) was not designed for and is not limited to employees with irregular work schedules; nor was section 7(o) designed for or limited to employees whose schedules directly depend upon the schedules of the House and the Senate. Accordingly, the Board has concluded, as a matter of discretion, that its regulations in this context should not be modeled after section 7(o).

Rather, the Board has concluded that section 7(f) of the FLSA is the more appropriate starting point for integrating compensatory time off into the CAA scheme. Section 7(f) was expressly designed for employees with irregular work schedules. It thus provides a more apt starting point for the development of regulations concerning employees whose irregular work schedules arise from the schedules of the House and the Senate. Moreover, using section 7(f) as the starting point for regulations has the advantage of building on a structure that already attempts to accommodate the needs of employers of employees with irregular work schedules and the FLSA rights of those employees.

Of course, section 7(f) was not explicitly designed for employers of employees whose schedules directly depend on the schedules of the House or the Senate. And section 203(c)(3) instructs that the Board's regulations for those employees need only be ''comparable'' and not the ''same as'' the provisions of the FLSA that address employees with irregular work schedules. Thus, the provisions of section 7(f) may properly be adjusted in order best to address the FLSA rights and obligations under the CAA of employees and employing offices in this special context.

Upon both further reflection and consideration of the comments received, the Board in its considered judgment has concluded that the irregular work schedule provisions of section 7(f) should be modified for employees whose work schedules ''directly depend'' on the schedule of the House or Senate as follows:

(1) No agreement between the employee and the employing office should be required in this context; the authorization for differential treatment of such employees derives from section 203(c)(3) and the Board's regulations implementing that section of the CAA;

(2) The employee's duties need not necessitate irregular hours of work within the meaning of section 7(f); instead, the employee need only be one of those employees whose work ''directly depends'' on the schedule of the House or the Senate (as defined in these regulations);

(3) The employee's hours may permissibly fluctuate only in the overtime range, as the statutory concern here is obviously the unpredictability in work schedules that derives

from the conduct of the nation's federal legislative business;

(4) Compensatory time off may be paid in lieu of overtime compensation for any hours worked in excess of 60 hours in a workweek. For overtime hours over 40 and up to 60 hours, the employing office must pay appropriate overtime compensation as otherwise required by the CAA. Of course, if the requirements of section 7(f) are met, pay for the first 60 hours of employment could be governed by that section. This limited use of compensatory time off rules is consistent with the language and evident purpose of sections 203 (a)(3) and (c)(3); it provides employing offices with some flexibility and control over costs in this context; and, by requiring employing offices to pay overtime for the first 20 hours of overtime in a week, it provides sufficient disincentives for employing offices to abuse the use of the provision; and,

(5) An employee who has accrued compensatory time off under section 2, upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of request. An employee may renew the request at a subsequent time. An employing office may, upon reasonable notice, require an employee to use accrued compensatory time-off. Upon termination of employment, the employee shall be paid for any unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

The above rules are sufficiently similar to the provisions of section 7(f) as to be ''comparable'' within the meaning of section 203(c)(3). See Webster's Third New International Dictionary 461 (1968) (''comparable'' defined as ''having enough like characteristics or qualities to make comparison appropriate,'' ''permitting or inviting comparison often in one or two salient points,'' ''equivalent, similar''). In the Board's judgment, these rules also best balance and accommodate the rights and obligations of covered employees and employing offices under the CAA.

Finally, as to issues relating to compensatory time off that accrued under other rules prior to January 23, 1996, the effective date of the CAA, the Board concludes that its regulations do not apply. Disputes over the use of such accrued time off, even if they arise after January 23, 1996, are not governed by these regulations and should be directed to the authorities previously responsible for such rules.

2. The standard for determining when an employee's schedule ''directly depends'' on the schedule of the House or the Senate

Just as it is clear that the Board may authorize compensatory time off in lieu of overtime compensation for employees whose schedules ''directly depend'' upon the schedules of the House or the Senate, it is equally evident that Congress did not intend that it be made available to all covered employees. Using words of limitation, the CAA states that only those employees whose work schedules ''directly depend'' on the schedule of the House or the Senate may qualify for compensatory time off in lieu of overtime pay.

Of course, as the comments demonstrate, the phrase ''directly depend'' is not entirely free of ambiguity. In a broad sense, the times in which the House or the Senate convene to conduct legislative business will impact in varying degrees on the schedule of practically all who work on Capitol Hill or for Members of Congress, much like the ripple effect of a pebble tossed into water. Thus, an expansive interpretation of ''directly depends''—i.e., if it need only be demonstrated that an employee's work hours at any point were influenced to some extent by a daily session of either legislative body—would make compensatory time off almost universally available.

There is no reason to believe that Congress intended such an expansive interpretation of the statutory phrase. The term ''directly'' connotes a narrower rather than a broader meaning and, indeed, suggests that a relatively immediate connection between the employee's work schedule and changes in the schedule of the House or the Senate was contemplated. Moreover, since sections 203(a)(3) and 203(c)(3) textually refer to each other, and since the allowance of compensatory time off in the context of regulations implementing section 203(c)(3) was to be the exception rather than the rule, a narrower definition of ''directly depend'' is necessary to honor the statutory text and structure (as well as the general legislative history on the limited availability of compensatory time off).

The question remains, of course, how the term ''directly depend'' should be defined. In the Board's judgment, the following considerations are relevant:

First, in making the ''schedule'' of the House and the Senate determinative, Congress appears to have been focusing on the floor activities that occur in each chamber. Each body's ''schedule'' generally has meaning only in reference to the times at which each House's respective leadership plans to convene a daily session in order to conduct legislative business. While the congressional leaders can decide when to convene a session and what to place on the calendar, the dynamic nature of the legislative process often makes it difficult to control when business will be concluded. For example, a session of the Senate may be unexpectedly protracted by unlimited debate on an issue. Similarly, the schedule of the House may be upset if a bill is brought to the floor under an ''open rule'' that allows unlimited amendments. Also, as recent experience has demonstrated once again, both Houses are often required to remain in session for extended hours in an effort to resolve differences between the two Houses or between the Congress and the President. This dynamic makes the schedules of the House and the Senate highly irregular and, at times, long, thereby requiring certain employees to work in excess of the maximum workweek prescribed by the FLSA.

Second, in using the adverb ''directly'' to modify ''depend,'' Congress also appears to have required a relatively close nexus between the floor activities of each body and the work schedule of an eligible covered employee. (See the floor statement of Senator Grassley at 141 Cong. Rec. S624, Jan. 9, 1995: '''Directly' is to be strictly limited to those employees who are essentially floor staff.'') From a functional standpoint, the practical reality is that the conduct of legislative business in each chamber requires the efforts of those who literally work in or adjacent to each chamber—such as the legislative clerks, those who staff the cloakrooms, those who provide security, the reporters of debates, and the parliamentarians' staff. Practically, the conduct of legislative business also requires the efforts of some who are not located in either chamber but whose work is directly linked to floor activity on a day-to-day basis—such as those who operate the microphones or the remote cameras that televise the proceedings, those in the Document Rooms, those who maintain the various legislative computer systems that control the House voting system or that track the proceedings, and those, like the staff of the legislative counsel's offices, who must be available to address substantive matters that may arise in the course of deliberations. These personnel must generally be in attendance, and their employing offices open and staffed, if the two Houses of Congress are to conduct legislative business. By the same token, during those periods when the House or the Senate is not in session, the level of required work may be considerably diminished, thus affording such employees ample opportunity to utilize accrued compensatory time-off.

The Board recognizes that, in a sense, the work of employing offices such as legislative committees and joint committees is linked to the schedules of the House and the Senate—at least when legislation reported out of such committees is placed on the calendar for debate. The Board also recognizes that, in the same sense, employees of committee offices may sometimes have irregular work hours that balloon with protracted consideration of their bills on the floor. However, it is also true that the work of such offices and employees tends not to ebb and flow in the same sense or to the same degree as that of those offices and employees more closely tied to floor activity. Moreover, during those days when the House or the Senate is not in session or has only an abbreviated *pro forma* session, these committees still conduct hearings or at the very least their staffs are likely to be engaged in a full range of activities associated with considering legislation for hearing, for markup or for oversight. These employing offices, thus, maintain a schedule of activities that is separate from and independent of the schedule of the House or the Senate. It, therefore, makes much less sense to say that their employees have schedules that ''directly depend'' upon the schedule of either body, as contemplated by section 203(c)(3).

Based on these considerations, the Board shall adopt a definition of ''directly depends'' that requires the eligible employee to perform work that directly supports the conduct of business in legislative areas in the chamber and to work hours that regularly change in response to the schedules of the House or the Senate.

3. The provisions of the FLSA as applied under section 203 of the CAA authorize employing offices to utilize several methods to compute overtime for employees who work irregular or fluctuating hours

In so framing its rules, the Board understands that its regulations under section 203(c)(3) will not themselves resolve all of the concerns raised by commenters regarding the ability of employing offices to anticipate and control payroll costs associated with employees who work fluctuating or irregular hours. But the Board frankly finds that many of these concerns are simply concerns with the obligations that the CAA has imposed on employing offices (just as the FLSA imposes them on other employers); and the Board must reiterate that it generally cannot and should not, in the absence of authority to do so, attempt to resolve for employing offices cost and other such concerns that derive from FLSA compliance obligations under the CAA. Moreover, many of the concerns that have been raised may be addressed by employing offices by resort to methods available under the FLSA to employers generally to potentially control their total payroll and to offset costs due to overtime compensation obligations incurred in a particular workweek. Such methods are also available to employing offices under the CAA, and many of the concerns raised by employing offices may be adequately addressed through the use of these mechanisms.

a. Section 7(f) of the FLSA and ''Belo Contracts''

One method of reducing overtime costs available in some situations under the FLSA is the so-called ''Belo'' contract, a form of guaranteed compensation that includes a certain amount of overtime. Codified by section 7(f) of the FLSA, Belo contracts allow an employer ''to pay the same total compensation each week to an employee who works overtime and whose hours of work vary from week to week.'' 29 CFR section 778.403. *See* 29 CFR section 778.404, *citing Walling* v. *A.H. Belo Co.*, 316 U.S. 624 (1942). Such a contract affords to the employee the security of a regular weekly income and benefits the employer by enabling it to anticipate and control in advance at least some part of its labor costs. A guaranteed wage plan also provides a means of limiting overtime computation costs so that wide leeway is provided for having employees work overtime without increasing the cost to the employer. 29 CFR section 778.404.

Belo contracts may be used by employers where the following four requirements of section 7(f) are met:

(1) the arrangement is pursuant to a specific agreement between the employee and the employer or to a collective bargaining agreement;

(2) the employee's duties necessitate irregular hours of work;

(3) the fluctuation in the employee's hours is not entirely in the overtime range; and

(4) the contract guarantees a weekly overtime payment not to exceed 60 hours per week and the employee receives that payment regardless of the number of hours actually worked.

29 U.S.C. section 207(f); 29 C.F.R. sections 778.406, 778.407.

Section 7(f) of the FLSA is applicable to covered employees and employing offices under section 203(a) of the CAA. Therefore, an employing office may utilize a ''Belo'' contract where the above-referenced requirements of section 7(f) are satisfied.

b. Time off plans

An alternative approach that is less complex than a ''Belo'' contract is a time off plan. Under such a plan, an employer lays off the employee a sufficient number of hours during some other week or weeks of *the pay period* to offset the amount of overtime worked (i.e., at the one and one-half rate) so that the desired wage or salary for the pay period covers the total amount of compensation, including the overtime compensation, due the employee for each workweek taken separately.

A simple illustration of such a plan is as follows: An employee is paid on a biweekly basis of $400 at the rate of $200 per week for a 40 hour workweek. In the first week of the pay period, the employee works 44 hours and would be due 40 hours times $5 plus 4 hours times $7.50, for a total of $230 for the week. Payment of $400 at the end of the biweekly pay period satisfies the monetary requirements of the FLSA, if the employer permits the employee to work only 34 hours during the second week of the pay period.

The control of earnings by control of the number of hours that an employee is permitted to work is the essential principle of the time off plan. For this reason, such a plan cannot be applied to an employee whose pay period is weekly, nor to a salaried employee who is paid a fixed salary to cover all hours that the employee may work in any particular workweek or pay period. Further, the overtime hours cannot be accumulated and the time off given in another pay period.

Time off plans are authorized under section 7(a) of the FLSA. *See, e.g.*, Wage and Hour Administrator Opinion Letter, issued 1950; Wage and Hour Opinion letter dated December 27, 1968. Thus, employing offices are authorized to use such plans under section 203 of the CAA.

c. Fixed salary for fluctuating hours

A third approach for dealing with fluctuating or irregular work schedules of a salaried employee is for an employer to have an understanding with the employee that the fixed salary amount is to be considered straight time pay for all hours, whatever the number, worked in a week. The FLSA permits such an arrangement where two conditions are satisfied: (1) the salary is sufficient to provide compensation to the employee at a rate not less than the applicable minimum wage rate for every hour worked in those workweeks in which the number of hours that the employee works is greatest; and (2) the employee receives extra compensation, in addition to such salary, for all overtime hours worked at a rate not less than one-half the employee's regular rate of pay. Since the salary in such a situation is intended to compensate the employee at straight time rates for whatever hours are worked in the workweek, the regular rate of the employee will vary from week to week and is determined by dividing the number of hours worked in the workweek into the amount of the salary to obtain the applicable hourly rate for the week. Payment for overtime hours at one-half such rate in addition to the salary satisfies the overtime pay requirement because such hours have already been compensated at the straight time regular rate under the salary arrangement.

As with time off plans, fixed salaries for fluctuating hours are permitted under section 7(a) of the FLSA. *See generally* 29 CFR section 778.114. Thus, employing offices are authorized to implement such schedules under the CAA, provided that they meet the requirements thereunder.

II. Adoption of Proposed Rules as Final Regulations under Section 304(b)(3) and as Interim Regulations

Having considered the public comments to the proposed rules, the Board pursuant to section 304(b) (3) and (4) of the CAA is adopting these final regulations and transmitting them to the House and the Senate with recommendations as to the method of approval by each body under section 304(c). However, the rapidly approaching effective date of the CAA's implementation necessitates that the Board take further action with respect to these regulations. For the reasons explained below, the Board is also today adopting and issuing these rules as *interim* regulations that will be effective as of January 23, 1996 or the time upon which appropriate resolutions of approval of these interim regulations are passed by the House and/or the Senate, whichever is later. These interim regulations will remain in effect until the earlier of April 15, 1996 or the dates upon which the House and Senate complete their respective consideration of the final regulations that the Board is herein adopting.

The Board finds that it is necessary and appropriate to adopt such interim regulations and that there is ''good cause'' for making them effective as of the later of January 23, 1996, or the time upon which appropriate resolutions of approval of them are passed by the House and the Senate. In the absence of the issuance of such interim regulations, covered employees, employing offices, and the Office of Compliance staff itself would be forced to operate in regulatory uncertainty. While section 411 of the CAA provides that, ''if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding,'' covered employees, employing offices and the Office of Compliance staff might not know what regulation, if any, would be found applicable in particular circumstances absent the procedures suggested here. The resulting confusion and uncertainty on the part of covered employees and employing offices would be contrary to the purposes and objectives of the CAA, as well as to the interests of those whom it protects and regulates. Moreover, since the House and the Senate will likely act on the Board's final regulations within a short period of time, covered employees and employing offices would have to devote considerable attention and resources to learning, understanding, and complying with a whole set of default regulations that would then have no future application. These interim regulations prevent such a waste of resources.

The Board's authority to issue such interim regulations derives from sections 411 and 304 of the CAA. Section 411 gives the Board authority to determine whether, in the absence of the issuance of a final regulation by the Board, it is necessary and appropriate to apply the substantive regulations of the executive branch in implementing the provisions of the CAA. Section 304(a) of the CAA in turn authorizes the Board to issue substantive regulations to implement the Act. Moreover, section 304(b) of the CAA instructs that the Board shall adopt substantive regulations ''in accordance with the principles and procedures set forth in section 553 of title 5, United States Code,'' which have in turn traditionally been construed by courts to allow an agency to issue ''interim'' rules where the failure to have rules in place in a timely manner would frustrate the effective operation of a federal statute. See, e.g., *Philadelphia Citizens in Action* v. *Schweiker*, 669 F.2d 877 (3d Cir. 1982). As noted above, in the absence of the Board's adoption and issuance of these interim rules, such a frustration of the effective operation of the CAA would occur here.

In so interpreting its authority, the Board recognizes that in section 304 of the CAA, Congress specified certain procedures that the Board must follow in issuing substantive regulations. In section 304(b), Congress said that, except as specified in section 304(e), the Board must follow certain notice and comment and other procedures. The interim regulations in fact have been subject to such notice and comment and such other procedures of section 304(b).

In issuing these interim regulations, the Board also recognizes that section 304(c) specifies certain procedures that the House and the Senate are to follow in approving the Board's regulations. The Board is of the view that the essence of section 304(c)'s requirements are satisfied by making the effectiveness of these interim regulations conditional on the passage of appropriate resolutions of approval by the House and/or the Senate. Moreover, section 304(c) appears to be designed primarily for (and applicable to) final regulations of the Board, which these interim regulations are not. In short, section 304(c)'s procedures should not be understood to prevent the issuance of interim regulations that are necessary for the effective implementation of the CAA.

Indeed, the promulgation of these interim regulations clearly conforms to the spirit of section 304(c) and, in fact promotes its proper operation. As noted above, the interim regulations shall become effective only upon the passage of appropriate resolutions of approval, which is what section 304(c) contemplates. Moreover, these interim regulations allow more considered deliberation by

the House and the Senate of the Board's final regulations under section 304(c).

The House has in fact already signalled its approval of such interim regulations both for itself and for the instrumentalities. On December 19, 1995, the House adopted H. Res. 311 and H. Con. Res. 123, which approve ''on a provisional basis'' regulations ''issued by the Office of Compliance before January 23, 1996.'' The Board believes these resolutions are sufficient to make these interim regulations effective for the House on January 23, 1996, though the House might want to pass new resolutions of approval in response to this pronouncement of the Board.

To the Board's knowledge, the Senate has not yet acted on H. Con. Res. 123, nor has it passed a counterpart to H. Res. 311 that would cover employing offices and employees of the Senate. As stated herein, it must do so if these interim regulations are to apply to the Senate and the other employing offices of the instrumentalities (and to prevent the default rules of the executive branch from applying as of January 23, 1996).

III. METHOD OF APPROVAL

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices should be approved by the Congress by concurrent resolution.

With respect to the interim version of these regulations, the Board recommends that the Senate approve them by resolution insofar as they apply to the Senate and employees of the Senate. In addition, the Board recommends that the Senate approve them by concurrent resolution insofar as they apply to other covered employees and employing offices. It is noted that the House has expressed its approval of the regulations insofar as they apply to the House and its employees through its passage of H. Res. 311 on December 19, 1995. The House also expressed its approval of the regulations insofar as they apply to other employing offices through passage of H. Con. Res. 123 on the same date; this concurrent resolution is pending before the Senate.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the Congress and issues on an interim basis the following regulations:

ADOPTED REGULATIONS—AS INTERIM REGULATIONS AND AS FINAL REGULATIONS

Regulation defining ''Interns'' (implementing section 203(a)(3) of the CAA)

Section 1. An intern is an individual who:

(a) is performing services in an employing office as part of a demonstrated educational plan, and

(b) is appointed on a temporary basis for a period not to exceed 12 months; provided that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months.

Section 2. The definition of intern does not include volunteers, fellows or pages.

[Senate version:] Section 2. An intern for the purposes of section 203(a)(2) of the Act also includes an individual who is a senior citizen intern appointed under S. Res. 219 (May 5, 1978, as amended by S. Res. 96, April 9, 1991), but does not include volunteers, fellows or pages.

Duration of interim regulations

These interim regulations for the House, the Senate and the employing offices of the instrumentalities are effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate.

ADOPTED REGULATIONS—AS INTERIM REGULATIONS AND AS FINAL REGULATIONS

Regulation concerning employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate (implementing section 203(c)(3) of the CAA)

Section 1. For the purposes of this Part, a covered employee's work schedule ''directly depends'' on the schedule of the House of Representatives [the Senate] only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

Section 2. No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act (''FLSA'') to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the House of Representatives [Senate] within the meaning of section 1, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a half in either pay or in time off for all hours in excess of 60 hours in a workweek.

Section 3. An employee who has accrued compensatory time off under section 2, upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

Section 4. An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

Duration of interim regulations

These interim regulations for the House, the Senate and the employing offices of the instrumentalities are effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate.

NOTICE OF ADOPTION OF PROCEDURAL RULES

Mr. THURMOND. Mr. President, pursuant to the Congressional Accountability Act of 1995, a Notice of Adoption of Regulations and Submission for Approval and Issuance of Interim Regulations, together with a copy of the adopted regulations, was submitted by the Office of Compliance, U.S. Congress. These final rules implement the rights and protections of the following statutes made applicable by the Congressional Accountability Act: Family and Medical Leave Act, Worker Adjustment and Retraining Notification Act, Fair Labor Standards Act, Employee Polygraph Protection Act. The final rules also implement regulations regarding the use of the lie detector tests by the Capitol Police.

The notice announces the adoption of the final regulation as an interim regulation on the same matters. Additionally, these notices include the Board's recommendation as to the method of House and Senate approval of the final regulations.

The Congressional Accountability Act specifies that the notice and regulations be printed in the CONGRESSIONAL RECORD. Therefore, I ask unanimous consent that the notice and adopted regulations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

NOTICE OF ADOPTION OF REGULATIONS AND SUBMISSION FOR APPROVAL AND ISSUANCE OF INTERIM REGULATIONS

Summary: The Board of Directors of the Office of Compliance, after considering comments to its general Notice of Proposed Rulemaking published on November 28, 1995 in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations to implement section 202 of the Congressional Accountability Act of 1995 (''CAA'') (2 U.S.C. §§1301 et seq.), which applies certain rights and protections of the Family and Medical Leave Act of 1993. The Board is also adopting and issuing such regulations as interim regulations for the House of Representatives, the Senate, and the employing offices of the intstrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

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Background and summary

Supplementary Information: The Congressional Accountability Act of 1995 (''CAA''), Pub. L. 104–1, 109 Stat. 3 (2 U.S.C. §§1301 *et seq.*), was enacted January 23, 1995. In general the CAA applies the rights and protections of eleven federal labor and employment laws to covered employees and employing offices within the legislative branch. In addition, the statute establishes the Office of Compliance (''Office'') with a Board of Directors (''Board'') as ''an independent office within the legislative branch of the Federal Government.'' 2 U.S.C. §1381(a).

Section 202 of the CAA (2 U.S.C. §1312) applies the rights and protections of certain sections of the Family and Medical Leave Act of 1993 (''FMLA'') (29 U.S.C. §§2611 et seq.). The FMLA generally requires employers to permit covered employees to take up to 12 weeks of unpaid, job-protected leave during a 12-month period for the birth of a child and to care for the newborn; placement of a child for adoption or foster care; care of a spouse, child, or parent with a serious health condition; or an employee's own serious health condition.

Sections 202(d) and 304 of the CAA (2 U.S.C. §§1312(d), 1384) direct the Board to issue regulations implementing section 202. Section 202(d)(2) further directs the Board to issue substantive regulations that ''shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202] except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.''

On September 28, 1995, the Board issued an Advance Notice of Proposed Rulemaking (''ANPR'') soliciting comments from interested parties in order to obtain information and participation early in the rulemaking process. 141 Cong. Rec. S14542 (daily ed., Sept. 28, 1995). Based on the comments received on the ANPR and consultations with interested parties, the Board published in the Congressional Record a Notice of Proposed Rulemaking (''NPR'') on November 28, 1995. 141 Cong. Rec. S17627–S17652 (daily ed., Nov. 28, 1995). In response to the NPR, the Board received 5 written comments, of which four were from offices of the Congress and congressional instrumentalities and one was from a labor organization. The comments included specific recommendations to either supplement or modify regulations proposed in the NPR, or to clarify how certain regulations would apply in fact-specific instances. In addition, the Office has sought consultations with the Department of Labor regarding the proposed regulations, pursuant to section 304(g) of the CAA.

After full consideration of the comments received, the Board has adopted and is submitting these regulations for approval by the Congress. Moreover, pursuant to sections 411 and 304 of the CAA, the Board is adopting and issuing such regulations as interim regulations for the House, the Senate, and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Boards final regulations are passed by the House and the Senate, respectively, whichever is earlier.

I. SUMMARY AND BOARD CONSIDERATION OF COMMENTS

A. Eligibility for family and medical leave

Under section 202(a)(2)(B) of the CAA, an ''eligible employee'' is defined as a covered employee who has been employed in ''any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.'' 2 U.S.C. §1312(a)(2)(B). Section 825.110 of the Board's proposed regulations provided that, if an employee worked for two or more employing offices, the time worked would be aggregated to determine whether it equals 12 months, and the hours of service would be aggregated to determine whether the minimum of 1,250 hours has been reached.

As explained in the NPR, the statutory phrase ''in any employing office'' is ambiguous when considered in isolation; it could mean in any one employing office, or it could mean that months and hours may be aggregated from every employing office where an employee worked. The Board explained in the NPR that the better reading of the CAA language is the latter one, and the Board adheres to that view.

The definition of ''eligible employee'' in the FMLA states explicitly that the required 12 months must have been served with ''the employer with respect to whom leave is requested,'' and that the requisite 1,250 hours must also have been served with ''such employer.'' However, in the CAA, Congress substituted the phrase ''any employing office'' in place of the FMLA's specific references to the employer from whom leave is requested. This substitution suggests that eligibility should be determined on the basis of months and hours worked for ''any employing office,'' including offices other than just the one from which leave is requested. This interpretation, in fact, conforms to the interpretation stated in the section-by-section analysis that the principal Senate sponsors of the CAA placed into the Congressional Record during Senate consideration of this legislation. 141 Cong. Rec. S623 (daily ed., Jan. 9, 1995) (section-by-section analysis).

One commenter stated that, in its view, each employing office is a separate, independent employer and that employees therefore should not be able to aggregate the months and hours worked for more than one employing office to establish or maintain FMLA eligibility. The commenter acknowledged that the Board's proposed regulations do not adopt that position and urged that, at a minimum, the Board should consider the Senate to be a separate employer from the other entities covered by the CAA. The commenter argued that, in its view, this alternative position is supported by the fact that section 304(a)(2) of the CAA requires the Board to issue three separate bodies of regulations, including one body of regulations that shall apply to the Senate and employees of the Senate. Therefore, according to the commenter, the Board's regulations for the Senate must define ''employing office'' to include only Senate offices and should not allow months and hours worked at employing offices outside of the Senate to be considered in determining employee eligibility for family and medical leave.

But the definition of ''eligible employee'' in the CAA uses the term ''employing office,'' not the term ''employer,'' and the issue is whether this definition in the CAA requires aggregation of months and hours worked in ''any employing office.'' Whether different employing offices are separate, independent ''employers,'' and whether the Senate is a separate ''employer,'' begs resolution of this question.

Moreover, the provision of the CAA cited by the commenter, entitled ''Rulemaking procedure,'' is part of the CAA section that establishes the procedures for adoption, approval, and issuance of the Board's substantive regulations. 2 U.S.C. §1384(a)(2). The cited provision requires the Board to divide its substantive regulations into three parts—for the Senate, for the House of Representatives, and for other employing offices—in order to enable the Office of Compliance, and to enable the Senate and the House themselves, to exercise their respective statutorily assigned roles in the proposal, adoption, and approval of regulations. See 2 U.S.C. §1384(a)(2). These procedural provisions of the CAA do not alter the meaning of substantive provisions of the CAA; nor do they specifically prevent the Board's regulations from including hours and months worked with employing offices outside of the Senate in defining ''eligible employee'' for purposes of determining family and medical leave eligibility for Senate employees.

Finally, the history of the Senate's consideration of congressional accountability legislation shows that the position advocated by the commenter was considered by the Senate and was not adopted. The version of the Congressional Accountability Act reported by the Senate Governmental Affairs Committee in 1994 (H.R. 4822, 103d Cong., 2d Sess., as reported, S. Rep. No. 397, 103d Cong., 2d Sess., 17 (Oct. 3, 1994)) provided that a Senate employee would be eligible for family and medical leave after 12 months of nontemporary employment by ''any employing office of the Senate.'' The CAA, as enacted a few months later, provides that eligibility of all covered employees, including Senate employees, depends on the months and hours worked ''in any employing office''—without the limiting phrase ''of the Senate.'' Furthermore, while the 1994 Senate Committee report explained that an eligible ''Senate employee'' would retain FMLA eligibility ''irrespective of whether he or she changes employing offices within the Senate,'' the section-by-section analysis published in the Congressional Record in 1995, when the CAA was under consideration in the Senate, explained that an eligible ''covered employee'' would retain FMLA eligibility ''irrespective of whether he or she changes employing offices.'' Compare S. Rep. No. 397, at 17, with 141 Cong. Rec. S623 (daily ed. Jan. 9, 1995) (section-by-section analysis). Unlike the explanation of the earlier Senate bill, the explanation of the CAA was not limited to Senate employees and did not limit employees'' accrual and maintenance of leave eligibility to employment ''within the Senate.'' In short, the commenter's suggestion is not consistent with the Senate's own deliberative history.

B. Joint employers and designation of primary employer

The Secretary's regulations provide that, whenever an employee is employed jointly by more than one employer, the ''primary'' employer is solely responsible for giving required notices, providing FMLA leave, and maintaining health benefits, and is ''primarily'' responsible for job restoration. 29 C.F.R. §825.106(c). Comments on the ANPR indicated that, in the context of congressional employment, there may not always be a primary employer, and joint employers should be authorized to designate one employing office to be responsible for compliance with FMLA obligations. The Board accepted this view and, in section 825.106(c) of the regulations, the Board proposed to adopt such a provision.

One commenter now asks for clarification as to whether employing offices that are joint employers may always designate which of them will be responsible for FMLA compliance, or whether this power exists only when there is no ''primary'' employer. The commenter also stated that section 825.106(e), which describes the secondary employer's responsibility for job restoration, should apply only in the case of detailees.

The Board agrees that the proposed regulations should be clarified. Section 826.106, as adopted by the Board, provides that, in any instance of joint employment, the employing offices may designate which office shall be the primary employer. Such a designation must be made in writing to the employee. If such a designation is not made, the employee may elect which of the joint employing offices will be required to perform certain responsibilities of a primary employer. This approach should afford administrative flexibility to employing offices, eliminate uncertainty and fact-specific disputes, and protect the rights of eligible employees.. The Board

finds good cause under section 202(d)(2) to make these modifications to the Secretary's regulations, because joint employment without a clear primary employer appears relatively common in congressional employment (whereas it is not in the private sector).

Section 825.106(e) of the proposed regulations assigned to the primary employer ''primary'' responsibility for job restoration, but also assigned the secondary employer responsibility for accepting an employee who returns from FMLA leave. The commenter stated that this subsection ''appears to be applicable'' only in the situation where a detailee is supplied to an employing office. The commenter further urged that certain language from the Secretary's regulations be restored to the Board's regulations to limit the circumstances under which a secondary employer must accept an employee returning from FMLA leave.

Several aspects of the Secretary's regulations set forth at 29 C.F.R. §826.106(e) are applicable only to temporary and leasing agencies. However, temporary and leasing agencies and their employees are not covered by the CAA, and there is not a precise analogy between inter-office details of covered employees and placement of employees by temporary or leasing agencies. Therefore, the Board omitted from the proposed regulations certain clauses that refer specifically to temporary and leasing agencies, and the Board did not otherwise modify the Secretary's regulations to make them applicable to detailees. However, the Board sought to retain in subsection (e) the general principles regarding job restoration.

The final regulations attempt to accommodate the commenter's concerns in some respects. Certain language from the Secretary's regulations that was retained in the Board's proposed regulations, but that makes sense only in the context of temporary or leasing agencies, has now been omitted, and the limits on job restoration responsibilities are stated more explicitly. However, the Board has retained the general requirement of job restoration in situations of joint employment, as originally promulgated in the Secretary's regulations.

Furthermore, in section 825.106(b) of its proposed regulations, the Board identified inter-office details as an example where joint employment will ordinarily be found. This example had been inserted as a replacement for a provision in the Secretary's regulations which identified temporary and leasing agencies as such an example. However, as noted above, the Board does not believe that a precise analogy exists between these two situations; accordingly, the reference to detailees is omitted from the final regulations.

C. Designation of leave year by joint employers

Based on the Secretary's regulations, the Board proposed in section 825.200(b) that an employing office be permitted to choose one of several methods for determining an eligible employee's ''leave year''—i.e., the 12-month period within which a particular employee's 12 weeks of leave may be taken. The Board also endorsed two methods that had been suggested by commenters by which joint employing offices might choose a ''leave year'' for their joint employees.

A commenter noted that, although the Board has allowed joint employing offices to choose a leave year for joint employees, section 825.200(d)(1) requires that, if an employing office selects a leave year method, the office must apply the method consistently and uniformly to all of its employees. The commenter suggested that the Board should expressly state an exception to this rule where joint employers select a leave year for their joint employees that is different from the leave year that any of the joint employing offices selects for its non-joint employees.

This issue is addressed in the Board's regulations, albeit in a somewhat different manner from that suggested by the commenter. As discussed above, the Board's regulations authorize employing offices to designate a primary employer in all instances of joint employment. The Board has also provided in section 825.200(g) of the regulations that, if the primary employer has chosen a leave year under the regulations, the primary employer must apply the leave year uniformly to the joint employee as well as to the primary employer's non-joint employees. If the joint employing offices do not designate a primary employer, then the employee may select one of the joint employing offices to be the primary employer for the purpose of the application of its leave year under applicable regulations. Under applicable rules in paragraph (e), if the selected employing office has not chosen a leave year option, the employee may use any of the allowable leave year options.

Finally, a commenter has suggested that, upon an employee's transfer to or from joint employment, if the applicable leave year changes, the procedures under section 825.200(d)(1) of the Board's regulations should be made applicable. That section provides that, when an employing office changes to a new leave year, it must provide 60 days'' notice to all employees. However, section 825.200(d)(1) of the Board's regulations would not apply where an individual employee changes to or from being jointly employed or when a primary employer is designated. Such changes are analogous to a transfer from one employing office to another, and should not trigger the requirements of section 825.200(d)(1).

D. Minimally paid leave in the Senate

In response to the ANPR, a commenter advised the Board that the Senate currently provides ''minimally paid'' FMLA leave rather than unpaid leave. In the NPR, the Board stated that granting minimally paid leave in lieu of unpaid leave would not prevent the leave from being considered FMLA-qualifying leave and, therefore, the situation of minimally paid leave did not need to be addressed in the Board's regulations.

The commenter has responded that Senate minimally paid leave needs to be specifically addressed and treated as unpaid FMLA leave in order for an employing office to be able to recover its share of health care insurance premiums from an employee when such recovery would be appropriate if the employee were on unpaid FMLA leave. Similarly, the commenter indicated that, where an employee or employing office may substitute paid leave for unpaid FMLA leave, a Senate employee or employing office should be entitled to substitute paid leave for minimally paid leave. In addition, the commenter asserted that minimally paid leave should also be treated as unpaid leave in calculating who is a ''key employee'' under section 825.217(c) of the Board's regulations.

The commenter has provided reasons why it may matter to an employing office whether minimally paid leave is treated as paid leave or as unpaid leave within the meaning of the regulations. But the good cause needed to justify a change in the regulations under section 202(d) of the CAA does not exist simply because regulations may, as the commenter suggests, impose an undesirable expense or inflexibility on employing offices. Thus, the commenter has not offered a good cause justification for changing the Secretary's regulations.

However, the Board fully realizes that there may be some legal impediment to providing unpaid leave in the Senate of which the Board is not aware. If so, a petition to amend these regulations under section 304(f) of the CAA (2 U.S.C.§1384(f)) might be appropriate.

E. Health benefits

The Secretary's regulations make a number of references to title X of the Consolidated Omnibus Budget Reconciliation Act of 1986, which requires continuation coverage under group health plans (29 U.S.C. §§1161-1168) (''COBRA''). However, COBRA does not apply to government insurance plans. Continuation coverage similar to that under COBRA was enacted for federal employees in the Federal Employees Health Benefits Amendments Act of 1988, codified at 5 U.S.C. §8905a. The Federal Employees Health Benefits Program, which includes the continuation coverage provided by the 1988 Act, is available to all federal employees, including congressional employees. In some provisions of the proposed regulations, the Board retained references to COBRA and added phrases like ''or by other applicable law,'' and in other provisions the Board referred to ''applicable requirements of law'' without reference to COBRA.

One commenter stated that references to COBRA should remain and that references to ''other applicable laws'' should not be added. The commenter explained that the Secretary's regulations accurately delineate when an employer's obligations to maintain health benefits during leave cease under the FMLA. Another commenter stated that it is the commenter's understanding that COBRA applies to congressional employees, and recommended that the Board's regulations be consistent with respect to references to COBRA. A third commenter asked for clarification of the applicability of COBRA. A commenter also requested that section 825.211 of the Secretary's regulations, which provides special rules for multi-employer health plans, be included in the Board's regulations.

The Board finds good cause under section 202(d) of the CAA to refer in its regulations to 5 U.S.C. §8905a, as well as to COBRA. See sections 825.209(f), 825.210(c)(2), 825.309(b), and 825.700(a) of the Board's regulations. If the regulations referred only to COBRA, which applies to few if any employing offices, the intent of the provisions as originally promulgated by Secretary (i.e., to delineate an employer's obligations to maintain health benefits) would be negated.

The one exception is section 825.213(e) of the Board's regulations. The Secretary's regulation limits premiums that a self-insured employer may recover from an employee who does not return from FMLA leave. The subsection allows recovery of premiums ''as would be calculated under COBRA'' (excluding the 2% administration fee). Because 5 U.S.C. §8905a does not provide for self-insurance by individual Government employing agencies or offices, and since the regulation uses the subjunctive ''would be calculated under COBRA,'' it is appropriate to reference only COBRA in this section of the regulations.

The Board is not currently aware of any provisions other than 5 U.S.C. §8905a that require COBRA-like continuation coverage for government group health plans to which COBRA does not apply. However, if any such provision does exist that might apply to any employing office, a petition to amend these regulations under section 304(f) of the CAA (2 U.S.C. §1384(f)) might be appropriate.

Finally, the Board agrees with the commenter's suggestion that 29 C.F.R. §825.211 of the Secretary's regulations be included in the Board's regulations, in order to cover potential future situations where an employing

office might contribute to a multi-employer health plan.

F. Whether special rules apply to House Page School

The proposed regulations included special rules that are applicable only to certain kinds of educational institutions. Two commenters stated that the Board's regulations should state explicitly that the special rules apply to the House Page School. However, the commenters have not provided any, much less sufficient, justification for finding good cause to modify the Secretary's regulation under section 202(d) of the CAA. In fact, the commenters do not appear to be asking for a change in the regulation, but rather for a clarification that the House Page School is within its scope. But they have not provided the Board with any factual or legal materials upon which such an interpretive judgment could be based. Moreover, they have not identified any authority in the CAA that would allow the Board to make such an interpretive judgment in the context of a rulemaking proceeding. Indeed, as explained in detail in the preamble to the Board's final regulations implementing the rights and protections of the Fair Labor Standards Act, it would be improper for the Board to do so.

G. Notice posting and recordkeeping

In the NPR, the Board did not propose regulations specifying notice posting or recordkeeping requirements for employing offices. The Board also declined to propose regulations stating that, in determining whether the requisite hours have been worked for eligibility, the burden of proof would lie with an employing office that does not keep adequate time records.

A commenter argued that: (1) enforcement of the law will be greatly enhanced by requiring notice posting and recordkeeping under the FMLA, and (2) it is a fair enforcement mechanism for the burden of proof to lie with the employer when the records maintained by the employer are inadequate.

The Board thoroughly considered these points in preparing the NPR. The Board sees no reason to alter its previous conclusions.

H. Prospective application of reductions in FMLA benefits

One commenter noted that the Senate and House currently have more generous FMLA policies than those mandated by the Board's proposed regulations. The commenter stated that, where an employing office chooses to reduce FMLA benefits as allowed by the new regulations, the Board's regulations need to clarify that any policy changes may only be applied prospectively.

The Board disagrees. The Board's regulations may apply only to FMLA rights under the CAA; they may not apply to FMLA rights under pre-existing statutory and regulatory regimes. Disputes under such pre-existing regimes, even if they are raised after January 23, 1996, are not governed by these regulations and should be directed to the authorities previously responsible for such rules.

I. Miscellaneous Drafting Issues

1. Clarification of the 12 months during which 1,250 hours of service must have occurred

In defining which covered employee is an ''eligible employee', section 825.110(a) of the proposed regulations quoted from the definition of ''eligible employee'' set forth in section 202(a)(2)(B) of the CAA (2 U.S.C. §1312(a)(2)(B)). This definition includes a requirement of ''at least 1,250 hours of employment during the previous 12 months.''

A commenter stated that this wording is ambiguous. The commenter suggested the addition of language from the corresponding regulation promulgated by the Secretary: ''1,250 hours of service during the 12-month period immediately preceding the commencement of the leave.''

The Board agrees that the use of the phrase ''immediately preceding'' may add some additional precision to the regulation. However, the CAA uses the term ''previous 12 months,'' while the FMLA uses the term ''previous 12-month period'', 29 U.S.C. 2611(2)(A)(ii). Accordingly, a new second sentence has been added to section 825.110(d) to state that the ''previous 12 months'' means ''the 12 months immediately preceding the commencement of the leave.''

2. References to ''State law,'' ''federal law,'' and ''applicable law''

In several instances, the Secretary's regulations refer to applicable State law, and in some instances the regulations refer to applicable federal or State (or sometimes local) law. The Board's proposed regulations omitted most references to State law but retained certain references where appropriate. In some instances, the proposed regulations removed references to applicable federal or State law, and replaced them with references to applicable law.

One commenter stated agreement with the Board's omission of references to State laws, because State laws do not apply to the Senate, but objected to the Boards omission of the word ''federal'' before reference to some laws, on the ground that it might lead to confusion. The commenter stated in one instance that regulations should refer only to ''applicable federal wage payment laws,'' not to ''applicable wage payment or other laws,'' because only those federal laws specifically made applicable to the Senate by resolution or statute are applicable to the Senate. A commenter also suggested that one reference to State law that the Board had retained in the proposed regulations should be omitted.

Several regulatory provisions promulgated by the Secretary referring to State laws that are clearly inapplicable to employing offices were omitted from the Board's proposed regulations. However, the proposed regulation retained a reference in section 825.200(b)(2) to leave years required by State law. This reference is omitted from the final regulations.

The proposed regulations also retained references to State law that may appropriately apply to FMLA rights and protections as made applicable by the CAA. These include, for example, State laws on certification of medical care providers, State laws on approval of foster care, and State laws determining who is a spouse. These references are retained in the final regulations.

In a few instances where the Secretary's regulations referred to applicable federal or State law, the Board retained the reference to applicable law, but omitted the mention of ''federal'' or ''State.'' The Board is not in a position to determine whether any State law might be applicable in some instances with respect to these provisions. Nor should these provisions cause confusion with respect to the possibility of State law applying. The phrase ''applicable law'' certainly does not cause State law to apply where it otherwise would not; the phrase simply means that, if a law does apply to the employing office, such a law is referenced by the regulations. Accordingly, the references to applicable laws and requirements in sections 825.213(f) and 825.301(e) of the Board's regulations are adopted as proposed.

Section 824.204(b) of the Secretary's regulations refers to applicable federal law and State law, and the provision as proposed by the Board retained the reference to ''federal'' but not ''State'' law. To be consistent with the foregoing principles, section 824.204(b) of the Board's regulations as adopted includes a reference to applicable law, without limiting the reference to ''federal'' law.

3. Definitions

A commenter suggested that a definition of COBRA be added to the Board's regulations. Such a definition is provided in the Secretary's regulations, and has been added to section 825.800 of the Board's regulations.

A definition of ''employ'' is also included in the final regulations, meaning ''to suffer or permit to work.'' This definition is contained in the Secretary's regulations, but was omitted from the Board's proposed regulations. This definition is established under the Fair Labor Standards Act, 29 U.S.C. §203(g), and is incorporated by reference into the FMLA, 29 U.S.C. §2611(3).

4. Cross references to regulations and interpretations under the Fair Labor Standards Act (''FLSA'') and the Americans with Disabilities Act (''ADA'')

The Secretary's regulations under the FMLA contain several cross references to the Secretary's regulations implementing or interpreting the Fair Labor Standards Act (''FLSA''). Where the Board has adopted applicable FLSA regulations under the CAA, those Board regulations are now referenced in the Board's FMLA regulations. See, e.g., sections 825.206, 825.217(b) of the Board's regulations.

However, a number of the Secretary's interpretive bulletins that interpret the FLSA, which the Board has not adopted, are cross referenced in the Secretary's regulations under the FMLA. In these instances, the subject of the referenced interpretation is summarized in the Board's FMLA regulations in place of the cross reference. This same approach is used where the Secretary's regulations under the FMLA contain cross references to regulations by the Equal Employment Opportunity Commission interpreting the Americans with Disabilities Act (''ADA''), as the Board has not adopted these regulations. See sections 825.110(c), 825.113(c)(2), 825.115, 825.205, 825.800 of the Board's regulations.

5. Corrections and clarifications

Commenters suggested a number of technical corrections and clarifications in the proposed regulations. For example, a commenter pointed out that section 825.200(b)(4) of the Secretary's regulations was inadvertently omitted from the Board's proposed regulations. This subparagraph describes the fourth optional method that an employing office may choose for determining leave years, sometimes called the rolling looking-backwards method. This subparagraph is restored in the final regulation.

A commenter suggested that section 825.213(a) of the proposed regulations be amended to clarify that references to an employing office's share of health plan premiums, which may be recovered under certain circumstances, encompasses monies paid out of a Senate fund, as opposed to from appropriations of the employing office. The proposed regulations, like the Secretary's regulations, authorized the employing office to ''recover its share'' of the premiums. In light of the centralized manner in which the payment of health care insurance premiums is handled in the government, it is appropriate to expressly accommodate the situation where premiums may be paid and recovered on behalf of an employing office rather than by the employing office itself.

A number of other typographical, grammatical, and similar corrections were suggested. The Board has made corrections as appropriate. However, by making these changes, the Board does not intend a substantive difference between these sections and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute

an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

K. Board Determination on Regulations ''Required'' To Be Issued In Connection With Section 411

Section 411 of the CAA provides in pertinent part that ''if the Board has not issued a regulation on a matter for which [the CAA] requires a regulation to be issued the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue.'' 2 U.S.C. §1411. By its own terms, this provision comes into play only where it is determined that the Board has not issued a regulation that is *required* by the CAA. Thus, before a Department of Labor regulation can be invoked, an adjudicator must make a threshold determination that the regulation concerns a matter as to which the Board was obligated under the CAA to issue a regulation.

Part 825 of 29 C.F.R. contains all the regulations the Secretary of Labor issued to implement the FMLA. As noted in the NPR, several of those regulations are not legally ''required'' to be issued as CAA regulations because the underlying FMLA provisions were not made applicable under the CAA. Additionally, the Board has determined that it has good cause under section 202(d) of the CAA not to issue other of the Secretary's regulations because, for example, they have no applicability to legislative branch employment. Other than the comments discussed above, the commenters did not dispute the inapplicability of those portions of 29 C.F.R. part 825.

The Board has carefully reviewed the entire corpus of the Secretary's regulations, has sought comment on its proposal concerning the regulations that it should (and should not) adopt, and has considered those comments in formulating its final rules. Based on this review and consideration, and in order to prevent wasteful litigation, the Board has included a declaration in these regulations that the Board has issued all the regulations that it is ''required'' to promulgate to implement the statutory provisions of the FMLA that are made applicable to the legislative branch by the CAA.

III. ADOPTION OF PROPOSED RULES AS FINAL REGULATIONS UNDER SECTION 304(B)(3) AND AS INTERIM REGULATIONS

Having considered the public comments to the proposed rules, the Board pursuant to section 304(b)(3) and (4) of the CAA is adopting these final regulations and transmitting them to the House of Representatives and the Senate with recommendations as to the method of approval by each body under section 304(c). However, the rapidly approaching effective date of the CAA's implementation necessitates that the Board take further action with respect to these regulations. For the reasons explained below, the Board is also today adopting and issuing these rules as *interim* regulations that will be effective as of January 23, 1996 or the time upon which appropriate resolutions of approval of these interim regulations are passed by the House and/or the Senate, whichever is later. These interim regulations will remain in effect until the earlier of April 15, 1996 or the dates upon which the House and Senate complete their respective consideration of the final regulations that the Board is herein adopting.

The Board finds that it is necessary and appropriate to adopt such interim regulations and that there is ''good cause'' for making them effective as of the later of January 23, 1996, or the time upon which appropriate resolutions of approval of them are passed by the House and the Senate. In the absence of the issuance of such interim regulations, covered employees, employing offices, and the Office of Compliance staff itself would be forced to operate in regulatory uncertainty. While section 411 of the CAA provides that, ''if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding,'' covered employees, employing offices and the Office of Compliance staff might not know what regulation, if any, would be found applicable in particular circumstances absent the procedures suggested here. The resulting confusion and uncertainty on the part of covered employees and employing offices would be contrary to the purposes and objectives of the CAA, as well as to the interests of those whom it protects and regulates. Moreover, since the House and the Senate will likely act on the Board's final regulations within a short period of time, covered employees and employing offices would have to devote considerable attention and resources to learning, understanding, and complying with a whole set of default regulations that would then have no future application. These interim regulations prevent such a waste of resources.

The Board's authority to issue such interim regulations derives from sections 411 and 304 of the CAA. Section 411 gives the Board authority to determine whether, in the absence of the issuance of a final regulation by the Board, it is necessary and appropriate to apply the substantive regulations of the executive branch in implementing the provisions of the CAA. Section 304(a) of the CAA in turn authorizes the Board to issue substantive regulations to implement the Act. Moreover, section 304(b) of the CAA instructs that the Board shall adopt substantive regulations ''in accordance with the principles and procedures set forth in section 553 of title 5, United States Code,'' which have in turn traditionally been construed by courts to allow an agency to issue ''interim'' rules where the failure to have rules in place in a timely manner would frustrate the effective operation of a federal statute. *See, e.g., Philadelphia Citizens in Action v. Schweiker*, 669 F.2d 877 (3d Cir. 1982). As noted above, in the absence of the Board's adoption and issuance of these interim rules, such a frustration of the effective operation of the CAA would occur here.

In so interpreting its authority, the Board recognizes that in section 304 of the CAA, Congress specified certain procedures that the Board must follow in issuing substantive regulations. In section 304(b), Congress said that, except as specified in section 304(e), the Board must follow certain notice and comment and other procedures. The interim regulations in fact have been subject to such notice and comment and such other procedures of section 304(b).

In issuing these interim regulations, the Board also recognizes that section 304(c) specifies certain procedures that the House and the Senate are to follow in approving the Board's regulations. The Board is of the view that the essence of section 304(c)'s requirements are satisfied by making the effectiveness of these interim regulations conditional on the passage of appropriate resolutions of approval by the House and/or the Senate. Moreover, section 304(c) appears to be designed primarily for (and applicable to) final regulations of the Board, which these interim regulations are not. In short, section 304(c)'s procedures should not be understood to prevent the issuance of interim regulations that are necessary for the effective implementation of the CAA.

Indeed, the promulgation of these interim regulations clearly conforms to the spirit of section 304(c) and, in fact promotes its proper operation. As noted above, the interim regulations shall become effective only upon the passage of appropriate resolutions of approval, which is what section 304(c) contemplates. Moreover, these interim regulations allow more considered deliberation by the House and the Senate of the Board's final regulations under section 304(c).

The House has in fact already signaled its approval of such interim regulations both for itself and for the instrumentalities. On December 19, 1995, the House adopted H. Res. 311 and H. Con. Res. 123, which approve ''on a provisional basis'' regulations ''issued by the Office of Compliance before January 23, 1996.'' The Board believes these resolutions are sufficient to make these interim regulations effective for the House on January 23, 1996, though the House might want to pass new resolutions of approval in response to this pronouncement of the Board.

To the Board's knowledge, the Senate has not yet acted on H. Con. Res. 123, nor has it passed a counterpart to H. Res. 311 that would cover employing offices and employees of the Senate. As stated herein, it must do so if these interim regulations are to apply to the Senate and the other employing offices of the instrumentalities (and to prevent the default rules of the executive branch from applying as of January 23, 1996).

IV. METHOD OF APPROVAL

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the regulations that shall apply to other covered employees and employing offices should be approved by the Congress by concurrent resolution.

With respect to the interim version of these regulations, the Board recommends that the Senate approve them by resolution insofar as they apply to the Senate and employees of the Senate. In addition, the Board recommends that the Senate approve them by concurrent resolution insofar as they apply to other covered employees and employing offices. It is noted that the House has expressed its approval of the regulations insofar as they apply to the House and its employees through its passage of H. Res. 311 on December 19, 1995. The House also expressed its approval of the regulations insofar as they apply to other employing offices through passage of H. Con. Res. 123 on the same date; this concurrent resolution is pending before the Senate.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the House of Representatives and the Senate and issues on an interim basis the following regulations:

PART 825—FAMILY AND MEDICAL LEAVE

825.1 Purpose and scope
825.2 Duration of interim regulations
Subpart A—What is the Family and Medical Leave Act, and to Whom Does it Apply under the Congressional Accountability Act?
825.100 What is the Family and Medical Leave Act?
825.101 What is the purpose of the FMLA?

825.102 When are the FMLA and the CAA effective for covered employees and employing offices?
825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?
825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?
825.105 [Reserved]
825.106 How is ''joint employment'' treated under the FMLA as made applicable by the CAA?
825.107—825.109 [Reserved]
825.110 Which employees are ''eligible'' to take FMLA leave under these regulations?
825.111 [Reserved]
825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?
825.113 What do ''spouse,'' ''parent,'' and ''son or daughter'' mean for purposes of an employee qualifying to take FMLA leave?
825.114 What is a ''serious health condition'' entitling an employee to FMLA leave?
825.115 What does it mean that ''the employee is unable to perform the functions of the position of the employee''?
825.116 What does it mean that an employee is ''needed to care for'' a family member?
825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by ''the medical necessity for'' such leave?
825.118 What is a ''health care provider''?

Subpart B—What Leave Is an Employee Entitled To Take Under The Family and Medical Leave Act, as Made Applicable by the Congressional Accountability Act?

825.200 How much leave may an employee take?
825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?
825.202 How much leave may a husband and wife take if they are employed by the same employing office?
825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?
825.204 May an employing office transfer an employee to an ''alternative position'' in order to accommodate intermittent leave or a reduced leave schedule?
825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?
825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?
825.207 Is FMLA leave paid or unpaid?
825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?
825.209 Is an employee entitled to benefits while using FMLA leave?
825.210 How may employees on FMLA leave pay their share of group health benefit premiums?
825.211 What special health benefits maintenance rules apply to multi-employer health plans?
825.212 What are the consequences of an employee's failure to make timely health plan premium payments?
825.213 May an employing office recover costs it incurred for maintaining ''group health plan'' or other non-health benefits coverage during FMLA leave?
825.214 What are an employee's rights on returning to work from FMLA leave?
825.215 What is an equivalent position?
825.216 Are there any limitations on an employing office's obligation to reinstate an employee?
825.217 What is a ''key employee''?
825.218 What does ''substantial and grievous economic injury'' mean?
825.219 What are the rights of a key employee?
825.220 How are employees protected who request leave or otherwise assert FMLA rights?

Subpart C—How Do Employees Learn of Their Rights and Obligations under the FMLA, as Made Applicable by the CAA, and What Can an Employing Office Require of an Employee?

825.300 [Reserved]
825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?
825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?
825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?
825.304 What recourse do employing offices have if employees fail to provide the required notice?
825.305 When must an employee provide medical certification to support FMLA leave?
825.306 How much information may be required in medical certifications of a serious health condition?
825.307 What may an employing office do if it questions the adequacy of a medical certification?
825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?
825.309 What notice may an employing office require regarding an employee's intent to return to work?
825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a ''fitness-for-duty'' report)?
825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?
825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

Subpart D—What Enforcement Mechanisms Does the CAA Provide?

825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?
825.401—825.404 [Reserved]

Subpart E—[Reserved]

Subpart F—What Special Rules Apply to Employees of Schools?

825.600 To whom do the special rules apply?
825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?
825.602 What limitations apply to the taking of leave near the end of an academic term?
825.603 Is all leave taken during ''periods of a particular duration'' counted against the FMLA leave entitlement?
825.604 What special rules apply to restoration to ''an equivalent position?''

Subpart G—How Do Other Laws, Employing Office Practices, and Collective Bargaining Agreements Affect Employee Rights Under the FMLA as Made Applicable by the CAA?

825.700 What if an employing office provides more generous benefits than required by FMLA as Made Applicable by the CAA?
825.701 [Reserved]
825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

Subpart H—Definitions

825.800 Definitions
Appendix A to Part 825—[Reserved]
Appendix B to Part 825—Certification of Physician or Practitioner
Appendix C to Part 825—[Reserved]
Appendix D to Part 825—Prototype Notice: Employing Office Response to Employee Request for Family and Medical Leave
Appendix E to Part 825—[Reserved]

§ 825.1 Purpose and scope

(a) Section 202 of the Congressional Accountability Act (CAA) (2 U.S.C. 1312) applies the rights and protections of sections 101 through 105 of the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2611-2615) to covered employees. (The term ''covered employee'' is defined in section 101(3) of the CAA (2 U.S.C. 1301(3)). See § 825.800 of these regulations for that definition.) The purpose of this part is to set forth the regulations to carry out the provisions of section 202 of the CAA.

(b) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 202(d) and 304 of the CAA, which direct the Board to promulgate regulations implementing section 202 that are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' The regulations issued by the Board herein are on all matters for which section 202 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other ''substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA].

(c) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§ 825.2 Duration of interim regulations

These interim regulations for the House, the Senate and the employing offices of the instrumentalities are effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is

later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate.

Subpart A—What is the Family and Medical Leave Act, and to Whom Does it Apply under the Congressional Accountability Act?

§ 825.100 What is the Family and Medical Leave Act?

(a) The Family and Medical Leave Act of 1993 (FMLA), as made applicable by the Congressional Accountability Act (CAA), allows ''eligible'' employees of an employing office to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee's own serious health condition makes the employee unable to perform the functions of his or her job (*see* § 825.306(b)(4)). In certain cases, this leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

(b) An employee on FMLA leave is also entitled to have health benefits maintained while on leave as if the employee had continued to work instead of taking the leave. If an employee was paying all or part of the premium payments prior to leave, the employee would continue to pay his or her share during the leave period. The employing office or a disbursing or other financial office of the House of Representatives or the Senate may recover its share only if the employee does not return to work for a reason other than the serious health condition of the employee or the employee's immediate family member, or another reason beyond the employee's control.

(c) An employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of the leave.

(d) The employing office has a right to 30 days advance notice from the employee where practicable. In addition, the employing office may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these requirements may result in a delay in the start of FMLA leave. Pursuant to a uniformly applied policy, the employing office may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition (*see* § 825.311(c)). The employing office may delay restoring the employee to employment without such certificate relating to the health condition which caused the employee's absence.

§ 825.101 What is the purpose of the FMLA?

(a) FMLA is intended to allow employees to balance their work and family life by taking reasonable unpaid leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. The FMLA is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity. It was intended that the FMLA accomplish these purposes in a manner that accommodates the legitimate interests of employers, and in a manner consistent with the Equal Protection Clause of the Fourteenth Amendment in minimizing the potential for employment discrimination on the basis of sex, while promoting equal employment opportunity for men and women.

(b) The enactment of FMLA was predicated on two fundamental concerns ''the needs of the American workforce, and the development of high-performance organizations. Increasingly, America's children and elderly are dependent upon family members who must spend long hours at work. When a family emergency arises, requiring workers to attend to seriously-ill children or parents, or to newly-born or adopted infants, or even to their own serious illness, workers need reassurance that they will not be asked to choose between continuing their employment, and meeting their personal and family obligations or tending to vital needs at home.

(c) The FMLA is both intended and expected to benefit employers as well as their employees. A direct correlation exists between stability in the family and productivity in the workplace. FMLA will encourage the development of high-performance organizations. When workers can count on durable links to their workplace they are able to make their own full commitments to their jobs. The record of hearings on family and medical leave indicate the powerful productive advantages of stable workplace relationships, and the comparatively small costs of guaranteeing that those relationships will not be dissolved while workers attend to pressing family health obligations or their own serious illness.

§ 825.102 When are the FMLA and the CAA effective for covered employees and employing offices?

(a) The rights and protection of sections 101 through 105 of the FMLA have applied to certain Senate employees and certain employing offices of the Senate since August 5, 1993 (*see* section 501 of FMLA).

(b) The rights and protection of sections 101 through 105 of the FMLA have applied to any employee in an employment position and any employment authority of the House of Representatives since August 5, 1993 (*see* section 502 of FMLA).

(c) The rights and protections of sections 101 through 105 of the FMLA have applied to certain employing offices and covered employees other than those referred to in paragraphs (a) and (b) of this section for certain periods since August 5, 1993 (*see, e.g.*, Title V of the FMLA, sections 501 and 502).

(d) The provisions of section 202 of the CAA that apply rights and protections of the FMLA to covered employees are effective on January 23, 1996.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee eligibility.

§ 825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?

(a) An eligible employee's right to take FMLA leave began on the date that the rights and protections of the FMLA first went into effect for the employing office and employee (*see* § 825.102(a)). Any leave taken prior to the date on which the rights and protections of the FMLA first became effective for the employing office from which the leave was taken may not be counted for purposes of the FMLA as made applicable by the CAA. If leave qualifying as FMLA leave was underway prior to the effective date of the FMLA for the employing office from which the leave was taken and continued after the FMLA's effective date for that office, only that portion of leave taken on or after the FMLA's effective date may be counted against the employee's leave entitlement under the FMLA, as made applicable by the CAA.

(b) If an employing office-approved leave is underway when the application of the FMLA by the CAA takes effect, no further notice would be required of the employee unless the employee requests an extension of the leave. For leave which commenced on the effective date or shortly thereafter, such notice must have been given which was practicable, considering the foreseeability of the need for leave and the effective date.

(c) Starting on January 23, 1996, an employee is entitled to FMLA leave under these regulations if the reason for the leave is qualifying under the FMLA, as made applicable by the CAA, even if the event occasioning the need for leave (*e.g.*, the birth of a child) occurred before such date (so long as any other requirements are satisfied).

§ 825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?

(a) The FMLA, as made applicable by the CAA, covers all employing offices. As used in the CAA, the term ''employing office'' means—

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(b) [Reserved]

(c) Separate entities will be deemed to be parts of a single employer for purposes of the FMLA, as made applicable by the CAA, if they meet the ''integrated employer'' test. A determination of whether or not separate entities are an integrated employer is not determined by the application of any single criterion, but rather the entire relationship is to be reviewed in its totality. Factors considered in determining whether two or more entities are an integrated employer include:

(i) Common management;

(ii) Interrelation between operations;

(iii) Centralized control of labor relations; and

(iv) Degree of common financial control.

§ 825.105 [Reserved]

§ 825.106 How is ''joint employment'' treated under the FMLA as made applicable by the CAA?

(a) Where two or more employing offices exercise some control over the work or working conditions of the employee, the employing offices may be joint employers under FMLA, as made applicable by the CAA. Where the employee performs work which simultaneously benefits two or more employing offices, or works for two or more employing offices at different times during the workweek, a joint employment relationship generally will be considered to exist in situations such as:

(1) Where there is an arrangement between employing offices to share an employee's services or to interchange employees;

(2) Where one employing office acts directly or indirectly in the interest of the

other employing office in relation to the employee; or

(3) Where the employing offices are not completely disassociated with respect to the employee's employment and may be deemed to share control of the employee, directly or indirectly, because one employing office controls, is controlled by, or is under common control with the other employing office.

(b) A determination of whether or not a joint employment relationship exists is not determined by the application of any single criterion, but rather the entire relationship is to be viewed in its totality. For example, joint employment will ordinarily be found to exist when: (1) an employee, who is employed by an employing office other than the personal office of a Member of the House of Representatives or of a Senator, is under the actual direction and control of the Member of the House of Representatives or Senator; or

(2) two or more employing offices employ an individual to work on common issues or other matters for both or all of them.

(c) When employing offices employ a covered employee jointly, they may designate one of themselves to be the primary employing office, and the other or others to be the secondary employing office(s). Such a designation shall be made by written notice to the covered employee.

(d) If an employing office is designated a primary employing office pursuant to paragraph (c) of this section, only that employing office is responsible for giving required notices to the covered employee, providing FMLA leave, and maintenance of health benefits. Job restoration is the primary responsibility of the primary employing office, and the secondary employing office(s) may, subject to the limitations in § 825.216, be responsible for accepting the employee returning from FMLA leave.

(e) If employing offices employ an employee jointly, but fail to designate a primary employing office pursuant to paragraph (c) of this section, then all of these employing offices shall be jointly and severally liable for giving required notices to the employee, for providing FMLA leave, for assuring that health benefits are maintained, and for job restoration. The employee may give notice of need for FMLA leave, as described in §§ 825.302 and 825.303, to whichever of these employing offices the employee chooses. If the employee makes a written request for restoration to one of these employing offices, that employing office shall be primarily responsible for job restoration, and the other employing office(s) may, subject to the limitations in § 825.216, be responsible for accepting the employee returning from FMLA leave.

§ 825.107 [Reserved]

§ 825.108 [Reserved]

§ 825.109 [Reserved]

§ 825.110 Which employees are ''eligible'' to take FMLA leave under these regulations?

(a) An ''eligible employee'' under these regulations means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) The 12 months an employee must have been employed by any employing office need not be consecutive months. If an employee worked for two or more employing offices sequentially, the time worked will be aggregated to determine whether it equals 12 months. If an employee is maintained on the payroll for any part of a week, including any periods of paid or unpaid leave (sick, vacation) during which other benefits or compensation are provided by the employer (e.g., workers' compensation, group health plan benefits, etc.), the week counts as a week of employment. For purposes of determining whether intermittent/occasional/casual employment qualifies as ''at least 12 months,'' 52 weeks is deemed to be equal to 12 months.

(c) If an employee was employed by two or more employing offices, either sequentially or concurrently, the hours of service will be aggregated to determine whether the minimum of 1,250 hours has been reached. Whether an employee has worked the minimum 1,250 hours of service is determined according to the principles established under the Fair Labor Standards Act (FLSA) , as applied by section 203 of the CAA (2 U.S.C. 1313), for determining compensable hours of work. The determining factor is the number of hours an employee has worked for one or more employing offices. The determination is not limited by methods of record-keeping, or by compensation agreements that do not accurately reflect all of the hours an employee has worked for or been in service to the employing office. Any accurate accounting of actual hours worked may be used. For this purpose, full-time teachers (see § 825.800 for definition) of an elementary or secondary school system, or institution of higher education, or other educational establishment or institution are deemed to meet the 1,250 hour test. An employing office must be able to clearly demonstrate that such an employee did not work 1,250 hours during the previous 12 months in order to claim that the employee is not ''eligible'' for FMLA leave.

(d) The determinations of whether an employee has worked for any employing office for at least 1,250 hours in the previous 12 months and has been employed by any employing office for a total of at least 12 months must be made as of the date leave commences. The ''previous 12 months'' means the 12 months immediately preceding the commencement of the leave. If an employee notifies the employing office of need for FMLA leave before the employee meets these eligibility criteria, the employing office must either confirm the employee's eligibility based upon a projection that the employee will be eligible on the date leave would commence or must advise the employee when the eligibility requirement is met. If the employing office confirms eligibility at the time the notice for leave is received, the employing office may not subsequently challenge the employee's eligibility. In the latter case, if the employing office does not advise the employee whether the employee is eligible as soon as practicable (i.e., two business days absent extenuating circumstances) after the date employee eligibility is determined, the employee will have satisfied the notice requirements and the notice of leave is considered current and outstanding until the employing office does advise. If the employing office fails to advise the employee whether the employee is eligible prior to the date the requested leave is to commence, the employee will be deemed eligible. The employing office may not, then, deny the leave. Where the employee does not give notice of the need for leave more than two business days prior to commencing leave, the employee will be deemed to be eligible if the employing office fails to advise the employee that the employee is not eligible within two business days of receiving the employee's notice.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee's eligibility.

(f) [Reserved]

§ 825.111 [Reserved]

§ 825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?

(a) Employing offices are required to grant leave to eligible employees:

(1) For birth of a son or daughter, and to care for the newborn child;

(2) For placement with the employee of a son or daughter for adoption or foster care;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and

(4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.

(b) The right to take leave under FMLA as made applicable by the CAA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption or foster care of a child.

(c) Circumstances may require that FMLA leave begin before the actual date of birth of a child. An expectant mother may take FMLA leave pursuant to paragraph (a)(4) of this section before the birth of the child for prenatal care or if her condition makes her unable to work.

(d) Employing offices are required to grant FMLA leave pursuant to paragraph (a)(2) of this section before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his or her attorney or the doctor(s) representing the birth parent, or submit to a physical examination. The source of an adopted child (*e.g.*, whether from a licensed placement agency or otherwise) is not a factor in determining eligibility for leave for this purpose.

(e) Foster care is 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family that the foster family will take care of the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

(f) In situations where the employer/employee relationship has been interrupted, such as an employee who has been on layoff, the employee must be recalled or otherwise be re-employed before being eligible for FMLA leave. Under such circumstances, an eligible employee is immediately entitled to further FMLA leave for a qualifying reason.

(g) FMLA leave is available for treatment for substance abuse provided the conditions of § 825.114 are met. However, treatment for substance abuse does not prevent an employing office from taking employment action against an employee. The employing office may not take action against the employee because the employee has exercised his or her right to take FMLA leave for treatment. However, if the employing office has an established policy, applied in a non-discriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking FMLA leave. An employee may also take FMLA leave to care for an immediate family member who is receiving treatment for substance abuse. The employing office may not take action against an employee who is providing care for an immediate family member receiving treatment for substance abuse.

§ 825.113 What do ''spouse,'' ''parent,'' and ''son or daughter'' mean for purposes of an employee qualifying to take FMLA leave?

(a) Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

(b) Parent means a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a son or daughter as defined in (c) below. This term does not include parents ''in law''.

(c) Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and ''incapable of self-care because of a mental or physical disability.''

(1) ''Incapable of self-care'' means that the individual requires active assistance or supervision to provide daily self-care in three or more of the ''activities of daily living'' (ADLs) or ''instrumental activities of daily living'' (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

(2) ''Physical or mental disability'' means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

(3) Persons who are ''*in loco parentis*'' include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

(d) For purposes of confirmation of family relationship, the employing office may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a simple statement from the employee, or a child's birth certificate, a court document, *etc*. The employing office is entitled to examine documentation such as a birth certificate, *etc*., but the employee is entitled to the return of the official document submitted for this purpose.

§ 825.114 What is a ''serious health condition'' entitling an employee to FMLA leave?

(a) For purposes of FMLA, ''serious health condition'' entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

(1) *Inpatient care* (*i.e*., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(2) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(i) A period of *incapacity* (*i.e*., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g*., physical therapist) under orders of, or on referral by, a health care provider; or

(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(C) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(b) Treatment for purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (a)(2)(i)(B), a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(c) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not ''serious health conditions'' unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(d) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(e) Absences attributable to incapacity under paragraphs (a)(2)(ii) or (iii) qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

§ 825.115 What does it mean that ''the employee is unable to perform the functions of the position of the employee''?

An employee is ''unable to perform the functions of the position'' where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position within the meaning of the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)). An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. An employing office has the option, in requiring certification from a health care provider, to provide a statement of the essential functions of the employee's position for the health care provider to review. For purposes of FMLA, the essential functions of the employee's position are to be determined with reference to the position the employee held at the time notice is given or leave commenced, whichever is earlier.

§ 825.116 What does it mean that an employee is ''needed to care for'' a family member?

(a) The medical certification provision that an employee is ''needed to care for'' a family member encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor, etc. The term also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care.

(b) The term also includes situations where the employee may be needed to fill in for others who are caring for the family member, or to make arrangements for changes in care, such as transfer to a nursing home.

(c) An employee's intermittent leave or a reduced leave schedule necessary to care for a family member includes not only a situation where the family member's condition itself is intermittent, but also where the employee is only needed intermittently ''such as where other care is normally available, or care responsibilities are shared with another member of the family or a third party.

§ 825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by ''the medical necessity for'' such leave?

For intermittent leave or leave on a reduced leave schedule, there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. The treatment regimen and other information described in the certification of a serious health condition (see § 825.306) meets the requirement for certification of the medical necessity of intermittent leave or leave on a reduced leave schedule. Employees needing intermittent FMLA leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the employing office's operations. In addition, an employing office may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

§ 825.118 What is a ''health care provider''?

(a)(1) The term ''health care provider'' means:

(i) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) Any other person determined by the Office of Compliance to be capable of providing health care services.

(2) In making a determination referred to in subparagraph (1)(ii), and absent good cause shown to do otherwise, the Office of Compliance will follow any determination made by the Secretary of Labor (under section 101(6)(B) of the FMLA, 29 U.S.C. 2611(6)(B)) that a person is capable of providing health care services, provided the Secretary's determination was not made at the request of a person who was then a covered employee.

(b) Others ''capable of providing health care services'' include only:

(1) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;

(2) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;

(3) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employing office that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement.

(4) Any health care provider from whom an employing office or the employing office's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

(5) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

(c) The phrase ''authorized to practice in the State'' as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

Subpart B—What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act, as Made Applicable by the Congressional Accountability Act?

§ 825.200 How much leave may an employee take?

(a) An eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during any 12-month period for any one, or more, of the following reasons:

(1) The birth of the employee's son or daughter, and to care for the newborn child;

(2) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and,

(4) Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

(b) An employing office is permitted to choose any one of the following methods for determining the ''12-month period'' in which the 12 weeks of leave entitlement occurs:

(1) The calendar year;

(2) Any fixed 12-month ''leave year,'' such as a fiscal year or a year starting on an employee's ''anniversary'' date;

(3) The 12-month period measured forward from the date any employee's first FMLA leave begins; or

(4) A ''rolling'' 12-month period measured backward from the date an employee uses any FMLA leave (except that such measure may not extend back before the date on which the application of FMLA rights and protections first becomes effective for the employing office; see § 825.102).

(c) Under methods in paragraphs (b)(1) and (b)(2) of this section an employee would be entitled to up to 12 weeks of FMLA leave at any time in the fixed 12-month period selected. An employee could, therefore, take 12 weeks of leave at the end of the year and 12 weeks at the beginning of the following year. Under the method in paragraph (b)(3) of this section, an employee would be entitled to 12 weeks of leave during the year beginning on the first date FMLA leave is taken; the next 12-month period would begin the first time FMLA leave is taken after completion of any previous 12-month period. Under the method in paragraph (b)(4) of this section, the ''rolling'' 12-month period, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 1997, four weeks beginning June 1, 1997, and four weeks beginning December 1, 1997, the employee would not be entitled to any additional leave until February 1, 1998. However, beginning on February 1, 1998, the employee would be entitled to four weeks of leave, on June 1 the employee would be entitled to an additional four weeks, etc.

(d)(1) Employing offices will be allowed to choose any one of the alternatives in paragraph (b) of this section provided the alternative chosen is applied consistently and uniformly to all employees. An employing office wishing to change to another alternative is required to give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. Under no circumstances may a new method be implemented in order to avoid the CAA's FMLA leave requirements.

(2) [Reserved]

(e) If an employing office fails to select one of the options in paragraph (b) of this section for measuring the 12-month period, the option that provides the most beneficial outcome for the employee will be used. The employing office may subsequently select an option only by providing the 60-day notice to all employees of the option the employing office intends to implement. During the running of the 60-day period any other employee who needs FMLA leave may use the option providing the most beneficial outcome to that employee. At the conclusion of the 60-day period the employing office may implement the selected option.

(f) For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. However, if for some reason the employing office's activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks (e.g., a school closing two weeks for the Christmas/New Year holiday or the summer vacation or an employing office closing the office for repairs), the days the employing office's activities have ceased do not count against the employee's FMLA leave entitlement. Methods for determining an employee's 12-week leave entitlement are also described in § 825.205.

(g)(1) If employing offices jointly employ an employee, and if they designate a primary employer pursuant to § 825.106(c), the primary employer may choose any one of the alternatives in paragraph (b) of this section for measuring the 12-month period, provided that the alternative chosen is applied consistently and uniformly to all employees of the primary employer including the jointly employed employee.

(2) If employing offices fail to designated a primary employer pursuant to § 825.106(c), an employee jointly employed by the employing offices may, by so notifying one of the employing offices, select that employing office to be the primary employer of the employee for purposes of the application of paragraphs (d) and (e) of this section.

§ 825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?

An employee's entitlement to leave for a birth or placement for adoption or foster care expires at the end of the 12-month period beginning on the date of the birth or placement, unless the employing office permits leave to be taken for a longer period. Any such FMLA leave must be concluded within this one-year period.

§ 825.202 How much leave may a husband and wife take if they are employed by the same employing office?

(a) A husband and wife who are eligible for FMLA leave and are employed by the same employing office may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken:

(1) for birth of the employee's son or daughter or to care for the child after birth;

(2) for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or

(3) to care for the employee's parent with a serious health condition.

(b) This limitation on the total weeks of leave applies to leave taken for the reasons

specified in paragraph (a) of this section as long as a husband and wife are employed by the ''same employing office.'' It would apply, for example, even though the spouses are employed at two different work sites of an employing office. On the other hand, if one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full 12 weeks of FMLA leave.

(c) Where the husband and wife both use a portion of the total 12-week FMLA leave entitlement for one of the purposes in paragraph (a) of this section, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 weeks for FMLA leave for a purpose other than those contained in paragraph (a) of this section. For example, if each spouse took 6 weeks of leave to care for a healthy, newborn child, each could use an additional 6 weeks due to his or her own serious health condition or to care for a child with a serious health condition.

§ 825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?

(a) FMLA leave may be taken ''intermittently or on a reduced leave schedule'' under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per work week, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.

(b) When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employing office agrees. Such a schedule reduction might occur, for example, where an employee, with the employing office's agreement, works part-time after the birth of a child, or takes leave in several segments. The employing office's agreement is not required, however, for leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.

(c) Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort to an immediate family member with a serious health condition.

(1) Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A pregnant employee may take leave intermittently for prenatal examinations or for her own condition, such as for periods of severe morning sickness. An example of an employee taking leave on a reduced leave schedule is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule.

(2) Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.

(d) There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. However, an employing office may limit leave increments to the shortest period of time that the employing office's payroll system uses to account for absences or use of leave, provided it is one hour or less. For example, an employee might take two hours off for a medical appointment, or might work a reduced day of four hours over a period of several weeks while recuperating from an illness. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave, except as provided in §§ 825.601 and 825.602.

§ 825.204 May an employing office transfer an employee to an ''alternative position'' in order to accommodate intermittent leave or a reduced leave schedule?

(a) If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition, or if the employing office agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption or foster care, the employing office may require the employee to transfer temporarily, during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. See § 825.601 for special rules applicable to instructional employees of schools.

(b) Transfer to an alternative position may require compliance with any applicable collective bargaining agreement and any applicable law (such as the Americans with Disabilities Act, as made applicable by the CAA). Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced leave.

(c) The alternative position must have equivalent pay and benefits. An alternative position for these purposes does not have to have equivalent duties. The employing office may increase the pay and benefits of an existing alternative position, so as to make them equivalent to the pay and benefits of the employee's regular job. The employing office may also transfer the employee to a part-time job with the same hourly rate of pay and benefits, provided the employee is not required to take more leave than is medically necessary. For example, an employee desiring to take leave in increments of four hours per day could be transferred to a half-time job, or could remain in the employee's same job on a part-time schedule, paying the same hourly rate as the employee's previous job and enjoying the same benefits. The employing office may not eliminate benefits which otherwise would not be provided to part-time employees; however, an employing office may proportionately reduce benefits such as vacation leave where an employing office's normal practice is to base such benefits on the number of hours worked.

(d) An employing office may not transfer the employee to an alternative position in order to discourage the employee from taking leave or otherwise work a hardship on the employee. For example, a white collar employee may not be assigned to perform laborer's work; an employee working the day shift may not be reassigned to the graveyard shift; an employee working in the headquarters facility may not be reassigned to a branch a significant distance away from the employee's normal job location. Any such attempt on the part of the employing office to make such a transfer will be held to be contrary to the prohibited-acts provisions of the FMLA, as made applicable by the CAA.

(e) When an employee who is taking leave intermittently or on a reduced leave schedule and has been transferred to an alternative position no longer needs to continue on leave and is able to return to full-time work, the employee must be placed in the same or equivalent job as the job he/she left when the leave commenced. An employee may not be required to take more leave than necessary to address the circumstance that precipitated the need for leave.

§ 825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?

(a) If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an employee is entitled. For example, if an employee who normally works five days a week takes off one day, the employee would use 1/5 of a week of FMLA leave. Similarly, if a full-time employee who normally works 8-hour days works 4-hour days under a reduced leave schedule, the employee would use ½ week of FMLA leave each week.

(b) Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule. For example, if an employee who normally works 30 hours per week works only 20 hours a week under a reduced leave schedule, the employee's ten hours of leave would constitute one-third of a week of FMLA leave for each week the employee works the reduced leave schedule.

(c) If an employing office has made a permanent or long-term change in the employee's schedule (for reasons other than FMLA, and prior to the notice of need for FMLA leave), the hours worked under the new schedule are to be used for making this calculation.

(d) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave period would be used for calculating the employee's normal workweek.

§ 825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?

(a) Leave taken under FMLA, as made applicable by the CAA, may be unpaid. If an employee is otherwise exempt from minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA), as made applicable by the CAA, as a salaried executive, administrative, or professional employee (under regulations issued by the Board, at part 541), providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. This means that under regulations currently in effect, where an employee meets the specified duties test, is paid on a salary basis, and is paid a salary of at least the amount specified in the regulations, the employing office may make deductions from the employee's salary for any hours taken as intermittent or reduced FMLA leave within

a workweek, without affecting the exempt status of the employee. The fact that an employing office provides FMLA leave, whether paid or unpaid, or maintains any records regarding FMLA leave, will not be relevant to the determination whether an employee is exempt within the meaning of the Board's regulations at part 541.

(b) For an employee paid in accordance with a fluctuating workweek method of payment for overtime, where permitted by section 203 of the CAA (2 U.S.C. 1313), the employing office, *during the period* in which intermittent or reduced schedule FMLA leave is scheduled to be taken, may compensate an employee on an hourly basis and pay only for the hours the employee works, including time and one-half the employee's regular rate for overtime hours. The change to payment on an hourly basis would include the entire period during which the employee is taking intermittent leave, including weeks in which no leave is taken. The hourly rate shall be determined by dividing the employee's weekly salary by the employee's normal or average schedule of hours worked during weeks in which FMLA leave is not being taken. If an employing office chooses to follow this exception from the fluctuating workweek method of payment, the employing office must do so uniformly, with respect to all employees paid on a fluctuating workweek basis for whom FMLA leave is taken on an intermittent or reduced leave schedule basis. If an employing office does not elect to convert the employee's compensation to hourly pay, no deduction may be taken for FMLA leave absences. Once the need for intermittent or reduced scheduled leave is over, the employee may be restored to payment on a fluctuating work week basis.

(c) This special exception to the ''salary basis'' requirements of the FLSA exemption or fluctuating workweek payment requirements applies only to employees of employing offices who are eligible for FMLA leave, and to leave which qualifies as (one of the four types of) FMLA leave. Hourly or other deductions which are not in accordance with the Board's regulations at part 541 or with a permissible fluctuating workweek method of payment for overtime may not be taken, for example, where the employee has not worked long enough to be eligible for FMLA leave without potentially affecting the employee's eligibility for exemption. Nor may deductions which are not permitted by the Board's regulations at part 541 or by a permissible fluctuating workweek method of payment for overtime be taken from such an employee's salary for any leave which does not qualify as FMLA leave, for example, deductions from an employee's pay for leave required under an employing office's policy or practice for a reason which does not qualify as FMLA leave, *e.g.*, leave to care for a grandparent or for a medical condition which does not qualify as a serious health condition; or for leave which is more generous than provided by FMLA as made applicable by the CAA, such as leave in excess of 12 weeks in a year. The employing office may comply with the employing office's own policy/practice under these circumstances and maintain the employee's eligibility for exemption or for the fluctuating workweek method of pay by not taking hourly deductions from the employee's pay, in accordance with FLSA requirements, or may take such deductions, treating the employee as an ''hourly'' employee and pay overtime premium pay for hours worked over 40 in a workweek.

§ 825.207 Is FMLA leave paid or unpaid?

(a) Generally, FMLA leave is unpaid. However, under the circumstances described in this section, FMLA, as made applicable by the CAA, permits an eligible employee to choose to substitute paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employing office may require the employee to substitute accrued paid leave for FMLA leave.

(b) Where an employee has earned or accrued paid vacation, personal or family leave, that paid leave may be substituted for all or part of any (otherwise) unpaid FMLA leave relating to birth, placement of a child for adoption or foster care, or care for a spouse, child or parent who has a serious health condition. The term ''family leave'' as used in FMLA refers to paid leave provided by the employing office covering the particular circumstances for which the employee seeks leave for either the birth of a child and to care for such child, placement of a child for adoption or foster care, or care for a spouse, child or parent with a serious health condition. For example, if the employing office's leave plan allows use of family leave to care for a child but not for a parent, the employing office is not required to allow accrued family leave to be substituted for FMLA leave used to care for a parent.

(c) Substitution of paid accrued vacation, personal, or medical/sick leave may be made for any (otherwise) unpaid FMLA leave needed to care for a family member or the employee's own serious health condition. Substitution of paid sick/medical leave may be elected to the extent the circumstances meet the employing office's usual requirements for the use of sick/medical leave. An employing office is not required to allow substitution of paid sick or medical leave for unpaid FMLA leave ''in any situation'' where the employing office's uniform policy would not normally allow such paid leave. An employee, therefore, has a right to substitute paid medical/sick leave to care for a seriously ill family member only if the employing office's leave plan allows paid leave to be used for that purpose. Similarly, an employee does not have a right to substitute paid medical/sick leave for a serious health condition which is not covered by the employing office's leave plan.

(d)(1) Disability leave for the birth of a child would be considered FMLA leave for a serious health condition and counted in the 12 weeks of leave permitted under FMLA as made applicable by the CAA. Because the leave pursuant to a temporary disability benefit plan is not unpaid, the provision for substitution of paid leave is inapplicable. However, the employing office may designate the leave as FMLA leave and count the leave as running concurrently for purposes of both the benefit plan and the FMLA leave entitlement. If the requirements to qualify for payments pursuant to the employing office's temporary disability plan are more stringent than those of FMLA as made applicable by the CAA, the employee must meet the more stringent requirements of the plan, or may choose not to meet the requirements of the plan and instead receive no payments from the plan and use unpaid FMLA leave or substitute available accrued paid leave.

(2) The FMLA as made applicable by the CAA provides that a serious health condition may result from injury to the employee ''on or off'' the job. If the employing office designates the leave as FMLA leave in accordance with § 825.208, the employee's FMLA 12-week leave entitlement may run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. As the workers' compensation absence is not unpaid leave, the provision for substitution of the employee's accrued paid leave is not applicable. However, if the health care provider treating the employee for the workers' compensation injury certifies the employee is able to return to a ''light duty job'' but is unable to return to the same or equivalent job, the employee may decline the employing office's offer of a ''light duty job''. As a result the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the 12-week entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the employing office may require the use of accrued paid leave. See also §§ 825.210(f), 825.216(d), 825.220(d), 825.307(a)(1) and 825.702 (d) (1) and (2) regarding the relationship between workers' compensation absences and FMLA leave.

(e) Paid vacation or personal leave, including leave earned or accrued under plans allowing ''paid time off,'' may be substituted, at either the employee's or the employing office's option, for any qualified FMLA leave. No limitations may be placed by the employing office on substitution of paid vacation or personal leave for these purposes.

(f) If neither the employee nor the employing office elects to substitute paid leave for unpaid FMLA leave under the above conditions and circumstances, the employee will remain entitled to all the paid leave which is earned or accrued under the terms of the employing office's plan.

(g) If an employee uses paid leave under circumstances which do not qualify as FMLA leave, the leave will not count against the 12 weeks of FMLA leave to which the employee is entitled. For example, paid sick leave used for a medical condition which is not a serious health condition does not count against the 12 weeks of FMLA leave entitlement.

(h) When an employee or employing office elects to substitute paid leave (of any type) for unpaid FMLA leave under circumstances permitted by these regulations, and the employing office's procedural requirements for taking that kind of leave are less stringent than the requirements of FMLA as made applicable by the CAA (e.g., notice or certification requirements), only the less stringent requirements may be imposed. An employee who complies with an employing office's less stringent leave plan requirements in such cases may not have leave for an FMLA purpose delayed or denied on the grounds that the employee has not complied with stricter requirements of FMLA as made applicable by the CAA. However, where accrued paid vacation or personal leave is substituted for unpaid FMLA leave for a serious health condition, an employee may be required to comply with any less stringent medical certification requirements of the employing office's sick leave program. See §§ 825.302(g), 825.305(e) and 825.306(c).

(i) Compensatory time off, if any is authorized under applicable law, is not a form of accrued paid leave that an employing office may require the employee to substitute for unpaid FMLA leave. The employee may request to use his/her balance of compensatory time for an FMLA reason. If the employing office permits the accrual of compensatory time to be used in compliance with applicable Board regulations, the absence which is paid from the employee's accrued compensatory time ''account'' may not be counted against the employee's FMLA leave entitlement.

§ 825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?

(a) In all circumstances, it is the employing office's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee as provided in this section. In the

case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed. The employing office's designation decision must be based only on information received from the employee or the employee's spokesperson (*e.g.*, if the employee is incapacitated, the employee's spouse, adult child, parent, doctor, etc., may provide notice to the employing office of the need to take FMLA leave). In any circumstance where the employing office does not have sufficient information about the reason for an employee's use of paid leave, the employing office should inquire further of the employee or the spokesperson to ascertain whether the paid leave is potentially FMLA-qualifying.

(1) An employee giving notice of the need for unpaid FMLA leave must explain the reasons for the needed leave so as to allow the employing office to determine that the leave qualifies under the FMLA, as made applicable by the CAA. If the employee fails to explain the reasons, leave may be denied. In many cases, in explaining the reasons for a request to use paid leave, especially when the need for the leave was unexpected or unforeseen, an employee will provide sufficient information for the employing office to designate the paid leave as FMLA leave. An employee using accrued paid leave, especially vacation or personal leave, may in some cases not spontaneously explain the reasons or their plans for using their accrued leave.

(2) As noted in § 825.302(c), an employee giving notice of the need for unpaid FMLA leave does not need to expressly assert rights under the FMLA as made applicable by the CAA or even mention the FMLA to meet his or her obligation to provide notice, though the employee would need to state a qualifying reason for the needed leave. An employee requesting or notifying the employing office of an intent to use accrued paid leave, even if for a purpose covered by FMLA, would not need to assert such right either. However, if an employee requesting to use paid leave for an FMLA-qualifying purpose does not explain the reason for the leave—consistent with the employing office's established policy or practice—and the employing office denies the employee's request, the employee will need to provide sufficient information to establish an FMLA-qualifying reason for the needed leave so that the employing office is aware of the employee's entitlement (i.e., that the leave may not be denied) and, then, may designate that the paid leave be appropriately counted against (substituted for) the employee's 12-week entitlement. Similarly, an employee using accrued paid vacation leave who seeks an extension of unpaid leave for an FMLA-qualifying purpose will need to state the reason. If this is due to an event which occurred during the period of paid leave, the employing office may count the leave used after the FMLA-qualifying event against the employee's 12-week entitlement.

(b)(1) Once the employing office has acquired knowledge that the leave is being taken for an FMLA required reason, the employing office must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. If there is a dispute between an employing office and an employee as to whether paid leave qualifies as FMLA leave, it should be resolved through discussions between the employee and the employing office. Such discussions and the decision must be documented.

(2) The employing office's notice to the employee that the leave has been designated as FMLA leave may be orally or in writing. If the notice is oral, it shall be confirmed in writing, no later than the following payday (unless the payday is less than one week after the oral notice, in which case the notice must be no later than the subsequent payday). The written notice may be in any form, including a notation on the employee's pay stub.

(c) If the employing office requires paid leave to be substituted for unpaid leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, this decision must be made by the employing office within two business days of the time the employee gives notice of the need for leave, or, where the employing office does not initially have sufficient information to make a determination, when the employing office determines that the leave qualifies as FMLA leave if this happens later. The employing office's designation must be made before the leave starts, unless the employing office does not have sufficient information as to the employee's reason for taking the leave until after the leave commenced. If the employing office has the requisite knowledge to make a determination that the paid leave is for an FMLA reason at the time the employee either gives notice of the need for leave or commences leave and fails to designate the leave as FMLA leave (and so notify the employee in accordance with paragraph (b)), the employing office may not designate leave as FMLA leave retroactively, and may designate only prospectively as of the date of notification to the employee of the designation. In such circumstances, the employee is subject to the full protections of the FMLA, as made applicable by the CAA, but none of the absence preceding the notice to the employee of the designation may be counted against the employee's 12-week FMLA leave entitlement.

(d) If the employing office learns that leave is for an FMLA purpose after leave has begun, such as when an employee gives notice of the need for an extension of the paid leave with unpaid FMLA leave, the entire or some portion of the paid leave period may be retroactively counted as FMLA leave, to the extent that the leave period qualified as FMLA leave. For example, an employee is granted two weeks paid vacation leave for a skiing trip. In mid-week of the second week, the employee contacts the employing office for an extension of leave as unpaid leave and advises that at the beginning of the second week of paid vacation leave the employee suffered a severe accident requiring hospitalization. The employing office may notify the employee that both the extension and the second week of paid vacation leave (from the date of the injury) is designated as FMLA leave. On the other hand, when the employee takes sick leave that turns into a serious health condition (*e.g.*, bronchitis that turns into bronchial pneumonia) and the employee gives notice of the need for an extension of leave, the entire period of the serious health condition may be counted as FMLA leave.

(e) Employing offices may not designate leave as FMLA leave after the employee has returned to work with two exceptions:

(1) If the employee was absent for an FMLA reason and the employing office did not learn the reason for the absence until the employee's return (e.g., where the employee was absent for only a brief period), the employing office may, upon the employee's return to work, promptly (within two business days of the employee's return to work) designate the leave retroactively with appropriate notice to the employee. If leave is taken for an FMLA reason but the employing office was not aware of the reason, and the employee desires that the leave be counted as FMLA leave, the employee must notify the employing office within two business days of returning to work of the reason for the leave. In the absence of such timely notification by the employee, the employee may not subsequently assert FMLA protections for the absence.

(2) If the employing office knows the reason for the leave but has not been able to confirm that the leave qualifies under FMLA, or where the employing office has requested medical certification which has not yet been received or the parties are in the process of obtaining a second or third medical opinion, the employing office should make a preliminary designation, and so notify the employee, at the time leave begins, or as soon as the reason for the leave becomes known. Upon receipt of the requisite information from the employee or of the medical certification which confirms the leave is for an FMLA reason, the preliminary designation becomes final. If the medical certifications fail to confirm that the reason for the absence was an FMLA reason, the employing office must withdraw the designation (with written notice to the employee).

(f) If, before beginning employment with an employing office, an employee had been employed by another employing office, the subsequent employing office may count against the employee's FMLA leave entitlement FMLA leave taken from the prior employing office, except that, if the FMLA leave began after the effective of these regulations (or if the FMLA leave was subject to other applicable requirement under which the employing office was to have designated the leave as FMLA leave), the prior employing office must have properly designated the leave as FMLA under these regulations or other applicable requirement.

§ 825.209 Is an employee entitled to benefits while using FMLA leave?

(a) During any FMLA leave, the employing office must maintain the employee's coverage under the Federal Employees Health Benefits Program or any group health plan (as defined in the Internal Revenue Code of 1986 at 26 U.S.C. 5000(b)(1)) on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. All employing offices are subject to the requirements of the FMLA, as made applicable by the CAA, to maintain health coverage. The definition of ''group health plan'' is set forth in § 825.800. For purposes of FMLA, the term ''group health plan'' shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

(b) The same group health plan benefits provided to an employee prior to taking FMLA leave must be maintained during the FMLA leave. For example, if family member coverage is provided to an employee, family member coverage must be maintained during the FMLA leave. Similarly, benefit coverage

during FMLA leave for medical care, surgical care, hospital care, dental care, eye care, mental health counseling, substance abuse treatment, etc., must be maintained during leave if provided in an employing office's group health plan, including a supplement to a group health plan, whether or not provided through a flexible spending account or other component of a cafeteria plan.

(c) If an employing office provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan/benefits to the same extent as if the employee were not on leave. For example, if an employing office changes a group health plan so that dental care becomes covered under the plan, an employee on FMLA leave must be given the same opportunity as other employees to receive (or obtain) the dental care coverage. Any other plan changes (*e.g.*, in coverage, premiums, deductibles, etc.) which apply to all employees of the workforce would also apply to an employee on FMLA leave.

(d) Notice of any opportunity to change plans or benefits must also be given to an employee on FMLA leave. If the group health plan permits an employee to change from single to family coverage upon the birth of a child or otherwise add new family members, such a change in benefits must be made available while an employee is on FMLA leave. If the employee requests the changed coverage it must be provided by the employing office.

(e) An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, including family or dependent coverages, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc. See § 825.212(c).

(f) Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) or 5 U.S.C. 8905a, whichever is applicable, and for ''key'' employees (as discussed below), an employing office's obligation to maintain health benefits during leave (and to restore the employee to the same or equivalent employment) under FMLA ceases if and when the employment relationship would have terminated if the employee had not taken FMLA leave (*e.g.*, if the employee's position is eliminated as part of a nondiscriminatory reduction in force and the employee would not have been transferred to another position); an employee informs the employing office of his or her intent not to return from leave (including before starting the leave if the employing office is so informed before the leave starts); or the employee fails to return from leave or continues on leave after exhausting his or her FMLA leave entitlement in the 12-month period.

(g) If a ''key employee'' (see § 825.218) does not return from leave when notified by the employing office that substantial or grievous economic injury will result from his or her reinstatement, the employee's entitlement to group health plan benefits continues unless and until the employee advises the employing office that the employee does not desire restoration to employment at the end of the leave period, or FMLA leave entitlement is exhausted, or reinstatement is actually denied.

(h) An employee's entitlement to benefits other than group health benefits during a period of FMLA leave (*e.g.*, holiday pay) is to be determined by the employing office's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).

§ 825.210 How may employees on FMLA leave pay their share of group health benefit premiums?

(a) Group health plan benefits must be maintained on the same basis as coverage would have been provided if the employee had been continuously employed during the FMLA leave period. Therefore, any share of group health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA leave period. If premiums are raised or lowered, the employee would be required to pay the new premium rates. Maintenance of health insurance policies which are not a part of the employing office's group health plan, as described in § 825.209(a), are the sole responsibility of the employee. The employee and the insurer should make necessary arrangements for payment of premiums during periods of unpaid FMLA leave.

(b) If the FMLA leave is substituted paid leave, the employee's share of premiums must be paid by the method normally used during any paid leave, presumably as a payroll deduction.

(c) If FMLA leave is unpaid, the employing office has a number of options for obtaining payment from the employee. The employing office may require that payment be made to the employing office or to the insurance carrier, but no additional charge may be added to the employee's premium payment for administrative expenses. The employing office may require employees to pay their share of premium payments in any of the following ways:

(1) Payment would be due at the same time as it would be made if by payroll deduction;

(2) Payment would be due on the same schedule as payments are made under COBRA or 5 U.S.C. 8905a, whichever is applicable;

(3) Payment would be prepaid pursuant to a cafeteria plan at the employee's option;

(4) The employing office's existing rules for payment by employees on ''leave without pay'' would be followed, provided that such rules do not require prepayment (*i.e.*, prior to the commencement of the leave) of the premiums that will become due during a period of unpaid FMLA leave or payment of higher premiums than if the employee had continued to work instead of taking leave; or,

(5) Another system voluntarily agreed to between the employing office and the employee, which may include prepayment of premiums (*e.g.*, through increased payroll deductions when the need for the FMLA leave is foreseeable).

(d) The employing office must provide the employee with advance written notice of the terms and conditions under which these payments must be made. (*See* § 825.301.)

(e) An employing office may not require more of an employee using FMLA leave than the employing office requires of other employees on ''leave without pay.''

(f) An employee who is receiving payments as a result of a workers' compensation injury must make arrangements with the employing office for payment of group health plan benefits when simultaneously taking unpaid FMLA leave. *See* paragraph (c) of this section and § 825.207(d)(2).

§ 825.211 What special health benefits maintenance rules apply to multi-employer health plans?

(a) A multi-employer health plan is a plan to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between employee organization(s) and the employers.

(b) An employing office under a multi-employer plan must continue to make contributions on behalf of an employee using FMLA leave as though the employee had been continuously employed, unless the plan contains an explicit FMLA provision for maintaining coverage such as through pooled contributions by all employers party to the plan.

(c) During the duration of an employee's FMLA leave, coverage by the group health plan, and benefits provided pursuant to the plan, must be maintained at the level of coverage and benefits which were applicable to the employee at the time FMLA leave commenced.

(d) An employee using FMLA leave cannot be required to use ''banked'' hours or pay a greater premium than the employee would have been required to pay if the employee had been continuously employed.

(e) As provided in § 825.209(f), group health plan coverage must be maintained for an employee on FMLA leave until:

(1) the employee's FMLA leave entitlement is exhausted;

(2) the employing office can show that the employee would have been laid off and the employment relationship terminated; or,

(3) the employee provides unequivocal notice of intent not to return to work.

§ 825.212 What are the consequences of an employee's failure to make timely health plan premium payments?

(a)(1) In the absence of an established employing office policy providing a longer grace period, an employing office's obligations to maintain health insurance coverage cease under FMLA if an employee's premium payment is more than 30 days late. In order to drop the coverage for an employee whose premium payment is late, the employing office must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. If the employing office has established policies regarding other forms of unpaid leave that provide for the employing office to cease coverage retroactively to the date the unpaid premium payment was due, the employing office may drop the employee from coverage retroactively in accordance with that policy, provided the 15-day notice was given. In the absence of such a policy, coverage for the employee may be terminated at the end of the 30-day grace period, where the required 15-day notice has been provided.

(2) An employing office has no obligation regarding the maintenance of a health insurance policy which is not a ''group health plan.'' See § 825.209(a).

(3) All other obligations of an employing office under FMLA would continue; for example, the employing office continues to have an obligation to reinstate an employee upon return from leave.

(b) The employing office may recover the employee's share of any premium payments missed by the employee for any FMLA leave period during which the employing office maintains health coverage by paying the employee's share after the premium payment is missed.

(c) If coverage lapses because an employee has not made required premium payments, upon the employee's return from FMLA leave the employing office must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed, including family or dependent coverage. See § 825.215(d)(1)-(5). In such case, an employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to

pass a medical examination to obtain reinstatement of coverage.

§ 825.213 May an employing office recover costs it incurred for maintaining ''group health plan'' or other non-health benefits coverage during FMLA leave?

(a) In addition to the circumstances discussed in § 825.212(b), the share of health plan premiums paid by or on behalf of the employing office during a period of unpaid FMLA leave may be recovered from an employee if the employee fails to return to work after the employee's FMLA leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:

(1) The continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under FMLA; or

(2) Other circumstances beyond the employee's control. Examples of ''other circumstances beyond the employee's control'' are necessarily broad. They include such situations as where a parent chooses to stay home with a newborn child who has a serious health condition; an employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's worksite; a relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; the employee is laid off while on leave; or, the employee is a ''key employee'' who decides not to return to work upon being notified of the employing office's intention to deny restoration because of substantial and grievous economic injury to the employing office's operations and is not reinstated by the employing office. Other circumstances beyond the employee's control would not include a situation where an employee desires to remain with a parent in a distant city even though the parent no longer requires the employee's care, or a parent chooses not to return to work to stay home with a well, newborn child.

(3) When an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition, thereby precluding the employing office from recovering its (share of) health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. Such certification is not required unless requested by the employing office. The employee is required to provide medical certification in a timely manner which, for purposes of this section, is within 30 days from the date of the employing office's request. For purposes of medical certification, the employee may use the optional form developed for this purpose (see § 825.306(a) and Appendix B of this part). If the employing office requests medical certification and the employee does not provide such certification in a timely manner (within 30 days), or the reason for not returning to work does not meet the test of other circumstances beyond the employee's control, the employing office may recover 100% of the health benefit premiums it paid during the period of unpaid FMLA leave.

(b) Under some circumstances an employing office may elect to maintain other benefits, *e.g.*, life insurance, disability insurance, *etc.*, by paying the employee's (share of) premiums during periods of unpaid FMLA leave. For example, to ensure the employing office can meet its responsibilities to provide equivalent benefits to the employee upon return from unpaid FMLA leave, it may be necessary that premiums be paid continuously to avoid a lapse of coverage. If the employing office elects to maintain such benefits during the leave, at the conclusion of leave, the employing office is entitled to recover only the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

(c) An employee who returns to work for at least 30 calendar days is considered to have ''returned'' to work. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.

(d) When an employee elects or an employing office requires paid leave to be substituted for FMLA leave, the employing office may not recover its (share of) health insurance or other non-health benefit premiums for any period of FMLA leave covered by paid leave. Because paid leave provided under a plan covering temporary disabilities (including workers' compensation) is not unpaid, recovery of health insurance premiums does not apply to such paid leave.

(e) The amount that self-insured employing offices may recover is limited to only the employing office's share of allowable ''premiums'' as would be calculated under COBRA, excluding the 2 percent fee for administrative costs.

(f) When an employee fails to return to work, any health and non-health benefit premiums which this section of the regulations permits an employing office to recover are a debt owed by the non-returning employee to the employing office. The existence of this debt caused by the employee's failure to return to work does not alter the employing office's responsibilities for health benefit coverage and, under a self-insurance plan, payment of claims incurred during the period of FMLA leave. To the extent recovery is allowed, the employing office may recover the costs through deduction from any sums due to the employee (*e.g.*, unpaid wages, vacation pay, *etc.*), provided such deductions do not otherwise violate applicable wage payment or other laws. Alternatively, the employing office may initiate legal action against the employee to recover such costs.

§ 825.214 What are an employee's rights on returning to work from FMLA leave?

(a) On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. *See* also § 825.106(e) for the obligations of employing offices that are joint employing offices.

(b) If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employing office's obligations may be governed by the Americans with Disabilities Act (ADA), as made applicable by the CAA. *See* § 825.702.

§ 825.215 What is an equivalent position?

(a) An equivalent position is one that is virtually identical to the employee's former position in terms of pay, benefits and working conditions, including privileges, perquisites and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

(b) If an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license, fly a minimum number of hours, *etc.*, as a result of the leave, the employee shall be given a reasonable opportunity to fulfill those conditions upon return to work.

(c) *Equivalent Pay.* (1) An employee is entitled to any unconditional pay increases which may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed would not have to be granted unless it is the employing office's policy or practice to do so with respect to other employees on ''leave without pay.'' In such case, any pay increase would be granted based on the employee's seniority, length of service, work performed, *etc.*, excluding the period of unpaid FMLA leave. An employee is entitled to be restored to a position with the same or equivalent pay premiums, such as a shift differential. If an employee departed from a position averaging ten hours of overtime (and corresponding overtime pay) each week, an employee is ordinarily entitled to such a position on return from FMLA leave.

(2) Many employing offices pay bonuses in different forms to employees for job-related performance such as for perfect attendance, safety (absence of injuries or accidents on the job) and exceeding production goals. Bonuses for perfect attendance and safety do not require performance by the employee but rather contemplate the absence of occurrences. To the extent an employee who takes FMLA leave had met all the requirements for either or both of these bonuses before FMLA leave began, the employee is entitled to continue this entitlement upon return from FMLA leave, that is, the employee may not be disqualified for the bonus(es) for the taking of FMLA leave. *See* § 825.220 (b) and (c). A monthly production bonus, on the other hand, does require performance by the employee. If the employee is on FMLA leave during any part of the period for which the bonus is computed, the employee is entitled to the same consideration for the bonus as other employees on paid or unpaid leave (as appropriate). *See* paragraph (d)(2) of this section.

(d) *Equivalent Benefits.* ''Benefits'' include all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office through an employee benefit plan.

(1) At the end of an employee's FMLA leave, benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels that may have taken place during the period of FMLA leave affecting the entire workforce, unless otherwise elected by the employee. Upon return from FMLA leave, an employee cannot be required to requalify for any benefits the employee enjoyed before FMLA leave began (including family or dependent coverages). For example, if an employee was covered by a life insurance policy before taking leave but is not covered or coverage lapses during the period of unpaid FMLA leave, the employee cannot be required to meet any qualifications, such as taking a physical examination, in order to requalify for life insurance upon return from leave. Accordingly, some employing offices may find it necessary to modify life insurance and other benefits programs in order to restore employees to equivalent benefits upon return from FMLA leave, make arrangements for continued payment of costs to maintain such benefits during unpaid FMLA leave, or pay these costs subject to recovery from the employee on return from leave. *See* § 825.213(b).

(2) An employee may, but is not entitled to, accrue any additional benefits or seniority during unpaid FMLA leave. Benefits accrued at the time leave began, however, (*e.g.*, paid vacation, sick or personal leave to the extent not substituted for FMLA leave) must be available to an employee upon return from leave.

(3) If, while on unpaid FMLA leave, an employee desires to continue life insurance, disability insurance, or other types of benefits for which he or she typically pays, the employing office is required to follow established policies or practices for continuing such benefits for other instances of leave without pay. If the employing office has no established policy, the employee and the employing office are encouraged to agree upon arrangements before FMLA leave begins.

(4) With respect to pension and other retirement plans, any period of unpaid FMLA leave shall not be treated as or counted toward a break in service for purposes of vesting and eligibility to participate. Also, if the plan requires an employee to be employed on a specific date in order to be credited with a year of service for vesting, contributions or participation purposes, an employee on unpaid FMLA leave on that date shall be deemed to have been employed on that date. However, unpaid FMLA leave periods need not be treated as credited service for purposes of benefit accrual, vesting and eligibility to participate.

(5) Employees on unpaid FMLA leave are to be treated as if they continued to work for purposes of changes to benefit plans. They are entitled to changes in benefits plans, except those which may be dependent upon seniority or accrual during the leave period, immediately upon return from leave or to the same extent they would have qualified if no leave had been taken. For example if the benefit plan is predicated on a pre-established number of hours worked each year and the employee does not have sufficient hours as a result of taking unpaid FMLA leave, the benefit is lost. (In this regard, § 825.209 addresses health benefits.)

(e) *Equivalent Terms and Conditions of Employment.* An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.

(1) The employee must be reinstated to the same or a geographically proximate worksite (*i.e.*, one that does not involve a significant increase in commuting time or distance) from where the employee had previously been employed. If the employee's original worksite has been closed, the employee is entitled to the same rights as if the employee had not been on leave when the worksite closed. For example, if an employing office transfers all employees from a closed worksite to a new worksite in a different city, the employee on leave is also entitled to transfer under the same conditions as if he or she had continued to be employed.

(2) The employee is ordinarily entitled to return to the same shift or the same or an equivalent work schedule.

(3) The employee must have the same or an equivalent opportunity for bonuses and other similar discretionary and non-discretionary payments.

(4) FMLA does not prohibit an employing office from accommodating an employee's request to be restored to a different shift, schedule, or position which better suits the employee's personal needs on return from leave, or to offer a promotion to a better position. However, an employee cannot be induced by the employing office to accept a different position against the employee's wishes.

(f) The requirement that an employee be restored to the same or equivalent job with the same or equivalent pay, benefits, and terms and conditions of employment does not extend to *de minimis* or intangible, unmeasurable aspects of the job. However, restoration to a job slated for lay-off, when the employee's original position is not, would not meet the requirements of an equivalent position.

§ 825.216 Are there any limitations on an employing office's obligation to reinstate an employee?

(a) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. An employing office must be able to show that an employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment. For example:

(1) If an employee is laid off during the course of taking FMLA leave and employment is terminated, the employing office's responsibility to continue FMLA leave, maintain group health plan benefits and restore the employee ceases at the time the employee is laid off, provided the employing office has no continuing obligations under a collective bargaining agreement or otherwise. An employing office would have the burden of proving that an employee would have been laid off during the FMLA leave period and, therefore, would not be entitled to restoration.

(2) If a shift has been eliminated, or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours upon restoration. However, if a position on, for example, a night shift has been filled by another employee, the employee is entitled to return to the same shift on which employed before taking FMLA leave.

(b) If an employee was hired for a specific term or only to perform work on a discrete project, the employing office has no obligation to restore the employee if the employment term or project is over and the employing office would not otherwise have continued to employ the employee.

(c) In addition to the circumstances explained above, an employing office may deny job restoration to salaried eligible employees (''key employees,'' as defined in paragraph (c) of § 825.217) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employing office; or may delay restoration to an employee who fails to provide a fitness for duty certificate to return to work under the conditions described in § 825.310.

(d) If the employee has been on a workers' compensation absence during which FMLA leave has been taken concurrently, and after 12 weeks of FMLA leave the employee is unable to return to work, the employee no longer has the protections of FMLA and must look to the workers' compensation statute or ADA, as made applicable by the CAA, for any relief or protections.

§ 825.217 What is a ''key employee''?

(a) A ''key employee'' is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the employing office within 75 miles of the employee's worksite.

(b) The term ''salaried'' means paid on a salary basis, within the meaning of the Board's regulations at part 541, implementing section 203 of the CAA (2 U.S.C. 1313) (regarding employees who may qualify as exempt from the minimum wage and overtime requirements of the FLSA, as made applicable by the CAA, as executive, administrative, and professional employees).

(c) A ''key employee'' must be ''among the highest paid 10 percent'' of all the employees ''both salaried and non-salaried, eligible and ineligible ''who are employed by the employing office within 75 miles of the worksite.

(1) In determining which employees are among the highest paid 10 percent, year-to-date earnings are divided by weeks worked by the employee (including weeks in which paid leave was taken). Earnings include wages, premium pay, incentive pay, and non-discretionary and discretionary bonuses. Earnings do not include incentives whose value is determined at some future date, *e.g.*, benefits or perquisites.

(2) The determination of whether a salaried employee is among the highest paid 10 percent shall be made at the time the employee gives notice of the need for leave. No more than 10 percent of the employing office's employees within 75 miles of the worksite may be ''key employees.''

§ 825.218 What does ''substantial and grievous economic injury'' mean?

(a) In order to deny restoration to a key employee, an employing office must determine that the restoration of the employee to employment will cause ''substantial and grievous economic injury'' to the operations of the employing office, not whether the absence of the employee will cause such substantial and grievous injury.

(b) An employing office may take into account its ability to replace on a temporary basis (or temporarily do without) the employee on FMLA leave. If permanent replacement is unavoidable, the cost of then reinstating the employee can be considered in evaluating whether substantial and grievous economic injury will occur from restoration; in other words, the effect on the operations of the employing office of reinstating the employee in an equivalent position.

(c) A precise test cannot be set for the level of hardship or injury to the employing office which must be sustained. If the reinstatement of a ''key employee'' threatens the economic viability of the employing office, that would constitute ''substantial and grievous economic injury.'' A lesser injury which causes substantial, long-term economic injury would also be sufficient. Minor inconveniences and costs that the employing office would experience in the normal course would certainly not constitute ''substantial and grievous economic injury.''

(d) FMLA's ''substantial and grievous economic injury'' standard is different from and more stringent than the ''undue hardship'' test under the ADA (see, also § 825.702).

§ 825.219 What are the rights of a key employee?

(a) An employing office which believes that reinstatement may be denied to a key employee, must give written notice to the employee at the time the employee gives notice of the need for FMLA leave (or when FMLA leave commences, if earlier) that he or she qualifies as a key employee. At the same time, the employing office must also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employing office should determine that substantial and grievous economic injury to the employing office's operations will result if the employee is reinstated from FMLA leave. If such notice cannot be given immediately because of the need to determine whether the employee is a key employee, it shall be given as soon as practicable after being notified of a need for leave (or the commencement of leave, if earlier). It is expected that in most circumstances there will be no desire that an employee be denied restoration after FMLA leave and, therefore, there would be no need to provide such notice. However, an employing office who fails to provide such timely notice will lose its right to deny restoration even if substantial

and grievous economic injury will result from reinstatement.

(b) As soon as an employing office makes a good faith determination, based on the facts available, that substantial and grievous economic injury to its operations will result if a key employee who has given notice of the need for FMLA leave or is using FMLA leave is reinstated, the employing office shall notify the employee in writing of its determination, that it cannot deny FMLA leave, and that it intends to deny restoration to employment on completion of the FMLA leave. It is anticipated that an employing office will ordinarily be able to give such notice prior to the employee starting leave. The employing office must serve this notice either in person or by certified mail. This notice must explain the basis for the employing office's finding that substantial and grievous economic injury will result, and, if leave has commenced, must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

(c) If an employee on leave does not return to work in response to the employing office's notification of intent to deny restoration, the employee continues to be entitled to maintenance of health benefits and the employing office may not recover its cost of health benefit premiums. A key employee's rights under FMLA continue unless and until either the employee gives notice that he or she no longer wishes to return to work, or the employing office actually denies reinstatement at the conclusion of the leave period.

(d) After notice to an employee has been given that substantial and grievous economic injury will result if the employee is reinstated to employment, an employee is still entitled to request reinstatement at the end of the leave period even if the employee did not return to work in response to the employing office's notice. The employing office must then again determine whether there will be substantial and grievous economic injury from reinstatement, based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the employing office shall notify the employee in writing (in person or by certified mail) of the denial of restoration.

§ 825.220 How are employees protected who request leave or otherwise assert FMLA rights?

(a) The FMLA, as made applicable by the CAA, prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. More specifically, the law contains the following employee protections:

(1) An employing office is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA as made applicable by the CAA.

(2) An employing office is prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) for opposing or complaining about any unlawful practice under the FMLA as made applicable by the CAA.

(3) All employing offices are prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) because that covered employee has—

(i) Filed any charge, or has instituted (or caused to be instituted) any proceeding under or related to the FMLA, as made applicable by the CAA;

(ii) Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA;

(iii) Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA.

(b) Any violations of the FMLA, as made applicable by the CAA, or of these regulations constitute interfering with, restraining, or denying the exercise of rights provided by the FMLA as made applicable by the CAA. ''Interfering with'' the exercise of an employee's rights would include, for example, not only refusing to authorize FMLA leave, but discouraging an employee from using such leave. It would also include manipulation by covered an employing office to avoid responsibilities under FMLA, for example:

(1) [Reserved];

(2) changing the essential functions of the job in order to preclude the taking of leave;

(3) reducing hours available to work in order to avoid employee eligibility.

(c) An employing office is prohibited from discriminating against employees or prospective employees who have used FMLA leave. For example, if an employee on leave without pay would otherwise be entitled to full benefits (other than health benefits), the same benefits would be required to be provided to an employee on unpaid FMLA leave. By the same token, employing offices cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be counted under ''no fault'' attendance policies.

(d) Employees cannot waive, nor may employing offices induce employees to waive, their rights under FMLA. For example, employees (or their collective bargaining representatives) cannot ''trade off'' the right to take FMLA leave against some other benefit offered by the employing office. This does not prevent an employee's voluntary and uncoerced acceptance (not as a condition of employment) of a ''light duty'' assignment while recovering from a serious health condition (see § 825.702(d)). In such a circumstance the employee's right to restoration to the same or an equivalent position is available until 12 weeks have passed within the 12-month period, including all FMLA leave taken and the period of ''light duty.''

(e) Covered employees, and not merely eligible employees, are protected from retaliation for opposing (e.g., file a complaint about) any practice which is unlawful under the FMLA, as made applicable by the CAA. They are similarly protected if they oppose any practice which they reasonably believe to be a violation of the FMLA, as made applicable by the CAA or regulations.

Subpart C—How do Employees Learn of Their Rights and Obligations under the FMLA, as Made Applicable by the CAA, and What Can an Employing Office Require of an Employee?

§ 825.300 [Reserved]

§ 825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?

(a)(1) If an employing office has any eligible employees and has any written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning both entitlements and employee obligations under the FMLA, as made applicable by the CAA, must be included in the handbook or other document. For example, if an employing office provides an employee handbook to all employees that describes the employing office's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employing office's policies regarding the FMLA, as made applicable by the CAA. Informational publications describing the provisions of the FMLA as made applicable by the CAA are available from the Office of Compliance and may be incorporated in such employing office handbooks or written policies.

(2) If such an employing office does not have written policies, manuals, or handbooks describing employee benefits and leave provisions, the employing office shall provide written guidance to an employee concerning all the employee's rights and obligations under the FMLA as made applicable by the CAA. This notice shall be provided to employees each time notice is given pursuant to paragraph (b), and in accordance with the provisions of that paragraph. Employing offices may duplicate and provide the employee a copy of the FMLA Fact Sheet available from the Office of Compliance to provide such guidance.

(b)(1) The employing office shall also provide the employee with written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. The written notice must be provided to the employee in a language in which the employee is literate. Such specific notice must include, as appropriate:

(i) that the leave will be counted against the employee's annual FMLA leave entitlement (see § 825.208);

(ii) any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so (see § 825.305);

(iii) the employee's right to substitute paid leave and whether the employing office will require the substitution of paid leave, and the conditions related to any substitution;

(iv) any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments (see § 825.210), and the possible consequences of failure to make such payments on a timely basis (i.e., the circumstances under which coverage may lapse);

(v) any requirement for the employee to present a fitness-for-duty certificate to be restored to employment (see § 825.310);

(vi) the employee's status as a ''key employee'' and the potential consequence that restoration may be denied following FMLA leave, explaining the conditions required for such denial (see § 825.218);

(vii) the employee's right to restoration to the same or an equivalent job upon return from leave (see §§ 825.214 and 825.604); and,

(viii) the employee's potential liability for payment of health insurance premiums paid by the employing office during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave (see § 825.213).

(2) The specific notice may include other information—*e.g.*, whether the employing office will require periodic reports of the employee's status and intent to return to work, but is not required to do so. A prototype notice is contained in Appendix D of this part, or may be obtained from the Office of Compliance, which employing offices may adapt for their use to meet these specific notice requirements.

(c) Except as provided in this subparagraph, the written notice required by paragraph (b) (and by subparagraph (a)(2) where applicable) must be provided to the employee no less often than the first time in each six-month period that an employee gives notice of the need for FMLA leave (if FMLA leave is taken during the six-month period). The notice shall be given within a reasonable time after notice of the need for leave is

given by the employee—within one or two business days if feasible. If leave has already begun, the notice should be mailed to the employee's address of record.

(1) If the specific information provided by the notice changes with respect to a subsequent period of FMLA leave during the six-month period, the employing office shall, within one or two business days of receipt of the employee's notice of need for leave, provide written notice referencing the prior notice and setting forth any of the information in subparagraph (b) which has changed. For example, if the initial leave period were paid leave and the subsequent leave period would be unpaid leave, the employing office may need to give notice of the arrangements for making premium payments.

(2)(i) Except as provided in subparagraph (ii), if the employing office is requiring medical certification or a ''fitness-for-duty'' report, written notice of the requirement shall be given with respect to each employee notice of a need for leave.

(ii) Subsequent written notification shall *not* be required if the initial notice in the six-month period *and* the employing office handbook or other written documents (if any) describing the employing office's leave policies, clearly provided that certification or a ''fitness-for-duty'' report would be required (*e.g.*, by stating that certification would be required in all cases, by stating that certification would be required in all cases in which leave of more than a specified number of days is taken, or by stating that a ''fitness-for-duty'' report would be required in all cases for back injuries for employees in a certain occupation). Where subsequent written notice is not required, at least oral notice shall be provided. (*See* § 825.305(a).)

(d) Employing offices are also expected to responsively answer questions from employees concerning their rights and responsibilities under the FMLA as made applicable under the CAA.

(e) Employing offices furnishing FMLA-required notices to sensory impaired individuals must also comply with all applicable requirements under law.

(f) If an employing office fails to provide notice in accordance with the provisions of this section, the employing office may not take action against an employee for failure to comply with any provision required to be set forth in the notice.

§ 825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?

(a) An employee must provide the employing office at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. For example, an employee's health condition may require leave to commence earlier than anticipated before the birth of a child. Similarly, little opportunity for notice may be given before placement for adoption. Whether the leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee shall advise the employing office as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

(b) ''As soon as practicable'' means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as 30 days notice, ''as soon as practicable'' ordinarily would mean at least verbal notification to the employing office within one or two business days of when the need for leave becomes known to the employee.

(c) An employee shall provide at least verbal notice sufficient to make the employing office aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave. The employee need not expressly assert rights under the FMLA as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed for an expected birth or adoption, for example. The employing office should inquire further of the employee if it is necessary to have more information about whether FMLA leave is being sought by the employee, and obtain the necessary details of the leave to be taken. In the case of medical conditions, the employing office may find it necessary to inquire further to determine if the leave is because of a serious health condition and may request medical certification to support the need for such leave (see § 825.305).

(d) An employing office may also require an employee to comply with the employing office's usual and customary notice and procedural requirements for requesting leave. For example, an employing office may require that written notice set forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave. However, failure to follow such internal employing office procedures will not permit an employing office to disallow or delay an employee's taking FMLA leave if the employee gives timely verbal or other notice.

(e) When planning medical treatment, the employee must consult with the employing office and make a reasonable effort to schedule the leave so as not to disrupt unduly the employing office's operations, subject to the approval of the health care provider. Employees are ordinarily expected to consult with their employing offices prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employing office and the employee. If an employee who provides notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglects to consult with the employing office to make a reasonable attempt to arrange the schedule of treatments so as not to unduly disrupt the employing office's operations, the employing office may initiate discussions with the employee and require the employee to attempt to make such arrangements, subject to the approval of the health care provider.

(f) In the case of intermittent leave or leave on a reduced leave schedule which is medically necessary, an employee shall advise the employing office, upon request, of the reasons why the intermittent/reduced leave schedule is necessary and of the schedule for treatment, if applicable. The employee and employing office shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the employing office's operations, subject to the approval of the health care provider.

(g) An employing office may waive employees' FMLA notice requirements. In addition, an employing office may not require compliance with stricter FMLA notice requirements where the provisions of a collective bargaining agreement or applicable leave plan allow less advance notice to the employing office. For example, if an employee (or employing office) elects to substitute paid vacation leave for unpaid FMLA leave (see § 825.207), and the employing office's paid vacation leave plan imposes no prior notification requirements for taking such vacation leave, no advance notice may be required for the FMLA leave taken in these circumstances. On the other hand, FMLA notice requirements would apply to a period of unpaid FMLA leave, unless the employing office imposes lesser notice requirements on employees taking leave without pay.

§ 825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?

(a) When the approximate timing of the need for leave is not foreseeable, an employee should give notice to the employing office of the need for FMLA leave as soon as practicable under the facts and circumstances of the particular case. It is expected that an employee will give notice to the employing office within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. In the case of a medical emergency requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, written advance notice pursuant to an employing office's internal rules and procedures may not be required when FMLA leave is involved.

(b) The employee should provide notice to the employing office either in person or by telephone, telegraph, facsimile (''fax'') machine or other electronic means. Notice may be given by the employee's spokesperson (e.g., spouse, adult family member or other responsible party) if the employee is unable to do so personally. The employee need not expressly assert rights under the FMLA, as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed. The employing office will be expected to obtain any additional required information through informal means. The employee or spokesperson will be expected to provide more information when it can readily be accomplished as a practical matter, taking into consideration the exigencies of the situation.

§ 825.304 What recourse do employing offices have if employees fail to provide the required notice?

(a) An employing office may waive employees' FMLA notice obligations or the employing office's own internal rules on leave notice requirements.

(b) If an employee fails to give 30 days notice for foreseeable leave with no reasonable excuse for the delay, the employing office may delay the taking of FMLA leave until at least 30 days after the date the employee provides notice to the employing office of the need for FMLA leave.

(c) In all cases, in order for the onset of an employee's FMLA leave to be delayed due to lack of required notice, it must be clear that the employee had actual notice of the FMLA notice requirements. This condition would be satisfied by the employing office's proper posting, at the worksite where the employee is employed, of the information regarding the FMLA provided (pursuant to section 301(h)(2) of the CAA, 2 U.S.C. 1381(h)(2)) by the Office of Compliance to the employing office in a manner suitable for posting. Furthermore, the need for leave and the approximate date leave would be taken must have been clearly foreseeable to the employee 30 days in advance of the leave. For example, knowledge that an employee would receive a telephone call about the availability of a child for adoption at some unknown point in the future would not be sufficient.

§ 825.305 When must an employee provide medical certification to support FMLA leave?

(a) An employing office may require that an employee's leave to care for the employee's seriously ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member. An employing office must give notice of a requirement for medical certification each time a certification is required; such notice must be written notice whenever required by § 825.301. An employing office's oral request to an employee to furnish any subsequent medical certification is sufficient.

(b) When the leave is foreseeable and at least 30 days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(c) In most cases, the employing office should request that an employee furnish certification from a health care provider at the time the employee gives notice of the need for leave or within two business days thereafter, or, in the case of unforeseen leave, within two business days after the leave commences. The employing office may request certification at some later date if the employing office later has reason to question the appropriateness of the leave or its duration.

(d) At the time the employing office requests certification, the employing office must also advise an employee of the anticipated consequences of an employee's failure to provide adequate certification. The employing office shall advise an employee whenever the employing office finds a certification incomplete, and provide the employee a reasonable opportunity to cure any such deficiency.

(e) If the employing office's sick or medical leave plan imposes medical certification requirements that are less stringent than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see § 825.207), only the employing office's less stringent sick leave certification requirements may be imposed.

§ 825.306 How much information may be required in medical certifications of a serious health condition?

(a) The Office of Compliance has made available an optional form (''Certification of Physician or Practitioner'') for employees' (or their family members') use in obtaining medical certification, including second and third opinions, from health care providers that meets FMLA's certification requirements. (See Appendix B to these regulations.) This optional form reflects certification requirements so as to permit the health care provider to furnish appropriate medical information within his or her knowledge.

(b) The Certification of Physician or Practitioner form is modeled closely on Form WH–380, as revised, which was developed by the Department of Labor (see 29 C.F.R. Part 825, Appendix B). The employing office may use the Office of Compliance's form, or Form WH–380, as revised, or another form containing the same basic information; however, no additional information may be required. In all instances the information on the form must relate only to the serious health condition for which the current need for leave exists. The form identifies the health care provider and type of medical practice (including pertinent specialization, if any), makes maximum use of checklist entries for ease in completing the form, and contains required entries for:

(1) A certification as to which part of the definition of ''serious health condition'' (see § 825.114), if any, applies to the patient's condition, and the medical facts which support the certification, including a brief statement as to how the medical facts meet the criteria of the definition.

(2)(i) The approximate date the serious health condition commenced, and its probable duration, including the probable duration of the patient's present incapacity (defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) if different.

(ii) Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis (i.e., part-time) as a result of the serious health condition (see § 825.117 and § 825.203), and if so, the probable duration of such schedule.

(iii) If the condition is pregnancy or a chronic condition within the meaning of § 825.114(a)(2)(iii), whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

(3)(i)(A) If additional treatments will be required for the condition, an estimate of the probable number of such treatments.

(B) If the patient's incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any.

(ii) If any of the treatments referred to in subparagraph (i) will be provided by another provider of health services (e.g., physical therapist), the nature of the treatments.

(iii) If a regimen of continuing treatment by the patient is required under the supervision of the health care provider, a general description of the regimen (see § 825.114(b)).

(4) If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), whether the employee:

(i) is unable to perform work of any kind;

(ii) is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions the employee is unable to perform (see § 825.115), based on either information provided on a statement from the employing office of the essential functions of the position or, if not provided, discussion with the employee about the employee's job functions; or

(iii) must be absent from work for treatment.

(5)(i) If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety, or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery. The employee is required to indicate on the form the care he or she will provide and an estimate of the time period.

(ii) If the employee's family member will need care only intermittently or on a reduced leave schedule basis (*i.e.*, part-time), the probable duration of the need.

(c) If the employing office's sick or medical leave plan requires less information to be furnished in medical certifications than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (*see* § 825.207), only the employing office's lesser sick leave certification requirements may be imposed.

§ 825.307 What may an employing office do if it questions the adequacy of a medical certification?

(a) If an employee submits a complete certification signed by the health care provider, the employing office may not request additional information from the employee's health care provider. However, a health care provider representing the employing office may contact the employee's health care provider, with the employee's permission, for purposes of *clarification* and authenticity of the medical certification.

(1) If an employee is on FMLA leave running concurrently with a workers' compensation absence, and the provisions of the workers' compensation statute permit the employing office or the employing office's representative to have direct contact with the employee's workers' compensation health care provider, the employing office may follow the workers' compensation provisions.

(2) An employing office that has reason to doubt the validity of a medical certification may require the employee to obtain a second opinion at the employing office's expense. Pending receipt of the second (or third) medical opinion, the employee is provisionally entitled to the benefits of the FMLA as made applicable by the CAA, including maintenance of group health benefits. If the certifications do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave and may be treated as paid or unpaid leave under the employing office's established leave policies. The employing office is permitted to designate the health care provider to furnish the second opinion, but the selected health care provider may not be employed on a regular basis by the employing office. See also paragraphs (e) and (f) of this section.

(b) The employing office may not regularly contract with or otherwise regularly utilize the services of the health care provider furnishing the second opinion unless the employing office is located in an area where access to health care is extremely limited (e.g., a rural area where no more than one or two doctors practice in the relevant specialty in the vicinity).

(c) If the opinions of the employee's and the employing office's designated health care providers differ, the employing office may require the employee to obtain certification from a third health care provider, again at the employing office's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the employing office and the employee. The employing office and the employee must each act in good faith to attempt to reach agreement on whom to select for the third opinion provider. If the employing office does not attempt in good faith to reach agreement, the employing office will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification. For example, an employee who refuses to agree to see a doctor in the specialty in question may be failing to act in good faith. On the other hand, an employing office that refuses to agree to any doctor on a list of specialists in the appropriate field provided by the employee and

whom the employee has not previously consulted may be failing to act in good faith.

(d) The employing office is required to provide the employee with a copy of the second and third medical opinions, where applicable, upon request by the employee. Requested copies are to be provided within two business days unless extenuating circumstances prevent such action.

(e) If the employing office requires the employee to obtain either a second or third opinion the employing office must reimburse an employee or family member for any reasonable ''out of pocket'' travel expenses incurred to obtain the second and third medical opinions. The employing office may not require the employee or family member to travel outside normal commuting distance for purposes of obtaining the second or third medical opinions except in very unusual circumstances.

(f) In circumstances when the employee or a family member is visiting in another country, or a family member resides in a another country, and a serious health condition develops, the employing office shall accept a medical certification as well as second and third opinions from a health care provider who practices in that country.

§ 825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?

(a) For pregnancy, chronic, or permanent/long-term conditions under continuing supervision of a health care provider (as defined in § 825.114(a) (2)(ii), (iii) or (iv)), an employing office may request recertification no more often than every 30 days and only in connection with an absence by the employee, unless:

(1) Circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of absences, the severity of the condition, complications); or

(2) The employing office receives information that casts doubt upon the employee's stated reason for the absence.

(b)(1) If the minimum duration of the period of incapacity specified on a certification furnished by the health care provider is more than 30 days, the employing office may not request recertification until that minimum duration has passed unless one of the conditions set forth in paragraph (c)(1), (2) or (3) of this section is met.

(2) For FMLA leave taken intermittently or on a reduced leave schedule basis, the employing office may not request recertification in less than the minimum period specified on the certification as necessary for such leave (including treatment) unless one of the conditions set forth in paragraph (c)(1), (2) or (3) of this section is met.

(c) For circumstances not covered by paragraphs (a) or (b) of this section, an employing office may request recertification at any reasonable interval, but not more often than every 30 days, unless:

(1) The employee requests an extension of leave;

(2) Circumstances described by the previous certification have changed significantly (e.g., the duration of the illness, the nature of the illness, complications); or

(3) The employing office receives information that casts doubt upon the continuing validity of the certification.

(d) The employee must provide the requested recertification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(e) Any recertification requested by the employing office shall be at the employee's expense unless the employing office provides otherwise. No second or third opinion on recertification may be required.

§ 825.309 What notice may an employing office require regarding an employee's intent to return to work?

(a) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The employing office's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

(b) If an employee gives unequivocal notice of intent not to return to work, the employing office's obligations under FMLA, as made applicable by the CAA, to maintain health benefits (subject to requirements of COBRA or 5 U.S.C. 8905a, whichever is applicable) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

(c) It may be necessary for an employee to take more leave than originally anticipated. Conversely, an employee may discover after beginning leave that the circumstances have changed and the amount of leave originally anticipated is no longer necessary. An employee may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave. In both of these situations, the employing office may require that the employee provide the employing office reasonable notice (i.e., within two business days) of the changed circumstances where foreseeable. The employing office may also obtain information on such changed circumstances through requested status reports.

§ 825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a ''fitness-for-duty'' report)?

(a) As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, an employing office may have a uniformly-applied policy or practice that requires all similarly-situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health care provider that the employee is able to resume work.

(b) If the terms of a collective bargaining agreement govern an employee's return to work, those provisions shall be applied. Similarly, requirements under the Americans with Disabilities Act (ADA), as made applicable by the CAA, that any return-to-work physical be job-related and consistent with business necessity apply. For example, an attorney could not be required to submit to a medical examination or inquiry just because her leg had been amputated. The essential functions of an attorney's job do not require use of both legs; therefore such an inquiry would not be job related. An employing office may require a warehouse laborer, whose back impairment affects the ability to lift, to be examined by an orthopedist, but may not require this employee to submit to an HIV test where the test is not related to either the essential functions of his/her job or to his/her impairment.

(c) An employing office may seek fitness-for-duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave. The certification itself need only be a simple statement of an employee's ability to return to work. A health care provider employed by the employing office may contact the employee's health care provider with the employee's permission, for purposes of clarification of the employee's fitness to return to work. No additional information may be acquired, and clarification may be requested only for the serious health condition for which FMLA leave was taken. The employing office may not delay the employee's return to work while contact with the health care provider is being made.

(d) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

(e) The notice that employing offices are required to give to each employee giving notice of the need for FMLA leave regarding their FMLA rights and obligations as made applicable by the CAA (see § 825.301) shall advise the employee if the employing office will require fitness-for-duty certification to return to work. If the employing office has a handbook explaining employment policies and benefits, the handbook should explain the employing office's general policy regarding any requirement for fitness-for-duty certification to return to work. Specific notice shall also be given to any employee from whom fitness-for-duty certification will be required either at the time notice of the need for leave is given or immediately after leave commences and the employing office is advised of the medical circumstances requiring the leave, unless the employee's condition changes from one that did not previously require certification pursuant to the employing office's practice or policy. No second or third fitness-for-duty certification may be required.

(f) An employing office may delay restoration to employment until an employee submits a required fitness-for-duty certification unless the employing office has failed to provide the notices required in paragraph (e) of this section.

(g) An employing office is not entitled to certification of fitness to return to duty when the employee takes intermittent leave as described in § 825.203.

(h) When an employee is unable to return to work after FMLA leave because of the continuation, recurrence, or onset of the employee's or family member's serious health condition, thereby preventing the employing office from recovering its share of health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. (*See* § 825.213(a)(3).) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

§ 825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?

(a) In the case of foreseeable leave, an employing office may delay the taking of FMLA leave to an employee who fails to provide timely certification after being requested by the employing office to furnish such certification (i.e., within 15 calendar days, if practicable), until the required certification is provided.

(b) When the need for leave is not foreseeable, or in the case of recertification, an employee must provide certification (or recertification) within the time frame requested by the employing office (which must

allow at least 15 days after the employing office's request) or as soon as reasonably possible under the particular facts and circumstances. In the case of a medical emergency, it may not be practicable for an employee to provide the required certification within 15 calendar days. If an employee fails to provide a medical certification within a reasonable time under the pertinent circumstances, the employing office may delay the employee's continuation of FMLA leave. If the employee never produces the certification, the leave is not FMLA leave.

(c) When requested by the employing office pursuant to a uniformly applied policy for similarly-situated employees, the employee must provide medical certification at the time the employee seeks reinstatement at the end of FMLA leave taken for the employee's serious health condition, that the employee is fit for duty and able to return to work (see §825.310(a)) if the employing office has provided the required notice (see §825.301(c); the employing office may delay restoration until the certification is provided. In this situation, unless the employee provides either a fitness-for-duty certification or a new medical certification for a serious health condition at the time FMLA leave is concluded, the employee may be terminated. See also §825.213(a)(3).

§825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

(a) If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employing office may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employing office of the need for FMLA leave. (*See* §825.302.)

(b) If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employing office may delay continuation of FMLA leave until an employee submits the certificate. (*See* §§ 825.305 and 825.311.) If the employee never produces the certification, the leave is not FMLA leave.

(c) If an employee fails to provide a requested fitness-for-duty certification to return to work, an employing office may delay restoration until the employee submits the certificate. (*See* §§ 825.310 and 825.311.)

(d) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. Thus, an employee's rights to continued leave, maintenance of health benefits, and restoration cease under FMLA, as made applicable by the CAA, if and when the employment relationship terminates (*e.g.*, layoff), unless that relationship continues, for example, by the employee remaining on *paid* FMLA leave. If the employee is recalled or otherwise re-employed, an eligible employee is immediately entitled to further FMLA leave for an FMLA-qualifying reason. An employing office must be able to show, when an employee requests restoration, that the employee would not otherwise have been employed if leave had not been taken in order to deny restoration to employment. (See §825.216.)

(e) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intention to return to work. (See §825.309.) If an employee unequivocally advises the employing office either before or during the taking of leave that the employee does not intend to return to work, and the employment relationship is terminated, the employee's entitlement to continued leave, maintenance of health benefits, and restoration ceases unless the employment relationship continues, for example, by the employee remaining on *paid* leave. An employee may not be required to take more leave than necessary to address the circumstances for which leave was taken. If the employee is able to return to work earlier than anticipated, the employee shall provide the employing office two business days notice where feasible; the employing office is required to restore the employee once such notice is given, or where such prior notice was not feasible.

(f) An employing office may deny restoration to employment, but not the taking of FMLA leave and the maintenance of health benefits, to an eligible employee only under the terms of the ''key employee'' exemption. Denial of reinstatement must be necessary to prevent ''substantial and grievous economic injury'' to the employing office's operations. The employing office must notify the employee of the employee's status as a ''key employee'' and of the employing office's intent to deny reinstatement on that basis when the employing office makes these determinations. If leave has started, the employee must be given a reasonable opportunity to return to work after being so notified. (See §825.219.)

(g) An employee who fraudulently obtains FMLA leave from an employing office is not protected by job restoration or maintenance of health benefits provisions of the FMLA as made applicable by the CAA.

(h) If the employing office has a uniformly-applied policy governing outside or supplemental employment, such a policy may continue to apply to an employee while on FMLA leave. An employing office which does not have such a policy may not deny benefits to which an employee is entitled under FMLA as made applicable by the CAA on this basis unless the FMLA leave was fraudulently obtained as in paragraph (g) of this section.

Subpart D—What Enforcement Mechanisms Does the CAA Provide?

§825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?

(a) To commence a proceeding, a covered employee alleging a violation of the rights and protections of the FMLA made applicable by the CAA must request counseling by the Office of Compliance not later than 180 days after the date of the alleged violation. If a covered employee misses this deadline, the covered employee will be unable to obtain a remedy under the CAA.

(b) The following procedures are available under title IV of the CAA for covered employees who believe that their rights under FMLA as made applicable by the CAA have been violated:

(1) counseling;

(2) mediation; and

(3) election of either—

(A) a formal complaint, filed with the Office of Compliance, and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(c) Regulations of the Office of Compliance describing and governing these procedures are found at [proposed rules can be found at 141 Cong. Rec. S17012 (November 14, 1995)].

§825.401 [Reserved]
§825.402 [Reserved]
§825.403 [Reserved]
§825.404 [Reserved]

Subpart E—[Reserved]

Subpart F—What Special Rules Apply to Employees of Schools?

§825.600 To whom do the special rules apply?

(a) Certain special rules apply to employees of ''local educational agencies,'' including public school boards and elementary schools under their jurisdiction, and private elementary and secondary schools. The special rules do not apply to other kinds of educational institutions, such as colleges and universities, trade schools, and preschools.

(b) Educational institutions are covered by FMLA as made applicable by the CAA (and these special rules). The usual requirements for employees to be ''eligible'' apply.

(c) The special rules affect the taking of intermittent leave or leave on a reduced leave schedule, or leave near the end of an academic term (semester), by instructional employees. ''Instructional employees'' are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include, and the special rules do not apply to, teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

(d) Special rules which apply to restoration to an equivalent position apply to all employees of local educational agencies.

§825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?

(a) Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. An instructional employee who is on FMLA leave at the end of the school year must be provided with any benefits over the summer vacation that employees would normally receive if they had been working at the end of the school year.

(1) If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the employing office may require the employee to choose either to:

(i) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or

(ii) Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

(2) These rules apply only to a leave involving more than 20 percent of the working days during the period over which the leave extends. For example, if an instructional employee who normally works five days each week needs to take two days of FMLA leave per week over a period of several weeks, the

special rules would apply. Employees taking leave which constitutes 20 percent or less of the working days during the leave period would not be subject to transfer to an alternative position. ''Periods of a particular duration'' means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave.

(b) If an instructional employee does not give required notice of foreseeable FMLA leave (see §825.302) to be taken intermittently or on a reduced leave schedule, the employing office may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the employing office may require the employee to delay the taking of leave until the notice provision is met. *See* §825.207(h).

§825.602 What limitations apply to the taking of leave near the end of an academic term?

(a) There are also different rules for instructional employees who begin leave more than five weeks before the end of a term, less than five weeks before the end of a term, and less than three weeks before the end of a term. Regular rules apply except in circumstances when:

(1) An instructional employee begins leave more than five weeks before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) The leave will last at least three weeks, and

(ii) The employee would return to work during the three-week period before the end of the term.

(2) The employee begins leave for a purpose other than the employee's own serious health condition *during* the five-week period before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if —

(i) The leave will last more than two weeks, and

(ii) The employee would return to work during the two-week period before the end of the term.

(3) The employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a term, and the leave will last more than five working days. The employing office may require the employee to continue taking leave until the end of the term.

(b) For purposes of these provisions, ''academic term'' means the school semester, which typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of FMLA as made applicable by the CAA. An example of leave falling within these provisions would be where an employee plans two weeks of leave to care for a family member which will begin three weeks before the end of the term. In that situation, the employing office could require the employee to stay out on leave until the end of the term.

§825.603 Is all leave taken during ''periods of a particular duration'' counted against the FMLA leave entitlement?

(a) If an employee chooses to take leave for ''periods of a particular duration'' in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

(b) In the case of an employee who is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. The employing office has the option not to require the employee to stay on leave until the end of the school term. Therefore, any additional leave required by the employing office to the end of the school term is not counted as FMLA leave; however, the employing office shall be required to maintain the employee's group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave.

§825.604 What special rules apply to restoration to ''an equivalent position?''

The determination of how an employee is to be restored to ''an equivalent position'' upon return from FMLA leave will be made on the basis of ''established school board policies and practices, private school policies and practices, and collective bargaining agreements.'' The ''established policies'' and collective bargaining agreements used as a basis for restoration must be in writing, must be made known to the employee prior to the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to ''an equivalent position'' must provide substantially the same protections as provided in the FMLA, as made applicable by the CAA, for reinstated employees. See §825.215. In other words, the policy or collective bargaining agreement must provide for restoration to an ''equivalent position'' with equivalent employment benefits, pay, and other terms and conditions of employment. For example, an employee may not be restored to a position requiring additional licensure or certification.

Subpart G—How Do Other Laws, Employing Office Practices, and Collective Bargaining Agreements Affect Employee Rights Under the FMLA as Made Applicable by the CAA?

§825.700 What if an employing office provides more generous benefits than required by FMLA as made applicable by the CAA?

(a) An employing office must observe any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established by the FMLA. Conversely, the rights established by the FMLA, as made applicable by the CAA, may not be diminished by any employment benefit program or plan. For example, a provision of a collective bargaining agreement (CBA) which provides for reinstatement to a position that is not equivalent because of seniority (e.g., provides lesser pay) is superseded by FMLA. If an employing office provides greater unpaid family leave rights than are afforded by FMLA, the employing office is not required to extend additional rights afforded by FMLA, such as maintenance of health benefits (other than through COBRA or 5 U.S.C. 8905a, whichever is applicable), to the additional leave period not covered by FMLA. If an employee takes paid or unpaid leave and the employing office does not designate the leave as FMLA leave, the leave taken does not count against an employee's FMLA entitlement.

(b) Nothing in the FMLA, as made applicable by the CAA, prevents an employing office from amending existing leave and employee benefit programs, provided they comply with FMLA as made applicable by the CAA. However, nothing in the FMLA, as made applicable by the CAA, is intended to discourage employing offices from adopting or retaining more generous leave policies.

(c) [Reserved]

§825.701 [Reserved]

§825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

(a) Nothing in FMLA modifies or affects any applicable law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability (e.g., Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act), as made applicable by the CAA. FMLA's legislative history explains that FMLA is ''not intended to modify or affect the Rehabilitation Act of 1973, as amended, the regulations concerning employment which have been promulgated pursuant to that statute, or the Americans with Disabilities Act of 1990, or the regulations issued under that act. Thus, the leave provisions of the [FMLA] are wholly distinct from the reasonable accommodation obligations of employers covered under the [ADA] * * * or the Federal government itself. The purpose of the FMLA is to make leave available to eligible employees and employing offices within its coverage, and not to limit already existing rights and protection.'' S. Rep. No. 3, 103d Cong., 1st Sess. 38 (1993). An employing office must therefore provide leave under whichever statutory provision provides the greater rights to employees.

(b) If an employee is a qualified individual with a disability within the meaning of the Americans with Disabilities Act (ADA), the employing office must make reasonable accommodations, etc., barring undue hardship, in accordance with the ADA. At the same time, the employing office must afford an employee his or her FMLA rights. ADA's ''disability'' and FMLA's ''serious health condition'' are different concepts, and must be analyzed separately. FMLA entitles eligible employees to 12 weeks of leave in any 12-month period, whereas the ADA allows an indeterminate amount of leave, barring undue hardship, as a reasonable accommodation. FMLA requires employing offices to maintain employees' group health plan coverage during FMLA leave on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period, whereas ADA does not require maintenance of health insurance unless other employees receive health insurance during leave under the same circumstances.

(c)(1) A reasonable accommodation under the ADA might be accomplished by providing an individual with a disability with a part-time job with no health benefits, assuming the employing office did not ordinarily provide health insurance for part-time employees. However, FMLA would permit an employee to work a reduced leave schedule until the equivalent of 12 workweeks of leave were used, with group health benefits maintained during this period. FMLA permits an employing office to temporarily transfer an employee who is taking leave intermittently or on a reduced leave schedule to an alternative position, whereas the ADA allows an accommodation of reassignment to an equivalent, vacant position only if the employee cannot perform the essential functions of the employee's present position and an accommodation is not possible in the employee's present position, or an accommodation in the employee's present position would cause an undue hardship. The examples in the following paragraphs of this section demonstrate how the two laws would interact with respect to a qualified individual with a disability.

(2) A qualified individual with a disability who is also an ''eligible employee'' entitled to FMLA leave requests 10 weeks of medical leave as a reasonable accommodation, which

the employing office grants because it is not an undue hardship. The employing office advises the employee that the 10 weeks of leave is also being designated as FMLA leave and will count towards the employee's FMLA leave entitlement. This designation does not prevent the parties from also treating the leave as a reasonable accommodation and reinstating the employee into the *same* job, as required by the ADA, rather than an equivalent position under FMLA, if that is the greater right available to the employee. At the same time, the employee would be entitled under FMLA to have the employing office maintain group health plan coverage during the leave, as that requirement provides the greater right to the employee.

(3) If the same employee needed to work part-time (a reduced leave schedule) after returning to his or her same job, the employee would still be entitled under FMLA to have group health plan coverage maintained for the remainder of the two-week equivalent of FMLA leave entitlement, notwithstanding an employing office policy that part-time employees do not receive health insurance. This employee would be entitled under the ADA to reasonable accommodations to enable the employee to perform the essential functions of the part-time position. In addition, because the employee is working a part-time schedule as a reasonable accommodation, the employee would be shielded from FMLA's provision for temporary assignment to a different alternative position. Once the employee has exhausted his or her remaining FMLA leave entitlement while working the reduced (part-time) schedule, if the employee is a qualified individual with a disability, and if the employee is unable to return to the same full-time position at that time, the employee might continue to work part-time as a reasonable accommodation, barring undue hardship; the employee would then be entitled to only those employment benefits ordinarily provided by the employing office to part-time employees.

(4) At the end of the FMLA leave entitlement, an employing office is required under FMLA to reinstate the employee in the same or an equivalent position, with equivalent pay and benefits, to that which the employee held when leave commenced. The employing office's FMLA obligations would be satisfied if the employing office offered the employee an equivalent full-time position. If the employee were unable to perform the essential functions of that equivalent position even with reasonable accommodation, because of a disability, the ADA may require the employing office to make a reasonable accommodation at that time by allowing the employee to work part-time or by reassigning the employee to a vacant position, barring undue hardship.

(d)(1) If FMLA entitles an employee to leave, an employing office may not, in lieu of FMLA leave entitlement, *require* an employee to take a job with a reasonable accommodation. However, ADA may require that an employing office offer an employee the opportunity to take such a position. An employing office may not change the essential functions of the job in order to deny FMLA leave. See § 825.220(b).

(2) An employee may be on a workers' compensation absence due to an on-the-job injury or illness which also qualifies as a serious health condition under FMLA. The workers' compensation absence and FMLA leave may run concurrently (subject to proper notice and designation by the employing office). At some point the health care provider providing medical care pursuant to the workers' compensation injury may certify the employee is able to return to work in a "light duty" position. If the employing office offers such a position, the employee is permitted but not required to accept the position (*see* § 825.220(d)). As a result, the employee may no longer qualify for payments from the workers' compensation benefit plan, but the employee is entitled to continue on unpaid FMLA leave either until the employee is able to return to the same or equivalent job the employee left or until the 12-week FMLA leave entitlement is exhausted. See § 825.207(d)(2). If the employee returning from the workers' compensation injury is a qualified individual with a disability, he or she will have rights under the ADA.

(e) If an employing office requires certifications of an employee's fitness for duty to return to work, as permitted by FMLA under a uniform policy, it must comply with the ADA requirement that a fitness for duty physical be job-related and consistent with business necessity.

(f) Under Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, and as made applicable by the CAA, an employing office should provide the same benefits for women who are pregnant as the employing office provides to other employees with short-term disabilities. Because Title VII does not require employees to be employed for a certain period of time to be protected, an employee employed for less than 12 months by any employing office (and, therefore, not an "eligible" employee under FMLA, as made applicable by the CAA) may *not* be denied maternity leave if the employing office normally provides short-term disability benefits to employees with the same tenure who are experiencing other short-term disabilities.

(g) For further information on Federal anti-discrimination laws applied by section 201 of the CAA (2 U.S.C. 1311), including Title VII, the Rehabilitation Act, and the ADA, individuals are encouraged to contact the Office of Compliance.

Subpart H—Definitions

§ 825.800 Definitions.

For purposes of this part:

ADA means the Americans With Disabilities Act (42 U.S.C. 12101 *et seq.*).

CAA means the Congressional Accountability Act of 1995 (Pub. Law 104-1, 109 Stat. 3, 2 U.S.C. 1301 et seq.).

COBRA means the continuation coverage requirements of Title X of the Consolidated Omnibus Budget Reconciliation Act of 1986 (Pub. Law 99-272, title X, section 10002; 100 Stat. 227; as amended; 29 U.S.C. 1161-1168).

Continuing treatment means: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(1) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(2) Any period of incapacity due to pregnancy, or for prenatal care.

(3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(iii) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).

(4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(5) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

Covered employee—The term "covered employee", as defined in the CAA, means any employee of—(1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Office of Compliance; or (9) the Office of Technology Assessment.

Eligible employee—The term "eligible employee", as defined in the CAA, means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

Employ means to suffer or permit to work.

Employee means an employee as defined in the CAA and includes an applicant for employment and a former employee.

Employee employed in an instructional capacity. See Teacher.

Employee of the Capitol Police—The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

Employee of the House of Representatives—The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employee of the Office of the Architect of the Capitol—The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

Employee of the Senate—The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employing Office—The term "employing office", as defined in the CAA, means:

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

Employment benefits means all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office or through an employee benefit plan. The term does not include non-employment related obligations paid by employees through voluntary deductions such as supplemental insurance coverage. (See §825.209(a)).

FLSA means the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

FMLA means the Family and Medical Leave Act of 1993, Public Law 103-3 (February 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq.).

Group health plan means the Federal Employees Health Benefits Program and any other plan of, or contributed to by, an employing office (including a self-insured plan) to provide health care (directly or otherwise) to the employing office's employees, former employees, or the families of such employees or former employees. For purposes of FMLA, as made applicable by the CAA, the term ''group health plan'' shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

Health care provider means:

(1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or

(2) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; and

(3) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; and

(4) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

(5) Any health care provider from whom an employing office or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

(6) A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country.

''*Incapable of self-care*'' means that the individual requires active assistance or supervision to provide daily self-care in several of the ''activities of daily living'' (ADLs) or ''instrumental activities of daily living'' (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

Instructional employee: See *Teacher*.

Intermittent leave means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

Mental disability: See *Physical or mental disability*.

Office of Compliance means the independent office established in the legislative branch under section 301 of the CAA (2 U.S.C. 1381).

Parent means the biological parent of an employee or an individual who stands or stood in loco parentis to an employee when the employee was a child.

Physical or mental disability means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

Reduced leave schedule means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Secretary means the Secretary of Labor or authorized representative.

Serious health condition entitling an employee to FMLA leave means:

(1) an illness, injury, impairment, or physical or mental condition that involves:

(i) *Inpatient care* (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(ii) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes:

(A) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(*1*) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(*2*) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(B) Any period of incapacity due to pregnancy, or for prenatal care.

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(*1*) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(*2*) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(*3*) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, etc.).

(D) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(E) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(2) Treatment for purposes of paragraph (1) of this definition includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (1)(ii)(A)(*2*) of this definition, a regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (*e.g.*, oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bedrest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(3) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not ''serious health conditions'' unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(4) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may

only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(5) Absences attributable to incapacity under paragraphs (1)(ii)(B) or (C) of this definition qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis,* who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

State means any State of the United States or the District of Columbia or any Territory or possession of the United States.

Teacher (or *employee employed in an instructional capacity*, or *instructional employee)* means an employee employed principally in an instructional capacity by an educational agency or school whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily noninstructional employees.

Appendix A to Part 825—[Reserved]

Appendix B to Part 825—Certification of Physician or Practitioner

Certification of Health Care Provider

(Family and Medical Leave Act of 1993 as Made Applicable by the Congressional Accountability Act of 1995)

1. Employee's Name:

2. Patient's Name (if different from employee):

3. The attached sheet describes what is meant by a ''serious health condition'' under the Family and Medical Leave Act as made applicable by the Congressional Accountability Act. Does the patient's condition[1] qualify under any of the categories described? If so, please check the applicable category.

(1) _____ (2) _____ (3) _____ (4) _____ (5) _____ (6) _____, or None of the above _____

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

5.a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity[2] if different):

b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)? _____

If yes, give probable duration:

c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated[2] and the likely duration and frequency of episodes of incapacity[2]:

6.a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments:

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

7.a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? _____

b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? _____ If yes, please list the essential functions the employee is unable to perform: _____

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? _____

8.a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? _____

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? _____

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

(Signature of Health Care Provider)

(Type of Practice)

(Address)

(Telephone number)

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

(Employee signature)

(Date)

A ''Serious Health Condition'' means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. *Hospital Care.*—Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity[1] or subsequent treatment in connection with or consequent to such inpatient care.

2. *Absence Plus Treatment.*—(a) A period of incapacity[2] of more than three consecutive calendar days (including any subsequent treatment or period of incapacity[2] relating to the same condition), that also involves:

(1) Treatment[3] two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider: or

(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment[4] under the supervision of the health care provider.

3. *Pregnancy.*—Any period of incapacity due to pregnancy, or for prenatal care.

4. *Chronic Conditions Requiring Treatments.*—A chronic condition which:

(1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(3) May cause episodic rather than a continuing period of incapacity[2] (e.g., asthma, diabetes, epilepsy, etc.)

5. *Permanent/Long-term Conditions Requiring Supervision.*—A period of incapacity[2] which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. *Multiple Treatments (Non-Chronic Conditions).*—Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity[2] of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

FOOTNOTES

[1] Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

[2] ''Incapacity,'' for purposes of FMLA as make applicable by the CAA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom.

[3] Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

[4] A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

Appendix C to Part 825—[Reserved]

Appendix D to Part 825—Prototype Notice: Employing Office Response to Employee Request for Family and Medical Leave

Employing office response to employee request for family or medical leave

(Optional use form—see § 825.301(b)(1) of the regulations of the Office of Compliance)

(Family and Medical Leave Act of 1993, as made applicable by the Congressional Accountability Act of 1995)

(Date)

To:_____

(Employee's name)

From:_____

[1] Footnotes at the end of appendix B.

(Name of appropriate employing office representative)

Subject: Request for Family/Medical Leave

On_____, *(date)* you notified us of your need to take family/medical leave due to: (date)

the birth of your child, or the placement of a child with you for adoption or foster care; or

a serious health condition that makes you unable to perform the essential functions of your job; or

a serious health condition affecting your ''spouse, ''child, ''parent, for which you are needed to provide care.

You notified us that you need this leave beginning on _____*(date)* and that you expect leave to continue until on or about_____ *(date)*.

Except as explained below, you have a right under the FMLA, as made applicable by the CAA, for up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: (*check appropriate boxes; explain where indicated)*

1. You are □ eligible □ not eligible for leave under the FMLA as made applicable by the CAA.

2. The requested leave □ will □ will not be counted against your annual FMLA leave entitlement.

3. You □ will □ will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by_____ (*insert date*) (must be at least 15 days after you are notified of this requirement) or we may delay the commencement of your leave until the certification is submitted.

4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We □ will □ will not require that you substitute accrued paid leave for unpaid FMLA leave. If paid leave will be used the following conditions will apply: (*Explain*)

5(a). If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: (*Set forth dates, e.g., the 10th of each month, or pay periods, etc. that specifically cover the agreement with the employee.*)

(b). You have a minimum 30-day (*or, indicate longer period, if applicable*) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, *provided* we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work. We □ will □ will not pay your share of health insurance premiums while you are on leave.

(c). We □ will □ will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA leave. If we do pay your premiums for other benefits, when you return from leave you □ will □ will not be expected to reimburse us for the payments made on your behalf.

6. You □ will □ will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until the certification is provided.

7(a). You □ are □ are not a ''key employee'' as described in §825.218 of the Office of Compliance's FMLA regulations. If you are a ''key employee,'' restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.

(b). We □ have □ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. (*Explain (a) and/or (b) below. See §825.219 of the Office of Compliance's FMLA regulations.*)

8. While on leave, you □ will □ will not be required to furnish us with periodic reports every _____ (*indicate interval of periodic reports, as appropriate for the particular leave situation*) of your status and intent to return to work (*see §825.309 of the Office of Compliance's FMLA regulations*). If the circumstances of your leave change and you are able to return to work earlier than the date indicated on the reverse side of this form, you □ will □ will not be required to notify us at least two work days prior to the date you intend to report for work.

9. You □ will □ will not be required to furnish recertification relating to a serious health condition. (*Explain below, if necessary, including the interval between certifications as prescribed in §825.308 of the Office of Compliance's FMLA regulations.*)

Appendix E to Part 825—[Reserved]

SENATE

FAIR LABOR STANDARDS ACT, FINAL AND INTERIM REGULATIONS RELATING TO THE SENATE AND ITS EMPLOYING OFFICES

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

NOTICE OF ADOPTION OF REGULATIONS AND SUBMISSION FOR APPROVAL AND ISSUANCE OF INTERIM REGULATIONS

Summary: The Board of Directors of the Office of Compliance, after considering comments to its general Notice of Proposed Rulemaking published on November 28, 1995 in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations to implement sections 203(a) and 203(c) (1) and (2) of the Congressional Accountability Act of 1995 (''CAA''), which apply certain rights and protections of the Fair Labor Standards Act of 1938. The Board is also adopting and issuing such regulations as interim regulations for the House, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540–1999. Telephone: (202) 724–9250.

I. Background and Summary

Supplementary Information: The Congressional Accountability Act of 1995 (''CAA''), Pub. L. 104–1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301 et seq. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. In addition, the statute establishes the Office of Compliance (''Office'') with a Board of Directors (''Board'') as ''an independent office within the legislative branch of the Federal Government.'' Section 203(a) of the CAA applies the rights and protections of subsections a(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (''FLSA'') (29 U.S.C. 206(a)(1) and (d), 207, and 212(c)) to covered employees and employing offices. 2 U.S.C. §1313. Section 203(c)(2) of the CAA directs the Board to issue substantive regulations that ''shall be the same as substantive regulations issued by the Secretary of Labor . . . except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under'' the CAA. 2 U.S.C. §1313(c)(2). On September 28, 1995, the Board of the Office of Compliance issued an Advance Notice of Proposed Rulemaking (''ANPR'') soliciting comments from interested parties in order to obtain participation and information early in the rulemaking process. 141 Cong. Rec. S14542 (daily ed., Sept. 28, 1995).

On November 28, 1995, the Board published in the Congressional Record a Notice of Proposed Rulemaking (NPR) (141 Cong. Rec. S17603–27 (daily ed.)). In response to the NPR, the Board received six written comments, three of which were from offices of the Congress and three of which were from organizations associated with the business community and organized labor. The comments included requests that the Board should provide additional guidance to employing offices on complying with the CAA and compliance issues raised by the ambiguities in the Secretary of Labor's regulations.

Parenthetically, it should also be noted that, on October 11, 1995, the Board published a Notice of Proposed Rulemaking in the Congressional Record (141 Cong. R. S15025 (daily ed., October 11, 1995) (''NPR'')), inviting comments from interested parties on the proposed FLSA regulations which the CAA directed the Board to issue on the definition of ''intern'' and on ''irregular work schedules.'' Final regulations on those matters were separately adopted by the Board on January 16, 1996. However, because they are regulations implementing the rights and protections of the FLSA made applicable by the CAA, the Board has incorporated those regulations into the body of final regulations being adopted pursuant to this Notice. The definition of ''intern'' may be found in section [H or S]501.102(c) & (h), and the ''irregular work schedules'' regulation may be found in sections [H or S or C]553.301–553.304.

II. Consideration of public comments; the Board's response and modifications to the NPR's rules

A. Requests that the Board provide additional guidance, including interpretative bulletins and opinion letters

The Board first turns to the issue of whether and in what circumstances the Board can and should give authoritative guidance to employing offices about issues arising from ambiguities in and uncertain applications of the Secretary's regulations. Commenters have formally and informally requested such guidance in various forms: that the Board change the Secretary's regulations to clarify ambiguities; that the Board adopt the Secretary's interpretive bulletins; that the Board issue the Secretary of Labor's interpretative bulletins as its own regulations; that the Board issue opinion letters constituting safe harbors from litigation; that

the Board give its imprimatur, either formally or informally, to employee handbooks and other human resource activities of employing offices. Mindful that the Board's first decisions on these matters will have important institutional and legal implications, the Board has carefully considered these requests, as well as the underlying concerns they reflect.

At the outset, the Board must decline the suggestion that it modify the Secretary's regulations in order to remove the ambiguities and resulting uncertainties that Congressional offices will face in complying with the CAA once it takes effect. The Board's authority to modify the regulations of the Secretary is explicitly limited by the requirement that the substantive regulations issued by the Secretary of Labor ''shall be the same as substantive regulations issued by the Secretary of Labor . . . except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under'' the CAA. As is true of many regulatory issues, ambiguity and uncertainty are part of the the FLSA regulatory regime that is presently imposed—with much criticism and protest—on private sector and state and local government employers.

The example of the executive, administrative and professional employee exemptions illustrates this point. The Board specifically highlighted this problem and asked for comment in its ANPR (141 Cong. Rec. S14542, S14543) on September 28, 1995. Although the Board received many comments on this issue and is sympathetic with the concerns of employing offices confronting such ambiguity and uncertainty, the Board has neither been given nor can find appropriate justification for relieving employing offices of the compliance burdens that all employers face under the FLSA. The CAA was intended not only to bring covered employees the benefits of the FLSA and other incorporated laws, but also to require Congress to experience the same compliance burdens faced by other employers so that it could more fairly legislate in this area. The Board cannot agree with suggestions that would rob the CAA of one of its principal intended effects.

The Board must also decline the suggestion that it adopt, as either formal regulations or as its own interpretive authority, the interpretive bulletins found in Subpart B of Part 541 and elsewhere in the Secretary of Labor's regulations. Section 203(c)(2) of the CAA requires the Board to promulgate regulations that are the same as the substantive regulations promulgated by the Secretary. But, as explained in the NPR, the interpretive bulletins set forth in Subpart B of Part 541 and elsewhere in the Secretary of Labor's regulations are not substantive regulations within the meaning of the law. Moreover, with respect to the concern expressed by some commenters that congressional employing offices would be at a distinct disadvantage if the Board does not adopt the Secretary's interpretative bulletins, the Board again notes, as it did in the NPR, that the Board need not adopt the Secretary's interpretive bulletins in order for them to be available as guidance for employing offices. While the Board is not adopting these interpretive bulletins, the Board reiterates that, like the myriad judicial decisions under the FLSA that are available as guidance for employing offices, the Secretary's interpretive bulletins remain available as part of the corpus of interpretive materials to which employing offices may look in structuring their FLSA-related compliance activities. Indeed, as the Board also noted in the NPR, since the CAA may properly be interpreted as incorporating the defenses and exemptions set forth in the Portal-to-Portal Act, an employing office that relies in good faith on an applicable interpretive bulletin of the Secretary may in fact have a statutory defense to an enforcement action brought by a covered employee. In short, contrary to the suggestion of these commenters, the Board need not adopt the Secretary's interpretive bulletins in order to give employing offices the benefit of them.

One commenter went so far as to suggest that, by not adopting the Secretary's interpretive bulletins, the Board has somehow signaled its intent to engage in a wholesale reinterpretation of the FLSA and its implementing regulations. No such signal was sent; no such signal was intended. Since the CAA does not require adoption of these interpretive bulletins, and since they are independently available to employing offices, the Board merely determined that it need not adopt the Secretary's interpretative bulletins as its own. Moreover, like the Administrator and the courts, the Board intends to depart from the interpretive bulletins only where their persuasive force is lacking or the law otherwise requires (just as courts or the Administrator would do). *See Skidmore* v. *Swift & Co.*, 323 U.S. 134, 137-38 (1944); *Reich* v. *Interstate Brands Corp.*, 57 F.3d 574, 577 (7th Cir. 1995) (''[W]e give the Secretary's bulletins the respect their reasoning earns them.''); *Dalheim* v. *KDFW-TV*, 918 F.2d 1220, 1228 (5th Cir. 1990) (''the persuasive authority of a given interpretation obtains only so long as ''all those factors which give it power to persuade'' persist.'') (quoting *Skidmore*).

As an alternative to modifying the regulations and adopting the interpretive bulletins of the Secretary, several commenters also suggested that the Board clarify regulatory ambiguities by issuing interpretive bulletins and advisory opinions of its own and thereby confer a Portal-to-Portal Act defense on employing offices that rely upon any such bulletins or advisory opinions of the Board. Indeed, at least one commenter suggested that the Board should provide advisory opinions and other counsel to employing offices that pose questions to it concerning, for example, the propriety of proposed model personnel practices, the exempt status of employees with specified job descriptions, the legality of proposed handbooks, and the qualification of certain House and Senate programs (such as the Federal Thrift Savings Plan) for defenses or exemptions recognized in the FLSA and the Secretary's regulations. The Board has considered these suggestions and, although empathizing with the concerns motivating these requests, finds these suggestions raise intractable legal and practical problems.

To begin with, the Board upon further study has determined that, contrary to the suggestion of the commenters, the Board cannot confer a Portal-to-Portal Act defense on employing offices for any reliance on pronouncements of the Board (as opposed to the Secretary). By its own terms, in the context of the FLSA, the Portal-to-Portal Act applies only to written administrative actions of the Wage and Hour Administrator of the Department of Labor. *See* 29 U.S.C. §259. The Portal-to-Portal Act does not mention the Board; and the Board's authority to amend the Secretary's regulations for ''good cause'' plainly does not extend to amending statutes such as the Portal-to-Portal Act. Thus, as the federal court of appeals which has jurisdiction over such matters under the CAA has held in an almost identical context, the Portal-to-Portal Act would not confer a defense upon employing offices that might rely upon a pronouncement of the Board. *See Berg* v. *Newman*, 982 F.2d 500, 503-504 (Fed Cir. 1992) (''To apply the statute to a regulation issued by OPM, an agency not referred to in section 259, would extend the section 259 exception beyond its scope''; ''OPM's absence from section 259 prevents the Government from both adopting and shielding itself from liability for faulty regulations.'') The final regulations so state.

Second, contrary to the assumption of these commenters, the Board has neither the legal basis nor the practical ability to issue the kind of interpretive bulletins or advisory opinions being requested. While the Administrator of the Wage and Hour Division entertains questions posed by employers about enforcement-related issues, the Administrator's willingness and ability to respond to such questions derives from and is constrained by her investigatory and enforcement responsibilities under the FLSA. As the Supreme Court stated over 50 years ago in *Skidmore* v. *Swift & Co.*, 323 U.S. 134, 137–38 (1944) (citations omitted): ''Congress did not utilize the services of an administrative agency to find facts and to determine in the first instance whether particular cases fall within or without the Act. Instead, it put these responsibilities on the courts. But it did create the office of Administrator, impose upon him a variety of duties, endow him with powers to inform himself of conditions in industries and employments subject to the Act, and put on him the duties of bringing injunction actions to restrain violations. Pursuit of his duties has accumulated a considerable experience in the problems of ascertaining working time in employments involving periods of inactivity and a knowledge of the customs prevailing in reference to their solution. From these he is obliged to reach conclusions as to conduct without the law, so that he should seek injunctions to stop it, and that within the law, so that he has no call to interfere. He has set forth his views of the application of the Act under different circumstances in an interpretative bulletin and in informal rulings. They provide a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it.''

In contrast, the Board has no investigative power by which it can inform itself of conditions, circumstances and customs of employment in the legislative branch; its resources for finding and considering such information are smaller by orders of substantial magnitude; and, most importantly, the Board has no cause to advise employees and employing offices concerning how it will seek to enforce the statute, since it has no enforcement powers under the CAA.

Indeed, on reflection, it seems unwise, if not legally improper, for the Board to set forth its views on interpretive ambiguities in the regulations outside of the adjudicatory context of individual cases. As noted above, the Board's rulemaking authority is quite restricted. Moreover, the Board has no enforcement authority and, in contrast to the FLSA scheme (where the Administrator has no adjudicatory authority to find facts and to determine in the first instance whether particular cases fall within or without the statute), the CAA contemplates that the Board will adjudicate cases brought by covered employees and that, in such adjudications, the Board must be of independent and open mind, bound to and limited by a factual record developed through an adversarial process governed by rules of law, and subject to judicial review of its decisions. See 2 U.S.C. §§1405–1407 (procedure for complaint, hearing, board review and judicial review; requiring hearings to be conducted in accordance with 5 U.S.C. §§554–557); 29 U.S.C. §§554–557. These legal safeguards and the institutional objectives they seek to promote—i.e., the accuracy of the Board's adjudicative decisions and the integrity of the Board's processes—would be undermined if the Board

were to attempt to prejudge ambiguous or disputed interpretive matters in advisory opinions that were developed in non-adversarial, non-public proceedings. The Board thus cannot acquiesce in requests for such advisory opinions.

Some commenters suggested that the Board could properly issue such interpretive bulletins and advisory opinions under the rubric of the ''education'' and ''information'' programs allowed and, indeed, mandated by section 301(h) of the CAA. Of course, the Office's education and information programs are not the subject of this notice and comment and thus a discussion of ''education'' and ''information'' programs is not necessary to this rulemaking effort. But, upon due consideration of matter, it appears that this suggestion is based upon a fundamental misunderstanding of the institutional powers and responsibilities conferred upon and withheld from the Board and the Office by Congress in the CAA. Thus, it is both fair and prudent to address the issue at this point.

At the outset, the Board notes that Section 301(h)'s reference to ''education'' and ''information'' programs is not the broad mandate that these comments suggest. In contrast to other statutory schemes, section 301(h) does not authorize, much less compel, the development by the Board or the Office of ''training'' or ''technical assistance'' programs such as those that are included in the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Occupational Safety and Health Act of 1970, the Employee Polygraph Protection Act of 1988, and the Age Discrimination in Employment Act of 1967. Nor does the CAA authorize, much less compel, the issuance of interpretive bulletins, advisory opinions or enforcement guidelines, as agencies with investigative and prosecutorial powers (and matching resources) are sometimes allowed (although almost never compelled) to issue. Rather, section 301(h) directs the Office to carry out ''a program of education for members of Congress and other employing authorities of the legislative branch of the Federal Government respecting the laws made applicable to them''; and ''a program to inform individuals of their rights under laws applicable to the legislative branch of the Federal Government.'' 2 U.S.C. §1381(h). Such admonitions are, however, contained in almost all federal employment laws; and those experienced in the field understand them to concern only programs that ensure general ''awareness'' of rights and responsibilities under the pertinent law.

Section 301(h) must be read in the context of the powers granted to and withheld from the Board in the statutory scheme created by the CAA. The CAA authorizes the Board to engage in rulemaking, but requires the Board to follow specified procedures in doing so and, at least in the context of the FLSA, requires the Board to have ''good cause'' for departing from the Secretary of Labor's substantive regulations. Moreover, the CAA authorizes the Board to engage in adjudication, but only after a complaint is filed with the Office, a record is properly developed through an adversarial process governed by rules of law, and judicial review is assured. And the CAA rather pointedly declines to confer upon the Board the investigatory and prosecutorial authority that is necessary for sound decisionmaking and interpretation outside of the regulatory and adjudicatory contexts. Given this statutory scheme, section 301(h)'s ''education and information'' mandate cannot reasonably be construed to require (or even allow) the Board to engage in the kind of advisory counselling requested here—i.e., authoritative opinions developed in nonpublic, nonadversarial proceedings.

Indeed, Congress appears effectively to have considered this issue in the CAA and to have rejected the kind of relationship between the Board and employing offices that is contemplated by this request. The legislative history reflects a recognition that ''the office must, in appearance and reality, be independent in order to gain and keep the confidence of the employees and employers who will utilize the dispute resolution process created by this act.'' 141 Cong. Rec. at S627. The legislative history further reflects a recognition that ''laws cannot be enforced in a fair and uniform manner—and employees and the public cannot be convinced that the laws are being enforced in a fair and uniform manner—unless Congress establishes a single enforcement mechanism that is independent of each House of Congress.'' 141 Cong. Rec. at S444. The statute thus declares that the Office of Compliance is an ''independent office'' in the legislative branch; that the Office is governed by a Board of Directors whose members were appointed on a bi-partisan basis for non-partisan reasons, who may be removed in only quite limited circumstances, and whose incomes are largely derived from work in the private sector; and that the Board must follow formal public comment and adjudicatory procedures in making any decisions with legal effect. 2 U.S.C. §§1381(a), (b), (e), (f), (g), 1384, 1405–6. The call for issuing advisory opinions in the ''education'' and ''information'' process—opinions that would be issued in non-public, non-adversarial proceedings without regard to the statutorily-required public comment and adjudicatory procedures—is in intolerable tension with the institutional independence, inclusiveness and procedural regularity contemplated for the Board by the CAA.

In all events, the Board would in the exercise of its considered judgment decline to provide authoritative opinions to employing offices as part of its ''education'' and ''information'' programs. Without investigatorial and prosecutorial authority (and matching resources), the Board has insufficient information and thus is practicably unable to provide such authoritative opinions. With severely restricted rulemaking authority, the Board cannot properly provide regulatory clarifications for employing offices when those clarifications have not been provided by the Secretary to private sector and state and local government employers. And, with its adjudicatory powers, the Board should not resolve disputed interpretive matters in the absence of a specific factual controversy, a record developed through an adversarial process governed by rules of law, and an opportunity for judicial review. To do otherwise would simply impair the independence, impartiality, and irreproachability of the Board's actions. In short, for much the same reasons that federal courts do not issue advisory opinions or *ex parte* decisions, neither should the Board. *See United States* v. *Freuhauf*, 365 U.S. 146, 157 (1961) (Frankfurter, J.) (discussing vices of advisory opinions).

To be sure, ''education'' and ''information'' programs are of central importance to the CAA scheme. Such programs are needed, in part, to help employing offices in their efforts to understand and satisfy their compliance obligations under the CAA. And the Board reiterates its intention, stated in the NPR, that the Office sponsor, and participate in, seminars on the obligations of employing offices, distribute a comprehensive manual to address frequently arising questions under the CAA (including questions relating to FLSA exemptions), and be available generally to discuss compliance-related issues when called upon by employing offices. But the Board itself will not and should not in this education and information process issue authoritative opinions about such matters as the exemption status of employees with specified job duties, the propriety of particular model handbooks and policies developed by employing offices, and the qualification of certain House and Senate programs (such as the Federal Thrift Savings Plan) for particular defenses and exemptions that are available under the regulations. Characterizing such interpretive activity as ''educational'' or ''informational'' does not in any way address, much less satisfactorily resolve, the serious legal and institutional concerns that make it unwise, if not improper, for the Board to engage in such interpretive activities outside of the adjudicative processes established by the CAA.

The Board recognizes that, by declining to provide such authoritative advisory opinions, the Board is forcing employing offices to rely to a greater extent upon their own counsel and human resources officials and in a sense is frustrating the efforts of employing offices to obtain desirable safe-harbors. The FLSA as currently applied to private employers contains few such safe-harbors, particularly in the area of exemptions. But many knowledgeable labor lawyers and human resources officials are available to provide employing offices with the kind of learned counsel and human resources advice that the employing offices are seeking from the Board; indeed, the House and Senate have centralized administrations and committees that can provide this legal support to employing offices. And employing offices have the benefit of the same legal safe-harbors that the Secretary of Labor has made available to private sector and State and local government employers. Under the CAA, they are legally entitled to no more.

Even more importantly, however, the Board finds that the long-term institutional harm to the CAA scheme that would result from the Board's providing such advisory opinions in non-public, non-adversarial proceedings far outweighs whatever short-term legal or political benefits might result for employing offices. As noted above, provision by the Board of such opinions could impair confidence in the independence, impartiality and irreproachability of the Board's decisionmaking processes. Such a lack of confidence could unfortunately induce employees to take their cases to court rather than bring them to the Board's less costly, confidential and expedited alternative dispute resolution process. Even more seriously, such a lack of confidence could cause the public and other interested persons to question the Board's commitment, and thus the sincerity of the CAA's promise, generally to provide covered employees the same benefits, and to subject the legislative branch to the same legal burdens, as exist with regard to private sector and State and local government employers that are subject to the FLSA. We are confident that, like the bi-partisan Congressional leadership who appointed us and who placed their trust in our experience and judgment concerning how best to implement this statute, those in Congress who voted for the CAA or who would support it today would want us to prefer the long term viability, integrity, and efficacy of this noble statutory enterprise over the short-term demands of employing offices.

B. Specific comments and Board action.

1. §§541.1,.2,.3—''White collar'' exemptions—Use of job descriptions to determine exempt status

The Board received several comments urging the Board, on the basis of generic job descriptions, to give advice to employing offices on whether covered employees are exempt as bona fide executive, administrative, or professional employees under FLSA §13(a)(1) as applied by the CAA. As noted above, it would not be appropriate to attempt to give such advice in the context of

this rulemaking. The Board would note, as a further point, that submission of such descriptions which may describe functions of congressional employees would not, in any event, provide the detail necessary to determine the exempt or nonexempt status of the job. Job descriptions that utilize language or phraseology derived from the regulations today adopted by the Board do not provide the specificity of conclusions regarding exempt or nonexempt status. The Secretary's regulations, as adopted by the Board, speak for themselves. It would serve no purpose, and provide no guidance, simply to repeat the statutory standards for exemption in a job description without reference to the particular functions of a particular employee. The Fair Labor Standards Act is clear that actual function, and not description or job title, govern the exempt status of an employee. See, e.g., 29 C.F.R. §541.201 (3)(b)(1),(2).

2. §541.5d—Special rule for ''white collar'' employees of a public agency

Under §13(a)(1) of the FLSA, which is incorporated by reference under §225(f)(1) of the CAA, a salaried employee who is a bona fide executive, administrative, or professional employee need not be paid overtime compensation for hours worked in excess of the statutory maximum. Sections 541.1, 541.2, and 541.3, 29 C.F.R., of the Secretary of Labor's regulations respectively define the criteria for each of these ''white collar'' exemptions. Since they are substantive regulations, the Board in its NPR proposed to adopt them.

Among the regulations not proposed for adoption was §541.5d. This regulation provides that an employee shall not lose his or her ''white collar'' exemption where a ''public agency'' employer reduces an exempt employee's pay or places the employee on unpaid leave in certain circumstances for partial-day absences.. As explained in the Federal Register Notice announcing its adoption, the Secretary of Labor issued §541.5d in response to concerns that the application of the FLSA to State and local governments would undermine well-settled ''policies of public accountability'' that require public employees (including those who would otherwise be exempt) to incur a reduction in pay if they absent themselves from work under certain circumstances. 57 Fed. Reg. 37677 (Aug. 19, 1992).

The Board originally did not propose adoption of this regulation. However, one commenter pointed out that, by its terms, §541.5d covers a ''public agency,'' which is a statutory term defined in §3(x) of the FLSA to include ''the government of the United States.'' As a definitional provision, §3(x) is incorporated into the CAA by virtue of §225(f)(1), and Congress is undeniably a branch of the ''government of the United States.''

The Board finds merit in the commenter's argument. Moreover, the adoption of this regulation is well in keeping with the Board's mandate to promulgate rules that are ''the same as substantive regulations promulgated by the Department of Labor to implement'' those FLSA statutory provisions made applicable by the CAA. Accordingly, §541.5d will be adopted with a minor change that substitutes for the citation to §541.118 (an interpretative bulletin) the phrase ''being paid on a salary basis,'' which is derived directly from the substantive regulations defining the ''white collar'' exemptions (i.e., 29 C.F.R. §§541.1,.2,.3).

3. Partial overtime exemption for law enforcement officers

The Board did not propose to adopt any sections of 29 C.F.R. Part 553, which govern the application of the FLSA to employees of State and local governments. Subparts A and B of that Part address a variety of issues, including certain exclusions pertaining to elected legislative offices, the use of compensatory time off, recordkeeping, and the employment of volunteers. Subpart C addresses the special provisions which Congress enacted in §7(k) in connection with fire protection and law enforcement employees of public agencies.

Section 7(k) of the FLSA also provides a partial overtime exemption for fire protection and law enforcement employees of a public agency. Based on tour-of-duty averages that were determined by the Secretary of Labor in 1975, an employer need not pay overtime if, in a work period of 28 consecutive days, the employee receives a tour of duty which in the aggregate does not exceed 212 hours for fire protection activity or does not exceed 171 hours for law enforcement activity. Thus, for law enforcement personnel, work in excess of 171 hours during the 28-day period triggers the requirement to pay overtime compensation. For a work period of at least 7 but less than 28 consecutive days, overtime must be paid when the ratio of the number of hours worked to the number of days in the work period exceeds the 171-hours-to-28-days ratio (rounded to the nearest whole hour).

Although the regulations by their terms apply only to ''public agencies'' of State and local governments, one commenter observed that the underlying statutory provisions are not so limited but rather apply to any ''public agency,'' which by definition includes the Federal government (See §3(x) of the FLSA). Accordingly, it was argued that the Board should adopt those regulations implementing the §7(k) partial overtime exemption insofar as it would apply to the law enforcement work of the Capitol Police.

For the reasons noted above that support adoption of §541.5d, the Board finds that the pertinent sections of Subpart C of Part 553 should also be adopted. Section 7(k) provides a direct textual basis for applying the relevant regulations. Thus, under the regulations, the Capitol Police as an employing office of law enforcement personnel shall have two options: It may pay such personnel overtime compensation on the basis of a 40-hour workweek. Alternatively, it may claim the section 7(k) exemption by establishing a valid work period that follows the criteria set forth in the regulations.

The Board is aware that Congress has enacted special provisions governing overtime compensation and compensatory time off for Capitol Police officers. 40 U.S.C. §206b (for police on the House's payroll) and §206c (for police on the Senate's payroll). However, the regulations being adopted here do not purport to modify those statutory provisions; and whether 40 U.S.C. §§206b–206c grant rights and protections to law enforcement employees that preclude the Capitol Police from availing itself of §7(k) of the FLSA is a question that the Board does not address. The regulations simply specify the rules for overtime policies that conform to the FLSA.

4. §570.35a—Work experience programs for minors

The CAA makes applicable to the legislative branch FLSA §12(c), which prohibits the use of oppressive child labor, and FLSA §3(l), which defines ''oppressive child labor.'' In its NPR, the Board proposed adopting as part of the CAA rules applicable to the Senate certain substantive regulations of Part 570, 29 C.F.R., implementing these statutory provisions. This proposal was based on the Board's understanding that the Senate has a practice of appointing pages under 18 years of age.

One commenter confirmed this understanding by reporting that the Senate Page Program does employ minors under the age of 16. Thus, under the proposed regulations, there are limitations on the periods and the conditions under which such minors can work. Without disputing the applicability of this regulation, the commenter sought to mitigate its impact by urging the adoption of an additional regulation found in 29 C.F.R. Part 570, Subpart C, namely the rule that varies some of the provisions of Subpart C in the context of school-supervised and school-administered work-experience or career exploration programs that have been individually approved by the Wage and Hour Administrator. 29 C.F.R. §570.35a.

After carefully reviewing the provisions of §570.35a, the Board finds that it would not be appropriate to adopt this regulation. There is no available ''State Educational Agency'' in the context of the CAA; State law is not properly applicable here; and the Board is obviously not competent to set educational standards. In short, there are legal and practical reasons why this regulation is unworkable in the context of Federal legislative branch employment, and the Board thus has ''good cause'' not to adopt it.

5. Board determination on regulations ''required'' to be issued in connection with §411 default provision

Section 411 of the CAA provides in pertinent part that ''if the Board has not issued a regulation on a matter for which [the CAA] requires a regulation to be issued the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue.'' By its own terms, this provision comes into play only where it is determined that the Board has not issued a regulation that is required by the CAA. Thus, before a Department of Labor regulation can be invoked, an adjudicator must make a threshold determination that the regulation concerns a matter as to which the Board was obligated under the CAA to issue a regulation.

As noted in the NPR, it was apparent in reviewing Chapter V of 29 C.F.R., which contains all the regulations of the Secretary of Labor issued to implement the FLSA generally, many of those regulations were not legally ''required'' to be issued as CAA regulations because the underlying FLSA provisions were not made applicable under the CAA. And there are other regulations that the Board has ''good cause'' not to issue because, for example, they have no applicability to legislative branch employment.

None of the comments to the NPR quarrelled with the Board's conclusion not to adopt those regulations that have little practical application. Therefore, the Board is not issuing regulations predicated upon the following Parts of 29 C.F.R.: Parts 519-528, which authorize subminimum wages for full-time students, student-learners, apprentices, learners, messengers, workers with disabilities, and student workers; Part 548, which authorizes in the collective bargaining context the establishment of basic wage rates for overtime compensation purposes; and Part 551, which implements an overtime exemption for local delivery drivers and helpers.

The comments did identify several individual regulations as to which there is not good cause to not adopt. As explained elsewhere, those regulations are being included in the final rules. However, in the main, the comments did not dispute the inapplicability of those Parts of 29 C.F.R. deemed legally irrelevant.

Accordingly, in keeping with its announced intent in the NPR, the Board is including in its final rules a declaration to the

effect that the Board has issued those regulations that, as both a legal and practical matter, it is ''required'' to promulgate to implement the statutory provisions of the FLSA that are made applicable to the legislative branch by the CAA.

The Board has carefully reviewed the entire corpus of the Secretary's regulations, has sought comment on its proposal concerning the regulations that it should (and should not adopt), and has considered those comments in formulating its final rules. The Board has acted based on this review and consideration and in order to prevent wasteful litigation about whether the omission of a regulation from the Secretary in the Board's regulations was intended or not.

6. Recordkeeping and notice posting

One comment essentially requested that the Board revisit an issue which it resolved after receiving comments to its Advance Notice of Proposed Rulemaking (ANPR) published on October 11, 1995. The ANPR had solicited public comments on certain questions to assist the Board in drafting proposed FLSA regulations, including the question of whether the FLSA provisions regarding recordkeeping and the notice posting were made applicable by the CAA. As explained in the NPR, after evaluating the comments and carefully reviewing the CAA, the Board concluded that ''the CAA explicitly did not incorporate the notice posting and recordkeeping requirements of Section 11, 29 U.S.C. §211 of the FLSA.'' The most recent comment offered no further statutory evidence to support a change in the Board's original conclusion.

7. Technical and nomenclature changes

A commenter suggested a number of technical and nomenclature changes to the proposed regulations to make them more precise in their application to the legislative branch. The Board has incorporated many of the suggested changes. However, by making these changes, the Board does not intend a substantive difference in meaning of these sections of the Board's regulations and those of the Secretary from which the Board's regulations are derived.

III. Adoption of Proposed Rules as Final Regulations under Section 304(b)(3) and as Interim Regulations

Having considered the public comments to the proposed rules, the Board pursuant to section 304(b)(3) & (4) of the CAA is adopting these final regulations and transmitting them to the House and the Senate with recommendations as to the method of approval by each body under section 304(c). However, the rapidly approaching effective date of the CAA's implementation necessitates that the Board take further action with respect to these regulations. For the reasons explained below, the Board is also today adopting and issuing these rules as interim regulations that will be effective as of January 23, 1996 or the time upon which appropriate resolutions of approval of these interim regulations are passed by the House and/or the Senate, whichever is later. These interim regulations will remain in effect until the earlier of April 15, 1996 or the dates upon which the House and Senate complete their respective consideration of the final regulations that the Board is herein adopting.

The Board finds that it is necessary and appropriate to adopt such interim regulations and that there is ''good cause'' for making them effective as of the later of January 23, 1996, or the time upon which appropriate resolutions of approval of them are passed by the House and the Senate. In the absence of the issuance of such interim regulations, covered employees, employing offices, and the Office of Compliance staff itself would be forced to operate in regulatory uncertainty. While section 411 of the CAA provides that, ''if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding,'' covered employees, employing offices and the Office of Compliance staff might not know what regulation, if any, would be found applicable in particular circumstances absent the procedures suggested here. The resulting confusion and uncertainty on the part of covered employees and employing offices would be contrary to the purposes and objectives of the CAA, as well as to the interests of those whom it protects and regulates. Moreover, since the House and the Senate will likely act on the Board's final regulations within a short period of time, covered employees and employing offices would have to devote considerable attention and resources to learning, understanding, and complying with a whole set of default regulations that would then have no future application. These interim regulations prevent such a waste of resources.

The Board's authority to issue such interim regulations derives from sections 411 and 304 of the CAA. Section 411 gives the Board authority to determine whether, in the absence of the issuance of a final regulation by the Board, it is necessary and appropriate to apply the substantive regulations of the executive branch in implementing the provisions of the CAA. Section 304(a) of the CAA in turn authorizes the Board to issue substantive regulations to implement the Act. Moreover, section 304(b) of the CAA instructs that the Board shall adopt substantive regulations ''in accordance with the principles and procedures set forth in section 553 of title 5, United States Code,'' which have in turn traditionally been construed by courts to allow an agency to issue ''interim'' rules where the failure to have rules in place in a timely manner would frustrate the effective operation of a federal statute. See, e.g., *Philadelphia Citizens in Action* v. *Schweiker*, 669 F.2d 877 (3d Cir. 1982). As noted above, in the absence of the Board's adoption and issuance of these interim rules, such a frustration of the effective operation of the CAA would occur here.

In so interpreting its authority, the Board recognizes that in section 304 of the CAA, Congress specified certain procedures that the Board must follow in issuing substantive regulations. In section 304(b), Congress said that, except as specified in section 304(e), the Board must follow certain notice and comment and other procedures. The interim regulations in fact have been subject to such notice and comment and such other procedures of section 304(b).

In issuing these interim regulations, the Board also recognizes that section 304(c) specifies certain procedures that the House and the Senate are to follow in approving the Board's regulations. The Board is of the view that the essence of section 304(c)'s requirements are satisfied by making the effectiveness of these interim regulations conditional on the passage of appropriate resolutions of approval by the House and/or the Senate. Moreover, section 304(c) appears to be designed primarily for (and applicable to) final regulations of the Board, which these interim regulations are not. In short, section 304(c)'s procedures should not be understood to prevent the issuance of interim regulations that are necessary for the effective implementation of the CAA.

Indeed, the promulgation of these interim regulations clearly conforms to the spirit of section 304(c) and, in fact promotes its proper operation. As noted above, the interim regulations shall become effective only upon the passage of appropriate resolutions of approval, which is what section 304(c) contemplates. Moreover, these interim regulations allow more considered deliberation by the House and the Senate of the Board's final regulations under section 304(c).

The House has in fact already signalled its approval of such interim regulations both for itself and for the instrumentalities. On December 19, 1995, the House adopted H. Res. 311 and H. Con. Res. 123, which approve ''on a provisional basis'' regulations ''issued by the Office of Compliance before January 23, 1996.'' The Board believes these resolutions are sufficient to make these interim regulations effective for the House on January 23, 1996, though the House might want to pass new resolutions of approval in response to this pronouncement of the Board.

To the Board's knowledge, the Senate has not yet acted on H. Con. Res. 123, nor has it passed a counterpart to H. Res. 311 that would cover employing offices and employees of the Senate. As stated herein, it must do so if these interim regulations are to apply to the Senate and the other employing offices of the instrumentalities (and to prevent the default rules of the executive branch from applying as of January 23, 1996).

IV. Method of Approval

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the regulations that shall apply to other covered employees and employing offices should be approved by the Congress by concurrent resolution.

With respect to the interim version of these regulations, the Board recommends that the Senate approve them by resolution insofar as they apply to the Senate and employees of the Senate. In addition, the Board recommends that the Senate approve them by concurrent resolution insofar as they apply to other covered employees and employing offices. It is noted that the House has expressed its approval of the regulations insofar as they apply to the House and its employees through its passage of H. Res. 311 on December 19, 1995. The House also expressed its approval of the regulations insofar as they apply to other employing offices through passage of H. Con. Res. 123 on the same date; this concurrent resolution is pending before the Senate.

ADOPTED REGULATIONS—AS INTERIM AND AS FINAL REGULATIONS:

Subtitle A—Regulations Relating to the Senate and Its Employing Offices—S Series

Chapter III—Regulations Relating to the Rights and Protections Under the Fair Labor Standards Act of 1938

Part S501—General Provisions

Sec.

S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

S501.101 Purpose and scope.

S501.102 Definitions.

S501.103 Coverage.

S501.104 Administrative authority.

S501.105 Effect of Interpretations of the Labor Department.

S501.106 Application of the Portal-to-Portal Act of 1947.

S501.107 Duration of interim regulations.

§ S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA.

Secretary of Labor regulations	*OC regulations*
Part 531 Wage payments under the Fair Labor Standards Act of 1938	Part S531
Part 541 Defining and delimiting the terms ''bona fide executive,'' ''administrative,'' and ''professional'' employees	Part S541
Part 547 Requirements of a ''Bona fide thrift or savings plan''	Part S547
Part 553 Application of the FLSA to employees of public agencies	Part S553
Part 570 Child labor	Part S570

Subpart A—Matters of General Applicability

§ S501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which require that the Board promulgate regulations that are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.''

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection a [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other ''substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA].''

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§ S501.102 Definitions.

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *FLSA* or *Act* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) *Covered employee* means any employee of the Senate, including an applicant for employment and a former employee, but shall not include an intern.

(d) *Employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(e) *Employing office* and *employer* mean (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the Senate.

(f) *Board* means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

(h) *Intern* is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months; *provided* that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months; *provided further* that an intern for purposes of section 203(a)(2) of the CAA also includes an individual who is a senior citizen appointed under S. Res. 219 (May 5, 1978, as amended by S. Res. 96, April 9, 1991), but does not include volunteers, fellows or pages.

§ S501.103 Coverage.

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§S501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

§ S501.105 Effect of Interpretation of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutory-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 CFR §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: ''[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control,'' *Skidmore* v. *Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be ''the same as substantive regulations promulgated by the Secretary of Labor'' except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§ S501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§216 and 251 *et seq.*, is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part: ''[N]o employer shall

be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act of omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.''

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided,* that such regulation, order, ruling approval or interpretation had not been superseded at the time or reliance by any regulation, order, decision, or ruling of the Board or the courts.

§ S501.107 Duration of interim regulations.

These interim regulations for the House, the Senate and the employing offices of the instrumentalities are effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

Part S531—Wage Payments Under the Fair Labor Standards Act of 1938

Subpart A—Preliminary matters

Sec.
S. 531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S. 531.1 Definitions.
S. 531.2 Purpose and scope.

Subpart B—Determinations of ''reasonable costs;'' effects of collective bargaining agreements

S. 531.3 General determinations of 'reasonable cost'.
S. 531.6 Effects of collective bargaining agreements.

Subpart A—Preliminary matters

§ S531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
531.1 Defintions	S531.1
531.2 Purpose and scope	S531.2
531.3 General determinations of ''reasonable cost''	S531.3
531.6 Effects of collective bargaining agreements	S531.6

§ S531.1 Definitions.

(a) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) *Act* means the Fair Labor Standards Act of 1938, as amended.

§ S531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value.' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the 'reasonable cost' and 'fair value' of board, lodging, or other facilities have general application.

Subpart B—Determinations of ''reasonable cost'' and ''fair value''; effects of collective bargaining agreements

§ S531.3 General determinations of 'reasonable cost'

(a) The term *reasonable cost* as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5½ percent) for interest on the depreciated amount of capital invested by the employer: *Provided,* That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term *good accounting practices* does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term *depreciation* includes obsolescence.

(d)(1) The cost of furnishing 'facilities' found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§ S531.6 Effects of collective bargaining agreements

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be ''bona fide'' when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

Part S541—Defining and Delimiting the Terms ''Bona Fide Executive,'' ''Administrative,'' or ''Professional'' Capacity (Including Any Employee Employed in the Capacity of Academic Administrative Personnel or Teacher in Secondary School)

Subpart A—General regulations

Sec.
S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S541.01 Application of the exemptions of section 13(a)(1) of the FLSA.
S541.1 Executive.
S541.2 Administrative.
S541.3 Professional.
S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.
S541.5d Special provisions applicable to employees of public agencies.

Subpart A—General regulations

§ S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
541.1 Executive	S541.1
541.2 Administrative	S541.2
541.3 Professional	S541.3
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees	S541.5b
541.5d Special provisions applicable to employees of public agencies	S541.5d

§ S541.01 Application of the exemptions of section 13 (a)(1) of the FLSA

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in a capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except

where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under § 203.

§ S541.1 Executive

The term employee employed in a bona fide executive * * * capacity in section 13(a)(1) of the FSLA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department or subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided,* That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided,* That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of work of two or more other employees therein, shall be deemed to meet all the requirements of this section

§ S541.2 Administrative

The term *employee employed in a bona fide* * * * *administrative* * * * *capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment or institution by which employed: *Provided,* That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§ S541.3 Professional

The term *employee employed in a bona fide* * * * *professional capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who who is employed and engaged in this activity as a teacher in the school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided,* That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (as)(3) of this section: *Provided further,* That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a)(1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further,* That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6½ times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§ S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially ''equal work,'' the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§ S541.5d Special provisions applicable to employees of public agencies

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under Sec. S541.1, S541.2, or S541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy for practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—

(1) permission for its use has not been sought or has been sought and denied;

(2) accrued leave has been exhausted; or

(3) the employee chooses to use leave without pay.

(b) Deductions from the pay for an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid 'on a salary basis' except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

Part S547—Requirements of a ''Bona Fide Thrift or Savings Plan''

Sec.

S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

S547.0 Scope and effect of part.
S547.1 Essential requirements of qualifications.
S547.2 Disqualifying provisions.

§ S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
547.0 Scope and effect of part	S547.0
547.1 Essential requirements of qualifications	S547.1
547.2 Disqualifying provisions	S547.2

§ S547.0 Scope and effect of part

(a) The regulations in this part set forth the requirements of a ''bona fide thrift or savings plan'' under section 7(3)(e)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§ S547.1 Essential requirements for qualifications

(a) A ''bona fide thrift or savings plan'' for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § S547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however,* That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan. *Provided,* That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§ S547.2 Disqualifying provisions

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

Part S553—Overtime Compensation: Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection; Overtime and Compensatory Time-Off for Employees Whose Work Schedule Directly Depends Upon the Schedule of the House

Introduction

Sec.
S553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S553.1 Definitions
S553.2 Purpose and scope

Subpart C—Partial exemption for employees engaged in law enforcement and fire protection

S553.201 Statutory provisions: section 7(k).
S553.202 Limitations.
S553.211 Law enforcement activities.
S553.212 Twenty percent limitation on nonexempt work.
S553.213 Public agency employees engaged in both fire protection and law enforcement activities.
S553.214 Trainees.
S553.215 Ambulance and rescue service employees.
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S553.220 ''Tour of duty'' defined.
S553.221 Compensable hours of work.
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S553.225 Early relief.
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S553.227 Outside employment.
S553.230 Maximum hours standard for work periods of 7 to 28 days—section 7(k).
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S553.301 Definiton of ''directly depends.''
S553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
S553.303 Using compensatory time off.
S553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

Introduction

§ S553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
553.1 Definitions	S553.1
553.2 Purpose and scope	S553.2
553.201 Statutory provisions section 7(k)	S553.201
553.202 Limitations	S553.202
553.211 Law enforcement activities	S553.211
553.212 Twenty percent limitation on nonexempt work	S553.212
553.213 Public agency employees engaged in both fire protection and law enforcement activities	S553.213
553.214 Trainees	S553.214
553.215 Ambulance and rescue service employees	S553.215
553.216 Other exemptions	S553.216
553.220 ''Tour of duty'' defined	S553.220
553.221 Compensable hours of work	S553.221
553.222 Sleep time	S553.222
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553.224 ''Work period'' defined	S553.224
553.225 Early relief	S553.225
553.226 Training time	S553.226
553.227 Outside employment	S553.227
553.230 Maximum hours standard for work periods of 7 to 28 days—section 7(k)	S553.230
553.231 Compensatory time off	S553.231
553.232 Overtime pay requirements	S553.232
553.233 ''Regular rate'' defined	S553.233

Introduction

§ S553.1 Definitions

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Amendments of 1985 (Pub. L. 99–150).

(c) Public agency means an employing office as the term is defined in § __ 501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of § 7(k) of the FLSA as applied to covered employees and employing offices by § 203 of the CAA.

§ S553.2 Purpose and scope

The purpose of part S553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

Subpart C—Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection

§ S553.201 Statutory provisions: section 7(k)

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act

formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in § S553.230 of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§ S553.202 Limitations

The application of § 7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

Exemption requirements

§ S553.211 Law enforcement activities

(a) As used in § 7(k) of the Act, the term 'any employee . . . in law enforcement activities' refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as ''trainee,'' ''probationary,'' or ''permanent,'' and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See Sec. S553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in 'law enforcement activities' as that term is used in sections 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in Sec. S553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) Civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term ''any employee in law enforcement activities'' also includes, by express reference, ''security personnel in correctional institutions.'' Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as ''trainee,'' ''probationary,'' or ''permanent,'' and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term ''employee in law enforcement activities'' are the so-called ''civilian'' employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§ S553.212 Twenty percent limitation on nonexempt work

(a) Employees engaged in fire protection or law enforcement activities as described in Secs. S553.210 and S553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the § 7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the § 7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§ S553.213 Public agency employees engaged in both fire protection and law enforcement activities

(a) Some public agencies have employees (often called ''public safety officers'') who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption, provided that each of the activities performed meets the appropriate tests set forth in Secs. S553.210 and S553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in Sec. S553.212.

(b) As specified in Sec. S553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ S553.214 Trainees

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in Sec. S553.210 or Sec. S553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§ S553.215 Ambulance and rescue service employees

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by § 7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective, duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in Sec. S553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ S553.216 Other exemptions

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of § 7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part S541.

The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in part S541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as ''executive'' employees. Similarly, certain criminal investigative agents may qualify as ''administrative'' employees under section 13(a)(1).

Tour of duty and compensable hours of work rules

§ S553.220 ''Tour of duty'' defined

(a) The term ''tour of duty'' is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include ''shifts'' assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the ''shift'' which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance.

(c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in Sec. S553.227.

§ S553.221 Compensable hours of work

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (Sec. S553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (Sec. S553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§ S553.222 Sleep time

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, and

(2) Where the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§ S553.223 Meal time

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts'), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA ''hours of work'' rules and adoption of an overtime standard keyed to the unique concept of 'tour of duty' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§ S553.224 ''Work period'' defined

(a) As used in section 7(k), the term ''work period'' refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§ S553.225 Early relief

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§ S553.226 Training time

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ S553.227 Outside employment

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

Overtime compensation rules

§ S553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

Work period (days)	Maximum hours standards	
	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§ S553.231 Compensatory time off

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in Sec. S553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§ S553.232 Overtime pay requirements

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rates of pay.

§ S553.233 'Regular rate' defined

The statutory rules for computing an employee's 'regular rate', for purposes of the Act's overtime pay requirements are applicable to employees or whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

Subpart D—Compensatory time-off for overtime earned by employees whose work schedule directly depends upon the schedule of the Senate

§ S553.301 Definition of ''directly depends''

For the purposes of this Part, a covered employee's work schedule ''directly depends'' on the schedule of the Senate only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§ S553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the Senate

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act (''FLSA'') to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the Senate within the meaning of § S553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§ S553.303 Using compensatory time off

An employee who has accrued compensatory time off under § S553.302, upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§ S553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

Part S570—Child Labor Regulations

Subpart A—General

Sec.

S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

S570.1 Definitions.

S570.2 Minimum age standards.

Subpart C—Employment of minors between 14 and 16 years of age (child labor reg. 3)

S570.31 Determination.

S570.32 Effect of this subpart.

S570.33 Occupations.

S570.35 Periods and conditions of employment.

Subpart A—General

§ S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under Section 202 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
570.1 Definitions	S570.1
570.2 Minimum age standards	S570.2
570.31 Determinations	S570.31
570.32 Effect of this subpart	S570.32
570.33 Occupations	S570.33
570.35 Periods and conditions of employment	S570.35

§ S570.1 Definitions

As used in this part:

(a) *Act* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201-219).

(b) *Oppressive child labor* means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in Sec. S570.2 of this subpart.

(c) *Oppressive child labor age* means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) *Secretary or Secretary of Labor* means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) *Wage and Hour Division* means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative.

§S570.2 Minimum age standards

(a) All occupations except in agriculture. (1) The Act, in section 3(1), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being.

(2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

Subpart B—[Reserved]

Subpart C—Employment of minors between 14 and 16 years of age (child labor reg. 3)

§ S570.31 Determination

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§ S570.32 Effect of this subpart

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in § S570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§ S570.33 Occupations

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(1) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f)(1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§ S570.35 Periods and conditions of employment

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

HOUSE OF REPRESENTATIVES

FAIR LABOR STANDARDS ACT, FINAL AND INTERIM REGULATIONS RELATING TO THE HOUSE OF REPRESENTATIVES AND ITS EMPLOYING OFFICES

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

NOTICE OF ADOPTION OF REGULATIONS AND SUBMISSION FOR APPROVAL AND ISSUANCE OF INTERIM REGULATIONS

Summary: The Board of Directors of the Office of Compliance, after considering comments to its general Notice of Proposed Rulemaking published on November 28, 1995 in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations to implement sections 203(a) and 203(c) (1) and (2) of the Congressional Accountability Act of 1995 (''CAA''), which apply certain rights and protections of the Fair Labor Standards Act of 1938. The Board is also adopting and issuing such regulations as interim regulations for the House, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540-1999. Telephone: (202) 724–9250.

I. Background and Summary

Supplementary Information: The Congressional Accountability Act of 1995 (''CAA''), Pub. L. 104–1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301 et seq. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. In addition, the statute establishes the Office of Compliance (''Office'') with a Board of Directors (''Board'') as ''an independent office within the legislative branch of the Federal Government.'' Section 203(a) of the CAA applies the rights and protections of subsections a(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (''FLSA'') (29 U.S.C. 206(a)(1) and (d), 207, and 212(c)) to covered employees and employing offices. 2 U.S.C. §1313. Section 203(c)(2) of the CAA directs the Board to issue substantive regulations that ''shall be the same as substantive regulations issued by the Secretary of Labor . . . except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under'' the CAA. 2 U.S.C. §1313(c)(2). On September 28, 1995, the Board of the Office of Compliance issued an Advance Notice of Proposed Rulemaking (''ANPR'') soliciting comments from interested parties in order to obtain participation and information early in the rulemaking process. 141 Cong. Rec. S14542 (daily ed., Sept. 28, 1995).

On November 28, 1995, the Board published in the Congressional Record a Notice of Proposed Rulemaking (NPR) (141 Cong. Rec. S17603–27 (daily ed.)). In response to the NPR, the Board received six written comments, three of which were from offices of the Congress and three of which were from organizations associated with the business community and organized labor. The comments included requests that the Board should provide additional guidance to employing offices on complying with the CAA and compliance issues raised by the ambiguities in the Secretary of Labor's regulations.

Parenthetically, it should also be noted that, on October 11, 1995, the Board published a Notice of Proposed Rulemaking in the Congressional Record (141 Cong. R. S15025 (daily ed., October 11, 1995) (''NPR'')), inviting comments from intersted parties on the proposed FLSA regulations which the CAA directed the Board to issue on the definition of ''intern'' and on ''irregular work schedules.'' Final regulations on those matters were separately adopted by the Board on January 16, 1996. However, because they are regulations

implementing the rights and protections of the FLSA made applicable by the CAA, the Board has incorporated those regulations into the body of final regulations being adopted pursuant to this Notice. The definition of ''interim'' may be found in section [H or S] 501.102 (c) and (h), and the ''irregular work schedules'' regulation may be found in sections [H or S or C] 553.301–553.304.

II. Consideration of public comments; the Board's response and modifications to the NPR's rules

A. Requests that the Board provide additional guidance, including interpretative bulletins and opinion letters

The Board first turns to the issue of whether and in what circumstances the Board can and should give authoritative guidance to employing offices about issues arising from ambiguities in and uncertain applications of the Secretary's regulations. Commenters have formally and informally requested such guidance in various forms: that the Board change the Secretary's regulations to clarify ambiguities; that the Board adopt the Secretary's interpretive bulletins; that the Board issue the Secretary of Labor's interpretative bulletins as its own regulations; that the Board issue opinion letters constituting safe harbors from litigation; that the Board give its imprimatur, either formally or informally, to employee handbooks and other human resource activities of employing offices. Mindful that the Board's first decisions on these matters will have important institutional and legal implications, the Board has carefully considered these requests, as well as the underlying concerns they reflect.

At the outset, the Board must decline the suggestion that it modify the Secretary's regulations in order to remove the ambiguities and resulting uncertainties that Congressional offices will face in complying with the CAA once it takes effect. The Board's authority to modify the regulations of the Secretary is explicitly limited by the requirement that the substantive regulations issued by the Secretary of Labor ''shall be the same as substantive regulations issued by the Secretary of Labor . . . except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under'' the CAA. As is true of many regulatory issues, ambiguity and uncertainty are part of the the FLSA regulatory regime that is presently imposed—with much criticism and protest—on private sector and state and local government employers.

The example of the executive, administrative and professional employee exemptions illustrates this point. The Board specifically highlighted this problem and asked for comment in its ANPR (141 Cong. Rec. S14542, S14543) on September 28, 1995. Although the Board received many comments on this issue and is sympathetic with the concerns of employing offices confronting such ambiguity and uncertainty, the Board has neither been given nor can find appropriate justification for relieving employing offices of the compliance burdens that all employers face under the FLSA. The CAA was intended not only to bring covered employees the benefits of the FLSA and other incorporated laws, but also to require Congress to experience the same compliance burdens faced by other employers so that it could more fairly legislate in this area. The Board cannot agree with suggestions that would rob the CAA of one of its principal intended effects.

The Board must also decline the suggestion that it adopt, as either formal regulations or as its own interpretive authority, the interpretive bulletins found in Subpart B of Part 541 and elsewhere in the Secretary of Labor's regulations. Section 203(c)(2) of the CAA requires the Board to promulgate regulations that are the same as the *substantive* regulations promulgated by the Secretary. But, as explained in the NPR, the interpretive bulletins set forth in Subpart B of Part 541 and elsewhere in the Secretary of Labor's regulations are not *substantive* regulations within the meaning of the law. Moreover, with respect to the concern expressed by some commenters that congressional employing offices would be at a distinct disadvantage if the Board does not adopt the Secretary's interpretative bulletins, the Board again notes, as it did in the NPR, that the Board need not adopt the Secretary's interpretive bulletins in order for them to be available as guidance for employing offices. While the Board is not adopting these interpretive bulletins, the Board reiterates that, like the myriad judicial decisions under the FLSA that are available as guidance for employing offices, the Secretary's interpretive bulletins remain available as part of the corpus of interpretive materials to which employing offices may look in structuring their FLSA-related compliance activities. Indeed, as the Board also noted in the NPR, since the CAA may properly be interpreted as incorporating the defenses and exemptions set forth in the Portal-to-Portal Act, an employing office that relies in good faith on an applicable interpretive bulletin of the Secretary may in fact have a statutory defense to an enforcement action brought by a covered employee. In short, contrary to the suggestion of these commenters, the Board need not adopt the Secretary's interpretive bulletins in order to give employing offices the benefit of them.

One commenter went so far as to suggest that, by not adopting the Secretary's interpretive bulletins, the Board has somehow signaled its intent to engage in a wholesale reinterpretation of the FLSA and its implementing regulations. No such signal was sent; no such signal was intended. Since the CAA does not require adoption of these interpretive bulletins, and since they are independently available to employing offices, the Board merely determined that it need not adopt the Secretary's interpretative bulletins as its own. Moreover, like the Administrator and the courts, the Board intends to depart from the interpretive bulletins only where their persuasive force is lacking or the law otherwise requires (just as courts or the Administrator would do). *See Skidmore v. Swift & Co.*, 323 U.S. 134, 137–38 (1944); *Reich v. Interstate Brands Corp.*, 57 F.3d 574, 577 (7th Cir. 1995) (''[W]e give the Secretary's bulletins the respect their reasoning earns them.''); *Dalheim v. KDFW–TV*, 918 F.2d 1220, 1228 (5th Cir. 1990) (''the persuasive authority of a given interpretation obtains only so long as 'all those factors which give it power to persuade' persist.'') (quoting *Skidmore*).

As an alternative to modifying the regulations and adopting the interpretive bulletins of the Secretary, several commenters also suggested that the Board clarify regulatory ambiguities by issuing interpretive bulletins and advisory opinions of its own and thereby confer a Portal-to-Portal Act defense on employing offices that rely upon any such bulletins or advisory opinions of the Board. Indeed, at least one commenter suggested that the Board should provide advisory opinions and other counsel to employing offices that pose questions to it concerning, for example, the propriety of proposed model personnel practices, the exempt status of employees with specified job descriptions, the legality of proposed handbooks, and the qualification of certain House and Senate programs (such as the Federal Thrift Savings Plan) for defenses or exemptions recognized in the FLSA and the Secretary's regulations. The Board has considered these suggestions and, although empathizing with the concerns motivating these requests, finds these suggestions raise intractable legal and practical problems.

To begin with, the Board upon further study has determined that, contrary to the suggestion of the commenters, the Board cannot confer a Portal-to-Portal Act defense on employing offices for any reliance on pronouncements of the Board (as opposed to the Secretary). By its own terms, in the context of the FLSA, the Portal-to-Portal Act applies only to written administrative actions of the Wage and Hour Administrator of the Department of Labor. *See* 29 U.S.C.§259. The Portal-to-Portal Act does not mention the Board; and the Board's authority to amend the Secretary's regulations for ''good cause'' plainly does not extend to amending statutes such as the Portal-to-Portal Act. Thus, as the federal court of appeals which has jurisdiction over such matters under the CAA has held in an almost identical context, the Portal-to-Portal Act would not confer a defense upon employing offices that might rely upon a pronouncement of the Board. *See Berg v. Newman*, 982 F.2d 500, 503-504 (Fed Cir. 1992) (''To apply the statute to a regulation issued by OPM, an agency not referred to in section 259, would extend the section 259 exception beyond its scope''; ''OPM's absence from section 259 prevents the Government from both adopting and shielding itself from liability for faulty regulations.'') The final regulations so state.

Second, contrary to the assumption of these commenters, the Board has neither the legal basis nor the practical ability to issue the kind of interpretive bulletins or advisory opinions being requested. While the Administrator of the Wage and Hour Division entertains questions posed by employers about enforcement-related issues, the Administrator's willingness and ability to respond to such questions derives from and is constrained by her *investigatory* and *enforcement* responsibilities under the FLSA. As the Supreme Court stated over 50 years ago in *Skidmore v. Swift & Co.*, 323 U.S. 134, 137-38 (1944) (citations omitted): ''Congress did not utilize the services of an administrative agency to find facts and to determine in the first instance whether particular cases fall within or without the Act. Instead, it put these responsibilities on the courts. But it did create the office of Administrator, impose upon him a variety of duties, endow him with powers to inform himself of conditions in industries and employments subject to the Act, and put on him the duties of bringing injunction actions to restrain violations. Pursuit of his duties has accumulated a considerable experience in the problems of ascertaining working time in employments involving periods of inactivity and a knowledge of the customs prevailing in reference to their solution. From these he is obliged to reach conclusions as to conduct without the law, so that he should seek injunctions to stop it, and that within the law, so that he has no call to interfere. He has set forth his views of the application of the Act under different circumstances in an interpretative bulletin and in informal rulings. They provide a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it.''

In contrast, the Board has no investigative power by which it can inform itself of conditions, circumstances and customs of employment in the legislative branch; its resources for finding and considering such information are smaller by orders of substantial magnitude; and, most importantly, the Board has no cause to advise employees and employing offices concerning how it will seek

to enforce the statute, since it has no enforcement powers under the CAA.

Indeed, on reflection, it seems unwise, if not legally improper, for the Board to set forth its views on interpretive ambiguities in the regulations outside of the adjudicatory context of individual cases. As noted above, the Board's rulemaking authority is quite restricted. Moreover, the Board has no enforcement authority and, in contrast to the FLSA scheme (where the Administrator has no adjudicatory authority to find facts and to determine in the first instance whether particular cases fall within or without the statute), the CAA contemplates that the Board will adjudicate cases brought by covered employees and that, in such adjudications, the Board must be of independent and open mind, bound to and limited by a factual record developed through an adversarial process governed by rules of law, and subject to judicial review of its decisions. See 2 U.S.C. §§1405-1407 (procedure for complaint, hearing, board review and judicial review; requiring hearings to be conducted in accordance with 5 U.S.C. §§554-557); 29 U.S.C. §§554-557. These legal safeguards and the institutional objectives they seek to promote—i.e., the accuracy of the Board's adjudicative decisions and the integrity of the Board's processes—would be undermined if the Board were to attempt to prejudge ambiguous or disputed interpretive matters in advisory opinions that were developed in non-adversarial, non-public proceedings. The Board thus cannot acquiesce in requests for such advisory opinions.

Some commenters suggested that the Board could properly issue such interpretive bulletins and advisory opinions under the rubric of the ''education'' and ''information'' programs allowed and, indeed, mandated by section 301(h) of the CAA. Of course, the Office's education and information programs are not the subject of this notice and comment and thus a discussion of ''education'' and ''information'' programs is not necessary to this rulemaking effort. But, upon due consideration of matter, it appears that this suggestion is based upon a fundamental misunderstanding of the institutional powers and responsibilities conferred upon and withheld from the Board and the Office by Congress in the CAA. Thus, it is both fair and prudent to address the issue at this point.

At the outset, the Board notes that Section 301(h)'s reference to ''education'' and ''information'' programs is not the broad mandate that these comments suggest. In contrast to other statutory schemes, section 301(h) does not authorize, much less compel, the development by the Board or the Office of ''training'' or ''technical assistance'' programs such as those that are included in the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Occupational Safety and Health Act of 1970, the Employee Polygraph Protection Act of 1988, and the Age Discrimination in Employment Act of 1967. Nor does the CAA authorize, much less compel, the issuance of interpretive bulletins, advisory opinions or enforcement guidelines, as agencies with investigative and prosecutorial powers (and matching resources) are sometimes allowed (although almost never compelled) to issue. Rather, section 301(h) directs the Office to carry out ''a program of education for members of Congress and other employing authorities of the legislative branch of the Federal Government respecting the laws made applicable to them''; and ''a program to inform individuals of their rights under laws applicable to the legislative branch of the Federal Government.'' 2 U.S.C. §1381(h). Such admonitions are, however, contained in almost all federal employment laws; and those experienced in the field understand them to concern only programs that ensure general ''awareness'' of rights and responsibilities under the pertinent law.

Section 301(h) must be read in the context of the powers granted to and withheld from the Board in the statutory scheme created by the CAA. The CAA authorizes the Board to engage in rulemaking, but requires the Board to follow specified procedures in doing so and, at least in the context of the FLSA, requires the Board to have ''good cause'' for departing from the Secretary of Labor's substantive regulations. Moreover, the CAA authorizes the Board to engage in adjudication, but only after a complaint is filed with the Office, a record is properly developed through an adversarial process governed by rules of law, and judicial review is assured. And the CAA rather pointedly declines to confer upon the Board the investigatory and prosecutorial authority that is necessary for sound decisionmaking and interpretation outside of the regulatory and adjudicatory contexts. Given this statutory scheme, section 301(h)'s ''education and information'' mandate cannot reasonably be construed to require (or even allow) the Board to engage in the kind of advisory counselling requested here—i.e., authoritative opinions developed in nonpublic, nonadversarial proceedings.

Indeed, Congress appears effectively to have considered this issue in the CAA and to have rejected the kind of relationship between the Board and employing offices that is contemplated by this request. The legislative history reflects a recognition that ''the office must, in appearance and reality, be independent in order to gain and keep the confidence of the employees and employers who will utilize the dispute resolution process created by this act.'' 141 Cong. Rec. at S627. The legislative history further reflects a recognition that ''laws cannot be enforced in a fair and uniform manner—and employees and the public cannot be convinced that the laws are being enforced in a fair and uniform manner—unless Congress establishes a single enforcement mechanism that is independent of each House of Congress.'' 141 Cong. Rec. at S444. The statute thus declares that the Office of Compliance is an ''independent office'' in the legislative branch; that the Office is governed by a Board of Directors whose members were appointed on a bi-partisan basis for non-partisan reasons, who may be removed in only quite limited circumstances, and whose incomes are largely derived from work in the private sector; and that the Board must follow formal public comment and adjudicatory procedures in making any decisions with legal effect. 2 U.S.C. §§1381 (a), (b), (e), (f), (g), 1384, 1405–6. The call for issuing advisory opinions in the ''education'' and ''information'' process—opinions that would be issued in non-public, non-adversarial proceedings without regard to the statutorily-required public comment and adjudicatory procedures—is in intolerable tension with the institutional independence, inclusiveness and procedural regularity contemplated for the Board by the CAA.

In all events, the Board would in the exercise of its considered judgment decline to provide authoritative opinions to employing offices as part of its ''education'' and ''information'' programs. Without investigatorial and prosecutorial authority (and matching resources), the Board has insufficient information and thus is practicably unable to provide such authoritative opinions. With severely restricted rulemaking authority, the Board cannot properly provide regulatory clarifications for employing offices when those clarifications have not been provided by the Secretary to private sector and state and local government employers. And, with its adjudicatory powers, the Board should not resolve disputed interpretive matters in the absence of a specific factual controversy, a record developed through an adversarial process governed by rules of law, and an opportunity for judicial review. To do otherwise would simply impair the independence, impartiality, and irreproachability of the Board's actions. In short, for much the same reasons that federal courts do not issue advisory opinions or ex parte decisions, neither should the Board. *See United States* v. *Freuhauf*, 365 U.S. 146, 157 (1961) (Frankfurter, J.) (discussing vices of advisory opinions).

To be sure, ''education'' and ''information'' programs are of central importance to the CAA scheme. Such programs are needed, in part, to help employing offices in their efforts to understand and satisfy their compliance obligations under the CAA. And the Board reiterates its intention, stated in the NPR, that the Office sponsor, and participate in, seminars on the obligations of employing offices, distribute a comprehensive manual to address frequently arising questions under the CAA (including questions relating to FLSA exemptions), and be available generally to discuss compliance-related issues when called upon by employing offices. But the Board itself will not and should not in this education and information process issue authoritative opinions about such matters as the exemption status of employees with specified job duties, the propriety of particular model handbooks and policies developed by employing offices, and the qualification of certain House and Senate programs (such as the Federal Thrift Savings Plan) for particular defenses and exemptions that are available under the regulations. Characterizing such interpretive activity as ''educational'' or ''informational'' does not in any way address, much less satisfactorily resolve, the serious legal and institutional concerns that make it unwise, if not improper, for the Board to engage in such interpretive activities outside of the adjudicative processes established by the CAA.

The Board recognizes that, by declining to provide such authoritative advisory opinions, the Board is forcing employing offices to rely to a greater extent upon their own counsel and human resources officials and in a sense is frustrating the efforts of employing offices to obtain desirable safe-harbors. The FLSA as currently applied to private employers contains few such safe-harbors, particularly in the area of exemptions. But many knowledgeable labor lawyers and human resources officials are available to provide employing offices with the kind of learned counsel and human resources advice that the employing offices are seeking from the Board; indeed, the House and Senate have centralized administrations and committees that can provide this legal support to employing offices. And employing offices have the benefit of the same legal safe-harbors that the Secretary of Labor has made available to private sector and State and local government employers. Under the CAA, they are legally entitled to no more.

Even more importantly, however, the Board finds that the long-term institutional harm to the CAA scheme that would result from the Board's providing such advisory opinions in non-public, non-adversarial proceedings far outweighs whatever short-term legal or political benefits might result for employing offices. As noted above, provision by the Board of such opinions could impair confidence in the independence, impartiality and irreproachability of the Board's decisionmaking processes. Such a lack of confidence could unfortunately induce employees to take their cases to court rather than bring them to the Board's less costly, confidential and expedited alternative dispute resolution process. Even more seriously, such a lack of confidence could cause the

public and other interested persons to question the Board's commitment, and thus the sincerity of the CAA's promise, generally to provide covered employees the same benefits, and to subject the legislative branch to the same legal burdens, as exist with regard to private sector and State and local government employers that are subject to the FLSA. We are confident that, like the bi-partisan Congressional leadership who appointed us and who placed their trust in our experience and judgment concerning how best to implement this statute, those in Congress who voted for the CAA or who would support it today would want us to prefer the long term viability, integrity, and efficacy of this noble statutory enterprise over the short-term demands of employing offices.

B. Specific comments and Board action

1. §§ 541.1,.2,.3—''White collar'' exemptions—Use of job descriptions to determine exempt status

The Board received several comments urging the Board, on the basis of generic job descriptions, to give advice to employing offices on whether covered employees are exempt as bona fide executive, administrative, or professional employees under FLSA §13(a)(1) as applied by the CAA. As noted above, it would not be appropriate to attempt to give such advice in the context of this rulemaking. The Board would note, as a further point, that submission of such descriptions which may describe functions of congressional employees would not, in any event, provide the detail necessary to determine the exempt or nonexempt status of the job. Job descriptions that utilize language or phraseology derived from the regulations today adopted by the Board do not provide the specificity of conclusions regarding exempt or nonexempt status. The Secretary's regulations, as adopted by the Board, speak for themselves. It would serve no purpose, and provide no guidance, simply to repeat the statutory standards for exemption in a job description without reference to the particular functions of a particular employee. The Fair Labor Standards Act is clear that actual function, and not description or job title, govern the exempt status of an employee. See, e.g., 29 C.F.R. §541.201 (3)(b)(1),(2).

2. § 541.5d—Special rule for ''white collar'' employees of a public agency

Under §13(a)(1) of the FLSA, which is incorporated by reference under §225(f)(1) of the CAA, a salaried employee who is a bona fide executive, administrative, or professional employee need not be paid overtime compensation for hours worked in excess of the statutory maximum. Sections 541.1, 541.2, and 541.3, 29 C.F.R., of the Secretary of Labor's regulations respectively define the criteria for each of these ''white collar'' exemptions. Since they are substantive regulations, the Board in its NPR proposed to adopt them.

Among the regulations not proposed for adoption was §541.5d. This regulation provides that an employee shall not lose his or her ''white collar'' exemption where a ''public agency'' employer reduces an exempt employee's pay or places the employee on unpaid leave in certain circumstances for partial-day absences. As explained in the Federal Register Notice announcing its adoption, the Secretary of Labor issued §541.5d in response to concerns that the application of the FLSA to State and local governments would undermine well-settled ''policies of public accountability'' that require public employees (including those who would otherwise be exempt) to incur a reduction in pay if they absent themselves from work under certain circumstances. 57 Fed. Reg. 37677 (Aug. 19, 1992).

The Board originally did not propose adoption of this regulation. However, one commenter pointed out that, by its terms, §541.5d covers a ''public agency,'' which is a statutory term defined in §3(x) of the FLSA to include ''the government of the United States.'' As a definitional provision, §3(x) is incorporated into the CAA by virtue of §225(f)(1), and Congress is undeniably a branch of the ''government of the United States.''

The Board finds merit in the commenter's argument. Moreover, the adoption of this regulation is well in keeping with the Board's mandate to promulgate rules that are ''the same as substantive regulations promulgated by the Department of Labor to implement'' those FLSA statutory provisions made applicable by the CAA. Accordingly, §541.5d will be adopted with a minor change that substitutes for the citation to §541.118 (an interpretative bulletin) the phrase ''being paid on a salary basis,'' which is derived directly from the substantive regulations defining the ''white collar'' exemptions (i.e., 29 C.F.R. §§541.1,.2,.3).

3. Partial overtime exemption for law enforcement officers

The Board did not propose to adopt any sections of 29 C.F.R. Part 553, which govern the application of the FLSA to employees of State and local governments. Subparts A and B of that Part address a variety of issues, including certain exclusions pertaining to elected legislative offices, the use of compensatory time off, recordkeeping, and the employment of volunteers. Subpart C addresses the special provisions which Congress enacted in §7(k) in connection with fire protection and law enforcement employees of public agencies.

Section 7(k) of the FLSA also provides a partial overtime exemption for fire protection and law enforcement employees of a public agency. Based on tour-of-duty averages that were determined by the Secretary of Labor in 1975, an employer need not pay overtime if, in a work period of 28 consecutive days, the employee receives a tour of duty which in the aggregate does not exceed 212 hours for fire protection activity or does not exceed 171 hours for law enforcement activity. Thus, for law enforcement personnel, work in excess of 171 hours during the 28-day period triggers the requirement to pay overtime compensation. For a work period of at least 7 but less than 28 consecutive days, overtime must be paid when the ratio of the number of hours worked to the number of days in the work period exceeds the 171-hours-to-28-days ratio (rounded to the nearest whole hour).

Although the regulations by their terms apply only to ''public agencies'' of State and local governments, one commenter observed that the underlying statutory provisions are not so limited but rather apply to any ''public agency,'' which by definition includes the Federal government (See §3(x) of the FLSA). Accordingly, it was argued that the Board should adopt those regulations implementing the §7(k) partial overtime exemption insofar as it would apply to the law enforcement work of the Capitol Police.

For the reasons noted above that support adoption of §541.5d, the Board finds that the pertinent sections of Subpart C of Part 553 should also be adopted. Section 7(k) provides a direct textual basis for applying the relevant regulations. Thus, under the regulations, the Capitol Police as an employing office of law enforcement personnel shall have two options: It may pay such personnel overtime compensation on the basis of a 40-hour workweek. Alternatively, it may claim the section 7(k) exemption by establishing a valid work period that follows the criteria set forth in the regulations.

The Board is aware that Congress has enacted special provisions governing overtime compensation and compensatory time off for Capitol Police officers. 40 U.S.C. §206b (for police on the House's payroll) and §206c (for police on the Senate's payroll). However, the regulations being adopted here do not purport to modify those statutory provisions; and whether 40 U.S.C. §§206b–206c grant rights and protections to law enforcement employees that preclude the Capitol Police from availing itself of §7(k) of the FLSA is a question that the Board does not address. The regulations simply specify the rules for overtime policies that conform to the FLSA.

4. § 570.35a—Work experience programs for minors

The CAA makes applicable to the legislative branch FLSA §12(c), which prohibits the use of oppressive child labor, and FLSA §3(*l*), which defines ''oppressive child labor.'' In its NPR, the Board proposed adopting as part of the CAA rules applicable to the Senate certain substantive regulations of Part 570, 29 C.F.R., implementing these statutory provisions. This proposal was based on the Board's understanding that the Senate has a practice of appointing pages under 18 years of age.

One commenter confirmed this understanding by reporting that the Senate Page Program does employ minors under the age of 16. Thus, under the proposed regulations, there are limitations on the periods and the conditions under which such minors can work. Without disputing the applicability of this regulation, the commenter sought to mitigate its impact by urging the adoption of an additional regulation found in 29 C.F.R. Part 570, Subpart C, namely the rule that varies some of the provisions of Subpart C in the context of school-supervised and school-administered work-experience or career exploration programs that have been individually approved by the Wage and Hour Administrator. 29 C.F.R. §570.35a.

After carefully reviewing the provisions of §570.35a, the Board finds that it would not be appropriate to adopt this regulation. There is no available ''State Educational Agency'' in the context of the CAA; State law is not properly applicable here; and the Board is obviously not competent to set educational standards. In short, there are legal and practical reasons why this regulation is unworkable in the context of Federal legislative branch employment, and the Board thus has ''good cause'' not to adopt it.

5. Board determination on regulations ''required'' to be issued in connection with § 411 default provision

Section 411 of the CAA provides in pertinent part that ''if the Board has not issued a regulation on a matter for which [the CAA] requires a regulation to be issued the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue.'' By its own terms, this provision comes into play only where it is determined that the Board has not issued a regulation that is *required* by the CAA. Thus, before a Department of Labor regulation can be invoked, an adjudicator must make a threshold determination that the regulation concerns a matter as to which the Board was obligated under the CAA to issue a regulation.

As noted in the NPR, it was apparent in reviewing Chapter V of 29 C.F.R., which contains all the regulations of the Secretary of Labor issued to implement the FLSA generally, many of those regulations were not legally ''required'' to be issued as CAA regulations because the underlying FLSA provisions were not made applicable under the CAA. And there are other regulations that

the Board has ''good cause'' not to issue because, for example, they have no applicability to legislative branch employment.

None of the comments to the NPR quarrelled with the Board's conclusion not to adopt those regulations that have little practical application. Therefore, the Board is not issuing regulations predicated upon the following Parts of 29 C.F.R.: Parts 519–528, which authorize subminimum wages for full-time students, student-learners, apprentices, learners, messengers, workers with disabilities, and student workers; Part 548, which authorizes in the collective bargaining context the establishment of basic wage rates for overtime compensation purposes; and Part 551, which implements an overtime exemption for local delivery drivers and helpers.

The comments did identify several individual regulations as to which there is not good cause to not adopt. As explained elsewhere, those regulations are being included in the final rules. However, in the main, the comments did not dispute the inapplicability of those Parts of 29 C.F.R. deemed legally irrelevant.

Accordingly, in keeping with its announced intent in the NPR, the Board is including in its final rules a declaration to the effect that the Board has issued those regulations that, as both a legal and practical matter, it is ''required'' to promulgate to implement the statutory provisions of the FLSA that are made applicable to the legislative branch by the CAA.

The Board has carefully reviewed the entire corpus of the Secretary's regulations, has sought comment on its proposal concerning the regulations that it should (and should not adopt), and has considered those comments in formulating its final rules. The Board has acted based on this review and consideration and in order to prevent wasteful litigation about whether the omission of a regulation from the Secretary in the Board's regulations was intended or not.

6. Recordkeeping and notice posting

One comment essentially requested that the Board revisit an issue which it resolved after receiving comments to its Advance Notice of Proposed Rulemaking (ANPR) published on October 11, 1995. The ANPR had solicited public comments on certain questions to assist the Board in drafting proposed FLSA regulations, including the question of whether the FLSA provisions regarding recordkeeping and the notice posting were made applicable by the CAA. As explained in the NPR, after evaluating the comments and carefully reviewing the CAA, the Board concluded that ''the CAA explicitly did not incorporate the notice posting and recordkeeping requirements of Section 11, 29 U.S.C. §211 of the FLSA.'' The most recent comment offered no further statutory evidence to support a change in the Board's original conclusion.

7. Technical and nomenclature changes

A commenter suggested a number of technical and nomenclature changes to the proposed regulations to make them more precise in their application to the legislative branch. The Board has incorporated many of the suggested changes. However, by making these changes, the Board does not intend a substantive difference in meaning of these sections of the Board's regulations and those of the Secretary from which the Board's regulations are derived.

III. Adoption of Proposed Rules as Final Regulations under Section 304(b)(3) and as Interim Regulations

Having considered the public comments to the proposed rules, the Board pursuant to section 304(b) (3) and (4) of the CAA is adopting these final regulations and transmitting them to the House and the Senate with recommendations as to the method of approval by each body under section 304(c). However, the rapidly approaching effective date of the CAA's implementation necessitates that the Board take further action with respect to these regulations. For the reasons explained below, the Board is also today adopting and issuing these rules as *interim* regulations that will be effective as of January 23, 1996 or the time upon which appropriate resolutions of approval of these interim regulations are passed by the House and/or the Senate, whichever is later. These interim regulations will remain in effect until the earlier of April 15, 1996 or the dates upon which the House and Senate complete their respective consideration of the final regulations that the Board is herein adopting.

The Board finds that it is necessary and appropriate to adopt such interim regulations and that there is ''good cause'' for making them effective as of the later of January 23, 1996, or the time upon which appropriate resolutions of approval of them are passed by the House and the Senate. In the absence of the issuance of such interim regulations, covered employees, employing offices, and the Office of Compliance staff itself would be forced to operate in regulatory uncertainty. While section 411 of the CAA provides that, ''if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding,'' covered employees, employing offices and the Office of Compliance staff might not know what regulation, if any, would be found applicable in particular circumstances absent the procedures suggested here. The resulting confusion and uncertainty on the part of covered employees and employing offices would be contrary to the purposes and objectives of the CAA, as well as to the interests of those whom it protects and regulates. Moreover, since the House and the Senate will likely act on the Board's final regulations within a short period of time, covered employees and employing offices would have to devote considerable attention and resources to learning, understanding, and complying with a whole set of default regulations that would then have no future application. These interim regulations prevent such a waste of resources.

The Board's authority to issue such interim regulations derives from sections 411 and 304 of the CAA. Section 411 gives the Board authority to determine whether, in the absence of the issuance of a final regulation by the Board, it is necessary and appropriate to apply the substantive regulations of the executive branch in implementing the provisions of the CAA. Section 304(a) of the CAA in turn authorizes the Board to issue substantive regulations to implement the Act. Moreover, section 304(b) of the CAA instructs that the Board shall adopt substantive regulations ''in accordance with the principles and procedures set forth in section 553 of title 5, United States Code,'' which have in turn traditionally been construed by courts to allow an agency to issue ''interim'' rules where the failure to have rules in place in a timely manner would frustrate the effective operation of a federal statute. See, e.g., *Philadelphia Citizens in Action v. Schweiker*, 669 F.2d 877 (3d Cir. 1982). As noted above, in the absence of the Board's adoption and issuance of these interim rules, such a frustration of the effective operation of the CAA would occur here.

In so interpreting its authority, the Board recognizes that in section 304 of the CAA, Congress specified certain procedures that the Board must follow in issuing substantive regulations. In section 304(b), Congress said that, except as specified in section 304(e), the Board must follow certain notice and comment and other procedures. The interim regulations in fact have been subject to such notice and comment and such other procedures of section 304(b).

In issuing these interim regulations, the Board also recognizes that section 304(c) specifies certain procedures that the House and the Senate are to follow in approving the Board's regulations. The Board is of the view that the essence of section 304(c)'s requirements are satisfied by making the effectiveness of these interim regulations conditional on the passage of appropriate resolutions of approval by the House and/or the Senate. Moreover, section 304(c) appears to be designed primarily for (and applicable to) final regulations of the Board, which these interim regulations are not. In short, section 304(c)'s procedures should not be understood to prevent the issuance of interim regulations that are necessary for the effective implementation of the CAA.

Indeed, the promulgation of these interim regulations clearly conforms to the spirit of section 304(c) and, in fact promotes its proper operation. As noted above, the interim regulations shall become effective only upon the passage of appropriate resolutions of approval, which is what section 304(c) contemplates. Moreover, these interim regulations allow more considered deliberation by the House and the Senate of the Board's final regulations under section 304(c).

The House has in fact already signalled its approval of such interim regulations both for itself and for the instrumentalities. On December 19, 1995, the House adopted H. Res. 311 and H. Con. Res. 123, which approve ''on a provisional basis'' regulations ''issued by the Office of Compliance before January 23, 1996.'' The Board believes these resolutions are sufficient to make these interim regulations effective for the House on January 23, 1996, though the House might want to pass new resolutions of approval in response to this pronouncement of the Board.

To the Board's knowledge, the Senate has not yet acted on H. Con. Res. 123, nor has it passed a counterpart to H. Res. 311 that would cover employing offices and employees of the Senate. As stated herein, it must do so if these interim regulations are to apply to the Senate and the other employing offices of the instrumentalities (and to prevent the default rules of the executive branch from applying as of January 23, 1996).

IV. Method of approval

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the regulations that shall apply to other covered employees and employing offices should be approved by the Congress by concurrent resolution.

With respect to the interim version of these regulations, the Board recommends that the Senate approve them by resolution insofar as they apply to the Senate and employees of the Senate. In addition, the Board recommends that the Senate approve them by concurrent resolution insofar as they apply to other covered employees and employing offices. It is noted that the House has expressed its approval of the regulations

insofar as they apply to the House and its employees through its passage of H. Res. 311 on December 19, 1995. The House also expressed its approval of the regulations insofar as they apply to other employing offices through passage of H. Con. Res. 123 on the same date; this concurrent resolution is pending before the Senate.

ADOPTED REGULATIONS—AS INTERIM AND AS FINAL REGULATIONS

Subtitle B—Regulations relating to the House of Representatives and its employing offices—H series

Chapter III—Regulations Relating to the Rights and Protections Under the Fair Labor Standards Act of 1938

Part H501—General provisions

Sec.
H501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
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§ H501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
Part 531 Wage payments under the Fair Labor Standards Act of 1938	Part H531
Part 541 Defining and delimiting the terms ''bona fide executive,'' ''administrative,'' and ''professional'' employees	Part H541
Part 547 Requirements of a ''Bona fide thrift or savings plan''	Part H547
Part 553 Application of the FLSA to employees of public agencies	Part H553

Subpart A—Matters of general applicability

§ H501.101 Purpose and scope

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which require that the Board promulgate regulations that are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.''

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection a [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown . . .that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other ''substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA].''

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§ H501.102 Definitions

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *FLSA* or *Act* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) *Covered employee* means any employee of the House of Representatives, including an applicant for employment and a former employee, but shall not include an intern.

(d) *Employee of the House of Representatives* includes any individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(e) *Employing office* and *employer* mean (1) the personal office of a Member of the House of Representatives; (2) a committee of the House of Representatives or a joint committee; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives.

(f) *Board* means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

(h) *Intern* is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months; *provided* that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months; *provided further* that the defintion of *intern* does not include volunteers, fellows or pages.

§ H501.103 Coverage

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§ H501.104 Administrative authority

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

§ H501.105 Effect of interpretations of the Department of Labor

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: ''[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority,

do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control.'' *Skidmore* v. *Swift,* 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be ''the same as substantive regulations promulgated by the Secretary of Labor'' except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§ H501.106 Application of the Portal-to-Portal Act of 1947

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§ 216 and 251 *et seq.,* is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. § 259, provides in pertinent part: ''[N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.''

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided,* that such regulation, order, ruling approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, or ruling of the Board or the courts.

§ H501.107 Duration of interim regulations

These interim regulations for the House, the Senate and the employing offices of the instrumentalities are effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

Part H531—Wage Payments Under the Fair Labor Standards Act of 1938

Subpart A—Preliminary matters

Sec.

H531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

H531.1 Definitions.

H531.2 Purpose and scope.

Subpart B—Determinations of ''reasonable cost;'' effects of collective bargaining agreements

H531.3 General determinations of ''reasonable cost''.

H531.6 Effects of collective bargaining agreements.

Subpart A—Preliminary matters.

§ H531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
531.1 Definitions	H531.1 *55*
H531.2 Purpose and scope ..	H531.2
H553.3 General determinations of ''reasonable cost''	H531.3
H531.6 Effects of collective bargaining agreements ...	H531.6

§ H531.1 Definitions

(a) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) *Act* means the Fair Labor Standards Act of 1938, as amended.

§ H531.2 Purpose and scope

(a) Section 3(m) of the Act defines the term ''wage'' to include the ''reasonable cost'', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the ''fair value.'' Of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of ''fair value.'' Whenever so determined and when applicable and pertinent, the ''fair value'' of the facilities involved shall be includable as part of ''wages'' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of ''wages'' if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the ''reasonable cost'' and ''fair value'' of board, lodging, or other facilities having general application.

Subpart B—Determinations of ''reasonable cost'' and ''fair value''; effects of collective bargaining agreements

§ H531.3 General determinations of ''reasonable cost''

(a) The term *reasonable cost* as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5½ percent) for interest on the depreciated amount of capital invested by the employer: *Provided,* That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term *good accounting practices* does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term *depreciation* includes obsolescence.

(d)(1) The cost of furnishing ''facilities'' found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§ H531.6 Effects of collective bargaining agreements

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be ''bona fide'' when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

Part H541—Defining and Delimiting the Terms ''Bona Fide Executive,'' ''Administrative,'' or ''Professional'' Capacity (Including Any Employee Employed in the Capacity of Academic Administrative Personnel or Teacher in Secondary School)

Subpart A—General Regulations

Sec.

H541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

H541.01 Application of the exemptions of section 13(a)(1) of the FLSA.

H541.1 Executive.

H541.2 Administrative.

H541.3 Professional.

H541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

H541.5d Special provisions applicable to employees of public agencies.

Subpart A—General regulations

§ H541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
541.1 Executive	H541.1
541.2 Administrative	H541.2
541.3 Professional	H541.3
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees	H541.5b
541.5d Special provisions applicable to employees of public agencies	H541.5d

§ H541.01 Application of the exemptions of section 13 (a)(1) of the FLSA

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under § 203.

§ H541.1 Executive

The term *employee employed in a bona fide executive * * * capacity* in section 13(a) (1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided,* That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided,* That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section

§ H541.2 Administrative

The term *employee employed in a bona fide * * * administrative * * * capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment or institution by which employed: *Provided,* That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§ H541.3 Professional

The term *employee employed in a bona fide * * * professional capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in the school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided,* That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further,* That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6 1/2 times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§ H541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of

the employing office are performing substantially ''equal work,'' the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§ H541.5d Special provisions applicable to employees of public agencies

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under Sec. H541.1, H541.2, or H541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—

(1) permission for its use has not been sought or has been sought and denied;

(2) accrued leave has been exhausted; or

(3) the employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid 'on a salary basis' except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

Part H547—Requirements of a ''Bona Fide Thrift or Savings Plan''

Sec.
H547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H547.0 Scope and effect of part.
H547.1 Essential requirements of qualifications.
H547.2 Disqualifying provisions.

§ H547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
547.0 Scope and effect of part	H547.0
547.1 Essential requirements of qualifications	H547.1
547.2 Disqualifying provisions	H547.2

§ H547.0 Scope and effect of part

(a) The regulations in this part set forth the requirements of a ''bona fide thrift or savings plan'' under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§ H547.1 Essential requirements for qualifications

(a) A ''bona fide thrift or savings plan'' for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § H547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§ H547.2 Disqualifying provisions

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

Part H553—Overtime Compensation: Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection; Overtime and Compensatory Time-Off for Employees Whose Work Schedule Directly Depends Upon the Schedule of the House

Introduction

Sec.
H553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H553.1 Definitions
H553.2 Purpose and scope
Subpart C—Partial exemption for employees engaged in law enforcement and fire protection
H553.201 Statutory provisions: section 7(k).
H553.202 Limitations.
H553.211 Law enforcement activities.
H553.212 Twenty percent limitation on nonexempt work.
H553.213 Public agency employees engaged in both fire protection and law enforcement activities.
H553.214 Trainees.
H553.215 Ambulance and rescue service employees.
H553.216 Other exemptions.
H553.220 ''Tour of duty'' defined.
H553.221 Compensable hours of work.
H553.222 Sleep time.
H553.223 Meal time.
H553.224 ''Work period'' defined.
H553.225 Early relief.
H553.226 Training time.
H553.227 Outside employment.
H553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).
H553.231 Compensatory time off.
H553.232 Overtime pay requirements.
H553.233 ''Regular rate'' defined.
Subpart D—Compensatory time-off for overtime earned by employees whose work schedule directly depends upon the schedule of the House
H553.301 Definition of ''directly depends.''
H553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
H553.303 Using compensatory time off.
H553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

Introduction

§ H553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
553.1 Definitions	H553.1
553.2 Purpose and scope	H553.2
553.201 Statutory provisions: section 7(k)	H553.201
553.202 Limitations	H553.202
553.211 Law enforcement activities	H553.211
553.212 Twenty percent limitation on nonexempt work	H553.212
553.213 Public agency employees engaged in both fire protection and law enforcement activities	H553.213
553.214 Trainees	H553.214
553.215 Ambulance and rescue service employees	H553.215
553.216 Other exemptions	H553.216

Secretary of Labor regulations	*OC regulations*
553.220 ''Tour of duty'' defined	H553.220
553.221 Compensable hours of work	H553.221
553.222 Sleep time	H553.222
553.223 Meal time	H553.223
553.224 ''Work period'' defined	H553.224
553.225 Early relief	H553.225
553.226 Training time	H553.226
553.227 Outside employment	H553.227
553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)	H553.230
553.231 Compensatory time off	H553.231
553.232 Overtime pay requirements	H553.232
553.233 ''Regular rate'' defined	H553.233

Introduction

§ H553.1 Definitions

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Amendments of 1985 (Pub. L. 99–150).

(c) Public agency means an employing office as the term is defined in § 501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of § 7(k) of the FLSA as applied to covered employees and employing offices by § 203 of the CAA.

§ H553.2 Purpose and scope

The purpose of part H553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

Subpart C—Partial Exemption for employees engaged in law enforcement and fire protection

§ H553.201 Statutory provisions: section 7(k)

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in § H553.230 of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§ H553.202 Limitations

The application of § 7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

Exemption requirements

§ H553.211 Law enforcement activities

(a) As used in § 7(k) of the Act, the term ''any employee . . . in law enforcement activities'' refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as ''trainee,'' ''probationary,'' or ''permanent,'' and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See Sec. H553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in ''law enforcement activities'' as that term is used in sections 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in Sec. H553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) Civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term ''any employee in law enforcement activities'' also includes, by express reference, ''security personnel in correctional institutions. Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as ''trainee,'' ''probationary,'' or ''permanent,'' and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term ''employee in law enforcement activities'' are the so-called ''civilian'' employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§ H553.212 Twenty percent limitation on nonexempt work

(a) Employees engaged in fire protection or law enforcement activities as described in Sec. H553.210 and H553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the § 7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the § 7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§ H553.213 Public agency employees engaged in both fire protection and law enforcement activities

(a) Some public agencies have employees (often called ''public safety officers'') who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption, provided that each of the activities performed meets the appropriate tests set forth in Sec. H553.210 and H553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in Sec. H553.212.

(b) As specified in Sec. H553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ H553.214 Trainees

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in Sec. H553.210 or Sec. H553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§ H553.215 Ambulance and rescue service employees

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by § 7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective, duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in Sec. H553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ H553.216 Other exemptions

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of § 7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part H541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in part H541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as ''executive'' employees. Similarly, certain criminal investigative agents may qualify as ''administrative'' employees under section 13(a)(1).

Tour of duty and compensable hours of work rules

§ H553.220 ''Tour of duty'' defined

(a) The term ''tour of duty'' is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include ''shifts'' assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the ''shift'' which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance.

(c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in Sec. H553.227.

§ H553.221 Compensable hours of work

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (Sec. H553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (Sec. H553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§ H553.222 Sleep time

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, and

(2) Where the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§ H553.223 Meal time

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., ''stakeouts''), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA ''hours of work'' rules and adoption of an overtime standard keyed to the unique concept of ''tour of duty'' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§ H553.224 ''Work period'' defined

(a) As used in section 7(k), the term ''work period'' refers to any established and regularly recurring period of work which, under

the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§ H553.225 Early relief

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§ H553.226 Training time

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ H553.227 Outside employment

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

OVERTIME COMPENSATION RULES

§ H553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

MAXIMUM HOURS STANDARDS

Work period (days)	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§ H553.231 Compensatory time off

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in Sec. H553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§ H553.232 Overtime pay requirements

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rates of pay.

§ H553.233 ''Regular rate'' defined

The statutory rules for computing an employee's ''regular rate'', for purposes of the Act's overtime pay requirements are applicable to employees or whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

Subpart D—Compensatory time-off for overtime earned by employees whose work schedule directly depends upon the schedule of the House

§ H553.301 Definition of ''directly depends''

For the purposes of this Part, a covered employee's work schedule ''directly depends'' on the schedule of the House of Representatives only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§ H553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act (''FLSA'') to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the House of Representatives within the meaning of § H553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§ H553.303 Using compensatory time off

An employee who has accrued compensatory time off under § H553.302 upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§ H553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

OTHER EMPLOYING OFFICES OF CONGRESS

FAIR LABOR STANDARDS ACT, FINAL AND INTERIM REGULATIONS RELATING TO THE EMPLOYING OFFICES OTHER THAN THOSE OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

NOTICE OF ADOPTION OF REGULATIONS AND SUBMISSION FOR APPROVAL AND ISSUANCE OF INTERIM REGULATIONS

Summary: The Board of Directors of the Office of Compliance, after considering comments to its general Notice of Proposed Rulemaking published on November 28, 1995 in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations to implement sections 203(a) and 203(c) (1) and (2) of the Congressional Accountability Act of 1995 (''CAA''), which apply certain rights and protections of the Fair Labor Standards Act of 1938. The Board is also adopting and issuing such regulations as interim regulations for the House, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540–1999. Telephone: (202) 724–9250.

I. Background and summary

Supplementary Information: The Congressional Accountability Act of 1995 (''CAA''), Pub. L. 104–1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301 et seq. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. In addition, the statute establishes the Office of Compliance (''Office'') with a Board of Directors (''Board'') as ''an independent office within the legislative branch of the Federal Government.'' Section 203(a) of the CAA applies the rights and protections of subsections a(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (''FLSA'') (29 U.S.C. 206(a)(1) and (d), 207, and 212(c)) to covered employees and employing offices. 2 U.S.C. §1313. Section 203(c)(2) of the CAA directs the Board to issue substantive regulations that ''shall be the same as substantive regulations issued by the Secretary of Labor . . . except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under'' the CAA. 2 U.S.C. §1313(c)(2). On September 28, 1995, the Board of the Office of Compliance issued an Advance Notice of Proposed Rulemaking (''ANPR'') soliciting comments from interested parties in order to obtain participation and information early in the rulemaking process. 141 Cong. Rec. S14542 (daily ed., Sept. 28, 1995).

On November 28, 1995, the Board published in the Congressional Record a Notice of Proposed Rulemaking (NPR) (141 Cong. Rec. S17603–27 (daily ed.)). In response to the NPR, the Board received six written comments, three of which were from offices of the Congress and three of which were from organizations associated with the business community and organized labor. The comments included requests that the Board should provide additional guidance to employing offices on complying with the CAA and compliance issues raised by the ambiguities in the Secretary of Labor's regulations.

Parenthetically, it should also be noted that, on October 11, 1995, the Board published a Notice of Proposed Rulemaking in the Congressional Record (141 Cong. R. S15025 (daily ed., October 11, 1995) (''NPR'')), inviting comments from interested parties on the proposed FLSA regulations which the CAA directed the Board to issue on the definition of ''intern'' and on ''irregular work schedules.'' Final regulations on those matters were separately adopted by the Board on January 16, 1996. However, because they are regulations implementing the rights and protections of the FLSA made applicable by the CAA, the Board has incorporated those regulations into the body of final regulations being adopted pursuant to this Notice. The definition of ''intern'' may be found in section [H or S]501.102(c) & (h), and the ''irregular work schedules'' regulation may be found in sections [H or S or C]553.301–553.304.

II. Consideration of public comments; the Board's response and modifications to the NPR's rules

A. Requests that the Board provide additional guidance, including interpretative bulletins and opinion letters

The Board first turns to the issue of whether and in what circumstances the Board can and should give authoritative guidance to employing offices about issues arising from ambiguities in and uncertain applications of the Secretary's regulations. Commenters have formally and informally requested such guidance in various forms: that the Board change the Secretary's regulations to clarify ambiguities; that the Board adopt the Secretary's interpretive bulletins; that the Board issue the Secretary of Labor's interpretative bulletins as its own regulations; that the Board issue opinion letters constituting safe harbors from litigation; that the Board give its imprimatur, either formally or informally, to employee handbooks and other human resource activities of employing offices. Mindful that the Board's first decisions on these matters will have important institutional and legal implications, the Board has carefully considered these requests, as well as the underlying concerns they reflect.

At the outset, the Board must decline the suggestion that it modify the Secretary's regulations in order to remove the ambiguities and resulting uncertainties that Congressional offices will face in complying with the CAA once it takes effect. The Board's authority to modify the regulations of the Secretary is explicitly limited by the requirement that the substantive regulations issued by the Secretary of Labor ''shall be the same as substantive regulations issued by the Secretary of Labor . . . except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under'' the CAA. As is true of many regulatory issues, ambiguity and uncertainty are part of the the FLSA regulatory regime that is presently imposed—with much criticism and protest—on private sector and state and local government employers.

The example of the executive, administrative and professional employee exemptions illustrates this point. The Board specifically highlighted this problem and asked for comment in its ANPR (141 Cong. Rec. S14542, S14543) on September 28, 1995. Although the Board received many comments on this issue and is sympathetic with the concerns of employing offices confronting such ambiguity and uncertainty, the Board has neither been given nor can find appropriate justification for relieving employing offices of the compliance burdens that all employers face under the FLSA. The CAA was intended not only to bring covered employees the benefits of the FLSA and other incorporated laws, but also to require Congress to experience the same compliance burdens faced by other employers so that it could more fairly legislate in this area. The Board cannot agree with suggestions that would rob the CAA of one of its principal intended effects.

The Board must also decline the suggestion that it adopt, as either formal regulations or as its own interpretive authority, the interpretive bulletins found in Subpart B of Part 541 and elsewhere in the Secretary of Labor's regulations. Section 203(c)(2) of the CAA requires the Board to promulgate regulations that are the same as the *substantive* regulations promulgated by the Secretary. But, as explained in the NPR, the interpretive bulletins set forth in Subpart B of Part 541 and elsewhere in the Secretary of Labor's regulations are not *substantive* regulations within the meaning of the law. Moreover, with respect to the concern expressed by some commenters that congressional employing offices would be at a distinct disadvantage if the Board does not adopt the Secretary's interpretative bulletins, the Board again notes, as it did in the NPR, that the Board need not adopt the Secretary's interpretive bulletins in order for them to be available as guidance for employing offices. While the Board is not adopting these interpretive bulletins, the Board reiterates that, like the myriad judicial decisions under the FLSA that are available as guidance for employing offices, the Secretary's interpretive

bulletins remain available as part of the corpus of interpretive materials to which employing offices may look in structuring their FLSA-related compliance activities. Indeed, as the Board also noted in the NPR, since the CAA may properly be interpreted as incorporating the defenses and exemptions set forth in the Portal-to-Portal Act, an employing office that relies in good faith on an applicable interpretive bulletin of the Secretary may in fact have a statutory defense to an enforcement action brought by a covered employee. In short, contrary to the suggestion of these commenters, the Board need not adopt the Secretary's interpretive bulletins in order to give employing offices the benefit of them.

One commenter went so far as to suggest that, by not adopting the Secretary's interpretive bulletins, the Board has somehow signaled its intent to engage in a wholesale reinterpretation of the FLSA and its implementing regulations. No such signal was sent; no such signal was intended. Since the CAA does not require adoption of these interpretive bulletins, and since they are independently available to employing offices, the Board merely determined that it need not adopt the Secretary's interpretative bulletins as its own. Moreover, like the Administrator and the courts, the Board intends to depart from the interpretive bulletins only where their persuasive force is lacking or the law otherwise requires (just as courts or the Administrator would do). *See Skidmore v. Swift & Co.,* 323 U.S. 134, 137–38 (1944); *Reich v. Interstate Brands Corp.,* 57 F.3d 574, 577 (7th Cir. 1995) (''[W]e give the Secretary's bulletins the respect their reasoning earns them.''); *Dalheim v. KDFW-TV,* 918 F.2d 1220, 1228 (5th Cir. 1990) (''the persuasive authority of a given interpretation obtains only so long as all those factors which give it power to persuade' persist.'') (quoting *Skidmore*).

As an alternative to modifying the regulations and adopting the interpretive bulletins of the Secretary, several commenters also suggested that the Board clarify regulatory ambiguities by issuing interpretive bulletins and advisory opinions of its own and thereby confer a Portal-to-Portal Act defense on employing offices that rely upon any such bulletins or advisory opinions of the Board. Indeed, at least one commenter suggested that the Board should provide advisory opinions and other counsel to employing offices that pose questions to it concerning, for example, the propriety of proposed model personnel practices, the exempt status of employees with specified job descriptions, the legality of proposed handbooks, and the qualification of certain House and Senate programs (such as the Federal Thrift Savings Plan) for defenses or exemptions recognized in the FLSA and the Secretary's regulations. The Board has considered these suggestions and, although empathizing with the concerns motivating these requests, finds these suggestions raise intractable legal and practical problems.

To begin with, the Board upon further study has determined that, contrary to the suggestion of the commenters, the Board cannot confer a Portal-to-Portal Act defense on employing offices for any reliance on pronouncements of the Board (as opposed to the Secretary). By its own terms, in the context of the FLSA, the Portal-to-Portal Act applies only to written administrative actions of the Wage and Hour Administrator of the Department of Labor. *See* 29 U.S.C. §259. The Portal-to-Portal Act does not mention the Board; and the Board's authority to amend the Secretary's regulations for ''good cause'' plainly does not extend to amending statutes such as the Portal-to-Portal Act. Thus, as the federal court of appeals which has jurisdiction over such matters under the CAA has held in an almost identical context, the Portal-to-Portal Act would not confer a defense upon employing offices that might rely upon a pronouncement of the Board. *See Berg v. Newman,* 982 F.2d 500, 503–504 (Fed Cir. 1992) (''To apply the statute to a regulation issued by OPM, an agency not referred to in section 259, would extend the section 259 exception beyond its scope''; ''OPM's absence from section 259 prevents the Government from both adopting and shielding itself from liability for faulty regulations.'') The final regulations so state.

Second, contrary to the assumption of these commenters, the Board has neither the legal basis nor the practical ability to issue the kind of interpretive bulletins or advisory opinions being requested. While the Administrator of the Wage and Hour Division entertains questions posed by employers about enforcement-related issues, the Administrator's willingness and ability to respond to such questions derives from and is constrained by her *investigatory* and *enforcement* responsibilities under the FLSA. As the Supreme Court stated over 50 years ago in *Skidmore v. Swift & Co.,* 323 U.S. 134, 137-38 (1944) (citations omitted): ''Congress did not utilize the services of an administrative agency to find facts and to determine in the first instance whether particular cases fall within or without the Act. Instead, it put these responsibilities on the courts. But it did create the office of Administrator, impose upon him a variety of duties, endow him with powers to inform himself of conditions in industries and employments subject to the Act, and put on him the duties of bringing injunction actions to restrain violations. Pursuit of his duties has accumulated a considerable experience in the problems of ascertaining working time in employments involving periods of inactivity and a knowledge of the customs prevailing in reference to their solution. From these he is obliged to reach conclusions as to conduct without the law, so that he should seek injunctions to stop it, and that within the law, so that he has no call to interfere. He has set forth his views of the application of the Act under different circumstances in an interpretative bulletin and in informal rulings. They provide a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it.''

In contrast, the Board has no investigative power by which it can inform itself of conditions, circumstances and customs of employment in the legislative branch; its resources for finding and considering such information are smaller by orders of substantial magnitude; and, most importantly, the Board has no cause to advise employees and employing offices concerning how it will seek to enforce the statute, since it has no enforcement powers under the CAA.

Indeed, on reflection, it seems unwise, if not legally improper, for the Board to set forth its views on interpretive ambiguities in the regulations outside of the adjudicatory context of individual cases. As noted above, the Board's rulemaking authority is quite restricted. Moreover, the Board has no enforcement authority and, in contrast to the FLSA scheme (where the Administrator has no adjudicatory authority to find facts and to determine in the first instance whether particular cases fall within or without the statute), the CAA contemplates that the Board will adjudicate cases brought by covered employees and that, in such adjudications, the Board must be of independent and open mind, bound to and limited by a factual record developed through an adversarial process governed by rules of law, and subject to judicial review of its decisions. See 2 U.S.C. §§1405–1407 (procedure for complaint, hearing, board review and judicial review; requiring hearings to be conducted in accordance with 5 U.S.C. §§554–557); 29 U.S.C. §§554–557. These legal safeguards and the institutional objectives they seek to promote—i.e., the accuracy of the Board's adjudicative decisions and the integrity of the Board's processes—would be undermined if the Board were to attempt to prejudge ambiguous or disputed interpretive matters in advisory opinions that were developed in non-adversarial, non-public proceedings. The Board thus cannot acquiesce in requests for such advisory opinions.

Some commenters suggested that the Board could properly issue such interpretive bulletins and advisory opinions under the rubric of the ''education'' and ''information'' programs allowed and, indeed, mandated by section 301(h) of the CAA. Of course, the Office's education and information programs are not the subject of this notice and comment and thus a discussion of ''education'' and ''information'' programs is not necessary to this rulemaking effort. But, upon due consideration of matter, it appears that this suggestion is based upon a fundamental misunderstanding of the institutional powers and responsibilities conferred upon and withheld from the Board and the Office by Congress in the CAA. Thus, it is both fair and prudent to address the issue at this point.

At the outset, the Board notes that Section 301(h)'s reference to ''education'' and ''information'' programs is not the broad mandate that these comments suggest. In contrast to other statutory schemes, section 301(h) does not authorize, much less compel, the development by the Board or the Office of ''training'' or ''technical assistance'' programs such as those that are included in the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Occupational Safety and Health Act of 1970, the Employee Polygraph Protection Act of 1988, and the Age Discrimination in Employment Act of 1967. Nor does the CAA authorize, much less compel, the issuance of interpretive bulletins, advisory opinions or enforcement guidelines, as agencies with investigative and prosecutorial powers (and matching resources) are sometimes allowed (although almost never compelled) to issue. Rather, section 301(h) directs the Office to carry out ''a program of education for members of Congress and other employing authorities of the legislative branch of the Federal Government respecting the laws made applicable to them''; and ''a program to inform individuals of their rights under laws applicable to the legislative branch of the Federal Government.'' 2 U.S.C. §1381(h). Such admonitions are, however, contained in almost all federal employment laws; and those experienced in the field understand them to concern only programs that ensure general ''awareness'' of rights and responsibilities under the pertinent law.

Section 301(h) must be read in the context of the powers granted to and withheld from the Board in the statutory scheme created by the CAA. The CAA authorizes the Board to engage in rulemaking, but requires the Board to follow specified procedures in doing so and, at least in the context of the FLSA, requires the Board to have ''good cause'' for departing from the Secretary of Labor's substantive regulations. Moreover, the CAA authorizes the Board to engage in adjudication, but only after a complaint is filed with the Office, a record is properly developed through an adversarial process governed by rules of law, and judicial review is assured. And the CAA rather pointedly declines to confer upon the Board the investigatory and prosecutorial authority that is necessary for sound decisionmaking and interpretation outside of the regulatory and adjudicatory

contexts. Given this statutory scheme, section 301(h)'s ''education and information'' mandate cannot reasonably be construed to require (or even allow) the Board to engage in the kind of advisory counseling requested here—i.e., authoritative opinions developed in nonpublic, nonadversarial proceedings.

Indeed, Congress appears effectively to have considered this issue in the CAA and to have rejected the kind of relationship between the Board and employing offices that is contemplated by this request. The legislative history reflects a recognition that ''the office must, in appearance and reality, be independent in order to gain and keep the confidence of the employees and employers who will utilize the dispute resolution process created by this act.'' 141 Cong. Rec. at S627. The legislative history further reflects a recognition that ''laws cannot be enforced in a fair and uniform manner—and employees and the public cannot be convinced that the laws are being enforced in a fair and uniform manner—unless Congress establishes a single enforcement mechanism that is independent of each House of Congress.'' 141 Cong. Rec. at S444. The statute thus declares that the Office of Compliance is an ''independent office'' in the legislative branch; that the Office is governed by a Board of Directors whose members were appointed on a bi-partisan basis for non-partisan reasons, who may be removed in only quite limited circumstances, and whose incomes are largely derived from work in the private sector; and that the Board must follow formal public comment and adjudicatory procedures in making any decisions with legal effect. 2 U.S.C. §§1381(a), (b), (e), (f), (g), 1384, 1405–6. The call for issuing advisory opinions in the ''education'' and ''information'' process—opinions that would be issued in non-public, non-adversarial proceedings without regard to the statutorily-required public comment and adjudicatory procedures—is in intolerable tension with the institutional independence, inclusiveness and procedural regularity contemplated for the Board by the CAA.

In all events, the Board would in the exercise of its considered judgment decline to provide authoritative opinions to employing offices as part of its ''education'' and ''information'' programs. Without investigatorial and prosecutorial authority (and matching resources), the Board has insufficient information and thus is practicably unable to provide such authoritative opinions. With severely restricted rulemaking authority, the Board cannot properly provide regulatory clarifications for employing offices when those clarifications have not been provided by the Secretary to private sector and state and local government employers. And, with its adjudicatory powers, the Board should not resolve disputed interpretive matters in the absence of a specific factual controversy, a record developed through an adversarial process governed by rules of law, and an opportunity for judicial review. To do otherwise would simply impair the independence, impartiality, and irreproachability of the Board's actions. In short, for much the same reasons that federal courts do not issue advisory opinions or *ex parte* decisions, neither should the Board. *See United States* v. *Freuhauf*, 365 U.S. 146, 157 (1961) (Frankfurter, J.) (discussing vices of advisory opinions).

To be sure, ''education'' and ''information'' programs are of central importance to the CAA scheme. Such programs are needed, in part, to help employing offices in their efforts to understand and satisfy their compliance obligations under the CAA. And the Board reiterates its intention, stated in the NPR, that the Office sponsor, and participate in, seminars on the obligations of employing offices, distribute a comprehensive manual to address frequently arising questions under the CAA (including questions relating to FLSA exemptions), and be available generally to discuss compliance-related issues when called upon by employing offices. But the Board itself will not and should not in this education and information process issue authoritative opinions about such matters as the exemption status of employees with specified job duties, the propriety of particular model handbooks and policies developed by employing offices, and the qualification of certain House and Senate programs (such as the Federal Thrift Savings Plan) for particular defenses and exemptions that are available under the regulations. Characterizing such interpretive activity as ''educational'' or ''informational'' does not in any way address, much less satisfactorily resolve, the serious legal and institutional concerns that make it unwise, if not improper, for the Board to engage in such interpretive activities outside of the adjudicative processes established by the CAA.

The Board recognizes that, by declining to provide such authoritative advisory opinions, the Board is forcing employing offices to rely to a greater extent upon their own counsel and human resources officials and in a sense is frustrating the efforts of employing offices to obtain desirable safe-harbors. The FLSA as currently applied to private employers contains few such safe-harbors, particularly in the area of exemptions. But many knowledgeable labor lawyers and human resources officials are available to provide employing offices with the kind of learned counsel and human resources advice that the employing offices are seeking from the Board; indeed, the House and Senate have centralized administrations and committees that can provide this legal support to employing offices. And employing offices have the benefit of the same legal safe-harbors that the Secretary of Labor has made available to private sector and State and local government employers. Under the CAA, they are legally entitled to no more.

Even more importantly, however, the Board finds that the long-term institutional harm to the CAA scheme that would result from the Board's providing such advisory opinions in non-public, non-adversarial proceedings far outweighs whatever short-term legal or political benefits might result for employing offices. As noted above, provision by the Board of such opinions could impair confidence in the independence, impartiality and irreproachability of the Board's decisionmaking processes. Such a lack of confidence could unfortunately induce employees to take their cases to court rather than bring them to the Board's less costly, confidential and expedited alternative dispute resolution process. Even more seriously, such a lack of confidence could cause the public and other interested persons to question the Board's commitment, and thus the sincerity of the CAA's promise, generally to provide covered employees the same benefits, and to subject the legislative branch to the same legal burdens, as exist with regard to private sector and State and local government employers that are subject to the FLSA. We are confident that, like the bi-partisan Congressional leadership who appointed us and who placed their trust in our experience and judgment concerning how best to implement this statute, those in Congress who voted for the CAA or who would support it today would want us to prefer the long term viability, integrity, and efficacy of this noble statutory enterprise over the short-term demands of employing offices.

B. Specific comments and Board action

1. §§541.1,.2,.3—''White collar'' exemptions—Use of job descriptions to determine exempt status

The Board received several comments urging the Board, on the basis of generic job descriptions, to give advice to employing offices on whether covered employees are exempt as bona fide executive, administrative, or professional employees under FLSA §13(a)(1) as applied by the CAA. As noted above, it would not be appropriate to attempt to give such advice in the context of this rulemaking. The Board would note, as a further point, that submission of such descriptions which may describe functions of congressional employees would not, in any event, provide the detail necessary to determine the exempt or nonexempt status of the job. Job descriptions that utilize language or phraseology derived from the regulations today adopted by the Board do not provide the specificity of conclusions regarding exempt or nonexempt status. The Secretary's regulations, as adopted by the Board, speak for themselves. It would serve no purpose, and provide no guidance, simply to repeat the statutory standards for exemption in a job description without reference to the particular functions of a particular employee. The Fair Labor Standards Act is clear that actual function, and not description or job title, govern the exempt status of an employee. See, e.g., 29 C.F.R. §541.201 (3)(b)(1),(2).

2. §541.5d—Special rule for "white collar" employees of a public agency

Under §13(a)(1) of the FLSA, which is incorporated by reference under §225(f)(1) of the CAA, a salaried employee who is a bona fide executive, administrative, or professional employee need not be paid overtime compensation for hours worked in excess of the statutory maximum. Sections 541.1, 541.2, and 541.3, 29 C.F.R., of the Secretary of Labor's regulations respectively define the criteria for each of these ''white collar'' exemptions. Since they are substantive regulations, the Board in its NPR proposed to adopt them.

Among the regulations not proposed for adoption was §541.5d. This regulation provides that an employee shall not lose his or her ''white collar'' exemption where a ''public agency'' employer reduces an exempt employee's pay or places the employee on unpaid leave in certain circumstances for partial-day absences. As explained in the Federal Register Notice announcing its adoption, the Secretary of Labor issued §541.5d in response to concerns that the application of the FLSA to State and local governments would undermine well-settled ''policies of public accountability'' that require public employees (including those who would otherwise be exempt) to incur a reduction in pay if they absent themselves from work under certain circumstances. 57 Fed. Reg. 37677 (Aug. 19, 1992).

The Board originally did not propose adoption of this regulation. However, one commenter pointed out that, by its terms, §541.5d covers a ''public agency,'' which is a statutory term defined in §3(x) of the FLSA to include ''the government of the United States.'' As a definitional provision, §3(x) is incorporated into the CAA by virtue of §225(f)(1), and Congress is undeniably a branch of the ''government of the United States.''

The Board finds merit in the commenter's argument. Moreover, the adoption of this regulation is well in keeping with the Board's mandate to promulgate rules that are ''the same as substantive regulations promulgated by the Department of Labor to

implement'' those FLSA statutory provisions made applicable by the CAA. Accordingly, §541.5d will be adopted with a minor change that substitutes for the citation to §541.118 (an interpretative bulletin) the phrase ''being paid on a salary basis,'' which is derived directly from the substantive regulations defining the ''white collar'' exemptions (i.e., 29 C.F.R. §§541.1,.2,.3).

3. Partial Overtime Exemption for Law Enforcement Officers

The Board did not propose to adopt any sections of 29 C.F.R. Part 553, which govern the application of the FLSA to employees of State and local governments. Subparts A and B of that Part address a variety of issues, including certain exclusions pertaining to elected legislative offices, the use of compensatory time off, recordkeeping, and the employment of volunteers. Subpart C addresses the special provisions which Congress enacted in §7(k) in connection with fire protection and law enforcement employees of public agencies.

Section 7(k) of the FLSA also provides a partial overtime exemption for fire protection and law enforcement employees of a public agency. Based on tour-of-duty averages that were determined by the Secretary of Labor in 1975, an employer need not pay overtime if, in a work period of 28 consecutive days, the employee receives a tour of duty which in the aggregate does not exceed 212 hours for fire protection activity or does not exceed 171 hours for law enforcement activity. Thus, for law enforcement personnel, work in excess of 171 hours during the 28-day period triggers the requirement to pay overtime compensation. For a work period of at least 7 but less than 28 consecutive days, overtime must be paid when the ratio of the number of hours worked to the number of days in the work period exceeds the 171-hours-to-28-days ratio (rounded to the nearest whole hour).

Although the regulations by their terms apply only to ''public agencies'' of State and local governments, one commenter observed that the underlying statutory provisions are not so limited but rather apply to any ''public agency,'' which by definition includes the Federal government (See §3(x) of the FLSA). Accordingly, it was argued that the Board should adopt those regulations implementing the §7(k) partial overtime exemption insofar as it would apply to the law enforcement work of the Capitol Police.

For the reasons noted above that support adoption of §541.5d, the Board finds that the pertinent sections of Subpart C of Part 553 should also be adopted. Section 7(k) provides a direct textual basis for applying the relevant regulations. Thus, under the regulations, the Capitol Police as an employing office of law enforcement personnel shall have two options: It may pay such personnel overtime compensation on the basis of a 40-hour workweek. Alternatively, it may claim the section 7(k) exemption by establishing a valid work period that follows the criteria set forth in the regulations.

The Board is aware that Congress has enacted special provisions governing overtime compensation and compensatory time off for Capitol Police officers. 40 U.S.C. §206b (for police on the House's payroll) and §206c (for police on the Senate's payroll). However, the regulations being adopted here do not purport to modify those statutory provisions; and whether 40 U.S.C. §§206b-206c grant rights and protections to law enforcement employees that preclude the Capitol Police from availing itself of §7(k) of the FLSA is a question that the Board does not address. The regulations simply specify the rules for overtime policies that conform to the FLSA.

4. §570.35a—Work experience programs for minors

The CAA makes applicable to the legislative branch FLSA §12(c), which prohibits the use of oppressive child labor, and FLSA §3(l), which defines ''oppressive child labor.'' In its NPR, the Board proposed adopting as part of the CAA rules applicable to the Senate certain substantive regulations of Part 570, 29 C.F.R., implementing these statutory provisions. This proposal was based on the Board's understanding that the Senate has a practice of appointing pages under 18 years of age.

One commenter confirmed this understanding by reporting that the Senate Page Program does employ minors under the age of 16. Thus, under the proposed regulations, there are limitations on the periods and the conditions under which such minors can work. Without disputing the applicability of this regulation, the commenter sought to mitigate its impact by urging the adoption of an additional regulation found in 29 C.F.R. Part 570, Subpart C, namely the rule that varies some of the provisions of Subpart C in the context of school-supervised and school-administered work-experience or career exploration programs that have been individually approved by the Wage and Hour Administrator. 29 C.F.R. §570.35a.

After carefully reviewing the provisions of §570.35a, the Board finds that it would not be appropriate to adopt this regulation. There is no available ''State Educational Agency'' in the context of the CAA; State law is not properly applicable here; and the Board is obviously not competent to set educational standards. In short, there are legal and practical reasons why this regulation is unworkable in the context of Federal legislative branch employment, and the Board thus has ''good cause'' not to adopt it.

5. Board determination on regulations ''required'' to be issued in connection with §411 default provision

Section 411 of the CAA provides in pertinent part that ''if the Board has not issued a regulation on a matter for which [the CAA] requires a regulation to be issued the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue.'' By its own terms, this provision comes into play only where it is determined that the Board has not issued a regulation that is required by the CAA. Thus, before a Department of Labor regulation can be invoked, an adjudicator must make a threshold determination that the regulation concerns a matter as to which the Board was obligated under the CAA to issue a regulation.

As noted in the NPR, it was apparent in reviewing Chapter V of 29 C.F.R., which contains all the regulations of the Secretary of Labor issued to implement the FLSA generally, many of those regulations were not legally ''required'' to be issued as CAA regulations because the underlying FLSA provisions were not made applicable under the CAA. And there are other regulations that the Board has ''good cause'' not to issue because, for example, they have no applicability to legislative branch employment.

None of the comments to the NPR quarrelled with the Board's conclusion not to adopt those regulations that have little practical application. Therefore, the Board is not issuing regulations predicated upon the following Parts of 29 C.F.R.: Parts 519–528, which authorize subminimum wages for full-time students, student-learners, apprentices, learners, messengers, workers with disabilities, and student workers; Part 548, which authorizes in the collective bargaining context the establishment of basic wage rates for overtime compensation purposes; and Part 551, which implements an overtime exemption for local delivery drivers and helpers.

The comments did identify several individual regulations as to which there is not good cause to not adopt. As explained elsewhere, those regulations are being included in the final rules. However, in the main, the comments did not dispute the inapplicability of those Parts of 29 C.F.R. deemed legally irrelevant.

Accordingly, in keeping with its announced intent in the NPR, the Board is including in its final rules a declaration to the effect that the Board has issued those regulations that, as both a legal and practical matter, it is ''required'' to promulgate to implement the statutory provisions of the FLSA that are made applicable to the legislative branch by the CAA.

The Board has carefully reviewed the entire corpus of the Secretary's regulations, has sought comment on its proposal concerning the regulations that it should (and should not adopt), and has considered those comments in formulating its final rules. The Board has acted based on this review and consideration and in order to prevent wasteful litigation about whether the omission of a regulation from the Secretary in the Board's regulations was intended or not.

6. Recordkeeping and notice posting

One comment essentially requested that the Board revisit an issue which it resolved after receiving comments to its Advanced Notice of Proposed Rulemaking (ANPR) published on October 11, 1995. The ANPR had solicited public comments on certain questions to assist the Board in drafting proposed FLSA regulations, including the question of whether the FLSA provisions regarding recordkeeping and the notice posting were made applicable by the CAA. As explained in the NPR, after evaluating the comments and carefully reviewing the CAA, the Board concluded that ''the CAA explicitly did not incorporate the notice posting and recordkeeping requirements of Section 11, 29 U.S.C. §211 of the FLSA.'' The most recent comment offered no further statutory evidence to support a change in the Board's original conclusion.

7. Technical and nomenclature changes

A commenter suggested a number of technical and nomenclature changes to the proposed regulations to make them more precise in their application to the legislative branch. The Board has incorporated many of the suggested changes. However, by making these changes, the Board does not intend a substantive difference in meaning of these sections of the Board's regulations and those of the Secretary from which the Board's regulations are derived.

III. Adoption of proposed rules as final regulations under section 304(b)(3) and as interim regulations

Having considered the public comments to the proposed rules, the Board pursuant to section 304(b) (3) and (4) of the CAA is adopting these final regulations and transmitting them to the House and the Senate with recommendations as to the method of approval by each body under section 304(c). However, the rapidly approaching effective date of the CAA's implementation necessitates that the Board take further action with respect to these regulations. For the reasons explained below, the Board is also today adopting and issuing these rules as interim regulations that will be effective as of January 23, 1996 or the time upon which appropriate resolutions of approval of these interim regulations are passed by the House and/or the Senate, whichever is later. These interim regulations

will remain in effect until the earlier of April 15, 1996 or the dates upon which the House and Senate complete their respective consideration of the final regulations that the Board is herein adopting.

The Board finds that it is necessary and appropriate to adopt such interim regulations and that there is ''good cause'' for making them effective as of the later of January 23, 1996, or the time upon which appropriate resolutions of approval of them are passed by the House and the Senate. In the absence of the issuance of such interim regulations, covered employees, employing offices, and the Office of Compliance staff itself would be forced to operate in regulatory uncertainty. While section 411 of the CAA provides that, ''if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding,'' covered employees, employing offices and the Office of Compliance staff might not know what regulation, if any, would be found applicable in particular circumstances absent the procedures suggested here. The resulting confusion and uncertainty on the part of covered employees and employing offices would be contrary to the purposes and objectives of the CAA, as well as to the interests of those whom it protects and regulates. Moreover, since the House and the Senate will likely act on the Board's final regulations within a short period of time, covered employees and employing offices would have to devote considerable attention and resources to learning, understanding, and complying with a whole set of default regulations that would then have no future application. These interim regulations prevent such a waste of resources.

The Board's authority to issue such interim regulations derives from sections 411 and 304 of the CAA. Section 411 gives the Board authority to determine whether, in the absence of the issuance of a final regulation by the Board, it is necessary and appropriate to apply the substantive regulations of the executive branch in implementing the provisions of the CAA. Section 304(a) of the CAA in turn authorizes the Board to issue substantive regulations to implement the Act. Moreover, section 304(b) of the CAA instructs that the Board shall adopt substantive regulations ''in accordance with the principles and procedures set forth in section 553 of title 5, United States Code,'' which have in turn traditionally been construed by courts to allow an agency to issue ''interim'' rules where the failure to have rules in place in a timely manner would frustrate the effective operation of a federal statute. See, e.g., *Philadelphia Citizens in Action v. Schweiker*, 669 F.2d 877 (3d Cir. 1982). As noted above, in the absence of the Board's adoption and issuance of these interim rules, such a frustration of the effective operation of the CAA would occur here.

In so interpreting its authority, the Board recognizes that in section 304 of the CAA, Congress specified certain procedures that the Board must follow in issuing substantive regulations. In section 304(b), Congress said that, except as specified in section 304(e), the Board must follow certain notice and comment and other procedures. The interim regulations in fact have been subject to such notice and comment and such other procedures of section 304(b).

In issuing these interim regulations, the Board also recognizes that section 304(c) specifies certain procedures that the House and the Senate are to follow in approving the Board's regulations. The Board is of the view that the essence of section 304(c)'s requirements are satisfied by making the effectiveness of these interim regulations conditional on the passage of appropriate resolutions of approval by the House and/or the Senate. Moreover, section 304(c) appears to be designed primarily for (and applicable to) final regulations of the Board, which these interim regulations are not. In short, section 304(c)'s procedures should not be understood to prevent the issuance of interim regulations that are necessary for the effective implementation of the CAA.

Indeed, the promulgation of these interim regulations clearly conforms to the spirit of section 304(c) and, in fact promotes its proper operation. As noted above, the interim regulations shall become effective only upon the passage of appropriate resolutions of approval, which is what section 304(c) contemplates. Moreover, these interim regulations allow more considered deliberation by the House and the Senate of the Board's final regulations under section 304(c).

The House has in fact already signalled its approval of such interim regulations both for itself and for the instrumentalities. On December 19, 1995, the House adopted H. Res. 311 and H. Con. Res. 123, which approve ''on a provisional basis'' regulations ''issued by the Office of Compliance before January 23, 1996.'' The Board believes these resolutions are sufficient to make these interim regulations effective for the House on January 23, 1996, though the House might want to pass new resolutions of approval in response to this pronouncement of the Board.

To the Board's knowledge, the Senate has not yet acted on H. Con. Res. 123, nor has it passed a counterpart to H. Res. 311 that would cover employing offices and employees of the Senate. As stated herein, it must do so if these interim regulations are to apply to the Senate and the other employing offices of the instrumentalities (and to prevent the default rules of the executive branch from applying as of January 23, 1996).

IV. Method of approval

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the regulations that shall apply to other covered employees and employing offices should be approved by the Congress by concurrent resolution.

With respect to the interim version of these regulations, the Board recommends that the Senate approve them by resolution insofar as they apply to the Senate and employees of the Senate. In addition, the Board recommends that the Senate approve them by concurrent resolution insofar as they apply to other covered employees and employing offices. It is noted that the House has expressed its approval of the regulations insofar as they apply to the House and its employees through its passage of H. Res. 311 on December 19, 1995. The House also expressed its approval of the regulations insofar as they apply to other employing offices through passage of H. Con. Res. 123 on the same date; this concurrent resolution is pending before the Senate.

ADOPTED REGULATIONS—AS INTERIM AND AS FINAL REGULATIONS

Subtitle C—Regulations relating to the employing offices other than those of the Senate and the House of Representatives—C series

Chapter III—Regulations Relating to the Rights and Protections Under the Fair Labor Standards Act of 1938

Part C501—General provisions

Sec.
C501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C501.101 Purpose and scope.
C501.102 Definitions.
C501.103 Coverage.
C501.104 Administrative authority.
C501.105 Effect of Interpretations of the Labor Department.
C501.106 Application of the Portal-to-Portal Act of 1947.
C501.107 Duration of interim regulations.

§ C501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
Part 531 Wage payments under the Fair Labor Standards Act of 1938	Part C531
Part 541 Defining and delimiting the terms ''bona fide executive,'' ''administrative,'' and ''professional'' employees	Part C541
Part 547 Requirements of a ''Bona fide thrift or savings plan''	Part C547
Part 553 Application of the FLSA to employees of public agencies	Part C553
Part 570 Child labor	Part C570

Subpart A—Matters of general applicability

§ C501.101 Purpose and scope

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§ 206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which requires that the Board promulgate regulations that are ''the same as substantive regulations promulgated by the Secretary of Labor to

implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.''

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection a [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires a regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other ''substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA].''

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§ C501.102 Definitions

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *FLSA* or *Act* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) *Covered employee* means any employee, including an applicant for employment and a former employee, of the (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment, but shall not include an intern.

(d)(1) *Employee of the Office of the Architect of the Capitol* includes any employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants;

(2) *Employee of the Capitol Police* includes any member or officer of the Capitol Police.

(e) *Employing office* and *employer* mean (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(f) *Board* means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

(h) *Intern* is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months; *provided* that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months; *provided further* that the defintion of *intern* does not include volunteers, fellows or pages.

§ C501.103 Coverage

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§C501.104 Administrative authority

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

§ C501.105 Effect of interpretations of the Department of Labor

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton v. Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No.8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: ''[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control.'' *Skidmore v. Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be ''the same as substantive regulations promulgated by the Secretary of Labor'' except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§ C501.106 Application of the Portal-to-Portal Act of 1947

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§216 and 251 *et seq.*, is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part: ''[N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.''

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided,* that such regulation, order, ruling approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, or ruling of the Board or the courts.

§ C501.107 Duration of interim regulations

These interim regulations for the House, the Senate and the employing offices of the instrumentalities are effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

Part C531—Wage Payments Under the Fair Labor Standards Act of 1938

Subpart A—Preliminary Matters

Sec.
C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C531.1 Definitions.
C531.2 Purpose and scope.
Subpart B—Determinations of ''reasonable cost'' and ''fair value''; effects of collective bargaining agreements
C531.3 General determinations of ''reasonable cost''.
C531.6 Effects of collective bargaining agreements.

A—Preliminary matters

§ C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
531.1 Definitions	C531.1
531.2 Purpose and scope	C531.2
531.3 General determinations of ''reasonable cost''	C531.3
Effects of collective bargaining agreements	C531.6

§ C531.1 Definitions

(a) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) *Act* means the Fair Labor Standards Act of 1938, as amended.

§ C531.2 Purpose and scope

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the 'reasonable cost' and 'fair value' of board, lodging, or other facilities having general application.

Subpart B—Determinations of ''reasonable cost'' and ''fair value''; effects of collective bargaining agreements

§ C531.3 General determinations of 'reasonable cost'

(a) The term *reasonable cost* as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5½ percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term *good accounting practices* does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term *depreciation* includes obsolescence.

(d)(1) The cost of furnishing 'facilities' found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§ C531.6 Effects of collective bargaining agreements

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be ''bona fide'' when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

Part C541—Defing and Delimiting the Terms ''Bona Fide Executive,'' ''Administrative,'' or ''Professional'' Capacity (Including Any Employee Employed in the Capacity of Academic Administrative Personnel or Teacher in Secondary School)

Subpart A—General regulations

Sec.

C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

C541.01 Application of the exemptions of section 13(a)(1) of the FLSA.

C541.1 Executive.

C541.2 Administrative.

C541.3 Professional.

C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

C541.5d Special provisions applicable to employees of public agencies.

Subpart A—General regulations

§ C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
541.1 Executive	C541.1
541.2 Administrative	C541.2
541.3 Professional	C541.3
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees.	C541.5b
541.5d Special provisions applicable to employees of public agencies	C541.5d

§ C541.01 Application of the exemptions of section 13 (a)(1) of the FLSA

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c)and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under § 203.

§ C541.1 Executive

The term *employee employed in a bona fide executive* * * * capacity in section 13(a) (1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided*, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section

§ C541.2 Administrative

The term *employee employed in a bona fide* * * * *administrative* * * * *capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers of in the school system, educational establishment or institution by which employed: *Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§ C541.3 Professional

The term *employee employed in a bona fide * * * professional capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6 1/2 times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§ C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially ''equal work,'' the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§ C541.5d Special provisions applicable to employees of public agencies

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under Sec. C541.1, C541.2, or C541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—(1) permission for its use has not been sought or has been sought and denied; (2) accrued leave has been exhausted; or (3) the employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid 'on a salary basis' except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

Part C547—Requirements of a ''Bona Fide Thrift or Savings Plan

Sec.
C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance
C547.0 Scope and effect of part.
C547.1 Essential requirements of qualifications.
C547.2 Disqualifying provisions.

§ C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
547.0 Scope and effect of part	C547.0
547.1 Essential requirements of qualifications	C547.1
547.2 Disqualifying provisions	C547.2

§ C547.0 Scope and effect of part

(a) The regulations in this part set forth the requirements of a ''bona fide thrift or savings plan'' under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§ C547.1 Essential requirements for qualifications

(a) A ''bona fide thrift or savings plan'' for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § 547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§ C547.2 Disqualifying provisions

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

Part C553—Overtime Compensation: Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection; Overtime and Compensatory Time-Off for Employees Whose Work Schedule Directly Depends Upon the Schedule of the House

Introduction

Sec.
C553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C553.1 Definitions.
C553.2 Purpose and scope.
Subpart C—Partial exemption for employees engaged in law enforcement and fire protection
C553.201 Statutory provisions: section 7(k).
C553.202 Limitations.
C553.211 Law enforcement activities.
C553.212 Twenty percent limitation on nonexempt work.
C553.213 Public agency employees engaged in both fire protection and law enforcement activities.
C553.214 Trainees.
C553.215 Ambulance and rescue service employees.
C553.216 Other exemptions.
C553.220 ''Tour of duty'' defined.
C553.221 Compensable hours of work.
C553.222 Sleep time.
C553.223 Meal time.
C553.224 ''Work period'' defined.
C553.225 Early relief.
C553.226 Training time.
C553.227 Outside employment.
C553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).
C553.231 Compensatory time off.
C553.232 Overtime pay requirements.
C553.233 ''Regular rate'' defined.
Subpart D—Compensatory time-off for overtime earned by employees whose work schedule directly depends upon the schedule of the House
C553.301 Definition of ''directly depends.'' .....
C553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
C553.303 Using compensatory time off.
C553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

Introduction

§ C553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
553.1 Definitions	C553.1
553.2 Purpose and scope	C553.2
553.201 Statutory provisions: section 7(k)	C553.201
553.202 Limitations	C553.202
553.211 Law enforcement activities	C553.211
553.212 Twenty percent limitation on nonexempt work	C553.212
553.213 Public agency employees engaged in both fire protection and law enforcement activities	C553.213
553.214 Trainees	C553.214
553.215 Ambulance and rescue service employees	C553.215
553.216 Other exemptions	C553.216
553.220 ''Tour of duty'' defined	C553.220
553.221 Compensable hours of work	C553.221
553.222 Sleep time	C553.222
553.223 Meal time	C553.223
553.224 ''Work period'' defined	C553.224
553.225 Early relief	C553.225
553.226 Training time	C553.226
553.227 Outside employment	C553.227
553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)	C553.230
553.231 Compensatory time off	C553.231
553.232 Overtime pay requirements	C553.232
553.233 ''Regular rate'' defined	C553.233

Introduction

§ C553.1 Definitions

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Amendments of 1985 (Pub. L. 99–150).

(c) Public agency means an employing office as the term is defined in § 501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of § 7(k) of the FLSA as applied to covered employees and employing offices by § 203 of the CAA.

§ C553.2 Purpose and scope

The purpose of part C553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

Subpart C—Partial exemption for employees engaged in law enforcement and fire protection

§ C553.201 Statutory provisions: section 7(k).

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in § C553.230 of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§ C553.202 Limitations

The application of § 7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

Exemption requirements

§ C553.211 Law enforcement activities

(a) As used in § 7(k) of the Act, the term 'any employee . . . in law enforcement activities' refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as 'trainee,' 'probationary,' or 'permanent,' and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such

personnel form an integral part of the public agency's law enforcement activities. See Sec. C553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in (law enforcement activities' as that term is used in sections 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in Sec. C553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term 'any employee in law enforcement activities' also includes, by express reference, 'security personnel in correctional institutions.' Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as 'trainee,' 'probationary,' or 'permanent,' and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term 'employee in law enforcement activities' are the so-called 'civilian' employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§ C553.212 Twenty percent limitation on nonexempt work

(a) Employees engaged in fire protection or law enforcement activities as described in Sec. C553.210 and C553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the §7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the §7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§ C553.213 Public agency employees engaged in both fire protection and law enforcement activities

(a) Some public agencies have employees (often called 'public safety officers') who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption, provided that each of the activities performed meets the appropriate tests set forth in Sec. C553.210 and C553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in Sec.C553.212.

(b) As specified in Sec.C553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ C553.214 Trainees

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in Sec. C553.210 or Sec. C553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§ C553.215 Ambulance and rescue service employees

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by §7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in Sec. C553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ C553.216 Other exemptions

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of §7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part C541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in part C541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as ''executive'' employees. Similarly, certain criminal investigative agents may qualify as ''administrative'' employees under section 13(a)(1).

Tour of duty and compensable hours of work rules

§ C553.220 ''Tour of duty'' defined

(a) The term ''tour of duty'' is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include ''shifts'' assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the''shift'' which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance.

(c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in Sec. C553.227.

§ C553.221 Compensable hours of work

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (Sec. C553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (Sec. C553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises

or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§ C553.222 Sleep time

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, and

(2) Where the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§ C553.223 Meal time

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts'), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA 'hours of work' rules and adoption of an overtime standard keyed to the unique concept of 'tour of duty' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§ C553.224 ''Work period'' defined

(a) As used in section 7(k), the term 'work period' refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§ C553.225 Early relief

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§ C553.226 Training time

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ C553.227 Outside employment

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a

city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

Overtime compensation rules

§ C553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

MAXIMUM HOURS STANDARDS

Work period (days)	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§ C553.231 Compensatory time off

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in Sec. C553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§ C553.232 Overtime pay requirements

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rates of pay.

§ C553.233 'Regular rate' defined

The statutory rules for computing an employee's 'regular rate', for purposes of the Act's overtime pay requirements are applicable to employees or whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

Subpart D—Compensatory time-off for overtime earned by employees whose work schedule directly depends upon the schedule of the House and the Senate

§ C553.301 Definition of ''directly depends''

For the purposes of this Part, a covered employee's work schedule ''directly depends'' on the schedule of the House of Representatives and the Senate only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§ C553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House and Senate

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act (''FLSA'') to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the House of Representatives or the Senate within the meaning of § C553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§ C553.303 Using compensatory time off

An employee who has accrued compensatory time off under § C553.302 upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§ C553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

Part C570—Child Labor Regulations

Subpart A—General

Sec.
C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C570.1 Definitions.
C570.2 Minimum age standards.

Subpart C—Employment of minors between 14 and 16 years of age (child labor reg. 3)

C570.31 Determination.
C570.32 Effect of this subpart.
C570.33 Occupations.
C570.35 Periods and conditions of employment.

Subpart E—Occupations particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being

C570.50 General.
C570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).
C570.52 Occupations of motor-vehicle driver and outside helper (Order 2).
C570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5).
C570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7).
C570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8).
C570.62 Occupations involved in the operation of bakery machines (Order 11).
C570.63 Occupations involved in the operation of paper-products machines (Order 12).
C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14).
C570.66 Occupations involved in wrecking and demolition operations (Order 15).
C570.67 Occupations in roofing operations (Order 16).
C570.68 Occupations in excavation operations (Order 17).

Subpart A—General

§ C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under Section 202 of the CAA:

Secretary of Labor regulations	*OC regulations*
570.1 Definitions	C570.1
570.2 Minimum age standards	C570.2
570.31 Determinations	C570.31
570.32 Effect of this subpart	C570.32
570.33 Occupations	C570.33
570.35 Periods and conditions of employment	C570.35
570.50 General	C570.50

Secretary of Labor regulations	OC regulations
570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1)	C570.51
570.52 Occupations of motor-vehicle driver and outside helper (Order 2)	C570.52
570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5)	C570.55
570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7)	C570.58
570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8)	C570.59
570.62 Occupations involved in the operation of bakery machines (Order 11)	C570.62
570.63 Occupations involved in the operation of paper-products machines (Order 12)	C570.63
570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14)	C570.65
570.66 Occupations involved in wrecking and demolition operations (Order 15)	C570.66
570.67 Occupations in roofing operations (Order 16)	C570.67
570.68 Occupations in excavation operations (Order 17)	C570.68

§ C570.1 Definitions

As used in this part:

(a) *Act* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219).

(b) *Oppressive child labor* means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in Sec. 570.2 of this subpart.

(c) *Oppressive child labor age* means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) *Secretary or Secretary of Labor* means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) *Wage and Hour Division* means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative.

§ C570.2 Minimum age standards

(a) All occupations except in agriculture. (1) The Act, in section 3(1), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being.

(2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

Subpart B [reserved]

Subpart C—Employment of minors between 14 and 16 years of age (child labor reg. 3)

§ C570.31 Determination

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§ C570.32 Effect of this subpart

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in § 570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§ C570.33 Occupations

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(1) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f)(1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§ C570.35 Periods and conditions of employment

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

SUBPART D [RESERVED]

Subpart E—Occupations particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being

§ C570.50 General

(a) Higher standards. Nothing in this subpart shall authorize non-compliance with any Federal law or regulation establishing a higher standard. If more than one standard within this subpart applies to a single activity the higher standard shall be applicable.

(b) Apprentices. Some sections in this subpart contain an exemption for the employment of apprentices. Such an exemption shall apply only when: (1) The apprentice is employed in a craft recognized as an apprenticeable trade; (2) the work of the apprentice in the occupations declared particularly hazardous is incidental to his training; (3) such work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of such apprentice training; and (4) the apprentice is registered by the Executive Director of the Office of Compliance as employed in accordance with the standards established by the Bureau of Apprenticeship and Training of the United States Department of Labor.

(c) Student-learners. Some sections in this subpart contain an exemption for the employment of student-learners. Such an exemption shall apply when:

(1) The student-learner is enrolled in a course of study and training in a cooperative vocational training program under a recognized State or local educational authority or in a course of study in a substantially similar program conducted by a private school and;

(2) Such student-learner is employed under a written agreement which provides:

(i) That the work of the student-learner in the occupations declared particularly hazardous shall be incidental to his training;

(ii) That such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person;

(iii) That safety instructions shall be given by the school and correlated by the employer with on-the-job training; and

(iv) That a schedule of organized and progressive work processes to be performed on the job shall have been prepared. Each such written agreement shall contain the name of student-learner, and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder. A high school graduate may be employed in an occupation in which he has completed training as provided in this paragraph as a student-learner, even though he is not yet 18 years of age.

§ C570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1)

(a) Finding and declaration of fact. The following occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components are particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in paragraph (a)(2) of this section) manufacturing or storing explosives or articles containing explosive components except where the occupation is performed in a 'nonexplosives area' as defined in paragraph (b)(3) of this section.

(2) The following occupations in or about any plant or establishment manufacturing or storing small-arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small-arms ammunition:

(i) All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small-arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.

(ii) All occupations involved in the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured.

(iii) All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(iv) All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.

(v) All occupations involved in the loading, inspecting, packing, shipping and storage of blasting caps.

(b) Definitions. For the purpose of this section:

(1) The term *plant or establishment manufacturing or storing explosives or articles containing explosive component* means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

(2) The terms *explosives* and *articles containing explosive components* mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in regulations for the transportation of explosives and other dangerous substances by common carriers (49 CFR parts 71 to 78) issued pursuant to the Act of June 25, 1948 (62 Stat.739; 18 U.S.C. 835).

(3) An area meeting all of the criteria in paragraphs (b)(3) (i) through (iv) of this section shall be deemed a ''nonexplosives area'':

(i) None of the work performed in the area involves the handling or use of explosives;

(ii) The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;

(iii) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and

(iv) Satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet criteria of paragraphs (b)(3) (i) through (iii) of this section.

§ C570.52 Occupations of motor-vehicle driver and outside helper (Order 2)

(a) Findings and declaration of fact. Except as provided in paragraph (b) of this section, the occupations of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in § C570.68(a) are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) Exemption—Incidental and occasional driving. The findings and declaration in paragraph (a) of this section shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours; *provided,* such operation is only occasional and incidental to the minor's employment; that the minor holds a State license valid for the type of driving involved in the job performed and has completed a State approved driver education course; and *provided further*, that the vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that such belts or other devices must be used. This paragraph shall not be applicable to any occupation of motor-vehicle driver which involves the towing of vehicles.

(c) Definitions. For the purpose of this section:

(1) The term *motor vehicle* shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(2) The term *driver* shall mean any individual who, in the course of employment, drives a motor vehicle at any time.

(3) The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(4) The term *gross vehicle weight* includes the truck chassis with lubricants, water and a full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body and special chassis and body equipment, and payload.

§ C570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5)

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven wood-working machines are particularly hazardous for minors between 16 and 18 years of age:

(1) The occupation of operating power-driven woodworking machines, including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.

(3) The occupations of off-bearing from circular saws and from guillotine-action veneer clippers.

(b) Definitions. As used in this section:

(1) The term *power-driven woodworking machines* shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

(2) The term *off-bearing* shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include: (i) The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and (ii) the following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation: The carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

§ C570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7)

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven hoisting apparatus are particularly hazardous for minors between 16 and 18 years of age:

(1) Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one ton capacity.

(2) Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

(3) Work of assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

(b) Definitions. As used in this section:

(1) The term *elevator* shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines), but shall not include dumbwaiters.

(2) The term *crane* shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot-pouring, jib, locomotive, motor-truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.

(3) The term *derrick* shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with an hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

(4) The term *hoist* shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.

(5) The term *high-lift* truck shall mean a power-driven industrial type of truck used

for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include highlift trucks known under such names as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of but not the tiering of material.

(6) The term *manlift* shall mean a device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

(c) Exception. (1) This section shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over travel by the car.

(2) For the purpose of this exception the term *automatic elevator* shall mean a passenger elevator, a freight elevator, or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

(3) For the purpose of this exception, the term *automatic signal operation elevator* shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors-from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

§ C570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8)

(a) Finding and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines:

(i) All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

(ii) All pressing or punching machines, such as punch presses except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; and plate punches.

(iii) All bending machines, such as apron brakes and press brakes.

(iv) All hammering machines, such as drop hammers and power hammers.

(v) All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

(b) Definitions. (1) The term *operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term *helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term *forming, punching, and shearing machines* shall mean power-driven metalworking machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching, and shearing machines enumerated in this section are the machines to which the designation is by custom applied.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

§ C570.62 Occupations involved in the operation of bakery machines (Order 11)

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven bakery machines are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machine; or cake cutting band saw.

(2) The occupation of setting up or adjusting a cookie or cracker machine.

§ C570.63 Occupations involved in the operation of paper-products machines (Order 12)

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operation or assisting to operate any of the following power-driven paper products machines:

(i) Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single-or-double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

(ii) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand feeding.

(b) Definitions. (1) The term *operating or assisting to operate* shall mean all work which involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

(2) The term *paper products* machine shall mean all power-driven machines used in:

(i) The remanufacture or conversion of paper or pulp into a finished product, including the preparation of such materials for recycling; or

(ii) The preparation of such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§ C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14)

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven fixed or portable machines except machines equipped with full automatic feed and ejection:

(i) Circular saws.

(ii) Band saws.

(iii) Guillotine shears.

(2) The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, band saws, and guillotine shears.

(b) Definitions. (1) The term *operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term *helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term *machines equipped with full automatic feed and ejection* shall mean machines covered by this Order which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his body in the point-of-operation area.

(4) The term *circular saw* shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

(5) The term *band saw* shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

(6) The term *guillotine shear* shall mean a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§ C570.66 Occupations involved in wrecking and demolition operations (Order 15)

(a) Finding and declaration of fact. All occupations in wrecking and demolition operations are particularly hazardous for the employment of minors between 16 and 18 years of age and detrimental to their health and well-being.

(b) Definition. The term *wrecking and demolition operations* shall mean all work, including clean-up and salvage work, performed at

the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, other structure.

§ C570.67 Occupations in roofing operations (Order 16)

(a) Finding and declaration of fact. All occupations in roofing operations are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health.

(b) Definition of roofing operations. The term *roofing operations* shall mean all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt or wood) to roofs of buildings or other structures. The term shall also include all work performed in connection with: (1) The installation of roofs, including related metal work such as flashing and (2) alterations, additions, maintenance, and repair, including painting and coating, of existing roofs. The term shall not include gutter and downspout work; the construction of the sheathing or base of roofs; or the installation of television antennas, air conditioners, exhaust and ventilating equipment, or similar appliances attached to roofs.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§ C570.68 Occupations in excavation operations (Order 17)

(a) Finding and declaration of fact. The following occupations in excavation operations are particularly hazardous for the employment of persons between 16 and 18 years of age: (1) Excavating, working in, or backfilling (refilling) trenches, except (i) manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or (ii) working in trenches that do not exceed four feet in depth at any point.

(2) Excavating for buildings or other structures or working in such excavations, except: (i) Manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or (ii) working in an excavation not exceeding such depth, or (iii) working in an excavation where the side walls are shored or sloped to the angle of repose.

(3) Working within tunnels prior to the completion of all driving and shoring operations.

(4) Working within shafts prior to the completion of all sinking and shoring operations.

(b) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec.C570.50 (b) and (c).

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988—EXCLUSION OF CAPITOL POLICE

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL AND ISSUANCE OF INTERIM REGULATIONS

Summary: The Board of Directors, Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published September 28, 1995 in the Congressional Record, has adopted, and is submitting for approval by the Congress, a final regulation authorizing the Capitol Police to use lie detector tests under Section 204(a)(3) and (c) of the Congressional Accountability Act of 1995 (''CAA''). The Board is also adopting and issuing such regulations as interim regulations effective on January 23, 1996 or on the dates upon which appropriate resolutions of approval are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House of Representatives and the Senate, respectively, whichever is earlier.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540–1999. Telephone: (202) 724–9250.

Background and Summary

Supplementary Information: The Congressional Accountability Act of 1995 (''CAA''), Pub. L. 104–1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301 *et seq*. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA provides that no employing office, irrespective of whether a covered employee works in that employing office, may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988, 29 U.S.C. §2002(1), (2) or (3) (''EPPA''). 2 U.S.C. §1314(a). Section 204(a) of the CAA also applies the waiver provision of section 6(d) of the EPPA (29 U.S.C. §2005(d)) to covered employees. *Id*. Section 225(f) (1) provides that, ''[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions in the [EPPA] shall apply under this Act.'' 2 U.S.C. §1361(f)(1).

Section 204(c) authorizes the Board of Directors of the Office of Compliance (''Board'') established under the CAA to issue regulations implementing the section. 2 U.S.C. §1314(c). Section 204(c)(2) further states that such regulations ''shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' *Id*. Section 204(a)(3) provides that nothing in this section shall preclude the Capitol Police from using lie detector tests in accordance with regulations issued under section 204(c) of the CAA. *Id*. The provisions of section 204 are effective January 23, 1996, one year after the enactment date of the CAA.

The Capitol Police is the primary law enforcement agency of the legislative branch. *See* 40 U.S.C. §212a *et seq*. The final regulation would provide the Capitol Police with specific authorization to use lie detector tests. The final regulation is derived from the Secretary of Labor's regulation implementing the exclusion for public sector employers under Section 7(a) of the EPPA, 29 U.S.C. §2006(a) (29 C.F.R. §801.10(d)), which limits the exclusion to the entity's own employees.

To obtain input from interested persons on the content of these regulations, the Board published for comment a Notice of Proposed Rulemaking in the Congressional Record on September 28, 1995, 141 Cong. Rec. S14544 (daily ed., Sept. 28, 1995). The Office has also consulted with the Secretary of Labor under section 304(g) of the CAA.

After full consideration of the comments received in response to the proposed rule, the Board has adopted and is submitting this final regulation for approval by the Congress. Moreover, pursuant to sections 304 and 411 of the CAA, the Board is adopting and issuing such regulations effective on January 23, 1996 or on the dates upon which appropriate resolutions of approval are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House of Representatives and the Senate, respectively, whichever is earlier.

The regulations issued by the Board herein are on all matters for which section 204(a)(3) of the CAA requires a regulation to be issued.

I. Summary and Consideration of Comments

On September 28, 1995, the Board published a Notice of Proposed Rulemaking in the Congressional Record, 141 Cong. Rec. S14544 (daily ed., Sept. 28, 1995) (''NPR''), inviting comments from interested parties regarding the proposed regulation. The Board received three comments on the proposed regulation from interested parties within the House and the Senate.

A. Summary of comments

One commenter stated that the exclusion with respect to Capitol Police officers is consistent with the intent of the CAA and the application of the EPPA to other police departments. However, the commenter suggested that the Board clarify whether the restrictions on the use of polygraphs contained in 29 U.S.C. §2007 are applicable to the use of lie detectors by the Capitol Police. The commenter further asked the Board to consider whether the exclusion should be applied to the civilian employees, including the security aides, of the Capitol Police.

Another commenter asked that the Board further explain the basis for its proposed regulation. Specifically, this commenter asked the Board to reconsider whether a total exclusion for the Capitol Police, as proposed in this regulation, is consistent with the CAA. The commenter cited section 225(f)(1) of the CAA, which provides that, except where inconsistent with the definitions and exemptions in the CAA, the definitions and exemptions in the EPPA shall apply under the CAA. The commenter stated that section 7(a) of the EPPA, 29 U.S.C. §2006(a) (exemption for the Federal Government and state and local governmental employers), ''appears to be at least partially inconsistent with the express purpose of the Accountability Act to apply the protections of the Polygraph Protection Act to the legislative branch of the U.S. Government.'' In contrast, the commenter stated that section 7(e) of the EPPA, 29 U.S.C. §2006(e), which exempts private sector employers providing security services, does not appear to be inconsistent with the CAA. Therefore, the commenter asked the Board to consider adopting for the Capitol Police the Secretary's regulations which the commenter believes are most applicable, namely, 29 U.S.C. §801.14, which describes the exemption for private sector employers providing security services. Finally, the commenter asked the Board to explain why it is recommending that the regulation be approved by concurrent resolution rather than by joint resolution.

A third commenter suggested that the regulation make clear that it applies to prospective employees, as well as to employees of the Capitol Police, in accordance with the language of EPPA, which refers to employees and prospective employees.

B. Board's consideration of comments

Pursuant to 40 U.S.C. §§212a *et seq.*, the Capitol Police is granted general law enforcement authority within its prescribed jurisdiction. Police activities are inherently and exclusively a Federal or state governmental function, not a private one. In contrast, private employers providing security services do not have general law enforcement powers. Thus, in the Board's view,

there is no similarly situated employing entity within the private sector to which the Capitol Police can properly be compared.

Rather, in the Board's view, the Federal Government and state and local governmental employer exemption under section 7 of the EPPA, 29 U.S.C. §2006(a), and the Secretary's regulations thereunder, are the most appropriate model for regulations governing use of lie detector tests by the Capitol Police. As stated in the NPR, the adopted regulation is modeled after the Secretary's regulation implementing the exclusion for public sector employers, 29 C.F.R. §801.10. Because section 204(a)(3) of the CAA gives the Board discretion to make exceptions to the general command of uniform coverage of the EPPA within the legislative branch with respect to the Capitol Police, use of regulations exempting the Federal Government or state and local government employers pursuant to section 7(a) of the EPPA (29 U.S.C. §2006(a)) is not inconsistent with the definitions and exemptions of section 204 of the CAA. *See* Section 225(f).

The adopted regulation, modeled after the Secretary's regulation implementing the exclusion for public sector employers (29 C.F.R. §801.10), is an exclusion of all employees of the Capitol Police, including civilian employees. This treatment of Capitol Police employees is consistent with the EPPA's treatment of other law enforcement agencies because such agencies are entirely excluded under either the Federal Government or state and local government exemptions of section 7(a) of the EPPA (29 U.S.C. §2006).

The Board has not included in its final regulations the restrictions on polygraph examinations contained in 29 U.S.C. §2007 (restricting the use of polygraph examinations under the limited ongoing investigations, security service and drug security exemptions), as suggested by one commenter. The adopted regulation exempts all Capitol Police employees with respect to the rights and protections of section 204. Similarly, because section 101(4) of the CAA, 2 U.S.C. §1301(4), defines the term ''covered employee'' to include both applicants for employment as well as current and former employees, there is no need for the regulation to separately refer to ''applicants,'' as suggested by one commenter.

The final regulation gives the Capitol Police the same authority to use lie detector tests as state and local police departments and law enforcement agencies within the Federal Government have. The Capitol Police currently uses lie detector tests as part of its internal investigations and other law enforcement-related activities, and reserves the right to use lie detector tests in other circumstances with respect to so-called ''sworn'' positions, i.e., employees with the power to make arrests. This use is consistent with the use of lie detector tests by other law enforcement agencies.

II. Adoption of Proposed Rules as Final Regulations Under Section 304(b)(3) and as Interim Regulations

Having considered the public comments to the proposed rules, the Board, pursuant to section 304(b)(3) and (4) of the CAA, is adopting these final regulations and transmitting them to the House and the Senate with recommendations as to the method of approval by each body under section 304(c). However, the rapidly approaching effective date of the CAA's implementation necessitates that the Board take further action with respect to these regulations. For the reasons explained below, the Board is also today adopting and issuing these rules as *interim* regulations that will be effective as of January 23, 1996 or the time upon which appropriate resolutions of approval of these interim regulations are passed by the House and/or the Senate, whichever is later. These interim regulations will remain in effect until the earlier of April 15, 1996 or the dates upon which the House and Senate complete their respective consideration of the final regulations that the Board is herein adopting.

The Board finds that it is necessary and appropriate to adopt such interim regulations and that there is ''good cause'' for making them effective as of the later of January 23, 1996, or the time upon which appropriate resolutions of approval of them are passed by the House and the Senate. In the absence of the issuance of such interim regulations, covered employees, employing offices, and the Office of Compliance staff itself would be forced to operate in regulatory uncertainty. While section 411 of the CAA provides that, ''if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding,'' covered employees, employing offices and the Office of Compliance staff might not know what regulation, if any, would be found applicable in particular circumstances absent the procedures suggested here. The resulting confusion and uncertainty on the part of covered employees and employing offices would be contrary to the purposes and objectives of the CAA, as well as to the interests of those whom it protects and regulates. Moreover, since the House and the Senate will likely act on the Board's final regulations within a short period of time, covered employees and employing offices would have to devote considerable attention and resources to learning, understanding, and complying with a whole set of default regulations that would then have no future application. These interim regulations prevent such a waste of resources.

The Board's authority to issue such interim regulations derives from sections 411 and 304 of the CAA. Section 411 gives the Board authority to determine whether, in the absence of the issuance of a final regulation by the Board, it is necessary and appropriate to apply the substantive regulations of the executive branch in implementing the provisions of the CAA. Section 304(a) of the CAA in turn authorizes the Board to issue substantive regulations to implement the Act. Moreover, section 304(b) of the CAA instructs that the Board shall adopt substantive regulations ''in accordance with the principles and procedures set forth in section 553 of title 5, United States Code,'' which have in turn traditionally been construed by courts to allow an agency to issue ''interim'' rules where the failure to have rules in place in a timely manner would frustrate the effective operation of a federal statute. *See, e.g., Philadelphia Citizens in Action* v. *Schweiker*, 669 F.2d 877 (3d Cir. 1982). As noted above, in the absence of the Board's adoption and issuance of these interim rules, such a frustration of the effective operation of the CAA would occur here.

In so interpreting its authority, the Board recognizes that in section 304 of the CAA, Congress specified certain procedures that the Board must follow in issuing substantive regulations. In section 304(b), Congress said that, except as specified in section 304(e), the Board must follow certain notice and comment and other procedures. The interim regulations in fact have been subject to such notice and comment and such other procedures of section 304(b).

In issuing these interim regulations, the Board also recognizes that section 304(c) specifies certain procedures that the House and the Senate are to follow in approving the Board's regulations. The Board is of the view that the essence of section 304(c)'s requirements are satisfied by making the effectiveness of these interim regulations conditional on the passage of appropriate resolutions of approval by the House and/or the Senate. Moreover, section 304(c) appears to be designed primarily for (and applicable to) final regulations of the Board, which these interim regulations are not. In short, section 304(c)'s procedures should not be understood to prevent the issuance of interim regulations that are necessary for the effective implementation of the CAA.

Indeed, the promulgation of these interim regulations clearly conforms to the spirit of section 304(c) and, in fact promotes its proper operation. As noted above, the interim regulations shall become effective only upon the passage of appropriate resolutions of approval, which is what section 304(c) contemplates. Moreover, these interim regulations allow more considered deliberation by the House and the Senate of the Board's final regulations under section 304(c).

The House has in fact already signaled its approval of such interim regulations both for itself and for the instrumentalities. On December 19, 1995, the House adopted H. Res. 311 and H. Con. Res. 123, which approve ''on a provisional basis'' regulations ''issued by the Office of Compliance before January 23, 1996.'' The Board believes these resolutions are sufficient to make these interim regulations effective for the House on January 23, 1996, though the House might want to pass new resolutions of approval in response to this pronouncement of the Board.

To the Board's knowledge, the Senate has not yet acted on H. Con. Res. 123, nor has it passed a counterpart to H. Res. 311 that would cover employing offices and employees of the Senate. As stated herein, it must do so if these interim regulations are to apply to the Senate and the other employing offices of the instrumentalities (and to prevent the default rules of the executive branch from applying as of January 23, 1996).

III. Method of Approval

The Board continues to recommend that the regulation be approved by concurrent resolution, given the joint responsibility of the House and Senate for the Capitol Police. The regulation as adopted by the Board is consistent with the language of the CAA and does not purport to deviate from otherwise applicable regulations of the Secretary of Labor under the ''good cause'' provision of section 204(c). Therefore, the regulations, if approved, would be within the regulatory authorization of section 304 of the CAA and should receive full deference from the courts. Approval by joint resolution is not necessary.

With respect to the interim version of these regulations, the Board recommends that the Senate approve them by concurrent resolution. It is noted that the House has expressed its approval of the regulations insofar as they apply to other employing offices through passage of H. Con. Res. 123 on the same date; this concurrent resolution is pending before the Senate.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the Congress and issues on an interim basis the following regulations:

ADOPTED REGULATIONS—AS INTERIM REGULATIONS AND AS FINAL REGULATIONS

Exclusion for employees of the Capitol Police

None of the limitations on the use of lie detector tests by employing offices set forth in Section 204 of the CAA apply to the Capitol Police. This exclusion from the limitations of Section 204 of the CAA applies only

with respect to Capitol Police employees. Except as otherwise provided by law or these regulations, this exclusion does not extend to contractors or nongovernmental agents of the Capitol Police; nor does it extend to the Capitol Police with respect to employees of a private employer or an otherwise covered employing office with which the Capitol Police has a contractual or other business relationship.

Duration of interim regulations

These interim regulations for the House of Representatives, the Senate and the employing offices of the instrumentalities are effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, whichever is earlier.

Scope of regulations

These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 204(a)(3) and 304 of the CAA, which authorize the Board to issue regulations governing the use of lie detector tests by the Capitol Police. The regulations issued by the Board herein are on all matters for which section 204(a)(3) of the CAA requires a regulation to be issued.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL AND ISSUANCE OF INTERIM REGULATIONS

Summary: The Board of Directors, Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published November 28, 1995 in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations implementing Sections 204(a) and (b) of the Congressional Accountability Act of 1995 (''CAA''). The Board is also adopting and issuing such regulations as interim regulations for the House of Representatives, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions of approval are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540-1999. Telephone: (202) 724–9250.

Background and Summary

Supplementary Information: The Congressional Accountability Act of 1995 (''CAA''), P.L. 104–1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301-1438. In general, the CAA applies the rights and protections of eleven federal labor and employment statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988, 29 U.S.C. §2002(1), (2) or (3) (''EPPA''). 2 U.S.C. §1314(a). Section 204(a) of the EPPA also applies the waiver provisions of section 6(d) of the EPPA (29 U.S.C. §2005(d)) to covered employees. *Id*. Section 225(f) of the CAA provides that, ''[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions [of the EPPA] shall apply under this Act.'' 2 U.S.C. §1361(f)(1).

Section 204(c) of the CAA requires the Board of Directors of the Office of Compliance issue regulations implementing the section. 2 U.S.C. §1314(c). Section 204(c) further states that such regulations ''shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' *Id*.

To obtain input from interested persons on the content of these regulations, the Board published for comment a Notice of Proposed Rulemaking in the Congressional Record 141 Cong. Rec. S17656 (daily ed., Nov. 28, 1995) (''NPR''), inviting comments from interested parties regarding the proposed regulations. The Board received three comments on the proposed regulations from interested parties. Two of the comments, without elaboration, supported the regulations as proposed. Only one commenter took issue with certain sections of the proposed regulations and the Board's resolution of certain issues raised in the NPR. In addition, the Office has sought consultations with the Secretary of Labor regarding the proposed regulations, pursuant to section 304(g) of the CAA.

After full consideration of the comments received in response to the proposed rule, the Board has adopted and is submitting these final regulations for approval by the Congress. Moreover, pursuant to sections 411 and 304, the Board is also adopting and issuing such regulations as interim regulations for the House, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions of approval are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

I. Summary of Comments and Board's Final Rules

A. Exemption for national defense and security

One commenter suggested that proposed section 1.11, implementing the national defense and security exemption, be modified. The commenter suggested that, as proposed, the regulatory exemption for national defense and security could be construed to permit claims by employees that an employing office violated section 204 of the CAA by conveying information that ultimately led to a lie detector test, even though the subsequent law enforcement investigation was outside of that employing office's control. Moreover, the commenter argued that proposed section 1.11(d), which states that the Executive Branch must administer the tests ''in accordance with applicable Department of Defense directives and regulations,'' should be deleted since administration of such tests by the Executive Branch is outside of the control of employing offices. Finally, this commenter argued that proposed section 1.11 should refer to all of the exemptions under section 7(b) of the EPPA, not just to subsection (b)(2) of section 7 of the EPPA.

Contrary to the commenter's concern, section 1.11(d) cannot reasonably be construed to permit claims by employees that the employing office has violated section 204 of the CAA merely by conveying information to law enforcement authorities. Section 1.11 of the regulation states that lie detector tests performed by the Federal Government in the performance of any intelligence or counterintelligence function are not within any of the prohibitions of section 204 of the CAA. Thus, if the conditions of section 1.11 are met, no employing office should be held liable under section 204 of the CAA for indirectly causing the Executive Branch to perform such tests by conveying a report to Federal Government intelligence or counterintelligence officers. Moreover, section 1.4(b) of the regulations makes it clear that employing offices will ordinarily not be liable under section 204 of the CAA for making reports to law enforcement authorities or for cooperating in law enforcement investigations.

Nor is the Board inclined to modify the requirement in section 1.11(d) that any tests administered under the national security exemption be in accordance with applicable Department of Defense directives and regulations. That requirement is taken verbatim from the identical Executive Branch regulations that are applicable to private sector employers who also have no control over the requirements of the Department of Defense directives and regulations. The Board has not been presented with any reason that would constitute good cause to deviate from these provisions.

Finally, the Board was not provided with sufficient information to determine whether the portions of the Secretary's regulation implementing section 7(b) of the EPPA that were not included in proposed section 1.11 are applicable to the legislative branch. However, out of an abundance of caution, the Board's final regulation shall include, with appropriate modifications, the entirety of the implementing regulation, as suggested by the commenter.

B. Exemption for employees of the Capitol Police

The commenter also stated that section 1.4(e) of the regulations, which provides that the Capitol Police may administer lie detector tests to non-Capitol Police employees only during the course of an ''ongoing investigation'' by the Capitol Police, is not authorized by the CAA. The Board disagrees.

Section 204(a)(3) gives the Board authority to adopt limitations on the nature and scope of lie detector use by the Capitol Police. This is such a provision.

Contrary to the commenter's suggestion, this regulation strikes an appropriate balance between giving the Capitol Police authority to use lie detector tests for legitimate law enforcement purposes and protecting against overbroad and unreasonable use of lie detector tests by the Capitol Police with respect to covered employees not employed by it. Specifically, section 1.4(e) of the regulation makes it clear that the regulation excluding the Capitol Police from section 204 of the CAA with respect to its own employees is not a total exemption of the Capitol Police from the prohibitions on the employment-related use of lie detector tests. It prohibits employing offices other than the Capitol Police from avoiding the prohibitions of section 204 of the CAA by administering lie detector tests on their covered employees indirectly through the Capitol Police under circumstances where such tests would not be warranted by legitimate law enforcement investigative considerations.

C. Confidentiality provisions and notice to examinees

A commenter argued that the Board lacks authority to promulgate regulations implementing the confidentiality and notice provisions of sections 9 and 10 of the EPPA. The

commenter rested its argument on the fact that sections 9 and 10 of the EPPA are not textually incorporated into section 204 of the CAA.

The Board reads the statute differently. Section 204(a) provides that no employing office may require a covered employee to take a lie detector test where an employer would be prohibited from requiring such a test under paragraphs (1), (2) or (3) of section 3 of the EPPA, 29 U.S.C. §2002(1), (2) or (3). Section 3 of the EPPA in turn provides that, except as provided in sections 7 and 8 of the EPPA (29 U.S.C. §§2006 and 2007), it shall be unlawful for an employer to require a lie detector test under paragraphs (1), (2) or (3); and the use of exemptions under section 7 of the EPPA are conditioned on employer compliance with the confidentiality and notice provisions of sections 9 and 10 of the EPPA. Thus, those provisions are incorporated by reference into section 204 of the CAA. *See also* section 225(f)(1) of the CAA (except where inconsistent with definitions and exemptions provided in the CAA, the definitions and exemptions under the laws made applicable by the CAA apply under the CAA).

D. Technical and nomenclature changes

A commenter suggested a number of technical and nomenclature changes to the proposed regulations. The Board has incorporated many of the changes suggested by the commenter. However, by making these changes, the Board does not intend a substantive difference between the meaning of these sections of the regulations and the regulations of the Secretary from which the Board's regulations are derived.

E. Scope of Regulations

The regulations issued by the Board herein are on all matters for which section 204 of the CAA requires a regulation to be issued. Specifically, it is the Boards considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other ''substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA]. CAA Section 204(c).

II. Adoption of Proposed Rules as Final Regulations under Section 304(b)(3) and as Interim Regulations

Having considered the public comments to the proposed rules, the Board pursuant to section 304(b)(3) and (4) of the CAA is adopting these final regulations and transmitting them to the House and the Senate with recommendations as to the method of approval by each body under section 304(c). However, the rapidly approaching effective date of the CAA's implementation necessitates that the Board take further action with respect to these regulations. For the reasons explained below, the Board is also today adopting and issuing these rules as *interim* regulations that will be effective as of January 23, 1996 or the time upon which appropriate resolutions of approval of these interim regulations are passed by the House and/or the Senate, whichever is later. These interim regulations will remain in effect until the earlier of April 15, 1996 or the dates upon which the House and Senate complete their respective consideration of the final regulations that the Board is herein adopting.

The Board finds that it is necessary and appropriate to adopt such interim regulations and that there is ''good cause'' for making them effective as of the later of January 23, 1996, or the time upon which appropriate resolutions of approval of them are passed by the House and the Senate. In the absence of the issuance of such interim regulations, covered employees, employing offices, and the Office of Compliance staff itself would be forced to operate in regulatory uncertainty. While section 411 of the CAA provides that, ''if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding,'' covered employees, employing offices and the Office of Compliance staff might not know what regulation, if any, would be found applicable in particular circumstances absent the procedures suggested here. The resulting confusion and uncertainty on the part of covered employees and employing offices would be contrary to the purposes and objectives of the CAA, as well as to the interests of those whom it protects and regulates. Moreover, since the House and the Senate will likely act on the Board's final regulations within a short period of time, covered employees and employing offices would have to devote considerable attention and resources to learning, understanding, and complying with a whole set of default regulations that would then have no future application. These interim regulations prevent such a waste of resources.

The Board's authority to issue such interim regulations derives from sections 411 and 304 of the CAA. Section 411 gives the Board authority to determine whether, in the absence of the issuance of a final regulation by the Board, it is necessary and appropriate to apply the substantive regulations of the executive branch in implementing the provisions of the CAA. Section 304(a) of the CAA in turn authorizes the Board to issue substantive regulations to implement the Act. Moreover, section 304(b) of the CAA instructs that the Board shall adopt substantive regulations ''in accordance with the principles and procedures set forth in section 553 of title 5, United States Code,'' which have in turn traditionally been construed by courts to allow an agency to issue ''interim'' rules where the failure to have rules in place in a timely manner would frustrate the effective operation of a federal statute. *See, e.g., Philadelphia Citizens in Action* v. *Schweiker,* 669 F.2d 877 (3d Cir. 1982). As noted above, in the absence of the Board's adoption and issuance of these interim rules, such a frustration of the effective operation of the CAA would occur here.

In so interpreting its authority, the Board recognizes that in section 304 of the CAA, Congress specified certain procedures that the Board must follow in issuing substantive regulations. In section 304(b), Congress said that, except as specified in section 304(e), the Board must follow certain notice and comment and other procedures. The interim regulations in fact have been subject to such notice and comment and such other procedures of section 304(b).

In issuing these interim regulations, the Board also recognizes that section 304(c) specifies certain procedures that the House and the Senate are to follow in approving the Board's regulations. The Board is of the view that the essence of section 304(c)'s requirements are satisfied by making the effectiveness of these interim regulations conditional on the passage of appropriate resolutions of approval by the House and/or the Senate. Moreover, section 304(c) appears to be designed primarily for (and applicable to) final regulations of the Board, which these interim regulations are not. In short, section 304(c)'s procedures should not be understood to prevent the issuance of interim regulations that are necessary for the effective implementation of the CAA.

Indeed, the promulgation of these interim regulations clearly conforms to the spirit of section 304(c) and, in fact promotes its proper operation. As noted above, the interim regulations shall become effective only upon the passage of appropriate resolutions of approval, which is what section 304(c) contemplates. Moreover, these interim regulations allow more considered deliberation by the House and the Senate of the Board's final regulations under section 304(c).

The House has in fact already signaled its approval of such interim regulations both for itself and for the instrumentalities. On December 19, 1995, the House adopted H. Res. 311 and H. Con. Res. 123, which approve ''on a provisional basis'' regulations ''issued by the Office of Compliance before January 23, 1996.'' The Board believes these resolutions are sufficient to make these interim regulations effective for the House on January 23, 1996, though the House might want to pass new resolutions of approval in response to this pronouncement of the Board.

To the Board's knowledge, the Senate has not yet acted on H. Con. Res. 123, nor has it passed a counterpart to H. Res. 311 that would cover employing offices and employees of the Senate. As stated herein, it must do so if these interim regulations are to apply to the Senate and the other employing offices of the instrumentalities (and to prevent the default rules of the executive branch from applying as of January 23, 1996).

III. Method of Approval

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the regulations that shall apply to other covered employees and employing offices should be approved by the Congress by concurrent resolution.

With respect to the interim version of these regulations, the Board recommends that the Senate approve them by resolution insofar as they apply to the Senate and employees of the Senate. In addition, the Board recommends that the Senate approve them by concurrent resolution insofar as they apply to other covered employees and employing offices. It is noted that the House has expressed its approval of the regulations insofar as they apply to the House and its employees through its passage of H. Res. 311 on December 19, 1995. The House also expressed its approval of the regulations insofar as they apply to other employing offices through passage of H. Con. Res. 123 on the same date; this concurrent resolution is pending before the Senate.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the Congress and issues on an interim basis the following regulations:

ADOPTED REGULATIONS—AS INTERIM REGULATIONS AND AS FINAL REGULATIONS

Application of Rights and Protections of the Employee Polygraph Protection Act of 1988

Subpart A—General

Section
1.1 Purpose and scope.
1.2 Definitions.
1.3 Coverage.
1.4 Prohibitions on lie detector use.
1.5 Effect on other laws or agreements.
1.6 Notice of protection.
1.7 Authority of the Board.

1.8 Employment relationship.

Subpart B—Exemptions

1.10 Exclusion for employees of the Capitol Police. [Reserved]
1.11 Exemption for national defense and security.
1.12 Exemption for employing offices conducting investigations of economic loss or injury.
1.13 Exemption for employing offices authorized to manufacture, distribute, or dispense controlled substances.

Subpart C—Restrictions on polygraph usage under exemptions

1.20 Adverse employment action under ongoing investigation exemption.
1.21 Adverse employment action under controlled substance exemption.
1.22 Rights of examinee—general.
1.23 Rights of examinee—pretest phase.
1.24 Rights of examinee—actual testing phase.
1.25 Rights of examinee—post-test phase.
1.26 Qualifications of and requirements for examiners.

Subpart D—Recordkeeping and disclosure requirements

1.30 Records to be preserved for 3 years.
1.35 Disclosure of test information.

Subpart E—Duration of interim rules

1.40 Duration of Interim Rules.
Appendix A—Notice to Examinee

Authority: Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. 1314(c)

Subpart A—General

Sec. 1.1 Purpose and scope.

Enacted into law on January 23, 1995, the Congressional Accountability Act (''CAA'') directly applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA, 2 U.S.C. §1314(a) provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. §2002(1), (2) or (3). The purpose of this part is to set forth the regulations to carry out the provisions of Section 204 of the CAA.

Subpart A contains the provisions generally applicable to covered employers, including the requirements relating to the prohibitions on lie detector use. Subpart B sets forth rules regarding the statutory exemptions from application of section 204 of the CAA. Subpart C sets forth the restrictions on polygraph usage under such exemptions. Subpart D sets forth the rules on recordkeeping and the disclosure of polygraph test information.

Sec. 1.2 Definitions.

For purposes of this part:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (P.L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *EPPA* means the Employee Polygraph Protection Act of 1988 (Pub. L. 100-347, 102 Stat. 646, 29 U.S.C. §§2001-2009) as applied to covered employees and employing offices by Section 204 of the CAA.

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Congressional Budget Office; (5) the Office of the Architect of the Capitol; (6) the Office of the Attending Physician; (7) the Office of Compliance; or (8) the Office of Technology Assessment.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment. The term *employing office* includes any person acting directly or indirectly in the interest of an employing office in relation to an employee or prospective employee. A polygraph examiner either employed for or whose services are retained for the sole purpose of administering polygraph tests ordinarily would not be deemed an employing office with respect to the examinees. Any reference to ''employer'' in these regulations includes employing offices.

(j)(1) The term *lie detector* means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual. Voice stress analyzers, or psychological stress evaluators, include any systems that utilize voice stress analysis, whether or not an opinion on honesty or dishonesty is specifically rendered.

(2) The term *lie detector* does not include medical tests used to determine the presence or absence of controlled substances or alcohol in bodily fluids. Also not included in the definition of *lie detector* are written or oral tests commonly referred to as ''honesty'' or ''paper and pencil'' tests, machine-scored or otherwise; and graphology tests commonly referred to as handwriting tests.

(k) The term *polygraph* means an instrument that—

(1) Records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(2) Is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(l) *Board* means the Board of Directors of the Office of Compliance.

(m) *Office* means the Office of Compliance.

Sec. 1.3 Coverage

The coverage of Section 204 of the Act extends to any ''covered employee'' or ''covered employing office'' without regard to the number of employees or the employing office's effect on interstate commerce.

Sec. 1.4 Prohibitions on lie detector use

(a) Section 204 of the CAA provides that, subject to the exemptions of the EPPA incorporated into the CAA under section 225(f) of the CAA, as set forth in Sec. 1.10 through 1.12 of this Part, employing offices are prohibited from:

(1) Requiring, requesting, suggesting or causing, directly or indirectly, any covered employee or prospective employee to take or submit to a lie detector test;

(2) Using, accepting, or inquiring about the results of a lie detector test of any covered employee or prospective employee; and

(3) Discharging, disciplining, discriminating against, denying employment or promotion, or threatening any covered employee or prospective employee to take such action for refusal or failure to take or submit to such test, or on the basis of the results of a test.

The above prohibitions apply irrespective of whether the covered employee referred to in paragraphs (1), (2) or (3), above, works in that employing office.

(b) An employing office that reports a theft or other incident involving economic loss to police or other law enforcement authorities is not engaged in conduct subject to the prohibitions under paragraph (a) of this section if, during the normal course of a subsequent investigation, such authorities deem it necessary to administer a polygraph test to a covered employee(s) suspected of involvement in the reported incident. Employing offices that cooperate with police authorities during the course of their investigations into criminal misconduct are likewise not deemed engaged in prohibitive conduct provided that such cooperation is passive in nature. For example, it is not uncommon for police authorities to request employees suspected of theft or criminal activity to submit to a polygraph test during the employee's tour of duty since, as a general rule, suspect employees are often difficult to locate away from their place of employment. Allowing a test on the employing office's premises, releasing a covered employee during working hours to take a test at police headquarters, and other similar types of cooperation at the request of the police authorities would not be construed as ''requiring, requesting, suggesting, or causing, directly or indirectly, any covered employee * * * to take or submit to a lie detector test.'' Cooperation of this type must be distinguished from actual participation in the testing of employees suspected of wrongdoing, either through the administration of a test by the employing office at the request or direction of police authorities, or through reimbursement by the employing office of tests administered by police authorities to employees. In some communities, it may be a practice of police authorities to request testing by employing offices of employees before a police investigation is initiated on a reported incident. In other communities, police examiners are available to covered employing offices, on a cost reimbursement basis, to conduct tests on employees suspected by an employing office of wrongdoing. All such conduct on the part of employing offices is deemed within the prohibitions of section 204 of the CAA.

(c) The receipt by an employing office of information from a polygraph test administered by police authorities pursuant to an investigation is prohibited by section 3(2) of the EPPA. (See paragraph (a)(2) of this section.)

(d) The simulated use of a polygraph instrument so as to lead an individual to believe that an actual test is being or may be performed (e.g., to elicit confessions or admissions of guilt) constitutes conduct prohibited by paragraph (a) of this section. Such use includes the connection of a covered employee or prospective employee to the instrument without any intention of a diagnostic purpose, the placement of the instrument in a room used for interrogation unconnected to the covered employee or prospective employee, or the mere suggestion that the instrument may be used during the course of the interview.

(e) The Capitol Police may not require a covered employee not employed by the Capitol Police to take a lie detector test (on its own initiative or at the request of another employing office) except where the Capitol Police administers such lie detector test as part of an ''ongoing investigation'' by the Capitol Police. For the purpose of this subsection, the definition of ''ongoing investigation'' contained section 1.12(b) shall apply.

Sec. 1.5 Effect on other laws or agreements

(a) Section 204 of the CAA does not preempt any otherwise applicable provision of federal law or any rule or regulation of the House or Senate or any negotiated collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to the use of lie detector tests.

(b)(1) This provision applies to all aspects of the use of lie detector tests, including procedural safeguards, the use of test results, the rights and remedies provided examinees, and the rights, remedies, and responsibilities of examiners and employing offices.

(2) For example, a collective bargaining agreement that provides greater protection to an examinee would apply in addition to the protection provided in section 204 of the CAA.

Sec. 1.6 Notice of protection

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 204 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

Sec. 1.7 Authority of the Board

Pursuant to sections 204 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of the EPPA. Section 204(c) directs the Board to promulgate regulations implementing section 204 that are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' The regulations issued by the Board herein are on all matters for which section 204 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other ''substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA].''

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

Sec. 1.8 Employment relationship

Subject to the exemptions incorporated into the CAA by section 225(f), section 204 applies the prohibitions on the use of lie detectors by employing offices with respect to covered employees irrespective of whether a covered employee works in that employing office. Sections 101 (3), (4) and 204 of the CAA also apply EPPA prohibitions against discrimination to applicants for employment and former employees of a covered employing office. For example, an employee may quit rather than take a lie detector test. The employing office cannot discriminate or threaten to discriminate in any manner against that person (such as by providing bad references in the future) because of that person's refusal to be tested. Similarly, an employing office cannot discriminate or threaten to discriminate in any manner against that person because that person files a complaint, institutes a proceeding, testifies in a proceeding, or exercises any right under section 204 of the CAA. (*See* section 207 of the CAA.)

Subpart B—Exemptions

Sec. 1.10 Exclusion for employees of the Capitol Police [Reserved]

Sec. 1.11 Exemption for national defense and security

(a) The exemptions allowing for the administration of lie detector tests in the following paragraphs (b) through (e) of this section apply only to the Federal Government; they do not allow covered employing offices to administer such tests. For the purposes of this section, the term ''Federal Government'' means any agency or entity within the Federal Government authorized to administer polygraph examinations which is otherwise exempt from coverage under section 7(a) of the EPPA, 29 U.S.C. §2006(a).

(b) Section 7(b)(1) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any counterintelligence function, to any expert, consultant or employee of any contractor under contract with the Department of Defense; or with the Department of Energy, in connection with the atomic energy defense activities of such Department.

(c) Section 7(b)(2)(A) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function of the National Security Agency, the Defense Intelligence Agency, or the Central Intelligence Agency, to any individual employed by, assigned to, or detailed to any such agency; or any expert or consultant under contract to any such agency; or any employee of a contractor to such agency; or any individual applying for a position in any such agency; or any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for any such agency.

(d) Section 7(b)(2)(B) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function, to any covered employee whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2 (a) of Executive Order 12356 (or a successor Executive Order).

(c) *Counterintelligence* for purposes of the above paragraphs means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, terrorist activities, or assassinations conducted for or on behalf of foreign governments, or foreign or domestic organizations or persons.

(d) Lie detector tests of persons described in the above paragraphs will be administered in accordance with applicable Department of Defense directives and regulations, or other regulations and directives governing the use of such tests by the United States Government, as applicable.

Sec. 1.12 Exemption for Employing Offices Conducting Investigations of Economic Loss or Injury

(a) Section 7(d) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides a limited exemption from the general prohibition on lie detector use for employers conducting ongoing investigations of economic loss or injury to the employer's business. An employing office may request an employee, subject to the conditions set forth in sections 8 and 10 of the EPPA and Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26 and 1.35 of this part, to submit to a polygraph test, but no other type of lie detector test, only if—

(1) The test is administered in connection with an ongoing investigation involving economic loss or injury to the employing office's operations, such as theft, embezzlement, misappropriation or an act of unlawful industrial espionage or sabotage;

(2) The employee had access to the property that is the subject of the investigation;

(3) The employing office has a reasonable suspicion that the employee was involved in the incident or activity under investigation;

(4) The employing office provides the examinee with a statement, in a language understood by the examinee, prior to the test which fully explains with particularity the specific incident or activity being investigated and the basis for testing particular employees and which contains, at a minimum:

(i) An identification with particularity of the specific economic loss or injury to the operations of the employing office;

(ii) A description of the employee's access to the property that is the subject of the investigation;

(iii) A description in detail of the basis of the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(iv) Signature of a person (other than a polygraph examiner) authorized to legally bind the employing office; and

(5) The employing office retains a copy of the statement and proof of service described in paragraph (a)(4) of this section for at least 3 years.

(b) For the exemption to apply, the condition of an ''ongoing investigation'' must be met. As used in section 7(d) of the EPPA, the ongoing investigation must be of a specific incident or activity. Thus, for example, an employing office may not request that an employee or employees submit to a polygraph test in an effort to determine whether or not any thefts have occurred. Such random testing by an employing office is precluded by the EPPA. Further, because the exemption is limited to a specific incident or activity, an employing office is precluded

from using the exemption in situations where the so-called ''ongoing investigation'' is continuous. For example, the fact that items are frequently missing would not be a sufficient basis, standing alone, for administering a polygraph test. Even if the employing office can establish that unusually high amounts of property are missing in a given month, this, in and of itself, would not be a sufficient basis to meet the specific incident requirement. On the other hand, polygraph testing in response to missing property would be permitted where additional evidence is obtained through subsequent investigation of specific items missing through intentional wrongdoing, and a reasonable suspicion that the employee to be polygraphed was involved in the incident under investigation. Administering a polygraph test in circumstances where the missing property is merely unspecified, statistical shortages, without identification of a specific incident or activity that produced the missing property and a ''reasonable suspicion that the employee was involved,'' would amount to little more than a fishing expedition and is prohibited by the EPPA as applied to covered employees and employing offices by the CAA.

(c)(1)(i) The terms *economic loss or injury to the employing office's operations* include both direct and indirect economic loss or injury.

(ii) Direct loss or injury includes losses or injuries resulting from theft, embezzlement, misappropriation, espionage or sabotage. These examples, cited in the EPPA, are intended to be illustrative and not exhaustive. Another specific incident which would constitute direct economic loss or injury is the misappropriation of confidential or trade secret information.

(iii) Indirect loss or injury includes the use of an employing office's operations to commit a crime, such as check-kiting or money laundering. In such cases, the ongoing investigation must be limited to criminal activity that has already occurred, and to use of the employing office's operations (and not simply the use of the premises) for such activity. For example, the use of an employing office's vehicles, warehouses, computers or equipment to smuggle or facilitate the importing of illegal substances constitutes an indirect loss or injury to the employing office's business operations. Conversely, the mere fact that an illegal act occurs on the employing office's premises (such as a drug transaction that takes place in the employing office's parking lot or rest room) does not constitute an indirect economic loss or injury to the employing office.

(iv) Indirect loss or injury also includes theft or injury to property of another for which the employing office exercises fiduciary, managerial or security responsibility, or where the office has custody of the property (but not property of other offices to which the employees have access by virtue of the employment relationship). For example, if a maintenance employee of the manager of an apartment building steals jewelry from a tenant's apartment, the theft results in an indirect economic loss or injury to the employer because of the manager's management responsibility with respect to the tenant's apartment. A messenger on a delivery of confidential business reports for a client firm who steals the reports causes an indirect economic loss or injury to the messenger service because the messenger service is custodian of the client firm's reports, and therefore is responsible for their security. Similarly, the theft of property protected by a security service employer is considered an economic loss or injury to that employer.

(v) A theft or injury to a client firm does not constitute an indirect loss or injury to an employing office unless that employing office has custody of, or management, or security responsibility for, the property of the client that was lost or stolen or injured. For example, a cleaning contractor has no responsibility for the money at a client bank. If money is stolen from the bank by one of the cleaning contractor's employees, the cleaning contractor does not suffer an indirect loss or injury.

(vi) Indirect loss or injury does not include loss or injury which is merely threatened or potential, e.g., a threatened or potential loss of an advantageous business relationship.

(2) Economic losses or injuries which are the result of unintentional or lawful conduct would not serve as a basis for the administration of a polygraph test. Thus, apparently unintentional losses or injuries stemming from truck, car, workplace, or other similar type accidents or routine inventory or cash register shortages would not meet the economic loss or injury requirement. Any economic loss incident to lawful union or employee activity also would not satisfy this requirement.

(3) It is the operations of the employing office which must suffer the economic loss or injury. Thus, a theft committed by one employee against another employee of the same employing office would not satisfy the requirement.

(d) While nothing in the EPPA as applied by the CAA prohibits the use of medical tests to determine the presence of controlled substances or alcohol in bodily fluids, the section 7(d) exemption of the EPPA does not permit the use of a polygraph test to learn whether an employee has used drugs or alcohol, even where such possible use may have contributed to an economic loss to the employing office (e.g., an accident involving an employing office's vehicle).

(e) Section 7(d)(2) of the EPPA provides that, as a condition for the use of the exemption, the employee must have had access to the property that is the subject of the investigation.

(1) The word *access*, as used in section 7(d)(2), refers to the opportunity which an employee had to cause, or to aid or abet in causing, the specific economic loss or injury under investigation. The term ''access'', thus, includes more than direct or physical contact during the course of employment. For example, as a general matter, all employees working in or with authority to enter a property storage area have ''access'' to unsecured property in the area. All employees with the combination to a safe have ''access'' to the property in a locked safe. Employees also have ''access'' who have the ability to divert possession or otherwise affect the disposition of the property that is the subject of investigation. For example, a bookkeeper in a jewelry store with access to inventory records may aid or abet a clerk who steals an expensive watch by removing the watch from the employing office's inventory records. In such a situation, it is clear that the bookkeeper effectively has ''access'' to the property that is the subject of the investigation.

(2) As used in section 7(d)(2), *property* refers to specifically identifiable property, but also includes such things of value as security codes and computer data, and proprietary, financial or technical information, such as trade secrets, which by its availability to competitors or others would cause economic harm to the employing office.

(f)(1) As used in section 7(d)(3), the term *reasonable suspicion* refers to an observable, articulable basis in fact which indicates that a particular employee was involved in, or responsible for, an economic loss. Access in the sense of possible or potential opportunity, standing alone, does not constitute a basis for ''reasonable suspicion.'' Information from a co-worker, or an employee's behavior, demeanor, or conduct may be factors in the basis for reasonable suspicion. Likewise, inconsistencies between facts, claims, or statements that surface during an investigation can serve as a sufficient basis for reasonable suspicion. While access or opportunity, standing alone, does not constitute a basis for reasonable suspicion, the totality of circumstances surrounding the access or opportunity (such as its unauthorized or unusual nature or the fact that access was limited to a single individual) may constitute a factor in determining whether there is a reasonable suspicion.

(2) For example, in an investigation of a theft of an expensive piece of jewelry, an employee authorized to open the establishment's safe no earlier than 9 a.m., in order to place the jewelry in a window display case, is observed opening the safe at 7:30 a.m. In such a situation, the opening of the safe by the employee one and one-half hours prior to the specified time may serve as the basis for reasonable suspicion. On the other hand, in the example given, if the employee is asked to bring the piece of jewelry to his or her office at 7:30 a.m., and the employee then opened the safe and reported the jewelry missing, such access, standing alone, would not constitute a basis for reasonable suspicion that the employee was involved in the incident unless access to the safe was limited solely to the employee. If no one other than the employee possessed the combination to the safe, and all other possible explanations for the loss are ruled out, such as a break-in, a basis for reasonable suspicion may be formulated based on sole access by one employee.

(3) The employing office has the burden of establishing that the specific individual or individuals to be tested are ''reasonably suspected'' of involvement in the specific economic loss or injury for the requirement in section 7(d)(3) of the EPPA to be met.

(g)(1) As discussed in paragraph (a)(4) of this section, section 7(d)(4) of the EPPA sets forth what information, at a minimum, must be provided to an employee if the employing office wishes to claim the exemption.

(2) The statement required under paragraph (a)(4) of this section must be received by the employee at least 48 hours, excluding weekend days and holidays, prior to the time of the examination. The statement must set forth the time and date of receipt by the employee and be verified by the employee's signature. This will provide the employee with adequate pre-test notice of the specific incident or activity being investigated and afford the employee sufficient time prior to the test to obtain and consult with legal counsel or an employee representative.

(3) The statement to be provided to the employee must set forth with particularity the specific incident or activity being investigated and the basis for testing particular employees. Section 7(d)(4)(A) of the EPPA requires specificity beyond the mere assertion of general statements regarding economic loss, employee access, and reasonable suspicion. For example, an employing office's assertion that an expensive watch was stolen, and that the employee had access to the watch and is therefore a suspect, would not meet the ''with particularity'' criterion. If the basis for an employing office's requesting an employee (or employees) to take a polygraph test is not articulated with particularity, and reduced to writing, then the standard is not met. The identity of a co-worker or other individual providing information used to establish reasonable suspicion need not be revealed in the statement.

(4) It is further required that the statement provided to the examinee be signed by the employing office, or an employee or other representative of the employing office

with authority to legally bind the employing office. The person signing the statement must not be a polygraph examiner unless the examiner is acting solely in the capacity of an employing office with respect to his or her own employees and does not conduct the examination. The standard would not be met, and the exemption would not apply if the person signing the statement is not authorized to legally bind the employing office.

(h) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to remedial actions, as provided for in section 6(c) of the EPPA.

Sec. 1.13 Exemption of Employing Offices Authorized to Manufacture, Distribute, or Dispense Controlled Substances

(a) Section 7(f) of the EPPA, incorporated into the CAA by section 225(f) of the CAA, provides an exemption from the EPPA's general prohibition regarding the use of polygraph tests for employers authorized to manufacture, distribute, or dispense a controlled substance listed in schedule I, II, III, or IV of section 202 of the Controlled Substances Act (21 U.S.C. §812). This exemption permits the administration of polygraph tests, subject to the conditions set forth in sections 8 and 10 of the EPPA and Sec. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part, to:

(1) A prospective employee who would have direct access to the manufacture, storage, distribution, or sale of any such controlled substance; or

(2) A current employee if the following conditions are met:

(i) The test is administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office; and

(ii) The employee had access to the person or property that is the subject of the investigation.

(b)(1) The terms *manufacture, distribute, distribution, dispense, storage, and sale,* for the purposes of this exemption, are construed within the meaning of the Controlled Substances Act (21 U.S.C. §812 et seq.), as administered by the Drug Enforcement Administration (DEA), U.S. Department of Justice.

(2) The exemption in section 7(f) of the EPPA applies only to employing offices that are authorized by DEA to manufacture, distribute, or dispense a controlled substance. Section 202 of the Controlled Substances Act (21 U.S.C. §812) requires every person who manufactures, distributes, or dispenses any controlled substance to register with the Attorney General (i.e., with DEA). Common or contract carriers and warehouses whose possession of the controlled substance is in the usual course of their business or employment are not required to register. Truck drivers and warehouse employees of the persons or entities registered with DEA and authorized to manufacture, distribute, or dispense controlled substances, are within the scope of the exemption where they have direct access or access to the controlled substances, as discussed below.

(c) In order for a polygraph examination to be performed, section 7(f) of the Act requires that a prospective employee have ''direct access'' to the controlled substance(s) manufactured, dispensed, or distributed by the employing office. Where a current employee is to be tested as a part of an ongoing investigation, section 7(f) requires that the employee have ''access'' to the person or property that is the subject of the investigation.

(1) A prospective employee would have ''direct access'' if the position being applied for has responsibilities which include contact with or which affect the disposition of a controlled substance, including participation in the process of obtaining, dispensing, or otherwise distributing a controlled substance. This includes contact or direct involvement in the manufacture, storage, testing, distribution, sale or dispensing of a controlled substance and may include, for example, packaging, repackaging, ordering, licensing, shipping, receiving, taking inventory, providing security, prescribing, and handling of a controlled substance. A prospective employee would have ''direct access'' if the described job duties would give such person access to the products in question, whether such employee would be in physical proximity to controlled substances or engaged in activity which would permit the employee to divert such substances to his or her possession.

(2) A current employee would have ''access'' within the meaning of section 7(f) if the employee had access to the specific person or property which is the subject of the on-going investigation, as discussed in Sec. 1.12(e) of this part. Thus, to test a current employee, the employee need not have had ''direct'' access to the controlled substance, but may have had only infrequent, random, or opportunistic access. Such access would be sufficient to test the employee if the employee could have caused, or could have aided or abetted in causing, the loss of the specific property which is the subject of the investigation. For example, a maintenance worker in a drug warehouse, whose job duties include the cleaning of areas where the controlled substances which are the subject of the investigation were present, but whose job duties do not include the handling of controlled substances, would be deemed to have ''access'', but normally not ''direct access'', to the controlled substances. On the other hand, a drug warehouse truck loader, whose job duties include the handling of outgoing shipment orders which contain controlled substances, would have ''direct access'' to such controlled substances. A pharmacy department in a supermarket is another common situation which is useful in illustrating the distinction between ''direct access'' and ''access.'' Store personnel receiving pharmaceutical orders, i.e., the pharmacist, pharmacy intern, and other such employees working in the pharmacy department, would ordinarily have ''direct access'' to controlled substances. Other store personnel whose job duties and responsibilities do not include the handling of controlled substances but who had occasion to enter the pharmacy department where the controlled substances which are the subject of the investigation were stored, such as maintenance personnel or pharmacy cashiers, would have ''access.'' Certain other store personnel whose job duties do not permit or require entrance into the pharmacy department for any reason, such as produce or meat clerks, checkout cashiers, or baggers, would not ordinarily have ''access.'' However, any current employee, regardless of described job duties, may be polygraphed if the employing office's investigation of criminal or other misconduct discloses that such employee in fact took action to obtain ''access'' to the person or property that is the subject of the investigation—e.g., by actually entering the drug storage area in violation of company rules. In the case of ''direct access'', the prospective employee's access to controlled substances would be as a part of the manufacturing, dispensing or distribution process, while a current employee's ''access'' to the controlled substances which are the subject of the investigation need only be opportunistic.

(d) The term *prospective employee,* for the purposes of this section, includes a current employee who presently holds a position which does not entail direct access to controlled substances, and therefore is outside the scope of the exemption's provisions for preemployment polygraph testing, provided the employee has applied for and is being considered for transfer or promotion to another position which entails such direct access. For example, an office secretary may apply for promotion to a position in the vault or cage areas of a drug warehouse, where controlled substances are kept. In such a situation, the current employee would be deemed a ''prospective employee'' for the purposes of this exemption, and thus could be subject to preemployment polygraph screening, prior to such a change in position. However, any adverse action which is based in part on a polygraph test against a current employee who is considered a ''prospective employee'' for purposes of this section may be taken only with respect to the prospective position and may not affect the employee's employment in the current position.

(e) Section 7(f) of the EPPA, as applied by the CAA, makes no specific reference to a requirement that employing offices provide current employees with a written statement prior to polygraph testing. Thus, employing offices to whom this exemption is available are not required to furnish a written statement such as that specified in section 7(d) of the EPPA and Sec. 1.12(a)(4) of this part.

(f) For the section 7(f) exemption to apply, the polygraph testing of current employees must be administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office.

(1) Current employees may only be administered polygraph tests in connection with an ongoing investigation of criminal or other misconduct, relating to a specific incident or activity, or potential incident or activity. Thus, an employing office is precluded from using the exemption in connection with continuing investigations or on a random basis to determine if thefts are occurring. However, unlike the exemption in section 7(d) of the EPPA for employing offices conducting ongoing investigations of economic loss or injury, the section 7(f) exemption includes ongoing investigations of misconduct involving potential drug losses. Nor does the latter exemption include the requirement for ''reasonable suspicion'' contained in the section 7(d) exemption. Thus, a drug store operator is permitted to polygraph all current employees who have access to a controlled substance stolen from the inventory, or where there is evidence that such a theft is planned. Polygraph testing based on an inventory shortage of the drug during a particular accounting period would not be permitted unless there is extrinsic evidence of misconduct.

(2) In addition, the test must be administered in connection with loss or injury, or potential loss or injury, to the manufacture, distribution, or dispensing of a controlled substance.

(i) Retail drugstores and wholesale drug warehouses typically carry inventory of so-called health and beauty aids, cosmetics, over-the-counter drugs, and a variety of other similar products, in addition to their product lines of controlled drugs. The non-controlled products usually constitute

the majority of such firms' sales volumes. An economic loss or injury related to such noncontrolled substances would not constitute a basis of applicability of the section 7(f) exemption. For example, an investigation into the theft of a gross of cosmetic products could not be a basis for polygraph testing under section 7(f), but the theft of a container of valium could be.

(ii) Polygraph testing, with respect to an ongoing investigation concerning products other than controlled substances might be initiated under section 7(d) of the EPPA and Sec. 1.12 of this part. However, the exemption in section 7(f) of the EPPA and this section is limited solely to losses or injury associated with controlled substances.

(g) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to the remedies authorized in section 204 of the CAA. The administration of such tests is also subject to collective bargaining agreements, which may either prohibit lie detector tests, or contain more restrictive provisions with respect to polygraph testing.

Subpart C—Restrictions on polygraph usage under exemptions

Sec. 1.20 Adverse employment action under ongoing investigation exemption.

(a) Section 8(a)(1) of the EPPA provides that the limited exemption in section 7(d) of the EPPA and Sec. 1.12 of this part for ongoing investigations shall not apply if an employing office discharges, disciplines, denies employment or promotion or otherwise discriminates in any manner against a current employee based upon the analysis of a polygraph test chart or the refusal to take a polygraph test, without additional supporting evidence.

(b) ''Additional supporting evidence'', for purposes of section 8(a) of the EPPA, includes, but is not limited to, the following:

(1)(i) Evidence indicating that the employee had access to the missing or damaged property that is the subject of an ongoing investigation; and

(ii) Evidence leading to the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; or

(2) Admissions or statements made by an employee before, during or following a polygraph examination.

(c) Analysis of a polygraph test chart or refusal to take a polygraph test may not serve as a basis for adverse employment action, even with additional supporting evidence, unless the employing office observes all the requirements of sections 7(d) and 8(b) of the EPPA, as applied by the CAA and described in Secs. 1.12, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.21 Adverse employment action under controlled substance exemption.

(a) Section 8(a)(2) of the EPPA provides that the controlled substance exemption in section 7(f) of the EPPA and section 1.13 of this part shall not apply if an employing office discharges, disciplines, denies employment or promotion, or otherwise discriminates in any manner against a current employee or prospective employee based solely on the analysis of a polygraph test chart or the refusal to take a polygraph test.

(b) Analysis of a polygraph test chart or refusal to take a polygraph test may serve as one basis for adverse employment actions of the type described in paragraph (a) of this section, provided that the adverse action was also based on another bona fide reason, with supporting evidence therefor. For example, traditional factors such as prior employment experience, education, job performance, etc. may be used as a basis for employment decisions. Employment decisions based on admissions or statements made by an employee or prospective employee before, during or following a polygraph examination may, likewise, serve as a basis for such decisions.

(c) Analysis of a polygraph test chart or the refusal to take a polygraph test may not serve as a basis for adverse employment action, even with another legitimate basis for such action, unless the employing office observes all the requirements of section 7(f) of the EPPA, as appropriate, and section 8(b) of the EPPA, as described in sections 1.13, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.22 Rights of examinee—general.

(a) Pursuant to section 8(b) of the EPPA, the limited exemption in section 7(d) of the EPPA for ongoing investigations (described in Secs. 1.12 and 1.13 of this part) shall not apply unless all of the requirements set forth in this section and Secs. 1.23 through 1.25 of this part are met.

(b) During all phases of the polygraph testing the person being examined has the following rights:

(1) The examinee may terminate the test at any time.

(2) The examinee may not be asked any questions in a degrading or unnecessarily intrusive manner.

(3) The examinee may not be asked any questions dealing with:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or behavior; or

(v) Beliefs, affiliations, opinions, or lawful activities concerning unions or labor organizations.

(4) The examinee may not be subjected to a test when there is sufficient written evidence by a physician that the examinee is suffering from any medical or psychological condition or undergoing any treatment that might cause abnormal responses during the actual testing phase. ''Sufficient written evidence'' shall constitute, at a minimum, a statement by a physician specifically describing the examinee's medical or psychological condition or treatment and the basis for the physician's opinion that the condition or treatment might result in such abnormal responses.

(5) An employee or prospective employee who exercises the right to terminate the test, or who for medical reasons with sufficient supporting evidence is not administered the test, shall be subject to adverse employment action only on the same basis as one who refuses to take a polygraph test, as described in Secs. 1.20 and 1.21 of this part.

(c) Any polygraph examination shall consist of one or more pretest phases, actual testing phases, and post-test phases, which must be conducted in accordance with the rights of examinees described in Secs. 1.23 through 1.25 of this part.

Sec. 1.23 Rights of examinee—pretest phase.

(a) The pretest phase consists of the questioning and other preparation of the prospective examinee before the actual use of the polygraph instrument. During the initial pretest phase, the examinee must be:

(1) Provided with written notice, in a language understood by the examinee, as to when and where the examination will take place and that the examinee has the right to consult with counsel or an employee representative before each phase of the test. Such notice shall be received by the examinee at least forty-eight hours, excluding weekend days and holidays, before the time of the examination, except that a prospective employee may, at the employee's option, give written consent to administration of a test anytime within 48 hours but no earlier than 24 hours after receipt of the written notice. The written notice or proof of service must set forth the time and date of receipt by the employee or prospective employee and be verified by his or her signature. The purpose of this requirement is to provide a sufficient opportunity prior to the examination for the examinee to consult with counsel or an employee representative. Provision shall also be made for a convenient place on the premises where the examination will take place at which the examinee may consult privately with an attorney or an employee representative before each phase of the test. The attorney or representative may be excluded from the room where the examination is administered during the actual testing phase.

(2) Informed orally and in writing of the nature and characteristics of the polygraph instrument and examination, including an explanation of the physical operation of the polygraph instrument and the procedure used during the examination.

(3) Provided with a written notice prior to the testing phase, in a language understood by the examinee, which shall be read to and signed by the examinee. Use of Appendix A to this part, if properly completed, will constitute compliance with the contents of the notice requirement of this paragraph. If a format other than in Appendix A is used, it must contain at least the following information:

(i) Whether or not the polygraph examination area contains a two-way mirror, a camera, or other device through which the examinee may be observed;

(ii) Whether or not any other device, such as those used in conversation or recording will be used during the examination;

(iii) That both the examinee and the employing office have the right, with the other's knowledge, to make a recording of the entire examination;

(iv) That the examinee has the right to terminate the test at any time;

(v) That the examinee has the right, and will be given the opportunity, to review all questions to be asked during the test;

(vi) That the examinee may not be asked questions in a manner which degrades, or needlessly intrudes;

(vii) That the examinee may not be asked any questions concerning religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations;

(viii) That the test may not be conducted if there is sufficient written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination;

(ix) That the test is not and cannot be required as a condition of employment;

(x) That the employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against the examinee based on the analysis of a polygraph test, or based on the examinee's refusal to take such a test, without additional evidence which would support such action;

(xi)(A) In connection with an ongoing investigation, that the additional evidence required for the employing office to take adverse action against the examinee, including

termination, may be evidence that the examinee had access to the property that is the subject of the investigation, together with evidence supporting the employing office's reasonable suspicion that the examinee was involved in the incident or activity under investigation;

(B) That any statement made by the examinee before or during the test may serve as additional supporting evidence for an adverse employment action, as described in paragraph (a)(3)(x) of this section, and that any admission of criminal conduct by the examinee may be transmitted to an appropriate government law enforcement agency;

(xii) That information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(A) To the examinee or any other person specifically designated in writing by the examinee to receive such information;

(B) To the employing office that requested the test;

(C) To a court, governmental agency, arbitrator, or mediator pursuant to a court order;

(D) By the employing office, to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct;

(xiii) That if any of the examinee's rights or protections under the law are violated, the examinee has the right to take action against the employing office under sections 401-404 of the CAA. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees;

(xiv) That the examinee has the right to obtain and consult with legal counsel or other representative before each phase of the test, although the legal counsel or representative may be excluded from the room where the test is administered during the actual testing phase.

(xv) That the employee's rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, agreed to and signed by the parties.

(b) During the initial or any subsequent pretest phases, the examinee must be given the opportunity, prior to the actual testing phase, to review all questions in writing that the examiner will ask during each testing phase. Such questions may be presented at any point in time prior to the testing phase.

Sec. 1.24 Rights of examinee—actual testing phase

(a) The actual testing phase refers to that time during which the examiner administers the examination by using a polygraph instrument with respect to the examinee and then analyzes the charts derived from the test. Throughout the actual testing phase, the examiner shall not ask any question that was not presented in writing for review prior to the testing phase. An examiner may, however, recess the testing phase and return to the pre-test phase to review additional relevant questions with the examinee. In the case of an ongoing investigation, the examiner shall ensure that all relevant questions (as distinguished from technical baseline questions) pertain to the investigation.

(b) No testing period subject to the provisions of the Act shall be less than ninety minutes in length. Such ''test period'' begins at the time that the examiner begins informing the examinee of the nature and characteristics of the examination and the instruments involved, as prescribed in section 8(b)(2)(B) of the EPPA and Sec. 1.23(a)(2) of this part, and ends when the examiner completes the review of the test results with the examinee as provided in Sec. 1.25 of this part. The ninety-minute minimum duration shall not apply if the examinee voluntarily acts to terminate the test before the completion thereof, in which event the examiner may not render an opinion regarding the employee's truthfulness.

Sec. 1.25 Rights of examinee—post-test phase

(a) The post-test phase refers to any questioning or other communication with the examinee following the use of the polygraph instrument, including review of the results of the test with the examinee. Before any adverse employment action, the employing office must:

(1) Further interview the examinee on the basis of the test results; and

(2) Give to the examinee a written copy of any opinions or conclusions rendered in response to the test, as well as the questions asked during the test, with the corresponding charted responses. The term ''corresponding charted responses'' refers to copies of the entire examination charts recording the employee's physiological responses, and not just the examiner's written report which describes the examinee's responses to the questions as ''charted'' by the instrument.

Sec. 1.26 Qualifications of and requirements for examiners

(a) Section 8 (b) and (c) of the EPPA provides that the limited exemption in section 7(d) of the EPPA for ongoing investigations shall not apply unless the person conducting the polygraph examination meets specified qualifications and requirements.

(b) An examiner must meet the following qualifications:

(1) Have a valid current license, if required by the State in which the test is to be conducted; and

(2) Carry a minimum bond of $50,000 provided by a surety incorporated under the laws of the United States or of any State, which may under those laws guarantee the fidelity of persons holding positions of trust, or carry an equivalent amount of professional liability coverage.

(c) An examiner must also, with respect to examinees identified by the employing office pursuant to Sec. 1.30(c) of this part:

(1) Observe all rights of examinees, as set out in Secs. 1.22, 1.23, 1.24, and 1.25 of this part;

(2) Administer no more than five polygraph examinations in any one calendar day on which a test or tests subject to the provisions of EPPA are administered, not counting those instances where an examinee voluntarily terminates an examination prior to the actual testing phase;

(3) Administer no polygraph examination subject to the provisions of the EPPA which is less than ninety minutes in duration, as described in Sec. 1.24(b) of this part; and

(4) Render any opinion or conclusion regarding truthfulness or deception in writing. Such opinion or conclusion must be based solely on the polygraph test results. The written report shall not contain any information other than admissions, information, case facts, and interpretation of the charts relevant to the stated purpose of the polygraph test and shall not include any recommendation concerning the employment of the examinee.

(5) Maintain all opinions, reports, charts, written questions, lists, and other records relating to the test, including, statements signed by examinees advising them of rights under the CAA (as described in section 1.23(a)(3) of this part) and any electronic recordings of examinations, for at least three years from the date of the administration of the test. (See section 1.30 of this part for recordkeeping requirements.)

Subpart D—Recordkeeping and disclosure requirements

Sec. 1.30 Records to be preserved for 3 years

(a) The following records shall be kept for a minimum period of three years from the date the polygraph examination is conducted (or from the date the examination is requested if no examination is conducted):

(1) Each employing office that requests an employee to submit to a polygraph examination in connection with an ongoing investigation involving economic loss or injury shall retain a copy of the statement that sets forth the specific incident or activity under investigation and the basis for testing that particular covered employee, as required by section 7(d)(4) of the EPPA and described in 1.12(a)(4) of this part.

(2) Each examiner retained to administer examinations pursuant to any of the exemptions under section 7(d), (e) or (f) of the EPPA (described in sections 1.12 and 1.13 of this part) shall maintain all opinions, reports, charts, written questions, lists, and other records relating to polygraph tests of such persons.

Sec. 1.35 Disclosure of test information

This section prohibits the unauthorized disclosure of any information obtained during a polygraph test by any person, other than the examinee, directly or indirectly, except as follows:

(a) A polygraph examiner or an employing office (other than an employing office exempt under section 7 (a), or (b) of the EPPA (described in Secs. 1.10 and 1.11 of this part)) may disclose information acquired from a polygraph test only to:

(1) The examinee or an individual specifically designated in writing by the examinee to receive such information;

(2) The employing office that requested the polygraph test pursuant to the provisions of the EPPA (including management personnel of the employing office where the disclosure is relevant to the carrying out of their job responsibilities);

(3) Any court, governmental agency, arbitrator, or mediator pursuant to an order from a court of competent jurisdiction requiring the production of such information;

(b) An employing office may disclose information from the polygraph test at any time to an appropriate governmental agency without the need of a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

(c) A polygraph examiner may disclose test charts, without identifying information (but not other examination materials and records), to another examiner(s) for examination and analysis, provided that such disclosure is for the sole purpose of consultation and review of the initial examiner's opinion concerning the indications of truthfulness or deception. Such action would not constitute disclosure under this part provided that the other examiner has no direct or indirect interest in the matter.

Subpart E—Duration of Interim Regulations

Sec. 1.40 Duration of Interim Regulations

These interim regulations for the House, the Senate and the employing offices of the instrumentalities are effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House of Representatives and the Senate, whichever is earlier.

Appendix A to Part 801—Notice to Examinee

Section 204 of the Congressional Accountability Act, which applies the rights and protections of section 8(b) of the Employee Polygraph Protection Act to covered employees and employing offices, and the regulations of the Board of Directors of the Office of Compliance (Sections 1.22, 1.23, 1.24, and 1.25), require that you be given the following information before taking a polygraph examination:

1. (a) The polygraph examination area [does] [does not] contain a two-way mirror, a camera, or other device through which you may be observed.

(b) Another device, such as those used in conversation or recording, [will] [will not] be used during the examination.

(c) Both you and the employing office have the right, with the other's knowledge, to record electronically the entire examination.

2. (a) You have the right to terminate the test at any time.

(b) You have the right, and will be given the opportunity, to review all questions to be asked during the test.

(c) You may not be asked questions in a manner which degrades, or needlessly intrudes.

(d) You may not be asked any questions concerning: Religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual preference or behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations.

(e) The test may not be conducted if there is sufficient written evidence by a physician that you are suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination.

(f) You have the right to consult with legal counsel or other representative before each phase of the test, although the legal counsel or other representative may be excluded from the room where the test is administered during the actual testing phase.

3. (a) The test is not and cannot be required as a condition of employment.

(b) The employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against you based on the analysis of a polygraph test, or based on your refusal to take such a test without additional evidence which would support such action.

(c)(1) In connection with an ongoing investigation, the additional evidence required for an employing office to take adverse action against you, including termination, may be (A) evidence that you had access to the property that is the subject of the investigation, together with (B) the evidence supporting the employing office's reasonable suspicion that you were involved in the incident or activity under investigation.

(2) Any statement made by you before or during the test may serve as additional supporting evidence for an adverse employment action, as described in 3(b) above, and any admission of criminal conduct by you may be transmitted to an appropriate government law enforcement agency.

4. (a) Information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(1) To you or any other person specifically designated in writing by you to receive such information;

(2) To the employing office that requested the test;

(3) To a court, governmental agency, arbitrator, or mediator that obtains a court order.

(b) Information acquired from a polygraph test may be disclosed by the employing office to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

5. If any of your rights or protections under the law are violated, you have the right to take action against the employing office by filing a request for counseling with the Office of Compliance under section 402 of the Congressional Accountability Act. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees.

6. Your rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, and agreed to and signed by the parties.

I acknowledge that I have received a copy of the above notice, and that it has been read to me.

_____
(Date)

_____
(Signature)

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT OF 1988

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL AND ISSUANCE OF INTERIM REGULATIONS

Summary: The Board of Directors, Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published November 28, 1995 in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations implementing section 205 of the Congressional Accountability Act of 1995 (''CAA''). The Board is also adopting and issuing such regulations as interim regulations for the House of Representatives, the Senate, and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions of approval are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540–1999. Telephone: (202) 724–9250.

Background and Summary

Supplementary Information: The Congressional Accountability Act of 1995 (''CAA''), P.L. 104–1, was enacted into law on January 23, 1995. 2 U.S.C. §§1301 et seq. In general, the CAA applies the rights and protections of eleven federal labor and employment statutes to covered employees and employing offices within the legislative branch. Section 205 of the CAA provides that no employing office shall be closed or a mass layoff ordered within the meaning of section 3 of the Worker Adjustment Retraining and Notification Act of 1988, 29 U.S.C. §2102 (''WARN''), until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees. 2 U.S.C. §1315(a). Section 225(f) of the CAA provides that, ''[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions in [WARN] shall apply under this Act.'' 2 U.S.C. §1361(f).

Sections 205(c) and 304(a) of the CAA directs the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing section 205 of the CAA. 2 U.S.C. §§1315(c), 1384(a). Section 205(c) further states that such regulations ''shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' 2 U.S.C. §1315(c).

To obtain input from interested persons on the content of these regulations, the Board published for comment a Notice of Proposed Rulemaking in the Congressional Record, 141 Cong. Rec. S17652 (daily ed., Nov. 28, 1995), inviting comments regarding the proposed regulations. The Board received three comments on the proposed regulations from interested parties. Two of the comments, without elaboration, supported the regulations as proposed. Only one commenter took issue with sections of the proposed regulations and the Board's resolution of certain issues raised in the NPR. In addition, the Office has sought consultations with the Secretary of Labor regarding the proposed regulations, pursuant to section 304(g) of the CAA.

After full consideration of the comments received in response to the proposed rule, the Board has adopted and is submitting these regulations for approval by the Congress. Moreover, pursuant to sections 304 and 411, the Board is adopting and issuing such regulations as interim regulations for the House, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions of approval are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

I. Summary of Comments and Board's Final Rules

A. Employer coverage

One commenter suggested that, in proposed section 639.3(a), the Board replace the term ''business enterprise'' with ''of the offices listed in section 101(9) of the CAA, 2 U.S.C. §1301(9).'' Upon consideration of the matter, the Board incorporates the commenter's suggestion because the modification accurately and precisely states the coverage of the provision.

B. Sale of business

A commenter suggested that the concept of a ''sale of business'' in proposed section 639.4(c) of the regulations is inapplicable to this commenter's specific operations. It suggests that the language of proposed section 639.4(c) be changed from ''sale of business'' to ''privatization.''

The Board sees no substantive difference between the concept of ''sale of business'' and ''privatization'' for purposes of this section. Therefore, the Board adds the nomenclature suggested by the commenter to accord more naturally to situations within the legislative branch. However, by making this change, the Board does not intend any substantive difference between the meaning of section 639.3(c) and the section of the Secretary's regulations from which it is derived.

C. Encouragement regarding notice

A commenter suggested that proposed section 639.1(c), which encourages employing offices to give notice even where not required, be deleted. The commenter suggested that the deletion is justified because section 7 of WARN, which provides authority for this regulation, is not incorporated into the CAA.

On further consideration of the matter, the Board will not include this section in its adopted regulation. The section does not implement any substantive requirement of WARN, as applied by the CAA, and thus its inclusion in these regulations is not required by the CAA.

D. Technical and nomenclature changes

A commenter suggested a number of technical and nomenclature changes to the proposed regulations to make them more precise in their application to the legislative branch. The Board has incorporated many of the changes suggested by the commenter. However, by making these changes, the Board does not intend a substantive difference in the meaning of these sections of the Board's regulations and those of the Secretary from which the Board's regulations are derived.

E. Scope of regulations

The regulations issued by the Board herein are on all matters for which section 205 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other ''substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA].'' 2 U.S.C. §1315(c).

II. Adoption of Proposed Rules as Final Regulations under Section 304(b)(3) and as Interim Regulations

Having considered the public comments to the proposed rules, the Board, pursuant to section 304(b)(3) and (4) of the CAA, is adopting these final regulations and transmitting them to the House and the Senate with recommendations as to the method of approval by each body under section 304(c). However, the rapidly approaching effective date of the CAA's implementation necessitates that the Board take further action with respect to these regulations. For the reasons explained below, the Board is also today adopting and issuing these rules as *interim* regulations that will be effective as of January 23, 1996 or the time upon which appropriate resolutions of approval of these interim regulations are passed by the House and/or the Senate, whichever is later. These interim regulations will remain in effect until the earlier of April 15, 1996 or the dates upon which the House and Senate complete their respective consideration of the final regulations that the Board is herein adopting.

The Board finds that it is necessary and appropriate to adopt such interim regulations and that there is ''good cause'' for making them effective as of the later of January 23, 1996, or the time upon which appropriate resolutions of approval of them are passed by the House and the Senate. In the absence of the issuance of such interim regulations, covered employees, employing offices, and the Office of Compliance staff itself would be forced to operate in regulatory uncertainty. While section 411 of the CAA provides that, ''if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding,'' covered employees, employing offices and the Office of Compliance staff might not know what regulation, if any, would be found applicable in particular circumstances absent the procedures suggested here. The resulting confusion and uncertainty on the part of covered employees and employing offices would be contrary to the purposes and objectives of the CAA, as well as to the interests of those whom it protects and regulates. Moreover, since the House and the Senate will likely act on the Board's final regulations within a short period of time, covered employees and employing offices would have to devote considerable attention and resources to learning, understanding, and complying with a whole set of default regulations that would then have no future application. These interim regulations prevent such a waste of resources.

The Board's authority to issue such interim regulations derives from sections 411 and 304 of the CAA. Section 411 gives the Board authority to determine whether, in the absence of the issuance of a final regulation by the Board, it is necessary and appropriate to apply the substantive regulations of the executive branch in implementing the provisions of the CAA. Section 304(a) of the CAA in turn authorizes the Board to issue substantive regulations to implement the Act. Moreover, section 304(b) of the CAA instructs that the Board shall adopt substantive regulations ''in accordance with the principles and procedures set forth in section 553 of title 5, United States Code,'' which have in turn traditionally been construed by courts to allow an agency to issue ''interim'' rules where the failure to have rules in place in a timely manner would frustrate the effective operation of a federal statute. *See, e.g., Philadelphia Citizens in Action v. Schweiker*, 669 F.2d 877 (3d Cir. 1982). As noted above, in the absence of the Board's adoption and issuance of these interim rules, such a frustration of the effective operation of the CAA would occur here.

In so interpreting its authority, the Board recognizes that in section 304 of the CAA, Congress specified certain procedures that the Board must follow in issuing substantive regulations. In section 304(b), Congress said that, except as specified in section 304(e), the Board must follow certain notice and comment and other procedures. The interim regulations in fact have been subject to such notice and comment and such other procedures of section 304(b).

In issuing these interim regulations, the Board also recognizes that section 304(c) specifies certain procedures that the House and the Senate are to follow in approving the Board's regulations. The Board is of the view that the essence of section 304(c)'s requirements are satisfied by making the effectiveness of these interim regulations conditional on the passage of appropriate resolutions of approval by the House and/or the Senate. Moreover, section 304(c) appears to be designed primarily for (and applicable to) final regulations of the Board, which these interim regulations are not. In short, section 304(c)'s procedures should not be understood to prevent the issuance of interim regulations that are necessary for the effective implementation of the CAA.

Indeed, the promulgation of these interim regulations clearly conforms to the spirit of section 304(c) and, in fact promotes its proper operation. As noted above, the interim regulations shall become effective only upon the passage of appropriate resolutions of approval, which is what section 304(c) contemplates. Moreover, these interim regulations allow more considered deliberation by the House and the Senate of the Board's final regulations under section 304(c).

The House has in fact already signaled its approval of such interim regulations both for itself and for the instrumentalities. On December 19, 1995, the House adopted H. Res. 311 and H. Con. Res. 123, which approve ''on a provisional basis'' regulations ''issued by the Office of Compliance before January 23, 1996.'' The Board believes these resolutions are sufficient to make these interim regulations effective for the House on January 23, 1996, though the House might want to pass new resolutions of approval in response to this pronouncement of the Board.

To the Board's knowledge, the Senate has not yet acted on H. Con. Res. 123, nor has it passed a counterpart to H. Res. 311 that would cover employing offices and employees of the Senate. As stated herein, it must do so if these interim regulations are to apply to the Senate and the other employing offices of the instrumentalities (and to prevent the default rules of the executive branch from applying as of January 23, 1996).

III. Method of Approval

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the regulations that shall apply to other covered employees and employing offices should be approved by the Congress by concurrent resolution.

With respect to the interim version of these regulations, the Board recommends that the Senate approve them by resolution insofar as they apply to the Senate and employees of the Senate. In addition, the Board recommends that the Senate approve them by concurrent resolution insofar as they apply to other covered employees and employing offices. It is noted that the House has expressed its approval of the regulations insofar as they apply to the House and its employees through its passage of H. Res. 311 on December 19, 1995. The House also expressed its approval of the regulations insofar as they apply to other employing offices through passage of H. Con. Res. 123 on the same date; this concurrent resolution is pending before the Senate.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the Congress and issues on an interim basis the following regulations:

ADOPTED REGULATIONS—AS INTERIM REGULATIONS AND AS FINAL REGULATIONS

Application of Rights and Protections of the Worker Adjustment Retraining and Notification Act of 1988 (Implementing Section 204 of the CAA)

Sec.
639.1 Purpose and scope.
639.2 What does WARN require?
639.3 Definitions.
639.4 Who must give notice?
639.5 When must notice be given?
639.6 Who must receive notice?
639.7 What must the notice contain?
639.8 How is the notice served?
639.9 When may notice be given less than 60 days in advance?
639.10 When may notice be extended?
639.11 Duration of Interim Regulations

§639.1 Purpose and scope

(a) *Purpose of WARN as applied by the CAA.* Section 205 of the Congressional Accountability Act, P.L. 104–1 (''CAA''), provides protection to covered employees and their families by requiring employing offices to provide notification 60 calendar days in advance of office closings and mass layoffs within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act of 1988, 29 U.S.C. §2102. Advance notice provides workers and their families some transition

time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market. As used in these regulations, WARN shall refer to the provisions of WARN applied to covered employing offices by section 205 of the CAA.

(b) *Scope of these regulations*. These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 205(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 205 that are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' The regulations issued by the Board herein are on all matters for which section 205 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other ''substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA].''

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these sections and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

These regulations establish basic definitions and rules for giving notice, implementing the provisions of WARN. The objective of these regulations is to establish clear principles and broad guidelines which can be applied in specific circumstances. However, it is recognized that rulemaking cannot address the multitude of employing office-specific situations in which advance notice will be given.

(c) *Notice in ambiguous situations*. It is civically desirable and it would appear to be good business practice for an employing office to provide advance notice, where reasonably possible, to its workers or unions when terminating a significant number of employees. The Office encourages employing offices to give notice in such circumstances.

(d) *WARN not to supersede other laws and contracts*. The provisions of WARN do not supersede any otherwise applicable laws or collective bargaining agreements that provide for additional notice or additional rights and remedies. If such law or agreement provides for a longer notice period, WARN notice shall run concurrently with that additional notice period. Collective bargaining agreements may be used to clarify or amplify the terms and conditions of WARN, but may not reduce WARN rights.

§ 639.2 What does WARN require?

WARN requires employing offices that are planning an office closing or a mass layoff to give affected employees at least 60 days' notice of such an employment action. While the 60-day period is the minimum for advance notice, this provision is not intended to discourage employing offices from voluntarily providing longer periods of advance notice. Not all office closings and layoffs are subject to WARN, and certain employment thresholds must be reached before WARN applies. WARN sets out specific exemptions, and provides for a reduction in the notification period in particular circumstances. Remedies authorized under section 205 of the CAA may be assessed against employing offices that violate WARN requirements.

§ 639.3 Definitions

(a) *Employing office*. (1) The term ''employing office'' means any of the entities listed in section 101(9) of the CAA, 2 U.S.C. § 1301(9) that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) employs 100 or more employees, including part-time employees, who in the aggregate work at least 4,000 hours per week, exclusive of overtime.

Workers on temporary layoff or on leave who have a reasonable expectation of recall are counted as employees. An employee has a ''reasonable expectation of recall'' when he/she understands, through notification or through common practice, that his/her employment with the employing office has been temporarily interrupted and that he/she will be recalled to the same or to a similar job.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN, are nonetheless counted as employees for purposes of determining coverage as an employing office.

(3) An employing office may have one or more sites of employment under common control.

(b) *Office closing*. The term ''office closing'' means the permanent or temporary shutdown of a ''single site of employment'', or one or more ''facilities or operating units'' within a single site of employment, if the shutdown results in an ''employment loss'' during *any 30-day period* at the single site of employment for *50 or more* employees, excluding any part-time employees. An employment action that results in the effective cessation of the work performed by a unit, even if a few employees remain, is a shutdown. A ''temporary shutdown'' triggers the notice requirement only if there are a sufficient number of terminations, layoffs exceeding 6 months, or reductions in hours of work as specified under the definition of ''employment loss.''

(c) *Mass layoff*. (1) The term ''mass layoff'' means a reduction in force which first, is not the result of an office closing, and second, results in an employment loss at the single site of employment during *any 30-day period* for:

(i) *At least 33 percent* of the active employees, excluding part-time employees, and

(ii) *At least 50 employees*, excluding part-time employees.

Where 500 or more employees (excluding part-time employees) are affected, the 33% requirement does not apply, and notice is required if the other criteria are met. Office closings involve employment loss which results from the shutdown of one or more distinct units within a single site or the entire site. A mass layoff involves employment loss, regardless of whether one or more units are shut down at the site.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN are nonetheless counted as employees for purposes of determining coverage as an office closing or mass layoff. For example, if an employing office closes a temporary project on which 10 permanent and 40 temporary workers are employed, a covered office closing has occurred although only 10 workers are entitled to notice.

(d) *Representative*. The term ''representative'' means an exclusive representative of employees within the meaning of 5 U.S.C. §§ 7101 *et seq.*, as applied to covered employees and employing offices by section 220 of the CAA, 2 U.S.C. § 1351.

(e) *Affected employees*. The term ''affected employees'' means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed office closing or mass layoff by their employing office. This includes individually identifiable employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such individual workers reasonably can be identified at the time notice is required to be given. The term affected employees includes managerial and supervisory employees. Consultant or contract employees who have a separate employment relationship with another employing office or employer and are paid by that other employing office or employer, or who are self-employed, are not ''affected employees'' of the operations to which they are assigned. In addition, for purposes of determining whether coverage thresholds are met, either incumbent workers in jobs being eliminated or, if known 60 days in advance, the actual employees who suffer an employment loss may be counted.

(f) *Employment loss*. (1) The term employment loss means (i) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (ii) a layoff exceeding 6 months, or (iii) a reduction in hours of work of individual employees of more than 50% during each month of any 6-month period.

(2) Where a termination or a layoff (see paragraphs (f)(1) (i) and (ii) of this section) is involved, an employment loss does not occur when an employee is reassigned or transferred to employing office-sponsored programs, such as retraining or job search activities, as long as the reassignment does not constitute a constructive discharge or other involuntary termination.

(3) An employee is not considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employing office's operations and, prior to the closing or layoff—

(i) The employing office offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment, or

(ii) The employing office offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

(4) A ''relocation or consolidation'' of part or all of an employing office's operations, for purposes of paragraph § 639.3(f)(3), means that some definable operations are transferred to a different site of employment and that transfer results in an office closing or mass layoff.

(g) *Part-time employee*. The term ''part-time'' employee means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required, including workers who work full-time. This term may include workers who would traditionally be understood as ''seasonal'' employees. The period to be used for calculating whether a worker has worked ''an average of fewer than 20 hours per week'' is the shorter of the actual time the worker has been employed or the most recent 90 days.

(h) *Single site of employment.* (1) A single site of employment can refer to either a single location or a group of contiguous locations. Separate facilities across the street from one another may be considered a single site of employment.

(2) There may be several single sites of employment within a single building, such as an office building, if separate employing offices conduct activities within such a building. For example, an office building housing 50 different employing offices will contain 50 single sites of employment. The offices of each employing office will be its single site of employment.

(3) Separate buildings or areas which are not directly connected or in immediate proximity may be considered a single site of employment if they are in reasonable geographic proximity, used for the same purpose, and share the same staff and equipment.

(4) Non-contiguous sites in the same geographic area which do not share the same staff or operational purpose should not be considered a single site.

(5) Contiguous buildings operated by the same employing office which have separate management and have separate workforces are considered separate single sites of employment.

(6) For workers whose primary duties require travel from point to point, who are outstationed, or whose primary duties involve work outside any of the employing office's regular employment sites (e.g., railroad workers, bus drivers, salespersons), the single site of employment to which they are assigned as their home base, from which their work is assigned, or to which they report will be the single site in which they are covered for WARN purposes.

(7) Foreign sites of employment are not covered under WARN. U.S. workers at such sites are counted to determine whether an employing office is covered as an employing office under §639.3(a).

(8) The term ''single site of employment'' may also apply to truly unusual organizational situations where the above criteria do not reasonably apply. The application of this definition with the intent to evade the purpose of WARN to provide notice is not acceptable.

(i) *Facility or operating unit.* The term ''facility'' refers to a building or buildings. The term ''operating unit'' refers to an organizationally or operationally distinct product, operation, or specific work function within or across facilities at the single site.

§639.4 Who must give notice?

Section 205(a)(1) of the CAA states that ''[n]o employing office shall be closed or a mass layoff ordered within the meaning of section 3 of [WARN] until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff. . .'' Therefore, an employing office that is anticipating carrying out an office closing or mass layoff is required to give notice to affected employees or their representative(s). (See definitions in §639.3 of this part.).

(a) It is the responsibility of the employing office to decide the most appropriate person within the employing office's organization to prepare and deliver the notice to affected employees or their representative(s). In most instances, this may be the local site office manager, the local personnel director or a labor relations officer.

(b) An employing office that has previously announced and carried out a short-term layoff (6 months or less) which is being extended beyond 6 months due to circumstances not reasonably foreseeable at the time of the initial layoff is required to give notice when it becomes reasonably foreseeable that the extension is required. A layoff extending beyond 6 months from the date the layoff commenced for any other reason shall be treated as an employment loss from the date of its commencement.

(c) In the case of the privatization or sale of part or all of an employing office's operations, the employing office is responsible for providing notice of any office closing or mass layoff which takes place up to and including the effective date (time) of the privatization or sale, and the contractor or buyer is responsible for providing any required notice of any office closing or mass layoff that takes place thereafter.

(1) If the employing office is made aware of any definite plans on the part of the buyer or contractor to carry out an office closing or mass layoff within 60 days of purchase, the employing office may give notice to affected employees as an agent of the buyer or contractor, if so empowered. If the employing office does not give notice, the buyer or contractor is, nevertheless, responsible to give notice. If the employing office gives notice as the agent of the buyer or contractor, the responsibility for notice still remains with the buyer or contractor.

(2) It may be prudent for the buyer or contractor and employing office to determine the impacts of the privatization or sale on workers, and to arrange between them for advance notice to be given to affected employees or their representative(s), if a mass layoff or office closing is planned.

§639.5 When must notice be given?

(a) *General rule.* (1) With certain exceptions discussed in paragraphs (b) and (c) of this section and in §639.9 of this part, notice must be given at least 60 calendar days prior to any planned office closing or mass layoff, as defined in these regulations. When all employees are not terminated on the same date, the date of the first individual termination within the statutory 30-day or 90-day period triggers the 60-day notice requirement. A worker's last day of employment is considered the date of that worker's layoff. The first and each subsequent group of terminees are entitled to a full 60 days' notice. In order for an employing office to decide whether issuing notice is required, the employing office should—

(i) Look ahead 30 days and behind 30 days to determine whether employment actions both taken and planned will, in the aggregate for any 30-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement; and

(ii) Look ahead 90 days and behind 90 days to determine whether employment actions both taken and planned each of which separately is not of sufficient size to trigger WARN coverage will, in the aggregate for any 90-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement. An employing office is not, however, required under section 3(d) to give notice if the employing office demonstrates that the separate employment losses are the result of separate and distinct actions and causes, and are not an attempt to evade the requirements of WARN.

(2) The point in time at which the number of employees is to be measured for the purpose of determining coverage is the date the first notice is required to be given. If this ''snapshot'' of the number of employees employed on that date is clearly unrepresentative of the ordinary or average employment level, then a more representative number can be used to determine coverage. Examples of unrepresentative employment levels include cases when the level is near the peak or trough of an employment cycle or when large upward or downward shifts in the number of employees occur around the time notice is to be given. A more representative number may be an average number of employees over a recent period of time or the number of employees on an alternative date which is more representative of normal employment levels. Alternative methods cannot be used to evade the purpose of WARN, and should only be used in unusual circumstances.

(b) *Transfers.* (1) Notice is not required in certain cases involving transfers, as described under the definition of ''employment loss'' at §639.3(f) of this part.

(2) An offer of reassignment to a different site of employment should not be deemed to be a ''transfer'' if the new job constitutes a constructive discharge.

(3) The meaning of the term ''reasonable commuting distance'' will vary with local conditions. In determining what is a ''reasonable commuting distance,'' consideration should be given to the following factors: geographic accessibility of the place of work, the quality of the roads, customarily available transportation, and the usual travel time.

(4) In cases where the transfer is beyond reasonable commuting distance, the employing office may become liable for failure to give notice if an offer to transfer is not accepted within 30 days of the offer or of the closing or layoff (whichever is later). Depending upon when the offer of transfer was made by the employing office, the normal 60-day notice period may have expired and the office closing or mass layoff may have occurred. An employing office is, therefore, well advised to provide 60-day advance notice as part of the transfer offer.

(c) *Temporary employment.* (1) No notice is required if the closing is of a temporary facility, or if the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking.

(2) Employees must clearly understand at the time of hire that their employment is temporary. When such understandings exist will be determined by reference to employment contracts, collective bargaining agreements, or employment practices of other employing offices or a locality, but the burden of proof will lie with the employing office to show that the temporary nature of the project or facility was clearly communicated should questions arise regarding the temporary employment understandings.

§639.6 Who must receive notice?

Section 3(a) of WARN provides for notice to each representative of the affected employees as of the time notice is required to be given or, if there is no such representative at that time, to each affected employee.

(a) *Representative(s) of affected employees.* Written notice is to be served upon the chief elected officer of the exclusive representative(s) or bargaining agent(s) of affected employees at the time of the notice. If this person is not the same as the officer of the local union(s) representing affected employees, it is recommended that a copy also be given to the local union official(s).

(b) *Affected employees.* Notice is required to be given to employees who may reasonably be expected to experience an employment loss. This includes employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such workers can be identified at the time notice is required to be given. If, at the time notice is required to be given, the employing office cannot identify the employee who may reasonably be expected to experience an employment loss due to the elimination of a

particular position, the employing office must provide notice to the incumbent in that position. While part-time employees are not counted in determining whether office closing or mass layoff thresholds are reached, such workers are due notice.

§ 639.7 What must the notice contain?

(a) *Notice must be specific.* (1) All notice must be specific.

(2) Where voluntary notice has been given more than 60 days in advance, but does not contain all of the required elements set out in this section, the employing office must ensure that all of the information required by this section is provided in writing to the parties listed in § 639.6 at least 60 days in advance of a covered employment action.

(3) Notice may be given conditional upon the occurrence or nonoccurrence of an event only when the event is definite and the consequences of its occurrence or nonoccurrence will necessarily, in the normal course of operations, lead to a covered office closing or mass layoff less than 60 days after the event. The notice must contain each of the elements set out in this section.

(4) The information provided in the notice shall be based on the best information available to the employing office at the time the notice is served. It is not the intent of the regulations that errors in the information provided in a notice that occur because events subsequently change or that are minor, inadvertent errors are to be the basis for finding a violation of WARN.

(b) As used in this section, the term ''date'' refers to a specific date or to a 14-day period during which a separation or separations are expected to occur. If separations are planned according to a schedule, the schedule should indicate the specific dates on which or the beginning date of each 14-day period during which any separations are expected to occur. Where a 14-day period is used, notice must be given at least 60 days in advance of the first day of the period.

(c) Notice to each representative of affected employees is to contain:

(1) The name and address of the employment site where the office closing or mass layoff will occur, and the name and telephone number of an employing office official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(3) The expected date of the first separation and the anticipated schedule for making separations;

(4) The job titles of positions to be affected and the names of the workers currently holding affected jobs.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

(d) Notice to each affected employee who does not have a representative is to be written in language understandable to the employees and is to contain:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(2) The expected date when the office closing or mass layoff will commence and the expected date when the individual employee will be separated;

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of an employing office official to contact for further information.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

§ 639.8 How is the notice served?

Any reasonable method of delivery to the parties listed under § 639.6 of this part which is designed to ensure receipt of notice of at least 60 days before separation is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option. A ticketed notice, i.e., preprinted notice regularly included in each employee's pay check or pay envelope, does not meet the requirements of WARN.

§ 639.9 When may notice be given less than 60 days in advance?

Section 3(b) of WARN, as applied by section 205 of the CAA, sets forth two conditions under which the notification period may be reduced to less than 60 days. The employing office bears the burden of proof that conditions for the exceptions have been met. If one of the exceptions is applicable, the employing office must give as much notice as is practicable to the union and non-represented employees and this may, in some circumstances, be notice after the fact. The employing office must, at the time notice actually is given, provide a brief statement of the reason for reducing the notice period, in addition to the other elements set out in § 639.7.

(a) The ''unforeseeable business circumstances'' exception under section 3(b)(2)(A) of WARN, as applied under the CAA, applies to office closings and mass layoffs caused by circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.

(1) An important indicator of a circumstance that is not reasonably foreseeable is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employing office's control.

(2) The test for determining when circumstances are not reasonably foreseeable focuses on an employing office's business judgment. The employing office must exercise such reasonable business judgment as would a similarly situated employing office in predicting the demands of its operations. The employing office is not required, however, to accurately predict general economic conditions that also may affect its operations.

(b) The ''natural disaster'' exception in section 3(b)(2)(B) of WARN applies to office closings and mass layoffs due to any form of a natural disaster.

(1) Floods, earthquakes, droughts, storms, tidal waves or tsunamis and similar effects of nature are natural disasters under this provision.

(2) To qualify for this exception, an employing office must be able to demonstrate that its office closing or mass layoff is a direct result of a natural disaster.

(3) While a disaster may preclude full or any advance notice, such notice as is practicable, containing as much of the information required in § 639.7 as is available in the circumstances of the disaster still must be given, whether in advance or after the fact of an employment loss caused by a natural disaster.

(4) Where an office closing or mass layoff occurs as an indirect result of a natural disaster, the exception does not apply but the ''unforeseeable business circumstance'' exception described in paragraph (a) of this section may be applicable.

§ 639.10 When may notice be extended?

Additional notice is required when the date or schedule of dates of a planned office closing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice as follows:

(a) If the postponement is for less than 60 days, the additional notice should be given as soon as possible to the parties identified in § 639.6 and should include reference to the earlier notice, the date (or 14-day period) to which the planned action is postponed, and the reasons for the postponement. The notice should be given in a manner which will provide the information to all affected employees.

(b) If the postponement is for 60 days or more, the additional notice should be treated as new notice subject to the provisions of §§ 639.5, 639.6 and 639.7 of this part. Rolling notice, in the sense of routine periodic notice, given whether or not an office closing or mass layoff is impending, and with the intent to evade the purpose of the Act rather than give specific notice as required by WARN, is not acceptable.

§ 639.11 Duration of interim regulations

These interim regulations for the House, the Senate and the employing offices of the instrumentalities are effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, whichever is earlier.

The PRESIDING OFFICER (Mr. THOMAS). Are there others who wish to speak?

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF A BALANCED BUDGET PROPOSAL—MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT OF THE SENATE—PM 109

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate on January 6, 1996, received a message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

I hereby submit to the Congress a plan to achieve a balanced budget not later than the fiscal year 2002 as certified by the Congressional Budget Office of January 6, 1996. This plan has been prepared by Senator Daschle and if passed in its current form by the Congress, I would sign it into law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 6, 1996*.

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT—PM 110

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of July 12, 1995, concerning the national emergency with respect to Libya that was declared in Executive Order No. 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c).

1. On January 3, 1996, I renewed for another year the national emergency with respect to Libya pursuant to IEEPA. This renewal extended the current comprehensive financial and trade embargo against Libya in effect since 1986. Under these sanctions, all trade with Libya is prohibited, and all assets owned or controlled by the Libyan government in the United States or in the possession or control of U.S. persons are blocked.

2. There has been one amendment to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the ''Regulations''), administered by the Office of Foreign Assets Control (FAC) of the Department of the Treasury, since my last report on July 12, 1995. The amendment (60 *Fed. Reg.* 37940–37941, July 25, 1995) added three hotels in Malta to appendix A, Organizations Determined to Be Within the Term ''Government of Libya'' (Specially Designated Nationals (SDNs) of Libya). A copy of the amendment is attached to this report.

Pursuant to section 550.304(a) of the Regulations, FAC has determined that these entities designated as SDNs are owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya, or are agencies, instrumentalities, or entities of that government. By virtue of this determination, all property and interests in property of these entities that are in the United States or in the possession or control of U.S. persons are blocked. Further, U.S. persons are prohibited from engaging in transactions with these entities unless the transactions are licensed by FAC. The designations were made in consultation with the Department of State.

3. During the current 6-month period, FAC made numerous decisions with respect to applications for licenses to engage in transactions under the Regulations, issuing 54 licensing determinations—both approvals and denials. Consistent with FAC's ongoing scrutiny of banking transactions, the largest category of license approvals (20) concerned requests by Libyan and non-Libyan persons or entities to unblock transfers interdicted because of an apparent Government of Libya interest. A license was also issued to a local taxing authority to foreclose on a property owned by the Government of Libya for failure to pay property tax arrearages.

4. During the current 6-month period, FAC continued to emphasize to the international banking community in the United States the importance of identifying and blocking payments made on or behalf of Libya. The Office worked closely with the banks to implement new interdiction software systems to identify such payments. As a result, during the reporting period, more than 107 transactions potentially involving Libya, totaling more than $26.0 million, were interdicted. As of December 4, 23 of these transactions had been authorized for release, leaving a net amount of more than $24.6 million blocked.

Since my last report, FAC collected 27 civil monetary penalties totaling more than $119,500, for violations of the U.S. sanctions against Libya. Fourteen of the violations involved the failure of banks or credit unions to block funds transfers to Libyan-owned or -controlled banks. Two other penalties were received from corporations for export violations or violative payments to Libya for unlicensed trademark transactions. Eleven additional penalties were paid by U.S. citizens engaging in Libyan oilfield-related transactions while another 40 cases involving similar violations are in active penalty processing.

In November 1995, guilty verdicts were returned in two cases involving illegal exportation of U.S. goods to Libya. A jury in Denver, Colorado, found a Denver businessman guilty of violating the Regulations and IEEPA when he exported 50 trailers from the United States to Libya in 1991. A Houston, Texas, jury found three individuals and two companies guilty on charges of conspiracy and violating the Regulations and IEEPA for transactions relating to the 1992 shipment of oilfield equipment from the United States to Libya. Also in November, a Portland, Oregon, lumber company entered a two-count felony information plea agreement for two separate shipments of U.S.-origin lumber to Libya during 1993. These three actions were the result of lengthy criminal investigations begun in prior reporting periods. Several other investigations from prior reporting periods are continuing and new reports of violations are being pursued.

5. The expenses incurred by the Federal Government in the 6-month period from July 6, 1995, through January 5, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the Libyan national emergency are estimated at approximately $990,000. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

6. The policies and actions of the Government of Libya continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. In adopting UNSCR 883 in November 1993, the Security Council determined that the continued failure of the Government of Libya to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions of the Security Council in Resolutions 731 and 548, concerning the bombing of the Pan Am 103 and UTA 772 flights, constituted a threat to international peace and security. The United States will continue to coordinate its comprehensive sanctions enforcement efforts with those of other U.N. member states. We remain determined to ensure that the perpetrators of the terrorist acts against Pan Am 103 and UTA 772 are brought to justice. The families of the victims in the murderous Lockerbie bombing and other acts of Libyan terrorism deserve nothing less. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya fully and effectively, so long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 22, 1996*.

MESSAGES FROM THE HOUSE

At 3:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 39. Concurrent Resolution providing for the ''State of the Union'' address by the President of the United States.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1802. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of

D.C. Act 11–172 adopted by the Council on December 5, 1995; to the Committee on Governmental Affairs.

EC–1803. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–173 adopted by the Council on December 5, 1995; to the Committee on Governmental Affairs.

EC–1804. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–174 adopted by the Council on December 5, 1995; to the Committee on Governmental Affairs.

EC–1805. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–175 adopted by the Council on December 5, 1995; to the Committee on Governmental Affairs.

EC–1806. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–176 adopted by the Council on December 5, 1995; to the Committee on Governmental Affairs.

EC–1807. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–177 adopted by the Council on December 5, 1995; to the Committee on Governmental Affairs.

EC–1808. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–178 adopted by the Council on December 5, 1995; to the Committee on Governmental Affairs.

EC–1809. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–179 adopted by the Council on December 5, 1995; to the Committee on Governmental Affairs.

EC–1810. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report relative to foreign entities and the secondary Arab boycott of Israel; to the Committee on Armed Services.

EC–1811. A communication from the Architect of the Capitol, transmitting, pursuant to law, the report of expenditures for the period April 1, 1995 through September 30, 1995; to the Committee on Appropriations.

EC–1812. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–18; to the Committee on Appropriations.

EC–1813. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–1814. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–1815. A communication from the Clerk of the United States Court of Federal Claims, transmitting, pursuant to law, the report of the Court for fiscal year 1995; to the Committee on the Judiciary.

EC–1816. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the annual proceedings of the One Hundred and Fourth Continental Congress of the National Society of the Daughters of the American Revolution; to the Committee on Rules and Administration.

EC–1817. A communication from the Secretary of Defense, transmitting, pursuant to law, the semiannual report of the Office of the Inspector General for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–1818. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1819. A communication from the Chairman of the Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1820. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1821. A communication from the Acting Archivist of the United States, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1822. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1823. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1824. A communication from the Chairman of the Nuclear Waste Technical Review Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1825. A communication from the Chairman of the Occupational Safety and Health Review Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1826. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1827. A communication from the Chairman, Labor and Management members of the Railroad Retirement Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1828. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1829. A communication from the Director of the Woodrow Wilson Center, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1830. A communication from the Director of the Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1831. A communication from the Director of the Office of Personnel Management (The President's Pay Agent), transmitting, pursuant to law, the report relative to locality-based comparability payments for General Schedule employees for calendar year 1996; to the Committee on Governmental Affairs.

EC–1832. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1833. A communication from the Commissioner of the Susquehanna River Basin Commission, transmitting, a notice relative to the absence of formal internal controls and the Department of the Interior; to the Committee on Governmental Affairs.

EC–1834. A communication from the Commissioner of the Delaware River Basin Commission, transmitting, a notice relative to the absence of formal internal controls and the Department of the Interior; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. D'AMATO, from the Special Committee To Investigate Whitewater Development Corporation and Related Matters:

Special Report entitled ''Progress of the Investigation Into Whitewater Development Corporation and Related Matters and Recommendation for Future Finding'' (Rept. No. 104–204).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (for himself, Mr. GREGG, Mr. HELMS, Mr. SHELBY, and Mr. COVERDELL):

S. 1519. A bill to prohibit United States voluntary and assessed contributions to the United Nations if the United Nations imposes any tax or fee on United States persons or continues to develop or promote proposals for such taxes or fees; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 209. A resolution to provide for the approval of interim regulations applicable to the Senate and the employees of the Senate and adopted by the Board of the Office of Compliance before January 23, 1996, and for other purposes; considered and agreed to.

S. Con. Res. 39. A concurrent resolution providing for the ''State of the Union'' address by the President of the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. GREGG, Mr. HELMS, Mr. SHELBY, and Mr. COVERDELL):

S. 1519. A bill to prohibit United States voluntary and assessed contributions to the United Nations if the

United Nations imposes any tax or fee on United States persons or continues to develop or promote proposals for such taxes or fees; to the Committee on Foreign Relations.

THE PROHIBITION ON U.N. TAXATION ACT

Mr. DOLE. Mr. President, imagine a percentage of every international airline ticket, every letter mailed overseas, every international trade transaction, and every exchange of foreign currency being collected for the use of unelected unaccountable international bureaucrats. Billions of dollars available outside the control of any government. Is this the paranoid fantasy in a science fiction thriller? No, it is the real world plans of United Nations bureaucrats, led by the current U.N. Secretary General Boutros Boutros-Ghali to develop a network of global taxation to fund the United Nations outside the scrutiny of the United States or any other country.

For years, United Nations bureaucrats and their allies in special interest groups and academia have dreamed about funding the United Nations through global taxes and other revenue-raising schemes. Taxes on air travel, military expenditures, postage, energy sources, currency transactions could raise as much as $300 billion a year—subject only to the whims of the bloated U.N. bureaucrats. Tax collecting would allow the United Nations to do as it pleases, not as its member states wanted. As Boutros Boutros-Ghali said earlier this month, such revenue power would mean ''I will not be under the daily financial control of the member states.''

While there has been tepid opposition to the taxation plans of Boutros Boutros-Ghali from the Clinton administration, it is far from certain even strong U.S. opposition could halt these U.N. schemes—the United States has only 1 of 185 votes in the U.N. General Assembly. It is not certain that any revenue raising initiative would be subject to the U.S. veto in the U.N. Security Council.

It is true the United Nations is facing a serious shortfall of funds. And it is true the United States owes a large part of this debt—in excess of $1 billion. The Republican Congress has been unwilling to provide funds to clear up this debt because of the absence of often promised and never delivered reform. While Boutros Boutros-Ghali and his supporters consistently point to the multibillion shortfall, they ignore, cover up, and excuse outrageous abuses occurring regularly throughout the U.N. system.

Let me give you a few examples.

In 1994 and 1995, more than one-half million dollars was spent on the special committee on the situation with regard to the implementation on the granting of independence to colonial countries and territories. Long after decolonization was over, the United Nations was searching for ways to liberate such territories as American Samoa and the U.S. Virgin Islands—both of which have voting representatives in the U.S. Congress.

The World Health Organization [WHO] spends 75 percent of its $1 billion budget on staff, and much of the rest on conferences, travel and printing. Senior staff positions have increased more than 60 percent since the current director-general took office in 1988. When a U.N.-commissioned 50th anniversary history discussed corruption in the process of naming the current WHO chief, U.N. censors deleted the references.

In April, 1994, the U.N. office in Somalia lost $3.9 million kept in a cabinet with a poor lock. Despite repeated warnings, U.N. officials took no action to secure the funds. A month later, a U.N. military officer in Somalia lost $61,000 and another $76,000 was destroyed in a flood in the drought-plagued country.

The International Labor Organization [ILO] will spend $30 million in 1994–95 on conference organization and printing for special events.

Mr. President, these are but a handful of examples of waste, fraud and abuse at the United Nations. They waste real money every day. Seriously addressing the rampant corruption and inefficiency throughout the United Nations system is the way to resolve U.N. funding problems—not taxing American citizens.

As today's Washington Times editorial and article make clear, the U.N. tax idea is not an idle pursuit of some dreamers—it is a concept that U.N. employees spend time developing, promoting and publicizing. It is time for Congress to act. It is time to say no taxation without representation in the United Nations and it is time to shut down U.N. organizations which spend their time—and American taxpayers dollars—scheming to get into American wallets for even more money.

Today, with Senators GREGG, HELMS, and SHELBY, I am introducing S. 1519, ''The Prohibition of United Nations Taxation Act of 1996.'' The bill does three things. First, it lays out congressional findings on U.N. taxation and concludes the United Nations has no legal authority to tax American citizens. Second, it prohibits U.S. payments to the United Nations if it attempts to impose any of the taxation schemes. Third, the bill cuts off funds for any United Nations organization which develop or advocates taxation schemes. Companion legislation will be introduced in the House of Representatives today by Congressman GERALD SOLOMON and others. Congressman SOLOMON has a long record of involvement in United Nations reform issues, and I thank him for his leadership on this issue.

I know both Chairman HELMS at the Foreign Relations Committee and Chairman GREGG at the Appropriations Committee plan to hold Senate hearings on the taxation plans of the United Nations. I expect to discuss the possibility of hearings with Finance Committee Chairman ROTH as well. I commend Senator GREGG and Senator HELMS for their leadership on this issue as well as our other original cosponsor, Senator SHELBY.

The Clinton administration has begun to discuss the possibility of U.N. reform. Many of my colleagues have been involved in the effort to bring serious change to the United Nations. But as long as the United Nations spends its time on global taxation and not on its severe shortcomings, real reform will be impossible. And as long as Boutros Boutros-Ghali has visions of becoming the tax collector for the U.N. state, real reform will be impossible. The out-of-control pursuit of power by the United Nations has made the Prohibition on United Nations Taxation Act of 1996 necessary. I am confident it will be enacted this year.

I ask that the editorial from today's Washington Times and the letter to GAO sent by Senator HELMS, Senator GREGG, and myself be printed in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

I say to my colleagues that we certainly welcome additional cosponsors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prohibition on United Nations Taxation Act of 1996''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) in 1948, the average United States family with children paid only three percent of its income in Federal taxes;

(2) in 1996, the average United States family with children paid more than 24 percent of its income in Federal taxes;

(3) United Nations officials have made numerous and repeated proposals to provide financing for the United Nations outside the scrutiny of Member States of the United Nations, including borrowing from international financial institutions, assuming control of bonds issued by Member States, and imposing taxes on an extensive range of transactions, goods, and services;

(4) the 1994 ''Human Development Report'' of the United Nations Development Program stated that ''[i]t is appropriate that the proceeds of an international tax be devoted to international purposes and be placed at the disposal of international institutions.'';

(5) on January 14, 1996, United Nations General Secretary Boutros Boutros-Ghali stated that an international tax would mean that ''[he would] not be under the daily financial will of the Member States.'';

(6) American taxpayers have paid approximately $30,000,000,000 to the United Nations since 1945;

(7) the United Nations and its organizations are replete with mismanagement, waste, corruption, and inefficiency which cost American taxpayers millions of dollars each year;

(8) the power to tax is an attribute of sovereignty;

(9) the United Nations does not have the attributes of sovereignty and is not a sovereign power; and

(10) the United Nations has no legal authority to impose taxes on United States citizens.

SEC. 3. PROHIBITION OF IMPOSITION OF GLOBAL TAXATION OR MULTILATERAL BANK BORROWING.

The United States may not pay any voluntary or assessed contribution to the United Nations or any of its specialized or affiliated agencies if the United Nations—

(1) attempts to implement or impose any taxation or fee on any United States persons; or

(2) borrows funds from the International Bank for Reconstruction and Development (commonly referred to as the ''World Bank''), the International Monetary Fund, or any other similar or regional international financial institution.

SEC. 4. PROHIBITION ON CONTINUED DEVELOPMENT AND PROMOTION OF GLOBAL TAXATION PROPOSALS.

The United States may not pay any voluntary or assessed contribution to the United Nations or any of its specialized or affiliated agencies (including the United Nations Development Program) unless the President certifies in writing to the Congress 15 days in advance of such payment that the United Nations or such agency, as the case may be, is not engaged in any effort to develop, advocate, promote, or publicize any proposal concerning taxation or fees on United States persons in order to raise revenue for the United Nations or any such agency.

SEC. 5. STATUTORY CONSTRUCTION.

Payments prohibited under this Act include disbursements to the United Nations pursuant to any undertaking made by the United States before the prohibition becomes effective.

SEC. 6. DEFINITIONS.

As used in this Act:

(1) The term ''person'' has the meaning given such term in section 7701(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 7701(a)(1)).

(2) The term ''taxation or fees on United States persons'' includes any tax or fee assessed on United States persons on a per capita basis or on a transaction or user basis, including but not limited to any tax or fee on international air travel, foreign exchange transactions, the mails, or extraction or use of natural resources.

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington DC, January 17, 1996.

Hon. CHARLES BOWSHER,
U.S. Comptroller General, General Accounting Office, 441 ''G'' Street Northwest, Washington, DC.

DEAR MR. BOWSHER: In recent months, there has been increasing attention to various proposals which would allow the United Nations and its affiliated organizations to independently raise revenue by taxing American citizens. United Nations revenue-raising proposals under discussion include commercial and non-commercial borrowing, imposition of fees, issuance of bonds, and taxation of airline, postal, currency energy or other transactions.

We are deeply concerned about the legal, financial and policy implications of independent revenue-raising authority available to the United Nations or its affiliated organizations. Accordingly, we would appreciate your answering the following questions concerning various United Nations proposals:

What funding sources are available to United Nations organizations apart from contributions from Member states? What authority does the United Nations have for each of these sources?

How much revenue is raised by United Nations organizations through private contributions or through commercial sales of goods and services?

Which United Nations organizations currently have commercial or other borrowing authority? To what extent has borrowing occurred and under what legal authority?

What is the status of United Nations efforts to secure borrowing authority from the World Bank or other international financial institutions? Is there legal authority for such borrowing?

What is the status of the Secretary General's proposal concerning the issuance of bond or obligations made at the time of the 1995 G–7 meeting in Halifax, Nova Scotia?

What tax or fee proposals have been made by United Nations officials? By what officials and under what authority have these proposals been made? What action has been taken on these proposals (including the so-called ''Tobin tax'' on currency transactions endorsed by the United Nations Development Program)?

How much have United Nations organizations spent developing, publishing and advocating revenue-raising proposals?

What impact would each of these revenue-raising proposals have on U.S. obligations under any bilateral or multilateral agreements to which the U.S. is a party, including any trade agreements?

What role have American citizens employed by the United Nations played in advocating taxation and other revenue-raising proposals? Are there any circumstances under which United Nations revenue-raising proposals could be binding on United States citizens without an Act of Congress?

What is the process for approval of revenue-raising proposals by United Nations organizations, including the role of the Security Council and General Assembly? Are there any circumstances under which United Nations taxation proposals could be adopted over United States opposition?

What is the status under United States domestic law and relevant international law of each of the United Nations revenue-raising proposals?

What is United States government policy on each of the revenue-raising proposals, and how effectively has it been carried out?

The issue of United Nations plans to raise revenue outside the scrutiny of Member states will be the focus of serious attention by Congress in the coming weeks. We appreciate your expeditious response to our request.

Sincerely,

BOB DOLE.
JESSIE HELMS.
JUDD GREGG.

[From the Washington Times, Jan. 22, 1996]

HOW NOT TO FUND THE U.N.

What do D.C. Control Board Chairman Andrew Brimmer and U.N. Secretary-General Boutros Boutros-Ghali have in common? Well, beyond trying to reform overgrown and ineffective bureaucracies, they both apparently have commuter taxes on their minds. The same week Mr. Brimmer hauled out that deader than dead political rabbit out of his chairman's hat, Mr. Boutros-Ghali was mulling over the same subject in an interview with the British Broadcasting Corp. It must be something in the air.

As reported by The Washington Times' Cathy Toups, Mr. Boutros-Ghali suggested that a $1.50 surcharge on international airline tickets might help the United Nations solve its fiscal troubles. ''We would not be under the daily financial will of member states who are unwilling to pay up,'' Mr. Boutros-Ghali said, thinking no doubt of the United States which currently owes $1.2 billion in back dues. Mr. Boutros-Ghali also suggested a levy on currency transactions and has previously proposed borrowing money from the World Bank to cover the organization's shortfall. All of which understandably has set alarm bells ringing here in Washington.

In a letter to the editor printed nearby, U.N. spokesman Joe Sills, writes that no commuter tax is currently under consideration by the United Nations and that Mr. Boutros-Ghali only spoke as someone heading a large organization with difficulties making ends meet. Further, Mr. Sills writes, the United Nations cannot raise or spend money without the approval of its member nations, which means that the United States has the power to veto a U.N. commuter tax any day. Accordingly, there is no reason to get unduly exercised about Mr. Boutros-Ghali's statements.

But even if no such formal proposal has been brought to the floor of the General Assembly, Mr. Boutros-Ghali himself is obviously considering it. Nor is Mr. Boutros-Ghali just any old U.N. official. As secretary-general, he has a great deal to do with setting the organization's agenda. Just look at the area of peacekeeping; it has grown manifold under his leadership, for better and sometimes for worse. In the absence of firm international leadership from the United States, Mr. Boutros-Ghali's views have in fact carried unusual weight.

The problem with a U.N. commuter tax—indeed reason why it so appeals to the secretary-general—is precisely that it would give the U.N. bureaucracy a measure of independence from its member governments. Why such a scheme should never come to fruition is clear. Most importantly, only sovereign governments can levy taxes and the United Nations is not a government, no matter the aspirations of its leaders and minions. Secondarily, an independent source of revenue would alleviate the pressure on the organization to reform itself, which is currently being applied by the United States. In principle, member states may have the last word on how the money is spent, but so do they now, and the organization is still riddled with corruption and waste as recorded meticulously by its new inspector general.

Knowing all of this, Senate Majority leader Bob Dole, Senate Foreign Relations Committee Chairman Jesse Helms and Judd Gregg, chairman of the Senate appropriations subcommittee responsible for U.N. payments, have announced their intention to introduce legislation to prevent the Clinton administration from pursuing Mr. Boutros-Ghali's train of thought any further. All three have written to Charles Bowsher, U.N. comptroller general, to determine the status of proposals out there, such as U.N. commercial and non-commercial borrowing, imposition of various fees, issuance of bonds, and commuter and international transaction taxes. And Mr. Helms' committee is planning to hold hearings on the matter.

All of which seem like perfectly reasonable precautions. Mr. Sills reassures us that the United Nation's is only an instrument of the will of its member nations. That's fine, It should stay that way, which means that the governments of its member nations must continue to hold the purse strings.

Mr. HELMS. Mr. President, I can assure the distinguished majority leader that consideration of this will be rapid, and I think I can predict the outcome of the Foreign Relations Committee's action on it.

It is an interesting thing about Mr. Boutros Boutros-Ghali. Dot Helms and I had dinner with the Secretary General, and his wife some weeks back, and

he discussed with me a number of problems he was having with the United Nations, including financial problems. But he certainly did not mention anything about giving the U.N. authority to impose taxes upon the American people. I think that maybe the Secretary General has overspoken himself in asserting his belief that the United Nations should be allowed to collect taxes directly from American citizens.

I was astonished, Mr. President, when in an interview with the BBC, U.N. Secretary General Boutros Boutros-Ghali made the absurd suggestion that the United Nations should be allowed to collect taxes directly from American citizens—and citizens of other sovereign nations—to finance the operation of the United Nations. His stated reason for creating such a U.N. tax, Mr. Boutros-Ghali said, would be so that the U.N. ''would not be under the daily financial will of member states.''

In the first place, the gentleman obviously has scant knowledge of the Constitution of the United States. I have heard a lot of disturbing suggestions coming out of the United Nations over the years, but this one—with all respect to the Secretary General—is among the most unacceptable yet. The United Nations will never be able to tax the American citizens, certainly not as long as Senator DOLE is in the Senate or elsewhere in the Government, nor as long as I am here. And I am happy to join Senator DOLE in offering this legislation today, S. 1519, bearing the title of the Prohibition of United Nations Taxation Act, requiring the United States to cut off all funding to the United Nations if the United Nations does intend or attempt to impose such a scheme.

Despite what the U.N. Secretary General and the international bureaucrats may want to believe, the United Nations is not a sovereign entity. It is not a world government, and the Secretary General is not president of the world. No Secretary General in the future should entertain or even express such foolish notions. The United Nations is purely a consultative body, made up of sovereign nations, who did not check their sovereignty at the U.N. door when they sent representatives to the functions and deliberations of the United Nations.

Furthermore, the American people absolutely would not stand for any form of U.N. taxation; they are already paying more than 24 percent of their income to the U.S. Federal Government. They do not need nor will they accept paying another dime to fund a world government in New York led by a nonelected bureaucrat.

The Secretary General has several times advocated a standing U.N. military. His idle sugestion giving the United Nations the power of direct taxation is a matter that invites a worldwide rejection and distrust of the United Nations.

Mr. President, I again assure the majority leader that I will schedule hearings by the Senate Foreign Relations Committee for the purpose of investigating this matter, and to make clear that the United States must oppose any and all efforts to give the United Nations such unprecedented powers. And, Mr. President, if the Secretary General somehow succeeds securing either the powers of direct taxation, or a standing military, then the United States must withdraw immediately from the United Nations.

I yield the floor.

ADDITIONAL COSPONSORS

S. 607

At the request of Mr. WARNER, the names of the Senator from California [Mrs. BOXER] and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 837

At the request of Mr. WARNER, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. LEAHY], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 837, a bill to require the Secreatry of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 881

At the request of Mr. PRYOR, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 1146

At the request of Mr. LEAHY, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 1146, a bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of draft cider.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the Act, and for other purposes.

S. 1392

At the request of Mr. BAUCUS, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1392, a bill to impose temporarily a 25 percent duty on imports of certain Canadian wood and lumber products, to require the administering authority to initiate an investigation under title VII of the Tariff Act of 1930 with respect to such products, and for other purposes.

SENATE CONCURRENT RESOLUTION 39—PROVIDING FOR THE STATE OF THE UNION ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. DOLE submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 39

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, January 23, 1996, at 9 p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

SENATE RESOLUTION 209—TO PROVIDE FOR THE APPROVAL OF INTERIM REGULATIONS

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 209

Resolved,

SECTION 1. APPROVAL OF INTERIM REGULATIONS.

(a) IN GENERAL.—The interim regulations applicable to the Senate and the employees of the Senate that were adopted by the Board of the Office of Compliance before January 23, 1996, are hereby approved until such time as final regulations applicable to the Senate and the employees of the Senate are approved in accordance with section 304(c) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(c)).

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to affect the authority of the Senate under such section 304(c).

NOTICES OF HEARINGS

SUBCOMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. STEVENS. Mr. President, I would like to announce that the Senate Subcommittee on Post Office and Civil Service, of the Committee on Governmental Affairs, and the House Subcommittee on Postal Service, Committee on Government Reform and Oversight, will hold a hearing on January 25, 1996, on USPS Reform—The International Experience.

The hearing is scheduled for 9:30 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Pat Raymond, Senate Staff Director, at 224–2254, or Dan Blair, House Staff Director, at 225–3741.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management to receive testimony on the oversight of the management of the national forests.

The hearing will take place Thursday, January 25, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC. 20510. For further information, please call Mark Rey at (202) 224–6170.

ADDITIONAL STATEMENTS

THE JONES ACT SHOULD NOT BE REPEALED

• Mrs. MURRAY. Mr. President, there are proposals afoot—generated by foreign-flag shipping interests and foreign corporations—to repeal the Jones Act. This 1920 Act, named for Senator Wesley Jones of my State, mandates the use of U.S.-built, U.S.-crewed, U.S.-flagged vessels for voyages between two U.S. ports and on our Nation's inland waterways. Similar laws have been on the books since the 1790's, and nearly 50 nations have similar requirements for shipping in their own domestic commerce.

This law should not be repealed.

Mr. President, the domestic waterborne trades of the United States contribute more than $15 billion to the American economy, including more than $4 billion in direct wages to U.S. citizens. The economic impact of that income is multiplied by the thousands of additional jobs in cabotage-related businesses, the Jones Act employers and employees pay $1.4 billion in State and Federal taxes.

The Jones Act is critical to the State of Washington and other coastal and inland waterways' States, and indirectly, it generates American jobs, tax revenues, and economic activity, in all 50 States.

Unlike our international waterborne trades which are also the shipping lanes of our trading partners, the Jones Act trades are strictly a family trade—the commodities and the vessels move exclusively between American ports. So our trading partners have no reciprocal economic interest at stake in these trades. Indeed, our trading partners understandably have no interest in furthering the national interest objectives which the Jones Act is intended to enhance—jobs for Americans and a fourth arm of defense in times of national emergency.

It seems to me that it makes no more sense to invite foreign shipping interests into our domestic trades, than it does to invite a stranger to intervene in a family matter. In either case, there is no necessity for doing so, and the results can be disastrous.

Nevertheless, Mr. President, that is precisely what those who advocate repeal of the Jones Act would do, have outsiders intrude in the family's business.

The needless risk of permitting this was recently detailed by Stanley H. Barer in his remarks before the American Association of Port Authorities.

Mr. Barer is cochairman and CEO of Totem Resources Corp., a Jones Act operator which is headquartered in Seattle, WA, and which runs high-speed, roll-on, roll-off liner vessels between the lower 48 contiguous States and Alaska. At one time, he was also the Merchant Marine Counsel to the Senate Committee on Commerce, Science, and Transportation. So his considerable knowledge and expertise have been acquired in the real world of ocean shipping and regulation. What Mr. Barer had to say to the AAPA is, in my view, very instructive and illuminating because it offers a realistic view of the worth and importance of the Jones Act to our economy and national security.

Mr. President, I ask that Mr. Barer's remarks be inserted in the RECORD.

REMARKS OF STANLEY H. BARER

Thank you very much. It is a pleasure to be here at this convention. I hope I can set the record straight for you about the U.S. merchant marine and, in particular, the Jones Act.

The Jones Act requires that America's domestic waterborne trade must be reserved for carriers owned by Americans, aboard vessels that fly the U.S. flag and were built in this country, and that are crewed by American citizens. Reserving U.S. water transport for American companies and crews is what our cabotage system is all about. And it's a pretty easy idea to understand.

With its extraordinary land mass and diversity, the United States is in substantial part bound together as one nation because of our ability to travel from place to place, thus assuring that all parts and all people of our nation have access to the goods and services that give us the highest standard of living in the world. We would be quite foolish, with a nation of our size, diversity and transportation requirements, to turn our domestic transportation over to the mercy of foreign carriers. Let us never forget that when you talk about the Jones Act, you are talking about transportation services that take place within the United States involving only the movement of goods or people from one part of the country to another.

This national policy of self-sufficiency in domestic transportation is also reflected in rail, trucking and aviation. It has been a consistent policy of our nation and nearly every other advanced nation on the face of this earth. And, when you think about it, it is not unusual to have such a transportation policy. Under our immigration laws, work in virtually every industry of our country is reserved for our own citizens. It is the rule, not the exception, that nations reserve the job opportunities inside their own borders to their own citizens, so long as their own citizens have the capacity to do the work.

Thanks to this policy, today the U.S. has a Jones Act fleet of over 44,000 vessels, which provides direct employment for 124,000 American workers. And those workers earn more than $3.3 billion in wages a year.

Opponents of the Jones Act point out that U.S. labor costs on our ships, tugboats, barges and shipyards run two to three times the so-called "world labor rate." This is true. Of course, you could make the same statement about virtually any industry in this country. And, in fact, the merchant seafarers of Sweden, Denmark, Norway, Holland and Japan all earn higher net wages than their American counterparts. Jones Act opponents say that, by bringing foreign ships and foreign crews into our coastal and intercoastal trades we can lower wage operating costs by up to 50 percent.

Let's look at those world wage rates. Under the International Transport Federation standard, the average wage for the captain of a tanker or large container ship is $12 an hour, and the other officers are just slightly above the U.S. minimum wage of $5.25 an hour. The entire rest of a ship's crew under the ITF guidelines would be paid less than the U.S. minimum wage. And the ITF requires no payments for health, pension or other benefits. Ultimately, I believe, the issue is not whether Jones Act maritime workers carrying our domestic cargo make more than the "world standard," the real issue is whether those workers are being paid a fair American wage, with respect to the other transportation modes.

Each of our domestic transportation modes—water, rail, trucking and air cargo—employs Americans at American wage levels and none of them faces domestic competition from foreigners. For example, a tanker captain earns about $80,000 a year, which is $30,000 less than a pilot flying a domestic cargo plane. A tugboat captain might earn $50,000, about the same as a railroad engineer. A deck hand on a Jones Act ship makes about the same pay as a domestic flight attendant, about 25,000 to 30,000 a year. Compare that to a long-distance, line-haul truck driver, who might make as much as $75,000 a year.

And it is also important to keep in mind the hours worked by our merchant mariners. While the air cargo pilot averages 83 hours in flight time, or about 20 hours a week, a tanker or tugboat captain works at least 12 hours a day and is on duty 24 hours a day on the vessel. This goes on seven days a week, sometimes for weeks and sometimes for months. Our captains on our big roll-on, roll-off liner vessels to Alaska are on their vessels 24 hours a day, seven days a week for months at a time. They are away from their families, and their work is dangerous.

Now, Jones Act opponents are arguing for getting rid of our domestic maritime workers and bringing in foreign ships with foreign crews. Let's think about what would happen if that came true.

I assume that the truckers who compete directly against water carriers would come storming to Congress and say: "You have upset the competitive balance between water, rail, truck and air cargo. We can't compete against the water carriers with our high-priced U.S. truck drivers." Truckers will say, to keep the balance fair we need to bring in foreign, below-minimum-wage truck drivers. And they would have a good argument—what would Congress say? And if you let the water carriers and truckers use foreign labor, the railroads and then the air cargo carriers are going to demand the same ability.

At this point, we have thrown hundreds of thousands of Americans out of work. What would happen next? I have an idea.

Companies outside domestic transportation, companies that compete on a daily basis in the global economy, will demand the right to fire Americans and bring in low-cost, below-U.S.-minimum-wage foreign workers. After all, if we are going to do this for domestic transportation, which is currently immune from foreign competition,

why shouldn't we do this for those American companies who face foreign competition for their products and services every day in the marketplace?

I want to point out a few more things about what Jones Act opponents are proposing.

Their draft legislation assumes that the foreign workers brought into our maritime coastal trades will pay no federal or state income taxes, nor will the owners of those vessels under foreign flag pay any U.S. taxes. And that would be the case.

As I read the proposal, these companies under foreign flag and their crew members are not only exempt from U.S. taxes and U.S. minimum wage laws, but also the National Labor Relations Act, federal hours-of-service regulations, child labor laws, Coast Guard safety regulations, the U.S. civil rights laws, our national laws relating to health insurance, pensions and other benefits, and all other state and federal legal requirements.

Jones Act opponents say these foreign vessels and crew members should meet ''international standards.'' Does that mean that the navigation and safety crew members must be able to speak English, so they can communicate with environmental and rescue workers, or Coast Guard authorities? I guess not.

And nothing in the proposal talks about how our nation would deal with all those Americans left unemployed by the repeal of the Jones Act, or how we would compensate American vessel owners whose investment in modern, U.S.-built ships would be destroyed.

Let me tell you a little about my own situation. I am management. I am an owner. I risked capital to be in this business. I have negotiated with labor unions. My company has more than 2,000 employees whose fathers and grandfathers and uncles have all worked for our tug and barge company over the 106 years it has been in business.

We don't want to fire these people. Who wants us to do this? Is this what America is about?

If we can do this in the transportation sector, I guess we can do it anywhere—manufacturing, communications, health care, education, and I guess we could even fire all of our government workers and bring in low-cost people to work in government and man our armed forces. I submit this is not a sound idea.

I was very curious as to who was financing these people who are calling for repeal of the Jones Act, and who was supporting them. I was pleased that not one of our customers in Alaska or the West Coast was among their supporters. But I did find that over 90 percent of those supporting him were trade associations representing wheat or grain producers. I would just like to note that, while Jones Act carriers receive not a dollar in federal subsidies or handouts, $5.5 billion in federal subsidies goes to wheat and feed-grain farmers each year. I am not here to argue against the farm program but I think it should be recognized that the people who want to get rid of U.S. citizens in domestic transport are the same people who are taking $5.5 billion dollars a year for their own industry from the taxpayers, but they are not advocating that foreign grain companies and foreign grain workers come in and take over their jobs and companies in the United States. All these farm executives and their corporate staffs and trade organizations and employees make good wages. I think that's fine—I am not against that. I am not even against the farm program. But I do have a problem with that industry trying to destroy my industry without first getting their own financial house in order.

So, please, in considering these public policy issues, think about those you represent—the taxpaying American citizens. If you do that, I think you will have no trouble telling the Jones Act Reform Committee that they should go out of business rather that telling my industry that we should go out of business.●

SPARE US THE CHEAP GRACE

● Mr. SIMON. Mr. President, one of the people who has been most effective in prodding our conscience is Jonathan Kozol, author of several books, including an important one on literacy, another on the sad plight of our schools, and more recently, ''Amazing Grace: The Lives of Children and the Conscience of a Nation.''

Unfortunately, as we balance the budget—which we should have done long ago—we are horribly distorting the priorities this Nation should have. The use of the word ''horribly'' may seem out of place, but for many of the poor, our budget will result in horrors.

To say we want to balance the budget, then start with a $245 billion tax cut is like adopting a New Year's resolution to diet, then having a huge dessert.

Compounding that is the fact that the tax cut is largely for those of us who are more fortunate, while those who will suffer will be the neediest in our society.

Time magazine recently had an essay by Jonathan Kozol titled ''Spare Us the Cheap Grace,'' which I ask to be printed in the RECORD after my remarks.

Among other things, Jonathan Kozol says, ''What does it mean when those whom we elect to public office cut back elemental services of life protection for poor children and then show up at the victim's funeral to pay condolence to the relatives and friends? At what point do those of us who have the power to prevent these deaths forfeit the entitlement of mourners?'' The piece follows:

[From Time magazine, Dec. 11, 1995]

SPARE US THE CHEAP GRACE

(By Jonathan Kozol)

It is hard to say what was more shocking about the death of Elisa Izquierdo—the endless savagery inflicted on her body and mind, or the stubborn inaction of the New York City agencies that were repeatedly informed of her peril. But while the murder of Elisa by her mother is appalling, it is hardly unexpected. In the death zones of America's postmodern ghetto, stripped of jobs and human services and sanitation, plagued by AIDS, tuberculosis, pediatric asthma and endemic clinical depression, largely abandoned by American physicians and devoid of the psychiatric services familiar in most middle-class communities, deaths like these are part of a predictable scenario.

After the headlines of recrimination and pretended shock wear off, we go back to our ordinary lives. Before long, we forget the victims' names. They weren't our children or the children of our neighbors. We do not need to mourn them for too long. But do we have the right to mourn at all? What does it mean when those whom we elect to public office cut back elemental services of life protection for poor children and then show up at the victim's funeral to pay condolence to the relatives and friends? At what point do those of us who have the power to prevent these deaths forfeit the entitlement of mourners?

It is not as if we do not know what might have saved some of these children's lives. We know that intervention programs work when well-trained social workers have a lot of time to dedicate to each and every child. We know that crisis hot lines work best when half of their employees do not burn out and quit each year, and that social workers do a better job when records are computerized instead of being piled up, lost and forgotten on the floor of a back room. We know that when a drug-addicted mother asks for help, as many mothers do, it is essential to provide the help she needs without delay, not after a waiting period of six months to a year, as is common in poor urban neighborhoods.

All these remedies are expensive, and we would demand them if our own children's lives were at stake. And yet we don't demand them for poor children. We wring our hands about the tabloid stories. We castigate the mother. We condemn the social worker. We churn out the familiar criticisms of ''bureaucracy'' but do not volunteer to use our cleverness to change it. Then the next time an election comes, we vote against the taxes that might make prevention programs possible, while favoring increased expenditures for prisons to incarcerate the children who survive the worst that we have done to them and grow up to be dangerous adults.

What makes this moral contradiction possible?

Can it be, despite our frequent protestations to the contrary, that our society does not particularly value the essential human worth of certain groups of children? Virtually all the victims we are speaking of are very poor black and Hispanic children. We have been told that our economy no longer has much need for people of their caste and color. Best-selling authors have, in recent years, assured us of their limited intelligence and low degree of ''civilizational development.'' As a woman in Arizona said in regard to immigrant kids from Mexico, ''I didn't breed them. I don't want to feed them''—a sentiment also heard in reference to black children on talk-radio stations in New York and other cities. ''Put them over there,'' a black teenager told me once, speaking of the way he felt that he and other blacks were viewed by our society. ''Pack them tight. Don't think about them. Keep your hands clean. Maybe they'll kill each other off.''

I do not know how many people in our nation would confess such contemplations, which offend the elemental mandates of our cultural beliefs and our religions. No matter how severely some among us may condemn the parents of the poor, it has been an axiom of faith in the U.S. that once a child is born, all condemnations are to be set aside. If we now have chosen to betray this faith, what consequences will this have for our collective spirit, for our soul as a society?

There is an agreeable illusion, evidenced in much of the commentary about Elisa, that those of us who witness the abuse of innocence—so long as we are standing at a certain distance—need not feel complicit in these tragedies. But this is the kind of ethical exemption that Dietrich Bonhoeffer called ''cheap grace.'' Knowledge carries with it certain theological imperatives. The more we know, the harder it becomes to grant ourselves exemption. ''Evil exists,'' a student in the South Bronx told me in the course of a long conversation about ethics and religion in the fall of 1993. ''Somebody has power. Pretending that they don't so they don't need to use it to help people—that is my idea of evil.''

Like most Americans, I do not tend to think of a society that has been good to me and to my parents as ''evil.'' But when he said that ''somebody has power,'' it was difficult to disagree. It is possible that icy equanimity and self-pacifying form of moral abdication by the powerful will take more lives in the long run than any single drug-addicted and disordered parent. Elisa Izquierdo's mother killed only one child. The seemingly anesthetized behavior of the U.S. Congress may kill thousands. Now we are told we must ''get tougher'' with the poor. How much tougher can we get with children who already have so little? How cold is America prepared to be?●

LIFE OF BARBARA JORDAN

● Mrs. BOXER. Mr. President, as the Nation mourns the loss of Barbara Jordan, I would like to take a few moments to celebrate her life.

Barbara Jordan became active in politics around the same time as I did. John Kennedy was running for President and the winds of change were sweeping across a nation and inspiring a young generation of new leaders.

It was different world for women then, one where the doors weren't nearly so open as they are today. And make no mistake about it—the doors are open wider today for women and for minorities because of the path cleared by Barbara Jordan.

Her start in politics was quite humble. She was a self described ''stamper and addresser''—meaning literally that she volunteered on President Kennedy's campaign licking stamps, addressing envelopes, and putting them in the mail. So many women started this way—behind the scenes doing the mundane but essential labor of grassroots politics.

But Barbara Jordan was not underestimated for long. Her most enduring talents—the power of her voice and the strength of her words—were quickly discovered and no one tells that story better than she did herself:

I had a law degree but no practice, so I went down to Harris County Democratic Headquarters [in Texas] and asked them what I could do. They put me to work licking stamps and addressing envelopes. One night we went out to a church to enlist voters and the woman who was supposed to speak didn't show up. I volunteered to speak in her place and right after that they took me off licking and addressing.

They would have been foolish not to.

If Barbara Jordan is remembered for just one thing, it will be the power of her words. Her message united people from vastly different walks of life, bringing them together to stand as one and nod their heads in unison and say, ''Yes, each one of us can make a difference, and together we can make this nation stronger.''

Where her words traveled, legions followed. And our Nation did change for the better as we began to offer opportunity to all our citizens.

Barbara Jordan broke all kinds of barriers throughout her life. If she were an athlete, she would have been a world-class hurdler because she spent her whole life leaping over barriers with grace and dexterity. She broke records.

In Texas in 1966 she became the first Africa-American State senator. She entered that body with outright denunciations from some of her male colleagues, but when she left for Washington, DC, those same men endorsed a resolution commending her.

In 1972, Barbara Jordan and Andrew Young, of Georgia, became the first black southerners in Congress since Reconstruction.

In the U.S. House of Representatives, she quickly rose to prominence as a members of the House Judiciary Committee during Watergate. During the crisis, Barbara Jordan became one of our Constitution's greatest champions.

''My faith in the Constitution is whole,'' she told her colleagues and the American people. ''It is complete. It is total. I am not going to sit here and be an idle spectator to the diminution, the subversion, the destruction of the Constitution.''

Whether it be freedom of speech, freedom of choice or equal opportunity, we in this Congress are also facing fundamental questions about the integrity of our Constitution. It is my hope that our faith in that sacred document is as whole and as complete as Barbara Jordan's.

After she left Congress, Barbara Jordan continued to give this Nation a lifetime of service—teaching young people in preparation for careers in public service. Her chairmanship of the independent U.S. Commission on Immigration Reform, which is referred to as the Jordan Commission, took on the very difficult issue of fair immigration policy.

And just as young Barbara Jordan listened to the words of JFK and was ''bit by the bug'' of politics, so did she go on to inspire another generation of young leaders when she took the podium at the 1992 Democratic Convention. Speaking with an authority and voice that could only be Barbara Jordan's, she issued a new challenge to each and every one of us to reexamine our relationships with each other and what we stand together for as a nation. Above all else, she encouraged us to put our principles into action where help was needed most—in the hearts of our great cities.

She said, ''We need to change the decaying inner cities to places where hope lives. Can we all get along? I say we answer that question with a resounding 'yes'.''

Throughout her life Barbara Jordan was a voice for common ground, for the ties that bind. Hers were powerful, healing, uplifting words that challenged and inspired women and minorities, indeed all Americans, to reach for something higher and to believe in themselves and their own ability to change the world and make it a better place.

Her life was a testament to that idea.

A nation mourns a great loss, but it is my hope that the spirit of Barbara Jordan will live on forever in the many Americans who have been touched deeply by her powerful words and exemplary life. I certainly have been.●

ANNIVERSARY OF ROE VERSUS WADE

● Mrs. MURRAY. Mr. President, today marks the 23d anniversary of the monumental Supreme Court decision, Roe versus Wade, which legalized abortion nationwide and affirmed the right of all American women to choose safe, legal abortion services. I join Americans across the country in commemorating this important day in our history.

Yet this is a bittersweet celebration. We are still fighting to safeguard our rights, and battles are being waged on many fronts. Each year, antichoice forces in Congress use the appropriations process to erode women's abortion rights every chance they get. In 1995, they were successful in denying Federal workers abortion coverage in their health benefit packages. They will try again this year for more victories.

On this special anniversary, we must remember those who have suffered and lost their lives because of their commitment to protecting the health of women in our country. Increasingly, the radical minority in the anti-abortion crusade has turned to violence to pursue their agenda, with blatant disregard for who is caught in their crossfire. Over the last several years, I, like so many Americans, have been greatly disturbed by images of clinics under siege by vandals and arsonists, and horrified by reports of doctors murdered because they perform abortions—a legal procedure. We cannot let our reproductive rights be taken away because of a threat of violence, nor can we allow the actions of radical fanatics to dictate our Nation's public policy decisions. Just as our clinics are under attack, so too are our personal freedoms.

Emboldened by their momentum, Mr. President, antiabortion forces in both Houses of Congress passed H.R. 1833, the so-called Partial Birth Abortion Ban Act of 1995. By their own admission, this is the first step in the antichoice movement's strategy to deny women their right to choose — one procedure at a time. This legislation is an affront to the women of this country, and an unprecedented intrusion into the autonomy of medical professionals to determine the best methods of care for their patients. I am reminded today of the frustration I felt during debate of this bill, of the misinformation and divisive rhetoric infused in the conversation.

The antichoice majorities in Congress may have forgotten that most Americans feel abortion should be legal. They may also have forgotten about the days of back-alley abortions and women dying of infection from unsanitary procedures. Well, I haven't

forgotten and I will do whatever I can to ensure the days of the back-alley abortion, a virtual death sentence for women, remain a tragic thing of the past. Let today remind us that, for now at least, the law is on our side.

I urge President Clinton to join us today in commemorating this landmark anniversary. And I respectfully request that he deliver on his promise to veto H.R. 1833. The women of this country are counting on him to do what is right. I know he will not let us down.●

CHINA'S CHALLENGE TO WASHINGTON

● Mr. SIMON. Mr. President, the New York Times had an excellent editorial titled ''China's Challenge to Washington.''

There is a reluctance to be forceful with China on the issue of human rights.

When I say ''forceful,'' I do not mean the use of force, but the willingness to stand forthright for what this country should stand for.

We turn a cold shoulder to our friends in Taiwan, where they have a multiparty system, and seem to quake every time China is unhappy with something someone says or does.

As the editorial suggests, we should ''respond far more sharply to Wei Jingsheng's sentence.''

I am pleased to back this administration when they are right, as in Bosnia, but I also believe that we should be much stronger in setting forth our beliefs as far as the abuses in China. I ask that the editorial from the New York Times be printed in the RECORD after my remarks.

Along the same line, Stefan Halper, host of NETE television's ''Worldwise'' and a former White House and State Department official, recently had an op-ed piece in the Washington Times titled ''Taiwan's Unheralded Political Evolution,'' which I ask to be printed in the RECORD following my remarks and after the New York Times editorial.

The reality is democracy has grown and is thriving in Taiwan, and we should recognize that in our policies.

The material follows:

CHINA'S CHALLENGE TO WASHINGTON

If the United States intends to develop a relationship of mutual respect with China, it must defend its interests as vigorously as Beijing does. Now is the time, for China has shown a dangerous new bellicosity in matters from human rights to military threats.

Last week Beijing again showed its contempt for the rights of Chinese citizens by convicting Wei Jingsheng of sedition and sentencing him to 14 years in prison. The activities the court cited included organizing art exhibitions to benefit democracy and writing articles that advocated Tibet's independence. This heavy-handed muzzling of the country's leading dissenter is a measure of the Chinese belief that America and other Western countries will not make them pay a diplomatic or economic price for the abuse of human rights.

Chinese behavior has been equally provocative in other fields. In recent months Beijing has bullied the Philippines over contested islands in the South China Sea, twice conducted missile tests in the waters off Taiwan, resumed irresponsible weapons transfers and imposed its own choice as the reincarnated Panchen Lama, the second most important religious figure in Tibet. Meanwhile, as The Times's Patrick Tyler reports, influential military commanders have begun pushing for military action against Taiwan and turned to confrontational rhetoric against the United States.

Washington has minimized these provocations, setting them in the larger perspective of China's encouraging economic reforms and Washington's hopes for political liberalization. That was the same logic that led the Administration, early last year, to abandon its efforts to link trade privileges for China to Beijing's record on human rights, arguing that anything that helped China's booming economy would ultimately advance political freedom as well.

It is working out that way. The 19 months since that policy change have been marked by a serious deterioration in China's responsiveness on human rights and other issues. Discouragingly, this seems to be happening not simply because a new generation of leaders is maneuvering to succeed the failing Deng Xiaoping. Nationalist military officers are steadily gaining political influence, and the two top civilian leaders, President Jiang Zimen and Prime Minister Li Peng, seem committed advocates of political repression. That suggests the newly belligerent policies may not be just a transitional phase, or a sign or insecurity in the leadership group, as some China scholars in the West have said.

The Clinton Administration, having done all it reasonably could to smooth relations, including an October meeting between Presidents Clinton and Jiang, now needs to recognize that a less indulgent policy is required to encourage more responsible behavior by China. The first step is to respond far more sharply to Wei Jingsheng's sentence, beginning with a concerted diplomatic drive to condemn China before the United Nations Human Rights Commission next March. U.N. condemnation would be an international embarrassment for China, one it desperately wants to avoid.

Another step is to oppose non-humanitarian World Bank loans to China, as already provided for under United States law. Some Administration officials also want to consider human rights issues in judging China's application to join the new World Trade Organization, even though that is likely to bring objections from other W.T.O. members.

The Administration still refuses to reconsider the simpler, more obvious step of restoring a link between trade and human rights. In this critically important diplomatic game, the United States may no longer be able to deny itself the leverage that link could bring.

[From the Washington Times, Dec. 13, 1995]

TAIWAN'S UNHERALDED POLITICAL EVOLUTION

(By Stefan Halper)

In an era that believes America's future lies in Asia, what is the Asian democratic model? Singapore and Malaysia are single party states refreshed a bit by economic freedom. Hong Kong, still a colony, has lately been given a measure of self-government—which Americans of 1770 would have scorned—only to be swallowed whole by the not-so-democratic People's Republic of China in little more than 18 months. South Korea? It's dominated by a government party whose last president is now up on charges of stealing $600 million—give or take a couple of hundred million.

Japan, for 38 years, has been run by a corrupt single party (the LDP) only to cede power to a collection of reformers who themselves squandered the chance for real change. Today the LDP is back in a cynical misalliance with its nemesis, the socialists, whom it hopes to shortly expel.

When does that leave us? With the Burmese, or the Indonesian generals, or perhaps Thailand, where politicians are so corrupt they stay out of jail?

Reading the Mainland press, Taiwan's recent peaceful, multiparty elections never happened. No mention—the dog that didn't bark. A decade ago, the phrase ''Taiwanese democracy'' would have been rightly dismissed as an oxymoron, though compared to Mao's mainland, the island republic was widely seen as an economic miracle.

Ironically, it is this economic strength today—$100 billion in hard currency reserves and America's ninth-largest trading partner—that has obscured Taiwan's political evolution. The late Generalissimo Chiang Kai-shek's Kuomingtang single-party rule, was replaced by his son and successor Chiang Ching-kuo, who created a supportive environment for democratic pluralism before he died in 1988. Martial law was lifted, opposition parties were legalized, press restrictions were eliminated and it was agreed that Chiang's successor would not be a member of the family or even a transplanted mainlander. Instead President Lee Teng-hui is a native Taiwanese so far determined to further reform by supporting younger, Taiwan-born politicians as leaders of the KMT.

In the last eight years, three legislative elections have been held, each time with slowly shrinking KMT majorities. The old National Assembly dominated by KMT geriatrics has been mercifully stripped of its powers. Direct presidential elections will be held for the first time in Chinese history next March.

Literally nowhere in Asia, except Taiwan, has a ruling party allowed itself to be eclipsed. Nowhere has the attack on political corruption been so singleminded as it is in Taiwan. Vote fraud, unlike Thailand and Korea, has been almost eliminated. Vote buying in the recent Dec. 2 poll has been reduced to rural areas and to a level that would boggle the minds of most Japanese and Thai voters.

At present, the KMT holds a six-seat majority in the legislature. Sessions will continue to be raucous, often undignified—not unlike the 19th century U.S. Congress or for that matter Congress today, recall the Moran-Hunter fight a few weeks ago—but so what? The opposition has strengthened as the exhausted Nationalists confront the reality of an increasingly pluralist Taiwan.

Though Democratic politics is often a matter of shades of ugly, the alternatives in Asia—both left and right—are vastly less attractive. Why the, despite Taiwan's effort, has it's progress been ignored? Are American interests served by recognizing and nurturing democratic growth—or has some blend of security and mercantile priorities cast our lot with the Mainland? The Clinton administration, still struggling with this Wilson-Rossevelt policy cleavage, has said nothing on the subject, even while embarrassing itself before and after Lee Teng-hui's summer address at Cornell, his alma mater.

Yet in the hall of mirrors that passes for Taiwan's politics, the Nationalist Party-KMT reflects its belief in ''One China'' while the opposition New Party, with 13.5 percent of the vote, is even more forceful on the subject. And as for the Democratic Progressive Party (DPP), it is split on the issue with the majority having muted the call for independence. Maybe the mean Chinese uncle in

Beijing, implacably opposed to the island-nation's existence, succeeded with this muscular diplomacy—missile tests, mock landings and war games. After all, the stock market dipped and successionist politicians had limited resonance during the election.

So why are the mandarins in Beijing worried? Perhaps it is because on the heels of Hong Kong's democratic election that saw the defeat of pro-Mainland candidates, Taiwan has emerged as the Asian democratic model; and the first successful, full-blown democracy in five millennia of Chinese history, underscores the difficulty of reunion with China. Or perhaps the mandarins in the Forbidden City realize that their options have narrowed; that the use of force against Taiwan would be a disaster for U.S.-China relations and U.S. credibility and, most of all, would tear the web of Asian security and economic relationships that have sustained China's and the region's growth. We shall see.●

SOUTHERN UNIVERSITY NATIONAL FOOTBALL CHAMPIONSHIP

● Mr. BREAUX. Mr. President, I would like to take this opportunity to congratulate Southern University of Baton Rouge, LA, for winning this year's historically black college national football championship. With their victory in the Heritage Bowl on December 29, 1995, the Jaguars of Southern University won their sixth national football title and their first since 1960.

The Jaguars, who finished the season with an 11–0 record, captured the national title in a 30 to 25 victory over Florida A&M in the Georgia Dome in Atlanta.

I would like to especially congratulate Coach Pete Richardson, his staff, and an outstanding group of players for all the hard work and effort they put into making this a championship season. Your undefeated record and national title are bright examples of the rewards of teamwork and determination. Thank you for bringing another national championship to Baton Rouge and for making Louisiana proud.●

THE STATE OF PUERTO RICO

● Mr. SIMON. Mr. President, Senator Charles A. Rodriguez, the majority leader of the Puerto Rico Senate, recently had an op ed piece in the Washington Post that speaks with candor about our fellow Americans from Puerto Rico. We should be paying attention to his words, which I ask to be printed in the RECORD.

The reality is that commonwealth status—supported strongly by powerful American corporations who benefit from it financially—is simply another form of old-fashioned colonialism.

Puerto Ricans should have the rights that Americans have in our 50 States.

Eventually, Puerto Rico will either go independent or become a State. From the viewpoint of our 50 States and from the viewpoint of the people of Puerto Rico, statehood makes much more sense.

But that is a decision they have to make.

The special financial breaks that certain corporations get should not be a barrier to an improved life for the citizens of Puerto Rico, and that is the reality today.

The op-ed follows:

[From the Washington Post]

THE STATE OF PUERTO RICO

(By Charles A. Rodriguez)

Two years ago, when Puerto Rico voted to remain a U.S. commonwealth—again rejecting statehood—many thought the issue was settled for years to come. In fact, the plebiscite raised more questions than it resolved.

The vote exposed the undue influence of discredited economic arrangements on the island's political process and the myth of commonwealth autonomy, both cornerstones of our second-class U.S. citizenship. Today proponents of the status quo are on the defensive in both Puerto Rico and in Washington.

The plebiscite was held as the Clinton administration sought repeal of Section 936 of the federal tax code, which exempts U.S. companies' Puerto Rican operations from federal taxation—a subsidy that has cost the Treasury nearly $70 billion since 1973.

Faced with immediate loss of their lucrative tax break or eventual termination if islanders voted for statehood, companies spent millions of dollars fending off Congress while cajoling workers to vote against statehood or else face job losses and plant relocations.

Meanwhile, status quo proponents campaigned for ''enhanced commonwealth,'' replete with promises of expanded political autonomy and parity with the 50 states in the financing of federal programs—all this while preserving the immunity of Puerto Rico's 3.7 million U.S. citizens from federal taxation.

Despite the cacophony of economic demagoguery and ''something for nothing'' hyperbole, commonwealth failed for the first time in 40 years to get an outright majority. It won with a plurality of 48.6 percent, against 46.3 percent for statehood and 5.1 percent for independence. Compare this narrow margin of victory with that of 1952 (68 percent) and that of 1967 (21 percent), and the tide against the status quo becomes unmistakable. The false promise behind the alternative of ''enhanced commonwealth'' will do nothing to stem it. For given its current budget-cutting exercises, Congress is clearly in no mood to maintain even current levels of federal funding for Puerto Rico programs, much less ante up the additional $3 billion to $4 billion necessary to bring them up to par with the states.

Meanwhile, a groundswell of public opinion has arisen in Washington against preserving ''corporate welfare.'' That's why Section 936 is again under review, as it should be: It has made the island dependent on the whims of Congress and has stifled alternative economic development schemes.

Worse, as now constituted, 936 has failed to generate the jobs and capital investment that were its reasons for being. Witness our chronic unemployment rate, which is twice the mainland's, and our per capita income, half of Mississippi's.

Revision of 936 could present Puerto Rico with opportunities to attain significant new economic and political objectives; full participation and parity in all federal programs, sustained economic growth and, eventually, statehood.

Rep. Don Young (R–Alaska), chairman of the House Resources Committee, has floated one promising proposal toward these ends. In exchange for ending 936 he would phase in full state-like programs for Puerto Rico and encourage private-sector growth through capital grants for infrastructure development and through private and nonprofit enterprise financing to spur new industries.

Young's proposal would also, for the first time, subject island residents to federal taxation. Combined with the $3 billion savings from ending the 936 tax credit, this would mean that the U.S. Treasury would see no diminution in revenues.

Many statehood advocates balk at this ''halfway'' solution to securing first-class citizenship for Puerto Ricans. They maintain that economic equality would weaken efforts to achieve political equality through a 51st star. In other words, total economic and political equality or nothing.

Other point to the absurdity of Puerto Ricans agreeing to pay more taxes while everyone else is looking to reduce theirs. But the fact is that we already have high tax rates in Puerto Rico. They're necessary to finance activities typically provided elsewhere by the federal government. It's safe to assume that as program costs are shifted to Washington, Puerto Ricans will see little change in their tax burden.

Nonetheless, revision of 936 might accelerate the movement to statehood: No longer would 936 companies have a vested interest in maintaining the status quo.

Given today's economic and political climate, Puerto Rico may face the same hard choice under option: cut programs or raise taxes. But as a colony deprived of Washington representation we will have no say in the discussions leading up to that fateful decision.

It's no wonder that 2.5 million Puerto Ricans have left the island for the mainland knowing that the political and economic benefits of statehood far outweigh the burdens of federal taxation. We share their ambition to be full-fledged Americans here at home, just as we always have shared with all U.S. citizens the duty to defend democracy abroad.●

PROVIDING FOR PROVISIONAL APPROVAL OF OFFICE OF COMPLIANCE REGULATIONS

Mr. DOLE. Mr. President, I ask unanimous consent the Rules Committee be discharged from further consideration of House Concurrent Resolution 123 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 123) to provide for the provisional approval of regulations applicable to certain covered employing offices and covered employees and to be issued by the Office of Compliance before January 23rd, 1996.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOLE. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and any statements related to the concurrent resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 123) was agreed to.

PROVIDING FOR APPROVAL OF INTERIM REGULATIONS ADOPTED BY THE BOARD OF THE OFFICE OF COMPLIANCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 209 submitted earlier today by the Senator from Kansas.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 209) to provide for the approval of interim resolutions applicable to the Senate and the employees of the Senate and adopted by the Board of the Office of Compliance before January 23, 1996, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 209) was agreed to, as follows:

S. RES. 209

Resolved,

SECTION 1. APPROVAL OF INTERIM REGULATIONS.

(a) IN GENERAL.—The interim regulations applicable to the Senate and the employees of the Senate that were adopted by the Board of the Office of Compliance before January 23, 1996, are hereby approved until such time as final regulations applicable to the Senate and the employees of the Senate are approved in accordance with section 304(c) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(c)).

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to affect the authority of the Senate under such section 304(c).

JOINT SESSION OF THE TWO HOUSES TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. DOLE. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate and join with a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber for the joint session to be held at 9 p.m. Tuesday, January 23, 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, JANUARY 23, 1996

Mr. DOLE. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 2:30 p.m. on Tuesday, January 23, 1996; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 3:30 p.m, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I ask unanimous consent that when the Senate completes its business tomorrow it stand in recess until the hour of 8:40 p.m, on Tuesday, at which time the Senate will proceed as a body to the Hall of the House of Representatives to hear an address by the President regarding the state of the Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. During tomorrow's session, the Senate may turn to any legislative items that can be cleared by unanimous consent. Rollcall votes are not expected during Tuesday's session. However, if a vote is necessary, all Members will be given ample notification. As a reminder, all Senators should gather in the Senate Chamber at 8:35 p.m. Tuesday evening, in order for the Senate to proceed as a body to the Hall of the House of Representatives for the State of the Union Address.

I indicate, as I did this morning, it is still our hope to make a continuing resolution before the close of business on Friday, maybe Thursday, maybe even Wednesday depending on when it is passed by the House. It is also our hope we can pass the continuing resolution by consent, and that in the event the Defense Department authorization bill comes to us from the House, we may proceed to that, which if it requires a rollcall vote, then we will not vote on it until we have given all our colleagues ample notice.

There is also some indication that the administration may want us to proceed on the extension of the debt limit, debt ceiling, and that may or may not come before the Senate this week.

RECESS UNTIL 2:30 P.M. TOMORROW

Mr. DOLE. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 4:55 p.m., recessed until Tuesday, January 23, 1996, at 2:30 p.m.

NOMINATIONS

Executive nominations received by the Senate January 22, 1996:

DEPARTMENT OF STATE

RICHARD L. MORNINGSTAR, OF MASSACHUSETTS, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ADVISOR TO THE PRESIDENT AND TO THE SECRETARY OF STATE ON ASSISTANCE TO THE NEW INDEPENDENT STATES (NIS) OF THE FORMER SOVIET UNION AND COORDINATOR OF NIS ASSISTANCE.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

MARY BURRUS BABSON, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 1 YEAR. (NEW POSITION)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

LUIS VALDEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2000, VICE PETER DECOURCH HERO, TERM EXPIRED.

IN THE COAST GUARD

VICE ADMIRAL JAMES M. LOY, U.S. COAST GUARD, TO BE CHIEF OF STAFF, U.S. COAST GUARD, WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

VICE ADMIRAL RICHARD D. HERR, U.S. COAST GUARD, TO BE VICE COMMANDANT, U.S. COAST GUARD, WITH THE GRADE OF ADMIRAL WHILE SO SERVING.

VICE ADMIRAL KENT H. WILLIAMS, U.S. COAST GUARD, TO BE COMMANDER, ATLANTIC AREA, U.S. COAST GUARD, WITH THE GRADE OF ADMIRAL WHILE SO SERVING.

REAR ADMIRAL ROGER T. RUFE, JR., U.S. COAST GUARD, TO BE COMMANDER, PACIFIC AREA, U.S. COAST GUARD, WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD RESERVE FOR PROMOTION TO THE GRADE OF REAR ADMIRAL:

RICHARD W. SCHNEIDER

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD RESERVE FOR PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

JAN T. RIKER

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD RESERVE FOR PROMOTION TO THE GRADE INDICATED:

To be captain

GEORGE J. SANTA CRUZ
GREGORY E. SHAPLEY

To be commander

JAMES E. LITSINGER
DALE M. RAUSCH
MAURY A. WEEKS
DONALD E. BUNN

To be lieutenant commander

PINKEY J. CLARK
KEVIN M. PRATT

IN THE MARINE CORPS

THE FOLLOWING-NAMED COLONELS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. ROBERT R. BLACKMAN, JR., 000–00–0000, USMC.
COL. WILLIAM G. BOWDON III, 000–00–0000, USMC.
COL. JAMES T. CONWAY, 000–00–0000, USMC.
COL. KEITH T. HOLCOMB, 000–00–0000, USMC.
COL. HAROLD MASHBURN, JR., 000–00–0000, USMC.
COL. GREGORY S. NEWBOLD, 000–00–0000, USMC.

THE FOLLOWING-NAMED COLONEL OF THE U.S. MARINE CORP RESERVE FOR PROMOTION TO THE GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF SECTION 5912 OF TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. LEO V. WILLIAMS III, 000–00–0000, USMCR.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE U.S. NAVY IN THE GRADE INDICATED UNDER SECTION 1370 OF TITLE 10, U.S.C.

To be vice admiral

VICE ADM. DAVID B. ROBINSON, 000–00–0000.

IN THE AIR FORCE

THE FOLLOWING-NAMED AIR NATIONAL GUARD OFFICERS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 12203 AND 12212, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES AS INDICATED.

To be lieutenant colonel

LINE

JONATHAN S. FLAUGHER, 000–00–0000

MEDICAL CORPS

To be lieutenant colonel

WALTER L. BOGART III, 000–00–0000

THE FOLLOWING INDIVIDUALS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 12203 WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067 TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be colonel

DONALD R. SMITH, 000–00–0000

To be lieutenant colonel

CARLOS W.M. BEDROSSIAN, 000–00–0000

RICHARD R. ECKERT, 000–00–0000
HARRY F. FARMER, JR., 000–00–0000
FREDERICK L. GILKEY, 000–00–0000
MAECENAS B. HENDRIX, 000–00–0000
CHARLES H. HUBBERT, 000–00–0000
BRUCE A. JOHNSON, 000–00–0000
BRUCE M. MORSE, 000–00–0000
SAROJA L. RANPURA, 000–00–0000
CHARLES E. ROSS, 000–00–0000
SADASIVA P. SETTY, 000–00–0000
CHRISTINA M.K. ZIENO, 000–00–0000

DENTAL CORPS

To be lieutenant colonel

ROBERT W. DANIELS, 000–00–0000
GENE P. KAHN, 000–00–0000
RODNEY D. PHOENIX, 000–00–0000

BIOMEDICAL SCIENCES CORPS

To be lieutenant colonel

DON C. BAGWELL, 000–00–0000
THOMAS A. FLYNN, 000–00–0000
GERALD J. HENSLEY, 000–00–0000
KENT J. NEILSEN, 000–00–0000

NURSE CORPS

To be lieutenant colonel

NEDLA J. EWEN, 000–00–0000

JUDGE ADVOCATE

To be lieutenant colonel

JOHN J. THRASHER III, 000–00–0000
WILLIAM K. UNDERWOOD, 000–00–0000

THE FOLLOWING INDIVIDUALS FOR RESERVE OF THE AIR FORCE APPOINTMENT IN THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 12203.

LINE

To be lieutenant colonel

MARTHA L. GARITO, 000–00–0000
CHARLES A.V. HOBB, 000–00–0000
RICHARD C. HOLLOMAN, 000–00–0000
THOMAS A. HUGHES, 000–00–0000
MICHAEL E. LEBIEDZ, 000–00–0000
MARY K. LUKE, 000–00–0000
LANNY B.MC NEELY, 000–00–0000
STEPHEN G. MOFFETT, 000–00–0000
JAMES L. O'NEAL, 000–00–0000

THE FOLLOWING STUDENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES CLASS OF 1996, FOR APPOINTMENT IN THE REGULAR AIR FORCE IN THE GRADE OF CAPTAIN, EFFECTIVE UPON THEIR GRADUATION UNDER THE PROVISIONS OF SECTION 2114, TITLE 10, U.S.C., IF OTHERWISE FOUND QUALIFIED, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

MEDICAL CORPS

BRADLEY S. ABELS, 000–00–0000
PER K. AMUNDSON, 000–00–0000
JONATHAN W. BRIGGS, 000–00–0000
ALESIA C. CARRIZALES, 000–00–0000
SCOTT C. CARRIZALES, 000–00–0000
MATTHEW B. CARROLL, 000–00–0000
PIERRE ALAIN L. DAUBY, 000–00–0000
KRISTEN A. FULTSGANEY, 000–00–0000
VINOD K. GIDVANIDIAZ, 000–00–0000
STEPHEN A. GILL, 000–00–0000
PAUL D. GLEASON II, 000–00–0000
PATRICK M. GROGAN, 000–00–0000
DUNCAN G. HUGHES, 000–00–0000
JOHN F. JAMES, 000–00–0000
PAMELA D. JOHNSON, 000–00–0000
GREGORY A. KENNEBECK, 000–00–0000
CHETAN U. KHAROD, 000–00–0000
TODD T. KOBAYASHI, 000–00–0000
DARII AL LANE, 000–00–0000
DONALD J. LANE, 000–00–0000
RAYMOND J. LEGENZA, 000–00–0000
JAMES D. LOWE, 000–00–0000
EVAN R. MEEKS, 000–00–0000
JANICE L. MOSELEY, 000–00–0000
CABOT S. MURDOCK, 000–00–0000
JEFFREY G. NALESNIK, 000–00–0000
DOUGLAS A. NELSON, 000–00–0000
ELIZABETH M. NORRIS, 000–00–0000
DONALD T. OSBORN, 000–00–0000
ROBERT G. PATTERSON, 000–00–0000
CHRISTOPHER P. PAULSON, 000–00–0000
BARAK PERAHIA, 000–00–0000
KENNY J. PETERSON, 000–00–0000
JAMES A. PHALEN, 000–00–0000
KIMBERLY D. PIETSZAK, 000–00–0000
JOSEPH A. POCREVA, 000–00–0000
DAVID M. ROGERS, 000–00–0000
DANIEL A. SHOOR, 000–00–0000
ROBERT E. THAXTON, 000–00–0000
JAMES J. THOMAS, 000–00–0000
DANIEL R. TUCKEY, 000–00–0000
JOHANN S. WESTPHALL, 000–00–0000
SALLY M. WONDERLY, 000–00–0000
CHARLES P. WOOD, 000–00–0000
MARK A. YUSPA, 000–00–0000

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE.

LINE

To be lieutenant colonel

JOSEPH P. ANELLO, 000–00–0000
PHILIP E. BRAY, 000–00–0000
DAVID N. BURTON, 000–00–0000
JOSEPH E. CRITES, 000–00–0000
WILLIAM S. CROMER, 000–00–0000
JAMES F. DAWSON, JR., 000–00–0000
MICHAEL G. GREEN, 000–00–0000
CHARLES A. GRIMES, 000–00–0000
KEVIN K. KINDSCHUH, 000–00–0000
MICHAEL R. LEONE, 000–00–0000
JOHN A. MCALLISTER, 000–00–0000
RICHARD R. OLIVAREZ, 000–00–0000
EDDY L. PAYNE, 000–00–0000
CHARLES B. PORTIS, 000–00–0000
MARTHA T. RAINVILLE, 000–00–0000
DENISE O. SCHOFIELD, 000–00–0000
WILLIAM F. SIMPSON, 000–00–0000
DAVID K. TANAKA, 000–00–0000
JAMES D. THOMPSON, 000–00–0000
JEFFREY T. WILLIAMS, 000–00–0000

JUDGE ADVOCATE GENERALS DEPARTMENT

To be lieutenant colonel

MICHAEL W. SANDERSON, 000–00–0000
FRANK H. SHAW, JR., 000–00–0000

CHAPLAIN CORPS

To be lieutenant colonel

NORMAN L. WILLIAMS, 000–00–0000

MEDICAL CORPS

To be lieutenant colonel

JOHN D. ADAMS, 000–00–0000
ARTHUR B. EISENBREY, 000–00–0000
THOMAS E. HARRIS, 000–00–0000
STEWART J. HAZEL, 000–00–0000
JOHN PANKIEWICZ, JR., 000–00–0000
JAN M. VANHOOMISSEN, 000–00–0000

NURSE CORPS

To be lieutenant colonel

BARBARA T. MARTIN, 000–00–0000

IN THE ARMY

THE FOLLOWING OFFICERS FOR APPOINTMENT AS PERMANENT PROFESSORS AT THE U.S. MILITARY ACADEMY UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 4333(B):

COL. WILLIAM G. HELD, 000–00–0000
LT. COL. PATRICIA B. GENUNG, 000–00–0000

IN THE NAVY

THE FOLLOWING-NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

CHARLES ARMSTRONG, 000–00–0000
PHILLIP BLACK, 000–00–0000
BYRON BOENING, 000–00–0000
MATTHEW BURNS, 000–00–0000
MICHAEL CAMDEN, 000–00–0000
DARRELL CANADY, 000–00–0000
CHAD CICCI, 000–00–0000
JOSE CORDERO, 000–00–0000
JOHN EDSON, 000–00–0000
MARK ELLINGSON, 000–00–0000
ANTHONY ERICKSON, 000–00–0000
FRANCIS FRANKY, 000–00–0000
TODD FREISCHLAG, 000–00–0000
JASON GOOGE, 000–00–0000
ROBERT LAWRENCE, 000–00–0000
KYLE LEESE, 000–00–0000
MALCOLM MARTIN, 000–00–0000
TYLER MAW, 000–00–0000
BRIAN PERKINS, 000–00–0000
PETER RIES, 000–00–0000
MICHAEL RUDZIENSKY, 000–00–0000
BENJAMIN RYAN, 000–00–0000
LUIS SANCHEZ, 000–00–0000
DAVID SAUVE, 000–00–0000
JAMES SHANE, 000–00–0000
ANDRE SMOLENACK, 000–00–0000
BENJAMIN SNELL, 000–00–0000
ROB STEVENSON, 000–00–0000
WILLIAM SUTTON, 000–00–0000
JOHN TENCER, 000–00–0000
JEFFREY VICARIO, 000–00–0000
WINCESLAS WEEMS, 000–00–0000

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATE TO BE APPOINTED PERMANENT ENSIGN IN THE STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

CALEB POWELL, JR., 000–00–0000

THE FOLLOWING-NAMED NAVY ENLISTED COMMISSION PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ANDRE D. BROWN, 000–00–0000
GARY G. ELVIK, 000–00–0000
JAMES R. FELTS, 000–00–0000
GARY L. JACOBSEN, 000–00–0000
WILLIAM J. OSSENFORT, 000–00–0000
BERNARD L. SIMONSON, 000–00–0000

THE FOLLOWING-NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

KYLE D. BRADY, 000–00–0000
DAVID D. DECKER, 000–00–0000
EVAN L. MORRISON, 000–00–0000
DALE PULCZINSKI, 000–00–0000
ALAN WILCOX, 000–00–0000

THE FOLLOWING-NAMED U.S. NAVAL OFFICERS TO BE APPOINTED PERMANENT LIEUTENANT IN THE JUDGE ADVOCATE GENERAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ERIN E. DAUGHERTY, 000–00–0000
TARA M. LEE, 000–00–0000
ANTHONY J. MAZZEO, 000–00–0000
GARY E. SHARP, 000–00–0000
ROBERT A. WILLIAMS, 000–00–0000

THE FOLLOWING-NAMED FORMER U.S. NAVY OFFICER TO BE APPOINTED PERMANENT CAPTAIN IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 12203:

DAVID L. GOODMAN, 000–00–0000

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 12203:

JOHN K. BURNS, 000–00–0000
PAUL J. JULIANO, 000–00–0000

THE FOLLOWING-NAMED MEDICAL COLLEGE GRADUATE TO BE APPOINTED PERMANENT COMMANDER IN THE DENTAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 12203:

TIMOTHY E. SPENCER, 000–00–0000

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE DENTAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 12203:

PAUL T. BROERE, 000–00–0000

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE AIR FORCE RESERVE, UNDER THE PROVISIONS OF SECTIONS 12203, 8362 AND 8371, TITLE 10, UNITED STATES CODE.

LINE

To be colonel

EDWARD A. ASKINS, 000–00–0000
JOHN D. BAILEY, 000–00–0000
ROBERT E. BAILEY, JR, 000–00–0000
STEPHEN R. BARNES, 000–00–0000
LAWRENCE N. BARTON, JR, 000–00–0000
ARCHER B. BATTISTA, 000–00–0000
DONALD E. BEERS, 000–00–0000
MAUREEN H. BERGENFELD, 000–00–0000
WILLIAM A. BLUMBERG, 000–00–0000
JAMES E. BROWN, 000–00–0000
JON A. BROWN, 000–00–0000
WARREN E. BUCHER, 000–00–0000
JOHN B. BUCHHEISTER, 000–00–0000
JONATHAN F. BUSHNELL, JR, 000–00–0000
RICHARD L. BUTEFISH, 000–00–0000
JOSEPH C. BYNUM III, 000–00–0000
JONATHAN W. CAMPBELL, 000–00–0000
LARRY J. CARNAHAN, 000–00–0000
FRED F. CASTLE, JR, 000–00–0000
RICHARD W. CHAMPION, 000–00–0000
JOHN R. CHURCH, 000–00–0000
JOSEPH F. CIRRINCIONE, 000–00–0000
ALAN B. CLUNE, 000–00–0000
JOSEPH L. CORDINA, 000–00–0000
ROBERT L. CORLEY, 000–00–0000
HARLON D. CRIMM, 000–00–0000
CARL M. CRUG, 000–00–0000
ROBERT G. CUTLIP, 000–00–0000
CHARLES L. EARLY, JR, 000–00–0000
ROBERT T. EDWARDS, 000–00–0000
JAMES J. EMMA, 000–00–0000
FRANK R. FAULKNER, 000–00–0000
JULIETTE C. FINKENAUER, 000–00–0000
VADE G. FORRESTER, JR, 000–00–0000
DAVID L. FROSTMAN, 000–00–0000
OWEN C. GADEKEN, 000–00–0000
MARIAN F. GETZELMAN, 000–00–0000
RICHARD H. GIBBS, 000–00–0000
IRIS C. GILBERT, 000–00–0000
THOMAS M. GRAHAM, 000–00–0000
HENRY L. GRAVES, JR, 000–00–0000
EDWIN B. GRIGGS, 000–00–0000
JOHN H. GRUESER, 000–00–0000
STEVEN W. HARDEN, 000–00–0000
WALTER W. HARRINGTON, 000–00–0000
THOMAS H. HART, 000–00–0000
MICHAEL P. HAYES, 000–00–0000
MICHAEL J. HEIDINGSFIELD, 000–00–0000
JEFFREY HOLSHOUSER, 000–00–0000
CHARLES L. HOLSWORTH, 000–00–0000
GEOFFRY S. HOWARD, 000–00–0000
DANIEL M. KETTER, 000–00–0000
FRANCIS B. LANE, 000–00–0000
WILLIAM C. LAWRENCE, 000–00–0000

VALENTINE F. LYNCH, 000–00–0000
LINDELL W. MABUS, 000–00–0000
CHARLES G. MACDONALD, 000–00–0000
WAYNE E. MAROTZ, 000–00–0000
ELLEN C. MATZ, 000–00–0000
DAVID J. MCCARTHY, 000–00–0000
DIANNE R. MCILVOY, 000–00–0000
RONALD V. MEILSTRUP, 000–00–0000
JAMES L. MELIN, 000–00–0000
KEITH W. MEURLIN, 000–00–0000
MARK K. MILLER, 000–00–0000
GARY P. MIXON, 000–00–0000
LAURENCE P. MOLLOY, JR, 000–00–0000
JOSEPH T. MOLYSON, JR, 000–00–0000
JERRY L. MONTGOMERY, 000–00–0000
FRANCIS M. MUNGAVIN, 000–00–0000
MICHAEL P. MURPHEY, 000–00–0000
JOSEPH NABOZNY, 000–00–0000
BRADFORD C. NEAL, 000–00–0000
GAIL H. NELSON, 000–00–0000
MICHAEL T. OHALLORAN, 000–00–0000
LANCE S. OKIMOTO, 000–00–0000
ROBERT D. OLSON, 000–00–0000
JOSEPH G. ONEILL, 000–00–0000
NELSON E. OUTTEN, 000–00–0000
JOHN PELLEGRINO, 000–00–0000
WILLIAM M. RAJCZAK, 000–00–0000
MARK R. REPKO, 000–00–0000
DOUGLAS C. ROPER, 000–00–0000
JAMES T. RUBEOR, 000–00–0000
HENDRICK W. RUCK, 000–00–0000
ALLAN J. SARRAT, JR, 000–00–0000
RICHARD R. SEVERSON, 000–00–0000
DOLORES K. SHERMAN, 000–00–0000
JAMES M. SMITH, 000–00–0000
JAMES W. SMOLKA, 000–00–0000
ERIC L. STEPHENS, 000–00–0000
RICHARD W. STINE, 000–00–0000
DONALD J. SWANINGER, 000–00–0000
THOMAS V. TAMEZ, 000–00–0000
THOMAS D. TAVERNEY, 000–00–0000
ROBERT P. VITRIKAS, 000–00–0000
EDWARD R. VOGLER, 000–00–0000
DANIEL A. WAKLEY, 000–00–0000
PHILIP D. WEBB, 000–00–0000
ROBERT D. WELSH, 000–00–0000
JAMES W. WHITAKER, 000–00–0000
DALE TIMOTHY WHITE, 000–00–0000
ROBERT L. WHITE, 000–00–0000
FLOYD C. WILLIAMS, 000–00–0000
TIMOTHY J. WRIGHTON, 000–00–0000

CHAPLAIN CORPS

To be colonel

ROGER L. BACON, 000–00–0000
JOHN H. ELLEDGE, JR, 000–00–0000
DONALD W. MUSSER, 000–00–0000
MARK J. SPENCE, 000–00–0000

DENTAL CORPS

To be colonel

DONALD E. BERWANGER, 000–00–0000
DAVID D. CRICHTON III, 000–00–0000
DAVID T. EARNEST, 000–00–0000
RICHARD D. HARMON, 000–00–0000
ROBERT B. JAMES, 000–00–0000
ROBERT S. JOHNSON, 000–00–0000

JUDGE ADVOCATE

To be colonel

DONALD A. ANDERSON, 000–00–0000
CARL R. BEHRENS, 000–00–0000
WILLIAM O. BRESNICK, 000–00–0000
ALBERT C. DEPENBROCK, 000–00–0000
EDMUND G. FLYNN, 000–00–0000
DERRICK R. FRANCK, 000–00–0000
BRUCE E. HAWLEY, 000–00–0000
JOHN N. KULAS, 000–00–0000
GREGORY E. MICHAEL, 000–00–0000
KENNETH M. MURCHISON, 000–00–0000
JOHN S. ODOM, JR, 000–00–0000
JOHN B. SOUTHARD, JR, 000–00–0000
RONALD R. STICKA, 000–00–0000

MEDICAL CORPS

To be colonel

THOMAS L. ARNTSON, 000–00–0000
JAMES F. BLAKELY, 000–00–0000
WILLIAM M. CASKEY, 000–00–0000
JOHN R. DIMAR II, 000–00–0000
RICHARD O. DOLINAR, 000–00–0000
VAL D. DUNN, 000–00–0000
WILLIAM J. DUNN, 000–00–0000
RODRIGO B. FLORO, 000–00–0000
DOUGLAS K. HOLMES, 000–00–0000
STEVEN R. HORN, 000–00–0000
BRUCE W. JENSEN, 000–00–0000
MAURICE D. LEVY, 000–00–0000
YASH P. MALHOTRA, 000–00–0000
LOUIS PANG, 000–00–0000
FRANK SPARANDERO, 000–00–0000
SEETHA G. SURYAPRASAD, 000–00–0000
JAMES K. WRIGHT, 000–00–0000

NURSE CORPS

To be colonel

PATRICIA R. BALLENTINE, 000–00–0000
PENELOPE A. BURNS, 000–00–0000
LINDA L. CARNEAL, 000–00–0000
CAROL G. ELLIOTT, 000–00–0000
SANDRA L. ERICKSON, 000–00–0000
LORI A. FICHMAN, 000–00–0000
LOISANN M. HOPKIN, 000–00–0000
MARY M. MARTIN, 000–00–0000
JANICE M. MCKIBBAN, 000–00–0000
PATRICIA M. MOSS, 000–00–0000
SUSAN J. QUINN, 000–00–0000
KAREN S. RIORDAN, 000–00–0000
CLYDE A. ROKKE, 000–00–0000
MARIAN B. SIDES, 000–00–0000
RITA M. SOLANDER, 000–00–0000
BETTY J. TAPP, 000–00–0000
NANCY D. THOMPSON, 000–00–0000
ROSALIE A. WAHLSTROM, 000–00–0000

MEDICAL SERVICE CORPS

To be colonel

GERALD L. ANDRICK, 000–00–0000
SEYMOUR WIENER, 000–00–0000

BIOMEDICAL SERVICE CORPS

To be colonel

LAWRENCE R. BARRETT, 000–00–0000
MARSHA L. CHEESEMAN, 000–00–0000
JEANINE G. COLBURN, 000–00–0000
CHARLES W. JONES, 000–00–0000
GEORGE W. SCHLOSSNAGLE, 000–00–0000
JAMES L. SCOTT, 000–00–0000

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, U.S.C., AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, U.S.C., WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, U.S.C., TO PERFORM DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

JUDGE ADVOCATE

To be lieutenant colonel

ANDREA M. ANDERSEN, 000–00–0000
JACK L. ANDERSON, 000–00–0000
HARRY J. BATEY, 000–00–0000
RALPH A. BAUER, 000–00–0000
STEPHEN H. BLEWETT, 000–00–0000
WILLIAM E. BOYLE, 000–00–0000
DAVID F. BRASH, 000–00–0000
CHRISTOPHER F. BURNE, 000–00–0000
JOHN S. CHAMBLEE, 000–00–0000
LE ELLEN COACHER, 000–00–0000
ROBERT E. COACHER, 000–00–0000
PAUL J. COELUS, JR, 000–00–0000
ROBERT V. COMBS II, 000–00–0000
PAUL M. DANKOVICH, 000–00–0000
MORRIS D. DAVIS, 000–00–0000
ALLAN L. DETERT, 000–00–0000
NORBERT J. DIAZ, 000–00–0000
TERRENCE H. FARRELL, 000–00–0000
WILLIAM GAMPEL, 000–00–0000
GREGORY GIRARD, 000–00–0000
WILLIE A. GUNN, 000–00–0000
STEVEN A. HATFIELD, 000–00–0000
BART HILLYER, 000–00–0000
CHARLES P. KIELKOPF, 000–00–0000
BEVERLY B. KNOTT, 000–00–0000
JOHN H. KONGABLE, 000–00–0000
MARIANNE O. LARIVEE, 000–00–0000
PATRICK W. LINDEMANN, 000–00–0000
JEFFREY C. LINDQUIST, 000–00–0000
MARY J. LUDVIGSON, 000–00–0000
MARGARET R. MCCORD, 000–00–0000
JAMES E. MOODY, 000–00–0000
ROGER W. OVERLAND, 000–00–0000
GREGORY B. PORTER, 000–00–0000
RAYMOND E. RISSLING, 000–00–0000
MARK R. RUPPERT, 000–00–0000
DAWN E. B. SCHOLZ, 000–00–0000
KURT D. SCHUMAN, 000–00–0000
SCOTT W. SINGER, 000–00–0000
WALTER J. SKIERSKI, JR, 000–00–0000
KEITH M. SORGE, 000–00–0000
LAURENCE M. SOYBEL, 000–00–0000
JOHN F. SPURLIN, 000–00–0000
HOLLY M. STONE, 000–00–0000
JO ANN STRINGFIELD, 000–00–0000
STEVEN N. TOMANELLI, 000–00–0000
JOSEPH V. TREANOR III, 000–00–0000
DAVID R. VECERA, 000–00–0000
ISRAEL B. WILLNER, 000–00–0000
WAYNE WISNIEWSKI, 000–00–0000

NURSE CORPS

To be lieutenant colonel

MARIANNE B. AIRHART, 000–00–0000
DALE E. ALLEN, 000–00–0000
RUTH M. ANDERSON, 000–00–0000
VINCENT P. BERNOTAS, 000–00–0000
TERRY K. BLUE, 000–00–0000
CECILLIA O. BOLAND, 000–00–0000
THERESA M. BOSTWICK, 000–00–0000
MARCI S. BOSWELL, 000–00–0000
ELIZABETH L. BOWERS, 000–00–0000
TYWANA F. C. BOWMAN, 000–00–0000
TERESA A. CAMPBELL, 000–00–0000
CHERYL A. CARROLL, 000–00–0000
MARYLOU CARSON, 000–00–0000
NANCY L. CHENEVEY, 000–00–0000
BRIAN L. CLAYTON, 000–00–0000
JOHNNIE M. COBWELL, 000–00–0000
JANE E. COZIER, 000–00–0000
FLORENCE B. CRUZ, 000–00–0000
CINDY A. DAVIS, 000–00–0000
RUTH DEPALANTINO, 000–00–0000
STEPHEN R. DISTASIO, JR, 000–00–0000
RUTH M. ECKERT, 000–00–0000
MARGARET T. ELGIN, 000–00–0000
KATHLYN M. EYDENBERG, 000–00–0000
MARIE E. FERRELL, 000–00–0000
BLAKE W. FOLDEN, 000–00–0000
RICHARD L. FORTNER, 000–00–0000
RENEE M. GREER, 000–00–0000
CORNELIA A. GRIFFIN, 000–00–0000
MARGARET A. GRIFFIN, 000–00–0000
KATHRYN R. HAMILTON, 000–00–0000
TERRY L. HAMMOND, 000–00–0000
BETTY S. HARRIS, 000–00–0000
J. WILLIAM HARTLEY, 000–00–0000
KARLA K. HERRES, 000–00–0000
CONSTANCE D. HICKMAN, 000–00–0000
RICHARD M. HOLT, 000–00–0000
BARBARA A. HOSTETLER, 000–00–0000
LORI K. IRWIN, 000–00–0000
VICKI D. JOHNSON, 000–00–0000
LESLIE W. JOHNSTON, 000–00–0000
JOHN A. KENNEY, 000–00–0000
DENISE L. KLAPP, 000–00–0000
KATHLEEN M. KOLES, 000–00–0000
BETH M. KRISTENSON, 000–00–0000
SUSAN M. LAHAIE, 000–00–0000
JAMES L. LANGLOIS, JR, 000–00–0000
STACY L. LANHAMLAHERA, 000–00–0000
IRENE D. LARSON, 000–00–0000
CHERYL A. MANEY, 000–00–0000
MAURA S. MCAULIFFE, 000–00–0000
PATRICIA J. MCCAFFREY, 000–00–0000
MAUREEN A. MCHUGHCASTRO, 000–00–0000
LINDA F. MILLER, 000–00–0000
MARC W. MURPHY, 000–00–0000
BARBARA AG NEDERVELT, 000–00–0000
PATRICIA L. NESS, 000–00–0000
CANDY J. NISTLER, 000–00–0000
ANTHONY J. PINTO, 000–00–0000
SYLVIA A. PRINGLE, 000–00–0000
HARRIET A. QUESENBERRY, 000–00–0000
ELIZABETH S. ROBISON, 000–00–0000
IRMGARD RONDEAU, 000–00–0000
CHARLES R. ROUNTREE, 000–00–0000
RONALD E. RYDGREN, 000–00–0000
SANDRA R. SCHMIDTBERRINGER, 000–00–0000
MARY J. SNYDER, 000–00–0000
JOEL P. SOLOMON, 000–00–0000
LEWIS A. STANLEY, 000–00–0000
BRIDGET S. STONUEY, 000–00–0000
DONNA C. THERIOT, 000–00–0000
GAIL M. THERRIEN, 000–00–0000
KEIKO L. TORGERSEN, 000–00–0000
CHARLES R. TUPPER, 000–00–0000
STEPHEN H. TURNER, 000–00–0000
CAROL L. VERMILLION, 000–00–0000
LANETTE A. WATSON, 000–00–0000
JANICE S. WILMOT, 000–00–0000
LILLIANJOYCE STUCKEY WILSON, 000–00–0000

BIOMEDICAL SCIENCES CORPS

To be lieutenant colonel

LORAINE H. ANDERSON, 000–00–0000
WILLIAM S. ASTLEY, 000–00–0000
MARY K. BALLENGEE, 000–00–0000
NEAL BAUMGARTNER, 000–00–0000
MARY A. BIGELOW, 000–00–0000
CHARLES D. CAULKINS, 000–00–0000
JOHN V. CIVITELLO, JR, 000–00–0000
BRIAN K. DECKERT, 000–00–0000
BRIAN W. DESANTIS, 000–00–0000
JACKSON R. DOBBINS, 000–00–0000
ROY T. FRANKLIN, 000–00–0000
MARK F. GENTILMAN, 000–00–0000
ALFRED S. GRAZIANO, JR, 000–00–0000
JO A. HAGA, 000–00–0000
HELEN M. HORNKINGERY, 000–00–0000
WILLIAM B. HUFF, 000–00–0000
EDWARD S. HUMPHREY, 000–00–0000
BONNIE C. JOHNSON, 000–00–0000
MICHAEL E. JOHNSON, 000–00–0000
BARBARA J. LARCOM, 000–00–0000
BRIAN L. LESTRANGE, 000–00–0000
FRANK B. LIEBHABER, JR, 000–00–0000
RUSSELL J. MEILING, 000–00–0000
HARMON MELDRIM, 000–00–0000
MARION C. MOHRI, 000–00–0000
GEORGE NICOLAS, JR, 000–00–0000
MICHAEL L. NORED, 000–00–0000
MEADE PIMSLER, 000–00–0000
STEPHEN G. REINHART, 000–00–0000
PAULA S. SIMON, 000–00–0000
SCOTT A. SIMPSON, 000–00–0000
STEPHEN M. SMICKER, 000–00–0000
JOHN D. STEIN, 000–00–0000
GORDON B. SWAYZE, 000–00–0000
MARK J. WELTER, 000–00–0000
GREGORY Y. G. YOUNG, 000–00–0000
MICHAEL E. YOUNG, 000–00–0000
THOMAS M. ZAZECKIS, 000–00–0000

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, U.S.C., AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, U.S.C., WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, U.S.C., TO PERFORM DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

JUDGE ADVOCATE

To be major

THOMAS M. AYZE, 000–00–0000
DARYL L. BELL, 000–00–0000
DAVID L. BELL, 000–00–0000
JERRI G. BREWER, 000–00–0000
LEONARD L. BROSEKER, 000–00–0000
GARY D. BROWN, 000–00–0000
GERALD Q. BROWN, 000–00–0000
JAMES C. BUCKELS, 000–00–0000
JAMES V. CANNIZZO, 000–00–0000
DONNA M. CLARK, 000–00–0000
TIMOTHY J. COTHREL, 000–00–0000
DAVID J. DICENSO, 000–00–0000
MATTHEW L. DUFFIN, 000–00–0000
KEVIN J. FLEMING, 000–00–0000
TRACI D. GUARINIELLO, 000–00–0000
CLARENCE P. GUILLORY, JR., 000–00–0000
TAMARA S. HOLDER, 000–00–0000
SHARON A. HOMOLKA, 000–00–0000
ROBERT S. HOWARD, 000–00–0000
CAROL L. HUBBARD, 000–00–0000
CHARLIE M. JOHNSONWRIGHT, 000–00–0000
STEVEN E. JONES, 000–00–0000
ELIZABETH KELLY, 000–00–0000
POLLY S. KENNY, 000–00–0000
KEVIN P. KOEHLER, 000–00–0000
WILLIAM R. KRAUS, 000–00–0000
WILLIAM A. KURLANDER, 000–00–0000
ANDREW S. LADE, 000–00–0000
ROBERT P. MAGGARD, 000–00–0000
KAREN E. MAYBERRY, 000–00–0000
JOHN F. MC CUNE, 000–00–0000
JOHN S. MEADOR, 000–00–0000
CRAIG G. MILLER, 000–00–0000
ROBERT M. MITCHELL, 000–00–0000
DOUGLAS G. MURDOCK, 000–00–0000
NANCY J. PAUL, 000–00–0000
RONALD R. RATTON, 000–00–0000
SHAUN T. RILEY, 000–00–0000
JOSEPH P. SCHMITZ, 000–00–0000
MICHAEL A. SCIALES, 000–00–0000
LANCE B. SIGMON, 000–00–0000
STANLEY R. SMITH, 000–00–0000
RANDALL G. SNOW, 000–00–0000
THOMAS R. SPARKS, 000–00–0000
DAVID C. STEWART, 000–00–0000
SHARON K. SUGHRU, 000–00–0000
JOSE C. TAURO III, 000–00–0000
CHERYL H. THOMPSON, 000–00–0000
STEVEN B. THOMPSON, 000–00–0000
MICHAELISA M. TOMASICLANDER, 000–00–0000
JAMES B. WAGER, JR., 000–00–0000
ROBERT E. WATSON, 000–00–0000
BRYAN T. WHEELER, 000–00–0000

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, U.S.C., AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, U.S.C., WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, U.S.C., TO PERFORM DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

DENTAL CORPS

To be colonel

STEPHEN W. ANDREWS, 000–00–0000
DONALD M. BELLES, 000–00–0000
JOHN B. BRILEY, 000–00–0000
JAMES C. BROOME, JR., 000–00–0000
MICHAEL R. BROWN, 000–00–0000
MARK T. CARLSON, 000–00–0000
DOUGLAS A. CLARKE, 000–00–0000
WALTER C. DANIELS, 000–00–0000
RICHARD D. DAVIS, 000–00–0000
ALEX A. DEPERALTA, JR., 000–00–0000
HERMAN S. DICKERSON, 000–00–0000
DOUGLAS B. EVANS, 000–00–0000
KENNETH R. EYE, 000–00–0000
ROBERT M. GARRETT, 000–00–0000
GEORGE J. GERDTS, 000–00–0000
JAMES A. GLAESS, 000–00–0000
JEFFREY C. HAMBLETON, 000–00–0000
JEANNE HANSENBAYLESS, 000–00–0000
JOHN S. HORNBURG, 000–00–0000
BRUCE A. KENNEDY, 000–00–0000
WALTER C. KIRK, JR., 000–00–0000
ROBERT B. LARSEN, 000–00–0000
KENNETH A. LEVIN, 000–00–0000
MICHAEL W. MARTIN, 000–00–0000
WILLIAM S. MOORE, 000–00–0000
DAVID F. MURCHISON, 000–00–0000
BRENT E. NELSEN, 000–00–0000
STEVEN J. NEVINS, 000–00–0000
ALAN D. NEWTON, 000–00–0000
GLENDA E. S. NUCKOLS, 000–00–0000
ROBERT A. OLSON, 000–00–0000
JOHNIE D. OVERTON, 000–00–0000
THOMAS J. PLAMONDON, 000–00–0000
RONALD L. PLEIS, 000–00–0000
FORREST R. POINDEXTER, 000–00–0000
STEPHEN W. PORTER, 000–00–0000
MARIA A. RABBIO, 000–00–0000
WILLIAM H. RAINES, 000–00–0000
REX T. RAPER, 000–00–0000
JOHN J RICHTER III, 000–00–0000
STEVEN A RUFFIN, 000–00–0000
KIRK D. SATROM, 000–00–0000
STEPHEN A SCHMIDT, 000–00–0000
THOMAS R SCHNEID, 000–00–0000
ERIC S SCHUERMER, 000–00–0000
NATHAN W SCHWANDT, 000–00–0000
RONALD K SCOVILLE, 000–00–0000
JAY C SMITH, 000–00–0000
MICHAEL W SMITH, 000–00–0000
SUSAN J SMYTHE, 000–00–0000
FAITH A THOMAS, 000–00–0000
GARY V VIGIL, 000–00–0000
DERICK K WILCHER, 000–00–0000

MEDICAL CORPS

To be colonel

JOSEPH ARGYLE, 000–00–0000
HANS E ARVIDSON, 000–00–0000
THOMAS E BALDWIN, 000–00–0000
THOMAS N BEACH, 000–00–0000
FRANKLIN M BOYER, JR, 000–00–0000
STEPHEN B CHRISMAN, 000–00–0000
CRANDON F CLARK, JR, 000–00–0000
GLENN C COCKERHAM, 000–00–0000
KENNETH R DAVIS, 000–00–0000
JEAN B DORVAL, 000–00–0000
RANDALL E FELLMAN, 000–00–0000
ALBERT P FISCHER, JR, 000–00–0000
JAMES C FUNDERBURG, 000–00–0000
SCHUYLER K GELLER, 000–00–0000
TIMOTHY GEORGELAS, 000–00–0000
WILLIAM J GERMANN, 000–00–0000
JOAN R GRIFFITH, 000–00–0000
WILLIAM K HAMILTON, 000–00–0000
DAVID V HANSEN, 000–00–0000
GARY K HARGROVE, 000–00–0000
CRAIG T HATTON, 000–00–0000
CHRISTOPHER N HEINRICHS, 000–00–0000
ROBERT B HULL, 000–00–0000
FREDERICK W JONES, 000–00–0000
HALIFAX C KING, 000–00–0000
PETER S KROGH III, 000–00–0000
HARRY W KUBERG, 000–00–0000
LEON W KUNDROTAS, 000–00–0000
DAVID A LANTZ, 000–00–0000
JAMES L LAUB, 000–00–0000
JOHN D LESSER II, 000–00–0000
MICHAEL W LISCHAK, 000–00–0000
LARRY G MADEN, 000–00–0000
MICHAEL R MAROHN, 000–00–0000
DONALD C MC CURNIN, 000–00–0000
GARRISON V MORIN, 000–00–0000
RICHARD C NIEMTZOW, 000–00–0000
THOMAS J O'DONNELL, 000–00–0000
MICHAEL D PARKINSON, 000–00–0000
JEB S PICKARD, 000–00–0000
ROBERT W RECTENWALD, 000–00–0000
GREGORY T REHE, 000–00–0000
LONDE A RICHARDSON, 000–00–0000
RUTH A ROBINSON, 000–00–0000
RICHARD H ROWE, 000–00–0000
SARLA K SAUJANI, 000–00–0000
KATHERINE E SCHEIRMAN, 000–00–0000
RASA S SILENAS, 000–00–0000
DAVID H SUMMERS, 000–00–0000
MARK G SWEDENBURG, 000–00–0000
EDWARD TAXIN, 000–00–0000
GREGORY J TOUSSAINT, 000–00–0000
RODGER D VANDERBEEK, 000–00–0000
STEPHEN G WALLER, 000–00–0000
CARL L WILLIAMS, 000–00–0000
RICHARD S WILLIAMS, 000–00–0000
BRADLEY A YODER, 000–00–0000
BUJUNG ZEN, 000–00–0000
ROBERT G ZERULL, 000–00–0000

DENTAL CORPS

To be lieutenant colonel

THOMAS W BECKMAN, 000–00–0000
PAUL E BROWN, 000–00–0000
TIMOTHY S CLASEMAN, 000–00–0000
CORYDON L DOERR, 000–00–0000
RANDALL C DUNCAN, 000–00–0000
DOUGLAS M ERICKSON, 000–00–0000
JAMES M GAMBILL, 000–00–0000
MICHAEL C HALL, 000–00–0000
GRANT R HARTUP, 000–00–0000
ROBERT G KARKER, 000–00–0000
JAMES E KING, JR, 000–00–0000
JOHN C KRESIN, 000–00–0000
GARY C MARTIN, 000–00–0000
MARY ELLEN MC LEAN, 000–00–0000
ERIK J MEYERS, 000–00–0000
RICHARD R MILLER, 000–00–0000
GARRY L MYERS, 000–00–0000
ROBERT H POINDEXTER, 000–00–0000
CHARLES A POWELL, 000–00–0000
MARK S RASCH, 000–00–0000
HOWARD W ROBERTS, 000–00–0000
DAVID A STANCZYK, 000–00–0000
VINCENT J TAKACS, 000–00–0000
DOUGLAS C WILSON, 000–00–0000

MEDICAL CORPS

To be lieutenant colonel

MICHAEL J. AINSCOUGH, 000–00–0000
DENNA E. ALI, 000–00–0000
RICHARD E. BACHMANN, JR., 000–00–0000
MARGARET L. BARNESRIVERA, 000–00–0000
STEVEN A. BARRINGTON, 000–00–0000
WILLIAM H. BARTH, JR., 000–00–0000
ALAN B. BERG, 000–00–0000
CATHERINE E. BIERSACK, 000–00–0000
JEFFREY M. BISHOP, 000–00–0000
DOUGLAS F. BOLDA, 000–00–0000
GEORGE T. BOLTON, 000–00–0000
DEBORAH J. BOSTOCK, 000–00–0000
JAMES A. BOURGEOIS, 000–00–0000
MARK W. BOWYER, 000–00–0000
DEBORAH N. BURGESS, 000–00–0000
EDWARD C. CALLAWAY, 000–00–0000
DEAN W. CARLSON, 000–00–0000
JUNE A. CARRAHER, 000–00–0000
DELOS D. CARRIER, 000–00–0000
DOUGLAS J. CHADBOURNE, 000–00–0000
CRAIGHTON CHIN, 000–00–0000
JOHN T. CINCO, 000–00–0000
STEVEN C. COGSWELL, 000–00–0000
DAVID L. CULL, 000–00–0000
DAVID L. DAWSON, 000–00–0000
RICHARD J. DELORENZO, JR., 000–00–0000
JEFFREY G. DEMAIN, 000–00–0000
THOMAS H. DOUGHERTY, 000–00–0000
PRESTON M. DUNNMON, 000–00–0000
EUGENE D. EDDLEMON, 000–00–0000
ROBERT W. ELLIS, 000–00–0000
ANN E. FARASH, 000–00–0000
CHARLES R. FISHER, JR., 000–00–0000
WYATT C. FOWLER, 000–00–0000
DANIEL C. GARNER, 000–00–0000
THOMAS F. GEORGE, 000–00–0000
ANTHONY T. GHIM, 000–00–0000
KARA L. HAAS, 000–00–0000
DAN R. HANSEN, 000–00–0000
CRAIG D. HARTRANFT, 000–00–0000
ANTHONY L. HATCHER, 000–00–0000
AIMEE L. HAWLEY, 000–00–0000
JAMES H. HENDERSON II, 000–00–0000
JAMES H. HERIOT, 000–00–0000
TODD D. HESS, 000–00–0000
BRUCE T. HEWETT, 000–00–0000
STEPHEN R. HOLT, 000–00–0000
JOHN S. HUNT, 000–00–0000
ROBERT R. IRELAND, 000–00–0000
MARK A. JEFFRIES, 000–00–0000
DAVID M. JENKINS, 000–00–0000
LARRY N. JOHNSON, 000–00–0000
VINCENT T. JONES, 000–00–0000
KEVIN T. JORDAN, 000–00–0000
LISA M. JUDGE, 000–00–0000
EVAN Z. KAPP, 000–00–0000
HOWARD L. KATZ, 000–00–0000
WILLIAM B. KLEIN, 000–00–0000
CHRISTOPHER J. KNAPP, 000–00–0000
KATHY A. LACIVITA, 000–00–0000
TIMONTHY J. LADNER, 000–00–0000
TOMAS F. LICHAUCO, 000–00–0000
CHRISTOPHER J. LISANTI, 000–00–0000
GAEL J. LONERGAN, 000–00–0000
ROBERT C. LOWE, 000–00–0000
MATTHEW L. LUKENS, 000–00–0000
KAREN M. MATHEWS, 000–00–0000
DONALD K. MATTHEWS, 000–00–0000
KEVIN M. MC CABE, 000–00–0000
MARK D. MILLER, 000–00–0000
ELIZABETH A. MILUM, 000–00–0000
PAUL S. MUELLER, 000–00–0000
PETER M. MURRAY, 000–00–0000
DAVID SYDNEY NIX, 000–00–0000
KEVIN J. O'TOOLE 000–00–0000
MARTIN G. OTTOLINI, 000–00–0000
ROBERT A. PANICO, 000–00–0000
MICHAEL S. PARANKA, 000–00–0000
DENNIS PEARMAN, 000–00–0000
BRADLEY E. PERSONIUS, 000–00–0000
DANGTUAN PHAM, 000–00–0000
ARNYCE R. POCK, 000–00–0000
THOMAS M. POLIDORE, 000–00–0000
STEVEN M. PRINCIOTTA, 000–00–0000
MARK K. REED, 000–00–0000
MICHAEL J. REZNICEK, 000–00–0000
DAVID B. RHODES, 000–00–0000
JOSE E. ROMAN, 000–00–0000
MICHAEL T. RYAN, 000–00–0000
TERENCE D. RYAN II, 000–00–0000
ROBERT M. SADD, 000–00–0000
EDMUND S. SABANEGH, JR., 000–00–0000
TRACY L. SAMPLES, 000–00–0000
VICENTE E. SANCHEZCASTRO, 000–00–0000
MICHAEL SCHAUBER, 000–00–0000
ERIC R. SCHWARZ, 000–00–0000
ERIC J. SIMKO, 000–00–0000
CARL G. SIMPSON, 000–00–0000
GARY D. SWAIN, 000–00–0000
TERRY L. TOMLINSON, 000–00–0000
LAURA A. TORRESREYES, 000–00–0000
HENRY F. TRIPP, JR., 000–00–0000
WILLIAM J. VALKO, 000–00–0000
MARC A. VALLEY, 000–00–0000
DAVID F. VANDERBURGH, 000–00–0000
DENNIS D. WEAVER, 000–00–0000
CHRISTOPEHER S. WILLIAMS, 000–00–0000
DORIAN J. WILSON, 000–00–0000
ROBERT A. WILSON, 000–00–0000
MYGLEETUS W. WRIGHT, 000–00–0000
DONALD R. YOHO JR., 000–00–0000

DENTAL CORPS

To be major

THADDEUS M. CHAMBERLAIN, 000–00–0000
JAMES C. CHOI, 000–00–0000
CHRISTOPHER CIAMBOTTI, 000–00–0000
ANN M. COFFEY, 000–00–0000
DOUGLAS B. CURRY, 000–00–0000
JOHN A. DOLENZ, 000–00–0000
LONNIE, D. EASTER, 000–00–0000
BRUCE M. ERICKSON, 000–00–0000
JAY E. FANDEL, 000–00–0000
RICHARD R. FRAZIER, 000–00–0000
ROGER J. GOLLON, 000–00–0000
GUY F. GRABIAK, 000–00–0000
DANIEL M. GREISING, 000–00–0000
DANIEL HABERMAN, 000–00–0000

MARISA H. HERMAN, 000–00–0000
TRACY A. HUTCHISON, 000–00–0000
GEORGE E. JOHNSON, 000–00–0000
RICHARD L. JOHNSON, 000–00–0000
BRIAN T. KERNAN, 000–00–0000
ROBERT E. LANGSTEN, 000–00–0000
ROBERT J. MALEK, 000–00–0000
MICHAEL J. MAUGER, 000–00–0000
RANDALL J. MC DANIEL, 000–00–0000
MICHAEL F. MORRIS, 000–00–0000
KEVIN J. MURPHY, 000–00–0000
DAVID W. MURRAY, 000–00–0000
MICHAEL D. MURRAY, 000–00–0000
SUSAN M. OSOVITZPETERS, 000–00–0000
DAVID F. PIERSON, 000–00–0000
JOHN A. SAFAR, 000–00–0000
SCOTT R. SCHUBKEGEL, 000–00–0000
JAY S. TAYLOR, 000–00–0000
MAREN DENNIS M. VAN, 000–00–0000
JANE S. WALLACE, 000–00–0000
MARK H. WRIGHT, 000–00–0000

MEDICAL CORPS

To be major

MARTIN ABBINANTI, 000–00–0000
GAIL D. ABBOTT, 000–00–0000
LISA M. ADE, 000–00–0000
MELISSA A. AERTS, 000–00–0000
BRIAN D. AFFLECK, 000–00–0000
EVAN C. ALLEN, 000–00–0000
NIMIA J. ALSTON, 000–00–0000
FREDERICK J. ANDERSON, JR., 000–00–0000
VALISIA A. ANDREWS, 000–00–0000
BRYAN N. ANGLE, 000–00–0000
JOHN L. ANTHONY, 000–00–0000
EMILO A. ARISPE, 000–00–0000
JAMES C ASHWORTH, 000–00–0000
CARLOS R BAEZ, 000–00–0000
MARY E BANE, 000–00–0000
DAVID R BARNARD, 000–00–0000
DOUGLAS E BARNES, 000–00–0000
GEORGE T BARRON, JR, 000–00–0000
CHARLES A BATEN, 000–00–0000
TIMOTHY N BEAMESDERFER, 000–00–0000
BRION J BEERLE, 000–00–0000
DANIEL D BELLINGHAM, 000–00–0000
JOHN R BENNETT, 000–00–0000
BRAD Z BERGER, 000–00–0000
DANNY P BERK, 000–00–0000
MARTIN F BERTRAM, 000–00–0000
LEROY G BEYER, JR, 000–00–0000
KIP A BIDWELL, 000–00–0000
WILLIAM A BIGGERS, JR, 000–00–0000
JAY T BISHOFF, 000–00–0000
MATTHEW F BITNER, 000–00–0000
KAREN BLANKENBURG, 000–00–0000
ELIZABETH STROH BLOOM, 000–00–0000
JEFFREY A BOCK, 000–00–0000
THOMAS S BOLAND, 000–00–0000
WILLIAM T BOLEMAN, 000–00–0000
JEFFREY R BORIS, 000–00–0000
MARC W BOSTICK, 000–00–0000
MARK A BRADSHAW, 000–00–0000
CYNTHIA L BRANDENBURG, 000–00–0000
WERNER C BROOKS, 000–00–0000
DIANA P BROOMFIELD, 000–00–0000
DAVID W BROUWER, 000–00–0000
ANGELA M BROWN, 000–00–0000
MARKHAM J BROWN, 000–00–0000
TONYA R BROWN, 000–00–0000
VICTORY Y M BROWN, 000–00–0000
SCOTT M BROWNING, 000–00–0000
LENARD C BRUNSDALE, 000–00–0000
ANNE P BURGESS, 000–00–0000
EDWIN K BURKETT, 000–00–0000
HUGH A BURT, 000–00–0000
ONIE BUSSEY, 000–00–0000
JOSEPH A BUZOGANY, 000–00–0000
DIANA R CAFARO, 000–00–0000
JAMES T CALLAGHAN III, 000–00–0000
KEVIN J CALLERAME, 000–00–0000
DANILO O CANLAS, 000–00–0000
KEVIN R CARPENTER, 000–00–0000
FRANCISCO G CARPIO, 000–00–0000
JOHN A CARRINO, 000–00–0000
TODD E CARTER, 000–00–0000
LANNIE J CATION, 000–00–0000
JONATHAN T CHAI, 000–00–0000
THOMAS D CHALLMAN, 000–00–0000
BLAKE V CHAMBERLAIN, 000–00–0000
BRYON CHAMBERLAIN, 000–00–0000
GEORGE F CHIMENTO, 000–00–0000
TODD E CHRISTENSEN, 000–00–0000
ANDREW SUN WEN CHU, 000–00–0000
MARILYN K CLARK, 000–00–0000
STEVEN J CLARK, 000–00–0000
MARCHEL W CLEMENTS, 000–00–0000
MICHAEL EDWARD COGHLAN, 000–00–0000
RAMON E COLINA, 000–00–0000
DAVID R CONDIE, 000–00–0000
JACQUES S COUSINEAU, 000–00–0000
GEORGE B CREEL, 000–00–0000
FRANK J CRIDDLE III, 000–00–0000
WENDELL C DANFORTH, 000–00–0000
LYNDA DANIELUNDERWOOD, 000–00–0000
DEBORAH L DAUGHERTY, 000–00–0000
JERRY E DAVIS, 000–00–0000
MARY P DEFRANK, 000–00–0000
RONALD N DELANOIS, 000–00–0000
EUGENE F DELAUNE, 000–00–0000
MARK A DEMOSS, 000–00–0000
SCOT M DEPUE, 000–00–0000
ANTHONY W DEUSTER, 000–00–0000
DAVID W DEXTER, 000–00–0000
JAIME L DICKERSON, 000–00–0000
ROY J DILEO, 000–00–0000
WILLIAM N DINENBERG, 000–00–0000
JOSEPH A DINKINS, 000–00–0000
FRANK G DITZ, 000–00–0000
ALDO J DOMENICHINI, 000–00–0000
ROBERT B DONEGAN, 000–00–0000
GEORGE R DULABON, 000–00–0000
BLACK RACHEL R DUNN, 000–00–0000
THOMAS M DYE, 000–00–0000
BRUCE M EDWARDS, 000–00–0000
MARTIN G EDWARDS, 000–00–0000
PETER J ELLIOTT, 000–00–0000
KATHLEEN E EMPEN, 000–00–0000
IREL S EPPICH, 000–00–0000
MICHAEL J EPPINGER, 000–00–0000
JAMES S EVANS, 000–00–0000
JAMES W FARN, 000–00–0000
PHILIP J FEARAHN, 000–00–0000
ERIC B FEINBERG, 000–00–0000
EDWARD L FIEG, 000–00–0000
THOMAS G FIELD, 000–00–0000
SCOTT P FIELDER, 000–00–0000
MICHAEL D FIELDS, 000–00–0000
ERIC M FINLEY, 000–00–0000
STEPHANIE A FLESHER, 000–00–0000
LESLIE R FLETCHER, JR, 000–00–0000
RODERICK J FLOWERS, 000–00–0000
DOUGLAS B FORSYTH, 000–00–0000
PETER L FORT, 000–00–0000
JOHN E FORTENBERRY, 000–00–0000
DAVID R FOSS, 000–00–0000
INDRA N FRANK, 000–00–0000
KEVIN J FRANKLIN, 000–00–0000
KURT E FRAUENPREIS, 000–00–0000
STEVEN M FREED, 000–00–0000
PAUL F FREITAS, 000–00–0000
MICHAEL D FUGIT, 000–00–0000
JULIEMARIE GERICK, 000–00–0000
PAUL M GIBBS, 000–00–0000
JOSEPH A GIOVANNINI, 000–00–0000
RICHARD S GIST, 000–00–0000
STEVEN P GOFF, 000–00–0000
ROBIN S GOSSUM, 000–00–0000
CARON JO GRAY, 000–00–0000
GREGORY S GROSE, 000–00–0000
BRIAN A GUNTER, 000–00–0000
EVAN C GUZ, 000–00–0000
KENT L HAGGARD, 000–00–0000
RYAN T HAGINO, 000–00–0000
JEFFREY L HAMILTON, 000–00–0000
CYNTHIA K HAMPSON, 000–00–0000
DENISE L HARKINS, 000–00–0000
F THOMAS HARKINS, 000–00–0000
STEVEN J HARLINE, 000–00–0000
TYLER E HARRIS, 000–00–0000
HOWARD S HAYNES, 000–00–0000
JAMES W HAYNES, 000–00–0000
TINA S HAYNES, 000–00–0000
MICHAEL J HEARD, 000–00–0000
AUGUST S HEIN, 000–00–0000
MARK B HEINONEN, 000–00–0000
ROBIN R HEMPHILL, 000–00–0000
CHARLES A HENDERSON, 000–00–0000
ALAN W HENLEY, 000–00–0000
BARRY S HIGHBLOOM, 000–00–0000
BARBARA A HILGENBERG, 000–00–0000
PETER D HOLT, 000–00–0000
CHARLES HOPE II 000–00–0000
JOSEPH A HOWARD, 000–00–0000
DANILO H HOYUMPA, 000–00–0000
TADD T C HSIE, 000–00–0000
IDA E HUANG, 000–00–0000
MARK E HUBNER, 000–00–0000
ROGER L HUMPHRIES, 000–00–0000
PAUL W HUSER, 000–00–0000
KIRK J HUTJENS, 000–00–0000
RICHARD G IHNAT, 000–00–0000
TERRI ANN IMUNDO, 000–00–0000
LAURA O JACOBS, 000–00–0000
JULI G JEFFREY, 000–00–0000
JEFFERY R JENKINS, 000–00–0000
LISA JOYCE JERVIS, 000–00–0000
OLIVER W JERVIS, JR, 000–00–0000
JAMES W JOHN, 000–00–0000
CHARLES E JOHNSON, 000–00–0000
DWIGHT C JOHNSON, 000–00–0000
MICHAEL A JOHNSON, 000–00–0000
KAY A JOHNSTON, 000–00–0000
JOHN D JOSEPHS, 000–00–0000
CAESAR A JUNKER, 000–00–0000
HAROLD KAFTAN, 000–00–0000
BRENT L KANE, 000–00–0000
TIMOTHY J KAPPEL, 000–00–0000
TIMOTHY E. KEHN, 000–00–0000
THOMAS E KEHN, 000–00–0000
DANIEL KELETI, 000–00–0000
MARK J KELLEN, 000–00–0000
TONI C KILYK, 000–00–0000
COLIN M KINGSTON, 000–00–0000
MARY K KLASSEN, 000–00–0000
ALEXANDER KLYASHTORNY, 000–00–0000
MARK A KOENIGER, 000–00–0000
LINDA K KOLLROSS, 000–00–0000
KIM R KOSTER, 000–00–0000
ANDREA S KRISTOFY, 000–00–0000
TIMOTHY F KURT, 000–00–0000
KRISTEN J LANCASTER, 000–00–0000
ROGER I LANE, 000–00–0000
KEITH R LAYNE, 000–00–0000
KARI A LEIKERT, 000–00–0000
DANIEL J LENIHAN, 000–00–0000
MICHAEL W LENIHAN, 000–00–0000
WILLIAM F. LIGON, 000–00–0000
TIMOTHY W LINEBERRY, 000–00–0000
RICHARD J LOCICERO, 000–00–0000
KELLY T LOCKE, 000–00–0000
DON C LOOMER, 000–00–0000
PAUL T LORENTSEN, 000–00–0000
DANIEL L LOTT, 000–00–0000
DOUGLAS A LOUGEE, 000–00–0000
LAURIE P LOVELY, 000–00–0000
MICHAEL E LYNCH, 000–00–0000
WILLIAM S. MAHER, 000–00–0000
PATTI W MANNING, 000–00–0000
JEFFREY A MARCHESSAULT, 000–00–0000
ELIZABETH A MARKOWITZ, 000–00–0000
AREVALO DEANDRA L MARTIN, 000–00–0000
EDWARD F MARTINEK, 000–00–0000
JOHN C MATTEUCCI, 000–00–0000
DANIEL E MATTHEWS, 000–00–0000
MARION B MAZZOLA, 000–00–0000
COLLOM ANCE E MC,, 000–00–0000
FRANCIS M MC CABE, 000–00–0000
DARYL M MC CLENDON, 000–00–0000
THOMAS C MC FADDEN, JR, 000–00–0000
JOSEPH P MC GRAW, 000–00–0000
SCOTT E MC GUIRE, 000–00–0000
PAUL C MC LOONE, 000–00–0000
SHELLY MEWES MC NAIR, 000–00–0000
JEFFRY P MENZNER, 000–00–0000
CHERYL A MEYERS, 000–00–0000
ERIC D MILLER, 000–00–0000
CYNTHIA A MOFFETT, 000–00–0000
DAVID C MOOTH, 000–00–0000
CHARLES E MORRIS, 000–00–0000
WILLIAM B MORRISON, 000–00–0000
GREGORY J MORSE, 000–00–0000
MYRON E MORSE, 000–00–0000
LINDA K NAKANISHI, 000–00–0000
ROBERT J. NARDINO, 000–00–0000
JEFFREY C NARY, 000–00–0000
KAY M NELSEN, 000–00–0000
ERIC A NELSON, 000–00–0000
PAUL B NELSON, 000–00–0000
ANN A T NGUYEN, 000–00–0000
DUC C NGUYEN, 000–00–0000
STEVEN A NGUYEN, 000–00–0000
CAROL M NIBERT, 000–00–0000
MARQUIS J NUBY, 000–00–0000
CHRISTOPHER A NUSSER, 000–00–0000
LAWRENCE R NYCUM, 000–00–0000
JOHN W OBBINK, JR 000–00–0000
ERIC T ORTINAU, 000–00–0000
LAURA B OSTEZAN, 000–00–0000
RORY G OWEN, 000–00–0000
CHRISTOPHER G PALMER, 000–00–0000
ANDREA L PANA, 000–00–0000
PATRICK M PANCOAST, 000–00–0000
DOMIAN PAONESSA, 000–00–0000
MARK RANDALL PARSON, 000–00–0000
ANJA A PATTON, 000–00–0000
RHONDA L PERRY, 000–00–0000
MICHAEL J PHILLIPS, 000–00–0000
THOMAS R PIAZZA, 000–00–0000
JOSEPH J PIERCE III, 000–00–0000
EMILY W PIERCEFIELD, 000–00–0000
LLOYD A PIERRE, JR, 000–00–0000
JOHN A PILCHER, JR, 000–00–0000
CHRISTOPHER D PITTS, 000–00–0000
HELEN G POREMBA, 000–00–0000
JOHN A POREMBA, 000–00–0000
DANA E POWELL, 000–00–0000
GEORGE E POWELL, 000–00–0000
LEONARDO C PROFENNA, 000–00–0000
DAVID M RASMUSSEN, 000–00–0000
CYNTHIA L RAUH, 000–00–0000
MARVIN LEE RAY, 000–00–0000
DENNIS G REID, 000–00–0000
RICHARD C RENO, 000–00–0000
JENNIFER M RHODE, 000–00–0000
STEVEN G RICHARDSON, 000–00–0000
BRAD A RICHTER, 000–00–0000
PHILLIP C RIDDLE, 000–00–0000
MONICA J RIECKHOFF, 000–00–0000
EDWIN D RISENHOOVER, 000–00–0000
MEGAN A RITTER, 000–00–0000
ANTHONY S ROBBINS, 000–00–0000
KENNETH C ROBERTS, 000–00–0000
DALE C ROBINSON, 000–00–0000
KATHLEEN M RODRIGUEZ, 000–00–0000
JOHN D ROGERS, 000–00–0000
DANIEL N RONEL, 000–00–0000
MELANIE A ROSCOE, 000–00–0000
PETER W ROSS, 000–00–0000
DAVID M ROWLES, 000–00–0000
BARBARA A RUGO, 000–00–0000
ROBERT E RUPP, 000–00–0000
STEVEN R SABO, 000–00–0000
JOHN D SALMON, 000–00–0000
LEE G SALTZGABER, 000–00–0000
TOM J SAUERWEIN, 000–00–0000
KEVIN S L J SAWCHUK, 000–00–0000
ROSS J SCALESE, 000–00–0000
ERIC M SCHACKMUTH, 000–00–0000
WILLIAM G SCHAEFFER, 000–00–0000
LENA C SCHAFFER, 000–00–0000
ROBERT L SCHELONKA, 000–00–0000
JOSEPH C SCHMIDT, 000–00–0000
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DEAN A SCHULTZ, 000–00–0000
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RANDALL H SCHUSTER, 000–00–0000
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STEVEN M SHARP, 000–00–0000
PAUL J SHAUGHNESSY, 000–00–0000
MICHELE T SIBLEY, 000–00–0000
CHUNG M SIEDLECKI, 000–00–0000
MARC ANTHONY SILBERBUSCH, 000–00–0000
MARIO A SILVA, 000–00–0000
THEODORE P SKAARUP, 000–00–0000
STEPHEN X SKAPEK, 000–00–0000
SCOTT C SLATTERY, 000–00–0000
ANN E SNEIDERS, 000–00–0000

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DAVID D SPAULDING, 000–00–0000
RICHARD E STANDAERT, JR, 000–00–0000
RICHARD T STEFFEN, 000–00–0000
BRUCE E STERNKE, 000–00–0000
WILLIAM A STINNETTE, 000–00–0000
ERIC B STONE, 000–00–0000
STEPHEN E STONEHOUSE, 000–00–0000
KEITH R STORTS, 000–00–0000
PRAVEEN K SUCHDEV, 000–00–0000
JUDITH A SUTTER, 000–00–0000
STEVEN G SUTTON, 000–00–0000
SUSAN L SWARDCOMUNELLI, 000–00–0000
TODD C SWATHWOOD, 000–00–0000
JOHN N SWEENEY, 000–00–0000
EDWARD J SZABO, 000–00–0000
ROBERT F TAKACS, 000–00–0000
ERIC A TAYLOR, 000–00–0000
NEAL R TAYLOR, 000–00–0000
MICHAEL D TEAGUE, 000–00–0000
DENISE J TEASLEY, 000–00–0000
ANGELA R THOMAS, 000–00–0000
JERRY R THOMAS II, 000–00–0000
WILLIAM A. THOMAS, JR., 000–00–0000
CHRISTOPHER M. THOMPSON, 000–00–0000
TOMMY C. THOMPSON, 000–00–0000
DOUGLAS S. TICE, 000–00–0000
CHRIST J. TOCORAS, 000–00–0000
ROGER L. TOLAR, JR, 000–00–0000
GEOFFREY Y. TOM, 000–00–0000
RAFAEL TORRES, 000–00–0000
CHRISTINE M. TOTH, 000–00–0000
TERRENCE L. TRENTMAN, 000–00–0000
LYNETTE K. TUN, 000–00–0000
DANIEL R. TURNER, 000–00–0000
JAMES P. VANDECAR, 000–00–0000
DAVID A. VELLING, 000–00–0000
JEFF P. VISTA, 000–00–0000
DAVID M. WALKER, 000–00–0000
RUSSELL L. WALKER, 000–00–0000
ANDREW J. WALTER, 000–00–0000
ELIZABETH A. WALTER, 000–00–0000
JOHN M. WARNER, 000–00–0000
BILL P. WATSON, 000–00–0000
GERALD S. WELKER, 000–00–0000
JOHN W. WHELAN, JR, 000–00–0000
MICHAEL R. WILMINGTON, 000–00–0000
SCOTT L. WILSON, 000–00–0000
TRACY J. WINTERS, 000–00–0000
JOHN C. WITT, 000–00–0000
LINDA L. WOLBERS, 000–00–0000
DANNY A. WOLFGRAM, 000–00–0000
RANDY J. WOODS, 000–00–0000
LUN S. YAN, 000–00–0000
LYNNE MILLER YANCEY, 000–00–0000
EDWARD L. YANG, 000–00–0000
JESSICA R. YBANEZMORLAND, 000–00–0000
CHI HWA YEH, 000–00–0000
CHRISTOPHER T. YOUNG, 000–00–0000
SCOTT ZAGER, 000–00–0000
PAUL R. ZIMNIK, 000–00–0000
RICHARD M. ZWIRKO, 000–00–0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, U.S.C. THE OFFICERS MARKED BY AN ASTERISK (*) ARE ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, U.S.C.

DENTAL CORPS

To be colonel

LOREN D. ALVES, 000–00–0000
WILLIAM R. BACHAND, 000–00–0000
MICHAEL K. BAISDEN, 000–00–0000
JOHN H. BARKER, 000–00–0000
MICHAEL S. BARTELT, 000–00–0000
RICHARD A. BASS, 000–00–0000
MARK H. BEACH, 000–00–0000
SIDNEY A. BROOKS, 000–00–0000
JOHN S. BROUSSEAU, 000–00–0000
PAUL J. BUCCIGROSS, 000–00–0000
MARY H. BURKE, 000–00–0000
JOHN M. CARUSO, 000–00–0000
ANDREW J. CASSIDY, 000–00–0000
ANDREW D. CHANDLER, 000–00–0000
HUNTER R. CLOUSE, 000–00–0000
JOHN M. DHANE, 000–00–0000
EGGLESTON J. FAULK, 000–00–0000
CARLTON J. FLOYD, 000–00–0000
JEFFREY G. FOERSTER, 000–00–0000
JAMES M. GERGELY, 000–00–0000
DAVID G. GILLON, 000–00–0000
BILL G. GOBLE, 000–00–0000
JAMES N. HAMILTON, 000–00–0000
WILLIAM S. JOHNSON, 000–00–0000
JOSEPH J. JURCAK, 000–00–0000
DAVID G. KERNS, 000–00–0000
VAL L. KUDRYK, 000–00–0000
BYRON W. LINDSAY, 000–00–0000
WILSON J. LUCIANO, 000–00–0000
PAUL A. LUTTRELL, 000–00–0000
JOHN D. MAYO, 000–00–0000
RICHARD J. MC CLAVE, 000–00–0000
MICHAEL J. MC GOWAN, 000–00–0000
STANLEY J. MC NEME, 000–00–0000
ROBERT D. MEYER, 000–00–0000
RONALD W. MIKALOFF, 000–00–0000
BARRY D. MOORE, 000–00–0000
FRANCIS E. NASSER, 000–00–0000
NORMAN W. OTT, 000–00–0000
DANIEL M. PIETZ, 000–00–0000
KEVIN D. PLUMMER, 000–00–0000
DIANE M. POLLICK, 000–00–0000
JOSEPH R. POTOKY, 000–00–0000
THOMAS C. RAKER, 000–00–0000
DANIEL R. RAVEL, 000–00–0000
ROBERT B. REICHL, 000–00–0000
ROBERT B. SCHANZER, 000–00–0000
MICHAEL H. SHAHAN, 000–00–0000
GURBHAJAN SINGH, 000–00–0000
EDWARD A. SOUZA, 000–00–0000
THOMAS A. SULLIVAN, 000–00–0000
MC COMBS K. TILLMAN, 000–00–0000
GARY J. VALIANT, 000–00–0000
MACK A. WARREN, 000–00–0000
MICHAEL E. WERNER, 000–00–0000
EUGENE WEST, 000–00–0000
LESLEY A. WEST, 000–00–0000
DAVID C. WILLIAMS, 000–00–0000
JOSEPH A. WINEMAN, 000–00–0000
TERRY ZETTLEMOYER, 000–00–0000

MEDICAL CORPS

To be colonel

ARNOLD A. ASP, 000–00–0000
DONALD D. * BAILEY, 000–00–0000
RICHARD * BEDNARCZYK, 000–00–0000
PAUL M. BENSON, 000–00–0000
SAMUEL P. * BOEHM, 000–00–0000
MICHAEL E. COATS, 000–00–0000
LYDIA A. COFFMAN, 000–00–0000
LIMONE C. * COLLINS, 000–00–0000
WILLIAM F. * DAVITT, 000–00–0000
NANCY A. DAWSON, 000–00–0000
MARGRETTA M. * DIEMER, 000–00–0000
THOMAS A. * DILLARD, 000–00–0000
DAVID P. * DOOLEY, 000–00–0000
MARSHALL V. * DRESSEL, 000–00–0000
EDWARD M. EITZEN, JR, 000–00–0000
ARN H. * ELIASSON, 000–00–0000
NATHAN ERTESCHIK, 000–00–0000
DOUGLAS W. * FELLOWS, 000–00–0000
CHARLES W. FOX, 000–00–0000
DEAN R. * GIULITTO, 000–00–0000
LARRY J. * GODFREY, 000–00–0000
DANIEL GORDON, 000–00–0000
STEVEN F. GOUGE, 000–00–0000
WILLIAM J. GRABSKI, 000–00–0000
ELDER GRANGER, 000–00–0000
STEVEN A. GREENWELL, 000–00–0000
MILO L. * HIBBERT, 000–00–0000
RALPH M. HINTON, 000–00–0000
KENNETH J. HOFFMAN, 000–00–0000
GWENDOLYN * HOLEMAN, 000–00–0000
RAYMOND A. * HOWARD, 000–00–0000
STEPHEN C. INSCORE, 000–00–0000
JONATHAN H. JAFFIN, 000–00–0000
KEVIN T. * JAMES, 000–00–0000
JAMES E. JOHNSON, 000–00–0000
DELBERT E. * JONES, 000–00–0000
STEPHEN R. * JONES, 000–00–0000
MARTIN G. JOURDEN, 000–00–0000
JOHN M. KIRK, 000–00–0000
MARGARET J. KNAPP, 000–00–0000
DANIEL H. KNODEL, 000–00–0000
JENICE N. * LONGFIELD, 000–00–0000
DAVE E. LOUNSBURY, 000–00–0000
PHILLIP L. MALLORY, 000–00–0000
SAMUEL K. * MARTIN, 000–00–0000
MICHAEL D. * MATSON, 000–00–0000
RONALD A. MAUL, 000–00–0000
MARTHA MC COLLOUGH, 000–00–0000
THOMAS C. * MICHELS, 000–00–0000
JAMES G. MILLER, 000–00–0000
OPHELIA * PATTERSON, 000–00–0000
THOMAS * PENNINGTON, 000–00–0000
JAMES A. PFAFF, 000–00–0000
THOMAS * QUARNSTROM, 000–00–0000
KRISTIN B. RAINES, 000–00–0000
KATY L. * REYNOLDS, 000–00–0000
PAUL B. * ROCK, 000–00–0000
JOSE L. SANCHEZ, 000–00–0000
WAYNE A. SCHIRNER, 000–00–0000
GILBERTO * SOSTRE, 000–00–0000
LEONARD C. SPERLING, 000–00–0000
MERLE S. SPRAGUE, 000–00–0000
LAIRIE O. * STABLER, 000–00–0000
ROGER W. STRICKLAND, 000–00–0000
RITA L. * SVEC, 000–00–0000
GREGG W. TAYLOR, 000–00–0000
MARK S. * TAYLOR, 000–00–0000
RAY U. TOMKINS, 000–00–0000
RONALD P. * TURNICKY, 000–00–0000
PHILIP VOLPE, 000–00–0000
WILLIAM O. WALKER, 000–00–0000
HERBERT G. WHITLEY, 000–00–0000
JOSEPH F. * YETTER, 000–00–0000

EXTENSIONS OF REMARKS

''UNLEASHING AMERICA'S POTENTIAL''

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 22, 1996

Mr. GINGRICH. Mr. Speaker, on behalf of Senate Majority Leader BOB DOLE and myself, I would like to bring to my colleagues' attention the following report by the National Commission on Economic Growth and Tax Reform entitled ''Unleashing America's Potential.''

LETTER TO THE COMMISSION

FOREWORD

To the Members of the National Commission on Economic Growth and Tax Reform

''Taxation without representation is tyranny.'' Those are the words that helped to ignite the American revolution over two centuries ago.

As we approach the 21st century, the crescendo for tax reform continues to build, year after year, election after election. Americans have looked at a tax system constantly increasing in both rates and complexity, and concluded that taxation with representation wasn't so good either.

The current system is indefensible. It is overly complex, burdensome, and severely limits economic opportunity for all Americans.

We made clear on the very first day of the 104th Congress that our top priority would be to change the status quo and to bring fundamental change to America. And we agreed that there is no status quo that needs more fundamental changing than our tax system.

We envision:

A tax system that is fairer, flatter, and simpler.

A tax system that promotes, rather than punishes, job creation.

A tax system that eliminates unnecessary paperwork burdens on America's businesses.

A tax system that recognizes the fact that our families are performing the most important work of our society.

A tax system that provides incentives for Americans who save for the future in order to build a better life for themselves and their families.

A tax system that allows Americans, especially the middle-class, to keep more of what they earn, but that raises enough money to fund a leaner, more efficient federal government.

A tax system that allows Americans to compute their taxes easily, without the need for a lawyer, an accountant—or both.

To help make this vision a reality, we named Jack Kemp, one of America's most innovative thinkers on economic policy, to head the National Commission on Economic Growth and Tax Reform—a commission that included thirteen more outstanding Americans.

The entire commission worked diligently for the past several months, holding public hearings in eight cities, while constantly thinking about how to create a better tax system.

Their final report is guaranteed to stimulate this important national dialogue. It will surely serve as a catalyst for congressional hearings and debate. We hope that it will also trigger conversations around kitchen tables, water coolers, and in town hall meetings across the country.

We invite all those who read this report to write us with your thoughts on its recommendations and conclusions, and to share with us other suggestions on how we can create a tax system that promotes economic growth and opportunity for all Americans.

BOB DOLE,
Senate Leader.
NEWT GINGRICH,
House Speaker.

A NEW LEVEL OF THINKING

PREFACE

''They act like all that money is *born* in Washington, D.C.'' Perhaps no comment has better summarized the problem with our nation's capital than this observation by Ed Zorinsky, the late Democratic Senator from Nebraska. And nowhere is this governmental conceit expressed more destructively than in the workings and effects of our Internal Revenue Code.

Many previous attempts at tax reform have been marred by the inside-the-beltway assumption that the wealth of the nation belongs to its government. This position has perpetuated what could be called the ''tin-cup syndrome''—an environment in which the political competition over scarce resources replaces the economic competition that produces growth, creates jobs, spurs innovation and productivity. As a consequence, the tax code has over the years become increasingly politicized, and is seen less as a simple tool for raising revenue than as an instrument for social and economic engineering. In turn, this has spawned a virtual industry of tax specialists and special interest lobbyists, while exponentially increasing the complexity of the code.

The National Commission on Economic Growth and Tax Reform set out with a different set of assumptions, beginning with the belief that the purpose of the tax code is to raise money while leaving citizens as free as possible to pursue the American dream. Our charge from Senate Leader Dole and Speaker Gingrich was clear: Listen first and learn from the American people. We listened to ordinary taxpayers in hearings around the country. What we heard was a great deal of frustration, concern, and yes, anger with the current system. Our hope has been to channel those frustrations into a set of concrete principles and recommendations that any new tax reform legislation must follow if it is to meet the needs and expectations of the American people.

From June until September 1995, we heard from a cross-section of American taxpayers in Boston, Omaha, Charlotte, Palo Alto, south-central Los Angeles, Harlem, Cleveland, and Washington, D.C. We listened to and learned from family farmers and high-tech entrepreneurs, small businessmen and women, medium-sized and large manufacturers, governors and mayors, congressmen and senators, leading economists and local activists.

Unlike previous ''reform'' commissions, our activities were financed without a dime from the American taxpayer. Expenses were met through private contributions from more than 1,500 donors. The fourteen commissioners received no compensation for the long hours and hard work, save the tremendous reward of knowing their sacrifices would help shape American history. This is an extraordinary group of American citizens who have demonstrated through untold hours of hearings, deliberations, and study their dedication to chart a course that will lead to a better America for their children and grandchildren. We believe we have set that course.

In 1941, in a famous essay for Life magazine, Henry Luce anticipated that the 20th century would be remembered as the American Century. The decades and events that followed—the defeat of Nazi Germany, the collapse of Communism, the expansion of American influence abroad—bore this prediction out. Today, many Americans fear they see that era of American preeminence slipping away. The optimism and boundlessness that have always defined America are seen by some as fond but faded relics to be quietly folded away.

This report reflects the firm conviction that America can do better. None of the members of this commission would have accepted this challenge if we did not believe in the possibility of real progress and real reform.

Albert Einstein observed that ''the problems of today cannot be solved at the same level of thinking on which they were created.'' We have concluded that the complex tax code of the 20th century is poorly suited for dealing with the complex world of the 21st. The vision outlined in the following pages cannot be realized by simply rearranging the deck chairs on the Titanic we call our current tax code. A brand new tax code, modeled on the principles and recommendations proposed in this report, can chart the economic waters ahead and launch our country on its voyage toward the next American century.

EDWIN J. FEULNER,
Vice Chairman,
National Commission on Economic Growth and Tax Reform.

SETTING THE EAGLE FREE

INTRODUCTION

''In short, it is a paradoxical truth that tax rates are too high today and tax revenues are too low, and the soundest way to raise the revenues in the long run is to cut the rates now . . . The purpose of cutting taxes now is not to incur a budget deficit, but to achieve the more prosperous, expanding economy which can bring a budget surplus.''

JOHN F. KENNEDY,
Economic Club of New York,
December 14, 1962.

These words of President Kennedy were a great inspiration to me as the tax reform movement was launched in the early 1980s with the Kemp/Roth tax cut. Kennedy's vision and courage can serve as examples for all Americans as we struggle to make this nation better for our children and grandchildren. His remarks from the Economic Club of New York ring as true today as they did in 1962.

At the first meeting of our commission back in June, I held up a blank sheet of paper and said, ''This is what we start with.'' That was our charge: Senate Majority Leader Bob Dole and House Speaker Newt Gingrich appointed the National Commission on Economic Growth and Tax Reform to study

the current tax code, listen to the suggestions and ideas of people from around the country, and submit to Congress our recommendations for comprehensive reform. A very diverse and dedicated group of 14 people, with the help of an invaluable, overworked, and underpaid staff, set out to design an entirely new tax system for America's 21st century; one which would promise a booming economy, promote job creation, and ensure the greatest possible opportunity for all Americans to work, save, invest, and reach their potential. We operated under the premise that an economic growth rate of 2.5% is unacceptable to the American people.

This commission was empowered not merely to offer superficial reforms, to trim a rate here and close a loophole there, but to begin with a tabula rasa and map out a totally new tax structure for America's next century. We also wanted to help inform the whole world, particularly the emerging democracies, that the goal of tax policy is raising revenue, not redistribution of wealth.

Our nation has arrived at a unique moment in history. With the passing of the Cold War, we are standing at the edge of a new millennium with extraordinary possibilities. Our country is poised to help lead the world into a new era of economic growth fueled by an information-age technological revolution that can yield unparalleled expansion in jobs, productivity, innovation, and prosperity. We must embrace this opportunity and challenge. However, such an embrace will prove difficult, perhaps impossible, if we remain saddled with our current tax code. The current system is indefensible: it is riddled with special interest tax breaks, and it overtaxes both labor and capital. We must construct a tax system that reflects our highest values and unleashes our greatest potential.

The comments and concerns we heard from the American people over the last several months, coupled with a systematic review of the current tax code, helped us establish certain principles to guide us to our conclusions. Surely, a tax code which is simple and fair must generate sufficient revenue so that the federal government may carry out its legitimate tasks. Second, it must not place a tax burden on those members of society least able to bear one. And, perhaps most important of all, it must not restrict the innovative and entrepreneurial capacities of Americans upon which rising living standards and our general prosperity so greatly depend. Our proposals are in keeping with these principles.

Wildly excessive and unjust taxes have locked away access to capital and credit necessary for lower-income Americans to launch the next generation of entrepreneurship. Today, sadly, we see the American people's sense of dynamism and hope, their ability to strive and compete diminished by a tax code which penalizes success, retards investment, and sends capital fleeing overseas. The commission is united in the belief that only a pro-growth tax code can restore America's confidence at home and her greatness abroad. We want a tax code and an overall economy that will liberate the American dream and remove the barriers to upward social and economic mobility. The American ethos of entrepreneurship and optimism made America great once before. We believe these proposals will bolster that ethos again and help restore integrity and honesty to our system.

The author John Gardner has observed that there are many contributing factors to the rise of civilization—accidents of resources, geography, and military power. But whatever other ingredients comprise the greatness of nations, he writes, ''There occurs at breathtaking moments in history an exhilarating burst of energy and motivation, of hope and zest and imagination, and a severing of the bonds that normally hold in check the full release of human possibilities. A door is opened, and the caged eagle soars.'' That eagle, the symbol of our nation, represents the creative spirit, talents, and aspirations of the American people. The charge of this commission and the intent of our recommendations is to open the door and help set that eagle in all of us free.

JACK KEMP,
Chairman,
National Commission on Economic Growth and Tax Reform.

IMAGINE AN AMERICA

WITH A PRO-GROWTH, PRO-FAMILY TAX CODE

The National Commission on Economic Growth and Tax Reform recommends to the Congress and to the President of the United States that the current Internal Revenue Code be repealed in its entirety.

The present system is beyond repair—it is impossibly complex, outrageously expensive, overly intrusive, economically destructive, and manifestly unfair.

It is time to replace this failed system with a new simplified tax system for the 21st century: a single low rate, taxing income only once with a generous personal exemption and full deductibility of the payroll tax for America's working men and women.

This system will reduce the tax burden on middle-income people and will help remove the barriers that keep low-income Americans from reaching their fullest potential.

These changes, once in place, should be sealed with a guarantee of long-term stability, requiring a two-thirds vote of the U.S. Congress to raise the rate.

This new system is predicted on a commitment to expanding growth and opportunity. We believe the changes we propose will help double the rate of economic growth.

A stronger economy will create more jobs, raise family incomes, expand ownership and entrepreneurship, and ensure greater opportunity for our children and grandchildren. It will also produce additional revenues for balancing the budget and reducing the burden of national debt.

The principles and recommendations contained in this report comprise the ''Tax Test''—the standard to which any new tax system must be held. We ask that Congress not pass nor the President sign any tax legislation that fails to pass this test. And we encourage the public to use the goals and guidelines we offer as a road map through the coming national debate on tax reform.

Our aim: to introduce a new system of taxation that brings out the best in the American character, that plays to our strengths and not our weaknesses, that speaks to our hopes and not our fears. Our recommendations are based on a vision of America that places the individual—not the government—at the center of society:

We believe that government does not create opportunity; citizens do, if government will get out of their way.

We believe that government is not the entire of economic growth; it is, more frequently, the monkey wrench in the machine.

We believe that taxpayers' earnings and savings—their property—are not assets on loan from the government. The government is power on loan from the people.

One of the most serious shortcomings of previous attempts at tax reform has been the inability of average Americans to make their voices heard above the chorus of special interests. We have tried a radically different approach: Listening to the people first.

In his first debate with Stephen Douglas, Abraham Lincoln remarked that ''with public sentiment, nothing can fail; without it nothing can succeed.'' We believe that any major legislative attempts to replace the current tax code will falter unless it is first preceded by a national debate on what the new system should look like.

Many previous attempts to reform public policy have failed to achieve their aims because they substituted closed meetings for democratic dialogue, focusing too much on expert analysis and too little on citizens' concerns. By including the public in the deliberations over tax reform, this commission seeks to build broad-based consensus behind a new tax system for America's next millennium.

It was with this spirit that the commission held cross-country public hearings—from the historic home of the Boston tea-party to the heart of south-central L.A. At every hearing in every city, we asked people to tell us what they saw as the problems with the current system and the goals any reform plan should achieve.

In Omaha, farmers pleaded for simpler filing and the freedom to pass family farms on to their children without fear of federal confiscation.

In the Silicon Valley, high-tech entrepreneurs told of the countless ideas conceived but never born because of a scarcity of investment capital.

In south-central Los Angeles, small business-owners voiced frustrations at not being able to expand or hire new workers because of a tax bit that eats away their profits.

And in Harlem, inner-city entrepreneurs expressed both bitterness and bewilderment at a tax code which sucked revenues out of their neighborhoods while preventing investment from flowing in.

In our nation's capital, we heard from elected officials in both the House and the Senate who have for many years been leaders in tax reform. Because of their tireless public service, tax reform is a priority issue on the nation's agenda.

We also heard from many of the finest economists in the country who shared their knowledge and research with us at every hearing.

After our hearings, we held a series of working sessions to analyze what we had heard and to begin discussing our recommendations for change. During one of our working sessions, the commissioners put aside the charts an graphs for a moment, stepped back, and tried to imagine what kind of world they would like America's next generation to grow up in. We were asked to think about how replacing the tax code might help bring that world about:

Imagine an America enjoying a decade of economic growth at nearly twice the present rate—creating jobs, expanding opportunities, and lifting living standards for all.

Imagine an America in which more dreams are in basements and garages grow into multi-million dollar businesses because abundant capital seeks out good ideas, and entrepreneurs and investors are confident that their risk-taking will be rewarded not punished.

Imagine an America where it is easier to get a job than to get on welfare, and where our inner cities share in America's growth and prosperity. Imagine these neighborhoods ringing out, not with sirens in the night, but with the sounds of new storefronts being opened and new businesses being built.

Imagine an America where home ownership and higher education are within the reach of every American so that each citizen owns a stake in the system and shares a common interest and responsibility for its future.

Imagine an America where young couples aren't asked to take a tax hit in order to exchange their marriage vows, and where

young families can save for their future without being punished for their thrift.

Imagine an America where Americans have enough to give, not just to and through their government, but to their churches, synagogues, mosques, their charities, and neighbors in need.

Imagine an America where the I.R.S. becomes the ''TPA''—a Taxpayer Protection Agency—to ensure that no one pays more than is owed. Imagine a customer-friendly approach to raising revenue, based on a belief in the basic honesty of the American people, that treats them with dignity and respect.

We believe that replacing our tax system with one that is simpler and fairer can help to make these American dreams come true.

America was not founded on envy or resentment. The American idea was never to keep everyone at the mean level, but to give everyone the chance to rise as high as his or her effort, initiative and God-given talent would allow. It was a promise of equal opportunity, not of end results: the confidence that whatever you aspired to become—be it artist, inventor, or entrepreneur—you could make it happen here.

As the country pursues this change, how we transition from the existing bankrupt system to the new system will be important. Complicated issues will arise. Nonetheless, we are confident that the Congress and the President will solve these transitions in order to bring about this new tax system. Dramatic change never is easy, and complicated issues will arise in the transition. But change we must, confident that, with the leadership of the Congress and the president, the American can-do spirit will prevail.

A new tax system, as envisioned in the following pages of this report, can take a first step toward renewing that sense of hope and possibility by unleashing a cascade of benefits, beginning with greater economic growth, lower interest rates, and expanded job opportunities for working Americans.

In this spirit, we invite the American people and their elected leaders from, both political parties to use the Tax Test as a checklist as they move forward in replacing the current tax code. We urge the Congress and the President to base any new legislation on the principles and recommendations submitted in this report. Furthermore, we urge President Clinton to appoint a presidential task force or commission to bring the recommendations offered by this congressionally appointed commission to the next level of public debate.

AT THE BOILING POINT

''My grandmother used to tell me the folk tale of the frog,'' recounted Commissioner Herman Cain of his childhood in Atlanta, Georgia. ''If you put a frog in a pot of hot water, he would jump right out. But if you put him in a pot of cool water and gradually turned up the heat, he wouldn't notice the rising temperature and would eventually boil to death.''

The American taxpayer is in hot water. Escalating marginal tax rates, increasing complexity, and advancing intrusiveness have created a system that has reached the boiling point. Over the years, Americans have surrendered more and more of their freedom to higher taxes. The result has not been to enhance economic security or to close the gulf between rich and poor. Instead, it has led to fewer jobs, slow economic growth, diminished hope and opportunity, an erosion of trust and confidence in government, and an ebbing of the American spirit of enterprise. It is a history that echoes James Madison's warning that ''there are more instances of the abridgment of the freedom of the people by gradual and silent encroachments . . . than by violent and sudden usurpation.''

The time has passed for incremental reform. The problems with the current system have grown too deeply entrenched to be solved with quick fixes and cosmetic repairs.

We believe the current tax code cannot be revised, should not be reinvented, and must not be retained. Therefore, the commission is unanimous: It is time to throw out the seven-million-word mess of tax laws and regulations and begin anew.

Marc Negri of Santa Rosa, California, wrote to tell us that, ''The current system is so wrong and such a disincentive to the everyday worker that it cannot be saved.'' Lawrence Madsen of Mills, Wyoming, prepares peoples' taxes for a living, and yet wrote: ''I am so disgusted with the [system] that I must urge you to completely abolish the Internal Revenue Code and start over.'' A couple from Astor, Florida, was even more blunt: ''The current tax structure is way out of date with the real world, too complicated with too many loopholes. We say dump it!''

Americans' eagerness for real change reflects in part their frustration with a system that in the past forty years has seen 31 ''significant'' reforms and an astounding 400 additional ''revisions'' through public laws. And yet the tax code is more complex, more costly, and more economically destructive than ever. This is the story of how we got here.

THE ROAD TO TAX OPPRESSION

The New York Times, in a 1909 editorial opposing the very first income tax, predicted: ''When men get in the habit of helping themselves to the property of others, they cannot easily be cured of it.'' The history of our tax code, in economic terms, mirrors the course of most addictions: advancing dependence, diminished returns, and deteriorating health of the afflicted.

Supporters of the Sixteenth Amendment touted the income tax as the rich man's burden—forcing ''the Carnegies, the Vanderbilts, the Morgans, and the Rockefellers'' to pay while sparing the middle class from pain. Indeed, after the income tax was enacted in 1913, fewer than two percent of American families were required to file a tax return. Rates ranged from 1 to 7 percent—with the highest rate applying only to Americans who had the equivalent of $7.7 million in income in today's terms.

The rates did not stay that low for long. In 1916 the top rate doubled. A year later, on the eve of America's entry into World War I, it soared to 67 percent. With the Second World War, the rate was raised to 94 percent. In the 1950s the top rate remained at the sky high level of more than 90 percent. President Kennedy initiated legislation that cut the top rate to 70 percent, but it was not until the Reagan growth years that the top rate was lowered dramatically to 28 percent. Under the current administration, the rate has resumed its ascent, with combined federal taxes pushing the top rate above 40 percent, including Medicare taxes and phase-outs.

With every attempt by politicians to ''soak the rich,'' the water mark has risen on the middle class. Author Frank Chodorov has summed up the incremental march of encroaching taxation: ''At first it was the incomes of corporations, then of rich citizens, then of well-provided widows and opulent workers, and finally the wealth of housemaids and the tips of waitresses.'' Congress expanded the income tax into the ranks of the middle class for the same reason Willie Sutton robbed banks: that's where the money is.

This shift was mainly achieved by gradually multiplying the number of taxpayers required to file income tax returns and by raising average tax rates on ordinary citizens. Until World War II, the average tax rate (that is, the total tax paid divided by income) on a family with a 1991 income of $50,000 never rose above 4 percent. Since World War II, it has never fallen below 14 percent.

Marginal rates on the middle class have risen even more dramatically. Marginal rates are the ''tax bracket'' rates that apply to any extra dollar of income—such as raises, overtime, bonuses, or a second family income. The marginal middle class tax rate never rose above 8 percent prior to World War II. Since then, it has never fallen below 22 percent, rising as high as 33 percent during the high-inflation, bracket creep years of the 1970s.

Today, there are three principal defects of our income tax system that must be fixed immediately.

Economically Destructive: Steeply graduated tax rates on both labor and capital destroy jobs, penalize saving and investment, and punish personal efforts to get ahead through hard work.

Impossibly Complex: The mind-boggling complexity of the current tax code imposes an unacceptable burden on taxpayers and a huge cost on the economy.

Overly Intrusive: The vast enforcement powers conferred on the I.R.S. are increasingly seen as infringements of privacy and personal freedom.

ECONOMICALLY DESTRUCTIVE

In the famous Supreme Court case, *McCulloch* v. *Maryland*, Chief Justice Marshall wrote: ''The power to tax involves the power to destroy.'' Some of the ways in which the current tax code destroys our economic vitality include:

High marginal tax rates that weaken the link between effort and reward, depress productivity, and kill jobs.

Multiple layers of taxation on work, saving, and investment that dry up new capital for investment.

Capital gains taxes that act as a barrier to capital formation—preventing the flow of investment to new enterprises and would-be entrepreneurs.

An ''alternative minimum tax'' that imposes immense compliance costs on businesses, sapping resources that could otherwise be put to constructive use.

Double-taxation of corporate income which shrinks business investment and encourages companies to take on extra debt.

Estate and gift taxes that force families to sell their businesses or family farms.

A fundamental principle of economics is that the more you tax something, the less you get of it. And if you tax success, you get less success. The current confiscatory system begs the questions: Why work harder if each extra dollar earns you less? Why save for tomorrow when spending today is cheaper? Why dream bigger, when little dreams are less expensive? The disillusioned answer of many Americans is simply: Why bother?

But the current system does not simply sap the initiative and aspirations of individual taxpayers, it undermines the economic strength of our nation as a whole. As President Kennedy once observed: ''An economy hampered with high tax rates will never produce enough revenue to balance the budget, just as it will never produce enough output and enough jobs.''

High marginal tax rates combined with multiple taxation of work, saving, and investment act as a ''double-barreled shotgun aimed at the American economy,'' accountant Ted Krauss told the commission during a hearing in Washington. The price tag was estimated by Professor Dale Jorgenson of Harvard University who told the commission that the income level in the United States

could be 15 percent to 20 percent higher than today if these biases did not exist.

This translates to losses of as much as $4,000 to $6,000 per year for typical middle-income families. The tremendous economic drain caused by an anti-work, anti-saving, and anti-growth tax system does not even take into account the enormous waste of resources—the time, money, and brainpower—lost in trying to comply with the current code.

IMPOSSIBLY COMPLEX

Today's tax code is so complex that many Americans despair that only someone with an advanced degree in rocket science could figure it out. They are wrong. Even a certified genius such as Albert Einstein needed help in figuring out his Form 1040.

Consider this example from the Internal Revenue Code's rules on the Earned Income Tax Credit. Here's how they describe the little human creature we call a child:

(A) IN GENERAL.—The term ''qualifying child'' means with respect to any taxpayer for any taxable year, an individual—

(i) who bears a relationship to the taxpayer described in subparagraph (B),

(ii) except as provided in subparagraph (B)((iii), who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

(iii) who meets the age requirements of subparagraph (C), and

(iv) with respect to whom the taxpayer meets the identification requirements of subparagraph (D).

This may look like English to the experts, but it is total gibberish to most other Americans. If nothing is done to simplify the impossible language of the current tax code, every American will need a laptop just to figure it out.

Professor James Eustice of NYU Law School once defined an ''expert'' as ''a person who avoids small errors as he sweeps on to the grand fallacy.'' The problem with the tax code, he says, ''is that it has been written and interpreted by so many 'experts' that it has lost sight of the fact that [real people] have to function under this system.'' The result is a tax code so complex that even the 'experts' themselves can't figure it out. This was illustrated by an annual survey of tax experts conducted by *Money Magazine.* Each year, the magazine would send a hypothetical tax return to 50 professional tax preparers, and every year it got back a startling range of responses, often encompassing 50 different answers. Needless to say, if the ''experts'' have trouble understanding the tax system, the odds are stacked against the rest of us.

Convoluted rules and regulations force small businesses to hire expensive accountants, forgo expansion or new opportunities, or in some cases avoid the entire mess by going underground. Tim Sabus of Denver, Colorado, wrote to the commission: ''As an entrepreneur, I experience first hand the horrors of our tax system. It has grown into a monstrous predator that kills incentives, swallows time, and chokes the hopes and dreams of many. We have abandoned several job-creating business concepts due to the tax complexities that would arise.''

Another exasperated business owner, Frank Goodnight, told the commission at our Charlotte hearing that ''during the recession of 1992, our company paid our accounting firm more money than we paid in taxes.'' He is not alone: in 1991, the Tax Foundation reported that small corporations spent a *minimum* of $382 in compliance costs for every $100 they paid in income taxes.

According to 1995 I.R.S. estimates, businesses will spend about 3.4 billion hours and individuals will spend about 1.7 billion hours embroiled in tax-related paperwork. That means nearly three million people—more people than serve in the U.S. armed forces—work full time all year just to comply with tax laws, at a cost of about $200 billion a year, according to the Tax Foundation. In economic costs, this is like taking every new car, van, and truck that General Motors builds in a year and driving them off of a cliff.

In a recent hearing before the House Ways and Means Committee, William Dakin, senior tax counsel of Mobil, brought with him a six foot high stack of bound papers, weighing 150 pounds. These were Mobil's corporate tax forms for 1993. It cost Mobil an estimated $10 million, and the equivalent of 57 people working full time for a year, just to figure how much tax the company owed. This is the essence of a brutally complicated tax system.

Jeff Renner, a real-estate developer from Bellevue, Nebraska, voiced the concern of many witnesses about the costly burden of compliance: ''That time and effort and money did not educate a single child, it didn't feed a single family, and it didn't produce a single tangible object to improve the life of anyone.'' And Roger McCarthy who runs an engineering firm in Menlo Park, California, complained of how the tax industry absorbs the high-tech talent that could be working in productive fields: ''It is disturbing that we are not competing with companies like Intel and Hewlett-Packard for these top stars, but rather with Big Six accounting firms.''

OVERLY INTRUSIVE

There is no simple way of administering a monstrously complex tax code, just as there is no fair way of enforcing an unfair system. Former Treasury official Ernest S. Christian told the commission: ''The present federal income tax code is a national disgrace that * * * has characteristics that would be condemned in any human personality. It is inexcusably class conscious, it is hypo-critical, it is meddlesome, it is overbearing, it is mean and hurtful, it is covetous, and above all, it is downright foolish.'' It is no wonder that the agency charged with enforcing such a system has become the object of increasing public ire.

Perhaps the most troublesome consequence of our modern-day income tax system is the enormous power that Congress has conferred on the Internal Revenue Service to force taxpayers to comply with the tax code. Twice as big as the C.I.A. and five times the size of the F.B.I., the I.R.S. controls more information about individual Americans than any other agency. Without a search warrant, the I.R.S. has the right to search the property and financial documents of American citizens. Without a trial, the I.R.S. has the right to seize property from Americans. What the I.R.S. calls its own ''presumption of correctness'' leaves many taxpayers feeling that they are ''guilty until proven innocent''—a standard which turns norms of justice upside down.

Even those within the I.R.S. hierarchy concede the inquisitorial nature of the powers granted the agency. Fred Goldberg, former Commissioner of Internal Revenue, laments that ''while it is unfair to the many fine people who work there, the I.R.S. has become a symbol of the most intrusive, oppressive, and nondemocratic institution in our democratic society.''

The code is so complicated that the I.R.S. itself has trouble understanding it. ''As a retired revenue agent, I feel qualified to attest to the monstrosity that the Internal Revenue Code has become,'' a citizen from Michigan wrote to the commission. ''When people who are employed to enforce the tax laws have difficulty understanding its complicated and sometimes incomprehensible provisions, it's time for a change.'' Of the liens the I.R.S. filed in 1990, a General Accounting Office study found 16,000 errors. The error rate for penalty notices to employers on tax deposits has stood as high as 44 percent.

Even when the I.R.S. is not in error, many of its practices make little sense. For example, tax documents are not treated as ''timely filed'' if sent by Federal Express rather than the U.S. Postal Service. The I.R.S. charges taxpayers interest even when the taxpayer is due a refund. In another example, one particularly exasperated citizen wrote to the commission and enclosed a notice just received from the I.R.S. assessing a penalty against his company. For an underpayment of one cent on his tax returns, the company received a letter from the I.R.S. imposing a penalty of more than $150. Others should be so lucky. Many who testified before the commission told tales not just of tax penalties, but of thousands of dollars in legal fees and countless hours with lawyers in efforts to rectify minor and unwitting infractions, or clear their records of unjust charges.

In Charlotte, businessowner Jean Hodges recounted a tale of horror in which she was forced to pay tens of thousands of dollars and spend untold hours trying to correct an error made by her company's bookkeeper. ''I would like to see Congress pass legislation affording small businesses relief from onerous and intimidating I.R.S. regulations,'' she said.

The preceding pages illustrate what is wrong with the current tax system. But the case for a 21st century tax system must be made by more than a mere indictment of the status quo. To paraphrase Peter Drucker: You have to decide what's right before you decide what's possible. The following chapter outlines principles upon which a better future can be built.

WORKING PRINCIPLES

FOR THE WAY AMERICA WORKS

When a group of architects sits down to design a new building, they don't start by picking out the draperies and choosing the color of the carpet. They begin by creating the basic outlines for the structure to come. Similarly, the charge and purpose of this commission is not to dictate the finishing touches of finalized legislation. Instead, it is to establish the foundation upon which a new system can be raised.

The commission's six working principles for a 21st century tax system are not isolated ideas, randomly grouped, but rather principles that link together to form a sequence—a chain of economic DNA—that can renew the health of our economy and release the potential of the American people.

Economic growth, the engine of opportunity and prosperity, can only be unleashed by a tax code that encourages initiative, hard work, and saving. Such a system must be based on fairness, treating all citizens equally. The system should achieve simplicity so that anyone can figure it out. A fair tax system also requires neutrality, because the tax code should not pick winners or losers, or tax saving more heavily than consumption. The new tax system also needs visibility, so that everyone gets an honest accounting of government's cost. A visible tax system will have stability so that people can plan for their futures.

ECONOMIC GROWTH

Because expanding opportunity, prosperity, and social mobility form the foundation of a free and healthy society.

None of the myriad challenges confronting our nation—be they poverty, crime, racial tension, welfare dependence, or the budget deficit—can be solved without strong economic growth. Therefore, any new tax system must be predicated, first and foremost, on a commitment to revitalizing the American economy and lifting barriers to opportunity.

No nation has ever taxes its way to prosperity. Indeed, one of the world's fastest growing economies over the past 20 years, Hong Kong, has one of the lowest marginal tax rate systems—15 percent or less—on labor and capital. Throughout the ages, higher taxes have been inversely related to higher productivity and higher growth. Our own history provides evidence of this axiom.

America has experienced three periods of very strong economic growth in this century: the 1920s, the 1960s, and the 1980s. Each of these growth spurts coincided with a period of reductions in marginal tax rates. In the eight years following the Harding-Coolidge tax cuts, the American economy grew by more than five percent per year. Following the Kennedy tax cuts in the early 1960s, the economy grew by nearly five percent per year and real tax revenues rose by 29% from 1962 to 1968 (after having remained flat for a decade). In the seven years following the 1981 Reagan tax cuts, the economy grew by nearly four percent per year while real federal revenues rose by 26 percent.

Over the years, we have seen economic output rise as tax rates *fell* (and fall as tax rates rose). But federal revenue raised as a percentage of national output has remained *flat*. As the accompanying chart indicates, the federal government historically collects about 19 percent of gross domestic product—regardless of how high the tax rate has been pushed.

High rates simply mean a smaller economy—and less income to tax. Clearly, 19 percent of a small economy brings in less revenue than 19 percent of a big economy. One more reason why economic growth should be the goal of any new tax system.

FAIRNESS

* * * Because democracy is based on the principle of equality before the law.

One of the main themes the commission heard in hearings around the country is that taxpayers are willing to shoulder their share of the burden, as long as others pull their own weight as well. The current tax code—with its confusion of proliferating rates, deductions, exemptions, and transfers of wealth from one constituency to another—contributes to the overwhelming conviction of many Americans that the present system is unfair.

The definition of fairness that emerged from hours of testimony before the commission was clear and unambiguous: Any new system must satisfy three simple goals:

Tax equally: Does it treat taxpayers equally?

True progressivity: Is it compassionate to those least able to pay?

Lower tax rates: Does it keep the tax rate low?

TAX EQUALLY

To most Americans, fairness means that the rules apply to everybody and everybody plays by the rules. Christine Perkowski of Richboro, Pennsylvania, wrote to the commission: ''I do not mind paying my fair share as long as everyone else does, but I feel that many, many people and companies are not paying their fair share because they have the money to hire smart accountants and lawyers.''

Under a simpler, fairer system, no one will get out of paying their share—no matter how many ''smart accountants and lawyers'' they can afford to hire. By streamlining the current Rube Goldberg contraption of multiple rates and rules, we can reduce the number of moveable parts that are manipulated by those who seek to take advantage of the system. Clearly, under the current multiple-rate system, any tax ''loopholes''—deductions, exemptions, and credits—are more valuable to the wealthy than to those in lower brackets, reinforcing the perception that the rich do not pay their fair share. A single-rate system would level the playing field by eliminating the current distortion in which tax breaks are worth more when a person's income is higher.

Melvin Barlow of Las Cruces, New Mexico, argued this definition of fairness in a letter to the commission: ''It is not right that the harder a man works, the more he is taxed'' because the government imposes a higher rate on each additional dollar he earns. A single-rate system keeps pace with the taxpayer as he climbs the hill of economic opportunity and does not weigh him down more heavily with higher rates at every step he tries to take.

For taxable income above the personal exemption, if one taxpayer earns ten times as much as his neighbor, he should pay ten times as much in taxes. Not twenty times as much—as he would with multiple and confiscatory tax rates. Not five times as much—as he might with special loopholes. Ten times as much income, ten times as much taxes. That's the deal.

TRUE TAX PROGRESSIVITY

Americans must first be able to feed, clothe, and house their families before they are asked to feed the federal spending machine. A generous personal exemption will allow those citizens at the bottom of the economic ladder to gain a foothold and begin their climb before taxes take effect.

Today, those who try to move from welfare to work face the highest margin tax rates in America when lost benefits are included—facing effective tax rates that can actually exceed 100 percent. For example, if a single mother on welfare takes a job, she stands to lose more than a dollar for every dollar she earns. Her first paycheck may be more than canceled-out by the economic hits she takes when she loses Aid to Families with Dependent Children, Medicaid, Food Stamps, and public housing allowances. In addition to losing benefits, she now also must pay Social Security and Medicare taxes, federal and probably state income tax, while facing a host of work related costs, including transportation and child care.

We need a tax system that expands opportunity and furthers economic independence by strengthening the link between effort and reward, not by slapping poverty-inducing tax rates on people as soon as they get their heads above water. True progressivity can be achieved by a single tax rate with a generous personal exemption. With an exemption, a ''single rate'' does not mean that everyone pays the same percentage of income in taxes. A generous personal exemption would remove the burden on those least able to pay; as incomes rise, the average tax rate would gradually rise up to the single rate.

LOWER TAX RATES

The consensus of the majority of witnesses who wrote to the commission can be summed up in two words: lower taxes.

Historians may point to America's beginnings and a revolution deeply rooted in reaction to taxation of the original thirteen British colonies. Others reference religious traditions, including Moses' warning to Pharaoh that he may tax up to one fifth and no more—before demanding that he ''let my people go.'' Indeed, Commissioner Dean Kleckner of Iowa touched a chord with many when he observed, half-jokingly, that ''the Bible says we ought to tithe and give 10% to the Lord. I have a hard time with the concept of giving more to government than we're asked to give to God.''

We suspect that more taxpayers have reached their conviction that taxes are too high not by consulting their history books or the Scriptures, but simply by comparing their weekly paychecks to their family budgets and counting all the sacrifices they must make simply to pay the government. While any new tax code must raise sufficient revenue to run the government, it must also be mindful of the burdens these taxes place on America's working families. One way to reduce this burden would be to restrain government spending. By restoring the balance of power between the federal government and the citizens who pay its bills, we can restore basic faith in the system and keep the tax rate low.

SIMPLICITY

. . . Because Life is too short and peace of mind too precious to waste your time and lose your temper trying to figure out your taxes.

Filing tax returns will never be anyone's favorite pastime, but neither should it be what it has become: one of life's most nerve-wracking, gut-wrenching, and mind-numbing chores. With a simpler system, taxpayers will be able to file their returns on a single piece of paper in less time it takes to finish your morning crossword puzzle.

As detailed earlier, the current tax code is exceedingly expensive to comply with, increasingly difficult to enforce, and nearly impossible to understand. Ambiguities and inconsistencies in the current tax code increase the likelihood that taxpayers will make mistakes and fall victim to enforcement techniques considered by many to be infringements of personal liberties.

Long ago the authors of the *Federalist Papers* warned, ''It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood.'' A simplified, fairer tax system will let Americans get a handle on their taxes, a grip on their government, and a hold of their future.

NEUTRALITY

. . . Because the tax code should not pick winners or play favorites, but allow people freely to make decisions based on their own needs and dreams.

The tax code should be used to raise revenue to run the government while doing the least possible damage to the economy. This means leaving individuals free to make decisions and to set priorities based on economic reality—not on the bureaucratic whims of Washington, D.C.

Taxes cannot help but raise the cost of everything they fall on. But at least they should fall on things neutrally without penalizing one form of economic behavior and promoting another. As Senator Robert Bennett of Utah recently pointed out, ''Neutrality means that the tax code should not be used to punish the bad guys and reward the good guys. We have other laws for that.'' Unfortunately, the current code strives to act as economic traffic cop—giving green lights to certain economic activities and red lights to others.

The result of the biases and distortions in the current system is to make the market less free, the system less fair, and families less financially secure. As Frank Hayes, a public accountant who testified before the commission in Omaha, remarked: ''If there's a way to make things simpler and take the tax aspect out of making day-to-day decisions, I think everybody would become productive.''

Perhaps the single most irrational and economically damaging aspect of today's code is the layer upon layer of taxes on saving and investment. By hitting income saved and invested harder and more frequently than income consumed, the current system prompts taxpayers to spend today what they might otherwise save for tomorrow. This is particularly alarming considering the problems facing public retirement programs and the need to strengthen private retirement saving. The Bipartisan Commission on Entitlement and Tax Reform offered analyses and proposals on this subject.

VISIBILITY

. . . Because those who pay the price of government have a right to see the bill.

The history of hidden taxes, rapidly rising rates, and perpetual budget deficits proves that what you don't know can hurt you. The current system hides the cost of government behind a chronic deficit and a maddening multiplicity of taxes—many of which are virtually invisible to the taxpayer who pays them. How much did we pay in payroll taxes last year? What excise taxes were hidden in the prices of the products we bought? What are the tax cost of exclusions, deductions, and corporate income taxes? Few of us know the answers.

When it comes to these hidden levies, ignorance is expensive bliss indeed.

One of the biggest political fictions in American history is the progressive taxation of ''Mr. Nobody''—the illusion that ''painless'' taxes can be levied on businesses and on the goods and services they sell. But goods and services do not pay taxes. People do. While businesses collect taxes, the burden of paying the ''business'' taxes ultimately falls on each of one of us as investors, workers, or consumers.

Moreover, the invisibility of many taxes perpetuates the fantasy that government is free—even as its real costs shrink our paychecks, sap our savings, drain our economy, and inflate the budget deficit to ominous proportions. Bob Genetski, an economist and author who testified at hearings in Omaha, told the commission: ''The cost of government is not obvious to people. If you hide the cost of government, people are going to demand more government than they otherwise would.'' By severing the connection between government's cost and its consumption, the current system deprives citizens of the information they need in order to make rational choices about what they want to buy from Washington and how much they are willing to spend.

A visible system gives taxpayers an honest accounting of government's expense and will make it far more difficult for politicians to tinker with the tax code without the democratic consent of those taxed.

The incurable cynic H. L. Mencken once said, ''Conscience is the inner voice which warns us somebody may be looking.'' By making taxes visible, we can ensure that someone always will be.

STABILITY

. . . Because taxpayers should be able to plan for their future without the rules being changed in the middle of the game.

Everyone has heard the old saw that there are only two things in life that are certain: death and taxes. Given the constant changes to the tax code over the past few decades, the certainty of taxes has taken a perverse twist. Like walking blindfolded down a ship's gangplank, you know the end it out there—you just don't know when it'll arrive, how far you'll fall, or how long you'll be able to keep your head above water.

This uncertainty has a debilitating effect on the economy, making it very difficult for families and businesses, particularly small businesses, to plan for their future with confidence. This exacts a tremendous cost from those taxpayers and business owners who must struggle to keep up with ever-shifting rules and regulations. The retroactive tax increases passed in 1993 packed a double-whammy—changing the rules when the game was half over. A stable tax code must allow individuals to start a business, buy a house, take out a loan, put money into savings, or plan for their children's education without fear of what might lurk behind the next election cycle.

We know what works . . . Freedom works. And only principles for tax reform that maximize freedom can yield the opportunities, economic growth, and untold possibilities for human advancement that are its fruits. In his last public address, Abraham Lincoln declared that, ''Important principles may and must be inflexible.'' By laying down these important principles, this commission hopes to help build a future of growing prosperity for many generations to come.

A NEW TAX SYSTEM FOR THE 21ST CENTURY

RECOMMENDATIONS

Among the hundreds of testimonies and citizen letters reviewed by this commission, one of the most compelling was that of Van Woods, owner of Sylvia's Restaurant. Mr. Woods and his family run a successful soul food establishment in the heart of Harlem, a community with painfully high unemployment. In concluding his testimony to the commission, he said, ''Opportunity is the ability to look in the face of my son and say: 'I don't know if you will succeed, but you can.' ''

The objective of this commission, the aim of its members, is to help make that promise a reality—not just for Mr. Woods' children, but for every child in every neighborhood in America's 21st century.

In submitting these recommendations, the commission does not seek to toss yet another piece of legislation on the table. Nor was its goal to pick and choose among existing plans, or worse, create a hodgepodge compromise from elements of existing alternatives. What we are offering to the American people and their elected officials is a set of standards—a quality control—that any new plan must meet if it is to meet the bold objective of replacing the current tax code with a fair and simple system. The preceding chapter provides one half of the check-list: the principles that any new system should embody. This chapter provides the other half: key recommendations that any new system should follow.

The core recommendations of the National Commission on Economic Growth and Tax Reform are:

Adopt a single, low tax rate with a generous personal exemption

Lower the tax burden on America's working families and remove it on those least able to pay

End biases against work, saving, and investment

Allow full deductibility of the payroll tax for working men and women

Require a two-thirds super-majority vote in Congress to increase tax rates

We believe that, with a pro-growth, pro-family tax system, we can achieve these goals within the context of budget equilibrium. The commission believes that this new tax system can satisfy our six working principles:

Economic growth through incentives to work, save, and invest;

Fairness for all taxpayers;

Simplicity so that anyone can figure it out;

Neutrality so that people and not government can make choices;

Visibility so that people know the cost of government; and

Stability so that people can plan for their future.

The following pages explain the core recommendations in light of these principles, and explore some of the trade-offs involved in reaching a system that meets these goals. This chapter also touches on a few of the corollary points that flow from these main recommendations. Staff discussion papers are provided for those who seek more detail on the concepts involved.

RECOMMENDATIONS

Single Tax Rate.—A single rate is a fair rate. One tax rate, coupled with a generous personal exemption, together produce a progressive average tax rate. Low income taxpayers would owe little or no tax. But everyone who earns enough to cross the threshold of the exemption would face exactly the same tax rate on any additional income.

A single-rate system is not only fair, it also can satisfy the principles of simplicity, visibility, and stability. A single rate is clearly simple, and it is highly visible: one rate—as opposed to the current, confusing mess—will stand out and be remembered by all. A simple, visible system also can be stable; by keeping our eyes on the single rate, we can keep politicians' hands off it.

Nobel Prize-winning economist F.A. Hayek described economic redistribution through multiple tax rates as ''the chief source of irresponsibility'' in politics and ''the crucial issue on which the whole character of future society will depend.'' A system of graduated marginal rates violates the principle of fairness—that if a law applies to citizen A, it must equally apply to citizen B.

Take for example, two wheat producers, each farming the same-sized plot of land. One of them produces 1,000 bushels of wheat; the other through harder work and more careful land management, produces 1,200 bushels. To tax the income represented by the additional 200 bushels of wheat more heavily than the income represented by the first 1,000 would be demonstrably unfair to the more productive farmer. And yet, that is the nature of a multi-rate tax system: it takes more from people for their hard work, creativity, and success.

The added output—and the resulting added income—of one taxpayer doe not diminish his neighbor, and is not earned at his neighbor's expense. Indeed, it expands economic opportunity, increases the availability of goods and services, and helps others be more productive as well.

True progressivity requires a low tax rate couple with a generous personal exemption. This would grant low-income Americans an ''economic head-start''—allowing them to begin their climb toward economic independence before they are asked to shoulder their share of government's costs. The larger goal is to move beyond merely maintaining low income Americans at subsistence level livelihoods toward giving them an opportunity to permanently escape poverty.

Here, as elsewhere, there are trade-offs involved. The goal of protecting those least able to bear the burden of taxation conflicts with the principle of visibility: those exempt from taxes don't see the price of the government services we all pay for.

The commission believes that the costs—both economic and moral—of burdening low-income people with taxes that can bar them from reaching their fullest potential outweigh competing concerns. By offering low-income Americans a window of economic opportunity, the personal exemption can help liberate those whom the public sector has failed to help and the private sector has failed to reach.

Lower Tax Rates.—The commission recommends that the single rate be as low as possible. We encourage the adoption of such a low rate within the framework of budget equilibrium. Furthermore, we strongly urge that the rate be lowered over time as a growing economy yields rising revenues. We recommend that added revenues be considered, not as more Monopoly money for Washington, but as a ''growth dividend'' to be paid out to the American people.

Eliminate biases against work, saving, and investment.—The principles of fairness and neutrality require that all income be taxed the same, whether it is used for consumption or saving, whether it is produced in small businesses or large corporations, and whether it is earned by employees or the self employed.

Under the current system, income that is used for consumption is taxed once, while income that is saved is taxed again and again. For businesses, complex depreciation rules mean that income from investment in buildings and equipment is overstated. This forces people to pay taxes before they have recovered the cost of their investment.

The box at left provides an example of the problem created by the current tax code.

The biases result in less work, saving, and investment, lower productivity and wages, fewer jobs, less income to spend on housing and education, and fewer assets to furnish income in retirement than would otherwise be the case. As the example at left demonstrates, these biases affect every family that is trying to save for the future.

In order to end these biases, the tax system must either let savers deduct their saving or exclude the returns on the saving from their taxable income. It must end double-taxation of businesses and their owners and permit expensing of investment outlays. It must also address the following issues:

Capital Gains Taxes.—If a new tax system is to eliminate biases against saving and investment, it also must abolish separate taxation of capital gains. As commissioner Ted Forstmann said, ''The biggest depressant on the rate of capital formation is now the risk of confiscation by the government.'' The United States now imposes some of the highest tax rates on capital of any developed nation—a 28 percent tax on long-term capital gains unindexed for inflation. Compare that with a 16 percent rate in France; a 1 percent rate in Japan; and a zero tax on capital gains in Hong Kong, Germany, South Korea, Singapore, and Malaysia.

The result is to punish risk-taking, shrink the pool of capital needed for investment, and deprive would-be entrepreneurs of a chance to climb the ladder of economic opportunity. ''The tax on capital gains,'' argued President Kennedy in 1963, ''directly affects investment decisions, the mobility and the flow of risk capital . . . the ease or difficulty experienced by new ventures in obtaining capital, and thereby the strength and potential for growth in the economy.''

By shrinking the supply of available seed corn, the capital gains tax acts as a future tax on wealth to be realized, business to be built, and jobs to be created. Those hardest hit are not the wealthy—who by definition have their capital gains, their wealth, behind them—but rather all those who have yet to realize their capital gains; the poor, the young, and minorities.

''Death'' Taxes. It makes little sense and is patently unfair to impose extra taxes on people who choose to pass their assets on to their children and grandchildren instead of spending them lavishly on themselves. Families faced with these confiscatory taxes often find themselves forced to sell off farms or businesses, destroying jobs in the process. ''We must help to save the family farm, ranch, and business,'' said Commissioner Jack Faris.

Unfortunately, family businesses often get hit hardest because they can't afford to hire expensive lawyers and accountants. As Douglas Darch of Wake Forest, North Carolina testified to the commission: ''There is something wrong with a tax system that results in the systematic dismantling of small businesses to meet estate tax obligations.''

The tragedy is that while these taxes cause much suffering for taxpaying families, they generate a relatively small amount of revenue. Estate and gift taxes appear to count for less than 1% of federal revenues—but even that low figure is exaggerated and misleading. Professor Douglas Bernheim of Stanford University testified before the commission that the estate tax may not really raise any revenue at all, because more income tax is lost from ''estate planning'' than is ultimately collected at death.

Full Deductibility of Payroll Taxes for all Working Americans.

The Commission recommends that federal payroll taxes be fully deductible—both for employers and employees. Many employers and employees pay more in payroll taxes than they do in federal income taxes. Making these taxes deductible for both employers and employees will reduce obstacles to hiring more workers and will fuel America's job growth into the 21st century.

Under the current tax system, workers pay income tax on their Social Security tax—a tax on a tax. Employers can deduct their half of the payroll tax, but employees cannot. The combined burden of both income and Social Security tax is particularly hard on workers with incomes too high to be eligible for the Earned Income Tax Credit (roughly $25,000), but too low to be below the threshold where the Social Security tax stops being taken out of paychecks (about $63,000).

When employer and employee payroll taxes of 15.3% are taken into account, workers in the 28% tax bracket actually face a brutal marginal tax rate of more than 43% on any additional income they earn. A single low tax rate would help relieve this demoralizing tax penalty on work and saving. But it still leaves a tax on a tax.

Making the Social Security tax deductible would help reduce the combined marginal tax rates on middle-income taxpayers who get hit by both taxes. A one-earner couple with a $40,000 income currently pays tax as though the couple really received the entire $40,000—even though they have already paid over $3,000 as their share of the payroll tax, leaving less than $37,000 on which they could possibly pay income taxes. By making the payroll tax deductible, income taxes would be calculated on the basis of working families' real net incomes.

This need for change was highlighted in a citizen letter to the commission from Spencer Riedel of Flagstaff, Arizona, who described the Social Security payroll tax as ''a huge heartache...Is there no way to stop this 'hidden' tax?...If we could eliminate this unfair mandated tax, our business would hire two more people.''

A Two-Thirds Majority Vote in Congress to Raise The Tax Rate. The Commission recommends that the new system be guaranteed both stability and longevity by requiring a supermajority vote of both houses of Congress to raise the rate.

In hearings across the country, one depressing but all-too-familiar response from taxpayers could be bluntly paraphrased as: ''Change, schmange. That's what you guys said the last time you talked about tax reform.'' The roller-coaster ride of tax policy in the past few decades has fed citizens' cynicism about the possibility of real, long-term reform, while fueling frustration with Washington. The initial optimism inspired by the low rates of the 1986 Tax Reform Act soured into disillusionment and anger when taxes subsequently were hiked two times in less than seven years. The commission believes that a two-thirds super-majority vote of Congress will earn Americans' confidence in the longevity, predictability, and stability of any new tax system.

The goal: A single low rate on income with a generous personal exemption, a lower burden on working families, an end to biases in the tax code—all set in the stone of a congressional super-majority. The recommendations in this chapter form the core framework for a new 21st century tax system.

OTHER ISSUES

Deductions and Exclusions

Concerns about special provisions in the existing tax code have the potential to derail debate over the merits of a new tax system and the tremendous benefits it could bring to the American economy. There are important social and economic consequences of certain deductions and exclusions. The commission believes they should be considered with an eye to their impact on the tax rate, the costs to the Treasury, and the consequences of change—and within the context of the values of the American people. For example, the home mortgage interest deduction has spurred home ownership in America; an important goal of our commission is to spread ownership to give more people a stake in the system. And, at a time when America needs a renaissance of private giving and commitment to overcome those social problems which government programs have either failed to improve or made worse—we need a system which encourages people to take more responsibility for communities and neighbors in need. We welcome debate over the best way to protect these institutions and preserve the values they represent within the context of the dynamic new tax system we envision.

Simplify International Taxation: Congress should consider a territorial tax system. The current system of taxing international business operations is one of the most complicated parts of the Internal Revenue Code. It leads to enormous costs of compliance and enforcement, raises little revenue, and damages the competitiveness of U.S. businesses operating abroad. Further, it encourages them to keep reinvesting profits abroad rather than bringing the money back home where it could be reinvested in America.

Whatever new tax system is chosen, there must be a clearer, simpler, and more certain determination, relative to current practice, of what income is foreign or domestic or what international transaction is taxable. In addition, attention must be given to the proper tax treatment of foreign source license fees, royalties, and other intangibles so as not to discourage research and development in the United States.

Strengthen Private Retirement Saving: The commission is particularly concerned that Americans are not saving enough for their own retirement. A tax system that eliminates the bias against saving is essential to encourage people to accumulate more assets throughout their lives. There is, however, no guarantee that all individuals or families will save enough to be secure and financially independent in their retirement, even under a new tax system.

With the problems facing public retirement programs, it is essential that private retirement saving be strengthened. Without sufficient retirement saving, many people will become dependent upon the government in their old age, necessitating either sharp

increases in taxes on future generations or a significantly diminished standard of living. Providing strong encouragement for individuals and families to take responsibility for their own retirement will go a long way toward preventing uncontrolled growth of government while ensuring a more comfortable, more secure, and more independent retirement.

Therefore, any tax system should encourage people to save for their own retirement. Further, the commission recommends that Congress begin the process of policy changes that will result in people taking more responsibility for their own retirement saving. Other changes within the overall income and payroll tax systems also should be considered.

MEASURING RESULTS

One of the chief objectives of adopting a new tax system is to promote economic growth. If we are successful, the added growth will provide the tax revenues to pay for a portion of the change in the tax law. Failure to count these added revenues will make it appear more difficult to make the necessary tax changes.

One couldn't catch the blossoming of a role in a split-second single-frame exposure, or capture a speeding bullet with time-lapse photography. Similarly, the tools with which we anticipate and examine changes in government policies, including tax policy, must mirror the way the economy actually changes as a result of these actions.

When a bill is being debated before Congress, members are required to produce estimates of the costs of the legislation. For years, Congress has used what are called ''static revenue estimates'' to produce these figures. Static revenue estimates attempt to predict future government revenues by applying the new law to today's economy as though it would not be affected by the new law. History has shown that these estimates are limited in their ability to predict revenues.

We recommend that Congress instead use estimates that measure the impact policy changes will have on people's behavior and on future economic activity, and that therefore more accurately predict implications for future revenue collections. Use of this ''dynamic'' scoring, of course, must be based upon realistic assumptions regarding tax rates, tax revenues, and economic activity. It is essential to avoid overly optimistic as well as overly pessimistic projections. (Further details are provided in the staff discussion papers.)

TRANSITION ISSUES

The defenders of the status quo will say that our recommendations for a new tax system will mean a tax increase on the middle class or cause a flood of red ink.

We strongly disagree. The thinking behind our current tax system is a model that does not fit tomorrow's world. Complainers fail to understand the new world that this new system will create. The tax reform we envision will create a different climate for economic growth. It will lift incomes. It will reduce interest rates. It will put people to work. It will reduce the use of tax shelters. It will reduce the need for social safety-net spending. It will foster millions of new businesses and jobs. In the process, the transition will help to pay for itself.

That doesn't mean there will not be difficult issues to address during the transition. In particular, policy makers must take care to protect existing savings, investments, and other assets. Whatever the challenges this change presents, we believe that none of the issues is insurmountable.

Whatever equivocations there may be toward the future, we must not let them rob us of the unparalleled economic growth, the unimagined opportunities for human fulfillment and advancement that now lay trapped within the cage of the current system, waiting for us to open the door.

CONCLUSION

The recommendations outlined here can lay the groundwork for a pro-growth, pro-family tax code for America's 21st century. As construction of the new system moves forward, there will be many decisions to be met and made along the way. While we have tried to raise a number of those issues here, and clarify others in the discussion papers, it is impossible to anticipate every question that will arise as we move toward a new system.

We urge that the American people participate in this debate at every step of the way. This is all the more crucial given the critical nature of the transition issues involved as replacement of the current system gets underway. Half a century ago, the economist Joseph Schumpeter described capitalism as inseparable from ''the perennial gale of creative destruction.'' In the transition to a fairer system and a freer market, the winds of change are bound to increase. Those who have a stake in the status quo will not welcome change; others may prefer the cramped confines of the familiar present to the uncertainty of a yet realized future.

If the taxpayer testimonies we listened to and letters we received bear any evidence of the broader mood of the country, we believe that Americans are overwhelmingly eager to make that change, ready for its challenges, and look forward to its opportunities.

It has been a privilege for us to serve on this commission, and each of us has taken the responsibility very seriously. We have been educated and inspired by the many, many Americans we have talked with. While the tax system is in serious disrepair, the American spirit and will for change are stronger than ever. We thank Senate Majority Leader Dole and Speaker Gingrich for giving us this opportunity by delegating us to do this important work.

We quote in this report many of the citizen witnesses who wrote to us and who testified at our hearing. We thank them and the many expert witnesses who prepared testimony and answered our many questions about the intricacies of tax reform.

We are very much indebted to the lawmakers who have spent years of their careers studying tax reform, inspiring serious debate on the flaws of the current system, and developing proposals for major tax reform. Among them: House Majority Leader Dick Armey, Ways and Means Chairman Bill Archer, Senate Budget Chairman Pete Domenici, Senator Sam Nunn, Joint Economic Committee Chairman Connie Mack, Senator Bob Bennett, and Congressman Dick Gephardt. Others whose work has been invaluable to the process include Senator Richard Shelby, Senator Richard Lugar, Senator Arlen Specter, ranking Ways and Means Committee member Sam Gibbons, and many others.

It has been said that every breakthrough in human understanding has come in the form of a simplification. The complex, bureaucratic tax code of the 20th century will not enable us to keep pace with the complex and rapidly changing world of the 21st century. A simplified tax code would have an instant impact on peoples' lives—freeing up time, energy and resources currently wasted in costly compliance for productive endeavors.

The impact on the economy would be immediate and profound, putting the goal of a doubled economic growth rate within our reach. The moment the dead weight and distortions of the current tax system are lifted from our economy, the explosion of new investment, new businesses, and new jobs would transform the economic and social landscape of our country. A newly galvanized economy would create work for all those who wanted it, unleash unimagined innovations, act as a magnet for capital from all over the world, and boost wages and living standards for America's working families.

We also believe that a new tax code can help replenish the well-springs of public trust—in our government, in each other, and in ourselves. By treating citizens equally and with respect, a new tax code can restore faith in the basic fairness of the system. A simplified system will eliminate the fear that special advantages hide in complexity, while restoring citizens' confidence in their own ability to comply with the code.

This vision of the future is rooted in both a realism about human nature and an idealism about human potential. We recognize that a new tax code, no matter how radical, cannot solve all problems. It cannot make fathers love mothers or guarantee children happy homes. Government reform, however vast or vaunted, cannot change hearts.

But it can lift hopes. At its best, it does this by seeking, as Lincoln did, ''to elevate the condition of men—to lift artificial weights from all shoulders—to clear the paths of laudable pursuit for all.''

By freeing citizens from the costly encumbrances of the current tax code, by restoring the link between effort and reward, by allowing individuals to save and invest in their future, and by unleashing the pent up power of our economy, this new system can lead to Lincoln's ''new birth of freedom,'' and launch us into the next American century.

BIAS AGAINST SAVING AND INVESTMENT

Multiple taxation creates a huge bias against saving and investment that must be eliminated in a new system. Consider, for example, the effect of the current system on a family in the 28 percent tax bracket that earns an extra $1,000.

Of that $1,000, they will pay $280 in federal income tax and keep $720. If they spend that $720, say, taking the family to Disneyland, they incur no further federal tax, no matter how many times they ride the Space Mountain.

But suppose, instead, they decide to invest the income in stocks to create financial security for their future. Bad move, says the current tax code.

First, they already had to pay income taxes to have the $720 to invest. Second, the company in which they invest will generally pay tax at a 35 percent rate on the returns on the amount invested. Third, if the company pays dividends, the family will pay a 28 percent tax on the dividends they receive. Alternatively, if the company retains the after tax income for reinvestment or finds other ways to boost future earnings, the stock price will rise. The future earnings will be taxed, and if the family sells the stock, it will pay a capital gains tax at a 28 percent rate (see below). Fourth, if they hold the proceeds of the sale until death, they will be subject to an estate tax that can go as high as 55 percent.

Both the investment in the stock market and the investment in the family trip produce returns—one yields warm memories of the past, the other provides real hope for the future. The returns on the investment in the trip are not subject to tax; the returns on the investment in the stock market are. (Staff discussion papers contain further information on the tax code's bias against saving and investment.)

BIOGRAPHIES

Chairman Jack Kemp is founder and current co-director of Empower America, a public policy and advocacy organization. Kemp

served as Secretary of the U.S. Department of Housing and Urban Development in the Bush Administration, and represented the Buffalo, N.Y., area for 18 years in the U.S. House of Representatives. He played professional football for 13 years as quarterback for the San Diego Chargers and Buffalo Bills. His father was a small-businessman who helped start a small trucking company in and around Los Angeles, CA.

''If you tax something you get less of it. If you subsidize something, you get more of it. The problem in America today is that we are taxing work, savings, investment, and productivity; and we're subsidizing debt, welfare, consumption, leisure, and mediocrity.''

Vice Chairman Edwin J. Feulner, Jr. is president of the Heritage Foundation, a leading public policy group in Washington, D.C. He also serves as chairman of the Institute for European Defense and Strategic Studies in London. Feulner, who has a Ph.D. from the University of Edinburgh, served as consultant for Domestic Policy to President Reagan, and was the Chairman of the U.S. Advisory Commission on Public Diplomacy.

''Our tax code has become a complex web of penalties, disincentives, loopholes, and preferences. No amount of tinkering at the edges will save the system. The only answer is to replace it with a new system that rewards work, saving and risk-taking.''

Loretta H. Adams, started her professional career as a management trainee at the Panama City, Panama, Sears store on a $25-a-week salary. Ms. Adams later immigrated to the United States and went on to become founder of the San Diego-based Market Development, Inc., a consumer, marketing, and opinion research firm with nearly 100 employees. Since 1978, her company has serviced Latin-American consumers in the United States and Latin America and has become one of the top 100 research firms in the country.

''The conditions that produced the current tax system no longer contribute positively to a 21st century global economy. We now have the opportunity to create a tax system that is more responsive to our times, situation, and needs and, hopefully, we will grasp it fully.''

J. Kenneth Blackwell lived in public housing for the first seven years of his life only to later pioneer housing reforms as the Deputy Undersecretary of the U.S. Department of Housing and Urban Development. Today, he serves as Treasurer of the State of Ohio, having previously held public office on the Cincinnati City Council before becoming mayor of Cincinnati. He is a member of the Council on Foreign Relations in New York, and previously served as U.S. Ambassador to the United Nations Human Rights Commission and as vice president of Xavier University in Cincinnati.

''There is something fundamentally wrong with a tax system that costs Americans $250 billion to comply. A simpler tax system would help break the chains that currently bind entrepreneurial spirit.''

Herman Cain learned the value of hard work from his father who concurrently worked three jobs—one of which was as a janitor at The Pillsbury Company in Atlanta. At age 12, Herman went to work with his father at Pillsbury, helping him as ''assistant janitor.'' Twenty-two years later Cain would become a Pillsbury vice president (computer systems) and later be selected as president of the firm's then-subsidiary company, Godfather's Pizza, Inc. In 1988, he successfully led a group of Godfather's Pizza, Inc. senior management in purchasing the chain from Pillsbury. He currently serves as chairman and CEO of Godfather's Pizza, Inc. Prior to his tenure at Godfather's, Cain worked for the U.S. Navy as a mathematician, the Coca-Cola Company as a business analyst, and was an executive with Burger King Corporation.

''One of America's greatest strengths is its ability to change . . . our 82 year old tax 'mess' is long overdue for dramatic, sensible change.''

Carroll Campbell served two, four-year terms as one of the most popular and innovative governors in South Carolina's history. His legacy as governor includes government reform, record job expansion, net tax cuts, economic growth, and investment in his state. Campbell launched his political career in 1970, first serving in the state House and Senate and later in the U.S. Congress, where he served on the Banking, Appropriations, and Ways and Means committees. He also served as chairman of the National Governors' Association, the Republican Governors' Association, and the Southern Governors' Association, as well as Chairman of the Southern Growth Policies Board. Today he is president and CEO of the American Council of Life Insurance.

''The tax system should encourage investment and job creation, foster long-term savings, and increase the focus on individual and family economic responsibility. In short, tax policy should encourage long-term savings for retirement.''

Pete du Pont, during his tenure as governor of Delaware from 1977–1985, implemented a highly successful pro-growth tax policy by dramatically lowering marginal tax rates, causing the state's economy to boom and overall tax collections to jump, and enacting a constitutional amendment that limited both tax and state spending increases. He also served as a state legislator and Congressman and ran as a Republican candidate for President of the United States. He currently serves as policy chairman of the National Center for Policy Analysis, and writes a weekly column on public policy that is distributed to more than four hundred newspapers across the nation.

''The men and women who spoke to us reflected an American consensus: Our tax system is destroying our opportunities. It's time to replace it.''

Jack Faris started working at age 13 earning 50 cents an hour at his parent's service station. Faris learned early in life the challenges of running a small family business and the importance of hard work. After running his own business in Nashville, Tennessee, he became president and CEO of the National Federation of Independent Business (NFIB), the nation's largest small business advocacy organization with more than 600,000 members.

''Regulation and taxes are strangling small business on main street. Give us relief and we will create the jobs and build America's future for our children and grandchildren.''

Matt Fong serves as Treasurer of the State of California. Prior to his election, Fong served as Vice Chairman of the State Board of Equalization, California's tax agency. Fong streamlined the agency, cutting millions of dollars of waste, reformed the state's tax code sponsoring changes to the unitary tax, and made the agency more ''taxpayer friendly.'' A graduate of the U.S. Air Force Academy currently holding the rank of Lt. Col. USAFR, he earned an MBA and law degree, started a small business, and worked for Sheppard, Mullin, Richtor and Hampton as a transactional corporate attorney.

''Too many Americans are sitting on the economic sidelines. A progressive single rate flat tax will radically jump start job creation, moving the unemployed off the sidelines to jobs.''

Theodore J. Forstmann is one of the most admired entrepreneurs in America with an unrivaled record of successful investments. Forstmann splits his time between running his firm, speaking out on behalf of economic opportunity and growth, and helping children worldwide. He has poured his energies and resources into leading relief efforts in Bosnia, sponsoring charities in South Africa, and funding scholarships and teaching students in America's inner cities. He is the senior partner of Forstmann Little & Co.

''The current tax system is ridiculously complicated, economically destructive, and morally corrosive. We desperately need a new tax code that puts the individual—not government—at the center of the equation.''

Dean Kleckner took over the rented family farm in Iowa at the age of 18 when his father died. Kleckner served in the Army and later returned to Iowa where he started on his own with a dozen sows, a dozen cows and 300 chickens. Today he owns a 350-acre corn, soybean, and hog farm, and serves as President of the American Farm Bureau Federation, a post he has held since 1986. He also serves on the U.S. Advisory Committee on Trade Policy, a post to which he was first appointed by President Reagan, and reappointed by Presidents Bush and Clinton.

''Our tax system must be simple and equitable for all taxpayers, with no loopholes. It has to let hard-working taxpayers keep more of the money they have earned.''

Shirley Peterson is president of Hood College in Frederick, Maryland. Prior to assuming the college presidency, she practiced tax law and also served as Commissioner of Internal Revenue under President Bush and Assistant Attorney General (Tax Division) at the U.S. Justice Department under President Bush. She was raised on a farm in Colorado.

''Citizens from around the country told us that the current law is too complex: This complexity breeds disrespect for the law and for our government. It is time to repeal the Internal Revenue Code and start over.''

John Snow worked his way through college as a sports coach. Today he serves as chairman, president, and CEO of CSX Corporation in Richmond, Virginia, and has been with the company since 1977. Snow, who has a Ph.D. in economics from the University of Virginia and a law degree from George Washington University, also served as Deputy Undersecretary of the U.S. Department of Transportation, as a private attorney and a college professor.

''The current tax system dims our prospects for the future and must be replaced by a new system for the 21st century which helps Americans to capitalize on opportunities—not stifle economic growth and entrepreneurial activity.''

John Wieland always worked part-time growing up, from working at a gas station to delivering newspapers to stocking vending machines. Today, he is a president of John Wieland Homes, Inc., of Atlanta, employing more than 700 full-time employees and thousands of subcontractors. For Wieland, success has meant the ability to give back to his community by providing housing for the working poor and working with Habitat for Humanity, formerly serving as a member of the International Board of Habitat.

''The consensus of the American people demands a completely new, simple, and fair tax code. Increased prosperity for ALL will be the outcome. The time is now.''

THE TAX TEST

SIX POINTS OF PRINCIPLE

(1) Economic growth through incentives to work, save, and invest

(2) Fairness for all taxpayers

(3) Simplicity so that anyone can figure it out

(4) Neutrality that lets people and not government make choices

(5) Visibility to let people know the cost of government

(6) Stability so people can plan for the future

SIX POINTS OF POLICY

(1) A single tax rate
(2) A generous personal exemption to remove the burden on those least able to pay
(3) Lower tax rates for America's families
(4) Payroll tax deductibility for workers
(5) Ending biases against work, saving, and investment
(6) Making the new tax system hard to change

TIME FOR ENVIRONMENTAL TAXES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 22, 1996

Mr. STARK. Mr. Speaker, the Republicans are busy talking about flat taxes and sales taxes and reducing the tax on interest and dividends. What we should all be talking about is lowering the tax on labor and job skills and increasing it on pollutants.

Global warming is happening. Those who lived through the snow storms of early January may want to laugh. Do not. The following article from the January 10, 1996, New York Times by two environmental experts points out that the recent blizzards are what we should come to expect as the environment changes.

I have introduced legislation to remove tax subsidies on the extraction of polluting fuels and minerals. I am preparing legislation to move to the next step and gradually increase taxes on pollutants that contribute to global warming and the degradation of the environment. The money raised from these taxes can be used to fund lower taxes on wages and incomes, so that the average citizen is not hurt by these environmental taxes and so that our whole economy can begin to work for the long-term health of the world environment.

[From the New York Times, Jan. 10, 1996]

BAD WEATHER? JUST WAIT

(By John Harte and Daniel Lashof)

As the Northeast bowed before an extraordinary blizzard, southern Californians basked in record-breaking heat. Some speculated that this freakish weather was further evidence of long-term global climate change. But focusing on individual events would be a mistake. Unusual weather conditions have always been normal.

This does not mean that global climate change is not occurring. A United Nations scientific panel recently concluded for the first time that global warming had begun and would intensify because of rising levels of heat-trapping gases emitted by burning coal, oil and natural gas. The magnitude of the change is uncertain, but over the next 100 years, the panel estimated, the planet's average surface temperature is expected to rise by 1.4 to 6.3 degrees Fahrenheit.

The important news about this projected rise is not going to break the way it does for dramatic weather. Continued warming is likely to result in a gradual parching of soil in many regions of the world, possibly leading to declining crop yields even as the global population rises. When does this trend become ''news''?

Sea levels will also rise, slowly inundating Asian farmland, entire islands in the South Pacific and coastal cities and harbors throughout the world. Coral reefs will die in the warmer oceans, and grasslands will give way to desert shrubs that can survive on less water, reducing food for grazing animals.

Producers of coal and oil, as well as some economists, say that we should learn to live with these changes because doing so will be far cheaper than reducing carbon dioxide emissions enough to halt global warming.

Leaving aside the fact that such conclusions ignore potential social and ecological disruption that is difficult to put in monetary terms, a growing body of research and experience indicates that reducing emissions sufficiently is not only possible but makes economic sense. Although the challenge is greater in rapidly developing countries where energy demands are rising most, industrialized nations can lead the way in reducing dependence on fossil fuels.

The cost of solving environmental problems has routinely been overestimated. Take the ozone-destroying chlorofluorocarbons. Ten years ago, the chemical industry and other ''experts'' said that finding an economic alternative to these substances would be impossible. Yet once the industry was forced to find substitutes for them, under international agreements beginning in 1987, it managed to phase them out completely in two-thirds the time allowed for just a 50 percent cut, in many cases at a profit.

Or consider the shift in fuel economy standards. Before minimum standards were established in 1975, the automobile industry claimed that doubling fuel efficiency, as required, would force everyone to drive compact cars. Ten years later, the standard had been achieved, while the average size of a car had hardly changed.

Why were these estimates so far off? In part, opponents of the new regulations wanted to stimulate political opposition. But independent economists often made similar projections, apparently forgetting that political pressure spurs technological innovation. For this reason, some economists believe that the costs of stemming global warming will continue to fall—but only if the pressure to change exists.

So far, the United States, with all its wealth and technology, has not made a serious commitment to reduce emissions. Only if we unleash our ingenuity to find solutions can we expect poorer countries to follow suit.

CARL SHAFFER HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 22, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues an honor that is being bestowed upon my close personal friend Mr. Carl T. Shaffer. Carl is a farmer who resides in my congressional district who has been selected as ''Master Farmer of the Year'' by Penn State University and Pennsylvania Farmer Magazine.

Carl Shaffer is the owner and operator of a 1,000 acre vegetable farm in Columbia County, PA. The farm's average annual crop production totals include 600 acres of corn, 20 acres of oats, 60 acres of wheat, 30 acres of carrots, and 300 acres of snap beans. I have visited his farm on numerous occasions and have been greatly impressed by its yields, which have been produced under approved conservation plans.

I am proud to tell my colleagues that Carl's leadership is not confined to the boundaries of his farm, but extends to many agricultural advisory boards and organizations. Carl currently serves as the state committee chair for the consolidated farm services agency, and as a board member of the agricultural advisory board for the Pennsylvania Department of Environmental Protection. In addition, Carl is president of the board of directors of the Agricultural Awareness Foundation of Pennsylvania, and a member of the Pennsylvania Farm Bureau's Board of Directors. He has also served on the boards of the Pennsylvania Vegetable Marketing and Research Program, the Pennsylvania Farm Bureau, and the Pennsylvania Master Corn Growers Association. Locally, Carl was the president of the Columbia County Farmer's Bureau and the Columbia County Crop Improvement Association.

Mr. Speaker, Carl Shaffer is not only an extremely involved activist on agricultural issues, he is an outstanding member of his community. He is an active member of the Mifflinville Methodist Church and the 4H Horse and Pony Club. An ardent Democrat, Carl served on the Columbia County Democratic Committee Executive Board and as a member of the Penn-Ag Democrats.

Every year, Penn State University and Pennsylvania Farmer Magazine join together to honor outstanding farmers and confer upon them the degree of ''Master Farmer.'' The outstanding men and women who have been honored with this recognition have not only made significant contribution to the agricultural industry, but have also worked for the betterment of the society in which they live. Knowing of the special qualities that one must possess to be honored with this award, I believe that Carl Shaffer is a perfect candidate for Master Farmer of the Year.

I have known Carl for many years and I have had the pleasure to work with him on many occasions. His good stewardship extends far beyond his farm. He has given of himself to his community and continues to work for the welfare of his neighbors. Not only is Carl a competent and aggressive problem-solver, he is a warm and caring individual. When I need well-thought-out advice on agricultural issues, I call upon Carl for his astute understanding of complex policy matters.

Mr. Speaker, it is truly an honor for me to pay tribute to a man who has worked to provide so much to so many people. Carl Shaffer truly deserves this honor. I am confident that Carl will continue working on behalf of his fellow farmers and I warmly congratulate him on being named ''Master Farmer of the Year.''

HEADWATERS FOREST

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 22, 1996

Mr. STARK. Mr. Speaker, the Headwaters Forest in Humbolt County, CA, is one of the world's largest stands of privately owned ancient redwoods; however, this beautiful forest is in imminent danger of destruction. The Pacific Lumber Co., directed by Charles Hurwitz, has already logged thousands of acres and has indicated a desire to log some of the forest's last remaining 2,000-year-old giant redwoods.

Presently, Mr. Hurwitz, is the subject of two Federal lawsuits totaling approximately $650

million, resulting from the failure in the late 1980's of a Texas savings and loan. The best chance to save the Headwaters Forest is through a debt-for-nature swap in which the Government would acquire the headwaters and in return would relieve all or part of Mr. Hurwit's outstanding debts.

A debt-for-nature settlement negotiated with the help of the Clinton administration would allow the taxpayers to recover some of their losses from the savings and loan scandal while preserving one of the true treasures of nature—the Headwaters Forest.

Less than 4 percent remain of the ancient, old-growth redwoods that once covered more than 2 million acres from Big Sur to the Oregon border. These majestic redwoods, such an important part of our California and national heritage, need to be preserved for future generations.

FAMILY, COMMUNITY, AND OUR PUBLIC SCHOOLS

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 22, 1996

Mr. RADANOVICH. Mr. Speaker, all too often our public schools are dominated by a bloated bureaucracy unresponsive to the needs of families and local communities. The more we can return effective control over education to localities, Mr. Speaker, the more we can enhance the active involvement of parents in our public schools, curb costs and bureaucracy, and ensure that our children leave school equipped with the adequate knowledge and skills to play their full part in American society.

The Clovis Unified School District [CUSD] in my congressional district, makes a welcome contrast to this grim picture. Superintendent Walter Buster, building on the foundations laid by the CUSD's first superintendent, Floyd V. Buchanan, has demonstrated that public schools can provide a good education without inflated costs and with maximum parental involvement. The CUSD works actively with its local community and is responsive to it. It therefore gives me great pleasure to present the following article by Christopher Garcia, published in the latest issue of Policy Review: The Journal of American Citizenship (January/February 1996).

HUMBLE CLOVIS DEFIES THE EDUCATION VISIGOTHS

In 507 A.D., at Vouillé in present-day France, the King of the Franks led a band of warriors against the Visigoths, the marauding barbarians who had sacked Rome a century earlier. The king, named Clovis, defeated the Visigoths and broke their hold on Europe.

Today, a modern namesake—the Clovis Unified School District (CUSD), in Fresno, California—is successfully defying another ominous empire: the education establishment. Despite serving a significant portion of Fresno's urban poor, Clovis is proving that public schools can deliver a good education with a small budget and minimal bureaucracy.

Clovis has long ignored the prevailing cant about the need for high spending and huge bureaucratic machinery to regulate public education. During the 1993–94 school year, CUSD spent $3,892 per pupil; school districts nationwide averaged $5,730. The district's student-to-administrator ratio is 520:1—nearly twice the national average. And although similarly sized districts (like those in Rochester, New York, and Madison, Wisconsin), typically house 300 to 400 employees in their central office, CUSD employs just 167. With no teachers union or Parent Teachers Association (PTA), CUSD is a rarity among public schools.

In this case, less means more—more students performing above average across a broad range of measures. The district's average score on the Scholastic Aptitude Test (SAT) is 52 points higher than the state average and 42 points higher than the national average. CUSD's mean composite score on the American College Test (ACT) stands respectably at the 65th percentile. In 1995, with a senior cohort of 1,606, CUSD students passed 720 Advanced Placement (AP) exams.

Perhaps one reason Clovis kids out perform their peers is that they show up for class more often: The district's high-school attendance rate is nearly 95 percent, and its drop-out rate is only 4 percent. The district doesn't skimp on its extracurricular offerings, either. More than 80 percent of Clovis students participate in one of the most successful programs in California. Last year, the district earned a championship at the National Future Farmers of America Convention and sent its state-champion Odyssey of the Mind team to compete in the world finals.

Many Clovis children are among the most disadvantaged in the region. Nearly 40 percent of the district's students live in Fresno City. Six of CUSD's elementary schools enroll enough AFDC children to qualify for direct financial assistance from the federal government. And five schools have student bodies with more than 50 percent minorities. In 1989, the median household income of the community surrounding Pinedale Elementary School was $10,000 below the national median of $28,906. And yet Mexican-Americans, who make up the district's largest minority (about 18 percent of all students), outperform their State and national counterparts on the ACT by significant margins.

Created in 1960 from the merger of seven rural, low-income school districts, CUSD presented its first superintendent, Floyd V. Buchanan, with a significant challenge: Barely more than one in three of the district's 1,843 students performed at grade level. Buchanan wanted to push this figure to 90 percent—but how?

Put simply: competition, control, and consequences. Buchanan reasoned that schools would not be spurred to meet the goals that he and the central administration set for them unless they competed against one another in academic and extracurricular achievement. He established goals for each of the system's 11 schools at the start of the year, ranked them according to their performance at year's end, and established a system of carrots and sticks (mostly carrots).

Most importantly, administrators and teachers were allowed to choose the teaching methods and curricula they felt suited their objectives. This formula, in place for decades, has allowed the district—now with 30 schools and 28,000 students—to place between 70 and 90 percent of its students at grade level.

Competition in the district exists at several levels. Earning a rating as a top school is its own reward, but the district recognizes high achievement in other ways. The top schools on the elementary, intermediate, and high-school levels are recognized at an annual, districtwide award ceremony. The district's best teachers and administrators are honored at a dinner. And the school's achievements are reported to parents and the community in the pages of the district's publications.

The friendly, competitive culture at Clovis clearly has helped drive achievement. Because a school's performance at a districtwide choral competition or drama fair influences its ratings, teachers, students, and administrators work hard to give their routines the extra edge needed to push ahead of their colleagues. Schools borrow the winning strategies used elsewhere. Students at Clovis West High School, for example, often score better on SATs and AP exams than those at Clovis High School, so Clovis High has borrowed test-preparation tips from Clovis West. Clovis High is also trying to improve discipline by looking at successful techniques employed at Buchanan High.

Competition, however, would produce little without local decision-making. Anticipating trends that would revolutionize America's Fortune 500 companies, Buchanan made flexible, decentralized, site-based management a fundamental feature of the school system in 1972. The district office has been responsible for setting goals and establishing guidelines, but schools have worked to meet these goals in their own ways. ''They give us the what and we figure out the how,'' says Kevin Peterson, the principal of Tarpey Elementary School.

When officials at Pinedale Elementary School determined that parent participation there was lower than at other schools, for example, they realized that immigrant parents felt locked out by language barriers. So they created ''family nights'' to help these parents take part in their children's education. With their children present, the parents are taught games and devices they can use at home to help their children with their homework. The result: Immigrant parents now participate more.

Such innovation is easier in the absence of teacher unions. For example, the district deploys teachers weekly to the homes of about 100 recently arrived immigrants to provide them English-language instruction and to help them build a bridge to their rapidly assimilating children. Meredith Ekwall, a first-grade teacher at Weldon Elementary School, teaches English at night to the parents of her ESL students to encourage English use in the home. In districts where collective-bargaining agreements stipulate precisely how much time teachers spend teaching, micromanage the amount of time teachers can devote to activities outside of the classroom, and dictate what a district can and cannot ask its teachers to do, such flexibility and voluntarism is rare.

Along with teacher autonomy and greater parent access, Clovis strives for accountability. All the teachers, without exception, are expected to bring 90 percent of their students up to grade level. If they do not, everyone knows about it. The district's research and evaluation division notifies teachers, parents, and administrators of school and student performance. And with curriculum development and teacher hiring and firing in the schools' hands, knowledge is power. The approach has ''made every teacher accountable,'' says Redbank Elementary School Principal Susan VanDoren. ''[I]t made me sit down and look at all those kids [needing help] and ask, 'What can we do?''

Parents seem more likely to ask that question in Clovis than in other school districts. Parents and other community members (including the clergy, senior citizens, and businessmen) sit on advisory boards, where they review individual school performance and formulate policy. Last year, some parents were upset that children were required to read feminist author Maya Angelou's *I Know Why the Caged Bird Sings.* Parents forged an

agreement with the district that allows them to review books assigned to their children and help develop alternatives. Other boards recently voted to institute a voluntary uniform and a fee-based home-to-school transportation program. Teams of parents issue critiques of schools on the basis of data culled from parent surveys; these reviews are posted in every staff room in the district.

These boards function the way PTAs are meant to, but without the stifling hand of teacher-union influence. ''The reason for the success of Clovis,'' says Superintendent Walter Buster, ''is that these schools are truly governed by elected lay people.''

Ultimately, it seems, success in CUSD is driven by community expectations. ''There's a corporate culture that has been established that requires more of people, expects of people more, and gets of people more,'' says H.P. Spees, executive director of Fresno-Madeira Youth for Christ and member of CUSD's clergy advisory council.

This culture of expectation is impressed upon teachers even before they pick up a piece of chalk. A lengthy, multi-tiered interview process incorporates parents, teachers, community leaders, principals, and administrators and signals to prospective teachers that the Clovis community demands much of its teachers. According to Ginger Thomas, the principal of Temprance-Kutner Elementary School, some teacher candidates quit the interview process, saying ''you guys work too hard.'' Assistant superintendent Jon Sharpe contends that Clovis sustains ''a work ethic in the public sector that's almost unsurpassed.'' He may be right: In 1992, CUSD, teachers even voted down their own pay raise to channel the money into books and supplies.

In an education system under assault for its academic failures, Clovis has produced a winning formula. CUSD schools have won recognition by the state of California 15 times and earned national blue ribbons from the U.S. Department of Education 13 times. The prestigious Phi Delta Kappa Center for Evaluation, Development, and Research has featured Clovis in two works, *Clovis California Schools: A Measure of Excellence and Total Quality Education*. Even outspoken critics of public education recognize the district's accomplishments. ''If we are going to limit ourselves to the Prussian system of education, Clovis is the best we are going to get in a tax-financed school,'' says Marshall Fritz, the founder of the Fresno-based Separation of School and State Alliance and the father of four Clovis students.

Awards aside, the real lesson of Clovis is that good education depends not on bloated budgets but on creative and committed teachers and administrators held accountable by engaged communities. Clovis's success also suggests that quality in public education will not be the norm until resources are channeled to classrooms rather than bureaucrats, and parents wrest control over education from teachers unions.

IN HONOR OF LANEY COLLEGE PRESIDENT ODELL JOHNSON

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 22, 1996

Mr. STARK. Mr. Speaker, I rise today to congratulate President Odell Johnson. He is retiring after 22 years of service with the Peralta Community College District, the last 15 years as president of Laney College in Oakland, CA.

President Johnson is a long time resident of the bay area. He received his bachelor's degree from Saint Mary's College in Moraga and then moved to Fresno to receive his teaching credential. He returned to the bay area to receive his master's from Cal State Hayward and then moved back to Fresno to begin his teaching career.

From 1958 to 1965, he was an instructor in the Fresno Unified School District. He then served as executive director of the Trinity Street Community Center for 2 years before becoming the deputy director of the Fresno County Economics Opportunities Commission in 1967. In 1968, President Johnson returned to the bay area where he became the dean of men at Saint Mary's College. In 1970, he was promoted to dean of students at St. Mary and in 1973, he moved to the College of Alemeda where he became the coordinator of special services and veterans affairs. In 1975, he became the assistant dean of instruction and in 1979, he was promoted to dean of instruction. In 1981, he went to Laney College where he served as president for the last 15 years.

President Johnson has been a member of a number of community organizations including the Cultural and Ethnic Affairs Guild of the Oakland Museum, the Oakland Public Library Association, the National Association of Black Psychologists, and a member of the Cultural Plan Steering Committee for the city of Oakland. He also served on the board of directors of a number of organizations including, Oak Center Towers Senior Citizens' Housing, Oakland Ensemble Theater, Oakland Youthworks, Patrons of the Arts and Humanities, West Oakland Health Center, San Francisco Bay Area Youth Excellence Initiative Executive Committee.

He has won numerous awards over the years including the Outstanding College Administrator Award, which was presented by the Associated Students of the College of Alameda. He received the Urban Services Award for Outstanding Community Service, the Outstanding Educator Award and the Basketball Player of the Century, and the Basketball Hall of Fame honor from St. Mary's College.

Mr. Speaker, I ask you and my colleagues to join me in honoring President Odell Johnson for his dedication and commitment to the young people of the community for the last 22 years. He will be sorely missed.

TRIBUTE TO TOBA AND EARL GREINETZ

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 22, 1996

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Toba and Earl Greinetz, who this year are being recognized by the Valley Jewish Business Leaders Association for their extensive efforts on behalf of the Jewish community of southern California. The honor is well deserved: Toba and Earl give so much of their time to a variety of organizations, and in so many ways. By their selflessness and boundless energy, they are in example to us all.

Toba and Earl, who first met at the ages of 11 and 13 respectively, literally grew up in and around the Jewish community of Denver. Displaying a strong sense of involvement at an early age, they were active with the Denver Jewish Youth Council and were officers in AZA and BBG. After graduating from the university of Denver, and getting married, the couple resumed their involvement with the local Jewish community.

Earl became vice president of the Jewish Family and Children's Service, and chaired the Denver accountants/lawyers division. He was also an officer and member of executive committee of their synagogue. At the same time, Toba served on the board of the woman's division of the National Jewish Hospital, and as a member of the Jewish Family and Children's Service Adoption Committee.

In 1968, the couple moved to the San Fernando Valley, where they quickly resumed their involvement with the Jewish community. Some of the highlights over the past 27 years include Toba becoming founder of the Valley Jewish Business Leaders Association; Earl serving as president of the Valley Alliance of the Greater Los Angeles Jewish Federation and both of them becoming active with the University of Judaism.

The parents of three children, and the grandparents of six, Toba and Earl have succeeded at balancing family, career, and community. I ask my colleagues to join me in saluting Toba and Earl Greinetz, who are a shining example for us all.

WHAT HAPPENS WHEN A MANAGED CARE COMPANY STARTS LOSING PROFITS? THEY WORK HARDER NOT TO INSURE SICK PEOPLE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 22, 1996

Mr. STARK. Mr. Speaker, United Wisconsin Services, Inc., describes itself as a ''leading provider of managed health care products and services'' offering HMOs, small group preferred provider organizations, and specialty managed care products.

For the latest 3 months ending September 30, 1995, as reported in their 10–Q to the SEC, profits were down from the previous year's quarter and for the first 9 months of the year compared to last year. On $267,921,000 in revenues for the third quarter, United Wisconsin Services provided $202,233,000 in health services—or 75.4 cents on the dollar of premium went to health care. The rest went to commissions, administrative expenses, taxes, and profits.

The 10–Q then lists a number of steps the company is taking to deal with the falling profit levels. The steps include

''* * * a review of underwriting practices to improve risk identification * * *''

That says it, Mr. Speaker. When the going gets tough, the tough find new ways not to insure sick people.

This is why we need national health insurance reform. As price competition intensifies—which it should and which is good—the private sector will spend more and more time and energy uninsuring people. We need guaranteed issue, open enrollment everywhere for everyone.

HONORING LEE NAMEY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 22, 1996

Mr. KANJORSKI. Mr. Speaker, I am pleased to rise today to honor a distinguished public servant and good friend, Lee Namey, mayor of the city of Wilkes-Barre, PA. This month Mayor Namey stepped down from his post after 8 years of outstanding leadership. I am proud to pay tribute to Lee and to cite his many accomplishments before my colleagues in Congress.

Lee Namey began his political career in 1975 when he won a seat on the Wilkes-Barre City Council. He was reelected three times and twice served as the council chairman. In 1987, Lee Namey was swept into the office of mayor by a three-to-one majority.

A native of Wilkes-Barre, Lee had a traditional middle-class upbringing. His father, Elias Leo Namey was a well-known labor leader and president of the Teamsters Local 401. His mother Claire, was a nurse. Lee earned his bachelor's degree in 1968 from Wilkes College and his master of fine arts degree from Marywood College. Prior to serving as mayor, Lee taught at the West Side Vocational-Technical School.

Lee has served and continues to serve the people of Wilkes-Barre by being active in many public service organizations. He serves on the board of directors of the Pennsylvania League of Cities, the policy committee of the National League of Cities, and as a member of the U.S. Conference of Mayors where he served on the Community Development, Housing, and Arts, and the Culture and Recreation Committees. He is active with the F.M. Kirby Center, Osterhout Free Library, Northeastern Pennsylvania Council of Boy Scouts, and the United Way. Lee is also a member of the Wilkes University Council, Greater Wilkes-Barre Chamber of Commerce, Wilkes-Barre Democratic Executive Committee, Luzerne County Democratic Committee, and the Elks Lodge.

While Lee's involvement in these organizations reflects his personal commitment to improve the city of Wilkes-Barre and northeastern Pennsylvania in general, his many accomplishments as mayor must be cited to truly define his successes as mayor. Mayor Namey brought about great changes in Wilkes-Barre during a time when economic growth did not come easily to northeastern Pennsylvania.

I have been deeply honored to have worked closely with Lee on numerous projects over the years, and I would like to mention specifically just a few. In an effort to promote development during slow growth years, Mayor Namey worked closely with me to lead the Wilkes-Barre/Kingston Corridor Project, bringing together leaders of these two communities and officials of other neighboring communities to develop a comprehensive strategy for business growth and community enhancement. Under Mayor Namey's leadership, the corridor project has yielded tangible benefits for Wilkes-Barre, Kingston, and all the small towns which together comprise the Wyoming Valley.

Mayor Namey worked to promote economic and community development in many other ways. Through the riverfront parks project, he united the small riverfront towns of the Wyoming Valley with the city of Wilkes-Barre to create a strong leadership force capable of promoting economic growth through the development of the Susquehanna River waterfront, and the creation of parks, recreation areas, and properties ideal for business development.

In the 8 years that Lee Namey served as the mayor of Wilkes-Barre he has been a reliable partner in projects requiring the coordination of Federal and local governmental efforts. I have been working with Mayor Namey on the Wyoming Valley levee raising project and the Wyoming Valley inflatable dam project. To each of these projects he has provided valuable and strong leadership. Mayor Namey has helped to identify the potential the inflatable dam has for providing for the economic and community development of Wilkes-Barre and the surrounding region.

Most recently, I have been working with Mayor Namey to renovate the dilapidated Stegmaier Brewery which has been an eyesore in the center of Wilkes-Barre for many years now. Mayor Namey has been an invaluable partner on this project, as he has been on some many others. I sought Lee's support for the project because I knew he was capable of steering the project over the rough roads it would have to travel before its completion.

Mr. Speaker, my close personal friend, Lee Namey has been an outstanding mayor for the city of Wilkes-Barre and I am sure that he will continue to be a valuable community leader. I am pleased to pay tribute to Mayor Namey and send him best wishes.

CONGRATULATIONS TO THE NATIONAL ASSOCIATION OF WOMEN IN CONSTRUCTION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 22, 1996

Mr. STARK. Mr. Speaker, I rise today to congratulate the National Association of Women in Construction [NAWIC]. NAWIC is celebrating its 35th anniversary this year and the celebration will be hosted by the Greater Alameda County Chapter of NAWIC in Oakland, CA.

The NAWIC is an international association of women employed in the construction industry. Its mission is to promote the construction industry and support the advancement of women within it. NAWIC does this by uniting women who are actively employed in the various phases of the construction industry, by promoting cooperation, fellowship, and a better understanding among members of the association, by encouraging women to pursue and establish careers in the construction industry, and by providing members with an awareness of the legislative process and legislation as it relates to the construction industry.

In 1953, 16 women organized Women In Construction [WIC] in Forth Worth, TX, to support women who were employed in the construction industry, a traditionally male-dominated field. In 1955, WIC gained its national charter and became NAWIC. Since its founding, NAWIC has grown to a membership of more than 200 chapters in 47 States and three Canadian provinces.

The NAWIC is made up of women who hold jobs in architecture, general construction, subcontracting, material supplying, construction engineering, construction news services, and construction trade associations. NAWIC is the organization that ties the women who work in all of these phases of the construction industry together. NAWIC offers programs and seminars to its members to keep them up to date on issues of importance to the industry. They share the latest industry trends and information through meetings, the monthly bulletin, roundtable discussions, and networking. They also provide a no-charge occupational referral placement which places 30 to 40 people in construction and construction-related jobs each year and a clearinghouse for bidding and employment information issued by other associations, public work agencies, and unions.

NAWIC also has a strong commitment to the community. In 1972, the NAWIC Education Foundation was established to educate the community about the importance of the construction industry. Each year, the foundation sponsors competitions that are created to foster and promote construction as a viable career choice among young adults. In 1963, NAWIC established its Founders Scholarship Foundation, and in the past 5 years alone, has awarded more than $250,000 in scholarships to both male and female students pursuing construction-related studies.

In its nearly 40 years of service to its members, NAWIC has advanced the causes of all women in construction, women whose careers range from the skilled trades to architecture to business ownership. Mr. Speaker, I hope you and my colleagues will join me in recognizing the 35th anniversary of the National Association of Women in Construction and congratulating the membership on their achievements.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, January 23, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 24

2:00 p.m.
Select on Intelligence
Closed business meeting, on pending intelligence matters.
SH–219

JANUARY 25

9:30 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold oversight hearings on the management of the National Forests.
SD–366

Governmental Affairs
Post Office and Civil Service Subcommittee
To hold joint hearings with the House Committee on Government Reform and Oversight's Subcommittee on Postal Service to examine proposals to reform the United States Postal Service, focusing on international postal operations.
SD–342

10:00 a.m.
Special Committee To Investigate Whitewater Development Corporation and Related Matters
To resume hearings to examine certain issues relative to the Whitewater Development Corporation.
SH–216

JANUARY 31

10:00 a.m.
Finance
To hold hearings to examine proposals to restructure the tax system, focusing on the National Commission on Economic Growth and Tax Reform's report on tax reform.
SD–215

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Disabled American Veterans.
345 Cannon Building

MARCH 5

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

MARCH 14

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, the Jewish War Veterans, the Retired Officers Association, the Association of the U.S. Army, the Non-Commissioned Officers Association, and the Blinded Veterans Association.
345 Cannon Building

MARCH 27

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of World War I, AMVETS, the American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Order of the Purple Heart.
345 Cannon Building

SEPTEMBER 17

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.
335 Cannon Building

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S171–S290

Measures Introduced: One bill and two resolutions were introduced, as follows: S. 1519, S. Res. 209, and S. Con. Res. 39. **Page S276**

Measures Reported: Reports were made as follows: Special Report on Progress of the Investigation into Whitewater Development Corporation and Related Matters and Recommendation for Future Funding. (S. Rept. No. 104–204) **Page S276**

Measures Passed:

State of the Union Address: Senate agreed to S. Con. Res. 39, providing for the ''State of the Union'' address by the President of the United States. **Pages S172, S279**

Regulations Issued by Office of Compliance: Committee on Rules and Administration was discharged from further consideration of H. Con. Res. 123, to provide for the provisional approval of regulations applicable to certain covered employing offices and covered employees and to be issued by the Office of Compliance before January 23, 1996, and the resolution was then agreed to. **Page S284**

Interim Regulations:

Senate agreed to S. Res. 209, to provide for the approval of interim regulations applicable to the Senate and the employees of the Senate and adopted by the Board of the Office of Compliance before January 23, 1996. **Pages S279, S285**

Messages From the President: Senate received the following messages from the President of the United States:

Received on January 6, 1996, during the adjournment of the Senate:

Transmitting, the report of a balanced budget proposal; to the Committee on Finance. (PM–109). **Pages S274–75**

Received today:

Transmitting, the report concerning the national emergency with respect to Libya; referred to the Committee on Banking, Housing, and Urban Affairs. (PM–110). **Page S275**

Messages From the President: **Pages S274–75**

Messages From the House: **Page S275**

Communications: **Pages S275–76**

Statements on Introduced Bills: **Pages S276–79**

Additional Cosponsors: **Page S279**

Notices of Hearings: **Pages S279–80**

Additional Statements: **Pages S280–84**

Notice of Adoption of Regulations: **Pages S189–S274**

Nominations: **Pages S285–90**

Recess: Senate convened at 12 noon, and recessed at 4:55 p.m., until 2:30 p.m. on Tuesday, January 23, 1996. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S285.)

Committee Meetings

(Committees not listed did not meet)

WHITEWATER

Special Committee to Investigate the Whitewater Development Corporation and Related Matters: On Tuesday, January 16, and Thursday, January 18, Committee resumed hearings to examine issues relative to the Whitewater Development Corporation, receiving testimony on Tuesday from Bruce Lindsey, Deputy Counsel to the President; William Kennedy, Rose Law Firm, Little Rock, Arkansas, former Associate White House Counsel; and Neil Eggleston, Howrey & Simon, Washington, D.C., former Associate Counsel to the President; and on Thursday from Carolyn Huber, Special Assistant to the President and Director of Personal Correspondence; and Ronald Clark, Rose Law Firm, Little Rock, Arkansas.

Committee will meet again on Tuesday, January 23.

House of Representatives

Chamber Action

Bills Introduced: 2 public bills, H.R. 2862 and 2863 were introduced. **Page H737**

Report Filed: One report was filed as follows: Conference report on S. 1124, to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces (H. Rept. 104–450). **Pages H351–H736, H737**

Late Report: House conferees received permission to have until midnight tonight to file a conference report on S. 1124, to authorize appropriations for fiscal year 1996 military activities of the Department of Defense and to prescribe personnel strengths for such fiscal year for the Armed Forces. **Page H339**

Joint Session: House agreed to S. Con. Res. 39, providing that the two Houses of Congress assemble to receive the State of the Union address by the President of the United States. **Page H339**

Meeting Hour: Agreed to meet at 12:30 p.m. on Tuesday, January 23; and at noon on Wednesday, January 24. **Pages H341–42**

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of January 24. **Page H342**

Presidential Veto Message: Read a message from the President wherein he announces his veto of H.R. 4, to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence, and explains his reasons therefor—ordered printed (H. Doc. 104–164). **Page H342**

Subsequently, agreed that the message and the bill be referred to the Committee on Ways and Means. **Page H342**

Presidential Message—National Emergency with Respect to Libya: Read a message from the President wherein he transmits his report concerning the national emergency with respect to Libya—referred to the Committee on International Relations and ordered printed (H. Doc. 104–165). **Pages H342–43**

Senate Messages: Message received from the Senate today appears on page H339.

Quorum Calls—Votes: No quorum calls or votes developed during the proceedings of the House today.

Adjournment: Met at 2 p.m. and adjourned at 3:30 p.m.

Committee Meetings

WHITE HOUSE TRAVEL OFFICE

Committee on Government Reform and Oversight: On January 17, the Committee began hearings on the White House Travel Office. Testimony was heard from David Watkins, former Assistant to the President and Director, Office of Management and Administration, The White House.

Hearings continue January 24.

UNFUNDED MANDATES IN MEDICAID

Committee on Government Reform and Oversight: On January 18, the Subcommittee on Human Resources and Intergovernmental Relations held a hearing on Unfunded Mandates in Medicaid. Testimony was heard from Bruce C. Vladeck, M.D., Administrator, Health Care Financing Administration, Department of Health and Human Services; William J. Scanlon, Associate Director, Health Financing Issues, GAO; Philip Dearborn, Director, Government Finance Research, Advisory Commission on Intergovernmental Relations; John Petraborg, Deputy Commissioner, Department of Human Services, State of Minnesota; David Parrella, Medicaid Director, Department of Social Services, State of Connecticut; and public witnesses.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D12)*

H.R. 1358, to require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service Laboratory located on Emerson Avenue in Gloucester, Massachusetts. Signed January 6, 1996. (P.L. 104–91)

H.R. 1643, to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Bulgaria. Signed January 6, 1996. (P.L. 104–92)

H.R. 1655, to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System. Signed January 6, 1996. (P.L. 104–93)

H.J. Res. 134, making further continuing appropriations for the fiscal year 1996. Signed January 6, 1996. (P.L. 104–94)

H.R. 394, to amend title 4 of the United States Code to limit State taxation of certain pension income. Signed January 10, 1996. (P.L. 104–95)

H.R. 2627, to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the founding of the Smithsonian Institution. Signed January 10, 1996. (P.L. 104–96)

H.R. 2203, to reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project. Signed January 11, 1996. (P.L. 104–97)

H.R. 1295, to amend the Trademark Act of 1946 to make certain revisions relating to the protection of famous marks. Signed January 16, 1996. (P.L. 104–98)

BILLS VETOED

H.R. 4, to enhance support and work opportunities for families with children, reduce welfare dependence, and control welfare spending. (Vetoed January 9, 1996.)

CONGRESSIONAL PROGRAM AHEAD

Week of January 23 through 27, 1996

Senate Chamber

During the week, Senate may turn to consideration of any items cleared for action, including:

FY96 Continuing Resolution;

FY96 DC Appropriations Conference Report;

FY96 Interior Appropriations;

FY96 DOD Authorizations Conference Report; and

Consideration of regulations to bring the Senate into compliance with federal laws.

(Senate and House will meet in Joint Session on Tuesday, January 23, 1996, at 9 p.m. to receive the President's State of the Union Address.)

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Energy and Natural Resources: January 25, Subcommittee on Forests and Public Land Management, to hold oversight hearings on the management of the National Forests, 9:30 a.m., SD–366.

Committee on Governmental Affairs: January 25, Subcommittee on Post Office and Civil Service, to hold joint hearings with the House Committee on Government Reform and Oversight's Subcommittee on Postal Service to examine proposals to reform the United States Postal Service, focusing on international postal operations, 9:30 a.m., SD–342.

Committee on the Judiciary: January 23, to hold hearings to examine the future of the professional sports industry, 9:30 a.m., SD–226.

Select Committee on Intelligence: January 24, closed business meeting, on pending intelligence matters, 2 p.m., SH–219.

Special Committee To Investigate Whitewater Development Corporation and Related Matters: January 23 and 25, to resume hearings to examine certain issues relative to the Whitewater Development Corporation, Tuesday at 10:30 a.m. and Thursday at 10 a.m., SH–216.

NOTICE

For a listing of Senate committee meetings scheduled ahead, see page E50 in today's Record.

House Committees

Committee on Commerce, January 24, Subcommittee on Commerce, Trade, and Hazardous Materials and the Subcommittee on International Economic Policy and Trade of the Committee on International Relations, joint hearing on H.R. 2579, Travel and Tourism Partnership Act of 1995, 1 p.m., 2172 Rayburn.

January 25, Subcommittee on Health and Environment, hearing on Title VI of the Clean Air Act and the impact of the Seventh Meeting of the Parties to the Montreal Protocol, 10 a.m., 2123 Rayburn.

January 25, Subcommittee on Oversight and Investigations, hearing on the Department of Energy: Travel Expenditures and Use of Federal Funds, 9 a.m., 2322 Rayburn.

January 26, Subcommittee on Health and Environment, oversight hearing on Priorities for Reauthorization of the Safe Drinking Water Act, 10 a.m., 2123 Rayburn.

Committee on Government Reform and Oversight, January 24, to continue hearings on the White House Travel Office, 11:30 a.m., 2154 Rayburn.

Committee on the Judiciary, January 25, Subcommittee on Crime, hearing regarding the rise of international organized crime, 9:30 a.m., 2237 Rayburn.

Committee on National Security, January 24, Subcommittee on Research and Development and the Subcommittee on Military Procurement, joint hearing on the research and development response to the landmine threat in Bosnia, 2 p.m., 2118 Rayburn.

January 25, Subcommittee on Military Research and Development, the Subcommittee on Energy and Environment of the Committee on Science and the Subcommittee on Fisheries, Wildlife and Oceans of the Committee on Resources, joint hearing on leveraging national oceanographic capabilities, 10 a.m., 2118 Rayburn.

Committee on Rules, January 23, to consider the Conference Report to accompany S. 1124, Department of Defense Authorization Act for Fiscal Year 1996, 4 p.m., H–313 Capitol.

Committee on Standards of Official Conduct, January 24 and 25, executive, to consider pending business, 2 p.m., on January 24 and 1 p.m., on January 25, HT–2M Capitol.

JOINT MEETINGS

Joint hearing: January 25, Senate Committee on Governmental Affairs' Subcommittee on Post Office and Civil Service, to hold joint hearings with the House Committee

on Government Reform and Oversight's Subcommittee on Postal Service to examine proposals to reform the United States Postal Service, focusing on international postal operations, 9:30 a.m., SD–342.

Next Meeting of the SENATE

2:30 p.m., Tuesday, January 23

Senate Chamber

Program for Tuesday: After the transaction of any morning business (not to extend beyond 3:30 p.m.), Senate may consider conference reports, if available, and any cleared legislative and executive business.

(Senate and House will hold a joint session at 9 p.m. to receive the President's State of the Union Address.)

Next Meeting of the HOUSE OF REPRESENTATIVES

12:30 p.m., Tuesday, January 23

House Chamber

Program for Tuesday: Consideration of the following Corrections Day measure: H.R. 2567, amending the Federal Water Pollution Control Act relating to constructed water conveyances standards; and

Consideration of three Suspensions:

H.R. 2557, congressional gold medal to Ruth and Billy Graham;

S. 1341, Saddleback Mountain-Arizona Settlement Act of 1995; and

H.R. 2726, making technical corrections in laws relating to Native Americans.

Extensions of Remarks, as inserted in this issue

HOUSE

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Gingrich, Newt, Ga., E37
Kanjorski, Paul E., Pa., E46, E49
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