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Senate

The Senate met at 11 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, our Father, with whom there is no variableness or shadow of turning, more steadfast than the stars and more reliable than the rising and setting of the Sun, we thank You for Your changelessness. You are the same yesterday, today, and forever. You are our one fixed stability in the midst of changing circumstances. Your faithfulness is our peace. It is a source of comfort and courage that You know exactly what is ahead of us today. Go before us to show the way. Here are our minds, inspire them with Your wisdom; here are our wills, infuse them with the desire to follow Your guidance; here are our hearts, infill them with Your love. There is enough time today to do what You desire; so grant us freedom from tyranny of the urgent. You have been so patient with us; help us to be patient with those around us. We commit this day to You and thank You in advance for Your presence and power. In the name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. BURNS. Mr. President, today there will be a period for morning business until the hour of 11:30 a.m. Following morning business, the Senate will resume consideration of S. 1745, the Department of Defense authorization bill. At 12 noon, under the previous order, there are expected to be five rollcall votes as follows: First on the passage of the DOD authorization bill, followed by a vote on the motion to invoke cloture on the motion to proceed to S. 1788, the national right-to-work bill, followed by votes on or in relation to the Dorgan amendment, the Kassebaum amendment, and final passage of the TEAM Act.

Following those votes at noon, an additional period of morning business is anticipated and the Senate will begin consideration of the Defense appropriations bill. Therefore, rollcall votes are expected throughout the day and into the evening in an attempt to make substantial progress on the Defense appropriations bill.

MEASURE PLACED ON CALENDAR—S. 1936

Mr. BURNS. Mr. President, I understand there is a bill due for its second reading.

The PRESIDING OFFICER (Mr. INHOFE). The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1936) to amend the Nuclear Waste Policy Act of 1982.

Mr. BURNS. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar of general orders.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, for not to extend beyond the hour of 11:30 a.m.

The Senator from Montana is recognized.

TRUST

Mr. BURNS. Mr. President, over the Fourth of July, I guess our break was taken a little bit differently. Due to circumstances of a personal matter in both my wife's family and my family, we did not get to spend as much time in our home State of Montana as we would have liked.

Generally, a couple rides on an airplane, but basically we drove across this Nation, across the heartland of this Nation, all the way from the Rocky Mountains back to Washington, DC.

But I flew into California. We were talking yesterday about the encryption issue, an issue that allows people to encode their messages that are sent on the information highway and that there is some reliance that those messages are only received by the folks they are intended for, and when the folks receive those messages, they have confidence that it was sent by the right person and the message has not been tinkered with before they received it.

That happens to be something in this new technology, this information age, that we will be talking a lot about. But as I sat on the airplane, I met a young couple, and I opened the newspaper to the situation with the FBI files at the White House, of which the young woman said, ''That doesn't make a lot of difference to me,'' because she was a supporter of this President and she was going to vote that way anyway. I did not argue with her. She did not know me from Adam, but I asked what she did for a living and she said she was a computer analyst.

I said, ''Well, does your company do business with the Government?''

She said, ''Yes, we do.''

I said, ''In sensitive areas like defense or security, or whatever?''

And she said, ''Well, I don't know about those things.''

I said, ''Well, would it make any difference if your records were at the White House?''

All at once, it started to become a thing of conversation. I did not say anything more about it, but she and her husband talked about it for the rest of the trip.

When we talk about this issue of encryption and key escrow and those kinds of new terms that will filter into the conversations of America, we have to talk about trust. That is key—trust.

We look at the situation as it is with our young people today and we say, ''Well, maybe midnight basketball didn't work.'' We know that juvenile crime is on the upswing again. It is up 11 percent. Juvenile murders are up 8 percent. Juvenile robberies are up 16 percent. Marijuana use is up 200 percent. That tells me that our young people are in a sense of hopelessness; that we leaders have not talked enough about trust and we have not talked enough about hope and what this great country offers. We only hear that there will not be money for education. They are scared they will not be able to go to school after all the rhetoric that we hear.

We ought to be talking the other way around. It is what we talk about and how we put it. We should talk about hope and opportunity. Only this country offers all kinds of opportunities for young people in today's age. And they yearn for discipline. They want to talk about hope and what is out there, and this new world of technology offers that.

So when we think about encryption, we think about the new technologies, we hear those new words that are going into the conversations, but there is one old standard standby. It is who do we trust and how do we tell our young people today, how do we tell them that there is hope and their opportunities are greater than of any generation, because electronically they open the doors of opportunity around the world and it can be done in 5 seconds. It is trust.

We who are put in positions to represent a constituency teach our young every day. Some days we even use words. Some days we use words, and that is what I think this is about when we start talking about this issue and the issue of what goes on on the floor of the U.S. Senate.

The keyword is an old standby word called trust.

FAREWELL TO LORI STALEY

Mr. BURNS. Mr. President, I rise today to bid farewell to my legislative assistant, Lori Anne Staley. She logged over 4 years time with me and I will certainly miss her.

Lori joined my staff almost in the beginning back in 1989 as a staff assistant. She quickly learned the ropes and helped to keep my office running back in the early days when many of us were still figuring out how to get around the Capitol.

Although she is from Ohio she easily adapted to Montana and soon Montana adopted her. She has worked hard for Montana and Montanans appreciate all that she has done. Her biggest compliment is when people forget she is not a native Montanan.

Lori left my office for a couple of years and then came back, proving that you can come home again. She returned as a legislative correspondent and after 2 months took over international trade and foreign relations as a legislative assistant, continuing to add to her list of duties over the course of 3 years. Today she not only handles trade, foreign relations, and defense issues, but she is also responsible for my duties as a member of the Commerce, Science, and Transportation Committee. She has been willing and able to tackle any issue and has a broad understanding of the way Washington works.

From trains, planes, and space shuttles, to Bosnia-Herzegovina, Haiti, and B–2 bombers, to GATT and NAFTA, Canadian Durum wheat, and product liability reform—Lori knew the issues well and was always able to keep me informed and up-to-date.

She was able to juggle her multiple issues while keeping the big picture in perspective and knowing how Montana fit into it. No matter how big or small the task she had a good sense of how to get the job done right. I teased her as being hard hearted, but I knew I could always count on her for a clear assessment of any issue in a snap.

I admire her energy and devotion to her job and to Montana. We have spent many late nights together as it seems the Senate gets the most work done in the wee hours of the day. Whether preparing for committee hearings or monitoring floor debate I knew she was working overtime to keep things running smoothly.

In her 3 years as part of my legislative team her accomplishments have numbered many. She was instrumental in helping agriculture shippers during the sunsetting of the Interstate Commerce Commission. She planned a small business committee field hearing in Kalispell, MT on proposed OSHA regulations for the timber industry—two issues which didn't know anything at all about when she started. She has also promoted distance learning which was showcased in a Commerce subcommittee hearing earlier this year. Whether working with NASA or the Montana Department of Transportation her ability to work through problems and get the job done shone through every time.

We will miss more than just Lori's work around the Office. Even in stressful times she managed to keep her good humor. Everyone on staff knew they could turn to her for an amusing story, some good advice, or a helping hand. Indeed we will also miss her cheerful smile.

Lori has changed a great deal since she first arrived on Capitol Hill 7 years ago and started her first job in my office. I know that neither of us will forget this period of time and I hope that she leaves my office with a feeling of having made a difference. She has done almost every job and covered almost every issue as a part of my staff and every time she goes in with a smile and comes out on top.

Today she is moving on to start a new adventure. I'm certain that she will miss all the people she's worked with here in Washington, DC, and back home in Montana. Everything she has learned and all of her experiences will be a part of her. And in return when she moves to her new job she will leave a little part of herself with us.

In closing, I would like to bid good luck, but not good-bye, to my legislative assistant and friend, Lori Staley. I know she will go far. Lori, thanks for your good work.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, the Senator from New Mexico [Mr. BINGAMAN] is recognized for up to 10 minutes.

Mr. BINGAMAN. Mr. President, I thank you for the time.

TEAM ACT

Mr. BINGAMAN. Mr. President, this debate about the so-called TEAM Act has, unfortunately, produced more heat than light. I first began to focus on the issue several months ago when I visited a small high-technology firm in my State, Lasertechnics, in Albuquerque, NM. Lasertechnics is a very good employer and has on staff about 60 people.

The issues related to unions organizing are far from the minds of anyone in that firm, as far as I can tell. The company has about two dozen different teams discussing many task-oriented items. But some of those teams have the potential of running into subjects considered ''terms and conditions of employment,'' as that phrase is used in the National Labor Relations Act.

Flex time to help bolster Asia-Pacific sales is one example that stands out in my mind. If the owner of that company, Gene Borque, just decides one day to issue flex time schedules or a policy governing flex time, then clearly there is no violation of the law since there is no union in that company. If he has a team decide on a policy, and the team enters into back-and-forth discussions with him on that subject, then according to the NLRB, there probably is a violation of the law as it now stands.

This circumstance should be the focus of our discussion if we are ever able to get into a meaningful discussion about these issues in the future, because, in my view, Gene Borque, the owner of this company, should not be in danger of violating the law by operating as he does today.

The issues being debated are very real. First of all, how can we assure employers the right to organize their companies to get the best effort and

sense of ownership from their workers? And at the same time, how can we assure employees that they retain an ability to organize into unions and to bargain on terms and conditions of employment free from the threat of sham unions being established or manipulated by employers? These are both legitimate goals. Several weeks ago it was my hope and my belief that we could develop language to offer as a substitute for S. 295 that would satisfy both of these objectives.

I had hopes of offering an amendment that would substantially improve the TEAM Act so that, first, there would be no ambiguity that workplace teams and nonunion workplaces were permitted under the law, and, second, that we would specify that teams that discuss terms and conditions of employment would have to comply with certain other requirements to assure that company dominated or sham unions could not be established and that workers would have a determinative role in any discussions on those terms and conditions of employment.

Mr. President, after several weeks of trying to find this common ground to propose a substitute for the bill that we are considering, I have concluded that it is not possible at this time. The organization of employers that has been formed to support the TEAM Act has determined to resist amendments and to drive toward passage of S. 295 even though this legislation faces a sure veto by the President. The labor unions, on the other hand, have organized to oppose the TEAM Act. Relying on the President's promised veto, they have determined that the TEAM Act or any substitute for it which amends section 8(a)(2) of the NLRA should be opposed.

In my view, the concerns that the unions have about the TEAM Act that is before us are well founded. I do not want to get into a technical discussion about the legislation, but many people, including the Chairman of the NLRB, Howard Gould, as well as the Dunlop Commission and others have argued that an adjustment is needed in section 8(a)(2) of the National Labor Relations Act because of recent decisions that have blurred the definition of what are considered terms and conditions of employment.

S. 295 tries to remove the ambiguity by providing a sweeping umbrella over all workplace teams and any discussions. In my opinion, this opens the window to the possibility of company dominated or sham unions. I have long believed that we might be able to fix the language of the TEAM Act so as to maintain the flexibility that is required to fit with the highly fluid nature of a modern workplace team and still build in protections for workers' rights and interests in this process.

S. 295 needs to be fixed. We have not been able to do so. Accordingly, I will vote against the bill. I regret that the two sides on this important issue cannot be brought together on common ground. Some of the explanation is in the atmosphere of hostility that has traditionally surrounded labor-management issues in our country. In part, the result flows naturally from the very different views that the two sides have of the relationship between employees and employers. Of course, to some extent, the result is a natural consequence of the political season that we are in.

Although the script for what is to happen with this legislation this year is known to us all, I hope that in the next Congress we can have a more serious and constructive debate about this important set of issues.

In many companies throughout the country, the workplace of 1996 is not the workplace that Congress was reacting to when the Wagner Act was passed in the 1930's. For many, the term ''empowering workers'' is not just hollow rhetoric. On the other hand, all employers do not concern themselves with the rights and prerogatives of workers. The concerns that unions have raised are well rooted in our Nation's history.

At a future date I hope we can see adoption of some well-reasoned and balanced reforms to the law that clearly is not possible today. Mr. President, I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. I thank my friend and colleague from North Carolina, Senator FAIRCLOTH, for allowing me to go forward for just a few minutes.

I want to follow, very briefly, on what the Senator from New Mexico has said and basically to say that I associate myself with his remarks, as sad as that conclusion is here.

This is a case of the TEAM Act where, it seems to me, both sides, as it were, labor and management, had some merit to their arguments. There should have been a way to put this together and bring about some change in the law that recognizes, respects, and facilitates the extraordinary changes—in some ways the revolution—that have gone on in labor-management circles in this country that the team proposals and programs are part of, and thousands of employers throughout America, and yet to have done that in a way that does not threaten the organized labor movement and does not inadvertently, one hopes, open the door to some of the practices of the past, as Senator BINGAMAN has referred to, such as sham unions or employer dominated unions.

This was a case where reasonable people should have been able to sit down and reach a reasonable conclusion that would have brought about change. I really thank the Senator from New Mexico for the leadership he showed in this in trying to make this happen. He is a consummately reasonable person and has tried to pursue in a rational way that course in this matter. I followed his actions and tried to support them, in terms of the work that he was doing as they were going along.

I regret that in the end he concluded that the amendment that he had prepared really could not be introduced because it was not going to facilitate the kind of movement that is needed here to create change. So the result, unfortunately, in this polarized environment is—polarized for exactly the reasons that the Senator from New Mexico states; one, because the debate over this bill has in some sense continued a kind of labor-management negotiation with mistrust on both sides; and, also, it is obviously an election year.

The result of all this, I presume, is that Congress will pass this bill, but the President will veto it. Then we will be at the status quo, which is not, in this case, terrible because as some I talked to in this debate have said, well, maybe a lot of businesses are running good employer-employee teams in their workplaces who are technically violating the law, but the NLRB is not taking action against them unless, in those relatively few cases, there is a complaint associated with an organization driven by a union, and then the penalty is to order them to stop doing what they are doing.

I wish we could have come to a better result. The truth is that these employer-employee teams—I have seen some of them in Connecticut. When they work well, they work very well. They not only are great for the workers; they are great for the management and great for American competitiveness and great for job creation and the sustaining of existing jobs. However, like everything else, they can be misused. They can be misused in a way that runs right into some of the original goals of section 8(a)(2) of the National Labor Relations Act. Again, there ought to have been a way we could bring this together.

I regret the Senator from New Mexico reached the conclusion he did. I regret that there will not be a proposal here on the floor that I feel I can support. I am very, very sad that we as a body and I as one Senator reach that conclusion. I can only say that I hope that all of us can come back, both sides, outside of the Chamber and all of us inside the Chamber, next year and work with the executive branch at that time to fashion a bill that will acknowledge the extraordinary steps forward in labor-management relations, and yet the continuing need to protect workers, both in their right to organize and in their right to be members of employee management associations that are not employer dominated.

I thank the Chair. Again, I thank Senator FAIRCLOTH. I yield the floor.

The PRESIDING OFFICER. Under a previous order, the Senator from North Carolina, Senator FAIRCLOTH, will be recognized.

THE NATIONAL RIGHT TO WORK ACT

Mr. FAIRCLOTH. Mr. President, Thomas Jefferson said, ''To compel a man to furnish contributions of money for the propagation of opinions in which he disbelieves is sinful and tyrannical.'' At noon today, the U.S. Senate will hold a historic vote on legislation to repeal those provisions of Federal law which require employees to pay union dues or fees as a condition of employment. This vote is long overdue for the working men and women of this country.

Since I introduced the National Right to Work Act, 22 of my Senate colleagues have joined me as cosponsors. We share the belief that compulsory unionism violates a fundamental principle of individual liberty, the very principle upon which this Nation was founded. Compulsory unionism basically says that workers cannot and should not decide for themselves what is in their best interest, that they need a union boss to decide for them. I can think of nothing more offensive to our core founding principles which we celebrated on the Fourth of July, a few days ago, than that principle that the working people of this country do not have the ability to decide for themselves.

With this bill, not a single word is added to Federal law. It simply repeals those sections of the National Labor Relations Act and the Railway Labor Act that authorizes the imposition of forced-dues contracts upon working Americans. It simply does away with the requirement that people have to belong to a union to hold a job.

I believe that every worker must have the right to join and financially support a labor union if that is what they want to do. Every worker should have that right, of his own free will and accord, but he should not be coerced to pay union dues just to keep his job. This bill simply protects that right, and no worker would ever be forced into union membership unless he wants to be.

Union membership should be a choice that an individual makes based upon merits and benefits offered by the union. If a union truly benefits its members, then they would not have to coerce them. If workers had confidence in the union leadership, if the union leadership was honest, upright, and forthright, then they would not need to coerce their members to join. A union freely held together by common interests and desires of those who voluntarily want to be members would be a better union than one in which members were forced to join. If the National Right to Work Act were passed, nothing in Federal law would stop workers from joining a union, participating in union activity, and paying union dues.

Union officials who operate their organizations in a truly representative, honest, democratic manner would find their ranks growing with volunteer members who are attracted by service, benefits, and mutual interests, not because they are forced against their will with no options to be a member of a union and pay union fees in order to hold a job. In addition, voluntary union members would be more enthusiastic about union membership simply because they had the freedom to join and were not forced into it.

When Federal laws authorizing compulsory unionism are overturned, only then will working men and women be free to exercise fully their right to work. When that time comes, they will have the freedom to choose whether they want to accept or reject union representation and union dues without facing coercion, violence, and workplace harassment by overbearing—disreputable, in many cases—union bosses.

A poll taken in 1995 indicates 8 out of 10 Americans oppose compulsory unionism—8 out of 10 Americans do not think you should be forced to belong to a union to hold a job.

At noon today, it is my sincere hope that my colleagues will join me in defending the fundamental individual liberty of the right to work, and will support this bill.

I ask unanimous consent to have printed in the RECORD immediately following my remarks an editorial which appeared in today's Wall Street Journal, setting forth clearly why this bill should pass.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 10, 1996]

LABOR INDEPENDENCE

Today members of the U.S. Senate will be counted on a fundamental issue of individual freedom: the right to work without paying union dues or fees as a condition of employment. It's not likely that the effort to remove sections of the 60-year-old National Labor Relations Act that authorize forced-dues contracts will pass. However, the vote will serve as a useful political marker as to which Senators want individual workers to have a say in whether they should continue to pay the $5 billion a year in dues that private-sector unions collect.

No one argues that unions haven't done a great deal of good in representing their members and in the mutual aid programs they've set up. But that cannot justify allowing the forced collection of union dues from workers who don't want to pay them. In many unions, upward of 75% of the dues money goes for political and other activities that have nothing to do with collective bargaining rights. This year unions didn't bother to consult individual workers before they financed an unprecedented $35 million propaganda campaign against the GOP Congress. In its 1988 Beck decision, liberal Supreme Court Justice William Brennan led the Court in ruling that workers were entitled to a refund of dues money not used to represent them, but the Clinton Administration has acted as if Beck didn't exist. That makes today's vote to put Senators on record on the issue of coerced dues all the more appropriate.

Union leaders themselves were once leery of laws allowing forced membership in their organizations. Samuel Gompers, the father of American labor, warned workers that ''compulsory systems'' were ''not only impractical, but a menace to their rights, welfare and their liberty.'' Public opposition to compulsory unionism has been so great (upward of 70% in most polls) that 21 states have passed ''right-to-work'' laws that allow individuals to opt out of union membership. On the national level, however, reform has been blocked by the formidable power of the unions to raise campaign cash to defeat their opponents.

North Carolina Senator Lauch Faircloth says the time is right to test the power of union bosses with his bill to remove language from federal labor law that authorizes forced-dues contracts for workers. For the first time in a generation, Senators from right-to-work states will be required to choose between the political power of the unions and the clearly expressed views of their voters. In the past, even liberal Senators such as George McGovern felt compelled to support their states' right-to-work laws. Today, 25 Republican and 17 Democratic Senators represent states with such laws. If all of them supported Senator Faircloth, his legislation would pass easily. The fact that many will oppose it deserves to be a campaign issue in the 16 right-to-work states with Senate elections this fall.

Compulsory union dues are not merely an esoteric issue of whether employers or unions hold the upper hand in federal labor law. The issue goes to the heart of individual freedom. Thomas Jefferson once wrote that ''To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical.'' Today we will learn how many Senators agree with Jefferson's sentiment.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. FAIRCLOTH. I am delighted to yield.

Mr. HELMS. I commend the distinguished Senator from North Carolina on his excellent remarks about a very serious subject. I do not know whether this Senate is going to try to act on this bill or not, but I want him to know that I am honored to be a cosponsor of the bill.

Now, did I understand the Senator to say that four-fifths of the American people support the concept that working people should not be forced to associate with or support any organization or class of organization as a condition of getting a job or keeping the job?

Mr. FAIRCLOTH. That is exactly what the American people believe.

Mr. HELMS. Maybe one of these days Congress will pay attention to 80 percent of the people.

Mr. President, the National Right to Work Act stipulates that employers and unions may no longer force American workers to pony up union dues as a condition of keeping their jobs. It is about freedom, purely and simply. It does not discourage union membership. The National Right to Work Act merely says that unions have to garner their support the old-fashioned way—they have to earn it.

Of course, there are those who suggest that this legislation is somehow antiunion, those who parrot the apocalyptic pronouncements of the AFL–CIO that this is union-busting legislation.

Nothing could be further from the truth.

I would suggest that those union bosses opposing the National Right to

Work Act are insecure about their ability to earn the support of the workers they purport to represent.

Opponents of the National Right to Work Act may also suggest that it is fair to require employees who enjoy the so-called benefits of union membership to share in their costs. Union leaders will complain that this Congress should not change this policy.

Mr. President, union leaders, having bought the horse, are just complaining about the price of oats.

Union bosses lobbied for and jealously guard the privilege of exclusive representation. They will not give it up. And if you have any doubts about that, then the answer is not to oppose this modest effort to limit union coercion, but to repeal exiting provisions of Federal labor law providing for exclusive representation. I recall that union lobbyists say that this is a free-rider bill. The National Right to Work Act is not so much a free-rider bill as existing Federal labor law is forced-rider legislation.

Doubtless, too, we will hear complaints that there are more important issues facing Americans. There will be claims that this issue is being pursued by a narrow special interest.

My colleagues should bear in mind that polls indicate that fully 76 percent of the American people—including a clear majority of union members—support the principle of right to work. Just yesterday, the administration and various lobbying groups were telling us that an increase in the minimum wage should be passed because 70 percent of the American people support it.

My suspicion is that that they find this high level of support for right to work to be less persuasive, just as they have failed to support our efforts to pass a balanced budget amendment, notwithstanding the support of overwhelming majorities of Americans.

After all, this administration's Secretary of Labor seems more interested in advancing the agenda of organized labor, rather then the rights and interests of all American workers. This is, after all, the administration which attempted to rewrite Federal labor law for Federal contractors, to deny to Federal contractors the right permanently to replace striking employees. The courts have rightly voided this usurpation of congressional authority.

Furthermore, the Secretary of Labor said, and I quote, ''In order to maintain themselves, unions have got to have some ability to strap their members to the mast. The only way unions can exercise countervailing power is to hold their members' feet to the fire.'' Whether or not that mast is attached to a sinking ship in something that the Secretary seems not to have considered.

Make no mistake about it, Mr. President, those who oppose this bill today oppose freedom. They make clear their ratification of Secretary Reich's sentiments, that this Congress believes that union bosses know better than individuals what is in the interests of individual American workers. I would respectfully suggest that this is a concept foreign to the American way of thinking. And does anyone seriously suggest that Republican majorities were sent to both Houses of this Congress in order to perpetuate the power of union bosses to force Americans to support their narrowly radical social and political agenda?

But perhaps there is another explanation. After all, look at the most vocal of opponents to this act. Is it mere coincidence that they benefit from the forced-dues, soft-money political contributions of big labor? Is it just an accident that the bulk of union political activities and contributions benefit my friends on the other side of the aisle almost to the exclusion of contributions to the GOP? Is it surprising that an administration which promises to veto this bill, if passed, has the nearly unanimous support of the leaders of the AFL–CIO?

I urge my colleagues to support the National Right to Work Act because it is the right thing to do. It is a vote for worker freedom, a vote for responsible unions. American workers deserve the protection of a National Right to Work Act, the protection of a basic personal freedom. American working men and women deserve to be able to work and feed their families without paying tribute to anyone, much less a class of specially protected organizations.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 1939 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

TRIBUTE TO JUDGE JOSEPH PHELPS

Mr. SHELBY. Mr. President, I rise today in honor of Judge Joseph Phelps who was killed tragically in a car accident on June 22, 1996. Joe retired from his Montgomery circuit judgeship in 1995, after spending 18 years on the bench. He served the State of Alabama, the Alabama judicial system, and our Nation with dignity, prudence, courage, and honor.

Joe received both a bachelor's degree and a law degree from the University of Alabama. Even as a youth, Joe showed character in all that he did providing a glimpse into the future of the wise, Christian adult, leader, and honorable jurist he would later become.

In 1990, Joe was awarded the Alabama Bar Association's Judicial Award of Merit, its highest award for outstanding and constructive service to the legal profession in Alabama.

Joe's Christian values are reflected not only in the way he lived his life, but in the many positive organizations which he led, founded, belonged, and served. He was the past president of the Montgomery County Bar Association, and has served as a member, past president, trustee, and founder. He also served diligently in the YMCA; Montgomery Lion's Club; Lion's Club International Youth Day in Court Program, which he founded; Jimmy Hitchcock Memorial Award; Fellowship of Christian Athletes; Salvation Army; Capitol City Boys Club; STEP Foundation; Blue-Gray Association; Leadership Montgomery; the Governor's Study Task Force on Drugs; Alabama Trial Lawyers' Association; Association of Trial Lawyers of America; American Judicature Society; Montgomery Magnet Grant Review Committee; and numerous other legal, civic, and Christian groups. He was an elder at Trinity Presbyterian Church, where he served on the Christian education committee, congregational involvement committee, and long-range planning committee. Joe also taught ninth grade Sunday School. In 1980, Joe was honored as YMCA Man of the Year in recognition of his service to youth in Montgomery.

Joe's list of accomplishments are reflective of the life he led, the type of friend he was, and the positive contributions he made throughout his life to his community and his fellow Alabamian. Not the least of which was his role as husband and father. My heart goes out to Joe's family.

Joe's lifelong dedication to community and country made our world a better place. His presence will be sorely missed.

1996 JULY QUARTERLY REPORTS

The mailing and filing date of the July Quarterly Report required by the Federal Election Campaign Act, as amended, is Monday, July 15, 1996. All principal campaign committees supporting Senate candidates in the 1996 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. You may wish to advise your campaign committee personnel of this requirement.

The Public Records office will be open from 8 a.m. until 7 p.m. on July 15, to receive these filings. For further information, please do not hesitate to contact the Office of Public Records on (202) 224–0322.

THANKS TO DAVID O. COOKE AT THE PENTAGON FOR HIS CONTINUING SERVICE TO OUR NATION

Mr. NUNN. Mr. President, several months ago, I participated in a ceremony at the Pentagon to open an exhibit honoring the office of the Vice Chairman of the Joint Chiefs of Staff. This was a significant moment in recognizing the remarkable success of the Goldwater—Nichols legislation, which reorganized the Department of Defense. However, this moment would not have been possible without the help of the pentagon's Director of Administration and Management, David O. (Doc)

Cooke. Today, I would like to extend my personal appreciation to Doc Cooke for his help in establishing this exhibit but primarily I want to thank him for his long and continuing career in public service.

Mr. President, I ask unanimous consent that an article on Doc Cooke that was published in Government Executive be reprinted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. Mr. President, Doc Cooke's association with our Nation's armed services began in World War II, when he served as an officer aboard the battleship U.S.S. *Pennsylvania*. In 1947, he became a civilian employee with the Navy in Washington, DC. He completed his law degree from George Washington University in 1950 and, shortly thereafter, was recalled to active duty during the Korean war as an instructor at the School of Naval Justice. Since that time, Doc Cooke has rendered outstanding service to 14 different Secretaries of Defense. In 1958, he became a member of a task force on Department of Defense reorganization that was led by Secretary of Defense, Neil McElroy. Under Secretary of Defense Robert McNamara, he served on a briefing team that advised the Secretary on issues related to organization and management. In his dual role as the Director of Administration and Management and Director of Washington Headquarters Services, Doc Cooke has oversight responsibilities for more than 1,800 employees throughout an impressive array of offices at the Pentagon, including the Directorate for Organizational and Management Planning, Defense Privacy Office, OSD Historical Office, Quality Management Office, Directorate for Budget and Finance, Directorate for Real Estate and Facilities, Directorate for Correspondence and Directives, Directorate for Personnel and Security, Directorate for Information Operations and Reports, Directorate for Federal Voting Assistance Program, and the Office of General Counsel. The high level of energy and competence that Doc Cooke brings to his job has earned him the title of ''Mayor of the Pentagon'' from his friends and colleagues.

Doc Cooke has always recognized that people are the driving force behind any organization's successes and shortcomings. His determination to never lose sight of the human factor in dealing with organizational and administrative issues has been a key contributing factor to the success that he has enjoyed throughout his career. Doc's ability and success in communicating with others is evident not only in his profession, but also in his involvement in community service. In 1992, he helped launch a program in Washington, DC, to encourage high school students to pursue careers in public service. This led to the establishment of a Public Service Academy. The Public Service Academy works closely with Federal agencies in planning the school's curriculum, establishing internship opportunities for students, and providing counseling for both students and their families. Last year there were 28 seniors at the Academy. Of that total, 25 were accepted into college and 3 found employment. This type of success is a shining example of the integrity and compassion with which Doc Cooke approaches both his profession and his community.

Last year, Doc Cooke received the Government Executive Leadership Award from the National Capital Area Chapter of the American Society for Public Administration. This award was given in recognition of his strong leadership throughout his outstanding career in the Federal Government. Mr. President, I ask that the Senate join me in thanking Doc Cooke for his continuing service to our Nation. I hope that he will continue to serve for many years to come. We wish him, his wife, Marion, and his entire family every success for the future.

EXHIBIT 1

[From the Government Executive, September 1995]

MAYOR OF THE PENTAGON

(By A.L. Singleton)

David O. Cooke, this year's winner of Government Executive's annual award for leadership during a career in federal service, may have a tough time deciding where to display his plaque. After 37 years in Defense Department management, Cooke has a Pentagon office that is crammed full of trophies and medallions praising his dedication to public service, executive development and good government.

Awards compete for wall space with photographs of Cooke and a variety of associates from pals to presidents. There's a shot of Cooke posing with radio/television personality Willard Scott, each man covering his bald pate with a silly wig. There's a picture of Cooke with President Clinton at the White House.

But perhaps the photograph that best represents Cooke's career shows him seated and grinning broadly in front of 9 of the 14 Secretaries of Defense with whom he has worked.

Cooke is director of administration and management and director of Washington Headquarters Services for DoD. This means, among other things, he is in charge of the operation, maintenance and protection of the Pentagon Reservation, which spans 280 acres on the Virginia side of the Potomac River and includes not only the Pentagon and its power plant but also the Navy Annex and numerous other DoD buildings in the National Capital Region. He oversees some 1,800 employees, controls 20,000 parking spaces, runs a quality-management unit and directs organizational and management planning for the Department of Defense.

Cooke is often called ''the mayor of the Pentagon''—a nickname that reflects the power his office wields over day-to-day life in the Defense Department's huge headquarters operations. Beyond the mundane tasks of ensuring adequate cooling and equitable parking, Cooke's job requires a deep understanding of the theory and practice of management in one of the world's most complex enterprises. Yet most people, from the workers who clean his office all the way up to the Secretary of Defense, call him ''Doc.'' A man who doesn't take his many impressive titles too seriously, Cooke enjoys the familiarity.

FROM TEACHING TO TASK FORCES

The Doc Cooke story began 74 years ago in Buffalo, N.Y. His parents were schoolteachers and that was what he also set out to be, receiving his bachelor's and master's degrees from the State University of New York. World War II took him out of the classroom and onto the decks of a battleship, the USS *Pennsylvania,* where he served as an officer throughout the war. Afterward, he returned to Buffalo to teach high school.

Then, in 1947, three events changed his life. He entered law school, met and married fellow law student Marion McDonald and accepted an offer to become a civilian employee of the Navy in Washington, D.C. Once settled in the capital, he resumed law studies at night and received an LL.B. from The George Washington University in 1950.

When the Korean War began, Cooke was recalled to active duty, this time as an instructor at the School of Naval Justice. Thereafter followed a stint as a maritime lawyer for the Navy in New York. In 1957, he was reassigned to the Judge Advocate General's Washington staff and a year later joined a task force on DOD reorganization spearheaded by Secretary Neil McElroy. This was the start of a highly specialized career in military organization and management that would lead him to the top ranks of federal civil service. ''I never effectively got back to the Navy,'' Cooke recalls, even though he remained on active duty for nine more years.

One of Cooke's most vividly remembered assignments of those early years was to Robert McNamara's briefing team on organizational and management issues, which the new Secretary formed in 1961. McNamara intended to institute sweeping changes in Defense organization, and he wanted a small group to advise him.

Led by Solis Horowitz, a Harvard lawyer who eventually became DOD's assistant secretary for administration, the group consisted of Cooke, representing the Navy, Army officer John Cushman and Air Force officer Abbott Greenleaf. Cushman and Greenleaf ''both retired as three-star generals,'' Cooke observes, ''so two out of the three became eminently successful, and I was the guy who wasn't.''

THE COOKE SCHOOL OF MANAGEMENT

Such self-deprecating wit is classic Cooke. ''He might make fun of himself, but not someone else,'' says DOD historian Alfred Goldberg. ''He has a good sense of humor and uses it in dealing effectively with people.''

Rossyln Kleeman, a distinguished executive-in-residence at the George Washington University's School of Business and Public Management who has served alongside Cooke in several public-employee organizations, agrees. ''I've listened to a lot of Doc's speeches,'' she says, ''and after an opening joke or two, he will invariably have his audiences in stitches.''

Cooke readily admits to using humor as a management tool. One of the keys to success, he believes, is ''taking your job, but not yourself, very seriously.''

Another, Cooke says, is a managerial style based on people. ''You can think about an organization in terms of its wiring diagram,'' Cooke explains, ''or its skeletal structure or the task skills you need to make it function the way you want. Or you can think in terms of the people involved. And to loosely paraphrase the apostle Paul, the greatest of these is people.

''When I get complaints, and I get a lot of them, from managers who say that people who work for them aren't doing what they're

supposed to be doing, I always ask: 'Have you told these people? Have you explained to them what you expect?' Very often I find they haven't gotten the guidance and direction they should have gotten.

''People constitute our most important resource,'' Cooke concludes, ''and so often, we treat them like dirt.''

Cooke practices what he preaches, say three senior executives who have worked at the heart of his 11-member Pentagon management team.

Doc ''is very good at getting along with people, no matter who they are,'' says Arthur H. Ehlers, who recently retired from his post as director of organizational and management planning in Cooke's office after 25 years.

Cooke has always maintained good relationships with members of Congress and with leaders in the executive branch, says Walter Freeman, another longtime top aide who is director of real estate and facilities for DoD, ''and it's not because he treats them differently from anyone else.''

Leon Kniaz, another key assistant who recently retired after a decade as director of personnel and security, elaborates. Cooke, he says, ''has always had an open-door policy and listens well to people. There isn't anybody who walks into that office and talks with Doc who doesn't think that he or she has become a personal friend . . . [Cooke] is people-oriented, and I think that comes through.''

Yet Cooke is no pushover. ''He doesn't just tell people what they want to hear,'' says Kniaz. ''He knows how to say no, and I've heard him do so in meetings where participants were expecting him to say yes.''

And when Cooke is fighting for a cause in which he believes, he fights hard, his associates agree. Perhaps nowhere in his career is this more evident than in the stubborn campaign he waged to launch the current renovation of the Pentagon.

A BUREAUCRATIC COUP

Cracks in the walls, corroded pipes and frequently overloaded electrical circuits attest to 50 years of neglect in the upkeep of the Pentagon by the General Services Administration, the agency charged with maintaining and leasing most federal buildings. (See ''Operation Renovate,'' February.)

''For years,'' says Freeman, who joined Cooke as a tenant of the Pentagon in 1983, ''Doc tried to get GSA to renovate. But it was a very expensive job, and DoD was paying big rent to GSA and was sort of cash cow. So GSA was reluctant.'' Although the ''rent'' DoD paid GSA to look after the Pentagon injected hundreds of millions of dollars into the Federal Buildings Fund each year, GSA would not finance the sweeping renovations needed. Cooke saw that the only way out of the dispute was to stage a coup.

''Doc went to Congress and asked that the ownership of the Pentagon be transferred to DoD,'' recalls Freeman, ''so we would be, in effect, our own landlord and could do the job ourselves. He set up what became known as a 'Horror Board,' and took it with him every time he would go up on the Hill to testify.''

The Horror Board was a flat panel to which Doc affixed examples of Pentagon decay. ''There would be pieces of rusting pipe, damaged wiring, pieces of asbestos and all sorts of things that showed the building was falling apart,'' Freeman says. ''New exhibits would appear periodically, and Doc would point to these things and say: 'Just look at this. See how bad conditions are.' Finally Congress agreed, and one Member said, 'All right, Doc, but you aren't bringing that thing up here again, are you?' ''

Now, Freeman points out, the Pentagon Reservation is owned by the Office of the Secretary of Defense, and an orderly, 12-year renovation project is under way. ''I can't think of anyone else who could have, or would have, done this,'' Freeman says. ''There's even a special Pentagon Renovation Revolving Fund established to pay for the project.'' Estimates put the cost of the Pentagon overhaul at $1.2 billion.

AFTER HOURS

Somewhere in between saving the Pentagon's buildings and planning the never-ending reorganizations of Defense management structures, Cooke has found time to be an active member of good-government groups and a leader of community service projects.

He also has played prominent roles in government-wide initiatives. He was, for example, a leader in the President's Council on Management Improvement (PCMI) while that group was active, and he currently chairs the Combined Federal Campaign's Washington-area coordinating committee. For years he's been a supporter of the Public Employee Roundtable—contributing a key staffer through an Intergovernmental Personnel Act assignment—and he often reflects with pride on the Roundtable's success in spreading the annual celebration of Public Service Recognition Week to dozens of communities. Today, if asked, he'll acknowledge with a chuckle the little-known fact that his office provides a good share of the funding for Vice President Gore's National Performance Review.

Cooke has been a leader in two professional groups in the field of public administration—the National Academy of Public Administration (NAPA) and the American Society for Public Administration (ASPA).

Sometimes, with Cooke's encouragement, these groups combine in support of a single project. This was the case with a 1992 initiative to reach out to students at Anacostia High School in one of Washington's poorest areas. The idea was to set up a Public Service Academy, with the goals of sparking students' interest in public service careers—and in their academic work. NAPA the National Capital Area Chapter of ASPA and the PCMI were among those who offered early support. ''I'm very pleased with that venture,'' Cooke says, beaming. ''There's nothing else like it in the area.''

Federal agencies lend three managers to the Academy each year to work with the faculty in establishing curriculum, arranging visits to and internships at government offices, coordinating special events and offering counseling to students and their families.

While Anacostia High has a graduation rate of only 55 percent, 90 percent of the Academy's students graduate. Of the 28 seniors who matriculated from the Academy this June, 25 were accepted by colleges, and 3 found jobs. ''I think that's pretty good, by just about any standards,'' says Cooke.

Cooke also works to secure further education for government workers. Anita Alpern, a distinguished adjunct professor at American University's School of Public Affairs, notes that Cooke has been a strong supporter of the Federal Executive Institute and of American University's Key Executive Program, a master's program in public administration for government employees. ''And,'' she says, ''he does all this as a firm believer that education should not stop after you've got a job, it should continue so you can do that job better.''

Cooke explains the volume of his extra curricular commitments: ''I don't think you can do the best job if you just put in your 40 hours and go home. I know that I can do better here in my office because of the extra time I spend networking and learning from others outside my office.''

THEY CAN KEEP THE GOLD WATCH

For now, Cooke has no plans to retire, which is good news for his friends at the Pentagon. ''I don't know anyone who would not shudder at the thought of Doc retiring,'' says Freeman. ''And why should he? He's doing what's fun for him and good for the country. Why should he turn to something that's not so interesting?''

Federal management is still Cooke's passion. ''There are not many higher callings,'' he says. He's passed this belief onto his three children, all of whom have federal careers.

Cooke's response to public cynicism about government is to say that, ''on balance, our [governing] system has worked well. There have been enormous innovations, especially at state and local levels. We do face serious problems in our society today, but many of them have little to do with government per se.''

Cooke maintains an external optimism. Citing, as he often does, classic philosophical literature, Cooke borrows from Voltaire as he says: ''This is the best of all possible worlds because it is the only possible world. We just have to keep working on it.''

THE LEADERSHIP AWARD

The NCAC/Government Executive Leadership award was established five years ago to recognize distinguished careers in the federal service. The award is cosponsored by the National Capital Area Chapter of the American Society for Public Administration. The roster of winners:

1995—David O. Cooke, director of administration and management and director of Washington Headquarters Services, Department of Defense

1994—June Gibbs Brown, inspector general, Department of Health and Human Services

1993—Thomas S. McFee, assistant secretary for personnel administration, Department of Health and Human Services

1992—Paul T. Weiss, deputy assistant secretary for administration, Department of Transportation

1991—Robert L. Bombaugh, director, Office of Immigration Litigation, Department of Justice

THE MINIMUM WAGE BILL

Mr. CHAFEE. Mr. President, yesterday, I voted for legislation to increase the minimum wage from $4.25 to $5.15 per hour over the next 2 years. Though this is a necessary increase, regrettably, Senators did not have a chance to vote for an ideal package.

First, it is essential that employers be given adequate time to prepare to implement the proposed increase. For this reason, I voted for the Bond amendment, though I felt delaying the increase to January 1, 1997, was too long. In my view, a reasonable effective date for the increase would have been September 1, 1996.

As passed by the Senate, H.R. 3448 would be effective retroactively to July 1, 1996, leaving employers with no adjustment period. This is unfortunate, in my view.

Second, I also believe a training wage is crucial for those entering the work force, particularly given our efforts to reform the welfare system. While many of my colleagues contend that increasing the minimum wage will encourage welfare recipients to obtain gainful employment, I am afraid the increase

will actually reduce the availability of new positions.

Congress has spent the better part of 2 years developing and refining welfare reform legislation. All of the major bills include tough work participation programs. And most would require the States to have 50 percent of their welfare recipients off of the rolls in the next 6 years. Even if another 15 to 20 percent are granted hardship exceptions, the States will still be hard pressed to find enough jobs to meet the strict work requirements imposed by this legislation.

In my State of Rhode Island, approximately 20,000 families are now on public assistance. If 20 percent of these families are exempt from the work requirement, that leaves 16,000 families who must find their way off of welfare in the next 6 years. Even if Rhode Island must find jobs for only half of these families, we are talking about 8,000 entry-level jobs. Given the stagnant economy within my State, that could prove a very difficult requirement to meet.

Despite the fact that these new workers will undergo intensive job training and must also learn important life skills, such as being punctual for work, most former welfare recipients will qualify for no more than entry-level positions. While there may be a few exceptions, most will have to prove themselves before they will be given greater opportunities in the workplace.

To retain some incentive for employers to hire and train welfare recipients, I believe a strong and effective training wage at the current minimum of $4.25 per hour should be included in H.R. 3448.

Despite my concern that the Bond amendment contained a 6-month training wage, which in my view is too long, I voted for it. In contrast, the Kennedy alternative would have provided only a 30-day training wage, limited to those under 20 years of age. This provision would not have given employers the needed incentive to take a chance on hiring a welfare recipient.

As passed by the Senate, the training wage included in H.R. 3448 has a duration of 3 months, but unfortunately is limited to those under 20 years old. I would have preferred no age limitation on the provision to ensure its full utility in moving people from welfare to work.

Third, in my view, small businesses should have some form of exemption from the minimum wage increases proposed in H.R. 3448. Very few employers who own small businesses qualify for the current exemption, which is flawed and unworkable.

For this reason, I voted for the Bond amendment. This amendment would have enabled employers with gross incomes of less than $500,000 to continue paying the current minimum wage of $4.25 per hour, while larger businesses would have been required to comply with the increase.

Regrettably, as approved by the Senate, the final version of H.R. 3448 contained no change in current law with respect to the treatment of small businesses. And hurting America's small businesses, Mr. President, places big hurdles on the road to economic recovery.

In summary, I am hopeful that some of these problems can be reviewed and corrected before H.R. 3448 becomes law.

RIGHT TO WORK FOR LESS

Mr. KERRY. Mr. President, today the Senate will take up the Right to Work Act. This legislation hurts union members by giving nonmembers a free ride to get union-negotiated benefits without contributing their fair share—or any money at all—to defray the costs. By repealing parts of the National Labor Relations Act and the Railway Labor Act which give each State the right to determine whether union security agreements should be permissible in that State, this bill would make such agreements unlawful in all States. Mr. President, this is bad public policy.

Currently, the National Labor Relations Act allows States to prohibit union security clauses but does not preempt State law if a State chooses to allow such agreements. That permits employers and unions to agree, if they wish, that employees will be required to give financial support to the union. My State of Massachusetts has chosen to permit such agreements, and workers are the beneficiaries. What the workers in my State of Massachusetts get from this is higher wages, greater benefits which protect them and their families, and a higher standard of living.

This bill unfairly tilts the playing field in favor of employers and against labor unions. Under Federal law, the union is responsible for representing employees in the bargaining unit even if they pay nothing toward the union's expenses. Under right-to-work legislation, these employees get union-negotiated higher wages and benefits as well as union representation during grievance proceedings without contributing a dime. Giving nonmembers a free ride to get union-negotiated benefits without contributing to defray the costs is unfair, and in the long run will weaken the ability of unions to obtain favorable wages and benefits for all workers in a unionized company.

Republicans are insisting on preempting State law despite the fact that only 21 States have seen fit to enact right-to-work laws since they were deemed lawful, 18 of these prior to 1959. And just last year legislatures in six States, Colorado, Maryland, Montana, New Hampshire, New Mexico, and Oklahoma, defeated statewide right-to-work bills. It is noteworthy that three of these are Republican-controlled legislatures.

Mr. President, my colleagues on the other side of the aisle want to force their sense of judgment and propriety on my State of Massachusetts and take away a free choice that my State ought to have and has always had. Simply speaking, if a State does not want right-to-work laws then these laws should not be imposed on it because some people here in the Senate more greatly value their own judgment on this issue than they do the judgment of the people of Massachusetts. I might point out that most of the Senators voting to do this voted against raising the minimum wage yesterday. This goes too far, Mr. President.

The Republicans' decision to couple the right-to-work bill—which has never been subject to hearings or markup—with the TEAM Act underscores their true disinterest in helping working Americans. And as they decry the role of big government in the lives of working Americans, the Republicans go ahead and tell the people of Massachusetts that they know better, that they know what the people of Lowell or Lawrence or Springfield or Boston or Hyannis want.

Right-to-work laws have not brought economic bonanzas to States that have adopted them. Not 1 of the 21 right-to-work States has a pay level above the national average and not 1 ranks in the top 15 States for annual workers' pay. This bill ought to be called the right-to-work-for-less bill.

Union security clauses are negotiated by a democratically elected union and the employer. Coming on the heels of Independence Day, opposing this bill is the right thing to do for the American worker, and I urge my colleagues to vote against this bill.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

The PRESIDING OFFICER. Under the previous order, the hour of 11:30 a.m. having arrived, the Senate will now resume consideration of S. 1745, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1745) to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the Senate has completed many long hours of debate on S. 1745, the National Defense Authorization Act for fiscal year 1997.

I would like to thank the distinguished ranking member of the Committee on Armed Services, my good

friend Senator NUNN, for his insight, wisdom, and devotion to our Nation. He and I have always worked to provide our Armed Forces with the direction and resources they need to carry out their difficult responsibilities. Our future collective efforts will be diminished by his absence.

Senator NUNN was named chairman of the ad hoc Subcommittee on Manpower and Personnel in 1974 and he served in that capacity until 1981. In 1983, he became the ranking minority member and in 1987 he became the chairman of the committee. He served with distinction in that capacity for 8 years, and earned the respect of leaders around the globe for his wisdom, statesmanship, and insight. A hallmark of his tenure, and a basis for his effectiveness, was the trustworthy and bipartisan manner in which he conducted the committee's business. Our Nation owes Senator NUNN its deepest appreciation for his truly distinguished service.

I would also like to recognize the outstanding contributions of Senators COHEN and EXON, who are departing the Senate. They have worked and fought hard to preserve our national security, and provide for the well-being of our men and women in uniform.

Mr. President, I want to extend my deep appreciation also to the distinguished majority leader, Senator LOTT, who has been most helpful in every way in bringing this bill to final passage. He is a fine and able leader of whom the Senate can be proud.

I also want to thank all the members from both sides of the committee, and particularly Senator WARNER and Senator MCCAIN, for their leadership and assistance on the floor.

In addition, I would like to commend the entire staff of the Committee on Armed Services for their dedication and support. I would like to recognize each of them individually for their effort on this bill. I will soon ask unanimous consent that a list of the committee staff be printed in the RECORD.

I also want to recognize and thank Greg Scott and Charlie Armstrong, the legislative counsels who crafted the language of this bill.

We have achieved a number of important successes in this bill, and I commend my colleagues for their good judgment. Among these successes are:

Increasing the budget request by $11.2 billion to revitalize the procurement, and research and development accounts, which form the core of future readiness;

Significantly improving quality of life programs for our troops and their families, including funds for housing, facilities, and real property maintenance;

Authorizing a 3-percent pay raise for military members and a 4-percent increase in the basic allowance for quarters, to arrest part of the decline in compensation;

Establishing a dental health care insurance program for military retirees and their families, to keep faith with those who have kept faith with our Nation;

Increasing the level of funding requested in the President's budget for Department of Defense counternarcotics activities, to combat the flow of illegal drugs;

Authorizing increases for the Space and Missile Tracking System, cruise missile defense programs, and ballistic missile defense advanced technologies;

Accelerating the Department of Energy's phased approach to tritium production, and upgrading tritium recycling facilities; and

Providing funding for essential equipment for the Active, Guard, and Reserve components.

These are important achievements that reflect significant bipartisan effort, both within the committee and on the Senate floor. I urge my colleagues to endorse this bill with a solid vote of approval, to support our men and women in uniform who go in harm's way every day to protect our Nation.

I ask unanimous consent that the list of staff I referred to earlier be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ARMED SERVICES COMMITTEE STAFF

MAJORITY

Les Brownlee, Staff Director. Charles S. Abell; Patricia L. Banks; John R. Barnes; Lucia M. Chavez; Christine K. Cimko; Kathie S. Connor; Donald A. Deline; Marie Fabrizio Dickinson; Shawn H. Edwards; Jonathan L. Etherton; Pamela L. Farrell; Cristina W. Fiori; Larry J. Hoag; Melinda M. Koutsoumpas; Lawrence J. Lanzillotta; George W. Lauffer; Paul M. Longsworth; Stephen L. Madey; John Reaves McLeod; John H. Miller; Ann Mary Mittermeyer; Bert K. Mizusawa; Lind B. Morris; Joseph G. Pallone; Cindy Pearson; Sharen E. Reaves; Steven C. Saulnier; Cord Sterling; Eric H. Thoemmes; Roslyne D. Turner; Mary Deas Boykin Wagner; Jennifer Lynn Wallace.

MINORITY

Arnold L. Punaro, Staff Director for the Minority. Christine E. Cowart; Richard D. DeBobes; Andrew S. Effron; Andrew B. Fulford; Daniel B. Ginsberg; Mickie Jan Gordon; Creighton Greene; Patrick T. Henry; William E. Hoehn, Jr.; Maurice Hutchinson; Jennifer Lambert; Michael J. McCord; Frank Norton, Jr.; Julie K. Rief; James R. Thompson III; DeNeige V. Watson.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank Chairman THURMOND very much for his gracious remarks concerning my participation in this bill and also my participation over the last 24 years in the Defense authorization process and matters affecting our national security.

I also say to my friend from South Carolina that I identify with and completely support his remarks about two outstanding members of our committee, Senator EXON on the Democratic side and Senator COHEN on the Republican side. These two individuals have made truly enormous contributions to our Nation's security.

I have worked with Senator EXON on many different matters over the years. He has been a stalwart on strategic matters, and really has made immense contributions to our overall security.

Senator COHEN and I have joined together time after time in working on matters of great importance, including the special operating forces where he truly has been an expert and a leader. Senator COHEN is an expert on Asia and also has all sorts of legislative interests beyond the Defense Committee. But he has made tremendous contributions to the men and women who serve our Nation and to the taxpayers of our Nation. These two individuals, Senator COHEN and Senator EXON, truly will be missed.

In the brief time allotted to us today, I will defer my detailed expression of appreciation to members of the committee and staff for their dedicated service in securing passage of this legislation until we act on the conference report.

But I would like to summarize my thoughts at this time.

First and foremost, I would like to thank our distinguished chairman, Senator THURMOND. Through his leadership, his strength, and his steadfast and dedicated commitment to the national defense, this bill is about to pass. It is my honor and privilege to work with him on all of the committee matters, and indeed have had the great pleasure of working with him over the years. I know that his service will continue with the strength and leadership that he has had in the past.

I am also grateful to all of the other committee members on both sides of the aisle who have dedicated themselves to this important bill. Our subcommittee staff have done yeomen service on this bill. They deserve much credit for the passage of the bill. We brought a sound, good defense bill to the floor.

There were a number of concerns that have now been ironed out. I think of such as demarcation, as in the ballistic missile and theater missile defense area, and also regarding the ABM Treaty; the multilateral provision that was in the bill. Both of those have been greatly improved on the floor. It is my strong impression that this bill will be acceptable to the administration.

We have a real challenge in the House-Senate conference because there are a number of provisions that clearly would not be acceptable to the administration. In the House bill, we have to prevail upon those issues if we are going to have a Defense bill signed into law this year.

The Senate also adopted a provision sponsored by Senator LUGAR, Senator

DOMENICI, and myself to bolster our defenses against weapons of mass destruction, including nuclear, chemical, and biological weapons, both at home and abroad. We need no reminder that we are in an era of terrorism now. We spent all day yesterday in the hearing regarding the tragedy that took place in Saudi Arabia. Of course, our heart goes out to all of the families and to the men and women involved in that who were serving our Nation.

The provision that passed the Senate in this bill improved existing programs, such as the Nunn-Lugar program designed to stop proliferation of nuclear, chemical, and biological weapons at its source, primarily the former Soviet Union. But the primary new threat is on domestic preparedness against terrorist use of weapons of mass destruction, such as chemical, biological, and nuclear.

It is very, very clear by the hearings that we have had in the Permanent Subcommittee on Investigations, as well as other hearings, that we are not prepared as a nation to deal with chemical or biological attack. We have a long way to go in the overall area of getting our policemen, our firemen, and our health officials able to handle one of these threats, if it ever comes. But primarily our effort must continue to be to stop the sources of this proliferation at the very beginning before they leave the country where the weapons are, where the scientists are, and where the technology is; and also to make sure, if that does happen, that we stop those weapons at our own borders before we have to deal with the attacks. But we have to have a tiered defense against this growing threat.

I think we will have an even stronger bill in conference since the Senate has taken action on the floor. I urge my colleagues to support this important defense measure.

The cooperation and help exhibited by all Senators, floor staff, parliamentarians, clerks, the Reporters of Debates, attorneys, and the Legislative Counsel's Office is very much appreciated by this manager of the bill. I am sure the chairman feels likewise.

Finally, Mr. President, I have to express my appreciation to the superb committee staff on both sides of the aisle, and to our two staff directors, Les Brownlee with the majority and Arnold Punaro with the minority. They have done a magnificent job of managing and motivating in order to keep this bill on track and moving.

I particularly want to express my appreciation to Les Brownlee, who has just become the staff director, although he has been a stalwart both in his service to our Nation in the Army as well as his service on this committee. But he has truly done a tremendous job as staff director on this bill. We have enjoyed very much working with him in his new capacity, as we did in his former capacity.

I appreciate the hard work of both of the staffs. I will have more to say about them when we get the conference report back. They are not through working yet. So I do not want to overcongratulate them until we get through with the bill and we actually have it ready for conference.

I thank the chairman for his dedication.

I thank all of the members of our staff for their sacrifices which they have endured, and their families, in order to bring this bill to the floor.

Mr. President, as we conclude the debate on the national Defense authorization bill for fiscal year 1997 I would like to take a moment to bring to the Senate's attention recent remarks made by a former Senate colleague and a valued friend, Alan Dixon.

Last year, Alan Dixon had the difficult task of chairing the 1995 Base Closure Commission. While some may not agree with various aspects of the Commission's findings, the Commission, under the tremendous leadership of Alan Dixon, fulfilled its obligation to make fair assessments of Department of Defense recommendations for base closures and realignments, to review additional closure and realignment options, and to make final recommendations to the President on ways in which the Department of Defense must reduce its excess infrastructure.

DOD and the military services are executing these final BRAC decisions and affected local communities are making, plans for reuse and economic development. Mr. President, there is no easy part to base closure—the final recommendations were not easy for the Commission, implementation of the final decisions by the services is not easy, and base reuse by local communities is not easy. Not easy, but a necessary part of the Department's ability to afford modernization and readiness in the future.

Mr. President, Alan Dixon made a speech before the American Logistics Association Conference on June 18 where he summarized the 1995 Base Closure Commission's actions and commented on what should be considered in terms of a future round of base closure. In his remarks, he pointed out, as senior military and civilian defense leaders have also indicated, that excess capacity and infrastructure will remain even after all base realignment and closure actions from the 1988, 1991, 1993, and 1995 rounds have been completed. In order to address this excess infrastructure using the same Commission-type framework, Senator Dixon recommends that Congress authorize another Commission. I believe it is important that Alan Dixon's remarks be made part of the RECORD for all to read and consider.

Mr. President, I commend our former colleague, Alan Dixon, on his leadership and dedicated service on issues of great importance to our national security.

I ask unanimous consent that Senator Dixon's remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PERSPECTIVE ON FUTURE BASE CLOSINGS

Thank you for the opportunity to speak to your convention today. Throughout my career of public service I was a strong advocate for the readiness of our military services and the quality of life for our military members and their families, so it is a real pleasure for me to be addressing a group that contributes so much to these important goals.

Today I am going to talk a little bit about the base closure process—both the work of the 1995 Base Closure Commission which I chaired and what I see as the future of the base closure process.

Let me start just by giving a quick summary of the work of the 1995 Commission.

The 1995 Commission was actually the fourth—and under current law—the final round of base closing authorized by the Congress to operate under special expedited procedures. The first base closing round was in 1988. In my view this first round was seriously flawed from a procedural point of view. I was one of the principal authors of the 1990 Base Closure legislation that set up the succeeding three base closure rounds, and I think we corrected most of the procedural shortcomings of the 1988 rounds.

Altogether, the 1995 Commission recommended the closure of 79 military installations; the realignment of 26 others; and approved 27 requests from the Defense Department to change recommendations of previous Commissions.

The 1995 Commission rejected only 19 of the 146 closures or realignments proposed by DOD, and we closed or realigned 9 installations not requested by the Pentagon.

Like previous Commissions, the 1995 Commission made changes to the list of closures and realignments proposed by DOD only in those cases where we found that the Secretary of Defense deviated substantially from the force structure plan or the selection criteria. Of the 147 recommendations on Secretary's original list, we approved 123, or 84 percent. This is almost identical to previous Commissions. The 1993 Commission accepted 83 percent of DOD's recommendations, and the 1991 Commission accepted 83 percent.

The 1990 Base Closure Act anticipated that the Commission would give great deference to the Secretary of Defenses's recommendations, and you can see that all three Commissions did that.

I am particularly proud of the fact that the estimated 20-year savings from the 1995 Commission recommendations of just over $19.3 billion were $323 million higher than the revised savings baseline of $19.0 billion projected by DOD. This was the only time in the three closure rounds that the Commission achieved greater savings than contemplated by the Defense Department.

The 1995 Commission also included in our report a set of 20 recommendations for the President, Congress and local communities that suggested ways to improve the process of helping local communities recover from the economic consequences of a base closure.

Finally, and we will talk a little more about this in a moment, the 1995 Commission recommended that Congress authorize another round of base closures in the year 2001.

I think most of you are aware that President Clinton was a little upset with a couple of our recommendations—particularly the ones to close the Air Force Logistics Centers in Sacramento, California and San Antonio, Texas—but ultimately forwarded our recommendations to the Congress.

The Resolution of Disapproval introduced in the House of Representatives was defeated by a vote of 343 to 75 on last September 8.

AFTER FOUR SEPARATE BASE CLOSURE ROUNDS, DO WE NEED TO CLOSE MORE BASES?

In my view, the answer is yes.

In the last 10 years, the defense budget has declined in real terms by almost 40 percent, and current plans call for the defense budget to remain essentially stable through the end of the century. Overall, DOD has reduced the size of the military services by about 30 percent—and some are saying that further reductions in force levels are likely before the end of the decade.

The cumulative reduction in our domestic base structure from the 4 base closures rounds is approximately 21 percent.

I am not saying that there should be a direct correlation between reductions in force levels and reductions in basing structure, but I think we can and should reduce more base structure.

The senior DOD leadership also thinks we need to close more bases.

Secretary of Defense Bill Perry told the Commission last year that DOD would still have excess infrastructure after the 1995 round, and suggested the need for an additional round of closures and realignments in 3 to 4 years.

General Shalikashvili, the Chairman of the Joint Chiefs, agreed with Secretary Perry on the need for additional base closing authority in the future. He told us that opportunities remain in DOD to increase cross-servicing, particularly in the area of joint-use bases and training facilities.

Josh Gotbaum, who at the time was Assistant Secretary of Defense for Economic Security and oversaw the base closure process for OSD, told the Commission that ''Even after BRAC 95 has been implemented we will continue to have excess infrastructure. Future base closure authority will be necessary.''

HOW MANY ADDITIONAL BASES SHOULD BE CLOSED, AND IN WHICH MILITARY SERVICES?

It was painful enough last year to vote to close specific bases, so I am not about to get in the business of suggesting which ones ought to be closed in a future round. Those decisions can only be made after a thorough review and analysis by the military services and some future Commission.

I will suggest some functional areas that should be looked at, based on the work that the 1995 Commission did.

In general, I would put a premium on retaining operational bases that have unique strategic value or that have good training ranges and airspace that provide opportunities for realistic training. One of the keys to maintaining our qualitative edge over future potential adversaries is to provide our forces frequent, realistic opportunities to train as they would have to fight. So where we have large bases with operational units with access to good training airspace or extensive land for training ground forces, we should think long and hard before closing them.

I think the greatest opportunities for future closures lie in the support infrastructure.

The Defense Department's industrial facilities represent one area where I think further reductions are possible.

Secretary of the Army Togo West told the Commission last year that ''our analysis tells us that the Department of Defense is bleeding depot money. We are just spending money on capacity that we simply do not need now.''

The Commission on Roles and Missions, chaired by my friend John White who subsequently became the Deputy Secretary of Defense, reached the same conclusion. Their Report in May of last year said that ''With proper oversight, private contractors could provide essentially all of the depot-level maintenance services now conducted in government facilities within the United States. . . . We recommend that the Department make the transition to a depot maintenance system relying mostly on the private sector. DOD should retain organic depot capability only where private-sector alternatives are not available and cannot be developed reasonably.''

So I think the military services can look at their industrial activities for more closures.

We also found in the 1995 Commission that there was a great deal of overlap and duplication in the area of R&D labs and test and evaluation facilities. In preparing the 1995 recommendations, OSD set up 6 cross-service groups to look at functions across the military services, and we heard testimony from the directors of each of those cross service groups. The leaders of the Labs and Test and Evaluation Facilities Cross Service Group told us that they were frustrated by their inability to achieve any meaningful cross servicing in this area and felt that much more could be done.

Military medical facilities are another area where I think the military services can make some savings without compromising care to military members and their families or to military retirees. Some of the members of the 1995 Commission looked into this, and the Commission concluded in our Report that many opportunities remain for consolidating military medical facilities across service lines and with civilian sector medical resources.

WHAT SHOULD A FUTURE BASE CLOSURE PROCESS LOOK LIKE?

I have never seen a process that can't be improved on, but the fact is that the base closure process set up under the 1990 Base Closure Act worked pretty well. My friend Jim Courter, who chaired the 1991 and 1993 Commissions, deserves a lot of credit for putting in place the policies and procedures that ensured that the process was open, fair and objective.

Communities might disagree with the final recommendations of the Commission, but I don't think any community ever said that they were not given an opportunity to make their case and did not receive a fair hearing.

By the end of the 1995 process, President Clinton was not a big fan of the base closure process, but he said in a letter to me that ''The BRAC process is the only way that the Congress and the executive branch have found to make closure decisions with reasonable objectivity and finality.'' I think the President was right.

Our Commission recommended that Congress authorize another Base Closure Commission for the year 2001 similar to the 1991, 1993 and 1995 Commissions—after the Presidential election in the year 2000. We realized that the Defense Department would have a lot of work to do to implement the closures from the 1995 and prior Commissions through the end of this decade. Since the 1990 Base Closure Act gives DOD 6 years to complete closures, the closures from the 1995 round will not be completed until 2001.

IS CONGRESS LIKELY TO ENACT LEGISLATION SETTING UP ANOTHER BASE CLOSURE ROUND?

When I was Deputy Majority Whip of the United States Senate I had a hard time predicting from one day to the next whether I would be able to have dinner that night with my wife, so I hesitate to predict what Congress is likely to do on this sensitive subject.

There are some who say that Congress will not set up another Base Closure Commission because it is too painful a process to go through. There is no doubt that it was a painful process for members of Congress. We wrote the 1990 Base Closure Act to insulate the process from political and parochial influences as much as possible, and I think we succeeded to a large extent. Our 1995 Commission listened carefully to the view of members of Congress, but these members did not have any more influence on the votes of our Commission and the outcome of the process than the state and local officials and even the individual citizens in the communities affected by our decisions.

I was a member of the United States Senate for 12 years, and I know that members of Congress don't like to be put in the position that reduces their influence over the outcome of a process that could affect the economic well-being of their constituents. In this case, however, I think history shows that the process of closing bases is so politically charged that it has to be put in the hands of an independent Commission that is insulated as much as possible from partisan and parochial influences.

In my view, the defense budget is not likely to get much larger in the next five years, and we still have a requirement to maintain a ready, capable military. I am still convinced that closing military bases is one of the keys to the future readiness and modernization of our military forces.

Ultimately, I think members of Congress realize this. As painful as it is, we need to close more military bases, and I think and hope that Congress will realize this and authorize another Base Closure Commission in the future.

Mr. NUNN. Mr. President, I know Senator PELL is on the floor. I believe Senator HELMS is on the floor. So at this point I yield and reserve any time I have remaining.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I share with the chairman of the Committee on Foreign Relations, the Senator from North Carolina [Mr. HELMS], and the Senator from Maryland [Mr. SARBANES] concerns with regard to section 1005 of the Defense authorization bill. Senator HELMS and I had planned to offer an amendment to delete that section, but, as recess approached, were not able to find an opportunity to do so.

This section of the bill would authorize spending under the Military-to-Military Program for military education and training for military personnel of foreign countries. The program would be in addition to the International Military Education and Training Program now in operation and overseen by the Committee on Foreign Relations, the Committee on Appropriations, and their appropriate subcommittees. This new program would not have the same congressional oversight.

Oversight of the International Military Education and Training [IMET] Program has proved generally valuable in ensuring that the Congress is comfortable with the activities undertaken pursuant to the program. Just this year, for instance, the Department of Defense proposed a program for a troubled country that was not consistent with its needs. In consultation with two members of the Committee on Foreign Relations, I requested that the Defense Security Assistance Agency modify the program. They were quite prepared to consider our views and to

meet our request that the program be modified. I would point out that, in that particular case, there has been a continuing and productive dialog to ensure that the program for that nation does not conflict with congressional concerns, but meets the reasonable objectives of the Department of Defense.

There is no reason to conclude that the IMET Program is not supported by the committees of jurisdiction. I would point out that the foreign operations appropriations bill just reported by the Senate Appropriations Committee provides a full $40 million for the IMET Program in the next fiscal year. This sum represents an increase in funding and reflects congressional willingness to back that well-established program.

It makes no sense to create a duplicative military education and training program under the Military-to-Military Contacts Program. The IMET Program and the contacts program have different purposes and goals. The Congress has been very careful to separate the programs to ensure that the Military-to-Military Contacts Program would not be used to circumvent the restrictions of the IMET Program and to prevent duplication and overlaps.

Three provisions were added to prohibit funding for the Military-to-Military Program from being used in countries that are ineligible for IMET to require coordination with the Secretary of State and to prevent the authorities from being used to transfer weapons. It is not at all in the interests of the Congress or the country for the distinction between these two programs to be blurred.

Mr. President, it is not at all clear why this provision is being sought. It was not requested by the Department of Defense and it is opposed by the Department of Defense and it is opposed by the Department of State.

I believe very much that section 1005 has no place in this bill. I hope that, with an eye both to comity and to good sense, it will be dropped in conference.

Thank you, Mr. President.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I believe there are 7½ minutes set aside for me. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. We are supposed to begin voting at 12?

The PRESIDING OFFICER. Correct.

Mr. HELMS. How many votes in tandem, three?

The PRESIDING OFFICER. We will have a series of five votes beginning at 12 o'clock.

Mr. HELMS. I thank the Chair.

Mr. President, I have been around this place for almost 24 years now, and I have never participated in the occasional turf battles that occur, and I do not particularly enjoy making the comments I am about to make but I feel obliged to make them for the record.

Mr. President, S. 1745, as introduced and reported by the Armed Services Committee, contains, in my judgment, several significant provisions falling clearly within the primary jurisdiction of the Foreign Relations Committee. And I have disclosed now my interest in that because I am chairman of the Foreign Relations Committee. I do not think there can be a clearer case of imposing upon the jurisdiction of the Foreign Relations Committee than section 1005 of the bill, entitled ''Use of Military-to-Military Contacts Funds for Professional Military Education and Training.''

That is a lot of gobbledygook perhaps, but it is a provision that represents an obvious effort by some to commandeer a longstanding foreign policy instrument of the Department of State, that being the International Military Education and Training program known familiarly as IMET.

Section 1005 of this bill does not even pretend to differ substantively from the existing IMET program. The proposed authority would allow the Department of Defense to engage in a back-door foreign assistance program without the supervision of the State Department or the oversight of the Foreign Relations Committee by conducting ''military education and training for military and civilian personnel of foreign countries.''

Mr. President, why should the United States establish this duplicative program as identical authority already exists under chapter 5 of the Foreign Assistance Act which authorizes the President of the United States to furnish ''military education and training to military and related civilian personnel of foreign countries.''

Now, again, I am not going to get into any fight about the turf, but I must point out that this is the second year that an attempt has been made to seize foreign policy tools belonging solely to the Secretary of State. At a time when we should be considering consolidating the foreign affairs apparatus of the of the United States into the Department of State, it makes no sense to me to proliferate the number of foreign assistance programs outside the control of the Secretary of State. It makes even less sense in light of the drastic budget cuts undergone by the Department of Defense to pay for foreign aid in the defense budget and from defense funds. The result will be more nondefense spending in the 050 account.

This authority—and I have checked on this—was not requested by the administration. It has not been agreed to in the administration's interagency process, and I daresay that it likely is not supported by the Secretary of State. However, I have not talked with or to Warren Christopher about that. Because this provision falls within the jurisdiction of the Foreign Relations Committee, I respectfully request that this provision be removed from the bill during conference. That action I believe would recognize appropriately the jurisdictional responsibilities of both of our committees.

I thank the Chair, and I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, will the Senator from Rhode Island yield me the remainder of his time?

Mr. PELL. I yield the remainder of my time to the Senator from Maryland.

Mr. HELMS. And if I have any time I yield it to the Senator from Maryland.

The PRESIDING OFFICER. The Senator has 3½ minutes.

Mr. SARBANES. Mr. President, I join in the concerns expressed by Chairman HELMS and by the ranking member of the Foreign Relations Committee, Senator PELL, about section 1005 of this bill. This section would have the effect of creating a second IMET Program, a new aid program for foreign militaries.

IMET, the International Military Education and Training Program, funds tuition for foreign military officers in U.S. professional military training courses, and related activities. It has traditionally been funded through the foreign aid bill.

In fact, the foreign operations appropriations bill reported by the Senate Appropriations Committee provides a full $40 million for IMET in fiscal year 1997. It is one of the only programs in the entire foreign aid budget that is slated to get more money in fiscal year 1997 than in fiscal year 1996 or 1995.

When the Military-to-Military Contacts Program was established in the Defense Department, the justification was used that this would not—would not—be another IMET Program. It was to be something entirely separate. It was not going to duplicate IMET activities.

For that reason it was spelled out exactly what the new Military-to-Military Contact Program was going to be. In the law, there are listed eight specific activities, such as exchanges of personnel, transportation for contact and liaison teams, seminars and conferences, and distribution of publications, all distinct from the IMET activities.

To further ensure that the new Military-to-Military Program would not be used to circumvent the restrictions of the IMET Program, several conditions were added to ensure coordination and prevent overlap.

Because of concerns about the potential for duplication in the two programs, the fiscal year 1995 foreign operations appropriations bill required a report from the Secretary of Defense addressing the future of military training of foreign armed forces. In that report, which was issued with the concurrence of the Secretary of State, the Defense Department concluded:

The IMET Program and the traditional CINC military-to-military activities are distinct efforts contributing to the achievement

of common goals. From the beginning, both programs have commanded close coordination between the Defense and State Departments. Coordination between both departments ensures program uniqueness and the effective utilization of scarce resources in support of broad U.S. foreign policy and national security goals.

Unfortunately, what the bill now before us would do is eliminate all distinctions between the two programs. It would create, in effect, a second IMET Program under different jurisdiction and separate funding.

The Military-to-Military Contacts Program is expected to receive funding of $60 million in each of the fiscal years 1996 and 1997, out of the Services' operations and maintenance accounts. That is on top of the $40 million already going to IMET.

I wish to stress, as have my colleagues, that this authority was not requested by the Defense Department. It is not something they believe is needed. Furthermore, it is opposed by the State Department as well as by the committees of jurisdiction over foreign aid funding.

I very much regret that section 1005 has not been stricken from the bill. I make the observation that it plants the seeds for continuing controversy, which I think is something that is highly undesirable. I very strongly urge that it be dropped in conference.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I am puzzled concerning the objections to the use of Military-to-Military Contacts Program funds for international military education and training [IMET].

The Armed Services Committee is told each year by the commanders in chief of the combatant commands that IMET is the United States' most cost effective program in terms of fostering friendly relations with the foreign militaries. The combatant commanders routinely point out that foreign military officers who have received IMET training come to appreciate American values and the American way of life and that these foreign officers often rise to assume senior positions of leadership within their military and civilian hierarchies.

Pursuant to this testimony, the Armed Services Committee in the Department of Defense Authorization Act for fiscal years 1992 and 1993 specifically authorized the creation of a CINC Initiative Fund to carry out eight types of activities, including military education and training to military and related civilian personnel of foreign countries. The CINC Initiative Fund is designed to provide funding for activities that were not foreseen when the budget request was submitted to Congress and that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds. In the years since this authority was created, the CINC Initiative Fund has only been used to provide IMET on a few occasions. Incidentally, the use of this authority for IMET is limited to $2 million per fiscal year.

The committee's initiative this year seeks to build upon an existing program—the Military-to-Military Contacts Program which is designed to encourage a democratic orientation of defense establishments and military forces of other countries. Under existing law, this program is primarily aimed at in-theater activities and generally involves the establishment of military liaison teams and traveling contact teams in engaging democracies to seek to identify those countries' needs and then seek to design programs that are carried out by visiting experts, seminars, conferences, or exchanges of personnel. When a larger need is identified that would exceed the limited funding for this program, the in-country liaison teams seek to identify programs under the Foreign Assistance Act that can satisfy the need. When it comes to IMET, however, we have found that existing funding for the IMET Program has already been programmed and the traditional IMET Program is unable to meet the need. We have also found that the needs of emerging democracies in Eastern Europe have caused legitimate IMET needs of countries in Latin America, Africa, and Asia to go unfunded. Thus, by adding IMET as one of the activities that can be carried out under the Military-to-Military Contacts Program, we are merely seeking to provide a modest supplement to the traditional IMET Program when a truly pressing need arises. We are, of course, amenable to put funding limits on the use of the military-to-military contacts programs for IMET and that has been communicated to the Foreign Relations Committee.

I hasten to point out that the Secretary of State must approve the conduct of any activity—not just IMET—authorized under this program and that funds cannot be provided for any country that is not eligible for assistance under the Foreign Assistance Act.

In summary, Mr. President, this is a very modest supplement to the traditional IMET Program, it has a precedent in prior congressional action relating to the CINC Initiative Fund, and we are amenable to including reasonable funding limitations to its use for IMET. I urge my colleagues to support S. 1745.

Mr. President, I would simply say that the IMET Program is one of the highest priorities of the commanders in chief we hear from every year around the world. The newly emerging democracies in the former Soviet Union and Eastern Europe have consumed a great deal of those funds, leaving almost nothing for Asia, Africa, and Latin America.

We also take note of the fact that these IMET funds have been cut each and every year, so they do not seem to have a high priority by the Foreign Relations Committee but they do have an enormous priority for our military. So we will be glad to work with our friends on the Foreign Relations Committee to iron out jurisdictional problems with the hope that we can unite behind one of the most important programs we have to have contacts and influence all over the world through military-to-military contacts that can end up bringing peace in areas that otherwise would be in conflict.

So I would take into account what my colleagues have said, but we do have a very high priority on this program and that has been exemplified in testimony year after year after year by all of our military commanders.

Mr. GLENN. Mr. President, I regret that the Senate again has produced a bill that is gravely flawed. It suffers from many of the defects associated with last year's bill. I voted to favorably report the bill out of committee in the hope that the bill would be improved when it was considered on the floor. While agreement was reached to eliminate unacceptable missile defense provisions from the bill, the bill remains fundamentally flawed. As a consequence, I will vote against its final passage.

With respect to missile defense, I am pleased with the agreement announced by the majority leader on June 28th to drop sections 231 and 232 from the bill. These sections related to U.S. compliance policy for the development, testing, and deployment of theater missile defense systems, and to the demarcation between theater and strategic missile systems. I am also grateful to see that the language in the bill in section 233 with respect to the mutilateralization of the ABM Treaty has been dropped and converted into a sense of the Senate.

I understand full well, however, that we will soon be back on the floor debating many of these same ill-advised proposals placed in another bill. I intend to speak in more detail about those proposals at the appropriate time. For now, I would just like to restate my conviction that it would ill serve the interests of our country—and surely not the interests of our taxpayers—to follow the misguided missile defense plan that the majority appears determined to pursue in the weeks ahead. As far as I am concerned, the missile defense language I cited above would have made for bad law if enacted on this bill—simply moving this language into another bill will not change this basic quality of the proposal.

The bill contains more than $11 billion in unrequested funding with huge increases in the procurement and research and development accounts. For the most part, these additions are based on the Services' so-called wish list—lists of programs the Services would like to see funded if additional funding were made available. I agree with some of the spending decisions, but I do not support this approach to defense budgeting. It undermines the objectives of Goldwater-Nichols by encouraging the submission of separate

spending priorities for each service that are set without regard to our unified command structure's warfighting needs. Moreover, I cannot support the magnitude of the increase in funding especially when we are spending billions of dollars on programs we do not need now and some we may not need ever.

The additions in procurement include $750 million for the DDG–51 destroyer program, $701 million for the new attack submarine program, $351 million for the V–22 program, $249 million for the C–17 program, $240 million for the E8–B program, $234 million for the F/A–18 C/D program, $204 million for the C–130J program, $183 million for the Apache longbow program, $158.4 million for the Kiowa warrior program, $147 million for the MLRS program and $107 million for the F–16 program.

The additions in research and development include the $885 million for missile defense programs to which I already alluded, $100 million plus-ups for the Comanche Program and Army Force XXI, $305 million for the national defense sealift fund, $147 million for the Arsenal Ship and $116 for advanced submarine technology.

The bill contains more than $600 million in unrequested military construction projects, an annual temptation that Members cannot seem to resist, even though there is no compelling reason to move these projects forward. I think it is particularly damning that at least $200 million of these projects not only did not make the initial cut of the budget request but also did not make the second cut of the services' wish lists. We are authorizing an additional $600 million in military construction projects just so Members can say that they have brought home the bacon.

Another rite of spring, the addition of hundreds of millions of dollars in Guard and Reserve equipment warrants mention. Some progress has been made in avoiding the earmarking problem we had last year. Only about $485 million of the $760 million in funding is earmarked. Unfortunately, no real progress has been made in eliciting a realistic budget request from the Defense Department for Guard and Reserve equipment. This failure invites earmarking funds for programs in Members' districts and as a consequence, the funding decisions that become law only bear relation to the Guard and Reserves' requirements by happenstance. We should not be spending the taxpayers' money in this way.

Several amendments to eliminate some or all of this unrequested funding were offered. Unfortunately, Mr. President, these efforts were defeated.

On other matters, I am concerned about the criteria used in allocating an additional $200 million for DOE's environmental restoration and waste management program. I could support, and, fact, have long advocated increased funding for this program. However, rather than accept the recommendations provided by the Department of Energy which listed projects that, if given increased funding in the near term, could save substantial dollars in the out-years, the bill factors in additional criteria concerning site employment. I have grave concerns that the credibility of the entire DOE cleanup operation will be undermined if it is treated merely as a jobs program. A number of factors should be assessed when deciding to increase funding for cleanup projects such as: reducing the risk to the public, workers and the environment, lessening the long term mortgage costs of the program; mandates and the environment; lessening the long term mortgage costs of the program; mandates from Federal and State laws; and stakeholder input. I do not believe that the effect on a given site's employment should be among these factors.

I disagree with the committee's report language concerning the external regulation of the Department of Energy. I believe Secretary O'Leary's Advisory Committee on External Regulation established credible reasons for moving to external regulation, and I believe that this goal can be accomplished without significant increased costs to the taxpayer and without any detrimental impact on our Nation's security. In my view, the Defense Nuclear Facilities Safety Board will continue to play a key role in ensuring the safe operation of the defense nuclear facilities. Since January of this year, the Department has been carefully reviewing the options available for transitioning to external regulation. A preferred option should be presented to the Secretary within the next several weeks. I believe that the Department should continue planning to move to external regulation for nuclear safety. It is my hope that the plan presented to the Secretary will outline the steps necessary for such a transition, recognizing that such a transition may take several years.

During consideration on the floor, the committee accepted an amendment I offered regarding worker safety and health at DOE's Mound. For too long Congress has done too little to ensure that the workers in our nuclear weapons complex were adequately protected from the many hazards they face on a daily basis. While the situation has improved at many sites, it is unfortunately the case that the Mound facility is still not up to the standards of other DOE facilities, not to mention commercial nuclear facilities. This amendment requires DOE to report to Congress on progress to improve worker health and safety at the facility.

On June 21, 1996, I received a letter from DOE Under Secretary Tom Grumbly. This letter clearly establishes the Department's intent and commitment to seriously and forthrightly address worker safety issues at Mound. The letter lists a series of discrete program improvements that will be taken at the mound site beginning immediately and continuing through 1997. These important upgrades should begin at the earliest possible opportunity. I remain concerned though that we may be forcing a trade off between worker safety and health improvements and the pace of cleanup at the Mound site. In order to avoid such a trade off, it may be necessary to seek an authorization for these activities during conference.

Finally, I would like to mention a special retirement provision for Federal employees who happen to work at military bases where the work will be privatized as part of base closure. The Committee on Armed Services voted 11 to 9 to add nongermane legislation to the bill that appropriately is in the jurisdiction of the Senate Governmental Affairs Committee. This amendment also was recently introduced as a bill, S. 1686, which is pending before the Subcommittee on Post Office and Civil Service of the Governmental Affairs Committee.

Its stated purpose is to make privatization more likely to succeed by giving employees an incentive to stay at the base when a private employer takes over the workload. Under the terms of the amendment, 30 percent of the Federal civilian employees at two DOD bases, one in Indianapolis and one in Louisville, would enjoy civil service retirement system [CSRS] benefits that no other Federal employee enjoys today. I believe the authors of the amendment intended for it to apply to a third base in Newark, OH, but it is unclear whether the workers at the Ohio base will be eligible for the benefit. In addition, it is unclear whether bases in Texas and California will also be covered by the amendment.

Under the terms of the amendment, additional retirement system credits would be given to employees in the civil service retirement system [CSRS] whose jobs are being privatized, and who are not eligible for immediate retirement benefits. The amendment would allow these employees to count their time as a private contract employee as qualifying service toward meeting the eligibility requirements under CSRS. In addition, their current high-3 years of salary would be indexed to general increases in Federal salaries. These benefits are independent of additional subsequent retirement benefits earned by the employees following privatization.

Under current law, the affected employees would be eligible for a CSRS pension at age 62 with the high 3 years based on current employment by the Federal Government. Under the terms of the amendment, these employees could retire at an earlier age and their high-3 years of salary would be at a level indexed during the years of privatization. Of course, they would not even be required to contribute toward the cost of these extra benefits, although Federal employees in CSRS must contribute toward system costs.

While the stated purpose of the amendment is to encourage Navy employees to accept contractor employment in Indianapolis and Louisville, the proposed retirement incentives do not apply to 70 percent of the work force at the two facilities. Nineteen percent of the employees at the two facilities are now eligible to retire under CSRS and therefore, are ineligible for the proposed retirement incentives. Fifty-one percent of the employees are covered under the Federal employees retirement system [FERS] and therefore, are also ineligible for the proposed retirement incentives. Therefore, in terms of increasing their Federal retirement benefits, it would be to the advantage of 70 percent of the work force at the two facilities, to relocate and seek other Federal employment.

Newark Air Force Base in Ohio is privatizing in the same way that the bases in Louisville and Indianapolis are scheduled to proceed, although it is not clear from the legislation whether the employees at Newark would be included in the pilot program. The privatization at Newark has been working because employees want to remain employed and many want to stay in the Newark area. Based upon Newark's experience, it is my view that the amendment, offered by Senator COATS, proposes a solution to a problem that does not really exist. Regrettably, given the nature of the proposed solution, I believe that this legislation will create a host of problems. Problems of equity and fairness that will fall straight into the lap of the Committee on Governmental Affairs, the committee with jurisdiction over Federal employment benefits.

We are in the process of downsizing the Federal Government. I note that through the efforts of the Armed Services and Governmental Affairs Committee and the administration, we have 240,000 fewer Federal employees than when President Clinton took office. Many Federal jobs are being privatized in place. Numerous Federal jobs are also being eliminated. One Ohio constituent recently wrote to me and explained that his job was being eliminated in July. He said that if we could provide him with 4 additional months of service credit, he could apply and be eligible for early retirement under the civil service retirement system. I cannot explain to this constituent why he should not be eligible for an additional 4 months of credit if we are providing years of service credit to other employees who are not even losing their jobs. They have the opportunity to continue working. They will be eligible to accrue private employer pension benefits in addition to the Federal benefits they will have already earned.

Perhaps, the Congress should consider retirement inducements for all employees affected by privatization and downsizing. However, if this is to be done, it should be done in a studied fashion. Changing a system of universal retirement benefits—where everyone previously had participated under the same benefit rules—should be the subject of hearings in a bright light, where we understand exactly what equity problems are created as well as the long-term cost of providing such retirement credits.

My problem with the amendment adopted by the Armed Service Committee is that it is not generous enough to discourage employees from seeking other Federal employment and this is the purported purpose of the legislation. The assumption that a majority of these employees will move onto other Federal employment also assumes that these employees will want to relocate and that they will find jobs through the priority placement program. These are two assumptions that I question. To repeat, the amendment is not generous enough to fulfill its stated purpose, while at the same time it is too generous when one considers that the Government is proposing to do nothing along these lines for other employees being separated from Government employment. It is these sorts of contradictions which should be the subject of congressional hearings before we act.

WESTERN KENTUCKY TRAINING SITE

Mr. FORD. Mr. President, the fiscal year 1997 Department of Defense authorization bill we will pass today contains $10.8 million in authorized funding for phase 3 construction of the Western Kentucky Training Site in Muhlenburg County, KY.

I appreciated the willingness of my colleagues to secure this funding for phase 3 construction at the site and wanted to share with them a recent articles from Soldiers magazine.

This article gives an excellent review of the center's training activities and its importance to our Nation's defense, calling it the training site of choice of units stationed in the Eastern United States.

Again, I would like to thank my colleagues for their support of this military site, and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Soldiers magazine, July 1996]

KENTUCKY'S NTC EAST

(By SSgt. David Altom)

Camouflaged soldiers bustle around the airstrip while, in the distance, a formation of helicopters moves slowly across the overcast sky, slingloads of vehicles and equipment swinging beneath them.

A C–130H Hercules transport lands and kicks up a cloud of dust as it taxis to the end of the strip. Turning around in preparation for takeoff, the aircraft is immediately surrounded by a team of soldiers emerging from the nearby tree line.

A Humvee pulling a trailer is quickly offloaded, the soldiers move back into the woods. The C–130 stirs up another dust storm as it roars back down the runway toward home base. The entire operation take less than five minutes.

Welcome to the Western Kentucky Training Site.

Owned and operated by the Kentucky National Guard, the WKYTS is proving popular with active and Reserve soldiers and airmen, making it the training site of choice for units stationed in the eastern United States.

The greatest appeal of the training site is the open terrain. Occupying more than 700,000 acres of reclaimed strip mine property near the western tip of Kentucky, the facility has enough flat and rolling land to give commanders plenty of training options. While nearby Fort Campbell and Fort Knox have live-fire ranges, accommodating everything from M1 Abrams main battle tanks to Multiple Launch Rocket System, the WKYTS has shown itself to be ideal for movement-to-contact exercises and large-scale maneuvers.

The expanse of the WKYTS is a tanker's dream come true, said Lt. Col. Norman Arflack, commander of the Kentucky Army Guard's 1st Battalion, 123rd Armor.

''As a maneuver unit we need to conduct force-on-force training, especially when we go to battalion-on-company tactics,'' he said. ''That's hard to do unless you go some place like Fort Hood. We feel fortunate to have a facility like this so close, especially with training dollars so tight.''

Arflack cited last summer's Advanced Warfighter Experiment as an example of the value of the WKYTS. Called Focused Dispatch, the experiment employed the latest developments in satellite communications, global positioning systems and computer technology to link armored vehicles at the Kentucky site to simulations in Fort Knox, Ky., Fort Rucker, Ala., and Fort Bliss, Texas. The result was a series of battles involving both real and simulated tanks, attack helicopters and air defense units.

''This was a great experience for us,'' said Arflack, whose unit acted as the opposition force during the experiment. ''In addition to movement-to-contact missions, we found we were able to complete a tank crew proficiency course during our training period without having to leave the compound. I saw our battalion grow in experience, and we didn't have to travel a great distance or worry about overextending our training budget.''

Col. Pat Ritter, director of the Fort Knox Battle Lab, which oversaw Focused Dispatch, held a similar opinion. ''If this isn't NTC east,'' he said, referring to the National Training Center in California. ''I don't know what is.''

Following the pattern of modernization established at the WKYTS is the recent addition of a new moving target system using a laser interface device, similar to the familiar MILES systems that most crews are already trained to use. Along with various stationary popup targets and a wash rack designed to accommodate the largest military hardware, the training center possesses features of a fully equipped battle training site.

There are plans to station a battalion of M1s at the site this summer for year-round use. Visiting units will have access to this equipment, making it unnecessary to ship their own tanks, increasing training cost-effectiveness.

CWO 4 Joe Wilkins, WKYTS manager, is especially proud of the expansion taking place at the site. Most recent is a $6.5 million project that will house 175 soldiers. Included is a 400-seat dining hall, a drill hall and classrooms for simulator training. Future construction will include additional administration and storage buildings, a physical fitness center and a dispensary.

''It's our goal to create the best military training facility possible,'' said Wilkins, ''not just for the Kentucky Guard, but for anyone who has a need for quality training. We don't like to think of ourselves as being limited in our vision.''

The versatility of the WKYTS already pays off. Last fall's Operation Mega Gold, for example, brought together elements of the 101st Airborne Division with assets of the Kentucky Air National Guard's 123rd Airlift Wing. More than 5,000 soldiers and airmen took part in the two-week exercise, culminating in the simulated capture of an airfield behind enemy lines.

Teamwork and high technology are also playing an important part in preserving the ecological stance of the WKYTS. In addition to implementing Army's Integrated Training Area Management Program, site managers have begun working with local universities in creating a comprehensive database listing complete inventories of everything from endangered species to the different types of soils. The goal is to create a complete picture of the natural resources of the WKYTS and, in turn, ensure more efficient management of the site's training environment.

''We want our soldiers to train in a natural environment, not a wasteland,'' said Faith Fiene, state environmental manager for the Kentucky Department of Military Affairs. ''With better identification of training areas and areas of avoidance by our soldiers today, we intend to preserve this training area for future soldiers as well.''

In 1994 the site received the Kentucky Governor's Environmental Excellence Awards in Soil Conservation. And an agreement with the state's Department of Fish and Wildlife Resources promises to dramatically expand the training assets that will be available to the military, as well as the recreational assets available to the public.

With its beginnings in 1969 as a 29-acre weekend training site, the WKYTS has grown considerably during its development into what many in the Kentucky Guard hope will prove to be the state-of-the-art battle training center for the 21st century.

Just as the nature of battle is one of constant change, the WKYTS is constantly improving itself, mixing computer simulation technology, satellite positioning systems, and targeting with the mud and the dust of field training—all to prepare today's soldier for tomorrow.

Mrs. FRAHM. Mr. President, I rise today in support of the fiscal year 1997 Defense authorization bill. Through the able guidance of the distinguished chairman, Senator THURMOND, the committee has worked out a strong bill, which not only ensures the readiness of our forces today, but also, through the addition of funds for the procurement and research and development accounts, takes significant steps toward ensuring the future readiness of our military.

The bill currently before us represents the second straight year of Republican leadership on defense—commonsense conservatism correcting the drastic cuts to our defenses imposed by the current administration. Had we simply rubberstamped the administrations request, we would have again placed our military on the path back to a hollow force. Once again, the Republican led congress has taken the leadership in maintaining our Armed Forces preeminence. With additional funding in the so-called investment accounts, increased funding for military construction, and the fully funded pay raise, the Senate has taken steps which will ensure that the men and women of the U.S. military are not only the best trained and equipped, but also that they are provided with an adequate quality of life.

Mr. President, I am also pleased that the bill contains a number of provisions which are important to my State of Kansas. Whether in Wichita, Parsons, or Junction City, this bill has great effects on Kansas. For example, the bill includes funding for construction projects at Fort Riley, McConnell AFB, and the Kansas National Guard. Additionally, it also ensures the efficient procurement of the joint primary aircraft training system, manufactured in Wichita, and the sensor fuzed weapons, a program important to the Kansas Army Ammunition plant.

In closing, Mr. President, as the newest member of the Armed Services Committee, I look forward to working with my colleagues in conference to craft a bill which will pass both Chambers and be presented to the President for his signature. In so doing, we will invite the President to join with us in restoring the U.S. military and ensuring their future preparedness.

Ms. MOSELEY-BRAUN. Mr. President, after much thought and careful consideration of our military obligations and needs, I have, reluctantly, to vote against the National Defense Authorization Act. My decision has been made all the more difficult because the bill two amendments—protection of a woman's marital property rights if a spouse rolls the military pension into a civil service pension and the continuation of funding for the Computer Aided Education and Training Institute —which I authored. This fact notwithstanding, I cannot, in good conscience, vote in favor of the fiscal year 1997 National Defense Authorization Act as reported out by the Armed Services Committee and amended by the Senate.

Mr. President, my reasons for voting against S. 1745 are threefold.

First, and most important, the present bill still exceeds the President and Pentagon's request by $11.3 billion. This includes $7.1 billion for unrequested procurement items—for some unexplained reason, the bill does not provide $1.2 billion for requested procurement projects—and $3.3 billion for weapons and weapon systems that are not a part of the Department of Defense's long-range modernization plans.

Second, the bill includes $3.4 billion for unrequested research and development items, while failing to provide $900 million for research and development projects requested by the President.

These unrequested increases add to the budget deficit and our national debt.

Third, many of the requested weapons and weapons systems, at best, only marginally add to the national security of our Nation. In any case, their cost do not justify their manufacture and implementation.

Mr. President, I believe in a strong defense. I also believe that defense expenditures must be consistent with our military need and obligations and that whatever we purchase it must be affordable. Sadly, the fiscal year 1997 National Defense Authorization Act does not meet either of those criteria.

USUHS

Mr. SARBANES. Mr. President, I want to express my strong support for provisions in this legislation which ensure that our Nation's only military medical school, the Uniformed Services University of the Health Sciences [USUHS] will continue its important military medicine training programs into the 21st century.

Since it was established in 1972, USUHS has played a vital role in providing top-quality medical care to the men and women of our armed services. The institution has consistently produced first-rate career medical officers who excel in meeting the needs of military medicine and military readiness.

USUHS provides a unique curriculum that contributes greatly to our military preparedness by providing knowledge that is vastly different from that taught in a civilian medical practice. This training includes such areas as trauma, mass casualties, combat surgery, medical logistics, nuclear medicine, tropical infectious diseases, and medical responses to terrorism.

Over the years, the university's graduates have consistently demonstrated a high level of performance during their various deployments in combat areas and in support missions from Desert Storm to Bosnia and Somalia. This performance based upon their extensive military training has been validated by three Surgeons General, the Assistant Secretary of Defense for Health Affairs, the American Medical Association and the Military Coalition, the Retired Officers Association, the National Association for Uniformed Services and the American Legion, among others. I ask that letters from these organizations attesting to the critical importance of the university be printed in the RECORD immediately following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. I also want to underscore the long-term commitment made by the majority of USUHS graduates to our armed services. Although USUHS graduates are required to serve 7 years of active duty beyond the time they devote to internships and residencies, the average time they serve is actually 18.5 years. Of the 2,304 USUHS graduates-to-date, more than 94 percent are still serving in the Air Force, the Army, the Navy, or the Public Health Service. Even more incredible is the fact that, even those who have completed their required obligation and could leave for private practice, 85 percent continue to serve our Nation.

Mr. President, the continued operation of the Uniformed Services University of the Health Sciences remains

critical to our ability to provide a continuous, experienced cadre of military physicians to meet our Nation's special needs of military medicine and medical readiness in the future. I appreciate my colleagues' continued support and commitment in this very important matter.

EXHIBIT 1

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, June 18, 1996.

Hon. PAUL S. SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: The American Medical Association (AMA) is writing to request that the Senate oppose Senator Feingold's anticipated amendment to the FY 1997 Department of Defense Authorization bill (S. 1745) which would phase out the Uniformed Services University of the Health Sciences (USUHS). We urge you to join with your colleagues in the House of Representatives who, on May 15, voted overwhelmingly (343–82) not to close the USUHS.

Our Nation's only military medical school is a national asset which contributes greatly to our military preparedness as a cost effective source of physicians for the Uniformed Services. Military physicians require special training to equip them in handling peace and war time situations that are not taught in traditional medical schools. For example, during recent military deployments in Bosnia, Somalia and the Gulf, the effects of modern weapons, the stress of continuous operations, as well as the noise, toxins and other battlefield hazards were adroitly handled by USUHS-trained physicians. The knowledge imparted to these highly-equipped physicians is vastly different from that taught in a civilian medical practice.

Many are unaware that the USUHS not only educates its own graduates, it also provides special continuing medical education courses for other physicians. Such education includes courses in combat casualty care, tropical medicine, combat stress, disaster medicine, and medical responses to terrorism—courses not available through civilian medical schools.

A 1995 GAO study concluded that the USUHS is cost effective to the federal government by producing medical graduates who consistently meet the special needs of military medicine. This same study acknowledged another telling advantage of USUHS-trained physicians: 43 out of 44 commanders of major military medical units perceived that physicians from the USUHS have a greater overall understanding of the military, greater commitment to the military, better preparation for operational assignments, and better preparation for leadership roles.

The AMA believes that the USUHS's mission and goals are consistent with our national interests and should be allowed to continue. It exemplifies the best in the federal government, and should be identified for recognition and support rather than closure.

We thank you for your consideration of the truly notable contributions that USUHS makes to our military and ultimately to our Nation.

Sincerely,

P. JOHN SEWARD, MD.

THE AMERICAN LEGION,
Washington, DC, June 18, 1996.

DEAR SENATOR: The American Legion urges opposition to any efforts to eliminate the Uniformed Services University of the Health Sciences (USUHS).

This very special institution continues to serve as a valuable source of military physicians for the armed forces of the United States and the Public Health Service. It provides the military with a corps of dedicated career medical officers instilled with a unique degree of commitment and selflessness found in doctors who are trained and skilled in providing combat casualty care. This facility offers a full range of instruction and care in those maladies typically suffered primarily by military personnel. These include tropical, epidemiological and parasitic ailments.

A recent GAO report concluded the total monetary cost for USUHS compared to the Armed Forces Health Professional Scholarship Program (AFHPSP) for civilian institutions are merely identical. However, unlike civilian medical programs, the USUHS provides military doctors well trained in primary care medicine, as well as combat casualty care, tropical medicine, combat stress and other conditions unique to military deployments and combat conditions. According to DoD, the retention rate in the armed forces is eighty-six percent for USUHS graduates compared to fourteen percent for AFHPSP.

Military medical officers serve beside and in support of U.S. service personnel when forces are deployed to a conflict. This environment is harsh, chaotic and demanding. The graduates of USUHS are trained to deal with these extremes and difficult conditions and in fact, work and improvise in some of the most deplorable circumstances where U.S. military forces are stationed.

To eliminate USUHS would be a great disservice to the men and women in the armed forces. We must do everything we can to provide the armed forces with the best health and battle casualty services available.

Once again, The American Legion urges you to oppose any efforts, especially in the FY 1997 DoD Authorization bill, which would eliminate the USUHS. We appreciate your continued support and commitment on important veterans' issues.

Sincerely,

STEVE A. ROBERTSON,
Director, National Legislative Commission.

NATIONAL ASSOCIATION FOR
UNIFORMED SERVICES,
Springfield, VA, June 17, 1996.

DEAR SENATOR: As a result of misleading and incomplete information several attempts have been made to close the Uniformed Services University of the Health Sciences (USUHS). The National Association for Uniformed Services once again urges you to support USUHS.

The General Accounting Office (GAO) recently confirmed what we and other military associations have been asserting during the past four consecutive attempts at closure . . . there is NO DIFFERENCE to the federal government in the cost per year of service between USUHS and the scholarship physicians (GAO/HEHS–95–244, page 33 . . . $181,575/USUHS vs. $181,169/Scholarship).

Further, there is a difference between medicine practiced in civilian and military settings. During military deployments to Bosnia, Somalia, Haiti and the Gulf, the effects of modern weapons, the stress of continuous operations, and the noise, toxins, and other hazards of the battlefield were encountered and anticipated. Military physicians had to deal with realities of risk assessment, prevention, medical evacuation, and the clinical management of diseases and injuries; the outstanding performance of deployed USUHS physicians has been recognized and verified by the Surgeons General during Congressional Hearings and by the medical commanders in response to the GAO. It is a fact that ''the militarily unique courses provided by USUHS are NOT available through civilian medical schools'' (American Medical Association letter of endorsement to the Congress dated May 14, 1996).

USUHS has consistently met, or exceeded, its mission. This excellence in service was recognized in the House of Representatives on May 15, 1996, with 343 votes for the retention of USUHS vs. 82 votes for closure.

We believe that the Senate should reaffirm its decision for the continuation of USUHS as a cost effective source of militarily trained physicians for the Armed Forces. We believe that we owe it to those who serve our Nation in the Uniformed Services to provide them with the best medical support that is available.

Sincerely,

J.C. PENNINGTON,
Major General, USA, Retired,
President.

Mr. PELL. Mr. President, I would like to draw the attention of my fellow Members to a significant nonproliferation amendment now in the defense authorization bill. I am pleased to have joined with the Senator from Ohio [Mr. GLENN] in the provision that would withhold for a period of 1 year Export-Import Bank credits for any entity that knowingly assists a nonnuclear-weapon state to acquire a nuclear explosive device or the special nuclear materials for such a device. I am pleased that the Senator from North Carolina [Mr. HELMS] is joining us as a cosponsor.

This amendment, which has been adopted, represents a significant advance in our efforts to target companies that are profiting from nuclear proliferation. It will strengthen the President's hand in showing U.S. determination to do all that it can to prevent illicit trafficking in nuclear weapons and the materials needed to make them.

Under current law, and subject to a national interest waiver, Eximbank credits are denied to: First, any country that has violated an international nuclear safeguards agreement; second, any country that has violated an agreement for nuclear cooperation with the United States; third, any nonnuclear weapons state that has detonated a nuclear weapon, or fourth, any country that has willfully aided or abetted a nonnuclear weapons state to get nuclear weapons.

This amendment requires the President to apply sanctions against persons, including government-owned entities operating as commercial enterprises, that knowingly aid or abet efforts by a country to acquire a nuclear explosive device or the nuclear material for such a device. The amendment also authorizes the President to terminate sanctions upon receipt of reliable assurances that the effort to aid or abet has ceased and that such country or person will not in the future aid or abet any nonnuclear-weapons state in efforts to acquire nuclear explosives or unsafeguarded materials.

Mr. President, in May the State Department announced that a firm owned by the Chinese Government—CNEIC,

China Nuclear Energy Industry Corporation—had sent ring magnets to an unsafeguarded Pakistani nuclear enrichment facility and it had engaged in other undisclosed nuclear cooperation. The law provides for sanctions in such a case against China if the transfer was the result of a willful action by the Government of China. Under this amendment, CNEIC could be sanctioned specifically for its activities for a period of 1 year. With this amendment the United States would move away from a situation in which Exim financing denial must be applied against a whole country, or not at all, which has presented very difficult choices. With this amendment, the denial of Exim financing can be focused on the wrongdoer. This will help us avoid charades in which we desperately avoid facing up to proliferation problems. As a result, companies and countries tempted to misbehave in the proliferation area will know that there is a much more real prospect of penalties that are both painful and appropriate.

This amendment represents a further refinement of an expanding array of sanctions legislation that is steadily evolving in order to make it a more effective instrument of U.S. foreign policy in a bipartisan effort to end the spread of nuclear weapons.

This has included the Glenn and Symington amendments of the mid-1970's, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, and the Nuclear Proliferation Prevention Act of 1994 as well as a number of other legislative initiatives.

The Senate has been in the lead of efforts to develop a coherent and effective nonproliferation policy for the United States. At times, those of us most involved have worked closely with the executive branch. At other times we have been at odds, but we have been able to reach reasonable compromises. As a result, the United States has set an example for the rest of the world and has brought other nations along with us. In addition, some of the nations most concerned about proliferation have taken their own initiatives and the result is a world steadily more attuned to the problems posed by nonproliferation and better willing and able to deal with those problems.

DOE NUCLEAR SAFETY

Mr. GLENN. Would the distinguished Senator from the State of Idaho care to engage me in a colloquy concerning the Department of Energy's compliance with its nuclear safety regulations?

Mr. KEMPTHORNE. I would be delighted to. The Idaho National Engineering Laboratory is a key DOE facility located in my State, and I am very concerned that it be operated in as safe a manner as possible with regard to nuclear safety. As a fellow member of the Strategic Forces Subcommittee who has DOE facilities in his own State, I know that the Senator from Ohio shares these concerns.

Mr. GLENN. I certainly do. As the Senator knows, DOE has recently issued regulations pursuant to the Price Anderson Act/Atomic Energy Act. These regulations are entitled Nuclear Safety Management, 10 CFR 830, and Occupational Radiation Protection, 10 CFR 835. A primary purpose of these regulations is to strengthen line management accountability for nuclear safety. These regulations are enforceable with sanctions, such as fines and penalties, as appropriate. The strength of the regulations is enhanced by public accountability, primarily of the DOE contractors, through self-reporting, as well as through DOE inspections. Does the distinguished Senator from Idaho agree that these regulations will enhance the DOE's goal of improving nuclear safety?

Mr. KEMPTHORNE. Absolutely. A key factor in improving nuclear safety at DOE defense nuclear facilities is line management accountability. The Secretary of Energy and Defense Nuclear Facilities Safety Board have repeatedly highlighted this point. In order for Congress to be assured that such accountability is occurring, we should encourage the Department of Energy to provide Congress with regular briefings on the status of its compliance with the important nuclear safety regulations which we have discussed here today.

Mr. GLENN. I agree. Such briefings could include: First, a list of defense nuclear facilities evaluated and a discussion of progress made in meeting the compliance requirements set forth in the Price Anderson nuclear safety regulations; second, a list of noncompliance events and violations of the regulations identified by line management and headquarters oversight; third, improvements in public safety and worker protection as a result of these regulations; and fourth, any other information which the Department deems important.

Mr. KEMPTHORNE. I believe this is important information for Congress to have as it carries out its responsibilities. I look forward to continuing to work with the Senator from Ohio on this important issue.

Mr. GLENN. I thank the Senator and congratulate him on his leadership on these issues on the Strategic Forces Subcommittee.

Mrs. BOXER. Mr. President, although I support many provisions of the bill, I will vote against the National Defense Authorization Act of 1997.

This bill authorizes more than $10 billion above the funding level requested by the administration and the Joint Chiefs of Staff. This level of funding is simply unwarranted.

The United States spends more on its military than the next five countries combined, most of which are our NATO allies. The Soviet Union is no more and the cold war has been won. Our military must focus on the very real threats of today, not the ghost of the Warsaw Pact.

Furthermore, more than $2 billion of the congressional add-on is earmarked for programs that are not in the Pentagon's 5-year defense plan. These are programs that the Pentagon says it does not need now and will not need for the foreseeable future. Funneling billions of dollars into programs the military has made clear it does not need is bad policy in the extreme.

I am pleased that the managers have agreed to remove objectionable language concerning the ABM Treaty from the bill. While the removal of these legislative riders improves the bill, it still includes an unjustifiable authorization level for ballistic missile defense programs. I vigorously support funding for theater missile defense systems, but oppose the shift in emphasis contained to national missile defense systems. To deploy a national missile defense system as envisioned by the sponsors of this bill could cost up to $60 billion while contributing little to our national security.

The bill contains three amendments that I offered. An amendment offered by Senator GRASSLEY and myself would cap the amount of reimbursable compensation for government contractors at $200,000. This amendment will put an end to the multimillion dollar bonuses that defense executives regularly pay themselves, and then pass the bill to the American taxpayer.

Another amendment I offered would make it easier for civilians to take advantage of the tremendous resources available at the Defense Language Institute. Also, the managers accepted an amendment I offered to extend a pilot program for the purchase of municipal services at the closing Fort Ord. I hope that the managers will work to retain these amendments in conference.

Mr. GORTON. Mr. President, I ask unanimous consent for 1 minute to ask a question of the managers of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I, too, have an amendment that I would like considered in this bill. I have discussed it with the staff and with the principals. Because they do not want to go back to second reading, they did not want to do it at the present time. But in an amendment which Senator MURRAY and I sponsored with relation to USTF's and medical care, we have a portion of section 722 that the two of us would like deleted. I simply wanted the assurances, which I am sure are there, of the Senators that they will work to do the job right for Seattle and the State of Washington in the course of the conference.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I assure the Senator we will be glad to discuss this matter in conference.

Mr. NUNN. Mr. President, I respond to our friend from Washington that we will be glad to work with him in conference to look at this. We have just not had time to completely diagnose

and understand the effects of the amendment at this point, but we will be glad to work with him in conference.

Mr. GORTON. I thank the managers of the bill.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that all remaining votes following the vote on passage of the DOD appropriations bill be limited to 10 minutes in length, and there be 1 minute for explanation to be provided prior to the votes with respect to the Dorgan amendment and the Kassebaum amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, going back to the defense bill, I just want to take this opportunity, although I have had printed the name of every staff member of the Armed Services Committee following my earlier remarks in the RECORD—they all did a fine job—I just want to especially commend the director, Les Brownlee, for the outstanding job he has done. He has done one of the best jobs since I have been in the Senate in connection with a defense bill.

I also would like to commend Arnold Punaro, the director on the minority side, for doing such a fine job. He has been in the Senate since 1973. We have been very fortunate to have Les Brownlee and Arnold Punaro to work with us on this defense bill.

Mr. NUNN. Mr. President, have the yeas and nays been ordered on the bill?

The PRESIDING OFFICER. They have not.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on the passage of S. 1745, as amended.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The result was announced, yeas 68, nays 31, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—68

Abraham	Dodd	Inouye
Akaka	Domenici	Jeffords
Ashcroft	Faircloth	Johnston
Bennett	Feinstein	Kassebaum
Bingaman	Ford	Kempthorne
Bond	Frahm	Kyl
Breaux	Frist	Lieberman
Brown	Gorton	Lott
Burns	Graham	Lugar
Campbell	Gramm	Mack
Chafee	Grams	McCain
Coats	Grassley	McConnell
Cohen	Gregg	Mikulski
Conrad	Hatch	Murkowski
Coverdell	Heflin	Nickles
Craig	Helms	Nunn
D'Amato	Hollings	Pressler
Daschle	Hutchison	Reid
DeWine	Inhofe	Robb
Roth	Smith	Thompson
Santorum	Snowe	Thurmond
Shelby	Stevens	Warner
Simpson	Thomas	

NAYS—31

Baucus	Harkin	Murray
Biden	Hatfield	Pell
Boxer	Kennedy	Pryor
Bradley	Kerrey	Rockefeller
Bryan	Kerry	Sarbanes
Bumpers	Kohl	Simon
Byrd	Lautenberg	Specter
Dorgan	Leahy	Wellstone
Exon	Levin	Wyden
Feingold	Moseley-Braun	
Glenn	Moynihan	

NOT VOTING—1

Cochran

The bill (S. 1745), as amended, was passed as follows:

S. 1745

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 ''National Defense Authorization Act for Fiscal Year 1997''.

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

(a) DIVISIONS.—This Act is organized into three 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.

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

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. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1997 for the national defense function under the provisions of this Act is $265,583,000,000.

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 1997 for procurement for the Army as follows:

(1) For aircraft, $1,508,515,000.

(2) For missiles, $1,160,829,000.

(3) For weapons and tracked combat vehicles, $1,460,115,000.

(4) For ammunition, $1,156,728,000.

(5) For other procurement, $3,298,940,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Navy as follows:

(1) For aircraft, $6,911,352,000.

(2) For weapons, including missiles and torpedoes, $1,513,263,000.

(3) For shipbuilding and conversion, $6,567,330,000.

(4) For other procurement, $3,005,040,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Marine Corps in the amount of $816,107,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Air Force as follows:

(1) For aircraft, $7,003,528,000.

(2) For missiles, $2,847,177,000.

(3) For other procurement, $5,889,519,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1997 for Defense-wide procurement in the amount of $1,908,012,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1997 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, $224,000,000.

(2) For the Air National Guard, $305,800,000.

(3) For the Army Reserve, $90,000,000.

(4) For the Naval Reserve, $40,000,000.

(5) For the Air Force Reserve, $40,000,000.

(6) For the Marine Corps Reserve, $60,000,000.

SEC. 106. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Inspector General of the Department of Defense in the amount of $2,000,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1997 the amount of $802,847,000 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 PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1997 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 $269,470,000.

SEC. 109. DEFENSE NUCLEAR AGENCY.

Of the amounts authorized to be appropriated for the Department of Defense under section 104, $7,900,000 shall be available for the Defense Nuclear Agency.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT OF JAVELIN MISSILE SYSTEM.

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

SEC. 112. ARMY ASSISTANCE FOR CHEMICAL DEMILITARIZATION CITIZENS' ADVISORY COMMISSIONS.

Subsections (b) and (f) of section 172 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2341; 50 U.S.C. 1521 note) are each amended by striking out ''Assistant Secretary of the Army (Installations, Logistics and Environment)'' and inserting in lieu thereof ''Assistant Secretary of the Army (Research, Development and Acquisition)''.

SEC. 113. STUDY REGARDING NEUTRALIZATION OF THE CHEMICAL WEAPONS STOCKPILE.

(a) STUDY.—The Secretary of Defense shall conduct a study to determine the cost of incineration of the current chemical munitions stockpile by building incinerators at each existing facility compared to the proposed cost of dismantling those same munitions, neutralizing them at each storage site and transporting the neutralized remains and all munitions parts to a centrally located incinerator within the United States for incineration.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of the Congress a report on the study carried out under subsection (a).

SEC. 114. PERMANENT AUTHORITY TO CARRY OUT ARMS INITIATIVE.

Section 193(a) of the Armament Retooling and Manufacturing Support Initiative Act of 1992 (subtitle H of title I of Public Law 102–484; 10 U.S.C. 2501 note) is amended by striking out ''During fiscal years 1993 through 1996'', and inserting in lieu thereof ''During fiscal years 1993 through 1998''.

SEC. 115. TYPE CLASSIFICATION OF ELECTRO OPTIC AUGMENTATION (EOA) SYSTEM.

(a) REQUIREMENT.—The Secretary of the Army shall type classify the Electro Optic Augmentation (EOA) system.

(b) FUNDING.—Of the amounts authorized to be appropriated for the Army by this division, $100,000 shall made be available to the Armored Systems Modernization Program manager for the type classification required by subsection (a).

SEC. 116. BRADLEY TOW 2 TEST PROGRAM SETS.

Of the funds authorized to be appropriated under section 101(3) of the National Defense Authorization Act for Fiscal Year 1996 (110 Stat. 204), $6,000,000 is available for the procurement of Bradley TOW 2 Test Program sets.

SEC. 117. DEMILITARIZATION OF ASSEMBLED CHEMICAL MUNITIONS.

(a) PILOT PROGRAM.—The Secretary of Defense shall conduct a pilot program to identify and demonstrate feasible alternatives to incineration for the demilitarization of assembled chemical munitions.

(b) PROGRAM REQUIREMENTS.—(1) The Secretary of Defense shall designate an executive agent to carry out the pilot program required to be conducted under subsection (a).

(2) The executive agent shall—

(A) be an officer or executive of the United States Government;

(B) be accountable to the Secretary of Defense; and

(C) not be, or have been, in direct or immediate control of the chemical weapon stockpile demilitarization program established by 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) or the alternative disposal process program carried out under sections 174 and 175 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 50 U.S.C. 1521 note).

(3) The executive agent may—

(A) carry out the pilot program directly;

(B) enter into a contract with a private entity to carry out the pilot program; or

(C) transfer funds to another department or agency of the Federal Government in order to provide for such department or agency to carry out the pilot program.

(4) A department or agency that carries out the pilot program under paragraph (3)(C) may not, for purposes of the pilot program, contract with or competitively select the organization within the Army that exercises direct or immediate management control over either program referred to in paragraph (2)(C).

(5) The pilot program shall terminate not later than September 30, 2000.

(c) ANNUAL REPORT.—Not later than December 15 of each year in which the Secretary carries out the pilot program, the Secretary shall submit to Congress a report on the activities under the pilot program during the preceding fiscal year.

(d) EVALUATION AND REPORT.—Not later than December 31, 2000, the Secretary of Defense shall—

(1) evaluate each demilitarization alternative identified and demonstrated under the pilot program to determine whether that alternative—

(A) is as safe and cost efficient as incineration for disposing of assembled chemical munitions; and

(B) meets the requirements of section 1412 of the Department of Defense Authorization Act, 1986; and

(2) submit to Congress a report containing the evaluation.

(e) LIMITATION ON LONG LEAD CONTRACTING.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), the Secretary may not enter into any contract for the purchase of long lead materials considered to be baseline incineration specific materials for the construction of an incinerator at any site in Kentucky or Colorado, within one year of the date of enactment of this Act or, thereafter until the executive agent designated for the pilot program submits an application for such permits as are necessary under the law of the State of Kentucky or the law of the State of Colorado, as the case may be, for the construction at that site of a plant for demilitarization of assembled chemical munitions by means of an alternative to incineration.

(2) *Provided, however,* That the Secretary may enter into a contract described in paragraph (1) beginning 60 days after the date on which the Secretary submits to Congress—

(A) the report required by subsection (d)(2); and

(B) the certification of the executive agent that there exists no alternative technology as safe and cost efficient as incineration for demilitarizing chemical munitions at nonbulk sites that can meet the requirements of section 1412 of the Department of Defense Authorization Act, 1986.

(f) ASSEMBLED CHEMICAL MUNITION DEFINED.—For the purpose of this section, the term ''assembled chemical munition'' means an entire chemical munition, including component parts, chemical agent, propellant, and explosive.

(g) FUNDING.—(1) Of the amount authorized to be appropriated under section 107, $60,000,000 shall be available for the pilot program under this section. Such funds may not be derived from funds to be made available under the chemical demilitarization program for the alternative technologies research and development program at bulk sites.

(2) Funds made available for the pilot program pursuant to paragraph (1) shall be made available to the executive agent for use for the pilot program.

Subtitle C—Navy Programs

SEC. 121. EA–6B AIRCRAFT REACTIVE JAMMER PROGRAM.

(a) LIMITATION.—None of the funds appropriated pursuant to section 102(a)(1) for modifications or upgrades of EA–6B aircraft may be obligated, other than for a reactive jammer program for such aircraft, until 30 days after the date on which the Secretary of the Navy submits to the congressional defense committees in writing—

(1) a certification that some or all of such funds have been obligated for a reactive jammer program for EA–6B aircraft; and

(2) a report that sets forth a detailed, well-defined program for—

(A) developing a reactive jamming capability for EA–6B aircraft; and

(B) upgrading the EA–6B aircraft of the Navy to incorporate the reactive jamming capability.

(b) CONTINGENT TRANSFER OF FUNDS TO AIR FORCE.—(1) If the Secretary of the Navy has not submitted the certification and report described in subsection (a) to the congressional defense committees before June 1, 1997, then, on that date, the Secretary of Defense shall transfer to Air Force, out of appropriations available to the Navy for fiscal year 1997 for procurement of aircraft, the amount equal to the amount appropriated to the Navy for fiscal year 1997 for modifications and upgrades of EA–6B aircraft.

(2) Funds transferred to the Air Force pursuant to paragraph (1) shall be available for maintaining and upgrading the jamming capability of EF–111 aircraft.

SEC. 122. PENGUIN MISSILE PROGRAM.

(a) MULTIYEAR PROCUREMENT AUTHORITY.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into multiyear procurement contracts for the procurement of not more than 106 Penguin missile systems.

(b) LIMITATION ON TOTAL COST.—The total amount obligated or expended for procurement of Penguin missile systems under contracts under subsection (a) may not exceed $84,800,000.

SEC. 123. NUCLEAR ATTACK SUBMARINE PROGRAMS.

(a) AMOUNTS AUTHORIZED.—(1) Of the amount authorized to be appropriated by section 102(a)(3)—

(A) $804,100,000 shall be available for construction of the third vessel (designated SSN–23) in the Seawolf attack submarine class;

(B) $296,200,000 shall be available for long-lead and advance construction and procurement of components for construction of a submarine (previously designated by the Navy as the New Attack Submarine) beginning in fiscal year 1998 to be built by Electric Boat Division; and

(C) $701,000,000 shall be available for long-lead and advance construction and procurement of components for construction of a second submarine (previously designated by the Navy as the New Attack Submarine) beginning in fiscal year 1999 to be built by Newport News Shipbuilding.

(2) In addition to the purposes for which the amount authorized to be appropriated by section 102(a)(3) is available under subparagraphs (B) and (C) of paragraph (1), the amounts available under such subparagraphs are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the ''Memorandum of Agreement Among the Department of the Navy, Electric Boat Corporation (EB) and Newport News Shipbuilding and Drydock Company (NNS) Concerning the New Attack Submarine'', dated April 5, 1996, relating to design data transfer, design improvements, integrated process teams, and updated design base.

(b) CONTRACTS AUTHORIZED.—(1) The Secretary of the Navy is authorized, using funds available pursuant to subparagraphs (B) and (C) of subsection (a)(1), to enter into contracts with Electric Boat Division and Newport News Shipbuilding, and suppliers of components, during fiscal year 1997 for—

(A) the procurement of long-lead components for the submarines referred to in such subparagraphs; and

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

(2) The Secretary of the Navy may enter into a contract or contracts under this section with the shipbuilder of the submarine referred to in subsection (a)(1)(B) only if the Secretary enters into a contract or contracts under this section with the shipbuilder of the submarine referred to in subsection (a)(1)(C).

(c) COMPETITION AND LIMITATIONS ON OBLIGATIONS.—(1)(A) Of the amounts made available pursuant to subsection (a)(1), not more than $100,000,000 may be obligated or expended until the Secretary of Defense 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 described in subparagraph (B) will be provided for under one or more contracts that are entered into after a competition between Electric Boat Division and Newport News Shipbuilding in which the Secretary of the Navy solicits competitive proposals and awards the contract or contracts on the basis of price.

(B) The submarines referred to in subparagraph (A) are nuclear attack submarines that are to be constructed beginning—

(i) after fiscal year 1999; or

(ii) if four submarines are to be procured as provided for in the plan required under section 131(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 209), after fiscal year 2001.

(2) Of the amounts made available pursuant to subsection (a)(1), not more than $100,000,000 may be obligated or expended until the Under Secretary of Defense for Acquisition and Technology submits to the committees referred to in paragraph (1) a written report that describes in detail—

(A) the oversight activities undertaken by the Under Secretary up to the date of the report pursuant to section 131(b)(2)(C) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 207), and the plans for the future development and improvement of the nuclear attack submarine program of the Navy;

(B) the implementation of, and activities conducted under, the program required to be established by the Director of the Defense Advanced Research Projects Agency by section 131(i) of such Act (110 Stat. 210) for the development and demonstration of advanced submarine technologies and a rapid prototype acquisition strategy for both land-based and at-sea subsystem and system demonstrations of such technologies; and

(C) all research, development, test, and evaluation programs, projects, or activities within the Department of Defense which, in the opinion of the Under Secretary, are designed to contribute to the development and demonstration of advanced submarine technologies leading to a more capable, more affordable nuclear attack submarine, together with a specific identification of ongoing involvement, and plans for future involvement, in any such program, project, or activity by Electric Boat Division, Newport News Shipbuilding, or both.

(d) REFERENCES TO SHIPBUILDERS.—For purposes of this section—

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

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

(e) NEXT ATTACK SUBMARINE AFTER NEW ATTACK SUBMARINE.—The Secretary of Defense shall modify the plan (relating to development of a program leading to production of a more capable and less expensive submarine than the New Attack Submarine) that was submitted to Congress pursuant to section 131(c) of Public Law 104–106 (110 Stat. 208) in order to provide in such plan for selection of a design for a next submarine for serial production not earlier than fiscal year 2000 (rather than fiscal year 2003, as provided in paragraph (3)(B) of such section 131(c)).

SEC. 124. ARLEIGH BURKE CLASS DESTROYER PROGRAM.

(a) FUNDING.—(1) Subject to paragraph (3), funds authorized to be appropriated by section 102(a)(3) may be made available for contracts entered into in fiscal year 1996 under subsection (b)(1) of section 135 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 211) for construction for the third of the three Arleigh Burke class destroyers covered by that subsection. Such funds are in addition to amounts made available for such contracts by the second sentence of subsection (a) of that section.

(2) Subject to paragraph (3), funds authorized to be appropriated by section 102(a)(3) may be made available for contracts entered into in fiscal year 1997 under subsection (b)(2) of such section 135 for construction (including advance procurement) for the Arleigh Burke class destroyers covered by such subsection (b)(2).

(3) The aggregate amount of funds available under paragraphs (1) and (2) for contracts referred to in such paragraphs may not exceed $3,483,030,000.

(4) Within the amount authorized to be appropriated by section 102(a)(3), $750,000,000 is authorized to be appropriated for advance procurement for construction for the Arleigh Burke class destroyers authorized by subsection (b).

(b) AUTHORITY FOR MULTIYEAR PROCUREMENT OF TWELVE VESSELS.—The Secretary of the Navy is authorized, pursuant to section 2306b of title 10, United States Code, to enter into multiyear contracts for the procurement of a total of 12 Arleigh Burke class destroyers at a procurement rate of three ships in each of fiscal years, 1998, 1999, 2000, and 2001 in accordance with this subsection and subsections (a)(4) and (c), subject to the availability of appropriations for such destroyers. A contract for construction of one or more vessels that is entered into in accordance with this subsection shall include a clause that limits the liability of the Government to the contractor for any termination of the contract.

SEC. 125. MARITIME PREPOSITIONING SHIP PROGRAM ENHANCEMENT.

Section 2218(f) of title 10, United States Code, shall not apply in the case of the purchase of three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons.

SEC. 126. ADDITIONAL EXCEPTION FROM COST LIMITATION FOR SEAWOLF SUBMARINE PROGRAM.

Section 133 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 211) is amended—

(1) in subsection (a), by striking out ''subsection (b)'' and inserting in lieu thereof ''subsections (b) and (c)''; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

''(c) COSTS NOT INCLUDED.—The previous obligations of $745,700,000 for the SSN–23, SSN–24, and SSN–25 submarines, out of funds appropriated for fiscal years 1990, 1991, and 1992, that were subsequently canceled (as a result of a cancellation of such submarines) shall not be taken into account in the application of the limitation in subsection (a).''.

SEC. 127. RADAR MODERNIZATION.

Funds appropriated for the Navy for fiscal years before fiscal year 1997 may not be used for development and procurement of the Pulse Doppler Upgrade modification to the AN/SPS–48E radar system.

Subtitle D—Air Force Programs

SEC. 131. MULTIYEAR CONTRACTING AUTHORITY FOR THE C–17 AIRCRAFT PROGRAM.

(a) MULTIYEAR CONTRACTS AUTHORIZED.—The Secretary of the Air Force may, pursuant to section 2306b of title 10, United States Code (except as provided in subsection (b)(1)), enter into one or more multiyear contracts for the procurement of not more than a total of 80 C–17 aircraft.

(b) CONTRACT PERIOD.—(1) Notwithstanding section 2306b(k) of title 10, United States Code, the period covered by a contract entered into on a multiyear basis under the authority of subsection (a) may exceed five years, but may not exceed seven years.

(2) Paragraph (1) shall not be construed as prohibiting the Secretary of the Air Force from entering into a multiyear contract for a period of less than seven years. In determining to do so, the Secretary shall consider whether—

(A) sufficient funding is provided for in the future-years defense program for procurement, within the shorter period, of the total

number of aircraft to be procured (within the number set forth in subsection (a)); and

(B) the contractor is capable of delivering that total number of aircraft within the shorter period.

(c) OPTION TO CONVERT TO ONE-YEAR PROCUREMENTS.—Each multiyear contract for the procurement of C–17 aircraft authorized by subsection (a) shall include a clause that permits the Secretary of the Air Force—

(1) to terminate the contract as of September 30, 1998, without a modification in the price of each aircraft and without incurring any obligation to pay the contractor termination costs; and

(2) to then enter into follow-on one-year contracts with the contractor for the procurement of C–17 aircraft (within the total number of aircraft authorized under subsection (a)) at a negotiated price that is not to exceed the price that is negotiated before September 30, 1998, for the annual production contract for the C–17 aircraft in lot VIII and subsequent lots.

Subtitle E—Reserve Components

SEC. 141. ASSESSMENTS OF MODERNIZATION PRIORITIES OF THE RESERVE COMPONENTS.

(a) ASSESSMENTS REQUIRED.—Not later than December 1, 1996, each officer referred to in subsection (b) shall submit to the congressional defense committees an assessment of the modernization priorities established for the reserve component or reserve components for which that officer is responsible.

(b) RESPONSIBLE OFFICERS.—The officers required to submit a report under subsection (a) are as follows:

(1) The Chief of the National Guard Bureau.

(2) The Chief of Army Reserve.

(3) The Chief of Air Force Reserve.

(4) The Director of Naval Reserve.

(5) The Commanding General, Marine Forces Reserve.

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 1997 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $4,958,140,000.

(2) For the Navy, $9,041,534,000.

(3) For the Air Force, $14,786,356,000.

(4) For Defense-wide activities, $9,699,542,000, of which—

(A) $252,038,000 is authorized for the activities of the Director, Test and Evaluation; and

(B) $21,968,000 is authorized for the Director of Operational Test and Evaluation.

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

(a) FISCAL YEAR 1997.—Of the amounts authorized to be appropriated by section 201, $4,005,787,000 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. DEFENSE NUCLEAR AGENCY.

Of the amounts authorized to be appropriated for the Department of Defense under section 201, $221,330,000 shall be available for the Defense Nuclear Agency.

SEC. 204. FUNDS FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION RELATING TO HUMANITARIAN DEMINING TECHNOLOGIES.

Of the amounts authorized to be appropriated by section 201(4), $18,000,000 shall be available for research, development, test, and evaluation activities relating to humanitarian demining technologies (PE0603120D), to be administered by the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. SPACE LAUNCH MODERNIZATION.

(a) FUNDING.—Funds appropriated pursuant to the authorization of appropriations in section 201(3) are authorized to be made available for space launch modernization for purposes and in amounts as follows:

(1) For the Evolved Expendable Launch Vehicle program, $44,457,000.

(2) For a competitive reusable launch vehicle technology program, $25,000,000.

(b) LIMITATIONS.—(1) Of the funds made available for the reusable launch vehicle technology program pursuant to subsection (a)(2), the total amount obligated for such purpose may not exceed the total amount allocated in the fiscal year 1997 current operating plan of the National Aeronautics and Space Administration for the Reusable Space Launch program of the National Aeronautics and Space Administration.

(2) None of the funds made available for the Evolved Expendable Launch Vehicle program pursuant to subsection (a)(1) may be obligated until the Secretary of Defense certifies to Congress that the Secretary has made available for obligation the funds, if any, that are made available for the reusable launch vehicle technology program pursuant to subsection (a)(2).

SEC. 212. DEPARTMENT OF DEFENSE SPACE ARCHITECT.

(a) REQUIRED PROGRAM ELEMENT.—The Secretary of Defense shall include the kinetic energy tactical anti-satellite program of the Department of Defense as an element of the space control architecture being developed by the Department of Defense Space Architect.

(b) LIMITATION ON USE OF FUNDS.—None of the funds authorized to be appropriated pursuant to this Act, or otherwise made available to the Department of Defense for fiscal year 1997, may be obligated or expended for the Department of Defense Space Architect until the Secretary of Defense certifies to Congress that—

(1) the Secretary is complying with the requirement in subsection (a);

(2) funds appropriated for the kinetic energy tactical anti-satellite program for fiscal year 1996 have been obligated in accordance with section 218 of Public Law 104–106 and the Joint Explanatory Statement of the Committee of Conference accompanying S. 1124 (House Report 104–450 (104th Congress, second session)); and

(3) the Secretary has made available for obligation the funds appropriated for the kinetic energy tactical anti-satellite program for fiscal year 1997 in accordance with this Act.

SEC. 213. SPACE-BASED INFRARED SYSTEM PROGRAM.

(a) FUNDING.—Funds appropriated pursuant to the authorization of appropriations in section 201(3) are authorized to be made available for the Space-Based Infrared System program for purposes and in amounts as follows:

(1) For Space Segment High, $192,390,000.

(2) For Space Segment Low (the Space and Missile Tracking System), $247,221,000.

(3) For Cobra Brass, $6,930,000.

(b) CONDITIONAL TRANSFER OF MANAGEMENT OVERSIGHT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall transfer the management oversight responsibilities for the Space and Missile Tracking System from the Secretary of the Air Force to the Director of the Ballistic Missile Defense Organization.

(c) CERTIFICATION.—If, within the 30-day period described in subsection (b), the Secretary of Defense submits to Congress a certification that the Secretary has established a program baseline for the Space-Based Infrared System that satisfies the requirements of section 216(a) of Public Law 104–106 (110 Stat. 220), then subsection (b) of this section shall cease to be effective on the date on which the Secretary submits the certification.

SEC. 214. RESEARCH FOR ADVANCED SUBMARINE TECHNOLOGY.

Section 132 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 210) is repealed.

SEC. 215. CLEMENTINE 2 MICRO-SATELLITE DEVELOPMENT PROGRAM.

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated under section 201(3), $50,000,000 shall be available for the Clementine 2 micro-satellite near-Earth asteroid interception mission.

(b) LIMITATION.—None of the funds authorized to be appropriated pursuant to this Act for the global positioning system (GPS) Block II F Satellite system may be obligated until the Secretary of Defense certifies to Congress that—

(1) funds appropriated for fiscal year 1996 for the Clementine 2 Micro-Satellite development program have been obligated in accordance with Public Law 104–106 and the Joint Explanatory Statement of the Committee of Conference accompanying S. 1124 (House Report 104–450 (104th Congress, second session)); and

(2) the Secretary has made available for obligation the funds appropriated for fiscal year 1997 for the Clementine 2 micro-satellite development program in accordance with this section.

SEC. 216. TIER III MINUS UNMANNED AERIAL VEHICLE.

No official of the Department of Defense may enter into a contract for the procurement of (including advance procurement for) a higher number of Dark Star (tier III) low observable, high altitude endurance unmanned aerial vehicles than is necessary to complete procurement of a total of three such vehicles until flight testing has been completed.

SEC. 217. DEFENSE AIRBORNE RECONNAISSANCE PROGRAM.

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress a report comparing the Predator unmanned aerial vehicle program with the Dark Star (tier III) low observable, high altitude endurance unmanned aerial vehicle program. The report shall contain the following:

(1) A comparison of the capabilities of the Predator unmanned aerial vehicle with the capabilities of the Dark Star unmanned aerial vehicle.

(2) A comparison of the costs of the Predator program with the costs of the Dark Star program.

(3) A recommendation on which program should be funded in the event that funds are authorized to be appropriated, and are appropriated, for only one of the two programs in the future.

(b) LIMITATION ON USE OF FUNDS PENDING SUBMISSION OF REPORT.—Funds appropriated pursuant to section 104 may not be obligated for any contract to be entered into after the date of the enactment of this Act for the procurement of Predator unmanned aerial vehicles until the date that is 60 days after the date on which the Secretary of Defense submits the report required by subsection (a).

SEC. 218. COST ANALYSIS OF F–22 AIRCRAFT PROGRAM.

(a) REVIEW OF PROGRAM.—The Secretary of Defense shall direct the Cost Analysis Improvement Group in the Office of the Secretary of Defense to review the F–22 aircraft program, analyze and estimate the production costs of the program, and submit to the Secretary a report on the results of the review. The report shall include—

(1) a comparison of—

(A) the results of the review, with

(B) the results of the last independent estimate of production costs of the program that was prepared by the Cost Analysis Improvement Group in July 1991; and

(2) a description of any major changes in programmatic assumptions that have occurred since the estimate referred to in paragraph (1)(B) was made, including any major change in assumptions regarding the program schedule, the quantity of aircraft to be developed and acquired, and the annual rates of production, together with an assessment of the effects of such changes on the program.

(b) REPORT.—Not later than March 30, 1997, the Secretary shall transmit to the congressional defense committees the report prepared under paragraph (1), together with the Secretary's views on the matters covered by the report.

(c) LIMITATION ON USE OF FUNDS PENDING SUBMISSION OF REPORT.—Not more than 92 percent of the funds appropriated for the F–22 aircraft program pursuant to the authorization of appropriations in section 103(1) may be expended until the Secretary of Defense submits the report required by subsection (b).

SEC. 219. F–22 AIRCRAFT PROGRAM REPORTS.

(a) ANNUAL REPORT.—(1) At the same time as the President submits the budget for a fiscal year to Congress pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on event-based decisionmaking for the F–22 aircraft program for that fiscal year. The Secretary shall submit the report for fiscal year 1997 not later than October 1, 1996.

(2) The report for a fiscal year shall include the following:

(A) A discussion of each decision (known as an ''event-based decision'') that is expected to be made during that fiscal year regarding whether the F–22 program is to proceed into a new phase or into a new administrative subdivision of a phase.

(B) The criteria (known as ''exit criteria'') to be applied, for purposes of making the event-based decision, in determining whether the F–22 aircraft program has demonstrated the specific progress necessary for proceeding into the new phase or administrative subdivision of a phase.

(b) REPORT ON EVENT-BASED DECISIONS.—Not later than 30 days after an event-based decision has been made for the F–22 aircraft program, the Secretary of Defense shall submit to Congress a report on the decision. The report shall include the following:

(1) A discussion of the commitments made, and the commitments to be made, under the program as a result of the decision.

(2) The exit criteria applied for purposes of the decision.

(3) How, in terms of the exit criteria, the program demonstrated the specific progress justifying the decision.

SEC. 220. NONLETHAL WEAPONS AND TECHNOLOGIES PROGRAMS.

(a) FUNDING.—Of the amount authorized to be appropriated under section 201(2), $15,000,000 shall be available for joint service research, development, test, and evaluation of nonlethal weapons and nonlethal technologies under the program element established pursuant to subsection (b).

(b) NEW PROGRAM ELEMENT REQUIRED.—The Secretary of Defense shall establish a new program element for the funds authorized to be appropriated under subsection (a). The funds within that program element shall be administered by the executive agent designated for joint service research, development, test, and evaluation of nonlethal weapons and nonlethal technologies.

(c) LIMITATION PENDING RELEASE OF FUNDS.—(1) None of the funds authorized to be appropriated for the Department of Defense for fiscal year 1997 for foreign comparative testing (program element 605130D) may be obligated until the funds authorized to be appropriated in section 219(d) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 223) are released for obligation by the executive agent referred to in subsection (b).

(2) Not more than 50 percent of the funds authorized to be appropriated for the Department of Defense for fiscal year 1997 for NATO research and development (program element 603790D) may be obligated until the funds authorized to be appropriated in subsection (a) are released for obligation by the executive agent referred to in subsection (b).

SEC. 221. COUNTERPROLIFERATION SUPPORT PROGRAM.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Defense under section 201(4), $176,200,000 shall be available for the Counterproliferation Support Program, of which $75,000,000 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 1997 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 (22 U.S.C. 2751 note). 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.

(c) LIMITATION ON USE OF FUNDS FOR TECHNICAL STUDIES AND ANALYSES PENDING RELEASE OF FUNDS.—(1) None of the funds authorized to be appropriated to the Department of Defense for fiscal year 1997 for program element 605104D, relating to technical studies and analyses, may be obligated or expended until the funds referred to in paragraph (2) have been released to the program manager of the tactical anti-satellite technology program for implementation of that program.

(2) The funds for release referred to in paragraph (1) are as follows:

(A) Funds authorized to be appropriated by section 218(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 222) that are available for the program referred to in paragraph (1).

(B) Funds authorized to be appropriated to the Department for fiscal year 1997 by this Act for the Counterproliferation Support Program that are to be made available for that program.

SEC. 222. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS AND UNIVERSITY-AFFILIATED RESEARCH CENTERS.

(a) CENTERS COVERED.—Funds authorized to be appropriated for the Department of Defense for fiscal year 1997 under 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 1997; and

(B) for each such center, the proposed funding level and the estimated personnel level for fiscal year 1997.

(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 authorized to be appropriated for the Department of Defense for fiscal year 1997 for FFRDCs and UARCs under section 201 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.

SEC. 223. ADVANCED SUBMARINE TECHNOLOGIES.

(a) AMOUNTS AUTHORIZED FROM NAVY RDT&E ACCOUNT.—Of the amount authorized to be appropriated by section 201(2)—

(1) $489,443,000 is available for the design of the submarine previously designated by the Navy as the New Attack Submarine; and

(2) $100,000,000 is available to address the inclusion on future nuclear attack submarines of core advanced technologies, category I advanced technologies, and category II advanced technologies, as such advanced technologies are identified by the Secretary of Defense in Appendix C of the report of the Secretary entitled ''Report on Nuclear Attack Submarine Procurement and Submarine Technology'', submitted to Congress on March 26, 1996.

(b) CERTAIN TECHNOLOGIES TO BE EMPHASIZED.—In using funds made available in accordance with subsection (a)(2), the Secretary of the Navy shall emphasize research, development, test, and evaluation of the technologies identified by the Submarine Technology Assessment Panel (in the final report of the panel to the Assistant Secretary of the Navy for Research, Development, and Acquisition, dated March 15, 1996) as having the highest priority for initial investment.

(c) SHIPYARDS INVOLVED IN TECHNOLOGY DEVELOPMENT.—To further implement the recommendations of the Submarine Technology Assessment Panel, the Secretary of the Navy shall ensure that the shipyards involved in the construction of nuclear attack submarines are also principal participants in the process of developing advanced submarine technologies and including the technologies in future submarine designs. The Secretary shall ensure that those shipyards have access for such purpose (under procedures prescribed by the Secretary) to the Navy laboratories and the Office of Naval Intelligence and (in accordance with arrangements to be made by the Secretary) to the Defense Advanced Research Projects Agency.

(d) FUNDING FOR CONTRACTS UNDER 1996 AGREEMENT AMONG THE NAVY AND SHIPYARDS.—In addition to the purposes of which the amount authorized to be appropriated by section 201(2) are available under paragraphs (1) and (2) of subsection (a), the amounts available under such paragraphs are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the ''Memorandum of Agreement Among the Department of the Navy, Electric Boat Corporation (EB), and Newport News Shipbuilding and Drydock Company (NNS) Concerning the New Attack Submarine'', dated April 5, 1996, for research and development activities under that memorandum of agreement.

SEC. 224. FUNDING FOR BASIC RESEARCH IN NUCLEAR SEISMIC MONITORING.

Of the amount authorized to be appropriated by section 201(3) and made available for arms control implementation for the Air Force (account PE0305145F), $6,500,000 shall be available for basic research in nuclear seismic monitoring.

SEC. 225. CYCLONE CLASS CRAFT SELF-DEFENSE.

(a) STUDY REQUIRED.—Not later than March 31, 1997, the Secretary of Defense shall—

(1) carry out a study of vessel self-defense options for the Cyclone class patrol craft; and

(2) 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.

(b) SOCOM INVOLVEMENT.—The Secretary shall carry out the study through the Commander of the Special Operations Command.

(c) SPECIFIC SYSTEM TO BE EVALUATED.—The study under subsection (a) shall include an evaluation of the BARAK ship self-defense missile system.

SEC. 226. COMPUTER-ASSISTED EDUCATION AND TRAINING.

Of the amount authorized to be appropriated under section 201(4), $10,000,000 shall be available under program element 0601103D for computer-assisted education and training at the Defense Advanced Research Projects Agency.

SEC. 227. SEAMLESS HIGH OFF-CHIP CONNECTIVITY.

Of the amount authorized to be appropriated by this Act, $7,000,000 shall be available for the Defense Advanced Research Projects Agency for research and development on Seamless High Off-Chip Connectivity (SHOCC) under the materials and electronic technology program (PE 0602712E).

SEC. 228. COST-BENEFIT ANALYSIS OF F/A–18E/F AIRCRAFT PROGRAM.

(a) REPORT ON PROGRAM.—Not later than March 30, 1997, the Secretary of Defense shall submit to the congressional defense committees a report on the F/A–18E/F aircraft program.

(b) CONTENT OF REPORT.—The report shall contain the following:

(1) A review of the F/A–18E/F aircraft program.

(2) An analysis and estimate of the production costs of the program for the total number of aircraft realistically expected to be procured at each of three annual production rates as follows:

(A) 18 aircraft.

(B) 24 aircraft.

(C) 36 aircraft.

(3) A comparison of the costs and benefits of the program with the costs and benefits of the F/A–18C/D aircraft program taking into account the operational combat effectiveness of the aircraft.

(c) LIMITATION ON USE OF FUNDS PENDING TRANSMITTAL OF REPORT.—No more than 90 percent of the funds authorized to be appropriated by this Act may be obligated or expended for the procurement of F/A–18E/F aircraft before the date that is 30 days after the date on which the congressional defense committees receive the report required under subsection (a).

SEC. 229. NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL SATELLITE SYSTEM.

(a) FUNDS AVAILABLE FOR POLAR-ORBITING OPERATIONAL ENVIRONMENTAL SATELLITE SYSTEM.—Of the amount authorized to be appropriated under section 201(3), $29,024,000 is available for the National Polar-Orbiting Operational Environmental Satellite System (Space) program (PE 0603434F).

(b) FUNDS AVAILABLE FOR INTERCONTINENTAL BALLISTIC MISSILE.—Of the amount authorized to be appropriated under section 201(3), $212,895,000 is available for the Intercontinental Ballistic Missile—EMD program (PE 0604851F).

SEC. 230. SURGICAL STRIKE VEHICLE FOR USE AGAINST HARDENED AND DEEPLY BURIED TARGETS.

(a) AMOUNT AUTHORIZED.—Of the amount authorized to be appropriated by section 201(4) for counterproliferation support program $3,000,000 shall be made available to the Air Combat Command for research and development into the near-term development of a capability to defeat hardened and deeply buried targets, including tunnels and deeply buried facilities for the production and storage of chemical, biological, and nuclear weapons and their delivery systems.

(b) REQUIREMENTS.—Nothing in this section shall be construed as precluding the application of the requirements of the Competition in Contracting Act.

Subtitle C—Ballistic Missile Defense

SEC. 231. CONVERSION OF ABM TREATY TO MULTILATERAL TREATY.

(a) FISCAL YEAR 1997.—It is the sense of the Senate that during fiscal year 1997, the United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty, including any agreement that would add one or more countries as signatories to the treaty or would otherwise convert the treaty from a bilateral treaty to a multilateral treaty, unless the agreement is entered pursuant to the treaty making power of the President under the Constitution.

(b) RELATIONSHIP TO OTHER LAW.—This section shall not be construed as superseding section 232 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2701) for any fiscal year other than fiscal year 1997, including any fiscal year after fiscal year 1997.

SEC. 232. FUNDING FOR UPPER TIER THEATER MISSILE DEFENSE SYSTEMS.

(a) FUNDING.—Funds authorized to be appropriated under section 201(4) shall be available for purposes and in amounts as follows:

(1) For the Theater High Altitude Area Defense (THAAD) System, $621,798,000.

(2) For the Navy Upper Tier (Theater Wide) system, $304,171,000.

(b) LIMITATION.—None of the funds appropriated or otherwise made available for the Department of Defense pursuant to this or any other Act may be obligated or expended by the Office of the Under Secretary of Defense for Acquisition and Technology for official representation activities, or related activities, until the Secretary of Defense certifies to Congress that—

(1) the Secretary has made available for obligation the funds provided under subsection (a) for the purposes specified in that subsection and in the amounts appropriated pursuant to that subsection; and

(2) the Secretary has included the Navy Upper Tier theater missile defense system in the theater missile defense core program.

SEC. 233. ELIMINATION OF REQUIREMENTS FOR CERTAIN ITEMS TO BE INCLUDED IN THE ANNUAL REPORT ON THE BALLISTIC MISSILE DEFENSE PROGRAM.

Section 224(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2431 note), is amended—

(1) by striking out paragraphs (3), (4), (7), (9), and (10); and

(2) by redesignating paragraphs (5), (6), and (8), as paragraphs (3), (4), and (5), respectively.

SEC. 234. ABM TREATY DEFINED.

In 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, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

SEC. 235. SCORPIUS SPACE LAUNCH TECHNOLOGY PROGRAM.

Of the amount authorized to be appropriated under section 201(4) for the Ballistic Missile Defense Organization for Support Technologies/Follow-On Technologies (PE 63173C), up to $7,500,000 is available for the Scorpius space launch technology program.

SEC. 236. CORPS SAM/MEADS PROGRAM.

(a) FUNDING.—Of the amount authorized to be appropriated under section 201(4)—

(1) $56,200,000 is available for the Corps surface-to-air missile (SAM)/Medium Extended Air Defense System (MEADS) program (PE63869C); and

(2) $515,711,000 is available for Other Theater Missile Defense programs, projects, and activities (PE63872C).

(b) INTERNATIONAL COOPERATION.—The Secretary of Defense may carry out the program referred to in subsection (a) in accordance with the memorandum of understanding entered into on May 25, 1996 by the governments of the United States, Germany, and Italy regarding international cooperation on such program (including any amendments to the memorandum of understanding).

(c) LIMITATIONS.—Not more than $15,000,000 of the amount available for the Corps SAM/MEADS program under subsection (a) may be obligated until the Secretary of Defense submits to the congressional defense committees the following:

(1) An initial program estimate for the Corps SAM/MEADS program, including a tentative schedule of major milestones and an estimate of the total program cost through initial operational capability.

(2) A report on the options associated with the use of existing systems, technologies, and program management mechanisms to satisfy the requirement for the Corps surface-to-air missile, including an assessment of cost and schedule implications in relation to the program estimate submitted under paragraph (1).

(3) A certification that there will be no increase in overall United States funding commitment to the project definition and validation phase of the Corps SAM/MEADS program as a result of the withdrawal of France from participation in the program.

SEC. 237. ANNUAL REPORT ON THREAT OF ATTACK BY BALLISTIC MISSILES CARRYING NUCLEAR, CHEMICAL, OR BIOLOGICAL WARHEADS.

(a) FINDINGS.—Congress makes the following findings:

(1) The worldwide proliferation of ballistic missiles is a potential threat to the United States national interests overseas and challenges United States defense planning.

(2) In the absence of a national missile defense, the United States remains vulnerable to long-range missile threats.

(3) Russia has a ground-based missile defense system deployed around Moscow.

(4) Several countries, including Iraq, Iran, and North Korea may soon be technologically capable of threatening the United States and Russia with ballistic missile attack.

(b) REPORT REQUIRED.—(1) Each year, the President shall submit to Congress a report on the threats to the United States of attack by ballistic missiles carrying nuclear, biological, or chemical warheads.

(2) The President shall submit the first report not later than 180 days after the date of the enactment of this Act.

(c) CONTENT OF REPORT.—The report shall contain the following:

(1) A list of all countries thought to have nuclear, chemical, or biological weapons, the estimated numbers of such weapons that each country has, and the destructive potential of the weapons.

(2) A list of all countries thought to have ballistic missiles, the estimated number of such missiles that each country has, and an assessment of the ability of those countries to integrate their ballistic missile capabilities with their nuclear, chemical, or biological weapons technologies.

(3) A comparison of the United States civil defense capabilities with the civil defense capabilities of each country that has nuclear, chemical, or biological weapons and ballistic missiles capable of delivering such weapons.

(4) An estimate of the number of American fatalities and injuries that could result, and an estimate of the value of property that could be lost, from an attack on the United States by ballistic missiles carrying nuclear, chemical, or biological weapons if the United States were left undefended by a national missile defense system covering all 50 States.

(5) Assuming the use of any existing theater ballistic missile defense system for defense of the United States, a list of the States that would be left exposed to nuclear ballistic missile attacks and the criteria used to determine which States would be left exposed.

(6) The means by which the United States is preparing to defend itself against the potential threat of ballistic missile attacks by North Korea, Iran, Iraq, and other countries obtaining ballistic missiles capable of delivering nuclear, chemical, and biological weapons in the near future.

(7) For each country that is capable of attacking the United States with ballistic missiles carrying a nuclear, biological, or chemical weapon, a comparison of—

(A) the vulnerability of the United States to such an attack if theater missile defenses were used to defend against the attack; and

(B) the vulnerability of the United States to such an attack if a national missile defense were in place to defend against the attack.

SEC. 238. AIR FORCE NATIONAL MISSILE DEFENSE PLAN.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Air Force proposal for a Minuteman based national missile defense system is an important national missile defense option and is worthy of serious consideration; and

(2) the Secretary of Defense should give the Air Force National Missile Defense Proposal full consideration.

(b) REPORT.—Not later than 120 days after the enactment of this Act, the Secretary of Defense shall provide the congressional defense committees a report on the following matters in relation to the Air Force National Missile Defense Proposal:

(1) The cost and operational effectiveness of a system that could be developed pursuant to the Air Forces' plan.

(2) The Arms Control implications of such system.

(3) Growth potential to meet future threats.

(4) The Secretary's recommendation for improvements to the Air Force's plan.

SEC. 239. EXTENSION OF PROHIBITION ON USE OF FUNDS TO IMPLEMENT AN INTERNATIONAL AGREEMENT CONCERNING THEATER MISSILE DEFENSE SYSTEMS.

Section 235(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 232) is amended in the matter preceding paragraph (1) by inserting ''or 1997'' after ''fiscal year 1996''.

Subtitle D—Other Matters

SEC. 241. LIVE-FIRE SURVIVABILITY TESTING OF F–22 AIRCRAFT.

(a) AUTHORITY FOR RETROACTIVE WAIVER.—The Secretary of Defense may, in accordance with section 2366(c) of title 10, United States Code, waive for the F–22 aircraft program the survivability tests required by that section, notwithstanding that such program has entered full-scale engineering development.

(b) REPORTING REQUIREMENT.—(1) If the Secretary of Defense submits in accordance with section 2366(c)(1) of title 10, United States Code, a certification that live-fire testing of the F–22 aircraft would be unreasonably expensive and impractical, the Secretary of Defense shall require that F–22 aircraft components and subsystems be made available for any alternative live-fire test program.

(2) The components and subsystem required by the Secretary to be made available for such a program shall be components that—

(A) could affect the survivability of the F–22 aircraft; and

(B) are sufficiently large and realistic that meaningful conclusions about the survivability of F–22 aircraft can be drawn from the test results.

(c) FUNDING.—Funds available for the F–22 aircraft program may be used for carrying out any alternative live-fire testing program for F–22 aircraft.

SEC. 242. LIVE-FIRE SURVIVABILITY TESTING OF V–22 AIRCRAFT.

(a) AUTHORITY FOR RETROACTIVE WAIVER.—The Secretary of Defense may, in accordance with section 2366(c) of title 10, United States Code, waive for the V–22 aircraft program the survivability tests required by that section, notwithstanding that such program has entered engineering and manufacturing development.

(b) ALTERNATIVE SURVIVABILITY TEST REQUIREMENTS.—If the Secretary of Defense submits in accordance with section 2366(c)(1) of title 10, United States Code, a certification that live-fire testing of the V–22 aircraft would be unreasonably expensive and impractical, the Secretary of Defense shall require that a sufficient number of components critical to the survivability of the V–22 aircraft be tested in an alternative live-fire test program involving realistic threat environments that meaningful conclusions about the survivability of V–22 aircraft can be drawn from the test results.

(c) FUNDING.—Funds available for the V–22 aircraft program may be used for carrying out any alternative live-fire testing program for V–22 aircraft.

SEC. 243. AMENDMENT TO UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Section 802(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1701; 10 U.S.C. 2358 note) is amended by striking out ''fiscal years before the fiscal year in which the institution submits a proposal'' and inserting in lieu thereof ''most recent fiscal years for which complete statistics are available when proposals are requested''.

SEC. 244. DESALTING TECHNOLOGIES.

(a) FINDINGS.—Congress makes the following findings:

(1) Access to scarce fresh water is likely to be a cause of future military conflicts in the Middle East and has a direct impact on stability and security in the region.

(2) The Middle East is an area of vital and strategic importance to the United States.

(3) The United States has played a military role in the Middle East, most recently in the Persian Gulf War, and may likely be called upon again to deter aggression in the region.

(4) United States troops have used desalting technologies to guarantee the availability of fresh water in past deployments in the Middle East.

(5) Adequate, efficient, and cheap access to high-quality fresh water will be vital to maintaining the readiness and sustainability of United States troops, and those of our allies.

(b) SENSE OF SENATE.—It is the sense of the Senate that, as improved access to fresh water will be an important factor in helping prevent future conflicts in the Middle East, the United States should, in cooperation with its allies, promote and invest in technologies to reduce the costs of converting saline water into fresh water.

(c) FUNDING FOR RESEARCH AND DEVELOPMENT.—Of the amounts authorized to be appropriated by this title, the Secretary shall place greater emphasis on making funds available for research and development into efficient and economical processes and methods for converting saline water into fresh water.

Subtitle E—National Oceanographic Partnership

SEC. 251. SHORT TITLE.

This subtitle may be cited as the ''National Oceanographic Partnership Act''.

SEC. 252. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.

(a) PROGRAM REQUIRED.—(1) Subtitle C of title 10, United States Code, is amended by inserting after chapter 663 the following new chapter:

''CHAPTER 665—NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM

''§ 7901. National Oceanographic Partnership Program

''(a) ESTABLISHMENT.—The Secretary of the Navy shall establish a program to be known as the 'National Oceanographic Partnership Program'.

''(b) PURPOSES.—The purposes of the program are as follows:

''(1) To promote the national goals of assuring national security, advancing economic development, protecting quality of life, and strengthening science education and communication through improved knowledge of the ocean.

''(2) To coordinate and strengthen oceanographic efforts in support of those goals by—

''(A) identifying and carrying out partnerships among Federal agencies, institutions of higher education, industry, and other members of the oceanographic scientific community in the areas of data, resources, education, and communication; and

''(B) reporting annually to Congress on the program.

''(c) NATIONAL COASTAL DATA CENTER.—(1) The Secretary of the Navy shall establish a National Coastal Data Center at each of two educational institutions that are either well-established oceanographic institutes or graduate schools of oceanography. The Secretary shall select for the center one institution located at or near the east coast of the continental United States and one institution located at or near the west coast of the continental United States.

''(2) The purpose of the center is to collect, maintain, and make available for research and educational purposes information on coastal oceanographic phenomena.

''(3) The Secretary shall complete the establishment of the National Coastal Data Center not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997.

''§ 7902. National Ocean Research Leadership Council

''(a) COUNCIL.—There is a National Ocean Research Leadership Council (hereinafter in this chapter referred to as the ''Council'').

''(b) MEMBERSHIP.—The Council is composed of the following members:

''(1) The Secretary of the Navy who shall be the chairman of the Council.

''(2) The Administrator of the National Oceanic and Atmospheric Administration, who shall be the vice chairman of the Council.

''(3) The Director of the National Science Foundation.

''(4) The Administrator of the National Aeronautics and Space Administration.

''(5) The Commandant of the Coast Guard.

''(6) With their consent, the President of the National Academy of Sciences, the President of the National Academy of Engineering, and the President of the Institute of Medicine.

''(7) Up to five members appointed by the Chairman from among individuals who will represent the views of ocean industries, institutions of higher education, and State governments.

''(c) TERM OF OFFICE.—The term of office of a member of the Council appointed under paragraph (7) of subsection (b) shall be two years, except that any person appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

''(d) ANNUAL REPORT.—Not later than March 1 of each year, the Council shall submit to Congress a report on the National Oceanographic Partnership Program. The report shall contain the following:

''(1) A description of activities of the program carried out during the fiscal year before the fiscal year in which the report is prepared. The description also shall include a list of the members of the Ocean Research Partnership Coordinating Group (established pursuant to subsection (e)), the Ocean Research Advisory Panel (established pursuant to subsection (f)), and any working groups in existence during the fiscal year covered.

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

''(3) 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.

''(4) A description of the involvement of the program with Federal interagency coordinating entities.

''(5) The amounts requested, in the budget submitted to Congress pursuant to section 1105(a) of title 31 for the fiscal year following the fiscal year in which the report is prepared, for the programs, projects, and activities of the program and the estimated expenditures under such programs, projects, and activities during such following fiscal year.

''(e) OCEAN RESEARCH PARTNERSHIP COORDINATING GROUP.—(1) The Council shall establish an Ocean Research Partnership Coordinating Group consisting of not more than 10 members appointed by the Council from among officers and employees of the Government, persons employed in the maritime industry, educators at institutions of higher education, and officers and employees of State governments.

''(2) The Council shall designate a member of the Coordinating Group to serve as Chairman of the group.

''(3) The Council shall assign to the Coordinating Group responsibilities that the Council considers appropriate. The Coordinating Group shall be subject to the authority, direction, and control of the Council in the performance the assigned responsibilities.

''(f) OCEAN RESEARCH ADVISORY PANEL.—(1) The Council shall establish an Ocean Research Advisory Panel consisting of members appointed by the Council from among persons eminent in the fields of oceanography, ocean sciences, or marine policy (or related fields) who are representative of the interests of governments, institutions of higher education, and industry in the matters covered by the purposes of the National Oceanographic Partnership Program (as set forth in section 7901(b) of this title).

''(2) The Council shall assign to the Advisory Panel responsibilities that the Council consider appropriate. The Coordinating Group shall be subject the authority, direction, and control of the Council to in the performance of the assigned responsibilities.

''§ 7903. Partnership program projects

''(a) SELECTION OF PARTNERSHIP PROJECTS.—The National Ocean Research Leadership Council shall select the partnership projects that are to be considered eligible for support under the National Oceanographic Partnership Program. A project partnership may be established by any instrument that the Council considers appropriate, including a memorandum of understanding, a cooperative research and development agreement, and any similar instrument.

''(b) CONTRACT AND GRANT AUTHORITY.—(1) The Council may authorize one or more of the departments and agencies of the Federal Government represented on the Council to enter into contracts or to make grants for the support of partnership projects selected under subsection (a).

''(2) Funds appropriated or otherwise made available for the National Oceanographic Partnership Program may be used for contracts entered into or grants awarded under authority provided pursuant to paragraph (1).''.

(2) The table of chapters at the beginning of subtitle C of title 10, United States Code, and at the beginning of part IV of such subtitle, are each amended by inserting after the item relating to chapter 663 the following:

''665. National Oceanographic Partnership Program ..... 7901''.

(b) INITIAL APPOINTMENTS OF COUNCIL MEMBERS.—The Chairman of the National Ocean Research Leadership Council established under section 7902 of title 10, United States Code, as added by subsection (a)(1), shall make the appointments required by subsection (b)(7) of such section not later than December 1, 1996.

(c) FIRST ANNUAL REPORT OF NATIONAL OCEAN RESEARCH LEADERSHIP COUNCIL.—The first annual report required by section 7902(d) of title 10, United States Code, as added by subsection (a)(1), shall be submitted to Congress not later than March 1, 1997. The first report shall include, in addition to the information required by such section, information about the terms of office, procedures, and responsibilities of the Ocean Research Advisory Panel established by the Council.

(d) FUNDING.—Of the funds authorized to be appropriated by section 201(2), $13,000,000 shall be available for the National Oceanographic Partnership Program.

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 1997 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, $18,147,623,000.

(2) For the Navy, $20,298,339,000.

(3) For the Marine Corps, $2,279,477,000.

(4) For the Air Force, $17,949,339,000.

(5) For Defense-wide activities, $9,863,942,000.

(6) For the Army Reserve, $1,094,436,000.

(7) For the Naval Reserve, $851,027,000.

(8) For the Marine Corps Reserve, $110,367,000.

(9) For the Air Force Reserve, $1,493,553,000.

(10) For the Army National Guard, $2,218,477,000.

(11) For the Air National Guard, $2,699,173,000.

(12) For the Defense Inspector General, $136,501,000.

(13) For the United States Court of Appeals for the Armed Forces, $6,797,000.

(14) For Environmental Restoration, Army, $356,916,000.

(15) For Environmental Restoration, Navy, $302,900,000.

(16) For Environmental Restoration, Air Force, $414,700,000.

(17) For Environmental Restoration, Defense-wide, $258,500,000.

(18) For Drug Interdiction and Counter-drug Activities, Defense-wide, $793,824,000.

(19) For Medical Programs, Defense, $9,375,988,000.

(20) For Cooperative Threat Reduction programs, $327,900,000.

(21) For Overseas Humanitarian, Disaster, and Civic Aid programs, $49,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1997 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, $947,900,000.

(2) For the National Defense Sealift Fund, $1,268,002,000.

SEC. 303. DEFENSE NUCLEAR AGENCY.

Of the amounts authorized to be appropriated for the Department of Defense under section 301(5), $88,083,000 shall be available for the Defense Nuclear Agency.

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 1997 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.

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to this Act, $14,526,000 may be made available to the Civil Air Patrol Corporation.

(b) AMOUNT FOR SEARCH AND RESCUE OPERATIONS.—Of the amount made available pursuant to subsection (a), not more than 75 percent of such amount may be available for costs other than the costs of search and rescue missions.

SEC. 306. SR–71 CONTINGENCY RECONNAISSANCE FORCE.

Of the funds authorized to be appropriated by section 301(4), $30,000,000 is authorized to be made available for the SR–71 contingency reconnaissance force.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 311. FUNDING FOR SECOND AND THIRD MARITIME PREPOSITIONING SHIPS OUT OF NATIONAL DEFENSE SEALIFT FUND.

(a) NATIONAL DEFENSE SEALIFT FUND.—To the extent provided in appropriations Acts, funds in the National Defense Sealift Fund may be obligated and expended for the purchase and conversion, or construction, of a total of three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 302(2), $240,000,000 is authorized to be appropriated for the purpose stated in subsection (a).

SEC. 312. NATIONAL DEFENSE SEALIFT FUND.

Section 2218 of title 10, United States Code, is amended—

(1) in subsection (c)(1)(E), by striking out '', but only for vessels built in United States shipyards'';

(2) in subsection (f)—

(A) in paragraph (1)—

(i) by striking out ''five'' and inserting in lieu thereof ''ten''; and

(ii) by striking out ''(c)(1)'' and inserting in lieu thereof ''(c)(1)(A)''; and

(B) in paragraph (2), by striking out ''(c)(1)'' and inserting in lieu thereof ''(c)(1)(A)''; and

(3) in subsection (j), by striking out ''(c)(1)(A), (B), (C), and (D)'' and inserting in lieu thereof ''(c)(1)(A), (B), (C), (D), and (E)''.

SEC. 313. NONLETHAL WEAPONS CAPABILITIES.

Of the amount authorized to be appropriated under section 301, $5,000,000 shall be available for the immediate procurement of nonlethal weapons capabilities to meet existing deficiencies in inventories of such capabilities, of which—

(1) $2,000,000 shall be available for the Army; and

(2) $3,000,000 shall be available for the Marine Corps.

SEC. 314. RESTRICTION ON COAST GUARD FUNDING.

No funds are authorized by this Act to be appropriated to the Department of Defense for the Coast Guard within budget subfunction 054.

SEC. 315. OCEANOGRAPHIC SHIP OPERATIONS AND DATA ANALYSIS.

(a) FUNDS AUTHORIZED.—Of the funds provided by section 301(2), an additional $6,200,000 may be authorized for the reduction, storage, modeling and conversion of oceanographic data for use by the Navy, consistent with Navy's requirements.

(b) PURPOSE.—Such funds identified in subsection (a) shall be in addition to such amounts already provided for this purpose in the budget request.

Subtitle C—Depot-Level Activities

SEC. 321. DEPARTMENT OF DEFENSE PERFORMANCE OF CORE LOGISTICS FUNCTIONS.

Section 2464(a) of title 10, United States Code is amended by striking out paragraph (2) and inserting in lieu thereof the following:

''(2) The Secretary of Defense shall maintain within the Department of Defense those logistics activities and capabilities that are necessary to provide the logistics capability described in paragraph (1). The logistics activities and capabilities maintained under this paragraph shall include all personnel, equipment, and facilities that are necessary to maintain and repair the weapon systems and other military equipment identified under paragraph (3).

''(3) The Secretary of Defense, in consultation with the Joint Chiefs of Staff, shall identify the weapon systems and other military equipment that it is necessary to maintain and repair within the Department of Defense in order to maintain within the department the capability described in paragraph (1).

''(4) The Secretary shall require that the core logistics functions identified pursuant to paragraph (3) be performed in Government-owned, Government-operated facilities of the Department of Defense by Department of Defense personnel using Department of Defense equipment.''.

SEC. 322. INCREASE IN PERCENTAGE LIMITATION ON CONTRACTOR PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOADS.

(a) FIFTY PERCENT LIMITATION.—Section 2466(a) of title 10, United States Code, is amended by striking out ''40 percent'' in the first sentence and inserting in lieu thereof ''50 percent''.

(b) INCREASE DELAYED PENDING RECEIPT OF STRATEGIC PLAN FOR THE PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR.—(1) Notwithstanding the first sentence of section 2466(a) of title 10, United States Code (as amended by subsection (a)), until the strategic plan for the performance of depot-level maintenance and repair is submitted under section 325, not more than 40 percent of the funds made available in a fiscal year to a military department or a Defense Agency for depot-level maintenance and repair workload may be used to contract for the performance by non-Federal Government personnel of such workload for the military department or the Defense Agency.

(2) In paragraph (1), the term ''depot-level maintenance and repair workload'' has the meaning given such term in section 2466(f) of title 10, United States Code.

SEC. 323. REPORT ON DEPOT-LEVEL MAINTENANCE AND REPAIR.

Subsection (e) of section 2466 of title 10, United States Code, is amended to read as follows:

''(e) REPORT.—(1) Not later than February 1 of each year, the Secretary of Defense shall submit to Congress a report identifying, for each military department and Defense Agency—

''(A) the percentage of the funds referred to in subsection (a) that were used during the preceding fiscal year for performance of depot-level maintenance and repair workloads by Federal Government personnel; and

''(B) the percentage of the funds referred to in subsection (a) that were used during the preceding fiscal year to contract for the performance of depot-level maintenance and repair workloads by non-Federal Government personnel.

''(2) Not later than 90 days after the date on which the Secretary submits the annual report under paragraph (1), the Comptroller General shall submit to the Committees on Armed Services and on Appropriations of the Senate and the Committees on National Security and on Appropriations of the House of Representatives the Comptroller's views on whether the Department of Defense has complied with the requirements of subsection (a) for the fiscal year covered by the report.''.

SEC. 324. DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOAD DEFINED.

Section 2466 of title 10, United States Code, is amended by adding at the end the following:

''(f) DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOAD DEFINED.—In this section, the term 'depot-level maintenance and repair workload'—

''(1) means material maintenance requiring major overhaul or complete rebuilding of parts, assemblies, or subassemblies, and testing and reclamation of equipment as necessary, including all aspects of software maintenance;

''(2) includes those portions of interim contractor support, contractor logistics support, or any similar contractor support for the performance of services described in paragraph (1); and

''(3) does not include ship modernization and other repair activities that—

''(A) are funded out of appropriations available to the Department of Defense for procurement; and

''(B) were not considered to be depot-level maintenance and repair workload activities -

under regulations of the Department of Defense in effect on February 10, 1996.''.

SEC. 325. STRATEGIC PLAN RELATING TO DEPOT-LEVEL MAINTENANCE AND REPAIR.

(a) STRATEGIC PLAN REQUIRED.—(1) As soon as possible after 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 strategic plan for the performance of depot-level maintenance and repair.

(2) The strategic plan shall cover the performance of depot-level maintenance and repair for the Department of Defense in fiscal years 1998 through 2007. The plan shall provide for maintaining the capability described in section 2464 of title 10, United States Code.

(b) ADDITIONAL MATTERS COVERED.—The Secretary of Defense shall include in the strategic plan submitted under subsection (a) a detailed discussion of the following matters:

(1) For each military department, as determined after consultation with the Secretary of that military department and the Chairman of the Joint Chiefs of Staff, the depot-level maintenance and repair activities and workloads that are necessary to perform within the Department of Defense in order to maintain the core logistics capability required by section 2464 of title 10, United States Code.

(2) For each military department, as determined after consultation with the Secretary of that military department and the Chairman of the Joint Chiefs of Staff, the depot-level maintenance and repair activities and workloads that the Secretary of Defense plans to perform within the Department of Defense in order to satisfy the requirements of section 2466 of title 10, United States Code.

(3) For the activities identified pursuant to paragraphs (1) and (2), a discussion of which specific existing weapon systems or other existing equipment, and which specific planned weapon systems or other planned equipment, are weapon systems or equipment for which it is necessary to maintain a core depot-level maintenance and repair capability within the Department of Defense.

(4) The core capabilities, including sufficient skilled personnel, equipment, and facilities, that—

(A) are of sufficient size—

(i) to ensure a ready and controlled source of the technical competencies, and the maintenance and repair capabilities, that are 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) are assigned a sufficient workload to ensure cost efficiency and technical proficiency in peacetime.

(5) The environmental liability issues associated with any projected privatization of the performance of depot-level maintenance and repair, together with detailed projections of the cost to the United States of satisfying environmental liabilities associated with such privatized performance.

(6) Any significant issues and risks concerning exchange of technical data on depot-level maintenance and repair between the Federal Government and the private sector.

(7) Any deficiencies in Department of Defense financial systems that hinder effective evaluation of competitions (whether among private-sector sources or among depot-level activities owned and operated by the Department of Defense and private-sector sources), and merit-based selections (among depot-level activities owned and operated by the Department of Defense), for a depot-level maintenance and repair workload, together with plans to correct such deficiencies.

(9) The type of facility (whether a private sector facility or a Government owned and operated facility) in which depot-level maintenance and repair of any new weapon systems that will reach full scale development is to be performed.

(10) The workloads necessary to maintain Government owned and operated depots at 50 percent, 70 percent, and 85 percent of operating capacity.

(11) A plan for improving the productivity of the Government owned and operated depot maintenance and repair facilities, together with management plans for changing administrative and missions processes to achieve productivity gains, a discussion of any barriers to achieving desired productivity gains at the depots, and any necessary changes in civilian personnel policies that are necessary to improve productivity.

(12) The criteria used to make decisions on whether to convert to contractor performance of depot-level maintenance and repair, the officials responsible for making the decision to convert, and any depot-level maintenance and repair workloads that are proposed to be converted to contractor performance before the end of fiscal year 2001.

(13) A detailed analysis of savings proposed to be achieved by contracting for the performance of depot-level maintenance and repair workload by private sector sources, together with the report on the review of the analysis (and the assumptions underlying the analysis) provided for under subsection (c).

(c) INDEPENDENT REVIEW OF SAVINGS ANALYSIS.—The Secretary shall provide for a public accounting firm (independent of Department of Defense influence) to review the analysis referred to in subsection (b)(13) and the assumptions underlying the analysis for submission to the committees referred to in subsection (a) and to the Comptroller General.

(d) REVIEW BY COMPTROLLER GENERAL.—(1) At the same time that the Secretary of Defense transmits the strategic plan under subsection (a), the Secretary shall transmit a copy of the plan (including the report of the public accounting firm provided for under subsection (c)) to the Comptroller General of the United States and make available to the Comptroller General all information used by the Department of Defense in preparing the plan and analysis.

(2) Not later than 60 days after the date on which the Secretary submits the strategic plan required by subsection (a), the Comptroller General shall transmit to Congress a report containing a detailed analysis of the strategic plan.

(e) ADDITIONAL REPORTING REQUIREMENT FOR COMPTROLLER GENERAL.—Not later than February 1, 1997, the Comptroller General shall submit to the committees referred to in subsection (a) a report on the effectiveness of the oversight by the Department of Defense of the management of existing contracts with private sector sources of depot-level maintenance and repair of weapon systems, the adequacy of Department of Defense financial and information systems to support effective decisions to contract for private sector performance of depot-level maintenance and repair workloads that are being or have been performed by Government personnel, the status of reengineering efforts at depots owned and operated by the United States, and any overall management weaknesses within the Department of Defense that would hinder effective use of contracting for the performance of depot-level maintenance and repair.

SEC. 326. ANNUAL REPORT ON COMPETITIVE PROCEDURES.

(a) ANNUAL REPORT.—Section 2469 of title 10, United States Code, is amended by adding at the end the following:

''(d) ANNUAL REPORT.—Not later than March 31 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 describing the competitive procedures used during the preceding fiscal year for competitions referred to in subsection (a).''.

(b) FIRST REPORT.—The first report under subsection (d) of section 2469 of title 10, United States Code (as added by subsection (a)), shall be submitted not later than March 31, 1997.

SEC. 327. ANNUAL RISK ASSESSMENTS REGARDING PRIVATE PERFORMANCE OF DEPOT-LEVEL MAINTENANCE WORK.

(a) REPORTS.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following:

''§ 2473. Reports on privatization of depot-level maintenance work

''(a) ANNUAL RISK ASSESSMENTS.—(1) Not later than January 1 of each year, the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on the privatization of the performance of the various depot-level maintenance workloads of the Department of Defense.

''(2) The report shall include with respect to each depot-level maintenance workload the following:

''(A) An assessment of the risk to the readiness, sustainability, and technology of the Armed Forces in a full range of anticipated scenarios for peacetime and for wartime of—

''(i) using public entities to perform the workload;

''(ii) using private entities to perform the workload; and

''(iii) using a combination of public entities and private entities to perform the workload.

''(B) The recommendation of the Joint Chiefs as to whether public entities, private entities, or a combination of public entities and private entities could perform the workload without jeopardizing military readiness.

''(3) Not later than 30 days after receiving the report under paragraph (2)(B), the Secretary shall transmit the report to Congress. If the Secretary does not concur in the recommendation made by the Joint Chiefs pursuant to paragraph (2)(B), the Secretary shall include in the report under this paragraph—

''(A) the recommendation of the Secretary; and

''(B) a justification for the differences between the recommendation of the Joint Chiefs and the recommendation of the Secretary.

''(b) ANNUAL REPORT ON PROPOSED PRIVATIZATION.—(1) Not later than February 28 of each year, the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on each depot-level maintenance workload of the Department of Defense that the Joint Chiefs believe could be converted to performance by private entities during the next fiscal year without jeopardizing military readiness.

''(2) Not later than 30 days after receiving a report under paragraph (1), the Secretary shall transmit the report to Congress. If the Secretary does not concur in the proposal of the Joint Chiefs in the report, the Secretary shall include in the report under this paragraph—

''(A) each depot-level maintenance workload of the Department that the Secretary proposes to be performed by private entities during the fiscal year concerned; and

''(B) a justification for the differences between the proposal of the Joint Chiefs and the proposal of the Secretary.''.

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

''2473. Reports on privatization of depot-level maintenance work.''.

SEC. 328. EXTENSION OF AUTHORITY FOR NAVAL SHIPYARDS AND AVIATION DEPOTS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

(a) EXTENSION OF AUTHORITY.—Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) is amended by striking out ''expires on September 30, 1995'' and inserting in lieu thereof ''may not be exercised after September 30, 1997''.

(b) REVIVAL OF EXPIRED AUTHORITY.—The authority provided in section 1425 of the National Defense Authorization Act for Fiscal Year 1991 may be exercised after September 30, 1995, subject to the limitation in subsection (e) of such section as amended by subsection (a) of this section.

SEC. 329. LIMITATION ON USE OF FUNDS FOR F–18 AIRCRAFT DEPOT MAINTENANCE.

Of the amounts authorized to be appropriated by section 301(2), not more than $5,000,000 may be used for the performance of depot maintenance on F–18 aircraft until 30 days after the date on which the Secretary of Defense submits to the congressional defense committees a report on aviation depot maintenance. The report shall contain the following:

(1) The results of a competition which the Secretary shall conduct between all Department of Defense aviation depots for selection for the performance of depot maintenance on F–18 aircraft.

(2) An analysis of the total cost of transferring the F–18 aircraft depot maintenance workload to an aviation depot not performing such workload as of the date of the enactment of this Act.

SEC. 330. DEPOT MAINTENANCE AND REPAIR AT FACILITIES CLOSED BY BRAC.

The Secretary may not contract for the performance by a private sector source of any of the depot maintenance workload performed as of the date of the enactment of this Act at Sacramento Air Logistics Center or the San Antonio Air Logistics Center until the Secretary—

(1) publishes criteria for the evaluation of bids and proposals to perform such workload;

(2) conducts a competition for the workload between public and private entities;

(3) pursuant to the competition, determines in accordance with the criteria published under paragraph (1) that an offer submitted by a private sector source to perform the workload is the best value for the United States; and

(4) submits to Congress the following—

(A) a detailed comparison of the cost of the performance of the workload by civilian employees of the Department of Defense with the cost of the performance of the workload by that source; and

(B) an analysis which demonstrates that the performance of the workload by that source will provide the best value for the United States over the life of the contract.

Subtitle D—Environmental Provisions

SEC. 341. ESTABLISHMENT OF SEPARATE ENVIRONMENTAL RESTORATION ACCOUNTS FOR EACH MILITARY DEPARTMENT.

(a) ESTABLISHMENT.—(1) Section 2703 of title 10, United States Code, is amended to read as follows:

''§ 2703. Environmental restoration accounts

''(a) ESTABLISHMENT OF ACCOUNTS.—There are hereby established in the Department of Defense the following accounts:

''(1) An account to be known as the 'Defense Environmental Restoration Account'.

''(2) An account to be known as the 'Army Environmental Restoration Account'.

''(3) An account to be known as the 'Navy Environmental Restoration Account'.

''(4) An account to be known as the 'Air Force Environmental Restoration Account'.

''(b) OBLIGATION OF AUTHORIZED AMOUNTS.—Funds authorized for deposit in an account under subsection (a) may be obligated or expended from the account only in order to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law. Funds so authorized shall remain available until expended.

''(c) BUDGET REPORTS.—In proposing the budget for any fiscal year pursuant to section 1105 of title 31, the President shall set forth separately the amounts requested for environmental restoration programs of the Department of Defense and of each of the military departments under this chapter and under any other Act.

''(d) AMOUNTS RECOVERED.—The following amounts shall be credited to the appropriate environmental restoration account:

''(1) Amounts recovered under CERCLA for response actions.

''(2) Any other amounts recovered from a contractor, insurer, surety, or other person to reimburse the Department of Defense or a military department for any expenditure for environmental response activities.

''(e) PAYMENTS OF FINES AND PENALTIES.—None of the funds appropriated to the Defense Environmental Restoration Account for fiscal years 1995 through 1999, or to any environmental restoration account of a military department for fiscal years 1997 through 1999, may be used for the payment of a fine or penalty (including any supplemental environmental project carried out as part of such penalty) imposed against the Department of Defense or a military department unless the act or omission for which the fine or penalty is imposed arises out of an activity funded by the environmental restoration account concerned and the payment of the fine or penalty has been specifically authorized by law.''.

(2) The table of sections at the beginning of chapter 160 of title 10, United States Code, is amended by striking out the item relating to section 2703 and inserting in lieu thereof the following new item:

''2703. Environmental restoration accounts.''.

(b) REFERENCES.—Any reference to the Defense Environmental Restoration Account in any Federal law, Executive Order, regulation, delegation of authority, or document of or pertaining to the Department of Defense shall be deemed to refer to the appropriate environmental restoration account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).

(c) CONFORMING AMENDMENT.—Section 2705(g)(1) of title 10, United States Code, is amended by striking out ''the Defense Environmental Restoration Account'' and inserting in lieu thereof ''the environmental restoration account concerned''.

(d) TREATMENT OF UNOBLIGATED BALANCES.—Any unobligated balances that remain in the Defense Environmental Restoration Account under section 2703(a) of title 10, United States Code, as of the effective date specified in subsection (e) shall be transferred on such date to the Defense Environmental Restoration Account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) October 1, 1996; or

(2) the date of the enactment of this Act.

SEC. 342. DEFENSE CONTRACTORS COVERED BY REQUIREMENT FOR REPORTS ON CONTRACTOR REIMBURSEMENT COSTS FOR RESPONSE ACTIONS.

Section 2706(d)(1)(A) of title 10, United States Code, is amended by striking out ''100'' and inserting in lieu thereof ''20''.

SEC. 343. REPEAL OF REDUNDANT NOTIFICATION AND CONSULTATION REQUIREMENTS REGARDING REMEDIAL INVESTIGATIONS AND FEASIBILITY STUDIES AT CERTAIN INSTALLATIONS TO BE CLOSED UNDER THE BASE CLOSURE LAWS.

Section 334 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1340; 10 U.S.C. 2687 note) is repealed.

SEC. 344. PAYMENT OF CERTAIN STIPULATED CIVIL PENALTIES.

(a) AUTHORITY.—The Secretary of Defense may pay to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) stipulated civil penalties assessed under CERCLA in amounts, and using funds, as follows:

(1) Using funds authorized to be appropriated to the Army Environmental Restoration Account established under section 2703(a)(1)(B) of title 10, United States Code, as amended by section 341 of this Act, $34,000 assessed against Fort Riley, Kansas, under CERCLA.

(2) Using funds authorized to be appropriated to the Navy Environmental Restoration Account established under section 2703(a)(1)(C) of that title, as so amended, $30,000 assessed against the Naval Education and Training Center, Newport, Rhode Island, under CERCLA.

(3) Using funds authorized to be appropriated to the Air Force Environmental Restoration Account established under section 2703(a)(1)(D) of that title, as so amended—

(A) $550,000 assessed against the Massachusetts Military Reservation, Massachusetts, under CERCLA, of which $500,000 shall be for the supplemental environmental project for a groundwater modeling project that constitutes a part of the negotiated settlement of a penalty against the reservation; and

(B) $10,000 assessed against F.E. Warren Air Force Base, Wyoming, under CERCLA.

(4) Using funds authorized to be appropriated to the Department of Defense Base Closure Account 1990 by section 2406(a)(13) of this Act, $50,000 assessed against Loring Air Force Base, Maine, under CERCLA.

(b) CERCLA DEFINED.—In this section, the term ''CERCLA'' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

SEC. 345. AUTHORITY TO WITHHOLD LISTING OF FEDERAL FACILITIES ON NATIONAL PRIORITIES LIST.

Section 120(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(d)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking ''Not later than 18 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986, the Administrator'' and inserting the following:

''(1) IN GENERAL.—The Administrator''; and

(3) by striking ''Such criteria'' and all that follows through the end of the subsection and inserting the following:

''(2) APPLICATION OF CRITERIA.—

''(A) IN GENERAL.—Subject to subparagraph (B), the criteria referred to in paragraph (1) shall be applied in the same manner as the criteria are applied to facilities that are

owned or operated by persons other than the United States.

''(B) RESPONSE UNDER OTHER LAW.—That the head of the department, agency, or instrumentality that owns or operates a facility has arranged with the Administrator or appropriate State authorities to respond appropriately, under authority of a law other than this Act, to a release or threatened release of a hazardous substance shall be an appropriate factor to be taken into consideration for the purposes of section 105(a)(8)(A).

''(3) COMPLETION.—Evaluation and listing under this subsection shall be completed in accordance with a reasonable schedule established by the Administrator.''.

SEC. 346. AUTHORITY TO TRANSFER CONTAMINATED FEDERAL PROPERTY BEFORE COMPLETION OF REQUIRED REMEDIAL ACTIONS.

(a) IN GENERAL.—Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended—

(1) by redesignating subparagraph (A) as clause (i) and clauses (i), (ii), and (iii) of that subparagraph as subclauses (I), (II), and (III), respectively;

(2) by striking ''After the last day'' and inserting the following:

''(A) IN GENERAL.—After the last day'';

(3) by redesignating subparagraph (B) as clause (ii) and clauses (i) and (ii) of that subparagraph as subclauses (I) and (II), respectively;

(4) by redesignating subparagraph (C) as clause (iii);

(5) by striking ''For purposes of subparagraph (B)(i)'' and inserting the following:

''(B) COVENANT REQUIREMENTS.—For purposes of subparagraphs (A)(ii)(I) and (C)(iii)'';

(6) in subparagraph (B), as designated by paragraph (5), by striking ''subparagraph (B)'' each place it appears and inserting ''subparagraph (A)(ii)''; and

(7) by adding at the end the following:

''(C) DEFERRAL.—

''(i) IN GENERAL.—The Administrator (in the case of real property at a Federal facility that is listed on the National Priorities List) or the Governor of the State in which the facility is located (in the case of real property at a Federal facility not listed on the National Priorities List) may defer the requirement of subparagraph (A)(ii)(I) with respect to the property if the Administrator or the Governor, as the case may be, determines that—

''(I) the property is suitable for transfer for the use intended by the transferee;

''(II) the deed or other agreement proposed to govern the transfer between the United States and the transferee of the property contains the assurances set forth in clause (ii); and

''(III) the Federal agency requesting deferral has provided notice, by publication in a newspaper of general circulation in the vicinity of the property, of the proposed transfer and of the opportunity for the public to submit, within a period of not less than 30 days after the date of the notice, written comments on the finding by the agency that the property is suitable for transfer.

''(ii) REMEDIAL ACTION ASSURANCES.—With regard to a release or threatened release of a hazardous substance for which a Federal agency is potentially responsible under this section, the deed or other agreement proposed to govern the transfer shall contain assurances that—

''(I) provide for any necessary restrictions to ensure the protection of human health and the environment;

''(II) provide that there will be restrictions on use necessary to ensure required remedial investigations, remedial actions, and oversight activities will not be disrupted;

''(III) provide that all appropriate remedial action will be taken and identify the schedules for investigation and completion of all necessary remedial action; and

''(IV) provide that the Federal agency responsible for the property subject to transfer will submit a budget request to the Director of the Office of Management and Budget that adequately addresses schedules, subject to congressional authorizations and appropriations.

''(iii) WARRANTY.—When all remedial action necessary to protect human health and the environment with respect to any substance remaining on the property on the date of transfer has been taken, the United States shall execute and deliver to the transferee an appropriate document containing a warranty that all such remedial action has been completed, and the making of the warranty shall be considered to satisfy the requirement of subparagraph (A)(ii)(I).

''(iv) FEDERAL RESPONSIBILITY.—A deferral under this subparagraph shall not increase, diminish, or affect in any manner any rights or obligations of a Federal agency with respect to a property transferred under this subparagraph.''.

(b) CONTINUED APPLICATION OF STATE LAW.—The first sentence of section 120(a)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(a)(4)) is amended by inserting ''or facilities that are the subject of a deferral under subsection (h)(3)(C)'' after ''United States''.

SEC. 347. CLARIFICATION OF MEANING OF UNCONTAMINATED PROPERTY FOR PURPOSES OF TRANSFER BY THE UNITED STATES.

Section 120(h)(4)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(4)(A)) is amended in the first sentence by striking ''stored for one year or more, known to have been released,'' and inserting ''known to have been released''.

SEC. 348. SHIPBOARD SOLID WASTE CONTROL.

(a) IN GENERAL.—Section 3(c) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(c)) is amended—

(1) in paragraph (1), by striking ''Not later than'' and inserting ''Except as provided in paragraphs (2) and (3), not later than''; and

(2) by striking paragraphs (2), (3), and (4) and inserting the following:

''(2)(A) Subject to subparagraph (B), any ship described in subparagraph (C) may discharge, without regard to the special area requirements of Regulation 5 of Annex V to the Convention, the following non-plastic, non-floating garbage:

''(i) A slurry of seawater, paper, cardboard, or food waste that is capable of passing through a screen with openings no larger than 12 millimeters in diameter.

''(ii) Metal and glass that have been shredded and bagged so as to ensure negative buoyancy.

''(B)(i) Garbage described subparagraph (A)(i) may not be discharged within 3 nautical miles of land.

''(ii) Garbage described in subparagraph (A)(ii) may not be discharged within 12 nautical miles of land.

''(C) This paragraph applies to any ship that is owned or operated by the Department of the Navy that, as determined by the Secretary of the Navy—

''(i) has unique military design, construction, manning, or operating requirements; and

''(ii) cannot fully comply with the special area requirements of Regulation 5 of Annex V to the Convention because compliance is not technologically feasible or would impair the operations or operational capability of the ship.

''(3)(A) Not later than December 31, 2000, the Secretary of the Navy shall prescribe and publish in the Federal Register standards to ensure that each ship described in subparagraph (B) is, to the maximum extent practicable without impairing the operations or operational capabilities of the ship, operated in a manner that is consistent with the special area requirements of Regulation 5 of Annex V to the Convention.

''(B) Subparagraph (A) applies to surface ships that are owned or operated by the Department of the Navy that the Secretary plans to decommission during the period beginning on January 1, 2001, and ending on December 31, 2005.

''(C) At the same time that the Secretary publishes standards under subparagraph (A), the Secretary shall publish in the Federal Register a list of the ships covered by subparagraph (B).''.

(b) SENSE OF CONGRESS.—

(1) COMPLIANCE WITH ANNEX V.—It is the sense of Congress that it should be an objective of the Navy to achieve full compliance with Annex V to the Convention as part of the Navy's development of ships that are environmentally sound.

(2) DEFINITION.—In this subsection, the terms ''Convention'' and ''ship'' have the meanings provided in section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

(c) REPORT ON COMPLIANCE WITH ANNEX V TO THE CONVENTION.—The Secretary of Defense shall include in each report on environmental compliance activities submitted to Congress under section 2706(b) of title 10, United States Code, the following information:

(1) A list of the ships types, if any, for which the Secretary of the Navy has made the determination referred to in paragraph (2)(C) of section 3(c) of the Act to Prevent Pollution from Ships, as amended by subsection (a)(2) of this section.

(2) A list of ship types which the Secretary of the Navy has determined can comply with Regulation 5 of Annex V to the Convention.

(3) A summary of the progress made by the Navy in implementing the requirements of paragraphs (2) and (3) such section 3(c), as so amended.

(4) A description of any emerging technologies offering the potential to achieve full compliance with Regulation 5 of Annex V to the Convention.

(d) PUBLICATION REGARDING SPECIAL AREA DISCHARGES.—Section 3(e)(4) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(e)(4)) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

''(A) The amount and nature of the discharges in special areas, not otherwise authorized under this title, during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy.''.

SEC. 349. COOPERATIVE AGREEMENTS FOR THE MANAGEMENT OF CULTURAL RESOURCES ON MILITARY INSTALLATIONS.

(a) AUTHORITY TO ENTER INTO AGREEMENTS.—Chapter 159 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2694. Cooperative agreements for management of cultural resources on military installations

''(a) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary of Defense and the Secretaries of the military departments may enter into cooperative agreements with States, local governments, and appropriate public and private entities in order to provide for the preservation, management,

maintenance, and rehabilitation of cultural resources on military installations.

''(b) INAPPLICABILITY OF CERTAIN FEDERAL FINANCIAL MANAGEMENT LAWS.—A cooperative agreement under subsection (a) shall not be treated as a cooperative agreement for purposes of chapter 63 of title 31.

''(c) LIMITATION ON AUTHORITY TO CARRY OUT AGREEMENTS.—The authority of the Secretary of Defense or the Secretary of a military department to carry out an agreement entered into under subsection (a) shall be subject to the availability of funds for that purpose.

''(d) DEFINITION.—For purposes of this section, the term 'cultural resource' means any of the following:

''(1) A building, structure, site, district, or object eligible for or included in the National Register of Historic Places maintained under section 101(a) of the National Historic Preservation Act (16 U.S.C. 470a(a)).

''(2) A cultural item as that term is defined in section 2(3) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(3)).

''(3) An archaeological resource as that term is defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)).

''(4) An archaeological artifact collection and associated records covered by section 79 of title 36, Code of Federal Regulations.''.

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

''2694. Cooperative agreements for management of cultural resources on military installations.''.

SEC. 350. REPORT ON WITHDRAWAL OF PUBLIC LANDS AT EL CENTRO NAVAL AIR FACILITY, CALIFORNIA.

(a) REPORT.—Not later than March 15, 1997, the Secretary of Defense, acting through the Deputy Under Secretary of Defense for Environmental Security, shall submit to the congressional defense committees a report that assesses the effects of the proposed withdrawal of public lands at El Centro Naval Air Facility, California, on the operational and training requirements of the Department of Defense at that facility.

(b) REPORT ELEMENTS.—The report under subsection (a) shall—

(1) describe in detail the operational and training requirements of the Department of Defense at El Centro Naval Air Facility;

(2) assess the effects of the proposed withdrawal on such operational and training requirements;

(3) describe the relationship, if any, of the proposed withdrawal to the withdrawal of other public lands under the California Desert Protection Act of 1994 (Public Law 103–433);

(4) assess the additional responsibilities, if any, of the Navy for land management at the facility as a result of the proposed withdrawal; and

(5) assess the costs, if any, to the Navy resulting from the proposed withdrawal.

SEC. 351. USE OF HUNTING AND FISHING PERMIT FEES COLLECTED AT CLOSED MILITARY RESERVATIONS.

Subparagraph (B) of section 101(b)(4) of the Act of September 15, 1960 (commonly known as the ''Sikes Act''; 16 U.S.C. 670a(b)(4)), is amended to read as follows:

''(B) the fees collected under this paragraph—

''(i) shall be expended at the military reservation with respect to which collected; or

''(ii) if collected with respect to a military reservation that is closed, shall be available for expenditure at any other military reservation for purposes of the protection, conservation, and management of fish and wildlife at such reservation.''.

SEC. 352. AUTHORITY FOR AGREEMENTS WITH INDIAN TRIBES FOR SERVICES UNDER ENVIRONMENTAL RESTORATION PROGRAM.

Section 2701(d) of title 10, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking out '', or with any State or local government agency,'' and inserting in lieu thereof '', with any State or local government agency, or with any Indian tribe,''; and

(2) by adding at the end the following:

''(3) DEFINITION.—In this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).''.

Subtitle E—Other Matters

SEC. 361. FIREFIGHTING AND SECURITY-GUARD FUNCTIONS AT FACILITIES LEASED BY THE GOVERNMENT.

Section 2465(b) of title 10, United States Code, is amended—

(1) by striking out ''or'' at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ''; or''; and

(3) by adding at the end the following:

''(4) to a contract to be carried out at a private facility at which a Federal Government activity is located pursuant to a lease of the facility to the Government.''.

SEC. 362. AUTHORIZED USE OF RECRUITING FUNDS.

(a) AUTHORITY.—Chapter 31 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 520c. Authorized use of recruiting funds

''(a) MEALS AND REFRESHMENTS.—Under regulations prescribed by the Secretary concerned, funds appropriated to the Department of Defense for recruitment of military personnel may be expended for small meals and refreshments that are provided in the performance of personnel recruiting functions of the armed forces to—

''(1) persons who have enlisted under the Delayed Entry Program authorized by section 513 of this title;

''(2) persons who are objects of armed forces recruiting efforts;

''(3) influential persons in communities when assisting the military departments in recruiting efforts;

''(4) members of the armed forces and Federal Government employees when attending recruiting events in accordance with a requirement to do so; and

''(5) other persons when contributing to recruiting efforts by attending recruiting events.

''(b) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary of Defense shall submit to Congress a report on the extent to which the authority under subsection (a) was exercised during the fiscal year ending in the preceding year.

''(c) TERMINATION OF AUTHORITY.—(1) The authority in subsection (a) may not be exercised after September 30, 2001.

''(2) No report is required under subsection (b) after 2002.''.

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

''520c. Authorized use of recruiting funds.''.

SEC. 363. NONCOMPETITIVE PROCUREMENT OF BRAND-NAME COMMERCIAL ITEMS FOR RESALE IN COMMISSARY STORES.

(a) CLARIFICATION OF EXCEPTION TO COMPETITIVE PROCUREMENT.—Section 2486 of title 10, United States Code, is amended by adding at the end the following:

''(e) The Secretary of Defense may not, under the exception provided in section 2304(c)(5) of this title, use procedures other than competitive procedures for the procurement of a brand-name commercial item for resale in commissary stores unless the commercial item is regularly sold outside of commissary stores under the same brand name as the commercial item will be sold in commissary stores.''.

(b) EFFECT ON EXISTING CONTRACTS.—The amendment made by subsection (a) shall not affect the terms, conditions, or duration of any contract entered into by the Secretary of Defense before the date of the enactment of this Act for the procurement of commercial items for resale in commissary stores.

SEC. 364. ADMINISTRATION OF MIDSHIPMEN'S STORE AND OTHER NAVAL ACADEMY SUPPORT ACTIVITIES AS NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—(1) Chapter 603 of title 10, United States Code, is amended by striking out sections 6970 and 6971 and inserting in lieu thereof the following new section:

''§ 6970. Midshipmen's store and Naval Academy shops, laundry, and dairy: nonappropriated fund accounts

''(a) IN GENERAL.—Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall administer a nonappropriated fund account for each of the Academy activities referred to in subsection (b).

''(b) ACTIVITIES.—Subsection (a) applies to the following Academy activities:

''(1) The midshipmen's store.

''(2) The barber shop.

''(3) The cobbler shop.

''(4) The tailor shop.

''(5) The dairy.

''(6) The laundry.

''(c) CREDITING OF REVENUE.—The Superintendent shall credit to each account administered with respect to an activity under subsection (a) all revenue received from the activity.''.

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 6970 and 6971 and inserting in lieu thereof the following new item:

''6970. Midshipmen's store and Naval Academy shops, laundry, and dairy: nonappropriated fund accounts.''.

(b) EMPLOYMENT STATUS OF EMPLOYEES OF ACTIVITIES.—Section 2105 of title 5, United States Code, is amended by striking out subsection (b).

SEC. 365. ASSISTANCE TO COMMITTEES INVOLVED IN INAUGURATION OF THE PRESIDENT.

(a) IN GENERAL.—Section 2543 of title 10, United States Code, is amended to read to read as follows:

''§ 2543. Equipment and services: Presidential inaugural committees

''(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense may provide the assistance referred to in subsection (b) to the following committees:

''(1) An Inaugural Committee established under the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721).

''(2) A joint committee of the Senate and House of Representatives appointed under section 9 of that Act (36 U.S.C. 729).

''(b) ASSISTANCE.—The following assistance may be provided under subsection (a):

''(1) Planning and carrying out activities relating to security and safety.

''(2) Planning and carrying out ceremonial activities.

''(3) Loan of property.

''(4) Any other assistance that the Secretary considers appropriate.

''(c) REIMBURSEMENT.—(1) An inaugural committee referred to in subsection (a)(1) shall reimburse the Secretary for any costs incurred in connection with the provision to the committee of assistance referred to in subsection (b)(4).

''(2) Costs reimbursed under paragraph (1) shall be credited to the appropriations from which the costs were paid. The amount credited to an appropriation shall be proportionate to the amount of the costs charged to that appropriation.

''(d) LOANED PROPERTY.—(1) Property loaned for a presidential inauguration under subsection (b)(3) shall be returned within nine days after the date of the ceremony inaugurating the President.

''(2) An inaugural committee referred to in subsection (a)(1) shall give good and sufficient bond for the return in good order and condition of property loaned to the committee under subsection (b)(3).

''(3) An inaugural committee referred to in subsection (a)(1) shall—

''(A) indemnify the United States for any loss of, or damage to, property loaned to the committee under subsection (b)(3); and

''(B) defray any expense incurred for the delivery, return, rehabilitation, replacement, or operation of the property.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of chapter 152 of such title is amended by striking out the item relating to section 2543 and inserting in lieu thereof the following:

''2543. Equipment and services: Presidential inaugural committees.''.

SEC. 366. DEPARTMENT OF DEFENSE SUPPORT FOR SPORTING EVENTS.

(a) SECURITY AND SAFETY ASSISTANCE.—At the request of a Federal, State, or local government agency responsible for providing law enforcement services, security services, or safety services, the Secretary of Defense may authorize the commander of a military installation or other facility of the Department of Defense or the commander of a specified or unified combatant command to provide assistance for the World Cup Soccer Games, the Goodwill Games, the Olympics, and any other civilian sporting event in support of essential security and safety at such event, but only if the Attorney General certifies that such assistance is necessary to meet essential security and safety needs.

(b) OTHER ASSISTANCE.—The Secretary may authorize a commander referred to in subsection (a) to provide assistance for a sporting event referred to in that subsection in support of other needs relating to such event, but only—

(1) to the extent that such needs cannot reasonably be met by a source other than the Department;

(2) to the extent that the provision of such assistance does not adversely affect the military preparedness of the Armed Forces; and

(3) if the organization requesting such assistance agrees to reimburse the Department for amounts expended by the Department in providing the assistance in accordance with the provisions of section 377 of title 10, United States Code, and other applicable provisions of law.

(c) INAPPLICABILITY TO CERTAIN EVENTS.—Subsections (a) and (b) do not apply to the following sporting events:

(1) Sporting events for which funds have been appropriated before the date of the enactment of this Act.

(2) The Special Olympics.

(3) The Paralympics.

(d) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the provision of assistance under this section as the Secretary considers necessary and appropriate to protect the interests of the United States.

(e) REPORT ON ASSISTANCE.—Not later than January 30 of each year following a year in which the Secretary provides assistance under this section, the Secretary shall submit to the congressional defense committees a report on the assistance provided. The report shall set forth—

(1) a description of the assistance provided;

(2) the amount expended by the Department in providing the assistance;

(3) if the assistance was provided under subsection (a), the certification of the Attorney General with respect to the assistance under that subsection; and

(4) if the assistance was provided under subsection (b)—

(A) an explanation why the assistance could not reasonably be met by a source other than the Department; and

(B) the amount the Department was reimbursed under that subsection.

(f) RELATIONSHIP TO OTHER LAWS.—Assistance provided under this section shall be subject to the provisions of sections 375 and 376 of title 10, United States Code.

SEC. 367. RENOVATION OF BUILDING FOR DEFENSE FINANCE AND ACCOUNTING SERVICE CENTER, FORT BENJAMIN HARRISON, INDIANA.

(a) TRANSFER AUTHORITY.—Subject to subsection (b), the Secretary of Defense may transfer funds available to the Department of Defense for the Defense Finance and Accounting Service for a fiscal year for operation and maintenance to the Administrator of General Services for paying the costs of planning, design, and renovation of Building One, Fort Benjamin Harrison, Indiana, for use as a Defense Finance and Accounting Service Center.

(b) AUTHORITY SUBJECT TO AUTHORIZATIONS AND APPROPRIATIONS.—To the extent provided in appropriations Acts—

(1) of funds appropriated for fiscal year 1997, $9,000,000 may be transferred pursuant to subsection (a); and

(2) of funds appropriated for fiscal years 1998, 1999, 2000, and 2001, funds may be transferred pursuant to subsection (a) in such amounts as are authorized to be transferred in an Act enacted after the date of the enactment of this Act.

SEC. 368. COMPUTER EMERGENCY RESPONSE TEAM AT SOFTWARE ENGINEERING INSTITUTE.

(a) FUNDING.—Of the amounts authorized to be appropriated under this Act, $2,000,000 shall be available to the Software Engineering Institute only for use by the Computer Emergency Response Team.

(b) CHALLENGE ATHENA PROGRAM.—Funds authorized by section 301(2) for the Challenge Athena program shall be reduced by $2,000,000.

SEC. 369. REIMBURSEMENT UNDER AGREEMENT FOR INSTRUCTION OF CIVILIAN STUDENTS AT FOREIGN LANGUAGE INSTITUTE OF THE DEFENSE LANGUAGE INSTITUTE.

Section 559(a)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2776; 10 U.S.C. 4411 note) is amended by striking out ''on a cost-reimbursable, space-available basis'' and inserting in lieu thereof ''on a space-available basis and for such reimbursement (whether in whole or in part) as the Secretary considers appropriate''.

SEC. 370. AUTHORITY OF AIR NATIONAL GUARD TO PROVIDE CERTAIN SERVICES AT LINCOLN MUNICIPAL AIRPORT, LINCOLN, NEBRASKA.

(a) AUTHORITY.—Subject to subsections (b) and (c), the Nebraska Air National Guard may provide fire protection services and rescue services relating to aircraft at Lincoln Municipal Airport, Lincoln, Nebraska, on behalf of the Lincoln Municipal Airport Authority, Lincoln, Nebraska.

(b) AGREEMENT.—The Nebraska Air National Guard may not provide services under subsection (a) until the Nebraska Air National Guard and the authority enter into an agreement under which the authority reimburses the Nebraska Air National Guard for the cost of the services provided.

(c) CONDITIONS.—These services may only be provided to the extent that the provision of such services does not adversely affect the military preparedness of the Armed Forces.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1997, as follows:

(1) The Army, 495,000, of which not more than 80,300 may be commissioned officers.

(2) The Navy, 407,318, of which not more than 56,165 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, 381,222, of which not more than 74,445 may be commissioned officers.

SEC. 402. TEMPORARY FLEXIBILITY RELATING TO PERMANENT END STRENGTH LEVELS.

Section 691(d) of title 10, United States Code, is amended by striking out ''not more than 0.5 percent'' and inserting in lieu thereof ''not more than 5 percent''.

SEC. 403. AUTHORIZED STRENGTHS FOR COMMISSIONED OFFICERS IN GRADES O–4, O–5, AND O–6.

(a) ARMY, AIR FORCE, AND MARINE CORPS.—The table in section 523(a)(1) of title 10, United States Code, is amended to read as follows:

''Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in the grade of:		
	Major	Lieutenant Colonel	Colonel
Army:			
20,000	6,848	5,253	1,613
25,000	7,539	5,642	1,796
30,000	8,231	6,030	1,980
35,000	8,922	6,419	2,163
40,000	9,614	6,807	2,347
45,000	10,305	7,196	2,530
50,000	10,997	7,584	2,713
55,000	11,688	7,973	2,897
60,000	12,380	8,361	3,080
65,000	13,071	8,750	3,264
70,000	13,763	9,138	3,447
75,000	14,454	9,527	3,631
80,000	15,146	9,915	3,814
85,000	15,837	10,304	3,997
90,000	16,529	10,692	4,181
95,000	17,220	11,081	4,364
100,000	17,912	11,469	4,548
110,000	19,295	12,246	4,915
120,000	20,678	13,023	5,281
130,000	22,061	13,800	5,648
170,000	27,593	16,908	7,116
Air Force:			
35,000	9,216	7,090	2,125
40,000	10,025	7,478	2,306
45,000	10,835	7,866	2,487
50,000	11,645	8,253	2,668
55,000	12,454	8,641	2,849
60,000	13,264	9,029	3,030
65,000	14,073	9,417	3,211
70,000	14,883	9,805	3,392
75,000	15,693	10,193	3,573
80,000	16,502	10,582	3,754

"Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in the grade of:		
	Major	Lieutenant Colonel	Colonel
85,000	17,312	10,971	3,935
90,000	18,121	11,360	4,115
95,000	18,931	11,749	4,296
100,000	19,741	12,138	4,477
105,000	20,550	12,527	4,658
110,000	21,360	12,915	4,838
115,000	22,169	13,304	5,019
120,000	22,979	13,692	5,200
125,000	23,789	14,081	5,381
Marine Corps:			
10,000	2,525	1,480	571
12,500	2,900	1,600	592
15,000	3,275	1,720	613
17,500	3,650	1,840	633
20,000	4,025	1,960	654
22,500	4,400	2,080	675
25,000	4,775	2,200	695".

(b) NAVY.—The table in section 523(a)(2) of title 10, United States Code, is amended to read as follows:

"Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in grade of:		
	Lieutenant Commander	Commander	Captain
Navy:			
30,000	7,331	5,018	2,116
33,000	7,799	5,239	2,223
36,000	8,267	5,460	2,330
39,000	8,735	5,681	2,437
42,000	9,203	5,902	2,544
45,000	9,671	6,123	2,651
48,000	10,139	6,343	2,758
51,000	10,606	6,561	2,864
54,000	11,074	6,782	2,971
57,000	11,541	7,002	3,078
60,000	12,009	7,222	3,185
63,000	12,476	7,441	3,292
66,000	12,944	7,661	3,398
70,000	13,567	7,954	3,541
90,000	16,683	9,419	4,254".

(c) REPEAL OF TEMPORARY AUTHORITY FOR VARIATIONS IN END STRENGTHS.—The following provisions of law are repealed:

(1) Section 402 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1639; 10 U.S.C. 523 note).

(2) Section 402 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2743; 10 U.S.C. 523 note).

(3) Section 402 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 286; 10 U.S.C. 523 note).

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on September 1, 1997.

SEC. 404. EXTENSION OF REQUIREMENT FOR RECOMMENDATIONS REGARDING APPOINTMENTS TO JOINT 4-STAR OFFICER POSITIONS.

Section 604(c) of title 10, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 2000".

SEC. 405. INCREASE IN AUTHORIZED NUMBER OF GENERAL OFFICERS ON ACTIVE DUTY IN THE MARINE CORPS.

Section 526(a)(4) of title 10, United States Code, is amended by striking out "68" and inserting in lieu thereof "80".

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1997, as follows:

(1) The Army National Guard of the United States, 366,758.

(2) The Army Reserve, 214,925.

(3) The Naval Reserve, 96,304.

(4) The Marine Corps Reserve, 42,000.

(5) The Air National Guard of the United States, 108,904.

(6) The Air Force Reserve, 73,281.

(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, 1997, 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, 22,798.

(2) The Army Reserve, 11,475.

(3) The Naval Reserve, 16,603.

(4) The Marine Corps Reserve, 2,559.

(5) The Air National Guard of the United States, 10,403.

(6) The Air Force Reserve, 655.

SEC. 413. PERSONNEL MANAGEMENT RELATING TO ASSIGNMENT TO SERVICE IN THE SELECTIVE SERVICE SYSTEM.

Section 10 of the Military Selective Service Act (50 U.S.C. App. 460) is amended—

(1) in subsection (b)(2), by inserting ", subject to subsection (e)," after "to employ such number of civilians, and"; and

(2) by inserting after subsection (d) the following:

"(e)(1) The number of armed forces personnel assigned to the Selective Service System under subsection (b)(2) may not exceed 745, except in a time of war declared by Congress or national emergency declared by Congress or the President.

"(2) Members of the Selected Reserve assigned to the Selective Service System under subsection (b)(2) shall not be counted for purposes of any limitation on the authorized strength of Selected Reserve personnel of the reserve components under any law authorizing the end strength of such personnel.".

Subtitle C—Authorization of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1997 a total of $69,880,430,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1997.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. EXTENSION OF AUTHORITY FOR TEMPORARY PROMOTIONS FOR CERTAIN NAVY LIEUTENANTS WITH CRITICAL SKILLS.

Section 5721(g) of title 10, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

SEC. 502. EXCEPTION TO BACCALAUREATE DEGREE REQUIREMENT FOR APPOINTMENT IN THE NAVAL RESERVE IN GRADES ABOVE O–2.

Section 12205(b)(3) of title 10, United States Code, is amended by inserting "or the Seaman to Admiral program" after "(NAVCAD) program".

SEC. 503. TIME FOR AWARD OF DEGREES BY UNACCREDITED EDUCATIONAL INSTITUTIONS FOR GRADUATES TO BE CONSIDERED EDUCATIONALLY QUALIFIED FOR APPOINTMENT AS RESERVE OFFICERS IN GRADE O–3.

Section 12205(c)(2)(C) of title 10, United States Code, is amended by striking out "three years" and inserting in lieu thereof "eight years".

SEC. 504. CHIEF WARRANT OFFICER PROMOTIONS.

(a) REDUCTION OF MINIMUM TIME IN GRADE REQUIRED FOR CONSIDERATION FOR PROMOTION.—Section 574(e) of title 10, United States Code, is amended by striking out "three years of service" and inserting in lieu thereof "two years of service".

(b) BELOW-ZONE SELECTION.—Section 575(b)(1) of such title is amended by inserting "chief warrant officer, W–3," in the first sentence after "to consider warrant officers for selection for promotion to the grade of".

SEC. 505. FREQUENCY OF PERIODIC REPORT ON PROMOTION RATES OF OFFICERS CURRENTLY OR FORMERLY SERVING IN JOINT DUTY ASSIGNMENTS.

Section 662(b) of title 10, United States Code, is amended by striking out "not less often than every six months" in the parenthetical in the first sentence and inserting in lieu thereof "not less often than every twelve months".

SEC. 506. GRADE OF CHIEF OF NAVAL RESEARCH.

Section 5022(a) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) Unless appointed to higher grade under another provision of law, an officer, while serving in the Office of Naval Research as Chief of Naval Research, has the rank of rear admiral (upper half).".

SEC. 507. SERVICE CREDIT FOR SENIOR ROTC CADETS AND MIDSHIPMEN IN SIMULTANEOUS MEMBERSHIP PROGRAM.

(a) AMENDMENTS TO TITLE 10.—(1) Section 2106(c) of title 10, United States Code, is amended by striking out "while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve" and inserting in lieu thereof "performed on or after August 1, 1979, as a member of the Selected Reserve".

(2) Section 2107(g) of such title is amended by striking out "while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve" and inserting in lieu thereof "performed on or after August 1, 1979, as a member of the Selected Reserve".

(3) Section 2107a(g) of such title is amended by inserting ", other than enlisted service performed after August 1, 1979, as a member

of Selected Reserve'' after ''service as a cadet or with concurrent enlisted service''.

(b) AMENDMENT TO TITLE 37.—Section 205(d) of title 37, United States Code, is amended by striking out ''that service after July 31, 1990, that the officer performed while serving on active duty'' and inserting in lieu thereof ''for service that the officer performed on or after August 1, 1979.''.

(c) BENEFITS NOT TO ACCRUE FOR PRIOR PERIODS.—No increase in pay or retired or retainer pay shall accrue for periods before the date of the enactment of this Act by reason of the amendments made by this section.

Subtitle B—Matters Relating to Reserve Components

SEC. 511. CLARIFICATION OF DEFINITION OF ACTIVE STATUS.

Section 101(d)(4) of title 10, United States Code, is amended by striking out ''a reserve commissioned officer, other than a commissioned warrant officer,'' and inserting in lieu thereof the following: ''a member of a reserve component''.

SEC. 512. AMENDMENTS TO RESERVE OFFICER PERSONNEL MANAGEMENT ACT PROVISIONS.

(a) SERVICE REQUIREMENT FOR RETIREMENT IN HIGHEST GRADE HELD.—Section 1370(d) of title 10, United States Code, is amended—

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

(2) in paragraph (2)(A), by striking out ''(A)'';

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

(4) in paragraph (3), as so redesignated—

(A) by designating the first sentence as subparagraph (A);

(B) by designating the second sentence as subparagraph (B) and realigning such subparagraph, as so redesignated, flush to the left margin;

(C) in subparagraph (B), as so redesignated, by striking out ''the preceding sentence'' and inserting in lieu thereof ''subparagraph (A)''; and

(D) by adding at the end the following:

''(C) If a person covered by subparagraph (A) has completed at least six months of satisfactory service in grade, the person was serving in that grade while serving in a position of adjutant general required under section 314 of title 32 or while serving in a position of assistant adjutant general subordinate to such a position of adjutant general, and the person has failed to complete three years of service in that grade solely because the person's appointment to such position has been terminated or vacated as described in section 324(b) of such title, then such person may be credited with satisfactory service in that grade, notwithstanding the failure to complete three years of service in that grade.

''(D) To the extent authorized by the Secretary of the military department concerned, a person who, after having been recommended for promotion in a report of a promotion board but before being promoted to the recommended grade, served in a position for which that grade is the minimum authorized grade may be credited for purposes of subparagraph (A) as having served in that grade for the period for which the person served in that position while in the next lower grade. The period credited may not include any period before the date on which the Senate provides advice and consent for the appointment of that person in the recommended grade.

''(E) To the extent authorized by the Secretary of the military department concerned, a person who, after having been extended temporary Federal recognition as a reserve officer of the Army National Guard in a particular grade under section 308 of title 32 or temporary Federal recognition as a reserve officer of the Air National Guard in a particular grade under such section, served in a position for which that grade is the minimum authorized grade may be credited for purposes of subparagraph (A) as having served in that grade for the period for which the person served in that position while extended the temporary Federal recognition, but only if the person was subsequently extended permanent Federal recognition as a reserve officer in that grade and also served in that position after being extended the permanent Federal recognition.''.

(b) EXCEPTION TO REQUIREMENT FOR RETENTION OF RESERVE OFFICERS UNTIL COMPLETION OF REQUIRED SERVICE.—Section 12645(b)(2) of such title is amended by inserting ''or a reserve active-status list'' after ''active-duty list''.

(c) TECHNICAL CORRECTION.—Section 14314(b)(2)(B) of such title is amended by striking out ''of the Air Force''.

SEC. 513. REPEAL OF REQUIREMENT FOR PHYSICAL EXAMINATIONS OF MEMBERS OF NATIONAL GUARD CALLED INTO FEDERAL SERVICE.

(a) REPEAL.—Section 12408 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1209 is amended by striking out the item relating to section 12408.

SEC. 514. AUTHORITY FOR A RESERVE ON ACTIVE DUTY TO WAIVE RETIREMENT SANCTUARY.

Section 12686 of title 10, United States Code, is amended—

(1) by inserting ''(a) LIMITATION.—'' before ''Under regulations''; and

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

''(b) WAIVER.—(1) The Secretary concerned may authorize a member described in paragraph (2) to waive the applicability of the limitation under subsection (a) to the member for the period of active duty described in that paragraph. A member shall exercise any such waiver option, if at all, before the period of active duty begins.

''(2) The authority provided in paragraph (1) applies to a member of a reserve component who is on active duty (other than for training) pursuant to an order to active duty under section 12301 of this title that specifies a period of less than 180 days.''.

SEC. 515. RETIREMENT OF RESERVES DISABLED BY INJURY OR DISEASE INCURRED OR AGGRAVATED DURING OVERNIGHT STAY BETWEEN INACTIVE DUTY TRAINING PERIODS.

Paragraph (2) of section 1204 of title 10, United States Code, is amended to read as follows:

''(2) the disability is a result of—

''(A) performing active duty or inactive-duty training;

''(B) traveling directly to or from the place at which such duty is performed; or

''(C) an injury, illness, or disease incurred or aggravated 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 of the member's residence;''.

SEC. 516. RESERVE CREDIT FOR PARTICIPATION IN THE HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.

(a) CREDIT AUTHORIZED.—Section 2126 of title 10, United States Code, is amended—

(1) by striking out ''Service performed'' and inserting in lieu thereof ''(a) SERVICE NOT CREDITABLE.—Except as provided in subsection (b), service performed''; and

(2) by adding at the end the following:

''(b) EXCEPTION.—(1) The Secretary concerned may authorize service performed by a member of the program in pursuit of a course of study under this subchapter to be counted in accordance with this subsection if the member—

''(A) completes the course of study;

''(B) completes the active duty obligation imposed under section 2123(a) of this title; and

''(C) possesses a specialty designated by the Secretary concerned as critically needed in wartime.

''(2) Service credited under paragraph (1) counts only for the following purposes:

''(A) Award of retirement points for computation of years of service under section 12732 of this title and for computation of retired pay under section 12733 of this title.

''(B) Computation of years of service creditable under section 205 of title 37.

''(3) For purposes of paragraph (2)(A), a member may be credited in accordance with paragraph (1) with not more than 50 points for each year of participation in a course of study that the member satisfactorily completes as a member of the program.

''(4) Service may not be counted under paragraph (1) for more than four years of participation in a course of study as a member of the program.

''(5) A member who is dropped from the program under section 2123(c) of this title may not receive any credit under paragraph (1) for participation in a course of study as a member of the program. Any credit awarded for participation in the program before the member is dropped shall be rescinded.

''(6) A member is not entitled to any retroactive award of, or increase in, pay or allowances under title 37 by reason of an award of service credit under paragraph (1).''.

(b) AWARD OF RETIREMENT POINTS.—(1) Section 12732(a)(2) of such title is amended—

(A) by inserting after clause (C) the following:

''(D) Points credited for the year under section 2126(b) of this title.''; and

(B) in the matter following clause (D), as inserted by paragraph (1), by striking out ''and (C)'' and inserting in lieu thereof ''(C), and (D)''.

(2) Section 12733(3) of such title is amended by striking out ''or (C)'' and inserting in lieu thereof ''(C), or (D)''.

SEC. 517. REPORT ON GUARD AND RESERVE FORCE STRUCTURE.

(a) REPORT.—Not later than March 1, 1997, the Secretary of Defense shall submit to Congress a report on the current force structure and the projected force structure of the National Guard and the other reserve components.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall address the following:

(1) The role of specific guard and reserve units in the current force structure of the guard and reserves.

(2) The projected role of specific guard units and reserve units in a major regional contingency.

(3) Whether or not the current force structure of the guard and reserves is excess to the combat readiness requirements of the Armed Forces and, if so, to what extent.

(4) The effect of decisions relating to the force structure of the guard and reserves on combat readiness within the tiered structure of combat readiness applied to the Armed Forces.

SEC. 518. MODIFIED END STRENGTH AUTHORIZATION FOR MILITARY TECHNICIANS FOR THE AIR NATIONAL GUARD FOR FISCAL YEAR 1997.

Section 513(b)(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 305; 10 U.S.C. 115 note) is amended to read as follows:

''(3) Air National Guard:

''(A) For fiscal year 1996, 22,906.

''(B) For fiscal year 1997, 22,956.''.

Subtitle C—Officer Education Programs

SEC. 521. INCREASED AGE LIMIT ON APPOINTMENT AS A CADET OR MIDSHIPMAN IN THE SENIOR RESERVE OFFICERS' TRAINING CORPS AND THE SERVICE ACADEMIES.

(a) SENIOR RESERVE OFFICERS' TRAINING CORPS.—Section 2107(a) of title 10, United States Code, is amended by striking out ''25 years of age'' and inserting in lieu thereof ''27 years of age''.

(b) UNITED STATES MILITARY ACADEMY.—Section 4346(a) of title 10, United States Code, is amended by striking out ''twenty-second birthday'' and inserting in lieu thereof ''twenty-third birthday''.

(c) UNITED STATES NAVAL ACADEMY.—Section 6958(a)(1) of title 10, United States Code, is amended by striking out ''twenty-second birthday'' and inserting in lieu thereof ''twenty-third birthday''.

(d) UNITED STATES AIR FORCE ACADEMY.—Section 9346(a) of title 10, United States Code, is amended by striking out ''twenty-second birthday'' and inserting in lieu thereof ''twenty-third birthday''.

SEC. 522. DEMONSTRATION PROJECT FOR INSTRUCTION AND SUPPORT OF ARMY ROTC UNITS BY MEMBERS OF THE ARMY RESERVE AND NATIONAL GUARD.

(a) IN GENERAL.—The Secretary of the Army shall carry out a demonstration project in order to assess the feasibility and advisability of providing instruction and similar support to units of the Reserve Officers Training Corps of the Army through members of the Army Reserve (including members of the Individual Ready Reserve) and members of the Army National Guard.

(b) PROJECT REQUIREMENTS.—(1) The Secretary shall carry out the demonstration project at least one institution.

(2) In order to enhance the value of the project, the Secretary may take actions to ensure that members of the Army Reserve and the Army National Guard provide instruction and support under the project in a variety of innovative ways.

(c) INAPPLICABILITY OF LIMITATION ON RESERVES IN SUPPORT OF ROTC.—The assignment of a member of the Army Reserve or the Army National Guard to provide instruction or support under the demonstration project shall not be treated as an assignment of the member to duty with a unit of a Reserve Officer Training Corps program for purposes of section 12321 of title 10, United States Code.

(d) REPORTS.—Not later than February 1 in each of 1998, 1999, 2000, and 2001, the Secretary shall submit to Congress a report assessing the activities under the project during the preceding year. The report submitted in 2000 shall include the Secretary's recommendation as to the advisability of continuing or expanding the authority for the project.

(e) TERMINATION.—The authority of the Secretary to carry out the demonstration project shall expire four years after the date of the enactment of this Act.

SEC. 523. PROHIBITION ON REORGANIZATION OF ARMY ROTC CADET COMMAND OR TERMINATION OF SENIOR ROTC UNITS PENDING REPORT ON ROTC.

(a) PROHIBITION.—Notwithstanding any other provision of law, the Secretary of the Army may not reorganize or restructure the Reserve Officers Training Corps Cadet Command or terminate any Senior Reserve Officer Training Corps units identified in the Information for Members of Congress concerning Senior Reserve Officer Training Corps (ROTC) Unit Closures dated May 20, 1996, until 180 days after the date on which the Secretary submits to the congressional defense committees the report described in subsection (b).

(b) REPORT.—The report referred to in subsection (a) shall—

(1) describe the selection process used to identify the Reserve Officer Training Corps units of the Army to be terminated;

(2) list the criteria used by the Army to select Reserve Officer Training Corps units for termination;

(3) set forth the specific ranking of each unit of the Reserve Officer Training Corps of the Army to be terminated as against all other such units;

(4) set forth the authorized and actual cadre staffing of each such unit to be termination for each fiscal year of the 10-fiscal year period ending with fiscal year 1996;

(5) set forth the production goals and performance evaluations of each Reserve Officer Training Corps unit of the Army on the closure list for each fiscal year of the 10-fiscal year period ending with fiscal year 1996;

(6) describe how cadets currently enrolled in the units referred to in paragraph (5) will be accommodated after the closure of such units;

(7) describe the incentives to enhance the Reserve Officer Training Corps program that are provided by each of the colleges on the closure list;

(8) include the projected officer accession plan by source of commission for the active-duty Army, the Army Reserve, and the Army National Guard; and

(9) describe whether the closure of any ROTC unit will adversely effect the recruitment of minority officer candidates.

Subtitle D—Other Matters

SEC. 531. RETIREMENT AT GRADE TO WHICH SELECTED FOR PROMOTION WHEN A PHYSICAL DISABILITY IS FOUND AT ANY PHYSICAL EXAMINATION.

Section 1372(3) of title 10, United States Code, is amended by striking out ''his physical examination for promotion'' and inserting in lieu thereof ''a physical examination''.

SEC. 532. LIMITATIONS ON RECALL OF RETIRED MEMBERS TO ACTIVE DUTY.

(a) NUMBER ON ACTIVE DUTY CONCURRENTLY.—Subsection (c) of section 688 of title 10, United States Code, is amended—

(1) by striking out ''(c) Except in time of war, or of national emergency declared by Congress or the President after November 30, 1980, not'' and inserting in lieu thereof ''(c)(1) Not''; and

(2) by adding at the end the following:

''(2)(A) Not more than 25 officers of any one armed force may be serving on active duty concurrently pursuant to orders to active duty issued under this section.

''(B) In the administration of subparagraph (A), the following officers shall not be counted:

''(i) A chaplain who is assigned to duty as a chaplain for the period of active duty to which ordered.

''(ii) A health care professional (as characterized by the Secretary concerned) who is assigned to duty as a health care professional for the period of the active duty to which ordered.

''(iii) Any officer assigned to duty with the American Battle Monuments Commission for the period of active duty to which ordered.''.

(b) OFFICERS RETIRED ON SELECTIVE EARLY RETIREMENT BASIS.—Such section is amended by adding at the end the following:

''(e) The following officers may not be ordered to active duty under this section:

''(1) An officer who retired under section 638 of this title.

''(2) An officer who—

''(A) after having been notified that the officer was to be considered for early retirement under section 638 of this title by a board convened under section 611(b) of this title and before being considered by that board, requested retirement under section 3911, 6323, or 8911 of this title; and

''(B) was retired pursuant to that request.''.

(c) LIMITATION OF PERIOD OF RECALL SERVICE.—Such section, as amended by subsection (b), is further amended by adding at the end the following:

''(f) A member ordered to active duty under subsection (a) may not serve on active duty pursuant to orders under such subsection for more than 12 months within the 24 months following the first day of the active duty to which ordered under this section.''.

(d) WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.—Such section, as amended by subsection (c), is further amended by adding at the end the following:

''(g)(1) Subsection (c)(1) does not apply in time of war or of national emergency declared by Congress or the President after November 30, 1980.

''(2) Subsections (c)(2), (e), and (f) do not apply in time of war or of national emergency declared by Congress or the President.''.

SEC. 533. DISABILITY COVERAGE FOR OFFICERS GRANTED EXCESS LEAVE FOR EDUCATIONAL PURPOSES.

(a) ELIGIBILITY FOR RETIREMENT.—Section 1201 of title 10, United States Code, is amended—

(1) by inserting ''(a) RETIREMENT.—'' before ''Upon a determination'';

(2) by striking out ''a member of a regular component of the armed forces entitled to basic pay, or any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 10148(a) of this title) for a period of more than 30 days,'' and inserting in lieu thereof ''a member described in subsection (b)'';

(3) by inserting after ''incurred while entitled to basic pay'' the following: ''or incurred while absent as described in section 502(b) of title 37 to participate in an educational program (even though not entitled to basic pay by operation of such section)''; and

(4) by adding at the end the following:

''(b) ELIGIBLE MEMBERS.—This section applies to the following members:

''(1) A member of a regular component of the armed forces entitled to basic pay.

''(2) Any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 10148(a) of this title) for a period of more than 30 days.

''(3) A member of a regular component of the armed forces who is on active duty but is absent as described in section 502(b) of title 37 to participate in an educational program.''.

(b) ELIGIBILITY FOR PLACEMENT ON TEMPORARY DISABILITY RETIREMENT LIST.—Section 1202 of title 10, United States Code, is amended—

(1) by inserting ''(a) TEMPORARY RETIREMENT.—'' before ''Upon a determination''; and

(2) by striking out ''a member of a regular component of the armed forces entitled to basic pay, or any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 10148(a) of this title) for a period of more than 30 days,'' and inserting in lieu thereof ''a member described in section 1201(b) of this title''.

(c) ELIGIBILITY FOR SEPARATION.—Section 1203 of title 10, United States Code, is amended—

(1) by inserting ''(a) SEPARATION.—'' before ''Upon a determination'';

(2) by striking out ''a member of a regular component of the armed forces entitled to basic pay, or any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 10148(a) of this title) for a period of more than 30 days,'' and inserting in lieu thereof ''a member described in section 1201(b) of this title''; and

(3) by inserting after ''incurred while entitled to basic pay'' the following: ''or incurred while absent as described in section 502(b) of title 37 to participate in an educational program (even though not entitled to basic pay by operation of such section)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to physical disabilities incurred on or after such date.

SEC. 534. UNIFORM POLICY REGARDING RETENTION OF MEMBERS WHO ARE PERMANENTLY NONWORLDWIDE ASSIGNABLE.

(a) POLICY REQUIRED.—Chapter 59 of title 10, United States Code, is amended by inserting after section 1176 the following:

''§ 1177. Uniform policy regarding retention of members who are permanently nonworldwide assignable

''The Secretary of Defense shall prescribe regulations setting forth uniform policies and procedures regarding retention of members of the Army, Navy, Air Force, and Marine Corps who are permanently nonworldwide assignable for medical reasons.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1176 the following:

''1177. Uniform policy regarding retention of members who are permanently nonworldwide assignable.''.

SEC. 535. AUTHORITY TO EXTEND PERIOD FOR ENLISTMENT IN REGULAR COMPONENT UNDER THE DELAYED ENTRY PROGRAM.

(a) AUTHORITY.—Section 513(b) of title 10, United States Code, is amended by inserting after the first sentence the following: ''The Secretary concerned may extend the 365-day period for a person for up to 180 additional days if the Secretary determines that it is in the best interests of the armed force under the Secretary's jurisdiction to do so.''.

(b) TECHNICAL AMENDMENTS.—Section 513(b) of such title, as amended by subsection (a), is further amended—

(1) by inserting ''(1)'' after ''(b)'';

(2) by designating the third sentence as paragraph (2) and realigning such paragraph, as so designated, flush to the left margin; and

(3) in paragraph (2), as so designated, by striking out ''the preceding sentence'' and inserting in lieu thereof ''paragraph (1)''.

SEC. 536. CAREER SERVICE REENLISTMENTS FOR MEMBERS WITH AT LEAST 10 YEARS OF SERVICE.

Subsection (d) of section 505 of title 10, United States Code, is amended to read as follows:

''(d)(1) The Secretary concerned may accept a reenlistment in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be, for a period determined under this subsection.

''(2) In the case of a member who has less than 10 years of service in the armed forces as of the day before the first day of the period for which reenlisted, the period for which the member reenlists shall be at least two years but not more than six years.

''(3) In the case of a member who has at least 10 years of service in the armed forces as of the day before the first day of the period for which reenlisted, the Secretary concerned may accept a reenlistment for either—

''(A) a specified period of at least two years but not more than six years; or

''(B) an unspecified period.

''(4) No enlisted member is entitled to be reenlisted for a period that would expire before the end of the member's current enlistment.''.

SEC. 537. REVISIONS TO MISSING PERSONS AUTHORITIES.

(a) REPEAL OF APPLICABILITY OF AUTHORITIES TO DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES AND CONTRACTOR EMPLOYEES.—(1) Section 1501 of title 10, United States Code, is amended—

(A) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

''(c) COVERED PERSONS.—Section 1502 of this title applies in the case of 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.''; and

(B) by striking out subsection (f).

(2) Section 1503(c) of such title is amended—

(A) in paragraph (1), by striking out ''one individual described in paragraph (2)'' and inserting in lieu thereof ''one military officer'';

(B) by striking out paragraph (2); and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(3) Section 1504(d) of such title is amended—

(A) by striking out the text of paragraph (1) and inserting in lieu thereof the following new text: ''A board under this section shall be composed of at least three members who are officers having the grade of major or lieutenant commander or above.''; and

(B) in paragraph (4), by striking out ''section 1503(c)(4)'' and inserting in lieu thereof ''section 1503(c)(3)''.

(4) Paragraph (1) of section 1513 of such title is amended to read as follows:

''(1) The term 'missing person' means a member of the armed forces on active duty who is in a missing status.''.

(b) REPORT ON PRELIMINARY ASSESSMENT OF STATUS.—(1) Section 1502 of title 10, United States Code, is amended—

(A) in subsection (a)(2)—

(i) by striking out ''48 hours'' and inserting in lieu thereof ''10 days''; and

(ii) by striking out ''theater component commander with jurisdiction over the missing person'' and inserting in lieu thereof ''Secretary concerned'';

(B) by striking out subsection (b);

(C) by redesignating subsection (c) as subsection (b); and

(D) in subsection (b), as so redesignated, by striking out the second sentence.

(2) Section 1503(a) of such title is amended by striking out ''section 1502(b)'' and inserting in lieu thereof ''section 1502(a)''.

(3) Section 1513 of such title is amended by striking out paragraph (8).

(c) REPEAL OF REQUIREMENTS FOR COUNSELS FOR MISSING PERSONS.—(1) Section 1503 of title 10, United States Code, is amended—

(A) by striking out subsection (f); and

(B) by redesignating subsections (g) through (k) as subsections (f) through (j), respectively.

(2) Section 1504 of such title is amended—

(A) by striking out subsection (f); and

(B) by redesignating subsections (g) through (m) as subsections (f) through (l), respectively.

(3) Such section 1503 is further amended—

(A) in subsection (g)(3), as redesignated by paragraph (1)(B) of this subsection, by striking out ''subsection (j)'' and inserting in lieu thereof ''subsection (i)'';

(B) in subsection (h)(1), as so redesignated, by striking out ''subsection (h)'' and inserting in lieu thereof ''subsection (g)'';

(C) in subsection (i), as so redesignated—

(i) by striking out ''subsection (i)'' in the matter preceding paragraph (1) and inserting in lieu thereof ''subsection (h)''; and

(ii) in paragraph (1)(B), by striking out ''subsection (h)'' and inserting in lieu thereof ''subsection (g)''; and

(D) in subsection (j), as so redesignated, by striking out ''subsection (i)'' and inserting in lieu thereof ''subsection (h)''.

(4) Such section 1504 of such title is amended—

(A) in subsection (a), by striking out ''section 1503(i)'' and inserting in lieu thereof ''section 1503(h)'';

(B) in subsection (e)(1), by striking out ''section 1503(h)'' and inserting in lieu thereof ''section 1503(g)'';

(C) in subsection (f), as redesignated by paragraph (2)(B) of this subsection, by striking out ''subsection (i)'' each place it appears in paragraphs (4)(D) and (5)(B) and inserting in lieu thereof ''subsection (h)'';

(D) in subsection (g)(3)(A), as so redesignated, by striking out ''and the counsel for the missing person appointed under subsection (f)'';

(E) in subsection (j), as so redesignated—

(i) in paragraph (1)—

(I) by striking out ''subsection (j)'' in the matter preceding subparagraph (A) and inserting in lieu thereof ''subsection (i)'';

(II) by inserting ''and'' at the end of subparagraph (A);

(III) by striking out subparagraph (B); and

(IV) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph, as so redesignated, by striking out ''subsection (g)(5)'' and inserting in lieu thereof ''subsection (f)(5)''; and

(ii) in paragraph (2), by striking out ''subparagraph (C)'' and inserting in lieu thereof ''subparagraph (B)'';

(F) in subsection (k), as redesignated by paragraph (2)(B) of this subsection, by striking out ''subsection (k)'' in the matter preceding paragraph (1) and inserting in lieu thereof ''subsection (j)''; and

(G) in subsection (l), as so redesignated, by striking out ''subsection (k)'' and inserting in lieu thereof ''subsection (l)''.

(5) Section 1505(c) of such title is amended—

(A) in paragraph (2), by striking out ''(A) the designated missing person's counsel for that person, and (B)''; and

(B) in paragraph (3), by striking out '', with the advice'' and all that follows through ''paragraph (2),''.

(6) Section 1509(a) of such title is amended by striking out ''section 1504(g)'' and inserting in lieu thereof ''section 1504(f)''.

(d) FREQUENCY OF SUBSEQUENT REVIEWS.—Subsection (b) of section 1505 of title 10, United States Code, is amended to read as follows:

''(b) FREQUENCY OF SUBSEQUENT REVIEWS.—The Secretary concerned shall conduct inquiries into the whereabouts and status of a person under subsection (a) upon receipt of information that may result in a change of status of the person. The Secretary concerned shall appoint a board to conduct such inquiries.''.

(e) REPEAL OF STATUTORY PENALTIES FOR WRONGFUL WITHHOLDING OF INFORMATION.—Section 1506 of title 10, United States Code, is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(f) INFORMATION TO ACCOMPANY RECOMMENDATION OF STATUS OF DEATH.—Section 1507(b) of title 10, United States Code, is amended by striking out paragraphs (3) and (4).

(g) REPEAL OF RIGHT OF JUDICIAL REVIEW.—Section 1508 of title 10, United States Code, is repealed.

(h) SCOPE OF PREENACTMENT REVIEW.—(1) Section 1509 of title 10, United States Code, is amended—

(A) in subsection (b)—

(i) by striking out paragraph (1); and

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

(B) by striking out subsection (c);

(C) by redesignating subsection (d) as subsection (c); and

(D) in subsection (c), as so redesignated—

(i) by striking out paragraph (1); and

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) The section heading of such section is amended by striking out ''**, special interest cases**''.

(i) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 76 of title 10, United States Code, is amended—

(1) in the item relating to section 1509, by striking out '', special interest cases''; and

(2) by striking out the item relating to section 1509.

SEC. 538. INAPPLICABILITY OF SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940 TO THE PERIOD OF LIMITATIONS FOR FILING CLAIMS FOR CORRECTIONS OF MILITARY RECORDS.

(a) EXTENSION OF PERIOD.—Section 1552(b) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) Notwithstanding the provisions of section 205 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 525), and any other provision of law, the three-year period for filing a request for correction of records is not extended by reason of military service. However, in determining under paragraph (1) whether it is in the interest of justice to excuse a failure timely to file a request for correction, the board shall consider the claimant's military service and its effect on the claimant's ability to file a claim.''.

(b) EFFECTIVE DATE.—Paragraph (2) of section 1552(b) of such title, as added by subsection (a), shall take effect three years after the date of the enactment of this Act.

SEC. 539. MEDAL OF HONOR FOR CERTAIN AFRICAN-AMERICAN SOLDIERS WHO SERVED IN WORLD WAR II.

(a) INAPPLICABILITY OF TIME LIMITATIONS.—Notwithstanding the time limitations in section 3744(b) of title 10, United States Code, or any other time limitation, the President may award the Medal of Honor to each person identified in subsection (b), each such person having distinguished himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty while serving in the United States Army during World War II.

(b) APPLICABILITY.—The authority in this section applies with respect to the following persons:

(1) Vernon J. Baker, who served as a first lieutenant in the 370th Infantry Regiment, 92nd Infantry Division.

(2) Edward A. Carter, who served as a staff sergeant in the 56th Armored Infantry Battalion, 12th Armored Division.

(3) John R. Fox, who served as a first lieutenant in the 366th Infantry Regiment, 92nd Infantry Division.

(4) Willy F. James, Jr., who served as a private first class in the 413th Infantry Regiment, 104th Infantry Division.

(5) Ruben Rivers, who served as a staff sergeant in the 761st Tank Battalion.

(6) Charles L. Thomas, who served as a first lieutenant in the 614th Tank Destroyer Battalion.

(7) George Watson, who served as a private in the 29th Quartermaster Regiment.

(c) POSTHUMOUS AWARD.—The Medal of Honor may be awarded under this section posthumously, as provided in section 3752 of title 10, United States Code.

(d) PRIOR AWARD.—The Medal of Honor may be awarded under this section for service for which a Distinguished-Service Cross, or other award, has been awarded.

SEC. 540. CHIEF AND ASSISTANT CHIEF OF ARMY NURSE CORPS.

(a) CHIEF OF ARMY NURSE CORPS.—Subsection (b) of section 3069 of title 10, United States Code, is amended—

(1) in the first sentence, by striking out ''major'' and inserting in lieu thereof ''lieutenant colonel'';

(2) by inserting after the first sentence the following: ''An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general.''; and

(3) in the last sentence, by inserting ''to the same position'' before the period at the end.

(b) ASSISTANT CHIEF.—Subsection (c) of such section is amended by striking out ''major'' in the first sentence and inserting in lieu thereof ''lieutenant colonel''.

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

''§ 3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade

(2) The item relating to such section in the table of sections at the beginning of chapter 307 of title 10, United States Code, is amended to read as follows:

''3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade.''.

SEC. 541. CHIEF AND ASSISTANT CHIEF OF AIR FORCE NURSE CORPS.

(a) POSITIONS AND APPOINTMENT.—Chapter 807 of title 10, United States Code, is amended by inserting after section 8067 the following:

''§ 3069. Air Force nurses: Chief and assistant chief; appointment; grade

''(a) POSITIONS OF CHIEF AND ASSISTANT CHIEF.—There are a Chief and assistant chief of the Air Force Nurse Corps.

''(b) CHIEF.—The Secretary of the Air Force shall appoint the Chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General. An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general. The Chief serves during the pleasure of the Secretary, but not for more than three years, and may not be reappointed to the same position.

''(c) ASSISTANT CHIEF.—The Surgeon General shall appoint the assistant chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after section 8067 the following:

''3069. Air Force Nurse Corps: Chief and assistant chief; appointment; grade.''.

SEC. 542. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO SPECIFIED PERSONS.

(a) WAIVER OF TIME LIMITATION.—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply in the case of awards of decorations as described in subsection (b), the award of each such decoration having been determined by the Secretary of the Navy to be warranted in accordance with section 1130 of title 10, United States Code.

(b) DISTINGUISHED FLYING CROSS.—Subsection (a) applies to awards of the Distinguished Flying Cross for service during World War II as follows:

(1) FIRST AWARD.—First award, for completion of at least 20 qualifying combat missions, to the following members and former members of the Armed Forces:

Vernard V. Aiken of Wilmington, Vermont.

Ira V. Babcock of Dothan, Georgia.

George S. Barlow of Grafton, Virginia.

Earl A. Bratton of Bodega Bay, California.

Herman C. Edwards of Johns Island, South Carolina.

James M. Fitzgerald of Anchorage, Alaska.

Paul L. Hitchcock of Raleigh, North Carolina.

Harold H. Hottle of Hillsboro, Ohio.

Samuel M. Keith of Anderson, South Carolina.

Otis Lancaster of Wyoming, Michigan.

John B. McCabe of Biglerville, Pennsylvania.

James P. Merriman of Midland, Texas.

The late Michael L. Michalak, formerly of Akron, New York.

The late Edward J. Naparkowsky, formerly of Hartford, Connecticut.

A. Jerome Pfeiffer of Racine, Wisconsin.

Duane L. Rhodes of Earp, California.

Frank V. Roach of Bloomfield, New Jersey.

Arnold V. Rosekrans of Horseheads, New York.

Joseph E. Seaman, Jr. of Bordentown, New Jersey.

Luther E. Thomas of Panama City, Florida.

Merton S. Ward of South Hamilton, Massachusetts.

Simon L. Webb of Magnolia, Mississippi.

Jerry W. Webster of Leander, Texas.

Stanley J. Orlowski of Jackson, Michigan.

(2) SECOND AWARD.—Second award, for completion of at least 40 qualifying combat missions, to the following members and former members of the Armed Forces:

Ralph J. Deceuster of Dover, Ohio.

Elbert J. Kimble of San Francisco, California.

George W. Knauff of Monument, Colorado.

John W. Lincoln of Rockland, Massachusetts.

Alan D. Marker of Sonoma, California.

Joseph J. Oliver of White Haven, Pennsylvania.

Arthur C. Adair of Grants Pass, Oregon.

Daniel K. Connors of Hampton, New Hampshire.

Glen E. Danielson of Whittier, California.

Prescott C. Jernegan of Hemet, California.

Stephen K. Johnson of Englewood, Florida.

Warren E. Johnson of Vista, California.

Albert P. Emsley of Bothell, Washington.

Robert B. Carnes of West Yarmouth, Massachusetts.

Urbain J. Fournier of Houma, Louisiana.

John B. Tagliapiri of St. Helena, California.

Ray B. Stiltner of Centralia, Washington.

(3) THIRD AWARD.—Third award, for completion of at least 60 qualifying combat missions, to the following members and former members of the Armed Forces:

Glenn Bowers of Dillsburg, Pennsylvania.

Arthur C. Casey of Irving, California.

Robert J. Larsen of Gulf Breeze, Florida.

William A. Nickerson of Portland, Oregon.

David Mendoza of McAllen, Texas.

(4) FOURTH AWARD.—Fourth award, for completion of at least 80 qualifying combat missions, to the following members and former members of the Armed Forces:

Arvid L. Kretz of Santa Rosa, California.

George E. McClane of Cocoa Beach, Florida.

Robert Bair of Ontario, California.

(5) FIFTH AWARD.—Fifth award, for completion of at least 100 qualifying combat missions, to the following members and former members of the Armed Forces:

William A. Baldwin of San Clemente, California.

George Bobb of Blackwood, New Jersey.

John R. Conrad of Hot Springs, Arkansas.

Herbert R. Hetrick of Roaring Springs, Pennsylvania.

William L. Wells of Cordele, Georgia.

(6) SIXTH AWARD.—Sixth award, for completion of at least 120 qualifying combat missions, to Richard L. Murray of Dallas, Texas.

SEC. 543. MILITARY PERSONNEL STALKING PUNISHMENT AND PREVENTION ACT OF 1996.

(a) SHORT TITLE.—This section may be cited as the ''Military Personnel Stalking Punishment and Prevention Act of 1996''.

(b) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 2261 the following:

''§ 2261A. Stalking of members of the Armed Forces of the United States

''(a) IN GENERAL.—Whoever, within the special maritime and territorial jurisdiction of the United States or in the course of interstate travel, with the intent to injure or harass any military person, places that military person in reasonable fear of the death of, or serious bodily injury to, that military person or a member of the immediate family of that military person shall be punished as provided in section 2261.

''(b) DEFINITIONS.—For purposes of this section—

''(1) the term 'immediate family' has the same meaning as in section 115; and

''(2) the term 'military person' means—

''(A) any member of the Armed Forces of the United States (including a member of any reserve component); and

''(B) any member of the immediate family of a person described in subparagraph (A).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2261(b) of title 18, United States Code, is amended by inserting ''or section 2261A'' after ''this section''.

(2) Sections 2261(b) and 2262(b) of title 18, United States Code, are each amended by striking ''offender's spouse or intimate partner'' each place it appears and inserting ''victim''.

(3) The chapter heading for chapter 110A of title 18, United States Code, is amended by inserting ''**AND STALKING**'' after ''**VIOLENCE**''.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110A of title 18, United States Code, is amended by inserting after the item relating to section 2261 the following new item:

''2261A. Stalking of members of the Armed Forces of the United States.''.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the day after the date of enactment of this Act.

Subtitle E—Commissioned Corps of the Public Health Service

SEC. 561. APPLICABILITY TO PUBLIC HEALTH SERVICE OF PROHIBITION ON CREDITING CADET OR MIDSHIPMEN SERVICE AT THE SERVICE ACADEMIES.

Section 971(b) of title 10, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end the following: ''or an officer in the Commissioned Corps of the Public Health Service''; and

(2) in subsection (b)—

(A) by striking out ''and'' at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ''; and''; and

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

''(4) no officer in the Commissioned Corps of the Public Health Service may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy.''.

SEC. 562. EXCEPTION TO GRADE LIMITATIONS FOR PUBLIC HEALTH SERVICE OFFICERS ASSIGNED TO THE DEPARTMENT OF DEFENSE.

Section 206 of the Public Health Service Act (42 U.S.C. 207 et seq.) is amended by adding at the end thereof the following new subsection:

''(f) EXCEPTION TO GRADE LIMITATIONS FOR OFFICERS ASSIGNED TO DEPARTMENT OF DEFENSE.—In computing the maximum number of commissioned officers of the Public Health Service authorized by law to hold a grade which corresponds to the grade of captain, major, lieutenant colonel, or colonel, there may be excluded from such computation officers who hold such a grade while the officers are assigned to duty in the Department of Defense.''.

Subtitle F—Defense Economic Adjustment, Diversification, Conversion, and Stabilization

SEC. 571. AUTHORITY TO EXPAND LAW ENFORCEMENT PLACEMENT PROGRAM TO INCLUDE FIREFIGHTERS.

Section 1152(g) of title 10, United States Code, is amended—

(1) by striking out ''(g) CONDITIONAL EXPANSION OF PLACEMENT TO INCLUDE FIREFIGHTERS.—(1) Subject to paragraph (2), the'' and inserting in lieu thereof ''(g) AUTHORITY TO EXPAND PLACEMENT TO INCLUDE FIREFIGHTERS.—The''; and

(2) in paragraph (2), by striking out the first sentence.

SEC. 572. TROOPS-TO-TEACHERS PROGRAM IMPROVEMENTS.

(a) SEPARATED MEMBERS OF THE ARMED FORCES.—(1) Subsection (a) of section 1151 of title 10, United States Code, is amended by striking out ''may establish'' and inserting in lieu thereof ''shall establish''.

(2) Such section is further amended—

(A) in subsection (f)(2), by striking out ''five school years'' in subparagraphs (A) and (B) and inserting in lieu thereof ''two school years''; and

(B) in subsection (h)(3)(A), by striking out ''five consecutive school years'' and inserting in lieu thereof ''two consecutive school years''.

(3) Subsection (g)(2) of such section is amended—

(A) by striking out the comma after ''section 1174a of this title'' and inserting in lieu thereof ''or''; and

(B) by striking out '', or retires pursuant to the authority provided in section 4403 of the National Defense Authorization Act for fiscal year 1993 (Public Law 102–484; 10 U.S.C. 1293 note)''.

(4) Subsection (h)(3)(B) of such section is amended—

(A) in clause (i), by striking out ''$25,000'' and inserting in lieu thereof ''$17,000'';

(B) in clause (ii)—

(i) by striking out ''40 percent'' and inserting in lieu thereof ''25 percent''; and

(ii) by striking out ''$10,000'' and inserting in lieu thereof ''$8,000''; and

(C) by striking out clauses (iii), (iv), and (v).

(b) SAVINGS PROVISION.—The amendments made by this section do not effect obligations under agreements entered into in accordance with section 1151 of title 10, United States Code, before the date of the enactment of this Act.

Subtitle G—Armed Forces Retirement Home

SEC. 581. REFERENCES TO ARMED FORCES RETIREMENT HOME ACT OF 1991.

Except as otherwise expressly provided, whenever in this subtitle 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 the Armed Forces Retirement Home Act of 1991 (title XV of Public Law 101–510; 24 U.S.C. 401 et seq.).

SEC. 582. ACCEPTANCE OF UNCOMPENSATED SERVICES.

(a) AUTHORITY.—Part A is amended by adding at the end the following:

''SEC. 1522. AUTHORITY TO ACCEPT CERTAIN UNCOMPENSATED SERVICES.

''(a) AUTHORITY TO ACCEPT SERVICES.—Subject to subsection (b) and notwithstanding section 1342 of title 31, United States Code, the Chairman of the Retirement Home Board or the Director of each establishment of the Retirement Home may accept from any person voluntary personal services or gratuitous services unless the acceptance of the voluntary services is disapproved by the Retirement Home Board.

''(b) REQUIREMENTS AND LIMITATIONS.—(1) The Chairman of the Retirement Home Board or the Director of the establishment accepting the services shall notify the person of the scope of the services accepted.

''(2) The Chairman or Director shall—

''(A) supervise the person providing the services to the same extent as that official would supervise a compensated employee providing similar services; and

''(B) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable laws or regulations to provide such services.

''(3) A person providing services accepted under subsection (a) may not—

''(A) serve in a policymaking position of the Retirement Home; or

''(B) be compensated for the services by the Retirement Home.

''(c) AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.—The Chairman of the Retirement Home Board or the Director of an establishment of the Retirement Home may recruit and train persons to provide services authorized to be accepted under subsection (a).

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

''(A) Subchapter I of chapter 81 of title 5, United States Code (relating to compensation for work-related injuries).

''(B) Chapter 171 of title 28, United States Code (relating to claims for damages or loss).

''(2) A person providing services accepted under subsection (a) shall be considered to be an employee of the Federal Government under paragraph (1) only with respect to services that are within the scope of the services accepted.

''(3) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5, United States Code (pursuant to this subsection) to a person providing services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

''(A) the average monthly number of hours that the person provided the services, by

''(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

''(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Chairman of the Retirement Board or the Director of the establishment accepting services under subsection (a) may provide for reimbursement of a person for incidental expenses incurred by the person in providing the services accepted under subsection (a). The Chairman or Director shall determine which expenses qualify for reimbursement under this subsection.''.

(b) FEDERAL STATUS OF RESIDENTS PAID FOR PART-TIME OR INTERMITTENT SERVICES.—Paragraph (2) of section 1521(b) (24 U.S.C. 421(b)) is amended to read as follows:

''(2) being an employee of the United States for any purpose other than—

''(A) subchapter I of chapter 81 of title 5, United States Code (relating to compensation for work-related injuries); and

''(B) chapter 171 of title 28, United States Code (relating to claims for damages or loss).''.

SEC. 583. DISPOSAL OF REAL PROPERTY.

(a) DISPOSAL AUTHORIZED.—Notwithstanding title II the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), title VIII of such Act (40 U.S.C. 531 et seq.), section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), or any other provision of law relating to the management and disposal of real property by the United States, but subject to subsection (d), the Retirement Home Board may, by sale or otherwise, convey all right, title, and interest of the United States in a parcel of real property, including improvements thereof, consisting of approximately 49 acres located in Washington, District of Columbia, east of North Capitol Street, and recorded as District Parcel 121/19.

(b) MANNER, TERMS, AND CONDITIONS OF DISPOSAL.—The Retirement Home may determine—

(1) the manner for the disposal of the real property under subsection (a); and

(2) the terms and conditions for the conveyance of that property, including any terms and conditions that the Board considers necessary to protect the interests of the United States.

(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 Board. The cost of the survey shall be borne by the party or parties to which the property is to be conveyed.

(d) CONGRESSIONAL NOTIFICATION.—(1) Before disposing of real property under subsection (a), the Board shall notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of the proposed disposal. The Board may not dispose of the real property until the later of—

(A) the date that is 60 days after the date on which the notification is received by the committees; or

(B) the date of the next day following the expiration of the first period of 30 days of continuous session of Congress that follows the date on which the notification is received by the committees.

(2) For the purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

SEC. 584. MATTERS CONCERNING PERSONNEL.

(a) TERMS OF APPOINTMENT TO GOVERNING BOARDS.—Section 1515(e) (24 U.S.C. 415(e)) is amended—

(1) in paragraph (1), by striking out ''subsection (f)'' and inserting in lieu thereof ''paragraph (2)'';

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by adding after paragraph (1) the following new paragraphs:

''(2)(A) In the case of a member of a board who is appointed or designated under subsection (b) or (c) on the basis of a particular status described in a paragraph under that subsection, the appointment or designation of that member terminates on the date on which the member ceases to hold that status. The preceding sentence applies only to members of the Armed Forces on active duty and employees of the United States.

''(B) Paragraph (1) does not apply with respect to an appointment or designation of a member of a board for a term of less than five years that is made in accordance with subsection (f).

''(3) A member of the Retirement Home Board and a member of a Local Board may be reappointed for one consecutive term by the Chairman of that board.''.

(b) DUAL COMPENSATION.—(1) Section 1517 (24 U.S.C. 417) is amended—

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

(B) by inserting after subsection (e) the following new subsection (f):

''(f) DUAL COMPENSATION.—(1) The Retirement Home Board may waive the application of section 5532 of title 5, United States Code, to the Director of an establishment of the Retirement Home or any employee of the Retirement Home (to the extent that such section would otherwise apply to the Director or employee by reason of the employment as Director or employee). The Chairman of the Board shall notify the Secretary of the Treasury of any waiver exercised under the preceding sentence and the effective date of the waiver.

''(2) If the application of section 5532 of title 5, United States Code, to a Director or employee is waived under paragraph (1), the rate of pay payable out of the Retirement Home Trust Fund for the Director or employee shall be the amount equal to the excess, if any, of the periodic rate of pay fixed for the position of the Director or employee over the amount by which the retired or retainer pay payable to the Director or employee would have been reduced (computed on the basis of that periodic rate of pay for that position) if section 5532 of title 5, United States Code, had not been waived.

''(3)(A) In the case of a Director or employee paid at a rate of pay that is reduced under paragraph (2), the amounts deducted and withheld from pay for purposes of chapter 81, subchapter III of chapter 83, chapter 84, chapter 87, or chapter 89 of title 5, United States Code, all agency contributions required under such provisions of law, the maximum amount of contributions that may be made to the Thrift Saving Fund under subchapter III of chapter 84 of title 5, United States Code, the rate of disability compensation payable under subchapter I of chapter 81 of such title, the levels of life insurance coverage provided under chapter 87 of such title, and the amounts of annuities under subchapter III of chapter 83 of such title and subchapter II of chapter 84 of such title shall be computed as if the Director or employee were paid the full rate of pay fixed for the position of the Director or employee for the period for which the Director was paid at the reduced rate of pay under that paragraph.

''(B) If the amount payable to a Director or employee under paragraph (2) is less than the total amount required to be deducted and withheld from the pay of the Director or employee under a provision of law referred to in subparagraph (A), the amount of the deficiency shall be paid by the Director or employee. The participation or benefits available to a Director or employee who fails to pay a deficiency promptly shall be restricted in accordance with regulations which the Director of the Office of Personnel Management shall prescribe.

''(4) In this section, the term 'retired or retainer pay' has the meaning given such term in section 5531 of title 5, United States Code.''.

(2) Section 1516(f) (24 U.S.C. 416(f)) is amended—

(A) by inserting ''(1)'' after ''(f) ANNUAL REPORT.—''; and

(B) by adding at the end the following:

''(2) In addition to other matters covered by the annual report for a fiscal year, the annual report shall identify each Director or employee, if any, whose pay was reduced for any period during that fiscal year pursuant to an exercise of the waiver authority under section 1517(f), and shall include a discussion that demonstrates that the unreduced rate of pay established for the position of that Director or employee is comparable to the prevailing rates of pay provided for personnel in the retirement home industry who perform functions similar to those performed by the Director or employee.''.

(3) Subsection (f) of section 1517 (as added by paragraph (1)(B)) and subsection (f)(2) of section 1516 (as added by paragraph (2)(B)) shall apply with respect to pay periods beginning on or after January 1, 1997.

SEC. 585. FEES FOR RESIDENTS.

(a) ONE-YEAR DELAY IN IMPLEMENTATION OF NEW FEE STRUCTURE.—(1) Subsection (d)(2) of section 371 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2735; 24 U.S.C. 414 note) is amended by striking out ''October 1, 1997'' and inserting in lieu thereof ''October 1, 1998''.

(2) Subsection (b)(2)(B) of such section is amended by striking out ''1998'', ''1999'', and ''2000'' in paragraphs (1) and (2) of the subsection (d) that is set forth in such subsection (b)(2)(B) as an amendment to section 1514 of the Armed Forces Retirement Home Act of 1991 and inserting in lieu thereof ''1999'', ''2000'', and ''2001'', respectively.

(b) REPORT ON FUNDING THE ARMED FORCES RETIREMENT HOME.—(1) Not later than March 3, 1997, the Secretary of Defense shall submit to Congress a report on meeting the funding needs of the Armed Forces Retirement Home in a manner that is fair and equitable to the residents and to the members of the Armed Forces who provide required monthly contributions for the home.

(2) The report shall include the following:

(A) The increment between levels of income of a resident of the Armed Forces Retirement Home that is appropriate for applying the next higher monthly fee to a resident under a monthly fee structure for the residents of the home.

(B) The categories of income and disability payments that should generally be considered as monthly income for the purpose of determining the fee applicable to a resident and the conditions under which each such category should be considered as monthly income for such purpose.

(C) The degree of flexibility that should be provided the Armed Forces Retirement Home Board for the setting of fees for residents.

(D) A discussion of whether the Armed Forces Retirement Home Board has and should have authority to vary the fee charged a resident under exceptional circumstances, together with any recommended legislation regarding such an authority.

(E) A discussion of how to ensure fairness and equitable treatment of residents and of warrant officers and enlisted members of the Armed Forces in meeting the funding needs of the Armed Forces Retirement Home.

(F) The advisability of exercising existing authority to increase the amount deducted from the pay of warrant officers and enlisted personnel for the Armed Forces Retirement Home under section 1007(i) of title 37, United States Code.

(G) Options for ways to meet the funding needs of the Armed Forces Retirement Home without increasing the amount deducted from pay under section 1007(i) of title 37, United States Code.

(H) Any other matters that the Secretary of Defense, after the consultation required by paragraph (3), considers appropriate regarding funding of the Armed Forces Retirement Home.

(3) The Secretary shall consult the Armed Forces Retirement Home Board and the secretaries of the military departments in preparing the report under this subsection.

SEC. 586. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated for fiscal year 1997 from the Armed Forces Retirement Home Trust Fund the sum of $57,345,000 for the operation of the Armed Forces Retirement Home.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1997.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1997 shall not be made.

(b) INCREASE IN BASIC PAY AND BAS.—Effective January 1, 1997, the rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 3.0 percent.

(c) INCREASE IN BAQ.—Effective January 1, 1997, the rates of basic allowance for quarters of members of the uniformed services are increased by 4.0 percent.

SEC. 602. RATE OF CADET AND MIDSHIPMAN PAY.

Section 203(c) of title 37, United States Code, is amended—

(1) by striking out paragraph (2); and

(2) in paragraph (1), by striking out ''(1)''.

SEC. 603. PAY OF SENIOR NONCOMMISSIONED OFFICERS WHILE HOSPITALIZED.

(a) IN GENERAL.—Section 210 of title 37, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

''(b) A senior enlisted member of an armed force shall continue to be entitled to the rate of basic pay authorized for the senior enlisted member of that armed force while the member is hospitalized, beginning on the day of the hospitalization and ending on the day the member is discharged from the hospital, but not for more than 180 days.''.

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

''§ 210. Pay of the senior noncommissioned officer of an armed force during terminal leave and while hospitalized''.

(2) The item relating to such section in the table of sections at the beginning of chapter 3 of title 10, United States Code, is amended to read as follows:

''210. Pay of the senior noncommissioned officer of an armed force during terminal leave and while hospitalized.''.

SEC. 604. BASIC ALLOWANCE FOR QUARTERS FOR MEMBERS ASSIGNED TO SEA DUTY.

(a) ENTITLEMENT OF SINGLE MEMBERS ABOVE GRADE E–5.—Section 403(c)(2) of such title 37, United States Code, is amended by striking out the second sentence.

(b) ENTITLEMENT OF CERTAIN SINGLE MEMBERS IN GRADE E–5.—Section 403(c)(2) of such title, as amended by subsection (a), is further amended by adding at the end the following: ''However, the Secretary concerned may authorize payment of the basic allowance for quarters to members of a uniformed service without dependents who are in pay grade E–5, are on sea duty, and are not provided Government quarters ashore.''.

(c) ENTITLEMENT WHEN BOTH SPOUSES IN GRADES BELOW GRADE E–6 ARE ASSIGNED TO SEA DUTY.—Section 403(c)(2) of such title, as amended by subsections (a) and (b), is further amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following: ''Notwithstanding section 421 of this title, two members of the uniformed services in pay grades below E–6 who are married to each other, have no dependent other than the spouse, and are simultaneously assigned to sea duty on ships are jointly entitled to one basic allowance for quarters at the rate provided for members with dependents in the highest pay grade in which either spouse is serving.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on October 1, 1996.

SEC. 605. UNIFORM APPLICABILITY OF DISCRETION TO DENY AN ELECTION NOT TO OCCUPY GOVERNMENT QUARTERS.

Section 403(b)(3) of title 37, United States Code, is amended by striking out ''A member'' and inserting in lieu thereof ''Subject to the provisions of subsection (j), a member''.

SEC. 606. FAMILY SEPARATION ALLOWANCE FOR MEMBERS SEPARATED BY MILITARY ORDERS FROM SPOUSES WHO ARE MEMBERS.

Section 427(b) of title 37, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out ''or'' at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ''; or''; and

(C) by adding at the end the following:

''(D) the member is married to a member of a uniformed service, the member has no dependent other than the spouse, the two members are separated by reason of the execution of military orders, and the two members were residing together immediately before being separated by reason of execution of military orders.''; and

(2) by adding at the end the following:

''(5) Section 421 of this title does not apply to bar an entitlement to an allowance under paragraph (1)(D). However, not more than one monthly allowance may be paid with respect to a married couple under paragraph (1)(D) for any month.''.

SEC. 607. WAIVER OF TIME LIMITATIONS FOR CLAIM FOR PAY AND ALLOWANCES.

Section 3702 of title 31, United States Code, is amended by adding at the end the following:

''(e)(1) Upon the request of the Secretary concerned (as defined in section 101 of title 37), the Comptroller General may waive the time limitations set forth in subsection (b) or (c) in the case of a claim for pay or allowances provided under title 37 and, subject to paragraph (2), settle the claim.

''(2) Payment of a claim settled under paragraph (1) shall be subject to the availability of appropriations for payment of that particular claim.

''(3) This subsection does not apply to a claim in excess of $25,000.''.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. EXTENSION OF CERTAIN BONUSES FOR RESERVE FORCES.

(a) SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVES.—Section 302g(f) of title 37, United States Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(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, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(i) of title 37, United States Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

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, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

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, 1997'' and inserting in lieu thereof ''September 30, 1998,''.

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(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, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(d) 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, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(e) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States

Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(f) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking out ''October 1, 1997'' and inserting in lieu thereof ''October 1, 1998''.

(g) 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, 1997'' and inserting in lieu thereof ''October 1, 1998''.

SEC. 614. INCREASED SPECIAL PAY FOR DENTAL OFFICERS OF THE ARMED FORCES.

(a) INCREASED RATES.—Section 302b(a) of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking out ''$1,200'' and inserting in lieu thereof ''$3,000'';

(B) in subparagraph (B), by striking out ''$2,000'' and inserting in lieu thereof ''$7,000''; and

(C) in subparagraph (C), by striking out ''$4,000'' and inserting in lieu thereof ''$7,000'';

(2) in paragraph (4), by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively, and by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):

''(A) $4,000 per year, if the officer has less than three years of creditable service.''; and

(3) in paragraph (5)—

(A) in subparagraph (A)—

(i) by striking out ''$2,000'' and inserting in lieu thereof ''$2,500''; and

(ii) by striking out ''12 years'' and inserting in lieu thereof ''10 years'';

(B) in subparagraph (B)—

(i) by striking out ''$3,000'' and inserting in lieu thereof ''$3,500''; and

(ii) by striking out ''12 but less than 14 years'' and inserting in lieu thereof ''10 but less than 12 years''; and

(C) in subparagraph (C), by striking out ''14 or more years'' and inserting in lieu thereof ''12 or more years''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1996.

SEC. 615. RETENTION SPECIAL PAY FOR PUBLIC HEALTH SERVICE OPTOMETRISTS.

Section 302a(b) of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out ''an armed force'' in the matter preceding subparagraph (A) and inserting in lieu thereof ''a uniformed service''; and

(B) by striking out ''of the military department'' in subparagraph (C); and

(2) in paragraph (4), by striking out ''of the military department''.

SEC. 616. SPECIAL PAY FOR NONPHYSICIAN HEALTH CARE PROVIDERS IN THE PUBLIC HEALTH SERVICE.

Section 302c(d) of title 37, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking out ''Secretary of Defense'' and inserting in lieu thereof ''Secretary concerned''; and

(2) in paragraph (1)—

(A) by striking out ''or'' the third place it appears; and

(B) by inserting before the period at the end the following: '', or an officer in the Regular or Reserve Corps of the Public Health Service''.

SEC. 617. FOREIGN LANGUAGE PROFICIENCY PAY FOR PUBLIC HEALTH SERVICE AND NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OFFICERS.

(a) ELIGIBILITY.—Section 316 of title 37, United States Code, is amended in subsection (a)—

(1) in the matter preceding paragraph (1), by striking out ''armed forces'' and inserting in lieu thereof ''uniformed services'';

(2) in paragraph (2)—

(A) by striking out ''Secretary of Defense'' and inserting in lieu thereof ''Secretary concerned''; and

(B) by inserting ''or public health'' after ''national defense''; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking out ''military'' and inserting in lieu thereof ''uniformed services'';

(B) in subparagraph (C), by striking out ''military''; and

(C) in subparagraph (D)—

(i) by striking out ''Department of Defense'' and inserting in lieu thereof ''uniformed service''; and

(ii) by striking out ''Secretary of Defense'' and inserting in lieu thereof ''Secretary concerned''.

(b) ADMINISTRATION.—Subsection (d) of such section is amended—

(1) by striking out ''his jurisdiction and'' and inserting in lieu thereof ''the Secretary's jurisdiction,''; and

(2) by inserting before the period at the end '', by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1996, and apply with respect to months beginning on or after such date.

Subtitle C—Travel and Transportation Allowances

SEC. 621. ROUND TRIP TRAVEL ALLOWANCES FOR SHIPPING MOTOR VEHICLES AT GOVERNMENT EXPENSE.

(a) IN GENERAL.—Section 406(b)(1)(B) of title 37, United States Code, is amended as follows—

(1) in clause (i)(I), by inserting '', including return travel to the old duty station,'' after ''nearest the old duty station''; and

(2) in clause (ii), by inserting '', including travel from the new duty station to the port of debarkation to pick up the vehicle'' after ''to the new duty station''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on April 1, 1997.

SEC. 622. OPTION TO STORE INSTEAD OF TRANSPORT A PRIVATELY OWNED VEHICLE AT THE EXPENSE OF THE UNITED STATES.

(a) IN GENERAL.—Section 2634 of title 10, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (g);

(2) by transferring subsection (g), as so redesignated, to the end of such section; and

(3) by inserting after subsection (a) the following new subsection (b):

''(b) When a member is ordered to make a change of permanent station to a foreign country and the member is authorized under subsection (a) to have a vehicle transported under that subsection, the Secretary may authorize the member to store the vehicle (instead of having it transported) if restrictions imposed by the foreign country or the United States preclude entry of the vehicle into that country or require extensive modification of the vehicle as a condition for entry of the vehicle into the country. The cost of the storage of the vehicle, and costs associated with the delivery of the vehicle for storage and removal of the vehicle for delivery from storage shall be paid by the United States. Costs paid under this subsection may not exceed reasonable amounts, as determined under regulations prescribed by the Secretary of Defense (and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy).''.

(b) UNACCOMPANIED TOURS.—Subsection (h)(1)(B) of section 406 of title 37, United States Code, is amended to read as follows:

''(B) in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle that is owned by the member (or a dependent of a member) and is for his dependent's personal use to that location by means of transportation authorized under section 2634 of title 10, or authorize storage of such motor vehicle if the storage of the motor vehicle is otherwise authorized under that section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1996.

SEC. 623. DEFERRAL OF TRAVEL WITH TRAVEL AND TRANSPORTATION ALLOWANCES IN CONNECTION WITH LEAVE BETWEEN CONSECUTIVE OVERSEAS TOURS.

(a) AUTHORITY FOR ADDITIONAL DEFERRAL OF TRAVEL.—Section 411b(a)(2) of title 37, United States Code, is amended by adding at the end the following: ''A member may defer the travel for one additional year if, due to participation in a contingency operation, the member is unable to commence the travel within the one-year period provided for under the preceding sentence.''.

(b) EFFECTIVE DATE.—The amendment made by subsection shall (a) take effect as of November 1, 1995, and shall apply with respect to members of the uniformed services who, on or after that date, participate in critical operational missions, as determined under the third sentence of section 411b(a)(2) of title 37, United States Code (as added by subsection (a)).

SEC. 624. FUNDING FOR TRANSPORTATION OF HOUSEHOLD EFFECTS OF PUBLIC HEALTH SERVICE OFFICERS.

Section 406(j)(1) of title 37, United States Code, is amended in the first sentence—

(1) by inserting '', and appropriations available to the Department of Health and Human Services for providing transportation of household effects of members of the Commissioned Corps of the Public Health Service under subsection (b),'' after ''members of the armed forces under subsection (b)''; and

(2) by striking out ''of the military department''.

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

SEC. 631. EFFECTIVE DATE FOR MILITARY RETIREE COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 1998.

(a) REPEAL OF ADJUSTMENT OF EFFECTIVE DATE FOR FISCAL YEAR 1998.—Section 1401a(b)(2)(B) of title 10, United States Code, is amended—

(1) by striking out ''(B) SPECIAL RULES'' and all that follows through ''In the case of'' in clause (i) and inserting in lieu thereof ''(B) SPECIAL RULE FOR FISCAL YEAR 1996.—In the case of''; and

(2) by striking out clause (ii).

(b) REPEAL OF CONTINGENT ALTERNATIVE DATE FOR FISCAL YEAR 1998.—Section 631 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 364) is amended by striking out subsection (b).

SEC. 632. ALLOTMENT OF RETIRED OR RETAINER PAY.

(a) AUTHORITY.—(1) Part II of subtitle A of title 10, United States Code, is amended by

inserting after chapter 71 the following new chapter:

"CHAPTER 72—MISCELLANEOUS RETIRED AND RETAINER PAY AUTHORITIES

''Sec.
''1421. Allotments.

"§ 1421. Allotments

''(a) AUTHORITY.—Subject to such conditions and restrictions as may be provided in regulations prescribed under subsection (b), a member or former member of the armed forces entitled to retired or retainer pay may transfer or assign the member or former member's retired or retainer pay account when due and payable.

''(b) REGULATIONS.—The Secretaries of the military departments and the Secretary of Transportation (with respect to the Coast Guard when it is not operating as a service in the Navy) shall prescribe uniform regulations for the administration of subsection (a).''.

(2) The tables of chapters at the beginning of subtitle A of such title and the beginning of part II of such subtitle are amended by inserting after the item relating to chapter 71 the following:

''72. Miscellaneous retired and retainer pay authorities ..... 1421''.

(b) IMPLEMENTATION.—(1) Notwithstanding section 1421 of title 10, United States Code (as added by subsection (a)), a person entitled to retired or retainer pay may not initiate a transfer or assignment of retired or retainer pay under such section until regulations prescribed under subsection (b) of such section take effect.

(2) The Secretaries of the military departments and the Secretary of Transportation shall prescribe regulations under subsection (b) of such section that ensure that, beginning not later than October 1, 1997, a person may make up to six transfers or assignments of the person's retired or retainer pay account when due and payable for payment of any financial obligations.

SEC. 633. COST-OF-LIVING INCREASES IN SBP CONTRIBUTIONS TO BE EFFECTIVE CONCURRENTLY WITH PAYMENT OF RELATED RETIRED PAY COST-OF-LIVING INCREASES.

(a) SURVIVOR BENEFIT PLAN.—Section 1452(h) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' after ''(h)''; and

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

''(2)(A) Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section (or section 631(b) of Public Law 104–106 (110 Stat. 364)), then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

''(B) Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section 1401a.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to retired pay payable for months beginning on or after the date of the enactment of this Act.

SEC. 634. ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES.

(a) SURVIVOR ANNUITY.—(1) The Secretary concerned shall pay an annuity to the qualified surviving spouse of each member of the uniformed services 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 of the Armed Forces during the period beginning on September 21, 1972, and ending on October 1, 1978, and at the time of his death would have been entitled to retired pay under chapter 67 of title 10, United States Code (as in effect before December 1, 1994), but for the fact that he was under 60 years of age.

(2) A qualified surviving spouse for purposes of this section 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) AMOUNT OF ANNUITY.—(1) An annuity under this section shall be paid at the rate of $165 per month, as adjusted from time to time under paragraph (3).

(2) An annuity paid to a surviving spouse under this section shall be reduced by the amount of any dependency and indemnity compensation (DIC) to which the surviving spouse is entitled under section 1311(a) of title 38, United States Code.

(3) Whenever after the date of the enactment of this Act retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code, each annuity that is payable under this section shall be increased at the same time and by the same total percent. The amount of the increase shall be based on the amount of the monthly annuity payable before any reduction under this section.

(c) APPLICATION REQUIRED.—No benefit shall be paid to any person under this section unless an application for such benefit is filed with the Secretary concerned by or on behalf of such person.

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

(1) The terms ''uniformed services'' and ''Secretary concerned'' have the meanings given such terms in section 101 of title 37, United States Code.

(2) The term ''surviving spouse'' has the meaning given the terms ''widow'' and ''widower'' in paragraphs (3) and (4) of section 1447 of title 10, United States Code.

(e) PROSPECTIVE APPLICABILITY.—(1) Annuities under this section shall be paid for months beginning after the month in which this Act is enacted.

(2) No benefit shall accrue to any person by reason of the enactment of this section for any period before the first month referred to in paragraph (1).

(f) EXPIRATION OF AUTHORITY.—The authority to pay annuities under this section shall expire on September 30, 2001.

SEC. 635. ADJUSTED ANNUAL INCOME LIMITATION APPLICABLE TO ELIGIBILITY FOR INCOME SUPPLEMENT FOR CERTAIN WIDOWS OF MEMBERS OF THE UNIFORMED SERVICES.

Section 4 of Public Law 92–425 (10 U.S.C. 1448 note) is amended by striking out ''$2,340'' in subsection (a)(3) and in the first sentence of subsection (b) and inserting in lieu thereof ''$5,448''.

SEC. 636. PREVENTION OF CIRCUMVENTION OF COURT ORDER BY WAIVER OF RETIRED PAY TO ENHANCE CIVIL SERVICE RETIREMENT ANNUITY.

(a) CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.—

(1) IN GENERAL.—Subsection (c) of section 8332 of title 5, United States Code, is amended by adding at the end the following:

''(4) If an employee or Member waives retired pay that is subject to a court order for which there has been effective service on the Secretary concerned for purposes of section 1408 of title 10, the military service on which the retired pay is based may be credited as service for purposes of this subchapter only if, in accordance with regulations prescribed by the Director of the Office of Personnel Management, the employee or Member authorizes the Director to deduct and withhold from the annuity payable to the employee or Member under this subchapter, and to pay to the former spouse covered by the court order, the same amount that would have been deducted and withheld from the employee's or Member's retired pay and paid to that former spouse under such section 1408.''.

(2) CONFORMING AMENDMENT.—Paragraph (1) of such subsection is amended by striking ''Except as provided in paragraph (2)'' and inserting ''Except as provided in paragraphs (2) and (4)''.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) IN GENERAL.—Subsection (c) of section 8411 of title 5, United States Code, is amended by adding at the end the following:

''(5) If an employee or Member waives retired pay that is subject to a court order for which there has been effective service on the Secretary concerned for purposes of section 1408 of title 10, the military service on which the retired pay is based may be credited as service for purposes of this chapter only if, in accordance with regulations prescribed by the Director of the Office of Personnel Management, the employee or Member authorizes the Director to deduct and withhold from the annuity payable to the employee or Member under this subchapter, and to pay to the former spouse covered by the court order, the same amount that would have been deducted and withheld from the employee's or Member's retired pay and paid to that former spouse under such section 1408.''.

(2) CONFORMING AMENDMENT.—Paragraph (1) of such subsection is amended by striking ''Except as provided in paragraph (2) or (3)'' and inserting ''Except as provided in paragraphs (2), (3), and (5)''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1997.

Subtitle E—Other Matters

SEC. 641. REIMBURSEMENT FOR ADOPTION EXPENSES INCURRED IN ADOPTIONS THROUGH PRIVATE PLACEMENTS.

(a) DEPARTMENT OF DEFENSE.—Section 1052(g)(1) of title 10, United States Code, is amended by striking out ''adoption or by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption'' and inserting in lieu thereof ''adoption, by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption, or by any other source if the adoption is supervised by a court under State or local law''.

(b) COAST GUARD.—Section 514(g)(1) of title 14, United States Code, is amended by striking out ''adoption or by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption'' and inserting in lieu thereof ''adoption, by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption, or by any other source if the adoption is supervised by a court under State or local law''.

SEC. 642. WAIVER OF RECOUPMENT OF AMOUNTS WITHHELD FOR TAX PURPOSES FROM CERTAIN SEPARATION PAY RECEIVED BY INVOLUNTARILY SEPARATED MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Section 1174(h) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting ''(less the amount of Federal income tax withheld from such pay)'' before the period at the end; and

(2) in paragraph (2), by inserting ''(less the amount of Federal income tax withheld from such pay)'' before the period at the end of the first sentence.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1996, and shall apply to payments of separation pay, severance pay, or readjustment pay that are made after October 1, 1996.

SEC. 643. PAYMENT TO VIETNAMESE COMMANDOS CAPTURED AND INTERNED BY NORTH VIETNAM.

(a) PAYMENT AUTHORIZED.—(1) The Secretary of Defense shall make a payment to any person who demonstrates that he or she was captured and incarcerated by the Democratic Republic of Vietnam after having entered into the territory of the Democratic Republic of Vietnam pursuant to operations conducted under OPLAN 34A or its predecessor.

(2) No payment may be made under this section to any individual who the Secretary of Defense determines, based on the available evidence, served in the Peoples Army of Vietnam or who provided active assistance to the Government of the Democratic Republic of Vietnam during the period 1958 through 1975.

(3) In the case of a decedent who would have been eligible for a payment under this section if the decedent had lived, the payment shall be made to survivors of the decedent in the order in which the survivors are listed, as follows:

(A) To the surviving spouse.

(B) If there is no surviving spouse, to the surviving children (including natural children and adopted children) of the decedent, in equal shares.

(b) AMOUNT PAYABLE.—The amount payable to or with respect to a person under this section is $40,000.

(c) TIME LIMITATIONS.—(1) In order to be eligible for payment under this section, the claimant must file his or her claim with the Secretary of Defense within 18 months of the effective date of the regulations implementing this section.

(2) Not later than 18 months after the Secretary receives a claim for payment under this section—

(A) the claimant's eligibility for payment of the claim under subsection (a) shall be determined; and

(B) if the claimant is determined eligible, the claim shall be paid.

(d) DETERMINATION AND PAYMENT OF CLAIMS.—(1) SUBMISSION AND DETERMINATION OF CLAIMS.—The Secretary of Defense shall establish by regulation procedures whereby individuals may submit claims for payment under this section. Such regulations shall be issued within 6 months of the date of enactment of this Act.

(2) PAYMENT OF CLAIMS.—The Secretary of Defense, in consultation with the other affected agencies, may establish guidelines for determining what constitutes adequate documentation that an individual was captured and incarcerated by the Democratic Republic of Vietnam after having entered the territory of the Democratic Republic of Vietnam pursuant to operations conducted under OPLAN 34A or its predecessor.

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the total amount authorized to be appropriated under section 301, $20,000,000 is available for payments under this section. Notwithstanding section 301, that amount is authorized to be appropriated so as to remain available until expended.

(f) PAYMENT IN FULL SATISFACTION OF CLAIMS AGAINST THE UNITED STATES.—The acceptance of payment by an individual under this section shall be in full satisfaction of all claims by or on behalf of that individual against the United States arising from operations under OPLAN 34A or its predecessor.

(g) ATTORNEY FEES.—Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this section, more than ten percent of a payment made under this section on such claim.

(h) NO RIGHT TO JUDICIAL REVIEW.—All determinations by the Secretary of Defense pursuant to this section are final and conclusive, notwithstanding any other provision of law. Claimants under this program have no right to judicial review, and such review is specifically precluded.

(i) REPORTS.—(1) No later than 24 months after the enactment of this Act, the Secretary of Defense shall submit a report to the Congress on the payment of claims pursuant to this section.

(2) No later than 42 months after the enactment of this Act, the Secretary of Defense shall submit a final report to the Congress on the payment of claims pursuant to this section.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—General

SEC. 701. IMPLEMENTATION OF REQUIREMENT FOR SELECTED RESERVE DENTAL INSURANCE PLAN.

(a) IMPLEMENTATION BY CONTRACT.—Section 1076b(a) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a) AUTHORITY TO ESTABLISH PLAN.—'';

(2) by designating the third sentence as paragraph (3); and

(3) by inserting after paragraph (1), as designated by paragraph (1) of this subsection, the following:

''(2) The Secretary shall provide benefits under the plan through one or more contracts awarded after full and open competition.''.

(b) SCHEDULE FOR IMPLEMENTATION.—Section 705(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 373; 10 U.S.C. 1076b note) is amended—

(1) by striking out ''Beginning not later than October 1, 1996'' in the first sentence and inserting in lieu thereof ''During fiscal year 1997'';

(2) by striking out ''fiscal year 1996'' both places it appears and inserting in lieu thereof ''fiscal years 1996 and 1997''; and

(3) in the second sentence, by striking out ''by that date'' and inserting in lieu thereof ''during fiscal year 1997''.

SEC. 702. DENTAL INSURANCE PLAN FOR MILITARY RETIREES AND CERTAIN DEPENDENTS.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1076b the following new section:

''§ 1076c. Military retirees' dental insurance plan

''(a) REQUIREMENT.—(1) The Secretary of Defense shall establish a dental insurance plan for—

''(A) members and former members of the armed forces who are entitled to retired or retainer pay;

''(B) members of the Retired Reserve who, except for not having attained 60 years of age, would be entitled to retired pay; and

''(C) eligible dependents of members and former members covered by the enrollment of such members or former members in the plan.

''(2) The dental insurance plan shall provide for voluntary enrollment of participants and shall authorize a member or former member to enroll for self only or for self and eligible dependents.

''(3) The plan shall be administered under regulations prescribed by the Secretary of Defense, in consultation with the Secretary of Transportation.

''(b) PREMIUMS.—(1) Subject to paragraph (2), a member or former member enrolled in the dental insurance plan shall pay the premiums charged for the insurance coverage. The amount of the premiums payable by a member or former member entitled to retired or retainer pay shall be deducted and withheld from the retired or retainer pay and shall be disbursed to pay the premiums. The regulations prescribed under subsection (a)(3) shall specify the procedures for payment of the premiums by other enrolled members and former members.

''(2) The Secretary of Defense may provide for premium-sharing between the Department of Defense and the members and former members enrolled in the plan.

''(c) BENEFITS AVAILABLE UNDER PLAN.—The dental insurance plan established under subsection (a) shall provide benefits for basic dental care and treatment, including diagnostic services, preventative services, basic restorative services (including endodontics), surgical services, and emergency services.

''(d) COVERAGE.—(1) The Secretary shall prescribe a minimum required period for enrollment by a member or former member in the dental insurance plan established under subsection (a).

''(2) The Secretary shall terminate the enrollment in the plan of any member or former member, and any dependents covered by the enrollment, upon the occurrence of one of the following events:

''(A) Termination of the member or former member's entitlement to retired pay or retainer pay.

''(B) Termination of the member or former member's status as a member of the Retired Reserve.

''(e) CONTINUATION OF DEPENDENTS' ENROLLMENT UPON DEATH OF ENROLLEE.—Coverage of a dependent under an enrollment of a member or former member who dies during the period of enrollment shall continue until the end of that period, except that the coverage may be terminated on any earlier date when the premiums paid are no longer sufficient to cover continuation of the enrollment. The Secretary shall prescribe in regulations the parties responsible for paying the remaining premiums due on the enrollment and the manner for collection of the premiums.

''(f) ELIGIBLE DEPENDENT DEFINED.—In this section, the term 'eligible dependent' means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1076b the following new item:

''1076c. Military retirees' dental insurance plan.''.

(b) IMPLEMENTATION.—Beginning not later than October 1, 1997, the Secretary of Defense shall offer members and former members of the Armed Forces referred to in subsection (a)(1) of section 1076c of title 10, United States Code (as added by subsection (a)(1) of this section), the opportunity to enroll in the dental insurance plan required under such section and to receive the benefits under the plan immediately upon enrollment.

SEC. 703. UNIFORM COMPOSITE HEALTH CARE SYSTEM SOFTWARE.

(a) REQUIREMENT FOR USE OF UNIFORM SOFTWARE.—The Secretary of Defense, in consultation with the other administering Secretaries, shall take such action as is necessary promptly—

(1) to provide a uniform software package for use by providers of health care under the TRICARE program and by military treatment facilities for the computerized processing of information; and

(2) to require such providers to use the uniform software package in connection with providing health care under the TRICARE program or otherwise under chapter 55 of title 10, United States Code.

(b) CONTENT OF UNIFORM SOFTWARE PACKAGE.—The uniform software package required to be used under subsection (a) shall, at a minimum, provide for processing of the following information:

(1) TRICARE program enrollment.

(2) Determinations of eligibility for health care.

(3) Provider network information.

(4) Eligibility of beneficiaries to receive health benefits from other sources.

(5) Appointment scheduling.

(c) MODIFICATION OF CONTRACTS.—Notwithstanding any other provision of law, the Secretary may modify any existing contract with a health care provider under the TRICARE program as necessary to require the health care provider to use the uniform software package required under subsection (a).

(d) DEFINITIONS.—In this section:

(1) The term ''administering Secretaries'' has the meaning given such term in section 1072(3) of title 10, United States Code.

(2) The term ''military treatment facility''—

(A) means a facility of the uniformed services in which health care is provided under chapter 55 of title 10, United States Codes; and

(B) includes 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)).

(3) 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. 704. ENHANCEMENT OF THIRD-PARTY COLLECTION AND SECONDARY PAYER AUTHORITIES UNDER CHAMPUS.

(a) RETENTION AND USE BY TREATMENT FACILITIES OF AMOUNTS COLLECTED.—Subsection (g)(1) of section 1095 of title 10, United States Code, is amended by inserting ''or through'' after ''provided at''.

(b) EXPANSION OF DEFINITION OF THIRD PARTY PAYER.—Subsection (h) of such section is amended—

(1) in the first sentence of paragraph (1), by inserting ''and a workers' compensation program or plan'' before the period; and

(2) in paragraph (2)—

(A) by striking out ''organization and'' and inserting in lieu thereof a ''organization,''; and

(B) by inserting '', and a personal injury protection plan or medical payments benefit plan for personal injuries resulting from the operation of a motor vehicle'' before the period.

(c) APPLICABILITY OF SECONDARY PAYER REQUIREMENT.—Section 1079(j)(1) of such title is amended by inserting '', including any plan offered by a third party payer (as defined in section 1095(h)(1) of this title),'' after ''or health plan''.

SEC. 705. CODIFICATION OF AUTHORITY TO CREDIT CHAMPUS COLLECTIONS TO PROGRAM ACCOUNTS.

(a) CREDITS TO CHAMPUS ACCOUNTS.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1079 the following:

''§ 1079a. Crediting of CHAMPUS collections to program accounts

''All refunds and other amounts collected by or for the United States in the administration of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be credited to the appropriation available for that program for the fiscal year in which collected.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1079 the following new item:

''1079a. Crediting of CHAMPUS collections to program accounts.''.

SEC. 706. COMPTROLLER GENERAL REVIEW OF HEALTH CARE ACTIVITIES OF THE DEPARTMENT OF DEFENSE RELATING TO PERSIAN GULF ILLNESSES.

(a) MEDICAL RESEARCH AND CLINICAL CARE PROGRAMS.—The Comptroller General shall analyze the effectiveness of the medical research programs and clinical care programs of the Department of Defense that relate to illnesses that might have been contracted by members of the Armed Forces as a result of service in the Southwest Asia theater of operations during the Persian Gulf War.

(b) EXPERIMENTAL DRUGS.—The Comptroller General shall analyze the scope and effectiveness of the policies of the Department of Defense with respect to the investigational use of drugs, the experimental use of drugs, and the use of drugs not approved by the Food and Drug Administration to treat illnesses referred to in subsection (a).

(c) ADMINISTRATION OF MEDICAL RECORDS.—The Comptroller General shall analyze the administration of medical records by the military departments in order to assess the extent to which such records accurately reflect the pre-deployment medical assessments, immunization records, informed consent releases, complaints during routine sick call, emergency room visits, visits with unit medics during deployment, and other relevant medical information relating to the members and former members referred to in subsection (a) with respect to the illnesses referred to in that subsection.

(d) REPORTS.—The Comptroller General shall submit to Congress a separate report on each of the analyses required under subsections (a), (b), and (c). The Comptroller General shall submit the reports not later than March 1, 1997.

SEC. 707. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out ''(a) RESTRICTION ON USE OF FUNDS.—''.

SEC. 708. PLANS FOR MEDICARE SUBVENTION DEMONSTRATION PROGRAMS.

(a) PROGRAM FOR ENROLLMENT IN TRICARE MANAGED CARE OPTION.—(1) Not later than September 6, 1996, the Secretary of Defense and the Secretary of Health and Human Services shall jointly submit to Congress and the President a report that sets forth a specific plan and the Secretaries' recommendations regarding the establishment of a demonstration program under which—

(A) military retirees who are eligible for medicare are permitted to enroll in the managed care option of the Tricare program; and

(B) the Secretary of Health and Human Services reimburses the Secretary of Defense from the medicare program on a capitated basis for the costs of providing health care services to military retirees who enroll.

(2) The report shall include the following:

(A) The number of military retirees projected to participate in the demonstration program and the minimum number of such participants necessary to conduct the demonstration program effectively.

(B) A plan for notifying military retirees of their eligibility for enrollment in the demonstration program and for any other matters connected with enrollment.

(C) A recommendation for the duration of the demonstration program.

(D) A recommendation for the geographic regions in which the demonstration program should be conducted.

(E) The appropriate level of capitated reimbursement, and a schedule for such reimbursement, from the medicare program to the Department of Defense for health care services provided enrollees in the demonstration program.

(F) An estimate of the amounts to be allocated by the Department for the provision of health care services to military retirees eligible for medicare in the regions in which the demonstration program is proposed to be conducted in the absence of the program and an assessment of revisions to such allocation that would result from the conduct of the program.

(G) An estimate of the cost to the Department and to the medicare program of providing health care services to medicare eligible military retirees who enroll in the demonstration program.

(H) An assessment of the likelihood of cost shifting among the Department and the medicare program under the demonstration program.

(I) A proposal for mechanisms for reconciling and reimbursing any improper payments among the Department and the medicare program under the demonstration program.

(J) A methodology for evaluating the demonstration program, including cost analyses.

(K) As assessment of the extent to which the Tricare program is prepared to meet requirements of the medicare program for purposes of the demonstration program and the provisions of law or regulation that would have to be waived in order to facilitate the carrying out of the demonstration program.

(L) An assessment of the impact of the demonstration program on military readiness.

(M) Contingency plans for the provision of health care services under the demonstration program in the event of the mobilization of health care personnel.

(N) A recommendation of the reports that the Department and the Department of Health and Human Services should submit to Congress describing the conduct of the demonstration program.

(b) FEASABILITY STUDY FOR PROGRAM FOR ENROLLMENT IN TRICARE FEE-FOR-SERVICE OPTION.—Not later than January 3, 1997, the Secretary of Defense and the Secretary of Health and Human Services shall jointly submit to Congress and the President a report on the feasibility and advisability of expanding the demonstration program referred to in subsection (a) so as to provide the Department with reimbursement from the medicare program on a fee-for-service basis for health care services provided medicare-eligible military retirees who enroll in the demonstration program. The report shall include a proposal for the expansion of the program if the expansion is determined to be advisable.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated in section 301, $75,000,000 shall be made available to carry out the demonstration program referred to in subsection (a) if Congress authorizes the program by the end of the Second Session of the One Hundred Fourth Congress.

SEC. 709. RESEARCH AND BENEFITS RELATING TO GULF WAR SERVICE.

(a) RESEARCH.—(1) The Secretary of Defense shall, by contract, grant, or other transaction, provide for scientific research to be carried out by entities independent of the Federal Government on possible causal relationships between the complex of illnesses and symptoms commonly known as ''Gulf War syndrome'' and the possible exposures of members of the Armed Forces to chemical warfare agents or other hazardous materials during Gulf War service.

(2) The Secretary shall prescribe the procedures for making awards under paragraph (1). The procedures shall—

(A) include a comprehensive, independent peer-review process for the evaluation of proposals for scientific research that are submitted to the Department of Defense; and

(B) provide for the final selection of proposals for award to be based on the scientific merit and program relevance of the proposed research.

(3) Of the amount authorized to be appropriated under section 301(19), $10,000,000 is available for research under paragraph (1).

(b) HEALTH CARE BENEFITS FOR AFFLICTED CHILDREN OF GULF WAR VETERANS.—(1) Under regulations prescribed by the Secretary of Defense, any child of a Gulf War veteran who has been born after August 2, 1990, and has a congenital defect or catastrophic illness not excluded from coverage under paragraph (2) is eligible for medical and dental care under chapter 55 of title 10, United States Code, for the congenital defect or catastrophic illness, and associated conditions, of the child.

(2) The administering Secretaries may exclude from coverage under this subsection—

(A) any congenital defect or catastrophic illness that, as determined by the Secretary of Defense to a reasonable degree of scientific certainty on the basis of scientific research, is not a defect or catastrophic illness that can result in a child from an exposure of a parent of the child to a chemical warfare agent or other hazardous material to which members of the Armed Forces might have been exposed during Gulf War service; and

(B) a particular congenital defect or catastrophic illness (and any associated condition) of a particular child if the onset of the defect or illness is determined to have preceded any possible exposure of the parent or parents of the child to a chemical warfare agent or other hazardous material during Gulf War service.

(3) No fee, deductible, or copayment requirement may be imposed or enforced for medical or dental care provided under chapter 55 of title 10, United States Code, in the case of a child who is eligible for such care under this subsection (even if the child would otherwise be subject to such a requirement on the basis of any eligibility for such care that the child also has under any provision of law other than this subsection).

(c) DEFINITIONS.—(1) In this section:

(A) The term ''Gulf War veteran'' means a veteran of Gulf War service.

(B) The term ''Gulf War service'' means service on active duty as a member of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(C) The term ''Persian Gulf War'' has the meaning given that term in section 101(33) of title 38, United States Code.

(D) The term ''administering Secretaries'' has the meaning given that term in section 1072(3) of title 10, United States Code.

(E) The term ''child'' means a natural child.

(2) The Secretary of Defense shall prescribe in regulations a definition of the terms ''congenital defect'' and ''catastrophic illness'' for the purposes of this section.

SEC. 710. PREVENTIVE HEALTH CARE SCREENING FOR COLON AND PROSTATE CANCER.

(a) MEMBERS AND FORMER MEMBERS.—(1) Section 1074d of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by inserting ''(1)'' before ''Female''; and

(ii) by adding at the end the following new paragraph:

''(2) Male members and former members of the uniformed services entitled to medical care under section 1074 or 1074a of this title shall also be entitled to preventive health care screening for colon or prostate cancer at such intervals and using such screening methods as the administering Secretaries consider appropriate.''; and

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

''(8) Colon cancer screening, at the intervals and using the screening methods prescribed under subsection (a)(2).''.

(2)(A) The heading of such section is amended to read as follows:

''§ 1074d. Primary and preventive health care services

(B) 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:

''1074d. Primary and preventive health care services.''.

(b) DEPENDENTS.—(1) Section 1077(a) of such title is amended by adding at the end the following new paragraph:

''(14) Preventive health care screening for colon or prostate cancer, at the intervals and using the screening methods prescribed under section 1074d(a)(2) of this title.''.

(2) Section 1079(a)(2) of such title is amended—

(A) in the matter preceding subparagraph (A), by inserting ''the schedule and method of colon and prostate cancer screenings,'' after ''pap smears and mammograms,''; and

(B) in subparagraph (B), by inserting ''or colon and prostate cancer screenings'' after ''pap smears and mammograms''.

Subtitle B—Uniformed Services Treatment Facilities

SEC. 721. DEFINITIONS.

In this subtitle:

(1) The term ''administering Secretaries'' means the Secretary of Defense, the Secretary of Transportation, and the Secretary of Health and Human Services.

(2) The term ''agreement'' means the agreement required under section 722(b) between the Secretary of Defense and a designated provider.

(3) The term ''capitation payment'' means an actuarially sound payment for a defined set of health care services that is established on a per enrollee per month basis.

(4) 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.

(5) The term ''designated provider'' means a public or nonprofit private entity that was a transferee of a Public Health Service hospital or other station under section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 603) and that, before the date of the enactment of this Act, was deemed to be a facility of the uniformed services for the purposes of chapter 55 of title 10, United States Code. The term includes any legal successor in interest of the transferee.

(6) The term ''enrollee'' means a covered beneficiary who enrolls with a designated provider.

(7) The term ''health care services'' means the health care services provided under the health plan known as the TRICARE PRIME option under the TRICARE program.

(8) The term ''Secretary'' means the Secretary of Defense.

(9) 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. 722. INCLUSION OF DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.

(a) INCLUSION IN SYSTEM.—The health care delivery system of the uniformed services shall include the designated providers.

(b) AGREEMENTS TO PROVIDE MANAGED HEALTH CARE SERVICES.—(1) After consultation with the other administering Secretaries, the Secretary of Defense shall negotiate and enter into an agreement with each designated provider, under which the designated provider will provide managed health care services to covered beneficiaries who enroll with the designated provider.

(2) The agreement shall be entered into on a sole source basis. The Federal Acquisition Regulation, except for those requirements regarding competition, issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall apply to the agreements as acquisitions of commercial items.

(3) The implementation of an agreement is subject to availability of funds for such purpose.

(c) EFFECTIVE DATE OF AGREEMENTS.—(1) Unless an earlier effective date is agreed upon by the Secretary and the designated provider, the agreement shall take effect upon the later of the following:

(A) The date on which a managed care support contract under the TRICARE program is implemented in the service area of the designated provider.

(B) October 1, 1997.

(2) Notwithstanding paragraph (1), the designated provider whose service area includes Seattle, Washington, shall implement its agreement as soon as the agreement permits.

(d) TEMPORARY CONTINUATION OF EXISTING PARTICIPATION AGREEMENTS.—The Secretary shall extend the participation agreement of a designated provider in effect immediately before the date of the enactment of this Act under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1587) until the agreement required by this section takes effect under subsection (c).

(e) SERVICE AREA.—The Secretary may not reduce the size of the service area of a designated provider below the size of the service area in effect as of September 30, 1996.

(f) COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS.—(1) Unless otherwise agreed upon by the Secretary and a designated provider, the designated provider shall comply with necessary and appropriate administrative requirements established by the Secretary for other providers of health care services and requirements established by the Secretary of Health and Human Services for risk-sharing contractors under section 1876 of the Social Security Act (42 U.S.C. 1395mm). The Secretary and the designated provider shall determine and apply only such administrative requirements as are minimally necessary and appropriate. A designated provider shall not be required to comply with a law or regulation of a State government requiring licensure as a health insurer or health maintenance organization.

(2) A designated provider may not contract out more than five percent of its primary

care enrollment without the approval of the Secretary, except in the case of primary care contracts between a designated provider and a primary care contractor in force on the date of the enactment of this Act.

SEC. 723. PROVISION OF UNIFORM BENEFIT BY DESIGNATED PROVIDERS.

(a) UNIFORM BENEFIT REQUIRED.—A designated provider shall offer to enrollees the health benefit option prescribed and implemented by the Secretary under section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 1073 note), including accompanying cost-sharing requirements.

(b) TIME FOR IMPLEMENTATION OF BENEFIT.—A designated provider shall offer the health benefit option described in subsection (a) to enrollees upon the later of the following:

(1) The date on which health care services within the health care delivery system of the uniformed services are rendered through the TRICARE program in the region in which the designated provider operates.

(2) October 1, 1996.

(c) ADJUSTMENTS.—The Secretary may establish a later date under subsection (b)(2) or prescribe reduced cost-sharing requirements for enrollees.

SEC. 724. ENROLLMENT OF COVERED BENEFICIARIES.

(a) FISCAL YEAR 1997 LIMITATION.—(1) During fiscal year 1997, the number of covered beneficiaries who are enrolled in managed care plans offered by designated providers may not exceed the number of such enrollees as of October 1, 1995.

(2) The Secretary may waive the limitation under paragraph (1) if the Secretary determines that additional enrollment authority for a designated provider is required to accommodate covered beneficiaries who are dependents of members of the uniformed services entitled to health care under section 1074(a) of title 10, United States Code.

(b) PERMANENT LIMITATION.—For each fiscal year after fiscal year 1997, the number of enrollees in managed care plans offered by designated providers may not exceed 110 percent of the number of such enrollees as of the first day of the immediately preceding fiscal year. The Secretary may waive this limitation as provided in subsection (a)(2).

(c) RETENTION OF CURRENT ENROLLEES.—An enrollee in the managed care program of a designated provider as of September 30, 1997, or such earlier date as the designated provider and the Secretary may agree upon, shall continue receiving services from the designated provider pursuant to the agreement entered into under section 722 unless the enrollee disenrolls from the designated provider. Except as provided in subsection (e), the administering Secretaries may not disenroll such an enrollee unless the disenrollment is agreed to by the Secretary and the designated provider.

(d) ADDITIONAL ENROLLMENT AUTHORITY.—Other covered beneficiaries may also receive health care services from a designated provider, except that the designated provider may market such services to, and enroll, only those covered beneficiaries who—

(1) do not have other primary health insurance coverage (other than medicare coverage) covering basic primary care and inpatient and outpatient services; or

(2) are enrolled in the direct care system under the TRICARE program, regardless of whether the covered beneficiaries were users of the health care delivery system of the uniformed services in prior years.

(e) SPECIAL RULE FOR MEDICARE-ELIGIBLE BENEFICIARIES.—If a covered beneficiary who desires to enroll in the managed care program of a designated provider is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), the covered beneficiary shall elect whether to receive health care services as an enrollee or under part A of title XVIII of the Social Security Act. The Secretary may disenroll an enrollee who subsequently violates the election made under this subsection and receives benefits under part A of title XVIII of the Social Security Act.

(f) INFORMATION REGARDING ELIGIBLE COVERED BENEFICIARIES.—The Secretary shall provide, in a timely manner, a designated provider with an accurate list of covered beneficiaries within the marketing area of the designated provider to whom the designated provider may offer enrollment.

SEC. 725. APPLICATION OF CHAMPUS PAYMENT RULES.

(a) APPLICATION OF PAYMENT RULES.—Subject to subsection (b), the Secretary shall require a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services to apply the payment rules described in section 1074(c) of title 10, United States Code, in imposing charges for health care that the private facility or provider provides to enrollees of a designated provider.

(b) AUTHORIZED ADJUSTMENTS.—The payment rules imposed under subsection (a) shall be subject to such modifications as the Secretary considers appropriate. The Secretary may authorize a lower rate than the maximum rate that would otherwise apply under subsection (a) if the lower rate is agreed to by the designated provider and the private facility or health care provider.

(c) REGULATIONS.—The Secretary shall prescribe regulations to implement this section after consultation with the other administering Secretaries.

(d) CONFORMING AMENDMENT.—Section 1074 of title 10, United States Code, is amended by striking out subsection (d).

SEC. 726. PAYMENTS FOR SERVICES.

(a) FORM OF PAYMENT.—Unless otherwise agreed to by the Secretary and a designated provider, the form of payment for services provided by a designated provider shall be full risk capitation. The capitation payments shall be negotiated and agreed upon by the Secretary and the designated provider. In addition to such other factors as the parties may agree to apply, the capitation payments shall be based on the utilization experience of enrollees and competitive market rates for equivalent health care services for a comparable population to such enrollees in the area in which the designated provider is located.

(b) LIMITATION ON TOTAL PAYMENTS.—Total capitation payments to a designated provider shall not exceed an amount equal to the cost that would have been incurred by the Government if the enrollees had received their care through a military treatment facility, the TRICARE program, or the medicare program, as the case may be.

(c) ESTABLISHMENT OF PAYMENT RATES ON ANNUAL BASIS.—The Secretary and a designated provider shall establish capitation payments on an annual basis, subject to periodic review for actuarial soundness and to adjustment for any adverse or favorable selection reasonably anticipated to result from the design of the program.

(d) ALTERNATIVE BASIS FOR CALCULATING PAYMENTS.—After September 30, 1999, the Secretary and a designated provider may mutually agree upon a new basis for calculating capitation payments.

SEC. 727. REPEAL OF SUPERSEDED AUTHORITIES.

(a) REPEALS.—The following provisions of law are repealed:

(1) Section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c).

(2) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d).

(3) Section 718(c) of the National Defense Authorization Act for Fiscal year 1991 (Public Law 101–510; 42 U.S.C. 248c note).

(4) Section 726 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 42 U.S.C. 248c note).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

SEC. 801. 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 1997 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. 802. EXTENSION OF PILOT MENTOR-PROTEGE PROGRAM.

Section 831(j) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note) is amended—

(1) in paragraph (1), by striking out ''1995'' and inserting in lieu thereof ''1998''; and

(2) in paragraph (2), by striking out ''1996'' and inserting in lieu thereof ''1999''.

SEC. 803. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

(a) AUTHORIZED OFFICIALS.—(1) Subsection (a) of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (107 Stat. 1547; 10 U.S.C. 2371 note) is amended by inserting '', the Secretary of a military department, or any other official designated by the Secretary of Defense'' after ''Agency''.

(2) Subsection (b)(2) of such section is amended to read as follows:

''(2) To the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out projects under subsection (a).''.

(b) EXTENSION OF AUTHORITY.—Subsection (c) of such section is amended by striking out ''terminate'' and all that follows and inserting in lieu thereof ''terminate at the end of September 30, 2001.''.

SEC. 804. REVISIONS TO THE PROGRAM FOR THE ASSESSMENT OF THE NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE.

(a) NATIONAL DEFENSE PROGRAM FOR ANALYSIS OF THE TECHNOLOGY AND INDUSTRIAL BASE.—Section 2503 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out ''(1) The Secretary of Defense, in consultation with the National Defense Technology and Industrial Base Council'' in paragraph (1) and inserting in lieu thereof ''The Secretary of Defense, in consultation with the Secretary of Commerce''; and

(B) by striking out paragraphs (2), (3), and (4); and

(2) in subsection (c)(3)(A)—

(A) by striking out ''the National Defense Technology and Industrial Base Council in'' and inserting in lieu thereof ''the Secretary of Defense for''; and

(B) by striking out ''and the periodic plans required by section 2506 of this title''.

(b) PERIODIC DEFENSE CAPABILITY ASSESSMENTS.—(1) Section 2505 of title 10, United States Code, is amended to read as follows:

''§ 2505. National technology and industrial base: periodic defense capability assessments

''(a) PERIODIC ASSESSMENT.—Each fiscal year, the Secretary of Defense shall prepare selected assessments of the capability of the national technology and industrial base to attain the national security objectives set forth in section 2501(a) of this title.

''(b) ASSESSMENT PROCESS.—The Secretary of Defense shall ensure that technology and industrial capability assessments—

''(1) describe sectors or capabilities, their underlying infrastructure and processes;

''(2) analyze present and projected financial performance of industries supporting the sectors or capabilities in the assessment; and

''(3) identify technological and industrial capabilities and processes for which there is potential for the national industrial and technology base not to be able to support the achievement of national security objectives.

''(c) FOREIGN DEPENDENCY CONSIDERATIONS.—In the preparation of the periodic assessments, the Secretary shall include considerations of foreign dependency.

''(d) INTEGRATED PROCESS.—The Secretary of Defense shall ensure that consideration of the technology and industrial base assessments is integrated into the overall budget, acquisition, and logistics support decision processes of the Department of Defense.''.

(2) Section 2502(b) of title 10, United States Code, is amended—

(A) by striking out ''the following responsibilities:'' and all that follows through ''effective cooperation'' and inserting in lieu thereof ''the responsibility to ensure effective cooperation''; and

(B) by striking out paragraph (2); and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and adjusting the margin of such paragraphs two ems to the left.

(c) REPEAL OF REQUIREMENT FOR PERIODIC DEFENSE CAPABILITY PLAN.—Section 2506 of title 10, United States Code, is repealed.

(d) DEPARTMENT OF DEFENSE TECHNOLOGY AND INDUSTRIAL BASE POLICY GUIDANCE.—Subchapter II of chapter 148 of title 10, United States Code, is amended by inserting after section 2505 the following new section 2506:

''§ 2506. Department of Defense technology and industrial base policy guidance

''(a) DEPARTMENTAL GUIDANCE.—The Secretary of Defense shall prescribe departmental guidance for the attainment of each of the national security objectives set forth in section 2501(a) of this title. Such guidance shall provide for technological and industrial capability considerations to be integrated into the budget allocation, weapons acquisition, and logistics support decision processes.

''(b) REPORT TO CONGRESS.—The Secretary of Defense shall report on the implementation of the departmental guidance in the annual report to Congress submitted pursuant to section 2508 of this title.''.

(e) ANNUAL REPORT TO CONGRESS.—Such subchapter is amended by inserting after section 2507 the following new section:

''§ 2508. Annual report to Congress

''The Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives by March 1 of each year a report which shall include the following information:

''(1) A description of the departmental guidance prepared pursuant to section 2506 of this title.

''(2) A description of the methods and analyses being undertaken by the Department of Defense alone or in cooperation with other Federal agencies, to identify and address concerns regarding technological and industrial capabilities of the national technology and industrial base.

''(3) A description of the assessments prepared pursuant to section 2505 of this title and other analyses used in developing the budget submission of the Department of Defense for the next fiscal year.

''(4) Identification of each program designed to sustain specific essential technological and industrial capabilities and processes of the national technology and industrial base.''.

(f) REPEAL OF REQUIREMENT TO COORDINATE THE ENCOURAGEMENT OF TECHNOLOGY TRANSFER WITH THE COUNCIL.—Subsection 2514(c) of title 10, United States Code, is amended by striking out paragraph (5).

(g) CLERICAL AMENDMENTS.—The table of sections at the beginning of subchapter II of chapter 148 of title 10, United States Code, is amended—

(1) by striking out the item relating to section 2506 and inserting in lieu thereof the following:

''2506. Department of Defense technology and industrial base policy guidance.'';

and

(2) by adding at the end the following:

''2508. Annual report to Congress.''.

(h) REPEAL OF SUPERSEDED AND EXECUTED LAW.—Sections 4218, 4219, and 4220 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 2505 note and 2506 note) are repealed.

SEC. 805. PROCUREMENTS TO BE MADE FROM SMALL ARMS INDUSTRIAL BASE FIRMS.

(a) REQUIREMENT.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following:

''§ 2473. Procurements from the small arms industrial base

''(a) AUTHORITY TO DESIGNATE EXCLUSIVE SOURCES.—To the extent that the Secretary of Defense determines necessary to preserve the part of the national technology and industrial base that supplies property and services described in subsection (b), the Secretary may require that the procurements of such items for the Department of Defense be made only from the firms listed in the plan entitled 'Preservation of Critical Elements of the Small Arms Industrial Base', dated January 8, 1994, that was prepared by an independent assessment panel of the Army Science Board.

''(b) COVERED ITEMS.—The authority provided in subsection (a) applies to the following property and services:

''(1) Repair parts for small arms.

''(2) Modifications of parts to improve small arms used by the armed forces.

''(3) Overhaul of unserviceable small arms 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:

''2473. Procurements from the small arms industrial base.''.

SEC. 806. EXCEPTION TO PROHIBITION ON PROCUREMENT OF FOREIGN GOODS.

Section 2534(d)(3) of title 10, United States Code, is amended by inserting ''or would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items that is entered into under section 2531 of this title,'' after ''a foreign country,''.

SEC. 807. TREATMENT OF DEPARTMENT OF DEFENSE CABLE TELEVISION FRANCHISE AGREEMENTS.

(a) TREATMENT AS CONTRACT FOR TELECOMMUNICATIONS SERVICES.—Subject to subsection (b), a cable television franchise agreement for the Department of Defense shall be considered a contract for telecommunications services for purposes of part 49 of the Federal Acquisition Regulation.

(b) LIMITATION.—The treatment of a cable television franchise agreement as a contract for telecommunications services shall be subject to such terms, conditions, limitations, restrictions, and requirements relating to the power of the executive branch to treat such an agreement as such a contract as are identified in the advisory opinion required under section 823 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 399).

(c) APPLICABILITY.—This section applies to cable television franchise agreements for the Department of Defense only if the United States Court of Federal Claims states in an advisory opinion referred to in subsection (b) that it is 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.).

SEC. 808. REMEDIES FOR REPRISALS AGAINST CONTRACTOR EMPLOYEE WHISTLEBLOWERS.

Section 2409(c)(1) of title 10, United States Code, is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

''(B) Order the contractor either—

''(i) to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken; or

''(ii) without reinstating the person, to pay the person an amount equal to the compensation (including back pay) that, if the reprisal had not been taken, would have been paid the person in that position up to the date on which the head of the agency determines that the person has been subjected to a reprisal prohibited under subsection (a).''.

SEC. 809. IMPLEMENTATION OF INFORMATION TECHNOLOGY MANAGEMENT REFORM.

(a) REPORT.—(1) The Secretary of Defense shall include in the report submitted in 1997 under section 381 of Public Law 103–337 (108 Stat. 2739) a discussion of the following matters relating to information resources management by the Federal Government:

(A) The progress made in implementing the Information Technology Management Reform Act of 1996 (division E of Public Law 104–106; 110 Stat. 679; 40 U.S.C. 1401 et seq.) and the amendments made by that Act.

(B) The progress made in implementing the strategy for the development or modernization of automated information systems for the Department of Defense, as required by section 366 of Public Law 104–106 (110 Stat 275; 10 U.S.C. 113 note).

(C) Plans of the Department of Defense for establishing an integrated framework for management of information resources within the department.

(2) The discussion of matters under paragraph (1) shall specifically include a discussion of the following:

(A) The status of the implementation of a set of strategic, outcome-oriented performance measures.

(B) The specific actions being taken to link the proposed performance measures to the planning, programming, and budgeting system of the Department of Defense and to the life-cycle management processes of the department.

(C) The results of pilot program testing of proposed performance measures.

(D) The additional training necessary for the implementation of performance-based information management.

(E) Plans for integrating management improvement programs of the Department of Defense.

(F) The department-wide actions that are necessary to comply with the requirements of the following provisions of law:

(i) The amendments made by the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285).

(ii) The Information Management Reform Act of 1996 (division E of Public Law 104–106; 110 Stat 679; 40 U.S.C. 1401 et seq.) and the amendments made by that Act.

(iii) Title V of the Federal Acquisition Management Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3349) and the amendments made by that title.

(iv) The Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat. 2838) and the amendments made by that Act.

(G) A strategic information resources plan for the Department of Defense that is based on the strategy of the Secretary of Defense for support of the department's overall strategic goals by the core and supporting processes of the department.

(b) YEAR 2000 SOFTWARE CONVERSION.—(1) The Secretary of Defense shall ensure that all information technology acquired by the Department of Defense pursuant to contracts entered into after September 30, 1996, have the capabilities that comply with time and date standards established by the National Institute of Standards and Technology or, if there is no such standard, generally accepted industry standards for providing fault-free processing of date and date-related data in 2000.

(2) The Secretary, acting through the chief information officers within the department (as designated pursuant to section 3506 of title 44, United States Code), shall assess all information technology within the Department of Defense to determine the extent to which such technology have the capabilities to operate effectively with technology that meet the standards referred to in paragraph (1).

(3) Not later than January 1, 1997, the Secretary shall submit to Congress a detailed plan for eliminating any deficiencies identified pursuant to paragraph (2). The plan shall include—

(A) a prioritized list of all affected programs;

(B) a description of how the deficiencies could affect the national security of the United States; and

(C) an estimate of the resources that are necessary to eliminate the deficiencies.

SEC. 810. RESEARCH UNDER TRANSACTIONS OTHER THAN CONTRACTS AND GRANTS.

(a) CONDITIONS FOR USE OF AUTHORITY.—Subsection (e) of section 2371 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting ''and'' after the semicolon at the end of subparagraph (A), as so redesignated;

(3) by striking out ''; and'' at the end of subparagraph (B), as so redesignated, and inserting in lieu thereof a period;

(4) by inserting ''(1)'' after ''(e) CONDITIONS.—''; and

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

''(2) A cooperative agreement containing a clause under subsection (d) or a transaction authorized under subsection (a) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.''.

(b) REVISED REQUIREMENT FOR ANNUAL REPORT.—Section 2371 of such title is amended by striking out subsection (h) and inserting in lieu thereof the following:

''(h) ANNUAL REPORT.—(1) Not later than 90 days after the end 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 Department of Defense use during such fiscal year of—

''(A) cooperative agreements authorized under section 2358 of this title that contain a clause under subsection (d); and

''(B) transactions authorized under subsection (a).

''(2) The report shall include, with respect to the cooperative agreements and other transactions covered by the report, the following:

''(A) The technology areas in which research projects were conducted under such agreements or other transactions.

''(B) The extent of the cost-sharing among Federal Government and non-Federal sources.

''(C) The extent to which the use of the cooperative agreements and other transactions—

''(i) has contributed to a broadening of the technology and industrial base available for meeting Department of Defense needs; and

''(ii) has fostered within the technology and industrial base new relationships and practices that support the national security of the United States.

''(D) The total amount of payments, if any, that were received by the Federal Government during the fiscal year covered by the report pursuant to a clause described in subsection (d) that was included in the cooperative agreements and transactions, and the amount of such payments, if any, that were credited to each account established under subsection (f).''.

(c) PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.—Such section, as amended by subsection (b), is further amended by inserting after subsection (h) the following:

''(i) PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.—(1) Disclosure of information described in paragraph (2) is not required, and may not be compelled, under section 552 of title 5 for five years after the date on which the information is received by the Department of Defense.

''(2) Paragraph (1) applies to the following information in the records of the Department of Defense if the information was submitted to the department in a competitive or noncompetitive process having the potential for resulting in an award, to the submitters, of a cooperative agreement that includes a clause described in subsection (d) or other transaction authorized under subsection (a):

''(A) Proposals, proposal abstracts, and supporting documents.

''(B) Business plans submitted on a confidential basis.

''(C) Technical information submitted on a confidential basis.''.

(d) DIVISION OF SECTION INTO DISTINCT PROVISIONS BY SUBJECT MATTER.—(1) Chapter 139 of title 10, United States Code, is amended—

(A) by inserting before the last subsection of section 2371 (relating to cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980) the following:

''§ 2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980'';

(B) by striking out ''(i) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS UNDER STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—''; and

(C) in the table of sections at the beginning of such chapter, by inserting after the item relating to section 2371 the following:

''2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980.''.

(2) Section 2358(d) of such title is amended by striking out ''section 2371'' and inserting in lieu thereof ''sections 2371 and 2371a''.

SEC. 811. REPORTING REQUIREMENT UNDER DEMONSTRATION PROJECT FOR PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.

Section 816(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2820) is amended by striking out ''1996'' and inserting in lieu thereof ''1998''.

SEC. 812. TEST PROGRAMS FOR MODERNIZATION-THROUGH-SPARES.

Not later than 60 days after the date of enactment of this Act, the Secretary of the Army shall report to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives on the steps he has taken to ensure that each program included in the Army's modernization-through-spares program is conducted in accordance with—

(1) the competition requirements in section 2304 of title 10;

(2) the core logistics requirements in section 2464 of title 10;

(3) the public-private competition requirements in section 2469 of title 10; and

(4) requirements relating to contract bundling and spare parts breakout in sections 15(a) and 15(l) of the Small Business Act (15 U.S.C. 644) and implementing regulations in the Defense FAR Supplement.

SEC. 813. PILOT PROGRAM FOR TRANSFER OF DEFENSE TECHNOLOGY INFORMATION TO PRIVATE INDUSTRY.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a pilot program to demonstrate online transfers of information on defense technologies to businesses in the private sector through an interactive data network involving Small Business Development Centers of institutions of higher education.

(b) COMPUTERIZED DATA BASE OF DEFENSE TECHNOLOGIES.—(1) Under the pilot program, the Secretary shall enter into an agreement with the head of an eligible institution of higher education that provides for such institution—

(A) to develop and maintain a computerized data base of information on defense technologies;

(B) to make such information available online to—

(i) businesses; and

(ii) other institutions of higher education entering into partnerships with the Secretary under subsection (c).

(2) The online accessibility may be established by means of any of, or any combination of, the following:

(A) Digital teleconferencing.

(B) International Signal Digital Network lines.

(C) Direct modem hookup.

(c) PARTNERSHIP NETWORK.—Under the pilot program, the Secretary shall seek to enter into agreements with the heads of several eligible institutions of higher education having strong business education programs to provide for the institutions of higher education entering into such agreements—

(1) to establish interactive computer links with the data base developed and maintained under subsection (b); and

(2) to assist the Secretary in making information on defense technologies available online to the broadest practicable number, types, and sizes of businesses.

(d) ELIGIBLE INSTITUTIONS.—For the purposes of this section, an institution of higher education is eligible to enter into an agreement under subsection (b) or (c) if the institution has a Small Business Development Center.

(e) DEFENSE TECHNOLOGIES COVERED.—(1) The Secretary shall designate the technologies to be covered by the pilot program from among the existing and experimental technologies that the Secretary determines—

(A) are useful in meeting Department of Defense needs; and

(B) should be made available under the pilot program to facilitate the satisfaction of such needs by private sector sources.

(2) Technologies covered by the program should include technologies useful for defense purposes that can also be used for nondefense purposes (without or without modification).

(f) DEFINITIONS.—In this section:

(1) The term ''Small Business Development Center'' means a small business development center established pursuant to section 21 of the Small Business Act (15 U.S.C. 648).

(2) The term ''defense technology'' means a technology designated by the Secretary of Defense under subsection (d).

(3) The term ''partnership'' means an agreement entered into under subsection (c).

(g) TERMINATION OF PILOT PROGRAM.—The pilot program shall terminate one year after the Secretary enters into an agreement under subsection (b).

(h) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 201(4) for university research initiatives, $3,000,000 is available for the pilot program.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

SEC. 901. REPEAL OF REORGANIZATION OF OFFICE OF SECRETARY OF DEFENSE.

Sections 901 and 903 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 399 and 401) are repealed.

SEC. 902. CODIFICATION OF REQUIREMENTS RELATING TO CONTINUED OPERATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) CODIFICATION OF EXISTING LAW.—(1) Chapter 104 of title 10, United States Code, is amended by inserting after section 2112 the following:

''§ 2112a. Continued operation of University

''(a) CLOSURE PROHIBITED.—The University may not be closed.

''(b) PERSONNEL STRENGTH.—During the five-year period beginning on October 1, 1996, the personnel staffing levels for the University may not be reduced below the personnel staffing levels for the University on October 1, 1993.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2112 the following:

''2112a. Continued operation of University.''.

(b) REPEAL OF SUPERSEDED LAW.—(1) Section 922 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 282; 10 U.S.C. 2112 note) is amended by striking out subsection (a).

(2) Section 1071 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 445; 10 U.S.C. 2112 note) is amended by striking out subsection (b).

SEC. 903. CODIFICATION OF REQUIREMENT FOR UNITED STATES ARMY RESERVE COMMAND.

(a) REQUIREMENT FOR ARMY RESERVE COMMAND.—(1) Chapter 307 of title 10, United States Code, is amended by inserting after section 3074 the following:

''§ 3074a. United States Army Reserve Command

''(a) COMMAND.—The United States Army Reserve Command is a separate command of the Army commanded by the Chief of Army Reserve.

''(b) CHAIN OF COMMAND.—Except as otherwise prescribed by the Secretary of Defense, the Secretary of the Army shall prescribe the chain of command for the United States Army Reserve Command.

''(c) ASSIGNMENT OF FORCES.—The Secretary of the Army—

''(1) shall assign to the United States Army Reserve Command all forces of the Army Reserve in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

''(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Army specified in section 3013 of this title, shall assign all such forces of the Army Reserve to the commander of the United States Atlantic Command.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3074 the following:

''3074a. United States Army Reserve Command.''.

(b) REPEAL OF SUPERSEDED LAW.—Section 903 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1620; 10 U.S.C. 3074 note) is repealed.

SEC. 904. TRANSFER OF AUTHORITY TO CONTROL TRANSPORTATION SYSTEMS IN TIME OF WAR.

(a) AUTHORITY OF SECRETARY OF DEFENSE.—Section 4742 of title 10, United States Code, is amended by striking out ''Secretary of the Army'' and inserting in lieu thereof ''Secretary of Defense''.

(b) TRANSFER OF SECTION.—Such section, as amended by subsection (a), is transferred to the end of chapter 157 of such title and is redesignated as section 2644.

(c) CONFORMING AMENDMENT.—Section 9742 of such title is repealed.

(d) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 157 of such title is amended by inserting after the item relating to section 2643 the following new item:

''2644. Control of transportation systems in time of war.''.

(2) The table of sections at the beginning of chapter 447 of such title is amended by striking out the item relating to section 4742.

(3) The table of sections at the beginning of chapter 947 of such title is amended by striking out the item relating to section 9742.

SEC. 905. REDESIGNATION OF OFFICE OF NAVAL RECORDS AND HISTORY FUND AND CORRECTION OF RELATED REFERENCES.

(a) NAME OF FUND.—Subsection (a) of section 7222 of title 10, United States Code, is amended by striking out ''`Office of Naval Records and History Fund'' in the second sentence and inserting in lieu thereof ''`Naval Historical Center Fund'''.

(b) CORRECTION OF REFERENCE TO ADMINISTERING OFFICE.—Subsection (a) of such section, as amended by subsection (a), is further amended by striking out ''Office of Naval Records and History'' in the first sentence and inserting in lieu thereof ''Naval Historical Center''.

(c) CONFORMING REFERENCE.—Subsection (c) of such section is amended by striking out ''Office of Naval Records and History Fund'' in the second sentence and inserting in lieu thereof ''Naval Historical Center Fund''.

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

''§ 7222. Naval Historical Center Fund''.

(2) The item relating to such section in the table of sections at the beginning of chapter 631 of title 10, United States Code, is amended to read as follows:

''7222. Naval Historical Center Fund.''.

SEC. 906. ROLE OF DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENT AND EVALUATION OF CERTAIN INTELLIGENCE OFFICIALS.

(a) IN GENERAL.—Section 201 of title 10, United States Code, is amended to read as follows:

''§ 201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance

''(a) CONSULTATION REGARDING APPOINTMENT.—Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation.

''(b) CONCURRENCE IN APPOINTMENT.—Before submitting a recommendation to the President regarding the appointment of an individual to a position referred to in paragraph (2), the Secretary of Defense shall seek the concurrence of the Director of Central Intelligence in the recommendation. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director's concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

''(2) Paragraph (1) applies to the following positions:

''(A) The Director of the National Security Agency.

''(B) The Director of the National Reconnaissance Office.

''(c) PERFORMANCE EVALUATIONS.—(1) The Director of Central Intelligence shall provide annually to the Secretary of Defense, for the Secretary's consideration, an evaluation of the performance of the individuals holding the positions referred to in paragraph (2) in fulfilling their respective responsibilities with regard to the National Foreign Intelligence Program.

''(2) The positions referred to in paragraph (1) are the following:

''(A) The Director of the National Security Agency.

''(B) The Director of the National Reconnaissance Office.

''(C) The Director of the National Imagery and Mapping Agency.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of chapter 8 of such title is amended by striking out the item relating to section 201 and inserting in lieu thereof the following new item:

SEC. 907. MATTERS TO BE CONSIDERED IN NEXT ASSESSMENT OF CURRENT MISSIONS, RESPONSIBILITIES, AND FORCE STRUCTURE OF THE UNIFIED COMBATANT COMMANDS.

The Chairman of the Joint Chiefs of Staff shall consider, as part of the next periodic review of the missions, responsibilities, and force structure of the unified combatant commands under section 161(b) of title 10, United States Code, the following matters:

(1) For each Area of Responsibility of the regional unified combatant commands—

(A) the foremost threats to United States or allied security in the near- and long-term;

(B) the total area of ocean and total area of land encompassed; and

(C) the number of countries and total population encompassed.

(2) Whether any one Area of Responsibility encompasses a disproportionately high or low share of threats, mission requirements, land or ocean area, number of countries, or population.

(3) The other factors used to establish the current Areas of Responsibility.

(4) Whether any of the factors addressed under paragraph (3) account for any apparent imbalances indicated in the response to paragraph (2).

(5) Whether, in light of recent reductions in the overall force structure of the Armed Forces, the United States could better execute its warfighting plans with fewer unified combatant commands, including—

(A) a total of five or fewer commands, all of which are regional;

(B) an eastward-oriented command, a westward-oriented command, and a central command; or

(C) a purely functional command structure, involving (for example) a first theater command, a second theater command, a logistics command, a special contingencies command, and a strategic command.

(6) Whether any missions, staff, facilities, equipment, training programs, or other assets or activities of the unified combatant commands are redundant.

(7) Whether warfighting requirements are adequate to justify the current functional commands.

(8) Whether the exclusion of Russia from a specific Area of Responsibility presents any difficulties for the unified combatant commands with respect to contingency planning for that area and its periphery.

(9) Whether the current geographic boundary between the Central Command and the European Command through the Middle East could create command conflicts in the context of fighting a major regional conflict in the Middle East.

SEC. 908. ACTIONS TO LIMIT ADVERSE EFFECTS OF ESTABLISHMENT OF NATIONAL MISSILE DEFENSE JOINT PROGRAM OFFICE ON PRIVATE SECTOR EMPLOYMENT.

The Director of the Ballistic Missile Defense Organization shall take such actions as are necessary in connection with the establishment of the National Missile Defense Joint Program Office to ensure that the establishment of that office does not make it necessary for a Federal Government contractor to reduce the number of persons employed by the contractor for supporting the national missile defense development program at any particular location outside the National Capital Region (as defined in section 2674(f)(2) of title 10, United States Code).

Subtitle B—National Imagery and Mapping Agency

SEC. 911. SHORT TITLE.

This subtitle may be cited as the ''National Imagery and Mapping Agency Act of 1996''.

SEC. 912. FINDINGS.

Congress makes the following findings:

(1) There is a need within the Department of Defense and the Intelligence Community of the United States to provide a single agency focus for the growing number and diverse types of customers for imagery and geospatial information resources within the Government, to ensure visibility and accountability for those resources, and to harness, leverage, and focus rapid technological developments to serve the imagery, imagery intelligence, and geospatial information customers.

(2) There is a need for a single Government agency to solicit and advocate the needs of that growing and diverse pool of customers.

(3) A single combat support agency dedicated to imagery, imagery intelligence, and geospatial information could act as a focal point for support of all imagery intelligence and geospatial information customers, including customers in the Department of Defense, the Intelligence Community, and related agencies outside of the Department of Defense.

(4) Such an agency would best serve the needs of the imagery, imagery intelligence, and geospatial information customers if it were organized—

(A) to carry out its mission responsibilities under the authority, direction, and control of the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff; and

(B) to carry out its responsibilities to national intelligence customers in accordance with policies and priorities established by the Director of Central Intelligence.

PART I—ESTABLISHMENT

SEC. 921. ESTABLISHMENT, MISSIONS, AND AUTHORITY.

(a) ESTABLISHMENT IN TITLE 10, UNITED STATES CODE.—Part I of subtitle A of title 10, United States Code, is amended—

(1) by redesignating chapter 22 as chapter 23; and

(2) by inserting after chapter 21 the following new chapter 22:

''CHAPTER 22—NATIONAL IMAGERY AND MAPPING AGENCY

''SUBCHAPTER I—ESTABLISHMENT, MISSIONS, AND AUTHORITY

''§ 441. Establishment

''(a) ESTABLISHMENT.—The National Imagery and Mapping Agency is a combat support agency of the Department of Defense and has significant national missions.

''(b) DIRECTOR.—(1) The Director of the National Imagery and Mapping Agency is the head of the agency. The President shall appoint the Director.

''(2)(A) Upon a vacancy in the position of Director, the Secretary of Defense shall recommend to the President an individual for appointment to the position.

''(B) The Secretary shall seek the concurrence of the Director of Central Intelligence in recommending an individual for appointment under subparagraph (A). If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director's concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

''(3) If an officer of the armed forces is appointed to the position of Director under this subsection, the position is a position of importance and responsibility for purposes of section 601 of this title and carries the grade of lieutenant general, or, in the case of an officer of the Navy, vice admiral.

''(c) COLLECTION TASKING AUTHORITY.—The Director of Central Intelligence shall have authority to approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national imagery collection assets, except as otherwise agreed by the Director and the Secretary of Defense pursuant to the direction of the President.

''§ 442. Missions

''(a) DEPARTMENT OF DEFENSE MISSIONS.—The National Imagery and Mapping Agency shall—

''(1) provide timely, relevant, and accurate imagery, imagery intelligence, and geospatial information in support of the national security objectives of the United States;

''(2) improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of Defense, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels of the United States and of navigators generally; and

''(3) prepare and distribute maps, charts, books, and geodetic products as authorized under subchapter II of this chapter.

''(b) NATIONAL MISSION.—The National Imagery and Mapping Agency shall also have national missions as specified in section 120(a) of the National Security Act of 1947.

''(c) LIFE CYCLE SUPPORT.—The National Imagery and Mapping Agency may, in furtherance of a mission of the agency, design, develop, deploy, operate, and maintain systems related to the processing and dissemination of imagery intelligence and geospatial information that may be transferred to, accepted or used by, or used on behalf of—

''(1) the armed forces, including any combatant command, component of a combatant command, joint task force, or tactical unit; or

''(2) to any other department or agency of the United States.

''§ 443. Imagery intelligence and geospatial information support for foreign countries

''(a) APPROPRIATED FUNDS.—The Director of the National Imagery and Mapping Agency may use appropriated funds available to the National Imagery and Mapping Agency to provide foreign countries with imagery intelligence and geospatial information support.

''(b) FUNDS OTHER THAN APPROPRIATED FUNDS.—(1) Subject to paragraphs (2), (3), and (4), the Director is also authorized to use funds other than appropriated funds to provide foreign countries with imagery intelligence and geospatial information support.

''(2) Funds other than appropriated funds may not be expended, in whole or in part, by or for the benefit of the National Imagery

and Mapping Agency for a purpose for which Congress had previously denied funds.

''(3) Proceeds from the sale of imagery intelligence or geospatial information items may be used only to purchase replacement items similar to the items that are sold.

''(4) Funds other than appropriated funds may not be expended to acquire items or services for the principal benefit of the United States.

''(5) The authority to use funds other than appropriated funds under this section may be exercised notwithstanding provisions of law relating to the expenditure of funds of the United States.

''(c) ACCOMMODATION PROCUREMENTS.—The authority under this section may be exercised to conduct accommodation procurements on behalf of foreign countries.

''(d) COORDINATION WITH DIRECTOR OF CENTRAL INTELLIGENCE.—The Director shall coordinate with the Director of Central Intelligence any action under this section that involves imagery intelligence or intelligence products or involves providing support to an intelligence or security service of a foreign country.

''§ 444. Support from Central Intelligence Agency

''(a) SUPPORT AUTHORIZED.—The Director of Central Intelligence may provide support in accordance with this section to the Director of the National Imagery and Mapping Agency. The Director of the National Imagery and Mapping Agency may accept support provided under this section.

''(b) ADMINISTRATIVE AND CONTRACT SERVICES.—(1) In furtherance of the national intelligence effort, the Director of Central Intelligence may provide administrative and contract services to the National Imagery and Mapping Agency as if that agency were an organizational element of the Central Intelligence Agency.

''(2) Services provided under paragraph (1) may include the services of security police. For purposes of section 15 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403o), an installation of the National Imagery and Mapping Agency provided security police services under this section shall be considered an installation of the Central Intelligence Agency.

''(3) Support provided under this subsection shall be provided under terms and conditions agreed upon by the Secretary of Defense and the Director of Central Intelligence.

''(c) DETAIL OF PERSONNEL.—The Director of Central Intelligence may detail Central Intelligence Agency personnel indefinitely to the National Imagery and Mapping Agency without regard to any limitation on the duration of interagency details of Federal Government personnel.

''(d) REIMBURSABLE OR NONREIMBURSABLE SUPPORT.—Support under this section may be provided and accepted on either a reimbursable basis or a nonreimbursable basis.

''(e) AUTHORITY TO TRANSFER FUNDS.—(1) The Director of the National Imagery and Mapping Agency may transfer funds available for the agency to the Director of Central Intelligence for the Central Intelligence Agency.

''(2) The Director of Central Intelligence—

''(A) may accept funds transferred under paragraph (1); and

''(B) shall expend such funds, in accordance with the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), to provide administrative and contract services or detail personnel to the National Imagery and Mapping Agency under this section.

''§ 445. Protection of agency identifications and organizational information

''(a) UNAUTHORIZED USE OF AGENCY NAME, INITIALS, OR SEAL.—(1) Except with the written permission of the Secretary of Defense, no person may knowingly use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense, any of the following:

''(A) The words 'National Imagery and Mapping Agency', the initials 'NIMA', or the seal of the National Imagery and Mapping Agency.

''(B) The words 'Defense Mapping Agency', the initials 'DMA', or the seal of the Defense Mapping Agency.

''(C) Any colorable imitation of such words, initials, or seals.

''(2) Whenever it appears to the Attorney General that any person is engaged or about to engage in an act or practice which constitutes or will constitute conduct prohibited by paragraph (1), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to a hearing and determination of such action and may, at any time before such final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

''(b) PROTECTION OF ORGANIZATIONAL INFORMATION.—Notwithstanding any other provision of law, the Director of the National Imagery and Mapping Agency is not required to disclose the organization of the agency, any function of the agency, any information with respect to the activities of the agency, or the names, titles, salaries, or number of the persons employed by the agency. This subsection does not apply to disclosures of information to Congress.

''SUBCHAPTER II—MAPS, CHARTS, AND GEODETIC PRODUCTS

''SUBCHAPTER III—PERSONNEL MANAGEMENT

''§ 461. Civilian personnel management generally

''(a) GENERAL PERSONNEL AUTHORITY.—The Secretary of Defense may, without regard to the provisions of any other law relating to the appointment, number, classification, or compensation of Federal employees—

''(1) establish such excepted service positions for employees in the National Imagery and Mapping Agency as the Secretary considers necessary to carry out the functions of those agencies, including positions designated under subsection (f) as National Imagery and Mapping Senior Level positions;

''(2) appoint individuals to those positions; and

''(3) fix the compensation for service in those positions.

''(b) AUTHORITY TO FIX RATES OF BASIC PAY AND OTHER ALLOWANCES AND BENEFITS.—(1) The Secretary of Defense shall, subject to subsection (c), fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in subpart D of part III of title 5 for positions subject to that title which have corresponding levels of duties and responsibilities. Except as otherwise provided by law, an employee of the National Imagery and Mapping Agency may not be paid basic pay at a rate in excess of the maximum rate payable under section 5376 of title 5.

''(2) The Secretary of Defense may provide employees in positions of the National Imagery and Mapping Agency compensation (in addition to basic pay under paragraph (1)) and benefits, incentives, and allowances consistent with, and not in excess of the levels authorized for, comparable positions authorized by title 5.

''(c) PREVAILING RATES SYSTEMS.—The Secretary of Defense may, consistent with section 5341 of title 5, adopt such provisions of that title as provide for prevailing rate systems of basic pay and may apply those provisions to positions in or under which the National Imagery and Mapping Agency may employ individuals described in section 5342(a)(2)(A) of such title.

''(d) ALLOWANCES BASED ON LIVING COSTS AND ENVIRONMENT FOR EMPLOYEES STATIONED OUTSIDE CONTINENTAL UNITED STATES OR IN ALASKA.—(1) In addition to the basic compensation payable under subsection (b), employees of the National Imagery and Mapping Agency described in paragraph (3) may be paid an allowance, in accordance with regulations prescribed by the Secretary of Defense, at a rate not in excess of the allowance authorized to be paid under section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.

''(2) Such allowance shall be based on—

''(A) living costs substantially higher than in the District of Columbia;

''(B) conditions of environment which—

''(i) differ substantially from conditions of environment in the continental United States; and

''(ii) warrant an allowance as a recruitment incentive; or

''(C) both of those factors.

''(3) This subsection applies to employees who—

''(A) are citizens or nationals of the United States; and

''(B) are stationed outside the continental United States or in Alaska.

''(e) TERMINATION OF EMPLOYEES.—(1) Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any employee of the National Imagery and Mapping Agency if the Secretary—

''(A) considers such action to be in the interests of the United States; and

''(B) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security.

''(2) A decision by the Secretary of Defense to terminate the employment of an employee under this subsection is final and may not be appealed or reviewed outside the Department of Defense.

''(3) The Secretary of Defense shall promptly notify the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate whenever the Secretary terminates the employment of any employee under the authority of this subsection.

''(4) Any termination of employment under this subsection shall not affect the right of

the employee involved to seek or accept employment with any other department or agency of the United States if that employee is declared eligible for such employment by the Director of the Office of Personnel Management.

''(5) The authority of the Secretary of Defense under this subsection may be delegated only to the Deputy Secretary of Defense and the Director of the National Imagery and Mapping Agency. An action to terminate employment of an employee by any such officer may be appealed to the Secretary of Defense.

''(f) NATIONAL IMAGERY AND MAPPING SENIOR LEVEL POSITIONS.—(1) In carrying out subsection (a)(1), the Secretary may designate positions described in paragraph (3) as National Imagery and Mapping Senior Level positions.

''(2) Positions designated under this subsection shall be treated as equivalent for purposes of compensation to the senior level positions to which section 5376 of title 5 is applicable.

''(3) Positions that may be designated as National Imagery and Mapping Senior Level positions are positions in the National Imagery and Mapping Agency that (A) are classified above the GS–15 level, (B) emphasize function expertise and advisory activity, but (C) do not have the organizational or program management functions necessary for inclusion in the National Imagery and Mapping Senior Executive Service.

''(4) Positions referred to in paragraph (3) include National Imagery and Mapping Senior Technical positions and National Imagery and Mapping Senior Professional positions. For purposes of this subsection National Imagery and Mapping Senior Technical positions are positions covered by paragraph (3) if—

''(A) the positions involve—

''(i) research and development;

''(ii) test and evaluation;

''(iii) substantive analysis, liaison, or advisory activity focusing on engineering, physical sciences, computer science, mathematics, biology, chemistry, medicine, or other closely related scientific and technical fields; or

''(iv) intelligence disciplines including production, collection, and operations in close association with any of the activities described in clauses (i), (ii), and (iii) or related activities; or

''(B) the positions emphasize staff, liaison, analytical, advisory, or other activity focusing on intelligence, law, finance and accounting, program and budget, human resources management, training, information services, logistics, security, and other appropriate fields.

''(g) 'EMPLOYEE' DEFINED AS INCLUDING OFFICERS.—In this section, the term 'employee', with respect to the National Imagery and Mapping Agency, includes any civilian officer of that agency.

''§ 462. National Imagery and Mapping Senior Executive Service

''(a) ESTABLISHMENT.—The Secretary of Defense may establish a National Imagery and Mapping Senior Executive Service for senior civilian personnel within the National Imagery and Mapping Agency.

''(b) REQUIREMENTS FOR THE SERVICE.—In establishing a National Imagery and Mapping Senior Executive Service the Secretary shall—

''(1) meet the requirements set forth for the Senior Executive Service in section 3131 of title 5;

''(2) ensure that the National Imagery and Mapping Senior Executive Service positions satisfy requirements that are consistent with the provisions of section 3132(a)(2) of title 5;

''(3) prescribe rates of pay for the National Imagery and Mapping Senior Executive Service that are not in excess of the maximum rate of basic pay, nor less than the minimum rate of basic pay, established for the Senior Executive Service under section 5382 of title 5;

''(4) provide for adjusting the rates of pay at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

''(5) provide a performance appraisal system for the National Imagery and Mapping Senior Executive Service that conforms to the provisions of subchapter II of chapter 43 of title 5;

''(6) provide for removal consistent with section 3592 of title 5, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of title 5 (except that any hearing or appeal to which a member of the National Imagery and Mapping Senior Executive Service is entitled shall be held or decided pursuant to procedures established by the Secretary of Defense);

''(7) permit the payment of performance awards to members of the National Imagery and Mapping Senior Executive Service consistent with the provisions applicable to performance awards under section 5384 of title 5;

''(8) provide that members of the National Imagery and Mapping Senior Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c) of title 5; and

''(9) provide for the recertification of members of the National Imagery and Mapping Senior Executive Service consistent with the provisions of section 3393a of title 5.

''(c) AUTHORITY.—Except as otherwise provided in subsection (b), the Secretary of Defense may—

''(1) make applicable to the National Imagery and Mapping Senior Executive Service any of the provisions of title 5 that are applicable to applicants for or members of the Senior Executive Service; and

''(2) appoint, promote, and assign individuals to positions established within the National Imagery and Mapping Senior Executive Service without regard to the provisions of title 5 governing appointments and other personnel actions in the competitive service.

''(d) AWARD OF RANK.—The President, based on the recommendations of the Secretary of Defense, may award ranks to individuals who occupy positions in the National Imagery and Mapping Senior Executive Service in a manner consistent with the provisions of section 4507 of title 5.

''(e) DETAILS AND ASSIGNMENTS.—Notwithstanding any other provisions of this section, the Secretary of Defense may detail or assign any member of the National Imagery and Mapping Senior Executive Service to serve in a position outside the National Imagery and Mapping Agency in which the member's expertise and experience may be of benefit to the National Imagery and Mapping Agency or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the National Imagery and Mapping Senior Executive Service.

''§ 463. Management rights

''(a) SCOPE.—If there is no obligation under the provisions of chapter 71 of title 5 for the head of an agency of the United States to consult or negotiate with a labor organization on a particular matter by reason of that matter being covered by a provision of law or a Governmentwide regulation, the Director of the National Imagery and Mapping Agency is not obligated to consult or negotiate with a labor organization on that matter even if that provision of law or regulation is inapplicable to the National Imagery and Mapping Agency.

''(b) BARGAINING UNITS.—The National Imagery and Mapping Agency shall accord exclusive recognition to a labor organization under section 7111 of title 5 only for a bargaining unit that was recognized as appropriate for the Defense Mapping Agency on the day before the date on which employees and positions of the Defense Mapping Agency in that bargaining unit became employees and positions of the National Imagery and Mapping Agency under the National Imagery and Mapping Agency Act of 1996 (subtitle B of title IX of the National Defense Authorization Act for Fiscal Year 1997).

''(c) TERMINATION OF BARGAINING UNIT COVERAGE OF POSITION MODIFIED TO AFFECT NATIONAL SECURITY DIRECTLY.—(1) If the Director of the National Imagery and Mapping Agency determines that the responsibilities of a position within a collective bargaining unit should be modified to include intelligence, counterintelligence, investigative, or security duties not previously assigned to that position and that the performance of the newly assigned duties directly affects the national security of the United States, then, upon such a modification of the responsibilities of that position, the position shall cease to be covered by the collective bargaining unit and the employee in that position shall cease to be entitled to representation by a labor organization accorded exclusive recognition for that collective bargaining unit.

''(2) A determination described in paragraph (1) that is made by the Director of the National Imagery and Mapping Agency may not be reviewed by the Federal Labor Relations Authority or any court of the United States.

''SUBCHAPTER IV—DEFINITIONS

''Sec.

''471. Definitions.

''§ 471. Definitions

''In this chapter:

''(1) The term 'function' means any duty, obligation, responsibility, privilege, activity, or program.

''(2)(A) The term 'imagery' means, except as provided in subparagraph (B), a likeness or presentation of any natural or manmade feature or related object or activity and the positional data acquired at the same time the likeness or representation was acquired, including—

''(i) products produced by space-based national intelligence reconnaissance systems; and

''(ii) likenesses or presentations produced by satellites, airborne platforms, unmanned aerial vehicles, or other similar means.

''(B) The term does not include handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.

''(3) The term 'imagery intelligence' means the technical, geographic, and intelligence information derived through the interpretation or analysis of imagery and collateral materials.

''(4) The term 'geospatial information' means information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the earth and includes—

''(A) statistical data and information derived from, among other things, remote sensing, mapping, and surveying technologies;

''(B) mapping, charting, and geodetic data; and

''(C) geodetic products, as defined in section 455(c) of this title.''.

(b) TRANSFER OF CHAPTER 167 PROVISIONS.—Sections 2792, 2793, 2794, 2795, 2796, and 2798 of title 10, United States Code, are transferred to subchapter II of chapter 22 of such title,

as added by subsection (a), are inserted in that sequence in such subchapter following the table of sections, and are redesignated in accordance with the following table:

Section transferred	Section as redesignated
2792	451
2793	452
2794	453
2795	454
2796	455
2798	456.

(c) OVERSIGHT OF AGENCY AS A COMBAT SUPPORT AGENCY.—Section 193 of title 10, United States Code, is amended—

(1) in subsection (d)—

(A) by striking out the caption and inserting in lieu thereof ''REVIEW OF NATIONAL SECURITY AGENCY AND NATIONAL IMAGERY AND MAPPING AGENCY.—'';

(B) in paragraph (1)—

(i) by inserting ''and the National Imagery and Mapping Agency'' after ''the National Security Agency''; and

(ii) by striking out ''the Agency'' and inserting in lieu thereof ''that the agencies''; and

(C) in paragraph (2), by inserting ''and the National Imagery and Mapping Agency'' after ''the National Security Agency'';

(2) in subsection (e)—

(A) by striking out ''DIA AND NSA'' in the caption and inserting in lieu thereof the following: ''DIA, NSA, AND NIMA.—''; and

(B) by striking out ''and the National Security Agency'' and inserting in lieu thereof '', the National Security Agency, and the National Imagery and Mapping Agency''; and

(3) in subsection (f), by striking out paragraph (4) and inserting in lieu thereof the following:

''(4) The National Imagery and Mapping Agency.''.

(d) SPECIAL PRINTING AUTHORITY FOR AGENCY.—(1) Section 207(a)(2)(B) of the Legislative Branch Appropriations Act, 1993 (Public Law 102–392; 44 U.S.C. 501 note) is amended by inserting ''National Imagery and Mapping Agency,'' after ''Defense Intelligence Agency,''.

(2) Section 1336 of title 44, United States Code, is amended—

(A) by striking out ''Secretary of the Navy'' and inserting in lieu thereof ''Director of the National Imagery and Mapping Agency''; and

(B) by striking out ''United States Naval Oceanographic Office'' and inserting in lieu thereof ''National Imagery and Mapping Agency''.

SEC. 922. TRANSFERS.

(a) DEPARTMENT OF DEFENSE.—The missions and functions of the following elements of the Department of Defense are transferred to the National Imagery and Mapping Agency:

(A) The Defense Mapping Agency.

(B) The Central Imagery Office.

(C) Other elements of the Department of Defense as provided in the classified annex to this Act.

(b) CENTRAL INTELLIGENCE AGENCY.—The missions and functions of the following elements of the Central Intelligence Agency are transferred to the National Imagery and Mapping Agency:

(A) The National Photographic Interpretation Center.

(B) Other elements of the Central Intelligence Agency as provided in the classified annex to this Act.

(c) PERSONNEL AND ASSETS.—(1) Subject to paragraphs (2) and (3), the personnel, assets, unobligated balances of appropriations and authorizations of appropriations, and, to the extent jointly determined appropriate by the Secretary of Defense and Director of Central Intelligence, obligated balances of appropriations and authorizations of appropriations employed, used, held, arising from, or available in connection with the missions and functions transferred under subsection (a) or (b) are transferred to the National Imagery and Mapping Agency. A transfer may not be made under the preceding sentence for any program or function for which funds are not appropriated to the National Imagery and Mapping Agency for fiscal year 1997. Transfers of appropriations from the Central Intelligence Agency under this paragraph shall be made in accordance with section 1531 of title 31, United States Code.

(2) Not earlier than two years after the effective date of this subtitle, the Secretary of Defense and the Director of Central Intelligence shall determine which, if any, positions and personnel of the Central Intelligence Agency are to be transferred to the National Imagery and Mapping Agency. The positions to be transferred, and the employees serving in such positions, shall be transferred to the National Imagery and Mapping Agency under terms and conditions prescribed by the Secretary of Defense and the Director of Central Intelligence.

(3) If the National Photographic Interpretation Center of the Central Intelligence Agency or any imagery-related activity of the Central Intelligence Agency authorized to be performed by the National Imagery and Mapping Agency is not completely transferred to the National Imagery and Mapping Agency, the Secretary of Defense and the Director of Central Intelligence shall—

(A) jointly determine which, if any, contracts, leases, property, and records employed, used, held, arising from, available to, or otherwise relating to such Center or activity is to be transferred to the National Imagery and Intelligence Agency; and

(B) provide by written agreement for the transfer of such items.

SEC. 923. COMPATIBILITY WITH AUTHORITY UNDER THE NATIONAL SECURITY ACT OF 1947.

(a) AGENCY FUNCTIONS.—Section 105(b) of the National Security Act of 1947 (50 U.S.C. 403–5(b)) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

''(2) through the National Imagery and Mapping Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense—

''(A) for carrying out tasking of imagery collection;

''(B) for the coordination of imagery processing and exploitation activities;

''(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

''(D) notwithstanding any other provision of law, for—

''(i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

''(ii) developing and fielding systems of common concern related o imagery intelligence and geospatial information;''.

(b) NATIONAL MISSION.—Title I of such Act (50 U.S.C. 402 et seq.) is amended by adding at the end the following:

''NATIONAL MISSION OF NATIONAL IMAGERY AND MAPPING AGENCY

''SEC. 120. (a) IN GENERAL.—In addition to the Department of Defense missions set forth in section 442 of title 10, United States Code, the National Imagery and Mapping Agency shall also support the imagery requirements of the Department of State and other departments and agencies of the United States outside the Department of Defense.

''(b) REQUIREMENTS AND PRIORITIES.—The Director of Central Intelligence shall establish requirements and priorities governing the collection of national intelligence by the National Imagery and Mapping Agency under subsection (a).

''(c) CORRECTION OF DEFICIENCIES.—The Director of Central Intelligence shall develop and implement such programs and policies as the Director and the Secretary jointly determine necessary to review and correct deficiencies identified in the capabilities of the National Imagery and Mapping Agency to accomplish assigned national missions. The Director shall consult with the Secretary of Defense on the development and implementation of such programs and policies. The Secretary shall obtain the advice of the Chairman of the Joint Chiefs of Staff regarding the matters on which the Director and the Secretary are to consult under the preceding sentence.''.

(c) TASKING OF IMAGERY ASSETS.—Title I of such Act is further amended by adding at the end the following:

''COLLECTION TASKING AUTHORITY

''SEC. 121. The Director of Central Intelligence shall have authority to approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national imagery collection assets, except as otherwise agreed by the Director and the Secretary of Defense pursuant to the direction of the President.''.

(d) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after section 109 the following new items:

''Sec. 120. National mission of National Imagery and Mapping Agency.

''Sec. 121. Collection tasking authority.''.

SEC. 924. OTHER PERSONNEL MANAGEMENT AUTHORITIES.

(a) COMPARABLE TREATMENT WITH OTHER INTELLIGENCE SENIOR EXECUTIVE SERVICES.—Title 5, United States Code, is amended as follows:

(1) In section 2108(3), by inserting ''the National Imagery and Mapping Senior Executive Service,'' after ''the Senior Cryptologic Executive Service,'' in the matter following subparagraph (F)(iii).

(2) In section 6304(f)(1), by—

(A) by striking out ''or'' at the end of subparagraph (D);

(B) by striking out the period at the end of in subparagraph (E) and inserting in lieu thereof ''; or''; and

(C) by adding at the end the following:

''(F) the National Imagery and Mapping Senior Executive Service.''; and

(3) In sections 8336(h)(2) and 8414(a)(2), by striking out ''or the Senior Cryptologic Executive Service'' and inserting in lieu thereof '', the Senior Cryptologic Executive Service, or the National Imagery and Mapping Senior Executive Service''.

(b) CENTRAL IMAGERY OFFICE PERSONNEL MANAGEMENT AUTHORITIES.—

(1) NONDUPLICATION OF COVERAGE BY DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—Section 1601 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out ''and the Central Imagery Office'';

(B) in subsection (d), by striking out ''or the Central Imagery Office in which the member's expertise and experience may be of benefit to the Defense Intelligence Agency, the Central Imagery Office,'' in the first sentence and inserting in lieu thereof ''in which the member's expertise and experience may be of benefit to the Defense Intelligence Agency''; and

(C) in subsection (e), by striking out ''and the Central Imagery Office'' in the first sentence.

(2) MERIT PAY.—Section 1602 of such title is amended by striking out ''and Central Imagery Office''.

(3) MISCELLANEOUS AUTHORITIES.—Subsection 1604 of such title is amended—

(A) in subsection (a)(1)—

(i) by striking out ''and the Central Imagery Office''; and

(ii) by striking out ''and Office'';

(B) in subsection (b)—

(i) in paragraph (1), by striking out ''or the Central Imagery Office'' in the second sentence; and

(ii) in paragraph (2), by striking out ''and the Central Imagery Office'';

(C) in subsection (c), by striking out ''or the Central Imagery Office'';

(D) in subsection (d)(1), by striking out ''and the Central Imagery Office'';

(E) in subsection (e)—

(i) in paragraph (1), by striking out ''or the Central Imagery Office''; and

(ii) in paragraph (5) by striking out '', the Director of the Defense Intelligence Agency (with respect to employees of the Defense Intelligence Agency), and the Director of the Central Imagery Office (with respect to employees of the Central Imagery Office)'' and inserting in lieu thereof ''and the Director of the Defense Intelligence Agency (with respect to employees of the Defense Intelligence Agency)'';

(F) in subsection (f)(3), by striking out ''and Central Imagery Office''; and

(G) in subsection (g)—

(i) by striking out ''or the Central Imagery Office''; and

(ii) by striking out ''or Office''.

(c) APPLICABILITY OF FEDERAL LABOR-MANAGEMENT RELATIONS SYSTEM.—Section 7103(a)(3) of title 5, United States Code is amended—

(1) by inserting ''or'' at the end of subparagraph (F);

(2) by striking out ''; or'' at the end of subparagraph (G) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (H).

(d) APPLICABILITY OF AUTHORITY AND PROCEDURES FOR IMPOSING CERTAIN ADVERSE ACTIONS.—Section 7511(b)(8) of title 5, United States Code, is amended by striking out ''Central Imagery Office''.

SEC. 925. CREDITABLE CIVILIAN SERVICE FOR CAREER CONDITIONAL EMPLOYEES OF THE DEFENSE MAPPING AGENCY.

In the case of an employee of the National Imagery and Mapping Agency who, on the day before the effective date of this subtitle, was an employee of the Defense Mapping Agency in a career-conditional status, the continuous service of that employee as an employee of the National Imagery and Mapping Agency on and after such date shall be considered creditable service for the purpose of any determination of the career status of the employee.

SEC. 926. SAVING PROVISIONS.

(a) CONTINUING EFFECT ON LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, international agreements, grants, contracts, leases, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in connection with any of the functions which are transferred under this subtitle or any function that the National Imagery and Mapping Agency is authorized to perform by law, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this subtitle and are to become effective on or after the effective date of this subtitle,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Defense, the Director of the National Imagery and Mapping Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—This subtitle and the amendments made by this subtitle shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an element of the Department of Defense or Central Intelligence Agency at the time this subtitle takes effect, with respect to function of that element transferred by section 922, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this subtitle had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit 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 subtitle had not been enacted.

(c) SEVERABILITY.—If any provision of this subtitle (or any amendment made by this subtitle), or the application of such provision (or amendment) to any person or circumstance is held unconstitutional, the remainder of this subtitle (or of the amendments made by this subtitle) shall not be affected by that holding.

SEC. 927. DEFINITIONS.

In this part, the terms ''function'', ''imagery'', ''imagery intelligence'', and ''geospatial information'' have the meanings given those terms in section 461 of title 10, United States Code, as added by section 921.

SEC. 928. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for the National Imagery and Mapping Agency for fiscal year 1997 in amounts and for purposes, and subject to the terms, conditions, limitations, restrictions, and requirements, that are set forth in the Classified Annex to this Act.

PART II—CONFORMING AMENDMENTS AND EFFECTIVE DATES

SEC. 931. REDESIGNATION AND REPEALS.

(a) REDESIGNATION.—Chapter 23 of title 10, United States Code (as redesignated by section 921(a)(1)) is amended by redesignating the section in that chapter as section 481.

(b) REPEAL OF SUPERSEDED LAW.—Chapter 167 of such title, as amended by section 921(b), is repealed.

SEC. 932. REFERENCES.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) CENTRAL IMAGERY OFFICE.—In sections 2302(a)(2)(C)(ii), 3132(a)(1)(B), 4301(1) (in clause (ii)), 4701(a)(1)(B), 5102(a)(1) (in clause (xi)), 5342(a)(1)(L), 6339(a)(1)(E), and 7323(b)(2)(B)(i)(XIII), by striking out ''Central Imagery Office'' and inserting in lieu thereof ''National Imagery and Mapping Agency''.

(2) DIRECTOR, CENTRAL IMAGERY OFFICE.—In section 6339(a)(2)(E), by striking out ''Central Imagery Office, the Director of the Central Imagery Office'' and inserting in lieu thereof ''National Imagery and Mapping Agency, the Director of the National Imagery and Mapping Agency''.

(b) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) CENTRAL IMAGERY OFFICE.—In section 1599(f)(4), by striking out ''Central Imagery Office'' and inserting in lieu thereof ''National Imagery and Mapping Agency''.

(2) DEFENSE MAPPING AGENCY.—In sections 451(1), 452, 453, 454, and 455 (in subsections (a) and (b)(1)(C)), and 456, as redesignated by section 921(b), by striking out ''Defense Mapping Agency'' each place it appears and inserting in lieu thereof ''National Imagery and Mapping Agency''.

(c) OTHER LAWS.—

(1) NATIONAL SECURITY ACT OF 1947.—Section 3(4)(E) of the National Security Act of 1947 (50 U.S.C. 401a(4)(E) is amended by striking out ''Central Imagery Office'' and inserting in lieu thereof ''National Imagery and Mapping Agency''.

(2) ETHICS IN GOVERNMENT ACT OF 1978.—Section 105(a) of the Ethics in Government Act of 1978 (Public Law 95–521; 5 U.S.C. App. 4) is amended by striking out ''Central Imagery Office'' and inserting in lieu thereof ''National Imagery and Mapping Agency''.

(3) EMPLOYEE POLYGRAPH PROTECTION ACT.—Section 7(b)(2)(A)(i) of the Employee Polygraph Protection Act of 1988 (Public Law 100–347; 29 U.S.C. 2006(b)(2)(A)(i)) is amended by striking out ''Central Imagery Office'' and inserting in lieu thereof ''National Imagery and Mapping Agency''.

(d) CROSS REFERENCE.—Section 82 of title 14, United States Code, is amended by striking out ''chapter 167'' and inserting in lieu thereof ''subchapter II of chapter 22''.

SEC. 933. HEADINGS AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—

(1) HEADING.—The heading of chapter 83 of title 10, United States Code, is amended to read as follows:

''CHAPTER 83—DEFENSE INTELLIGENCE AGENCY CIVILIAN PERSONNEL''.

(2) CLERICAL AMENDMENTS.—(A) The table of chapters at the beginning of subtitle A of title 10, United States Code, is amended—

(i) by striking out the item relating to chapter 22 and inserting in lieu thereof the following:

''22. National Imagery and Mapping Agency 441
''23. Miscellaneous Studies and Reports ..... 471'';

(ii) by striking out the item relating to chapter 83 and inserting in lieu thereof the following:

''83. Defense Intelligence Agency Civilian Personnel ..... 1601'';

and

(iii) by striking out the item relating to chapter 167.

(B) The table of chapters at the beginning of part I of such subtitle is amended by striking out the item relating to chapter 22 and inserting in lieu thereof the following:

''22. National Imagery and Mapping Agency 441
''23. Miscellaneous Studies and Reports ..... 471'';

(C) The item relating to chapter 83 in the table of chapters at the beginning of part II of such subtitle is amended to read as follows:

''83. Defense Intelligence Agency Civilian Personnel ..... 1601''.

(D) The table of chapters at the beginning of part IV of such subtitle is amended by striking out the item relating to chapter 167.

(E) The item in the table of sections at the beginning of chapter 23 of title 10, United States Code (as redesignated by section 921), is amended to read as follows:

''481. Racial and ethnic issues; biennial survey; biennial report.''.

(b) TITLE 44, UNITED STATES CODE.—

(1) SECTION HEADING.—The heading of section 1336 of title 44, United States Code, is amended to read as follows:

''§ 1336. National Imagery and Mapping Agency: special publications''.

(2) CLERICAL AMENDMENT.—The item relating to such section in the tables of sections at the beginning of chapter 13 of such title is amended to read as follows:

''1336. National Imagery and Mapping Agency: special publications.''.

SEC. 934. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the later of October 1, 1996, or the date of the enactment of an Act appropriating funds for fiscal year 1997 for the National Imagery and Mapping Agency.

(b) EXCEPTION.—Section 928 shall take effect on the date of the enactment of this Act.

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 1997 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. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1996 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 1996 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 1996 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1996 defense authorizations.

(c) DEFINITIONS.—For the purposes of this section:

(1) FISCAL YEAR 1996 DEFENSE APPROPRIATIONS.—The term ''fiscal year 1996 defense appropriations'' means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1996 in the Department of Defense Appropriations Act, 1996 (Public Law 104–61).

(2) FISCAL YEAR 1996 DEFENSE AUTHORIZATIONS.—The term ''fiscal year 1996 defense authorizations'' means amounts authorized to be appropriated for the Department of Defense for fiscal year 1996 in the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106).

SEC. 1003. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1996.

Amounts authorized to be appropriated to the Department of Defense for fiscal year 1996 in the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) 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 the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134).

SEC. 1004. USE OF FUNDS TRANSFERRED TO THE COAST GUARD.

(a) LIMITATION.—Funds appropriated to the Department of Defense for fiscal year 1997 that are transferred to the Coast Guard may be used only for the performance of national security functions of the Coast Guard in support of the Department of Defense.

(b) CERTIFICATION REQUIRED.—Funds described in subsection (a) may not be transferred to the Coast Guard until the Secretary of Defense and the Secretary of Transportation jointly certify to Congress that the funds so transferred will be used only as described in subsection (a).

(c) GAO AUDIT.—The Comptroller General of the United States shall—

(1) audit, from time to time, the use of funds transferred to the Coast Guard from appropriations for the Department of Defense for fiscal year 1997 in order to verify that the funds are being used in accordance with the limitation in subsection (a); and

(2) notify the congressional defense committees of any use of such funds that, in the judgment of the Comptroller General, is a significant violation of such limitation.

SEC. 1005. USE OF MILITARY-TO-MILITARY CONTACTS FUNDS FOR PROFESSIONAL MILITARY EDUCATION AND TRAINING.

Section 168(c) of title 10, United States Code, is amended by adding at the end the following:

''(9) Military education and training for military and civilian personnel of foreign countries (including transportation expenses, expenses for translation services, and administrative expenses to the extent that the expenses are related to the providing of such education and training to such personnel).''.

SEC. 1006. PAYMENT OF CERTAIN EXPENSES RELATING TO HUMANITARIAN AND CIVIC ASSISTANCE.

Section 401(c) of title 10, United States Code, is amended—

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

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

''(2) Expenses covered by paragraph (1) include the following expenses incurred in the providing of assistance described in subsection (e)(5):

''(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing the assistance.

''(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting activities described in such subsection (e)(5), including any nonlethal, individual or small-team landmine cleaning equipment or supplies that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

''(C) The cost of any equipment, services, or supplies provided pursuant to subparagraph (B) may not exceed $5,000,000 each year.''.

SEC. 1007. REIMBURSEMENT OF DEPARTMENT OF DEFENSE FOR COSTS OF DISASTER ASSISTANCE PROVIDED OUTSIDE THE UNITED STATES.

Section 404 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) REIMBURSEMENT POLICY.—It is the sense of Congress that, whenever the President directs the Secretary of Defense to provide disaster assistance outside the United States under subsection (a)—

''(1) the President should direct the Administrator of the Agency for International Development to reimburse the Department of Defense for the cost to the Department of Defense of the assistance provided; and

''(2) a reimbursement by the Administrator should be paid out of funds available under chapter 9 of part I of the Foreign Assistance Act of 1961 for international disaster assistance for the fiscal year in which the cost is incurred.''.

SEC. 1008. FISHER HOUSE TRUST FUND FOR THE NAVY.

(a) AUTHORITY.—Section 2221 of title 10, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

''(3) The Fisher House Trust Fund, Department of the Navy.'';

(2) in subsection (c)—

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

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

''(3) Amounts in the Fisher House Trust Fund, Department of the Navy, 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 Navy.''; and

(3) in subsection (d)(1), by striking out ''or the Air Force'' and inserting in lieu thereof '', the Air Force, or the Navy''.

(b) CORPUS OF TRUST FUNDS.—The Secretary of the Navy shall transfer to the Fisher House Trust Fund, Department of the Navy, established by section 2221(a)(3) of title 10, United States Code (as added by subsection (a)(1)), all amounts in the accounts for Navy 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 section 2221(d) of such title.

(c) CONFORMING AMENDMENTS.—Section 1321 of title 31, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

''(94) Fisher House Trust Fund, Department of the Navy.''; and

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

''(D) Fisher House Trust Fund, Department of the Navy.''.

SEC. 1009. DESIGNATION AND LIABILITY OF DISBURSING AND CERTIFYING OFFICIALS FOR THE COAST GUARD.

(a) DISBURSING OFFICIALS.—(1) Section 3321(c) of title 31, United States Code, is amended by adding at the end the following:

''(3) The Department of Transportation (with respect to public money available for expenditure by the Coast Guard when it is not operating as a service in the Navy).''.

(2)(A) Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

''§ 673. Designation, powers, and accountability of deputy disbursing officials

''(a)(1) Subject to paragraph (3), a disbursing official of the Coast Guard may designate a deputy disbursing official—

''(A) to make payments as the agent of the disbursing official;

''(B) to sign checks drawn on disbursing accounts of the Secretary of the Treasury; and

''(C) to carry out other duties required under law.

''(2) The penalties for misconduct that apply to a disbursing official apply to a deputy disbursing official designated under this subsection.

''(3) A disbursing official may make a designation under paragraph (1) only with the approval of the Secretary of Transportation (when the Coast Guard is not operating as a service in the Navy).

''(b)(1) If a disbursing official of the Coast Guard dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the second month after the month in which the death, disability, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

''(2) The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official, is liable for the actions of the deputy disbursing official under this subsection.

''(c)(1) Except as provided in paragraph (2), this section does not apply to the Coast Guard when section 2773 of title 10 applies to the Coast Guard by reason of the operation of the Coast Guard as a service in the Navy.

''(2) A designation of a deputy disbursing official under subsection (a) that is made while the Coast Guard is not operating as a service in the Navy continues in effect for purposes of section 2773 of title 10 while the Coast Guard operates as a service in the Navy unless and until the designation is terminated by the disbursing official who made the designation or an official authorized to approve such a designation under subsection (a)(3) of such section.''.

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

''673. Designation, powers, and accountability of deputy disbursing officials.''.

(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 by striking out ''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'' and inserting in lieu thereof ''members of the armed forces may certify vouchers when authorized, in writing, by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Transportation''.

(c) CONFORMING AMENDMENTS.—(1) Section 1007(a) of title 37, United States Code, is amended by inserting after ''Secretary of Defense'' the following: ''(or the Secretary of Transportation, in the case of an officer of the Coast Guard when the Coast Guard is not operating as a service in the Navy)''.

(2) Section 3527(b)(1) of title 31, United States Code, is amended—

(A) in subparagraph (A)(i), by inserting after ''Department of Defense'' the following: ''(or the Secretary of Transportation, in the case of a disbursing official of the Coast Guard when the Coast Guard is not operating as a service in the Navy)''; and

(B) in subparagraph (B), by inserting after ''or the Secretary of the appropriate military department'' the following: ''(or the Secretary of Transportation, in the case of a disbursing official of the Coast Guard when the Coast Guard is not operating as a service in the Navy)''.

SEC. 1010. AUTHORITY TO SUSPEND OR TERMINATE COLLECTION ACTIONS AGAINST DECEASED MEMBERS OF THE COAST GUARD.

Section 3711(g) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out ''or Marine Corps'' and inserting in lieu thereof ''Marine Corps, or Coast Guard'';

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

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

''(2) The Secretary of Transportation may suspend or terminate an action by the Secretary 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 Coast Guard if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.''.

SEC. 1011. CHECK CASHING AND EXCHANGE TRANSACTIONS WITH CREDIT UNIONS OUTSIDE THE UNITED STATES.

Section 3342(b) of title 31, United States Code, is amended—

(1) by striking out ''and'' at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof ''; and''; and

(3) by adding at the end the following:

''(7) a Federal credit union (as defined in section 101(1) of the Federal Credit Union Act (12 U.S.C. 1752(1)) that is operating at Department of Defense invitation in a foreign country where contractor-operated military banking facilities are not available.''.

Subtitle B—Naval Vessels and Shipyards

SEC. 1021. AUTHORITY TO TRANSFER NAVAL VESSELS.

(a) EGYPT.—The Secretary of the Navy may transfer to the Government of Egypt the ''OLIVER HAZARD PERRY'' frigate GALLERY. Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(b) MEXICO.—The Secretary of the Navy may transfer to the Government of Mexico the ''KNOX'' class frigates STEIN (FF 1065) and MARVIN SHIELDS (FF 1066). Such transfers shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(c) NEW ZEALAND.—The Secretary of the Navy may transfer to the Government of New Zealand the ''STALWART'' class ocean surveillance ship TENACIOUS. Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(d) PORTUGAL.—The Secretary of the Navy may transfer to the Government of Portugal the ''STALWART'' class ocean surveillance ship AUDACIOUS. Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j; relating to transfers of excess defense articles).

(e) TAIWAN.—The Secretary of the Navy may transfer to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) the following:

(1) The ''KNOX'' class frigates AYLWIN (FF 1081), PHARRIS (FF 1094), and VALDEZ (FF 1096). Such transfers shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(2) The ''NEWPORT'' class tank landing ship NEWPORT (LST 1179). Such transfer shall be on a lease basis under section 61 of the Arms Export Control Act (22 U.S.C. 2796).

(f) THAILAND.—The Secretary of the Navy may transfer to the Government of Thailand the ''KNOX'' class frigate OUELLET (FF 1077). Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(g) COSTS OF TRANSFER.—Any expense of the United States in connection with a transfer authorized by this section shall be charged to the recipient.

(h) REPAIR AND REFURBISHMENT OF VESSELS.—The Secretary of the Navy shall require, to the maximum extent possible, as a condition of a 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.

(i) EXPIRATION OF AUTHORITY.—Any authority for transfer granted by this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 1022. TRANSFER OF CERTAIN OBSOLETE TUGBOATS OF THE NAVY.

(a) REQUIREMENT TO TRANSFER VESSELS.—The Secretary of the Navy shall transfer the six obsolete tugboats of the Navy specified in subsection (b) to the Northeast Wisconsin Railroad Transportation Commission, an instrumentality of the State of Wisconsin, if the Secretary determines that the tugboats are not needed for transfer, donation, or other disposal under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.). A transfer made under the preceding sentence shall be made without reimbursement to the United States.

(b) VESSELS COVERED.—The requirement in subsection (a) applies to the six decommissioned Cherokee class tugboats, listed as of the date of the enactment of this Act as being surplus to the Navy, that are designated as ATF–105, ATF–110, ATF–149, ATF–158, ATF–159, and ATF–160.

(c) CONDITION RELATING TO ENVIRONMENTAL COMPLIANCE.—The Secretary shall require as a condition of the transfer of a vessel under subsection (a) that use of the vessel by the Commission not commence until the terms of any necessary environmental compliance letter or agreement with respect to that vessel have been complied with.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions (including a requirement that the transfer be at no cost to the Government) in connection with the transfers required by subsection (a) as the Secretary considers appropriate.

SEC. 1023. REPEAL OF REQUIREMENT FOR CONTINUOUS APPLICABILITY OF CONTRACTS FOR PHASED MAINTENANCE OF AE CLASS SHIPS.

Section 1016 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 425) is repealed.

SEC. 1024. CONTRACT OPTIONS FOR LMSR VESSELS.

(a) FINDINGS.—Congress reaffirms the findings set forth in section 1013(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 422), and makes the following modifications and supplemental findings:

(1) Since the findings set forth in section 1013(a) of such Act were originally formulated, the Secretary of the Navy has exercised options for the acquisition of two of the six additional large, medium-speed, roll-on/roll-off (LMSR) vessels that may be acquired by exercise of options provided for under contracts covering the acquisition of a total of 17 LMSR vessels.

(2) Therefore, under those contracts, the Secretary has placed orders for the acquisition of 13 LMSR vessels and has remaining options for the acquisition of four more LMSR vessels, all of which would be new construction vessels.

(3) The remaining options allow the Secretary to place orders for one vessel to be constructed at each of two shipyards for award before December 31, 1996, and December 31, 1997, respectively.

(b) SENSE OF CONGRESS.—Congress also reaffirms its declaration of the sense of Congress, as set forth in section 1013(b) of Public Law 104–106, 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 report entitled ''Mobility Requirements Study Bottom-Up Review Update'', submitted by the Secretary of Defense to Congress in April 1995), rather than only 17 such vessels (which is the number of vessels under contract as of April 1996).

(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)(1) (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 not earlier than fiscal year 1998, 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)(1).

(d) REPORT.—The Secretary of the Navy shall submit to the congressional defense committees, by March 31, 1997, 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).

(e) REPEAL OF SUPERSEDED PROVISION.—Section 1013 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat 422) is amended by striking out subsection (c).

SEC. 1025. SENSE OF THE SENATE CONCERNING USS LCS 102 (LSSL 102).

It is the sense of the Senate that the Secretary of Defense should use existing authorities in law to seek the expeditious return, upon completion of service, of the former USS LCS 102 (LSSL 102) from the Government of Thailand in order for the ship to be transferred to the United States Shipbuilding Museum in Quincy, Massachusetts.

Subtitle C—Counter-Drug Activities

SEC. 1031. AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF MEXICO.

(a) AUTHORITY TO PROVIDE ADDITIONAL SUPPORT.—Subject to subsections (e) and (f), the Secretary of Defense may, during fiscal year 1997, provide the Government of Mexico the support described in subsection (b) for the counter-drug activities of the Government of Mexico. Such support shall be in addition to support provided the Government of Mexico under any other provision of law.

(b) TYPES OF SUPPORT.—The Secretary may provide the following support under subsection (a):

(1) The transfer of spare parts and non-lethal equipment and materiel, including radios, night vision goggles, global positioning systems, uniforms, command, control, communications, and intelligence (C^3I) integration equipment, detection equipment, and monitoring equipment.

(2) The maintenance and repair of equipment of the Government of Mexico that is used for counter-narcotics activities.

(c) APPLICABILITY OF OTHER SUPPORT AUTHORITIES.—Except as otherwise provided in this section, the provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note) shall apply to the provision of support under this section.

(d) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1997 for the Department of Defense for drug interdiction and counter-drug activities, not more than $10,000,000 shall be available in that fiscal year for the provision of support under this section.

(e) LIMITATIONS.—(1) The Secretary may not obligate or expend funds to provide support under this section until 15 days after the date on which the Secretary submits to the committees referred to in paragraph (3) the certification described in paragraph (2).

(2) The certification referred to in paragraph (1) is a written certification of the following:

(A) That the provision of support under this section will not adversely affect the military preparedness of the United States Armed Forces.

(B) That the equipment and materiel provided as support will be used only by officials and employees of the Government of Mexico who have undergone a background check by that government.

(C) That the Government of Mexico has certified to the Secretary that—

(i) the equipment and material provided as support will be used only by the officials and employees referred to in subparagraph (B);

(ii) none of the equipment or materiel will be transferred (by sale, gift, or otherwise) to any person or entity not authorized by the United States to receive the equipment or materiel; and

(iii) the equipment and materiel will be used only for the purposes intended by the United States Government.

(D) That the Government of Mexico has implemented, to the satisfaction of the Secretary, a system that will provide an accounting and inventory of the equipment and materiel provided as support.

(E) That the departments, agencies, and instrumentalities of the Government of Mexico will grant United States Government personnel unrestricted access to any of the equipment or materiel provided as support, or to any of the records relating to such equipment or materiel, under terms and conditions similar to the terms and conditions imposed with respect to such access under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(F) That the Government of Mexico will provide security with respect to the equipment and materiel provided as support that is equivalent to the security that the United States Government would provide with respect to such equipment and materiel.

(G) That the Government of Mexico will permit continuous observation and review by United States Government personnel of the use of the equipment and materiel provided as support under terms and conditions similar to the terms and conditions imposed with respect to such observation and review under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(3) The committees referred to in this paragraph are the following:

(A) The Committees on Armed Services and Foreign Relations of the Senate.

(B) The Committees on National Security and International Relations of the House of Representatives.

(f) PROHIBITION ON PROVISION OF CERTAIN MILITARY EQUIPMENT.—The Secretary may not provide as support under this section—

(1) any article of military equipment for which special export controls are warranted because of the substantial military utility or capability of such equipment;

(2) any military equipment identified on the United States Munitions List; or

(3) any of the following military equipment (whether or not the equipment has been equipped, re-equipped, or modified for military operations):

(A) Cargo aircraft bearing ''C'' designations, including aircraft with designations C–45 through C–125, C–131 aircraft, and aircraft bearing ''C'' designations that use reciprocating engines.

(B) Trainer aircraft bearing ''T'' designations, including aircraft bearing such designations that use reciprocating engines or turboprop engines delivering less than 600 horsepower.

(C) Utility aircraft bearing ''U'' designations, including UH–1 aircraft and UH/EH–60 aircraft and aircraft bearing such designations that use reciprocating engines.

(D) Liaison aircraft bearing ''L'' designations.

(E) Observation aircraft bearing ''O'' designations, including OH–58 aircraft and aircraft bearing such designations that use reciprocating engines.

(F) Truck, tractors, trailers, and vans, including all vehicles bearing ''M'' designations.

SEC. 1032. LIMITATION ON DEFENSE FUNDING OF THE NATIONAL DRUG INTELLIGENCE CENTER.

(a) LIMITATION ON USE OF FUNDS.—Except as provided in subsection (b), funds appropriated or otherwise made available for the Department of Defense pursuant to this or any other Act may not be obligated or expended for the National Drug Intelligence Center, Johnstown, Pennsylvania.

(b) EXCEPTION.—If the Attorney General operates the National Drug Intelligence Center using funds available for the Department of Justice, the Secretary of Defense may continue to provide Department of Defense intelligence personnel to support intelligence activities at the Center. The number of such personnel providing support to the Center after the date of the enactment of this Act may not exceed the number of the Department of Defense intelligence personnel who are supporting intelligence activities at the Center on the day before such date.

SEC. 1033. INVESTIGATION OF THE NATIONAL DRUG INTELLIGENCE CENTER.

(a) INVESTIGATION REQUIRED.—The Inspector General of the Department of Defense, the Inspector General of the Department of Justice, the Inspector General of the Central Intelligence Agency, and the Comptroller General of the United States shall—

(1) jointly investigate the operations of the National Drug Intelligence Center, Johnstown, Pennsylvania; and

(2) not later than March 31, 1997, jointly submit to the President pro tempore of the

Senate and the Speaker of the House of Representatives a report on the results of the investigation.

(b) CONTENT OF REPORT.—The joint report shall contain a determination regarding whether there is a significant likelihood that the funding of the operation of the National Drug Intelligence Center, a domestic law enforcement program, through an appropriation under the control of the Director of Central Intelligence will result in a violation of the National Security Act of 1947 or Executive Order 12333.

Subtitle D—Matters Relating to Foreign Countries

SEC. 1041. AGREEMENTS FOR EXCHANGE OF DEFENSE PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES.

(a) EXCHANGE AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2350l. Exchange of defense personnel between the United States and foreign countries

''(a) INTERNATIONAL EXCHANGE AGREEMENTS AUTHORIZED.—The Secretary of Defense is authorized to enter into agreements with the governments of allies of the United States and other friendly foreign countries for the exchange of military and civilian personnel of the Department of Defense and military and civilian personnel of the defense ministries of such foreign governments.

''(b) ASSIGNMENT OF PERSONNEL.—(1) Pursuant to an agreement entered into under subsection (a), personnel of the defense ministry of a foreign government may be assigned to positions in the Department of Defense, and personnel of the Department of Defense may be assigned to positions in the defense ministry of that foreign government. Positions to which exchanged personnel are assigned may include positions of instructors.

''(2) An agreement for the exchange of personnel engaged in research and development activities may provide for assignment of Department of Defense personnel to positions in private industry that support the defense ministry of the host foreign government.

''(3) A specific position and the individual to be assigned to that position shall be acceptable to both governments.

''(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—Each government shall be required under an agreement authorized by subsection (a) to provide personnel having qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

''(d) PAYMENT OF PERSONNEL COSTS.—(1) Each government shall pay the salary, per diem, cost of living, travel, cost of language or other training, and other costs for its own personnel in accordance with the laws and regulations of such government that pertain to such matters.

''(2) The requirement in paragraph (1) does not apply to the following costs:

''(A) Cost of temporary duty directed by the host government.

''(B) Costs of training programs conducted to familiarize, orient, or certify exchanged personnel regarding unique aspects of the exchanged personnel's assignments.

''(C) Costs incident to the use of host government facilities in the performance of assigned duties.

''(e) PROHIBITED CONDITIONS.—No personnel exchanged pursuant to an agreement under this section may take or be required to take an oath of allegiance to the host country or to hold an official capacity in the government of such country.

''(f) RELATIONSHIP TO OTHER AUTHORITY.—Nothing in this section limits any authority of the secretaries of the military departments to enter into an agreement with the government of a foreign country to provide for exchange of members of the armed forces and military personnel of the foreign country except that subsections (c) and (d) shall apply in the exercise of that authority. The Secretary of Defense may prescribe regulations for the application of such subsections in the exercise of such authority.''.

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

''2350l. Exchange of defense personnel between the United States and foreign countries.''.

SEC. 1042. AUTHORITY FOR RECIPROCAL EXCHANGE OF PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES FOR FLIGHT TRAINING.

Section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) is amended—

(1) by inserting '', and for attendance of foreign military personnel at flight training schools or programs (including test pilot schools) in the United States,'' after ''(other than service academies)''; and

(2) by striking out ''and comparable institutions'' and inserting in lieu thereof '' or flight training schools or programs, as the case may be, and comparable institutions, schools, or programs''.

SEC. 1043. EXTENSION OF COUNTERPROLIFERATION AUTHORITIES.

Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 104–484; 22 U.S.C. 5859a) is amended—

(1) in subsection (d)(3)—

(A) by striking out ''fiscal year 1995, or'' and inserting in lieu thereof ''fiscal year 1995,''; and

(B) by inserting before the period at the end the following: '', $15,000,000 for fiscal year 1997, or $15,000,000 for fiscal year 1998''; and

(2) in subsection (f), by striking out ''fiscal year 1996'' and inserting in lieu thereof ''fiscal year 1998''.

SEC. 1044. PROHIBITION ON COLLECTION AND RELEASE OF DETAILED SATELLITE IMAGERY RELATING TO ISRAEL AND OTHER COUNTRIES AND AREAS.

(a) COLLECTION AND DISSEMINATION.—No department or agency of the Federal Government may license the collection or dissemination by any non-Federal entity of satellite imagery with respect to Israel, or to any other country or geographic area designated by the President for this purpose, unless such imagery is no more detailed or precise than satellite imagery of the country or geographic area concerned that is routinely available from commercial sources.

(b) DECLASSIFICATION AND RELEASE.—No department or agency of the Federal Government may declassify or otherwise release satellite imagery with respect to Israel, or to any other country or geographic area designated by the President for this purpose, unless such imagery is no more detailed or precise than satellite imagery of the country or geographic area concerned that is routinely available from commercial sources.

SEC. 1045. DEFENSE BURDENSHARING.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States continues to spend billions of dollars to promote regional security and to make preparations for regional contingencies.

(2) United States defense expenditures promote United States national security interests; however, they also significantly contribute to the defense of our allies.

(3) In 1993, the gross domestic product of the United States equaled $6,300,000,000,000, while the gross domestic product of other NATO member countries totaled $7,200,000,000,000.

(4) Over the course of 1993, the United States spent 4.7 percent of its gross domestic product on defense, while other NATO members collectively spent 2.5 percent of their gross domestic product on defense.

(5) In addition to military spending, foreign assistance plays a vital role in the establishment and maintenance of stability in other nations and in implementing the United States national security strategy.

(6) This assistance has often prevented the outbreak of conflicts which otherwise would have required costly military interventions by the United States and our allies.

(7) From 1990–1993, the United States spent $59,000,000,000 in foreign assistance, a sum which represents an amount greater than any other nation in the world.

(8) In 1995, the United States spent over $10,000,000,000 to promote European security, while European NATO nations only contributed $2,000,000,000 toward this effort.

(9) With a smaller gross domestic product and a larger defense budget than its European NATO allies, the United States shoulders an unfair share of the burden of the common defense.

(10) Japan now pays over 75 percent of the nonpersonnel costs incurred by United States military forces permanently assigned there, while our European allies pay for less than 25 percent of these same costs. Japan signed a new Special Measures Agreement this year which will increase Japan's contribution toward the cost of stationing United States troops in Japan by approximately $30,000,000 a year over the next five years.

(11) These increased contributions help to rectify the imbalance in the burden shouldered by the United States for the common defense.

(12) The relative share of the burden of the common defense still falls too heavily on the United States, and our allies should dedicate more of their own resources to defending themselves.

(b) EFFORTS TO INCREASE ALLIED BURDENSHARING.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

(1) Increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achieving the following percentages of such costs:

(A) By September 30, 1997, 37.5 percent.

(B) By September 30, 1998, 50 percent.

(C) By September 30, 1999, 62.5 percent.

(D) By September 30, 2000, 75 percent.

An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(3) Increase its annual budgetary outlays for foreign assistance (to promote democratization, economic stabilization, transparency arrangements, defense economic

conversion, respect for the rule of law, and internationally recognized human rights) by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(4) Increase the amount of military assets (including personnel, equipment, logistics, support and other resources) that it contributes, or would be prepared to contribute, to multinational military activities worldwide.

(c) AUTHORITIES TO ENCOURAGE ACTIONS BY UNITED STATES ALLIES.—In seeking the actions described in subsection (b) with respect to any nation, or in response to a failure by any nation to undertake one or more of such actions, the President may take any of the following measures:

(1) Reduce the end strength level of members of the Armed Forces assigned to permanent duty ashore in that nation.

(2) Impose on that nation taxes, fees, or other charges similar to those that such nation imposes on United States forces stationed in that nation.

(3) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) the amount the United States contributes to the NATO Civil Budget, Military Budget, or Security Investment Program.

(4) Suspend, modify, or terminate any bilateral security agreement the United States has with that nation.

(5) Reduce (through rescission, impoundment or other appropriate procedures as authorized by law) any United States bilateral assistance appropriated for that nation.

(6) Take any other action the President determines to be appropriate as authorized by law.

(d) REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Not later than March 1, 1997, the Secretary of Defense shall submit to Congress a report on—

(1) steps taken by other nations to complete the actions described in subsection (b);

(2) all measures taken by the President, including those authorized in subsection (c), to achieve the actions described in subsection (b); and

(3) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).

(e) REPORT ON NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSHARING RELATIONSHIPS.—(1) In order to ensure the best allocation of budgetary resources, the President shall undertake a review of the status of elements of the United States Armed Forces that are permanently stationed outside the United States. The review shall include an assessment of the following:

(A) The alliance requirements that are to be found in agreements between the United States and other countries.

(B) The national security interests that support permanently stationing elements of the United States Armed Forces outside the United States.

(C) The stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(D) The alternatives available to forward deployment (such as material prepositioning, enhanced airlift and sealift, or joint training operations) to meet such alliance requirements or national security interests, with such alternatives identified and described in detail.

(E) The costs and force structure configurations associated with such alternatives to forward deployment.

(F) The financial contributions that allies of the United States make to common defense efforts (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights).

(G) The contributions that allies of the United States make to meeting the stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(H) The annual expenditures of the United States and its allies on national defense, and the relative percentages of each nation's gross domestic product constituted by those expenditures.

(2) The President shall submit to Congress a report on the review under paragraph (1). The report shall be submitted not later than March 1, 1997, in classified and unclassified form.

SEC. 1046. SENSE OF THE SENATE CONCERNING EXPORT CONTROLS.

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

(1) Export controls are a part of a comprehensive response to national security threats. United States exports should be restricted where those threats exist to national security, nonproliferation, and foreign policy interests of the United States.

(2) The export of certain commodities and technology may adversely affect the national security and foreign policy of the United States by making a significant contribution to the military potential of individual countries or by disseminating the capability to design, develop, test, produce, stockpile, or use weapons of mass destruction, missile delivery systems, and other significant military capabilities. Therefore, the administration of export controls should emphasize the control of these exports.

(3) The acquisition of sensitive commodities and technologies by those countries and end users whose actions or policies run counter to United States national security or foreign policy interests may enhance the military capabilities of those countries, particularly their ability to design, develop, test, produce, stockpile, use, and deliver nuclear, chemical, and biological weapons, missile delivery systems, and other significant military capabilities. This enhancement threatens the security of the United States and its allies. The availability to countries and end users of items that contribute to military capabilities or the proliferation of weapons of mass destruction is a fundamental concern of the United States and should be eliminated through deterrence, negotiations, and other appropriate means whenever possible.

(4) The national security of the United States depends not only on wise foreign policies and a strong defense, but also a vibrant national economy. To be truly effective, export controls should be applied uniformly by all suppliers.

(5) On November 5, 1995, President William J. Clinton extended Executive Order No. 12938 regarding ''Weapons of Mass Destruction'', and ''declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons and the means of delivering such weapons''.

(6) A successor regime to COCOM (the Coordinating Commission on Multilateral Controls) has not been established. Currently, each nation is determining independently which dual-use military items, if any, will be controlled for export.

(7) The United States should play a leading role in promoting transparency and responsibility with regard to the transfers of sensitive dual-use goods and technologies.

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

(1) establishing an international export control regime, empowered to control exports of dual-use technology, is critically important and should become a top priority for the United States; and

(2) the United States should strongly encourage its allies and friends to—

(A) adopt a commodity control list which governs the same or similar items as are controlled by the United States Commodity Control list;

(B) strengthen enforcement activities; and

(C) explore the use of unilateral export controls where the possibility exists that an export could contribute to proliferation.

SEC. 1047. REPORT ON NATO ENLARGEMENT.

(a) REPORT.—Not later than December 1, 1996, the President shall transmit a report on NATO enlargement 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. The report shall contain a comprehensive discussion of the following:

(1) Geopolitical and financial costs and benefits, including financial savings, associated with—

(A) enlargement of NATO;

(B) further delays in the process of NATO enlargement; and

(C) a failure to enlarge NATO.

(2) Additional NATO and United States military expenditures requested by prospective NATO members to facilitate their admission into NATO.

(3) Modifications necessary in NATO's military strategy and force structure required by the inclusion of new members and steps necessary to integrate new members, including the role of nuclear and conventional capabilities, reinforcement, force deployments, prepositioning of equipment, mobility, and headquarter locations.

(4) The relationship between NATO enlargement and transatlantic stability and security.

(5) The state of military preparedness and interoperability of Central and Eastern European nations as it relates to the responsibilities of NATO membership and additional security costs or benefits that may accrue to the United States from NATO enlargement.

(6) The state of democracy and free market development as it affects the preparedness of Central and Eastern European nations for the responsibilities of NATO membership, including civilian control of the military, the rule of law, human rights, and parliamentary oversight.

(7) The state of relations between prospective NATO members and their neighbors, steps taken by prospective members to reduce tensions, and mechanisms for the peaceful resolution of border disputes.

(8) The commitment of prospective NATO members to the principles of the North Atlantic Treaty and the security of the North Atlantic area.

(9) The effect of NATO enlargement on the political, economic, and security conditions of European Partnership for Peace nations not among the first new NATO members.

(10) The relationship between NATO enlargement and EU enlargement and the costs and benefits of both.

(11) The relationship between NATO enlargement and treaties relevant to United States and European security, such as the Conventional Armed Forces in Europe Treaty.

(12) The anticipated impact both of NATO enlargement and further delays of NATO enlargement on Russian foreign and defense policies and the costs and benefits of a security relationship between NATO and Russia.

(b) INDEPENDENT ASSESSMENT.—Not later than 15 days after enactment of this Act, the Majority Leader of the Senate and the Speaker of the House of Representatives shall appoint a chairman and two other Members and the Minority Leaders of the Senate and House of Representatives shall appoint two Members to serve on a bipartisan review group of nongovernmental experts to conduct an independent assessment of NATO enlargement, including a comprehensive review of the issues in subsection (a) (1) through (12) above. The report of the review group shall be completed no later than December 1, 1996. The Secretary of Defense shall furnish the review group administrative and support services requested by the review group. The expenses of the review group shall be paid out of funds available for the payment of similar expenses incurred by the Department of Defense.

(c) INTERPRETATION.—Nothing in this section should be interpreted or construed to affect the implementation of the NATO Participation Act of 1994, as amended (Public Law 103–447), or any other program or activity which facilitates or assists prospective NATO members.

Subtitle E—Miscellaneous Reporting Requirements

SEC. 1051. ANNUAL REPORT ON EMERGING OPERATIONAL CONCEPTS.

(a) REPORT REQUIRED.—Not later than March 1 of each year, the Chairman of the Joint Chiefs of Staff 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 emerging operational concepts. The report shall contain a description, for the year preceding the year in which submitted, of the following:

(1) The process undertaken in each of the Army, Navy, Air Force, and Marine Corps to define and develop doctrine, operational concepts, organizational concepts, and acquisition strategies based on—

(A) the potential of emerging technologies for significantly improving the operational effectiveness of that armed force;

(B) changes in the international order that may necessitate changes in the operational capabilities of that armed force;

(C) emerging capabilities of potential adversary states; and

(D) changes in defense budget projections that put existing acquisition programs of the service at risk.

(2) The manner in which the process undertaken in each of the Army, Navy, Air Force, and Marine Corps is harmonized with a joint vision and with the similar processes of the other armed forces to ensure that there is a sufficient consideration of the development of joint doctrine, operational concepts, and acquisition strategies.

(3) The manner in which the process undertaken by each of the Army, Navy, Air Force, and Marine Corps is coordinated through the Joint Requirements Oversight Council or another entity to ensure that the results of the process are considered in the planning, programming, and budgeting process of the Department of Defense.

(4) Proposals under consideration by the Joint Requirements Oversight Council or other entity within the Department of Defense to modify the roles and missions of any of the Army, Navy, Air Force, and Marine Corps as a result of the processes described in paragraph (1).

(b) FIRST REPORT.—The first report under this section shall be submitted not later than March 1, 1997.

(c) TERMINATION OF REQUIREMENT AFTER FOURTH REPORT.—Notwithstanding subsection (a), no report is required under this section after 2000.

SEC. 1052. ANNUAL JOINT WARFIGHTING SCIENCE AND TECHNOLOGY PLAN.

(a) ANNUAL PLAN REQUIRED.—On 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 plan for ensuring that the science and technology program of the Department of Defense supports the development of the future joint warfighting capabilities identified as priority requirements for the Armed Forces.

(b) FIRST PLAN.—The first plan shall be submitted not later than March 1, 1997.

SEC. 1053. REPORT ON MILITARY READINESS REQUIREMENTS OF THE ARMED FORCES.

(a) REQUIREMENT.—Not later than January 31, 1997, the Chairman of the Joint Chiefs of Staff shall submit to the congressional defense committees a report on the military readiness requirements of the active and reserve components of the Armed Forces (including combat units, combat support units, and combat service support units) prepared by the officers referred to in subsection (b). The report shall assess such requirements under a tiered readiness and response system that categorizes a given unit according to the likelihood that it will be required to respond to a military conflict and the time in which it will be required to respond.

(b) OFFICERS.—The report required by subsection (a) shall be prepared jointly by the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, and the Commander of the Special Operations Command.

(c) ASSESSMENT SCENARIO.—The report shall assess readiness requirements in a scenario based on the following assumptions:

(1) The conflict is in a generic theater of operations located anywhere in the world and does not exceed the notional limits for a major regional contingency.

(2) The forces available for deployment include the forces described in the Bottom Up Review force structure, including all planned force enhancements.

(3) Assistance is not available from allies.

(d) ASSESSMENT ELEMENTS.—The report shall identify by unit type, and assess the readiness requirements of, all active and reserve component units. Each such unit shall be categorized within one of the following classifications:

(1) Forward-deployed and crisis response forces, or ''Tier I'' forces, that possess limited internal sustainment capability and do not require immediate access to regional air bases or ports or overflight rights, including the following:

(A) Force units that are routinely deployed forward at sea or on land outside the United States.

(B) Combat-ready crises response forces that are capable of mobilizing and deploying within 10 days after receipt of orders.

(C) Forces that are supported by prepositioning equipment afloat or are capable of being inserted into a theater upon the capture of a port or airfield by forcible entry forces.

(2) Combat-ready follow-on forces, or ''Tier II'' forces, that can be mobilized and deployed to a theater within approximately 60 days after receipt of orders.

(3) Combat-ready conflict resolution forces, or ''Tier III'' forces, that can be mobilized and deployed to a theater within approximately 180 days after receipt of orders.

(4) All other active and reserve component force units which are not categorized within a classification described in paragraph (1), (2), or (3).

(e) FORM OF REPORT.—The report under this section shall be submitted in unclassified form but may contain a classified annex.

SEC. 1054. ANNUAL REPORT OF RESERVE FORCES POLICY BOARD.

Section 113(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraphs (1), (2), and (4) as subparagraphs (A), (B), and (C), respectively;

(3) by inserting ''(1)'' after ''(c)'';

(4) by inserting ''and'' at the end of subparagraph (B), as redesignated by paragraph (2); and

(5) by adding at the end the following:

''(2) At the same time that the Secretary submits the annual report under paragraph (1), the Secretary shall transmit to the President and Congress a separate report from the Reserve Forces Policy Board on the reserve programs of the Department of Defense and on any other matters that the Reserve Forces Policy Board considers appropriate to include in the report.''.

SEC. 1055. INFORMATION ON PROPOSED FUNDING FOR THE GUARD AND RESERVE COMPONENTS IN FUTURE-YEARS DEFENSE PROGRAMS.

(a) REQUIREMENT.—The Secretary of Defense shall specify in each future-years defense program submitted to Congress after the date of the enactment of this Act the estimated expenditures and proposed appropriations for the procurement of equipment and for military construction for each of the Guard and Reserve components.

(b) 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. 1056. REPORT ON FACILITIES USED FOR TESTING LAUNCH VEHICLE ENGINES.

(a) REPORT REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Administrator of the National Aeronautics and Space Administration, shall submit to Congress a report on the facilities used for testing launch vehicle engines.

(b) CONTENT OF REPORT.—The report shall contain an analysis of the duplication between Air Force and National Aeronautics and Space Administration hydrogen rocket test facilities and the potential benefits of further coordinating activities at such facilities.

Subtitle F—Other Matters

SEC. 1061. UNIFORM CODE OF MILITARY JUSTICE AMENDMENTS.

(a) TECHNICAL AMENDMENT REGARDING FORFEITURES DURING CONFINEMENT ADJUDGED BY A COURT-MARTIAL.—(1) Section 858b(a)(1) of title 10, United States Code (article 58b(a)(1) of the Uniform Code of Military Justice), is amended—

(A) in the first sentence, by inserting ''(if adjudged by a general court-martial)'' after ''all pay and''; and

(B) in the third sentence, by striking out ''two-thirds of all pay and allowances'' and inserting in lieu thereof ''two-thirds of all pay''.

(2) The amendments made by paragraph (1) shall take effect as of April 1, 1996, and shall apply to any case in which a sentence is adjudged by a court-martial on or after that date.

(b) EXCEPTED SERVICE APPOINTMENTS TO CERTAIN NONATTORNEY POSITIONS OF THE

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES..—(1) Subsection (c) of section 943 of title 10, United States Code (article 143(c) of the Uniform Code of Military Justice) is amended in paragraph (1), by inserting after the first sentence the following: ''A position of employment under the Court that is provided primarily for the service of one judge of the court, reports directly to the judge, and is a position of a confidential character is excepted from the competitive service.''.

(2) The caption for such subsection is amended by striking out ''ATTORNEY'' in the subsection caption and inserting in lieu thereof ''CERTAIN''.

(c) REPEAL OF 13-YEAR SPECIAL LIMIT ON TERM OF TRANSITIONAL JUDGE OF UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1) Subsection (d)(2) of section 1301 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1575; 10 U.S.C. 942 note) is amended by striking out ''to the judges who are first appointed to the two new positions of the court created as of October 1, 1990—'' and all that follows and inserting in lieu thereof ''to the judge who is first appointed to one of the two new positions of the court created as of October 1, 1990, as designated by the President at the time of appointment, the anniversary referred to in subparagraph (A) of that paragraph shall be treated as being the seventh anniversary and the number of years referred to in subparagraph (B) of that paragraph shall be treated as being seven.''.

(2) Subsection (e)(1) of such section is amended by striking out ''each judge'' and inserting in lieu thereof ''a judge''.

SEC. 1062. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

(a) FUNDING LIMITATION.—Funds available to the Department of Defense may not be obligated or expended during fiscal year 1997 for retiring or dismantling, or for preparing 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) WAIVER AUTHORITY.—If the START II Treaty enters into force during fiscal year 1997, the Secretary of Defense may waive the application of the limitation under paragraphs (2), (3), and (4) of subsection (a) to Trident ballistic missile submarines, Minuteman III intercontinental ballistic missiles, and Peacekeeper intercontinental ballistic missiles, respectively, to the extent that the Secretary determines necessary in order to implement the treaty.

(c) START II TREATY DEFINED.—In this section, the term ''START II Treaty'' means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the ''START II Treaty'' (contained in Treaty Document 103–1):

(1) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the ''Elimination and Conversion Protocol'').

(2) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the ''Exhibitions and Inspections Protocol'').

(3) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the ''Memorandum on Attribution'').

(d) RETENTION OF B–52H AIRCRAFT ON ACTIVE STATUS.—(1) The Secretary of the Air Force shall maintain in active status (including the performance of standard maintenance and upgrades) the current fleet of B–52H bomber aircraft.

(2) For purposes of carrying out upgrades of B–52H bomber aircraft during fiscal year 1997, the Secretary shall treat the entire current fleet of such aircraft as aircraft expected to be maintained in active status during the five-year period beginning on October 1, 1996.

SEC. 1063. CORRECTION OF REFERENCES TO DEPARTMENT OF DEFENSE ORGANIZATIONS.

(a) NORTH AMERICAN AEROSPACE DEFENSE COMMAND.—Section 162 of title 10, United States Code, is amended in paragraphs (1), (2), and (3) of subsection (a) by striking out ''North American Air Defense Command'' and inserting in lieu thereof ''North American Aerospace Defense Command''.

(b) DEFENSE DISTRIBUTION CENTER, ANNISTON.—The Corporation for the Promotion of Rifle Practice and Firearms Safety Act (title XVI of Public Law 104–106; 110 Stat. 515; 36 U.S.C. 5501 et seq.) is amended by striking out ''Anniston Army Depot'' each place it appears in the following provisions and inserting in lieu thereof ''Defense Distribution Depot, Anniston'':

(1) Section 1615(a)(3) (36 U.S.C. 5505(a)(3)).

(2) Section 1616(b) (36 U.S.C. 5506(b)).

(3) Section 1619(a)(1) (36 U.S.C. 5509(a)(1)).

SEC. 1064. AUTHORITY OF CERTAIN MEMBERS OF THE ARMED FORCES TO PERFORM NOTARIAL OR CONSULAR ACTS.

Section 1044a(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out ''on active duty or performing inactive-duty for training'' and inserting in lieu thereof ''of the armed forces, including members of reserve components who are judge advocates (whether or not in a duty status)'';

(2) in paragraph (3), by striking out ''adjutants on active duty or performing inactive-duty training'' and inserting in lieu thereof ''adjutants, including members of reserve components acting as such an adjutant (whether or not in a duty status)''; and

(3) in paragraph (4), by striking out ''persons on active duty or performing inactive-duty training'' and inserting in lieu thereof ''members of the armed forces, including members of reserve components (whether or not in a duty status),''.

SEC. 1065. TRAINING OF MEMBERS OF THE UNIFORMED SERVICES AT NON-GOVERNMENT FACILITIES.

(a) USE OF NON-GOVERNMENT FACILITIES.—Section 4105 of title 5, United States Code, is amended—

(1) by inserting ''and members of a uniformed service under the jurisdiction of the head of the agency'' after ''employees of the agency''; and

(2) by adding at the end the following: ''For the purposes of this section, the term 'agency' includes a military department.''.

(b) EXPENSES OF TRAINING.—Section 4109 of such title is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking out ''under regulations prescribed under section 4118(a)(8) of this title and'';

(B) in paragraph (1), by inserting after ''an employee of the agency'' the following: '', or the pay of a member of a uniformed service within the agency, who is''; and

(C) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by inserting ''or member of a uniformed service'' after ''reimburse the employee'';

(ii) in subparagraph (A), by striking out ''commissioned officers of the National Oceanic and Atmospheric Administration'' and inserting in lieu thereof ''a member of a uniformed service''; and

(iii) in subparagraph (B), by striking out ''commissioned officers of the National Oceanic and Atmospheric Administration'' and inserting in lieu thereof ''a member of a uniformed service''; and

(2) by adding at the end the following:

''(d) In the exercise of authority under subsection (a) with respect to an employee of an agency, the head of the agency shall comply with regulations prescribed under section 4118(a)(8) of this title.

''(e) For the purposes of this section, the term 'agency' includes a military department.''.

SEC. 1066. THIRD-PARTY LIABILITY TO UNITED STATES FOR TORTIOUS INFLICTION OF INJURY OR DISEASE ON MEMBERS OF THE UNIFORMED SERVICES.

(a) RECOVERY OF PAY AND ALLOWANCES.—Section 1 of Public Law 87–693 (42 U.S.C. 2651) is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting ''or pay for'' after ''required by law to furnish''; and

(B) by striking out ''or to be furnished'' each place that phrase appears and inserting in lieu thereof '', to be furnished, paid for, or to be paid for'';

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by inserting after subsection (a), the following new subsections:

''(b) If a member of the uniformed services is injured, or contracts a disease, under circumstances creating a tort liability upon a third person (other than or in addition to the United States and except employers of seamen referred to in subsection (a)) for damages for such injury or disease and the member is unable to perform the member's regular military duties as a result of the injury or disease, the United States shall have a right (independent of the rights of the member) to recover from the third person or an insurer of the third person, or both, the amount equal to the total amount of the pay that accrues and is to accrue to the member for the period for which the member is unable to perform such duties as a result of the injury or disease and is not assigned to perform other military duties.

''(c)(1) If, pursuant to the laws of a State that are applicable in a case of a member of the uniformed services who is injured or contracts a disease as a result of tortious conduct of a third person, there is in effect for such a case (as a substitute or alternative for compensation for damages through tort liability) a system of compensation or reimbursement for expenses of hospital, medical, surgical, or dental care and treatment or for lost pay pursuant to a policy of insurance, contract, medical or hospital service agreement, or similar arrangement, the United States shall be deemed to be a third-party beneficiary of such a policy, contract, agreement, or arrangement.

''(2) For the purposes of paragraph (1)—

''(A) the expenses incurred or to be incurred by the United States for care and treatment for an injured or diseased member as described in subsection (a) shall be

deemed to have been incurred by the member;

''(B) the cost to the United States of the pay of the member as described in subsection (b) shall be deemed to have been pay lost by the member as a result of the injury or disease; and

''(C) the United States shall be subrogated to any right or claim that the injured or diseased member or the member's guardian, personal representative, estate, dependents, or survivors have under a policy, contract, agreement, or arrangement referred to in paragraph (1) to the extent of the reasonable value of the care and treatment and the total amount of the pay deemed lost under subparagraph (B).'';

(4) in subsection (d), as redesignated by paragraph (2), by inserting ''or paid for'' after ''treatment is furnished''; and

(5) by adding at the end the following:

''(f)(1) Any amounts recovered under this section for medical care and related services furnished by a military medical treatment facility or similar military activity shall be credited to the appropriation or appropriations supporting the operation of that facility or activity, as determined under regulations prescribed by the Secretary of Defense.

''(2) Any amounts recovered under this section for the cost to the United States of pay of an injured or diseased member of the uniformed services shall be credited to the appropriation that supports the operation of the command, activity, or other unit to which the member was assigned at the time of the injury or illness, as determined under regulations prescribed by the Secretary concerned.

''(g) For the purposes of this section:

''(A) The term 'uniformed services' has the meaning given such term in section 1072(1) of title 10, United States Code.

''(B) The term 'tortious conduct' includes any tortious omission.

''(C) The term 'pay', with respect to a member of the uniformed services, means basic pay, special pay, and incentive pay that the member is authorized to receive under title 37, United States Code, or any other law providing pay for service in the uniformed services.

''(D) The term 'Secretary concerned' means—

''(i) the Secretary of Defense, with respect to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard (when it is operating as a service in the Navy);

''(ii) the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy;

''(iii) the Secretary of Health and Human Services, with respect to the Commissioned Corps of the Public Health Service; and

''(iv) the Secretary of Commerce, with respect to the Commissioned Corps of the National Oceanic and Atmospheric Administration.''.

(b) CONFORMING AMENDMENTS.—Section 1 of Public Law 87–693 (42 U.S.C. 2651) is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting ''(independent of the rights of the injured or diseased person)'' after ''a right to recover''; and

(B) by inserting '', or that person's insurer,'' after ''from said third person'';

(2) in subsection (d), as redesignated by subsection (a)(2)—

(A) by striking out ''such right,'' and inserting in lieu thereof ''a right under subsections (a), (b), and (c)''; and

(B) by inserting '', or the insurance carrier or other entity responsible for the payment or reimbursement of medical expenses or lost pay,'' after ''the third person who is liable for the injury or disease'' each place that it appears.

(c) APPLICABILITY.—The authority to collect pursuant to the amendments made by this section shall apply to expenses described in the first section of Public Law 87–693 (as amended by this section) that are incurred, or are to be incurred, by the United States on or after the date of the enactment of this Act, whether the event from which the claim arises occurred before, on, or after that date.

SEC. 1067. DISPLAY OF STATE FLAGS AT INSTALLATIONS AND FACILITIES OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Department of Defense may be used to adopt or enforce any rule or other prohibition that discriminates against the display of the official flag of a particular State, territory, or possession of the United States at an official ceremony at any installation or other facility of the Department of Defense at which the official flags of the other States, territories, or possessions of the United States are being displayed.

(b) POSITION AND MANNER OF DISPLAY.—The display of an official flag referred to in subsection (a) at an installation or other facility of the Department shall be governed by the provisions of section 3 of the Joint Resolution of June 22, 1942 (56 Stat. 378, chapter 435; 36 U.S.C. 175), and any modification of such provisions under section 8 of that Joint Resolution (36 U.S.C. 178).

SEC. 1068. GEORGE C. MARSHALL EUROPEAN CENTER FOR STRATEGIC SECURITY STUDIES.

(a) AUTHORITY TO ACCEPT FUNDS, MATERIALS, AND SERVICES.—(1) The Secretary of Defense may, on behalf of the George C. Marshall European Center for Strategic Security Studies, accept gifts or donations of funds, materials (including research materials), property, and services (including lecture services and faculty services) from foreign governments, foundations and other charitable organizations in foreign countries, and individuals in foreign countries in order to defray the costs of the operation of the Center.

(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the George C. Marshall European Center for Strategic Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and same period as the appropriations with which merged.

(b) PARTICIPATION OF FOREIGN NATIONS OTHERWISE PROHIBITED.—(1) The Secretary may permit representatives of a foreign government to participate in a program of the George C. Marshall European Center for Strategic Security Studies, notwithstanding any other provision of law that would otherwise prevent representatives of that foreign government from participating in the program. Before doing so, the Secretary shall determine, in consultation with the Secretary of State, that the participation of representatives of that foreign government in the program is in the national interest of the United States.

(2) Not later than January 31 of each year, the Secretary of Defense shall, with the assistance of the Director of the Center, submit to Congress a report setting forth the foreign governments permitted to participate in programs of the Center during the preceding year under the authority provided in paragraph (1).

(c) WAIVER OF CERTAIN REQUIREMENTS FOR BOARD OF VISITORS.—(1) The Secretary may waive the application of any financial disclosure requirement imposed by law to a foreign member of the Board of Visitors of the Center if that requirement would otherwise apply to the member solely by reason of the service as a member of the Board. The authority under the preceding sentence applies only in the case of a foreign member who serves on the Board without compensation.

(2) Notwithstanding any other provision of law, a member of the Board of Visitors may not be required to register as an agent of a foreign government solely by reason of service as a member of the Board.

SEC. 1069. AUTHORITY TO AWARD TO CIVILIAN PARTICIPANTS IN THE DEFENSE OF PEARL HARBOR THE CONGRESSIONAL MEDAL PREVIOUSLY AUTHORIZED ONLY FOR MILITARY PARTICIPANTS IN THE DEFENSE OF PEARL HARBOR.

(a) AUTHORITY.—The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized jointly to present, on behalf of Congress, a bronze medal provided for under section 1492 of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1721) to any person who meets the eligibility requirements set forth in subsection (d) of that section other than the requirement for membership in the Armed Forces, as certified under subsection (e) of that section or under subsection (b) of this section.

(b) CERTIFICATION.—The Secretary of Defense shall, not later than 12 months after the date of the enactment of this Act, certify to the Speaker of the House of Representatives and the President pro tempore of the Senate the names of persons who are eligible for award of the medal under this Act and have not previously been certified under section 1492(e) of the National Defense Authorization Act for Fiscal Year 1991.

(c) APPLICATIONS.—Subsections (d)(2) and (f) of section 1492 of the National Defense Authorization Act for Fiscal Year 1991 shall apply in the administration of this Act.

(d) ADDITIONAL STRIKING AUTHORITY.—The Secretary of the Treasury shall strike such additional medals as may be necessary for presentation under the authority of subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sum as may be necessary to carry out this section.

(f) RETROACTIVE EFFECTIVE DATE.—The authority under subsection (a) shall be effective as of November 5, 1990.

SEC. 1070. MICHAEL O'CALLAGHAN FEDERAL HOSPITAL, LAS VEGAS, NEVADA.

(a) FINDINGS.—Congress makes the following findings:

(1) Michael O'Callaghan, former Governor of the State of Nevada, served in three branches of the Armed Forces of the United States, namely, the Army, the Air Force, and the Marine Corps.

(2) At 16 years of age, Michael O'Callaghan enlisted in the United States Marine Corps to serve during the end of World War II.

(3) During the Korean conflict, Michael O'Callaghan served successively in the Air Force and the Army and, during such service, suffered wounds in combat that necessitated the amputation of his left leg.

(4) Michael O'Callaghan was awarded the Silver Star, the Bronze Star with Valor Device, and the Purple Heart for his military service.

(5) In 1963, Michael O'Callaghan became the first director of the Health and Welfare Department of the State of Nevada.

(6) In 1970, Michael O'Callaghan became Governor of the State of Nevada and served in that position through 1978, making him one of only five two-term governors in the history of the State of Nevada.

(7) In 1982, Michael O'Callaghan received the Air Force Exceptional Service Award.

(8) It is appropriate to name the Nellis Federal Hospital, Las Vegas, Nevada, a hospital operated jointly by the Department of Defense, through Nellis Air Force Base, and the Department of Veterans Affairs, through the Las Vegas Veterans Affairs Outpatient Clinic, after Michael O'Callaghan, a man who (A) has served his country with honor in three branches of the Armed Forces, (B) as a disabled veteran knows personally the tragic sacrifices that are so often made in the service of his country in the Armed Forces, and (C) has spent his entire career working to improve the lives of all Nevadans.

(b) DESIGNATION OF MICHAEL O'CALLAGHAN FEDERAL HOSPITAL.—The Nellis Federal Hospital, a Federal building located at 4700 North Las Vegas Boulevard, Las Vegas, Nevada, is designated as the ''Michael O'Callaghan Federal Hospital''.

(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (b) shall be deemed to be a reference to the ''Michael O'Callaghan Federal Hospital''.

SEC. 1071. NAMING OF BUILDING AT THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

It is the sense of the Senate that the Secretary of Defense should name Building A at the Uniformed Services University of the Health Sciences as the ''David Packard Building''.

SEC. 1072. SENSE OF THE SENATE REGARDING THE UNITED STATES–JAPAN SEMICONDUCTOR TRADE AGREEMENT.

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

(1) The United States and Japan share a long and important bilateral relationship which serves as an anchor of peace and stability in the Asia Pacific region, an alliance which was reaffirmed at the recent summit meeting between President Clinton and Prime Minister Hashimoto in Tokyo.

(2) The Japanese economy has experienced difficulty over the past few years, demonstrating that it is no longer possible for Japan, the world's second largest economy, to use exports as the sole engine of economic growth, but that the Government of Japan must promote deregulation of its domestic economy in order to increase economic growth.

(3) Deregulation of the Japanese economy requires government attention to the removal of barriers to imports of manufactured goods.

(4) The United States-Japan Semiconductor Trade Agreement has begun the process of deregulation in the semiconductor sector and is opening the Japanese market to competitive foreign products.

(5) The United States-Japan Semiconductor Trade Agreement has put in place both government-to-government and industry-to-industry mechanisms which have played a vital role in allowing cooperation to replace conflict in this important high technology sector.

(6) The mechanisms include joint calculation of foreign market share, deterrence of dumping, and promotion of industrial cooperation in the design of foreign semiconductor devices.

(7) Because of these actions under the United States-Japan Semiconductor Trade Agreement, the United States and Japan today enjoy trade in semiconductors which is mutually beneficial, harmonious, and free from the friction that once characterized the semiconductor industry.

(8) Because of structural barriers in Japan, a gap still remains between the share of the world market for semiconductor products outside Japan that the United States and other foreign semiconductor sources are able to capture through competitiveness and the share of the Japanese semiconductor market that the United States and those other sources are able to capture through competitiveness, and that gap is consistent across the full range of semiconductor products as well as a full range of end-use applications.

(9) The competitiveness and health of the United States semiconductor industry is of critical importance to the overall economic well-being and high technology defense capabilities of the United States.

(10) The economic interests of both the United States and Japan are best served by well functioning, open markets, deterrence of dumping, and continuing good cooperative relationships in all sectors, including semiconductors.

(11) A strong and healthy and military and political alliance between the United States and Japan requires continuation of the industrial and economic cooperation promoted by the United States-Japan Semiconductor Trade Agreement.

(12) President Clinton has called on the Government of Japan to agree to a continuation of a United States-Japan Semiconductor Trade Agreement beyond the current agreement's expiration on July 31, 1996.

(13) The Government of Japan has opposed any continuation of a government-to-government agreement to promote cooperation in United States-Japan semiconductor trade.

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

(1) it is regrettable that the Government of Japan has refused to consider continuation of a government-to-government agreement to ensure that cooperation continues in the semiconductor sector beyond the expiration of the Semiconductor Trade Agreement on July 31, 1996; and

(2) the President should take all necessary and appropriate actions to ensure the continuation of a government-to-government United States-Japan Semiconductor Trade Agreement before the current agreement expires on that date.

(c) DEFINITION.—As used in this section, the term ''United States-Japan Semiconductor Trade Agreement'' refers to the agreement between the United States and Japan concerning trade in semiconductor products, with arrangement, done by exchange of letters at Washington on June 11, 1991.

SEC. 1073. FOOD DONATION PILOT PROGRAM AT THE SERVICE ACADEMIES.

(a) PROGRAM AUTHORIZED.—The Secretaries of the military departments and the Secretary of Transportation may each carry out a food donation pilot program at the service academy under the jurisdiction of the Secretary.

(b) DONATIONS AND COLLECTIONS OF FOOD AND GROCERY PRODUCTS.—Under the pilot program, the Secretary concerned may donate to, and permit others to collect for, a nonprofit organization any food or grocery product that—

(1) is—

(A) an apparently wholesome food;

(B) an apparently fit grocery product; or

(C) a food or grocery product that is donated in accordance with section 402(e) of the National and Community Service Act of 1990 (42 U.S.C. 12672(e));

(2) is owned by the United States;

(3) is located at a service academy under the jurisdiction of the Secretary; and

(4) is excess to the requirements of the academy.

(c) PROGRAM COMMENCEMENT.—The Secretary concerned shall commence carrying out the pilot program, if at all, during fiscal year 1997.

(d) APPLICABILITY OF GOOD SAMARITAN FOOD DONATION ACT..—Section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) shall apply to donations and collections of food and grocery products under the pilot program without regard to section 403 of such Act (42 U.S.C. 12673).

(e) REPORTS.—(1) Each Secretary that carries out a pilot program at a service academy under this section shall submit to Congress an interim report and a final report on the pilot program.

(2) The Secretary concerned shall submit the interim report not later than one year after the date on which the Secretary commences the pilot program at a service academy.

(3) The Secretary concerned shall submit the final report not later than 90 days after the Secretary completes the pilot program at a service academy.

(4) Each report shall include the following:

(A) A description of the conduct of the pilot program.

(B) A discussion of the experience under the pilot program.

(C) An evaluation of the extent to which section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) has been effective in protecting the United States and others from liabilities associated with actions taken under the pilot program.

(D) Any recommendations for legislation to facilitate donations or collections of excess food and grocery products of the United States or others for nonprofit organizations.

(f) DEFINITIONS.—In this section:

(1) The term ''service academy'' means each of the following:

(A) The United States Military Academy.

(B) The United States Naval Academy.

(C) The United States Air Force Academy.

(D) The United States Coast Guard Academy.

(2) The term ''Secretary concerned'' means the following:

(A) The Secretary of the Army, with respect to the United States Military Academy.

(B) The Secretary of the Navy, with respect to the United States Naval Academy.

(C) The Secretary of the Air Force, with respect to the United States Air Force Academy.

(D) The Secretary of Transportation, with respect to the United States Coast Guard Academy.

(3) The terms ''apparently fit grocery product'', ''apparently wholesome food'', ''donate'', ''food'', and ''grocery product'' have the meanings given those terms in section 402(b) of the National and Community Service Act of 1990 (42 U.S.C. 12672(b)).

SEC. 1074. DESIGNATION OF MEMORIAL AS NATIONAL D–DAY MEMORIAL.

(a) DESIGNATION.—The memorial to be constructed by the National D–Day Memorial Foundation in Bedford, Virginia, is hereby designated as a national memorial to be known as the ''National D–Day Memorial''. The memorial shall serve to honor the members of the Armed Forces of the United States who served in the invasion of Normandy, France, in June 1944.

(b) PUBLIC PROCLAMATION.—The President is requested and urged to issue a public proclamation acknowledging the designation of the memorial to be constructed by the National D–Day Memorial Foundation in Bedford, Virginia, as the National D–Day Memorial.

(c) MAINTENANCE OF MEMORIAL.—All expenses for maintenance and care of the memorial shall be paid for with non-Federal funds, including funds provided by the National D–Day Memorial Foundation. The United States shall not be liable for any expense incurred for the maintenance and care of the memorial.

SEC. 1075. IMPROVEMENTS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) REPEAL OF TEMPORARY REQUIREMENT RELATING TO EMPLOYMENT.—Title VII of the Department of Defense Appropriations Act, 1996 (Public Law 104–61; 109 Stat. 650), is amended under the heading ''NATIONAL SECURITY EDUCATION TRUST FUND'' by striking out the proviso.

(b) GENERAL PROGRAM REQUIREMENTS.—Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph (A):

''(A) awarding scholarships to undergraduate students who—

''(i) are United States citizens in order to enable such students to study, for at least one academic semester or equivalent term, in foreign countries that are critical countries (as determined under section 803(d)(4)(A) of this title) in those languages and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 806(d) of this title); and

''(ii) pursuant to subsection (b)(2)(A) of this section, enter into an agreement to work for, and make their language skills available to, an agency or office of the Federal Government or work in the field of higher education in the area of study for which the scholarship was awarded;''; and

(2) in subparagraph (B)—

(A) in clause (i), by inserting ''relating to the national security interests of the United States'' after ''international fields''; and

(B) in clause (ii)—

(i) by striking out ''subsection (b)(2)'' and inserting in lieu thereof ''subsection (b)(2)(B)''; and

(ii) by striking out ''work for an agency or office of the Federal Government or in'' and inserting in lieu thereof ''work for, and make their language skills available to, an agency or office of the Federal Government or work in''.

(c) SERVICE AGREEMENT.—Subsection (b) of that section is amended—

(1) in the matter preceding paragraph (1), by striking out '', or of scholarships'' and all that follows through ''12 months or more,'' and inserting in lieu thereof ''or any scholarship''.

(2) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph (2):

''(2) will—

''(A) not later than eight years after such recipient's completion of the study for which scholarship assistance was provided under the program, and in accordance with regulations issued by the Secretary—

''(i) work in an agency or office of the Federal Government having national security responsibilities (as determined by the Secretary in consultation with the National Security Education Board) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be no longer than the period for which scholarship assistance was provided; or

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or

''(B) upon completion of such recipient's education under the program, and in accordance with such regulations—

''(i) work in an agency or office of the Federal Government having national security responsibilities (as so determined) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be not less than one and not more than three times the period for which the fellowship assistance was provided; or

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available upon the completion of the degree, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and''.

(d) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—Such section 802 is further amended by—

(1) redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—The Secretary shall, through the National Security Education Program office, administer a test of the foreign language skills of each recipient of a scholarship or fellowship under this title before the commencement of the study or education for which the scholarship or fellowship is awarded and after the completion of such study or education. The purpose of the tests is to evaluate the progress made by recipients of scholarships and fellowships in developing foreign language skills as a result of assistance under this title.''.

(e) FUNCTIONS OF THE NATIONAL SECURITY EDUCATION BOARD.—Section 803(d) of that Act (50 U.S.C. 1903(d)) is amended—

(1) in paragraph (1), by inserting '', including an order of priority in such awards that favors individuals expressing an interest in national security issues or pursuing a career in an agency or office of the Federal Government having national security responsibilities'' before the period;

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking out ''Make recommendations'' and inserting in lieu thereof ''After taking into account the annual analyses of trends in language, international, and area studies under section 806(b)(1), make recommendations'';

(B) in subparagraph (A), by inserting ''and countries which are of importance to the national security interests of the United States'' after ''are studying''; and

(C) in subparagraph (B), by inserting ''relating to the national security interests of the United States'' after ''of this title'';

(3) by redesignating paragraph (5) as paragraph (7); and

(4) by inserting after paragraph (4) the following new paragraphs:

''(5) Encourage applications for fellowships under this title from graduate students having an educational background in disciplines relating to science or technology.

''(6) Provide the Secretary on an on-going basis with a list of scholarship recipients and fellowship recipients who are available to work for, or make their language skills available to, an agency or office of the Federal Government having national security responsibilities.''.

(f) REPORT ON PROGRAM.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report assessing the improvements to the program established under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) that result from the amendments made by this section.

(2) The report shall also include an assessment of the contribution of the program, as so improved, in meeting the national security objectives of the United States.

SEC. 1076. REIMBURSEMENT FOR EXCESSIVE COMPENSATION OF CONTRACTOR PERSONNEL PROHIBITED.

(a) ARMED SERVICES PROCUREMENTS.—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following:

''(P) Costs of compensation (including bonuses and other incentives) paid with respect to the services (including termination of services) of any one individual to the extent that the total amount of the compensation paid in a fiscal year exceeds $200,000.''.

(b) CIVILIAN AGENCY PROCUREMENTS.—Section 306(e)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(e)(1)) is amended by adding at the end the following:

''(P) Costs of compensation (including bonuses and other incentives) paid with respect to the services (including termination of services) of any one individual to the extent that the total amount of the compensation paid in a fiscal year exceeds $200,000.''.

SEC. 1077. SENSE OF THE SENATE ON DEPARTMENT OF DEFENSE SHARING OF EXPERIENCES UNDER MILITARY YOUTH PROGRAMS.

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

(1) Programs of the Department of Defense for youth who are dependents of members of the Armed Forces have not received the same level of attention and resources as have child care programs of the Department since the passage of the Military Child Care Act of 1989 (title XV of Public Law 101–189; 10 U.S.C. 113 note).

(2) Older children deserve as much attention to their developmental needs as do younger children.

(3) The Department has started to direct more attention to programs for youths who are dependents of members of the Armed Forces by funding the implementation of 20 model community programs to address the needs of such youths.

(4) The lessons learned from such programs could apply to civilian youth programs as well.

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

(1) the Department of Defense, Federal, State, and local agencies, and businesses and communities involved in conducting youth programs could benefit from the development of partnerships to foster an exchange of ideas, information, and materials relating to such programs and to encourage closer relationships between military installations and the communities that support them;

(2) such partnerships could benefit all families by helping the providers of services for youths exchange ideas about innovative ways to address barriers to the effective provision of such services; and

(3) there are many ways that such partnerships could be developed, including—

(A) cooperation between the Department and Federal and State educational agencies

in exploring the use of public school facilities for child care programs and youth programs that are mutually beneficial to the Department and civilian communities and complement programs of the Department carried out at its facilities; and

(B) improving youth programs that enable adolescents to relate to new peer groups when families of members of the Armed Forces are relocated.

(c) REPORT.—Not later than June 30, 1997, the Secretary of Defense shall submit to Congress a report on the status of any initiatives undertaken this section, including recommendations for additional ways to improve the youth programs of the Department of Defense and to improve such programs so as to benefit communities in the vicinity of military installations.

SEC. 1078. SENSE OF THE SENATE ON DEPARTMENT OF DEFENSE SHARING OF EXPERIENCES WITH MILITARY CHILD CARE.

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

(1) The Department of Defense should be congratulated on the successful implementation of the Military Child Care Act of 1989 (title XV of Public Law 101–189; 10 U.S.C. 113 note).

(2) The actions taken by the Department as a result of that Act have dramatically improved the availability, affordability, quality, and consistency of the child care services provided to members of the Armed Forces.

(3) Child care is important to the readiness of members of the Armed Forces because single parents and couples in military service must have access to affordable child care of good quality if they are to perform their jobs and respond effectively to long work hours or deployments.

(4) Child care is important to the retention of members of the Armed Forces in military service because the dissatisfaction of the families of such members with military life is a primary reason for the departure of such members from military service.

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

(1) the civilian and military child care communities, Federal, State, and local agencies, and businesses and communities involved in the provision of child care services could benefit from the development of partnerships to foster an exchange of ideas, information, and materials relating to their experiences with the provision of such services and to encourage closer relationships between military installations and the communities that support them;

(2) such partnerships would be beneficial to all families by helping providers of child care services exchange ideas about innovative ways to address barriers to the effective provision of such services; and

(3) there are many ways that these partnerships can be developed, including—

(A) cooperation between the directors and curriculum specialists of military child development centers and civilian child development centers in assisting such centers in the accreditation process;

(B) use of family support staff to conduct parent and family workshops for new parents and parents with young children in family housing on military installations and in communities in the vicinity of such installations;

(C) internships in Department of Defense child care programs for civilian child care providers to broaden the base of good-quality child care services in communities in the vicinity of military installations; and

(D) attendance by civilian child care providers at Department child-care training classes on a space-available basis.

(c) REPORT.—Not later than June 30, 1997, the Secretary of Defense shall submit to Congress a report on the status of any initiatives undertaken this section, including recommendations for additional ways to improve the child care programs of the Department of Defense and to improve such programs so as to benefit civilian child care providers in communities in the vicinity of military installations.

SEC. 1079. INCREASE IN PENALTIES FOR CERTAIN TRAFFIC OFFENSES ON MILITARY INSTALLATIONS.

Section 4 of the Act of June 1, 1948 (40 U.S.C. 318c) is amended to read as follows:

''SEC. 4. (a) Except as provided in subsection (b), whoever shall violate any rule or regulation promulgated pursuant to section 2 of this Act may be fined not more than $50 or imprisoned for not more than thirty days, or both.

''(b) Whoever shall violate any rule or regulation for the control of vehicular or pedestrian traffic on military installations that is promulgated by the Secretary of Defense, or the designee of the Secretary, under the authority delegated pursuant to section 2 of this Act may be fined an amount not to exceed the amount of a fine for a like or similar offense under the criminal or civil law of the State, territory, possession, or district where the military installation is located, or imprisoned for not more than thirty days, or both.''.

SEC. 1080. PHARMACEUTICAL INDUSTRY SPECIAL EQUITY.

(a) SHORT TITLE.—This section may be cited as the ''Pharmaceutical Industry Special Equity Act of 1996''.

(b) APPROVAL OF GENERIC DRUGS.—

(1) IN GENERAL.—With respect to any patent, the term of which is modified under section 154(c)(1) of title 35, United States Code, as amended by the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983), the remedies of section 271(e)(4) of title 35, United States Code, shall not apply if—

(A) such patent is the subject of a certification described under—

(i) section 505 (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV)); or

(ii) section 512(n)(1)(H)(iv) of such Act (21 U.S.C. 360b(n)(1)(H)(iv));

(B) on or after the date of enactment of this section, such a certification is made in an application that was filed under section 505 or 512 of the Federal Food, Drug, and Cosmetic Act and accepted for filing by the Food and Drug Administration prior to June 8, 1995; and

(C) a final order, from which no appeal is pending or may be made, has been entered in an action brought under chapter 28 or 29 of title 35, United States Code—

(i) finding that the person who submitted such certification made a substantial investment of the type described under section 154(c)(2) of title 35, United States Code, as amended by the Uruguay Round Agreements Act; and

(ii) establishing the amount of equitable remuneration of the type described under section 154(c)(3) of title 35, United States Code, as amended by the Uruguay Round Agreements Act, that is required to be paid by the person who submitted such certification to the patentee for the product that is the subject of the certification.

(2) DETERMINATION OF SUBSTANTIAL INVESTMENT.—In determining whether a substantial investment has been made in accordance with this section, the court shall find that—

(A) a complete application submitted under section 505 or 512 of the Federal Food, Drug, and Cosmetic Act was found by the Secretary of Health and Human Services on or before June 8, 1995 to be sufficiently complete to permit substantive review; and

(B) the total sum of the investment made by the person submitting such an application—

(i) is specifically related to the research, development, manufacture, sale, marketing, or other activities undertaken in connection with, the product covered by such an application; and

(ii) does not solely consist of that person's expenditures related to the development and submission of the information contained in such an application.

(3) EFFECTIVE DATE OF APPROVAL OF APPLICATION.—In no event shall the Food and Drug Administration make the approval of an application under sections 505 or 512 of the Federal Food, Drug, and Cosmetic Act, which is subject to the provisions of this section, effective prior to the entry of the order described in paragraph (1)(C).

(4) APPLICABILITY.—The provisions of this subsection shall not apply to any patent the term of which, inclusive of any restoration period provided under section 156 of title 35, United States Code, would have expired on or after June 8, 1998, under the law in effect on the date before December 8, 1994.

(c) APPLICATION OF CERTAIN BENEFITS AND TERM EXTENSIONS TO ALL PATENTS IN FORCE ON A CERTAIN DATE.—For the purposes of this section and the provisions of title 35, United States Code, all patents in force on June 8, 1995, including those in force by reason of section 156 of title 35, United States Code, are entitled to the full benefit of the Uruguay Round Agreements Act of 1994 and any extension granted before such date under section 156 of title 35, United States Code.

(d) EXTENSION OF PATENTS RELATING TO NONSTEROIDAL ANTI-INFLAMMATORY DRUGS.—

(1) IN GENERAL.—Notwithstanding section 154 of title 35, United States Code, the term of patent shall be extended for any patent which encompasses within its scope of composition of matter known as a nonsteroidal anti-inflammatory drug if—

(A) during the regulatory review of the drug by the Food and Drug Administration the patentee—

(i) filed a new drug application in 1982 under section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355); and

(ii) awaited approval by the Food and Drug Administration for at least 96 months; and

(B) such new drug application was approved in 1991.

(2) TERM.—The term of any patent described in paragraph (1) shall be extended from its current expiration date for a period of 2 years.

(3) NOTIFICATION.—No later than 90 days after the date of enactment of this section, the patentee of any patent described in paragraph (1) shall notify the Commissioner of Patents and Trademarks of the number of any patent extended under such paragraph. On receipt of such notice, the Commissioner shall confirm such extension by placing a notice thereof in the official file of such patent and publishing an appropriate notice of such extension in the Official Gazette of the Patent and Trademark Office.

(e) EXPEDITED PROCEDURES FOR CIVIL ACTIONS.—

(1) APPLICATION.—(A) This subsection applies to any civil action in a court of the United States brought to determine the rights of the parties under this section, including any determination made under subsection (b).

(B) For purposes of this subsection the term ''civil action'' refers to a civil action described under subparagraph (A).

(2) SUPERSEDING PROVISIONS.—Procedures adopted under this subsection shall supersede any provision of title 28, United States

Code, the Federal Rules of Civil Procedure, or the Federal Rules of Appellate Procedure to the extent of any inconsistency.

(3) PROCEDURES IN DISTRICT COURT.—No later than 60 days after the date of the enactment of this Act, each district court of the United States shall adopt procedures to—

(A) provide for priority in consideration of civil actions on an expedited basis, including consideration of determinations relating to substantial investment, equitable remuneration, and equitable compensation;

(B) provide that—

(i) no later than 10 days after a party files an answer to a complaint filed in a civil action the court shall order that all discovery (including a hearing on any discovery motions) shall be completed no later than 60 days after the date on which the court enters the order; and

(ii) the court may grant a single extension of the 60-day period referred to under clause (i) for an additional period of no more than 30 days upon a showing of good cause;

(C) require any dispositive motion in a civil action to be filed no later than 30 days after completion of discovery;

(D) require that—

(i) if a dispositive motion is filed in a civil action, the court shall rule on such a motion no later than 30 days after the date on which the motion is filed;

(ii) the court shall begin the trial of a civil action no later than 60 days after the later of—

(I) the date on which discovery is completed in accordance with subparagraph (B); or

(II) the last day of the 30-day period referred to under clause (i), if a dispositive motion is filed;

(E) require that if a person does not hold the patent which is the subject of a civil action and is the prevailing party in the civil action, the court shall order the nonprevailing party to pay damages to the prevailing party;

(F) the damages payable to such persons shall include—

(i) the costs resulting from the delay caused by the civil action; and

(ii) lost profits from such delay; and

(G) provide that the prevailing party in a civil action shall be entitled to recover reasonable attorney's fees and court costs.

(4) PROCEDURES IN FEDERAL CIRCUIT COURT.—No later than 60 days after the date of the enactment of this Act, the United States Court of Appeals for the Federal Circuit shall adopt procedures to provide for expedited considerations of civil actions brought under this Act.

SEC. 1081. CLARIFICATION OF NATIONAL SECURITY SYSTEMS TO WHICH THE INFORMATION TECHNOLOGY MANAGEMENT REFORM ACT OF 1996 APPLIES.

Section 5142(b) of the Information Technology Management Reform Act of 1996 (division E of Public Law 104–106; 110 Stat. 689; 40 U.S.C. 1452(b)) is amended—

(1) by striking out ''(b) LIMITATION.—'' and inserting in lieu thereof ''(b) LIMITATIONS.—(1)''; and

(2) by adding at the end the following:

''(2) Notwithstanding any other provision of this section or any other provision of law, for the purposes of this subtitle, a system that, in function, operation, or use, involves the storage, processing, or forwarding of classified information and is protected at all times by procedures established for the handling of classified information shall be considered as a national security system under the definition in subsection (a) only if the function, operation, or use of the system—

''(A) involves activities described in paragraph (1), (2), or (3) of subsection (a);

''(B) involves equipment described in paragraph (4) of subsection (a); or

''(C) is critical to an objective described in paragraph (5) of subsection (a) and is not excluded by paragraph (1) of this subsection.''.

SEC. 1082. SALE OF CHEMICALS USED TO MANUFACTURE CONTROLLED SUBSTANCES BY FEDERAL DEPARTMENTS OR AGENCIES.

A Federal department or agency may not sell from the stocks of the department or agency any chemical which, as determined by the Administrator of the Drug Enforcement Agency, could be used in the manufacture of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) unless the Administrator certifies in writing to the head of the department or agency that there is no reasonable cause to believe that the sale of the chemical would result in the illegal manufacture of a controlled substance.

SEC. 1083. OPERATIONAL SUPPORT AIRLIFT AIRCRAFT.

(a) STATUS OF EXCESS AIRCRAFT.—Operational support airlift aircraft excess to the requirements of the Department of Defense shall be placed in an inactive status and stored at Davis-Monthan Air Force Base, Arizona, pending the completion of any study or analysis of the costs and benefits of disposing of or operating such aircraft that precedes a decision to dispose of or continue to operate such aircraft.

(b) OPERATIONAL SUPPORT AIRLIFT AIRCRAFT DEFINED.—In this section, the term ''operational support airlift aircraft'' has the meaning given such term in section 1086(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 458).

SEC. 1084. SENSE OF SENATE REGARDING BOSNIA AND HERZEGOVINA.

It is the sense of the Senate that, notwithstanding any other provision of law, in order to maximize the amount of equipment provided to the Government of Bosnia and Herzegovina under the authority contained in section 540 of the Foreign Operations Act of 1996 (Public Law 104–107), the price of the transferred equipment shall not exceed the lowest level at which the same or similar equipment has been transferred to any other country under any other United States Government program.

SEC. 1085. STRENGTHENING CERTAIN SANCTIONS AGAINST NUCLEAR PROLIFERATION ACTIVITIES.

(a) IN GENERAL.—Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended—

(1) by inserting after ''any country has willfully aided or abetted'' the following: '', or any person has knowingly aided or abetted,'';

(2) by striking ''or countries'' and inserting '', countries, person, or persons'';

(3) by inserting after ''United States exports to such country'' the following: ''or, in the case of any such person, give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of, exports to or by any such person for a 12-month period,'';

(4) by inserting ''(A)'' immediately after ''(4)'';

(5) by inserting after ''United States exports to such country'' the second place it appears the following: '', except as provided in subparagraph (B),''; and

(6) by adding at the end the following:

''(B) In the case of any country or person aiding or abetting a non-nuclear-weapon state as described in subparagraph (A), the prohibition on financing by the Bank contained in the second sentence of that subparagraph shall not apply to the country or person, as the case may be, if the President determines and certifies in writing to the Congress that—

''(i) reliable information indicates that the country or person with respect to which the determination is made has ceased to aid or abet any non-nuclear-weapon state to acquire any nuclear explosive device or to acquire unsafeguarded special nuclear material; and

''(ii) the President has received reliable assurances from the country or person that such country or person will not, in the future, aid or abet any non-nuclear-weapon state in its efforts to acquire any nuclear explosive device or any unsafeguarded special nuclear material.

''(C) For purposes of subparagraphs (A) and (B)—

''(i) the term 'country' has the meaning given to 'foreign state' in section 1603(a) of title 28, United States Code;

''(ii) the term 'knowingly' is used within the meaning of the term 'knowing' in section 104 of the Foreign Corrupt Practices Act; and

''(iii) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.''.

(b) EFFECTIVE DATE.—(1) The amendments made by paragraphs (1) through (5) of subsection (a) shall apply to persons, and the amendment made by subsection (a)(6), shall apply to countries and persons, aiding or abetting non-nuclear weapon states on or after June 29, 1994.

(2) Nothing in this section or the amendments made by this section shall apply to obligations undertaken pursuant to guarantees, insurance, and the extension of credits (and participation in the extension of credits) made before the date of enactment of this Act.

SEC. 1086. TECHNICAL AMENDMENT.

Paragraph (3) of section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)) is amended—

(1) by striking ''2000 and such number equals or exceeds 15'' and inserting ''1000 or such number equals or exceeds 10''; and

(2) by inserting '', except that notwithstanding any other provision of this title the Secretary shall not make a payment computed under this paragraph for a child described in subparagraph (F) or (G) of paragraph (1) who is associated with Federal property used for Department of Defense activities unless funds for such payment are made available to the Secretary from funds available to the Secretary of Defense'' before the period.

SEC. 1087. FACILITY FOR MILITARY DEPENDENT CHILDREN WITH DISABILITIES, LACKLAND AIR FORCE BASE, TEXAS.

(a) FUNDING.—Of the amounts authorized to be appropriated by this Act for the Department of the Air Force, $2,000,000 may be available for the construction at Lackland Air Force Base, Texas, of a facility (and supporting infrastructure) to provide comprehensive care and rehabilitation services to children with disabilities who are dependents of members of the Armed Forces.

(b) TRANSFER OF FUNDS.—Subject to subsection (c), the Secretary of the Air Force may grant the funds available under subsection (a) to the Children's Association for Maximum Potential (CAMP) for use by the association to defray the costs of designing and constructing the facility referred to in subsection (a).

(c) LEASE OF FACILITY.—(1) The Secretary may not make a grant of funds under subsection (b) until the Secretary and the association enter into an agreement under which

the Secretary leases to the association the facility to be constructed using the funds.

(2)(A) The term of the lease under paragraph (1) may not be less than 25 years.

(B) As consideration for the lease of the facility, the association shall assume responsibility for the operation and maintenance of the facility, including the costs of such operation and maintenance.

(3) The Secretary may require such additional terms and conditions in connection with the lease as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1088. PROHIBITION ON THE DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVE MATERIALS FOR A CRIMINAL PURPOSE.

(a) UNLAWFUL CONDUCT.—Section 842 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(l) It shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials, if the person intends or knows, that such explosive materials or information will be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a criminal purpose affecting interstate commerce.''.

(b) PENALTY.—Section 844(a) of title 18, United States Code, is amended—

(1) by striking ''(a) Any person'' and inserting ''(a)(1) Any person''; and

(2) by adding at the end the following:

''(2) Any person who violates subsection (l) of section 842 of this chapter shall be fined under this title, imprisoned not more than 20 years, or both.''.

SEC. 1089. EXEMPTION FOR SAVINGS INSTITUTIONS SERVING MILITARY PERSONNEL.

Section 10(m)(3)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(3)(F)) is amended to read as follows:

''(F) EXEMPTION FOR SPECIALIZED SAVINGS ASSOCIATIONS SERVING CERTAIN MILITARY PERSONNEL.—Subparagraph (A) does not apply to a savings association subsidiary of a savings and loan holding company if not less than 90 percent of the customers of the savings and loan holding company and the subsidiaries and affiliates of such company are active or former officers in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such officers.''.

Subtitle G—Review of Armed Forces Force Structures

SEC. 1091. SHORT TITLE.

This subtitle may be cited as the ''Armed Forces Force Structures Review Act of 1996''.

SEC. 1092. FINDINGS.

Congress makes the following findings:

(1) Since the collapse of the Soviet Union in 1991, the United States has conducted two substantial assessments of the force structure of the Armed Forces necessary to meet United States defense requirements.

(2) The assessment by the Bush Administration (known as the ''Base Force'' assessment) and the assessment by the Clinton Administration (known as the ''Bottom-Up Review'') were intended to reassess the force structure of the Armed Forces in light of the changing realities of the post-Cold War world.

(3) Both assessments served an important purpose in focusing attention on the need to reevaluate the military posture of the United States, but the pace of global change necessitates a new, comprehensive assessment of the defense strategy of the United States and the force structure of the Armed Forces required to meet the threats to the United States in the 21st century.

(4) The Bottom-Up Review has been criticized on several points, including—

(A) the assumptions underlying the strategy of planning to fight and win two nearly simultaneous major regional conflicts;

(B) the force levels recommended to carry out that strategy; and

(C) the funding proposed for such recommended force levels.

(5) In response to the recommendations of the Commission on Roles and Missions of the Armed Forces, the Secretary of Defense endorsed the concept of conducting a quadrennial review of the defense program at the beginning of each newly elected Presidential administration, and the Secretary intends to complete the first such review in 1997.

(6) The review is to involve a comprehensive examination of defense strategy, the force structure of the active, guard, and reserve components, force modernization plans, infrastructure, and other elements of the defense program and policies in order to determine and express the defense strategy of the United States and to establish a revised defense program through the year 2005.

(7) In order to ensure that the force structure of the Armed Forces is adequate to meet the challenges to the national security interests of the United States in the 21st century, to assist the Secretary of Defense in conducting the review referred to in paragraph (5), and to assess the appropriate force structure of the Armed Forces through the year 2010 and beyond (if practicable), it is important to provide for the conduct of an independent, non-partisan review of the force structure that is more comprehensive than prior assessments of the force structure, extends beyond the quadrennial defense review, and explores innovative and forward-thinking ways of meeting such challenges.

SEC. 1093. QUADRENNIAL DEFENSE REVIEW.

(a) REQUIREMENT IN 1997.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall complete in 1997 a review of the defense program of the United States intended to satisfy the requirements for a Quadrennial Defense Review as identified in the recommendations of the Commission on Roles and Missions of the Armed Forces. The review shall include a comprehensive examination of the defense strategy, force structure, force modernization plans, infrastructure, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense program through the year 2005.

(b) INVOLVEMENT OF NATIONAL DEFENSE PANEL.—(1) The Secretary shall apprise the National Defense Panel established under section 1084, on an on-going basis, of the work undertaken in the conduct of the review.

(2) Not later than March 14, 1997, the Chairman of the National Defense Panel shall submit to the Secretary the Panel's assessment of work undertaken in the conduct of the review as of that date and shall include in the assessment the recommendations of the Panel for improvements to the review, including recommendations for additional matters to be covered in the review.

(c) ASSESSMENTS OF REVIEW.—Upon completion of the review, the Chairman of the Joint Chiefs of Staff and the Chairman of the National Defense Panel shall each prepare and submit to the Secretary such chairman's assessment of the review in time for the inclusion of the assessment in its entirety in the report under subsection (d).

(d) REPORT.—Not later than May 15, 1997, 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 comprehensive report on the review. The report shall include the following:

(1) The results of the review, including a comprehensive discussion of the defense strategy of the United States and the force structure best suited to implement the strategy.

(2) The threats examined for purposes of the review and the scenarios developed in the examination of such threats.

(3) The assumptions used in the review, including assumptions relating to the cooperation of allies and mission-sharing, levels of acceptable risk, warning times, and intensity and duration of conflict.

(4) The effect on the force structure of preparations for and participation in peace operations and military operations other than war.

(5) The effect on the force structure of the utilization by the Armed Forces of technologies anticipated to be available by the year 2005, including precision guided munitions, stealth, night vision, digitization, and communications, and the changes in doctrine and operational concepts that would result from the utilization of such technologies.

(6) The manpower and sustainment policies required under the defense strategy to support engagement in conflicts lasting more than 120 days.

(7) The anticipated roles and missions of the reserve components in the defense strategy and the strength, capabilities, and equipment necessary to assure that the reserve components can capably discharge such roles and missions.

(8) The appropriate ratio of combat forces to support forces (commonly referred to as the ''tooth-to-tail'' ratio) under the defense strategy, including, in particular, the appropriate number and size of headquarter units and Defense Agencies for that purpose.

(9) The air-lift and sea-lift capabilities required to support the defense strategy.

(10) The forward presence, pre-positioning, and other anticipatory deployments necessary under the defense strategy for conflict deterrence and adequate military response to anticipated conflicts.

(11) The extent to which resources must be shifted among two or more theaters under the defense strategy in the event of conflict in such theaters.

(12) The advisability of revisions to the Unified Command Plan as a result of the defense strategy.

SEC. 1094. NATIONAL DEFENSE PANEL.

(a) ESTABLISHMENT.—Not later than December 1, 1996, the Secretary of Defense shall establish a non-partisan, independent panel to be known as the National Defense Panel (in this section referred to as the ''Panel''). The Panel shall have the duties set forth in this section.

(b) MEMBERSHIP.—The Panel shall be composed of a chairman and eight other individuals appointed by the Secretary, in consultation with the Chairman and ranking member of the Committee on Armed Services of the Senate and the Chairman and ranking member of the Committee on National Security of the House of Representatives, from among individuals in the private sector who are recognized experts in matters relating to the national security of the United States.

(c) DUTIES.—The Panel shall—

(1) conduct and submit to the Secretary the assessment of the review under section 1083 that is required by subsection (b)(2) of that section;

(2) conduct and submit to the Secretary the comprehensive assessment of the review

that is required by subsection (c) of that section upon completion of the review; and

(3) conduct the assessment of alternative force structures for the Armed Forces required under subsection (d).

(d) ALTERNATIVE FORCE STRUCTURE ASSESSMENT.—(1) The Panel shall submit to the Secretary an independent assessment of a variety of possible force structures of the Armed Forces through the year 2010 and beyond, including the force structure identified in the report on the review under section 1083(d). The purpose of the assessment is to develop proposals for an ''above the line'' force structure of the Armed Forces and to provide the Secretary and Congress recommendations regarding the optimal force structure to meet anticipated threats to the national security of the United States through the time covered by the assessment.

(2) In conducting the assessment, the Panel shall examine a variety of potential threats (including near-term threats and long-term threats) to the national security interests of the United States, including the following:

(A) Conventional threats across a spectrum of conflicts.

(B) The proliferation of weapons of mass destruction and the means of delivering such weapons, and the illicit transfer of technology relating to such weapons.

(C) The vulnerability of United States technology to non-traditional threats, including information warfare.

(D) Domestic and international terrorism.

(E) The emergence of a major challenger having military capabilities similar to those of the United States.

(F) Any other significant threat, or combination of threats, identified by the Panel.

(3) For purposes of the assessment, the Panel shall develop a variety of scenarios requiring a military response by the Armed Forces, including the following:

(A) Scenarios developed in light of the threats examined under paragraph (2).

(B) Scenarios developed in light of a continuum of conflicts ranging from a conflict of lesser magnitude than the conflict described in the Bottom-Up Review to a conflict of greater magnitude than the conflict so described.

(4) As part of the assessment, the Panel shall also—

(A) develop recommendations regarding a variety of force structures for the Armed Forces that permit the forward deployment of sufficient land- and sea-based forces to provide an effective deterrent to conflict and to permit a military response by the United States to the scenarios developed under paragraph (3);

(B) to the extent practicable, estimate the funding required by fiscal year, in constant fiscal year 1997 dollars, to organize, equip, and support the forces contemplated under the force structures assessed in the assessment; and

(C) comment on each of the matters also to be included by the Secretary in the report required by section 1083(d).

(e) REPORT.—(1) Not later than December 1, 1997, the Panel shall submit to the Secretary a report setting forth the activities, findings and recommendations of the Panel under subsection (d), including any recommendations for legislation that the Panel considers appropriate.

(2) Not later than December 15, 1997, the Secretary shall, after consultation with the Chairman of the Joint Chiefs of Staff, submit to the committees referred to in subsection (b)(1) a copy of the report under paragraph (1), together with the Secretary's comments on the report.

(f) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from the Department of Defense and any of its components and from any other Federal department and agency such information as the Panel considers necessary to carry out its duties under this section. The head of the department or agency concerned shall ensure that information requested by the Panel under this subsection is promptly provided.

(g) PERSONNEL MATTERS.—(1) Each member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel.

(2) The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(3)(A) The chairman of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director, and a staff of not more than four additional individuals, if the Panel determines that an executive director and staff are necessary in order for the Panel to perform its duties effectively. The employment of an executive director shall be subject to confirmation by the Panel.

(B) The chairman may fix the compensation of the executive director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. The Secretary shall ensure that sufficient personnel are detailed to the Panel to enable the Panel to carry out its duties effectively.

(5) To the maximum extent practicable, the members and employees of the Panel shall travel on military aircraft, military ships, military vehicles, or other military conveyances when travel is necessary in the performance of a duty of the Panel, except that no such aircraft, ship, vehicle, or other conveyance may be scheduled primarily for the transportation of any such member or employee when the cost of commercial transportation is less expensive.

(h) ADMINISTRATIVE PROVISIONS.—(1) The Panel may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) The Secretary shall furnish the Panel any administrative and support services requested by the Panel.

(3) The Panel may accept, use, and dispose of gifts or donations of services or property.

(i) PAYMENT OF PANEL EXPENSES.—The compensation, travel expenses, and per diem allowances of members and employees of the Panel shall be paid out of funds available to the Department of Defense for the payment of compensation, travel allowances, and per diem allowances, respectively, of civilian employees of the Department. The other expenses of the Panel shall be paid out of funds available to the Department for the payment of similar expenses incurred by the Department.

(j) TERMINATION.—The Panel shall terminate 30 days after the date on which the Panel submits its report to the Secretary under subsection (e).

SEC. 1095. POSTPONEMENT OF DEADLINES.

In the event that the election of President of the United States in 1996 results in a change in administrations, each deadline set forth in this subtitle shall be postponed by 3 months.

SEC. 1096. DEFINITIONS.

In this subtitle:

(1) The term ''`above the line' force structure of the Armed Forces'' means a force structure (including numbers, strengths, and composition and major items of equipment) for the Armed Forces at the following unit levels:

(A) In the case of the Army, the division.

(B) In the case of the Navy, the battle group.

(C) In the case of the Air Force, the wing.

(D) In the case of the Marine Corps, the expeditionary force.

(E) In the case of special operations forces of the Army, Navy, or Air Force, the major operating unit.

(F) In the case of the strategic forces, the ballistic missile submarine fleet, the heavy bomber force, and the intercontinental ballistic missile force.

(2) The term ''Commission on Roles and Missions of the Armed Forces'' means the Commission on Roles and Missions of the Armed Forces established by subtitle E of title IX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1738; 10 U.S.C. 111 note).

(3) The term ''military operation other than war'' means any operation other than war that requires the utilization of the military capabilities of the Armed Forces, including peace operations, humanitarian assistance operations and activities, counterterrorism operations and activities, disaster relief activities, and counter-drug operations and activities.

(4) The term ''peace operations'' means military operations in support of diplomatic efforts to reach long-term political settlements of conflicts and includes peacekeeping operations and peace enforcement operations.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

Subtitle A—Personnel Management, Pay, and Allowances

SEC. 1101. SCOPE OF REQUIREMENT FOR CONVERSION OF MILITARY POSITIONS TO CIVILIAN POSITIONS.

Section 1032(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 429; 10 U.S.C. 129a note) is amended—

(1) by striking out the text of paragraph (1) and inserting in lieu thereof the following: ''By September 30, 1996, the Secretary of Defense shall convert at least 3,000 military positions to civilian positions.'';

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

SEC. 1102. RETENTION OF CIVILIAN EMPLOYEE POSITIONS AT MILITARY TRAINING BASES TRANSFERRED TO NATIONAL GUARD.

(a) MILITARY TRAINING INSTALLATIONS AFFECTED.—This section applies with respect to each military training installation that—

(1) 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) is scheduled for transfer to National Guard operation and control; and

(3) will continue to be used, after such transfer, to provide training support to active and reserve components of the Armed Forces.

(b) RETENTION OF EMPLOYEE POSITIONS.—In the case of a military training installation described in subsection (a), the Secretary of Defense may retain civilian employee positions of the Department of Defense at the installation after transfer to the National Guard of a State in order to facilitate active and reserve component training at the installation. The Secretary, in consultation with the Adjutant General of the National Guard of that State, shall determine the extent to which positions at that installation are to be retained as positions in the Department of Defense.

(c) MAXIMUM NUMBER OF POSITIONS RETAINED.—The maximum number of civilian employee positions retained at an installation under this section shall not exceed 20 percent of the Federal civilian workforce employed at the installation as of September 8, 1995.

(d) REMOVAL OF POSITION.—The decision to retain civilian employee positions at an installation under this section shall cease to apply to a position so retained on the date on which the Secretary certifies to Congress that it is no longer necessary to retain the position in order to ensure that effective support is provided at the installation for active and reserve component training.

SEC. 1103. CLARIFICATION OF LIMITATION ON FURNISHING CLOTHING OR PAYING A UNIFORM ALLOWANCE TO ENLISTED NATIONAL GUARD TECHNICIANS.

Section 418(c) of title 37, United States Code, is amended by striking out ''for which a uniform allowance is paid under section 415 or 416 of this title'' and inserting in lieu thereof ''for which clothing is furnished or a uniform allowance is paid under this section''.

SEC. 1104. TRAVEL EXPENSES AND HEALTH CARE FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE ABROAD.

(a) IN GENERAL.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1599b. Employees abroad: travel expenses; health care

''(a) IN GENERAL.—The Secretary of Defense may provide civilian employees, and members of their families, abroad with benefits that are comparable to certain benefits that are provided by the Secretary of State to members of the Foreign Service and their families abroad as described in subsections (b) and (c). The Secretary may designate the employees and members of families who are eligible to receive the benefits.

''(b) TRAVEL AND RELATED EXPENSES.—The Secretary of Defense may pay travel expenses and related expenses for purposes and in amounts that are comparable to the purposes for which, and the amounts in which, travel and related expenses are paid by the Secretary of State under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081).

''(c) HEALTH CARE PROGRAM.—The Secretary of Defense may establish a health care program that is comparable to the health care program established by the Secretary of State under section 904 of that Act (22 U.S.C. 4084).

''(d) ASSISTANCE.—The Secretary of Defense may enter into agreements with the heads of other departments and agencies of the Federal Government in order to facilitate the payment of expenses authorized by subsection (b) and to carry out a health care program authorized by subsection (c).

''(e) ABROAD DEFINED.—In this section, the term 'abroad' means outside—

''(1) the United States; and

''(2) the territories and possessions of the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1599a the following new item:

''1599b. Employees abroad: travel expenses; health care.''.

SEC. 1105. TRAVEL, TRANSPORTATION, AND RELOCATION ALLOWANCES FOR CERTAIN FORMER NONAPPROPRIATED FUND EMPLOYEES.

(a) IN GENERAL.—(1) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

''§ 5736. Travel, transportation, and relocation expenses of certain nonappropriated fund employees

''An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) of this title who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for transferred employees.''.

(2) The table of sections at the beginning of chapter 57 of such title is amended by inserting after the item relating to section 5735 the following new item:

''5736. Travel, transportation, and relocation expenses of certain nonappropriated fund employees.''.

(b) APPLICABILITY.—Section 5736 of title 5, United States Code (as added by subsection (a)(1)), shall apply to moves between positions as described in such section that are effective on or after October 1, 1996.

SEC. 1106. EMPLOYMENT AND SALARY PRACTICES APPLICABLE TO DEPARTMENT OF DEFENSE OVERSEAS TEACHERS.

(a) EXPANSION OF SCOPE OF EDUCATORS COVERED.—Section 2 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901) is amended—

(1) in subparagraph (A) of paragraph (1), by inserting '', or are performed by an individual who carried out certain teaching activities identified in regulations prescribed by the Secretary of Defense'' after ''Defense,''; and

(2) by striking out subparagraph (C) of paragraph (2) and inserting in lieu thereof the following:

''(C) who is employed in a teaching position described in paragraph (1).''.

(b) TRANSFER OF RESPONSIBILITY FOR EMPLOYMENT AND SALARY PRACTICES.—Section 5 of such Act (20 U.S.C. 903) is amended—

(1) in subsection (a)—

(A) by striking out ''secretary of each military department in the Department of Defense'' and inserting in lieu thereof ''Secretary of Defense''; and

(B) by striking out ''his military department'' and inserting in lieu thereof ''the Department of Defense'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking out ''secretary of each military department—'' and inserting in lieu thereof ''Secretary of Defense—''; and

(B) in paragraph (1), by striking out ''his military department,'' and inserting in lieu thereof ''the Department of Defense'';

(3) in subsection (c)—

(A) by striking out ''Secretary of each military department'' and inserting in lieu thereof ''Secretary of Defense''; and

(B) by striking out ''his military department'' and inserting in lieu thereof ''the Department of Defense''; and

(4) in subsection (d), by striking out ''Secretary of each military department'' and inserting in lieu thereof ''Secretary of Defense''.

SEC. 1107. EMPLOYMENT AND COMPENSATION OF CIVILIAN FACULTY MEMBERS AT CERTAIN DEPARTMENT OF DEFENSE SCHOOLS.

(a) FACULTIES.—Section 1595(c) of title 10, United States Code, is amended by inserting after paragraph (3) the following new paragraph (4):

''(4) The English Language Center of the Defense Language Institute.

''(5) The Asia-Pacific Center for Security Studies.''.

(b) CERTAIN ADMINISTRATORS.—Such section 1595 is amended by adding at the end the following:

''(f) APPLICATION TO DIRECTOR AND DEPUTY DIRECTOR AT ASIA-PACIFIC CENTER FOR SECURITY STUDIES.—In the case of the Asia-Pacific Center for Security Studies, this section also applies with respect to the Director and the Deputy Director.''.

SEC. 1108. REIMBURSEMENT OF DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT SCHOOL BOARD MEMBERS FOR CERTAIN EXPENSES.

Section 2164(d) of title 10, United States Code, is amended by adding at the end the following:

''(7) The Secretary may provide for reimbursement of a school board member for expenses incurred by the member for travel, transportation, program fees, and activity fees that the Secretary determines are reasonable and necessary for the performance of school board duties by the member.''.

SEC. 1109. EXTENSION OF AUTHORITY FOR CIVILIAN EMPLOYEES OF DEPARTMENT OF DEFENSE TO PARTICIPATE VOLUNTARILY IN REDUCTIONS IN FORCE.

Section 3502(f)(5) of title 5, United States Code, is amended by striking out ''September 30, 1996'' and inserting in lieu thereof ''September 30, 2001''.

SEC. 1110. COMPENSATORY TIME OFF FOR OVERTIME WORK PERFORMED BY WAGE-BOARD EMPLOYEES.

Section 5543 of title 5, United States Code, is amended by adding at the end the following:

''(c) The head of an agency may, on request of an employee, grant the employee compensatory time off from the employee's scheduled tour of duty instead of payment under section 5544 of this title or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work.''.

SEC. 1111. LIQUIDATION OF RESTORED ANNUAL LEAVE THAT REMAINS UNUSED UPON TRANSFER OF EMPLOYEE FROM INSTALLATION BEING CLOSED OR REALIGNED.

(a) LUMP-SUM PAYMENT REQUIRED.—Section 5551 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(c)(1) Annual leave that is restored to an employee of the Department of Defense under section 6304(d) of this title by reason of the operation of paragraph (3) of such section and remains unused upon the transfer of the employee to a position described in paragraph (2) shall be liquidated by payment of a lump-sum for such leave to the employee upon the transfer.

''(2) A position referred to in paragraph (1) is a position in a department or agency of the Federal Government outside the Department of Defense or a Department of Defense position that is not located at a Department of Defense installation being closed or realigned as described in section 6304(d)(3) of this title.''.

(b) APPLICABILITY.—Subsection (c) of section 5551 of title 5, United States Code (as added by subsection (a)), shall apply with respect to transfers described in such subsection (c) that take effect on or after the date of the enactment of this Act.

SEC. 1112. WAIVER OF REQUIREMENT FOR REPAYMENT OF VOLUNTARY SEPARATION INCENTIVE PAY BY FORMER DEPARTMENT OF DEFENSE EMPLOYEES REEMPLOYED BY THE GOVERNMENT WITHOUT PAY.

Section 5597(g) of title 5, United States Code, is amended by adding at the end the following new paragraph:

''(5) If the employment is without compensation, the appointing official may waive the repayment.''.

SEC. 1113. FEDERAL HOLIDAY OBSERVANCE RULES FOR DEPARTMENT OF DEFENSE EMPLOYEES.

(a) HOLIDAYS OCCURRING ON NONWORKDAYS.—Section 6103(b) of title 5, United States Code, is amended by inserting after paragraph (2) the following new paragraph:

''(3) In the case of a full-time employee of the Department of Defense, the following rules apply:

''(A) When a legal public holiday occurs on a Sunday that is not a regular weekly workday for an employee, the employee's next workday is the legal public holiday for the employee.

''(B) When a legal public holiday occurs on a regular weekly nonworkday that is administratively scheduled for an employee instead of Sunday, the employee's next workday is the legal public holiday for the employee.

''(C) When a legal public holiday occurs on an employee's regular weekly nonworkday immediately following a regular weekly nonworkday that is administratively scheduled for the employee instead of Sunday, the employee's next workday is the legal public holiday for the employee.

''(D) When a legal public holiday occurs on an employee's regular weekly nonworkday that is not a nonworkday referred to in subparagraph (A), (B), or (C), the employee's preceding workday is the legal public holiday for the employee.

''(E) The Secretary concerned (as defined in section 101(a) of title 10) may schedule a legal public holiday for an employee to be on a different day than the one that would otherwise apply for the employee under subparagraph (A), (B), (C), or (D).

''(F) If a legal public holiday for an employee would be different under paragraph (1) or (2) than the day determined under this paragraph, the legal public holiday for the employee shall be the day that is determined under this paragraph.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 6103(b) of such title, as amended by subsection (a), is further amended—

(1) in paragraph (1), by striking out ''legal public holiday for—'' and all that follows through the period and inserting in lieu thereof ''legal public holiday for employees whose basic workweek is Monday through Friday.''; and

(2) in the matter following paragraph (3), by striking out ''This subsection, except subparagraph (B) of paragraph (1),'' and inserting in lieu thereof ''Paragraphs (1) and (2)''.

SEC. 1114. REVISION OF CERTAIN TRAVEL MANAGEMENT AUTHORITIES.

(a) REPEAL OF REQUIREMENTS RELATING TO FIRE-SAFE ACCOMMODATIONS.—(1) Section 5707 of title 5, United States Code, is amended by striking out subsection (d).

(2) Subsection (b) of section 5 of the Hotel and Motel Fire Safety Act of 1990 (Public Law 101–391; 104 Stat. 751; 5 U.S.C. 5707 note) is repealed.

(b) REPEAL OF PROHIBITION ON PAYMENT OF LODGING EXPENSES OF DEPARTMENT OF DEFENSE EMPLOYEES AND OTHER CIVILIANS WHEN ADEQUATE GOVERNMENT QUARTERS ARE AVAILABLE.—(1) Section 1589 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to such section.

Subtitle B—Defense Economic Adjustment, Diversification, Conversion, and Stabilization

SEC. 1121. PILOT PROGRAMS FOR DEFENSE EMPLOYEES CONVERTED TO CONTRACTOR EMPLOYEES DUE TO PRIVATIZATION AT CLOSED MILITARY INSTALLATIONS.

(a) PILOT PROGRAMS AUTHORIZED.—(1) The Secretary of Defense, after consultation with the Secretary of the Navy, the Secretary of the Air Force, and the Director of the Office of Personnel Management, may establish a pilot program under which Federal retirement benefits are provided in accordance with this section to persons who convert from Federal employment in the Department of the Navy or the Department of the Air Force to employment by a Department of Defense contractor in connection with the privatization of the performance of functions at selected military installations being closed under the base closure and realignment process.

(2) The Secretary of Defense shall select the installations to be covered by a pilot program under this section.

(b) ELIGIBLE TRANSFERRED EMPLOYEES.—(1) A person is a transferred employee eligible for benefits under this section if the person is a former employee of the Department of Defense (other than a temporary employee) who—

(A) while employed by the Department of Defense in a function recommended to be privatized as part of the closure and realignment of military installations pursuant to section 2903(e) of the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and while covered under the Civil Service Retirement System, separated from Federal service after being notified that the employee would be separated in a reduction-in-force resulting from conversion from performance of a function by Department of Defense employees at that military installation to performance of that function by a defense contractor at that installation or in the vicinity of that installation;

(B) is employed by the defense contractor within 60 days following such separation to perform substantially the same function performed before the separation;

(C) remains employed by the defense contractor (or a successor defense contractor) or subcontractor of the defense contractor (or successor defense contractor) until attaining early deferred retirement age (unless the employment is sooner involuntarily terminated for reasons other than performance or conduct of the employee);

(D) at the time separated from Federal service, was not eligible for an immediate annuity under the Civil Service Retirement System; and

(E) does not withdraw retirement contributions under section 8342 of title 5, United States Code.

(2) A person who, under paragraph (1), would otherwise be eligible for an early deferred annuity under this section shall not be eligible for such benefits if the person received separation pay or severance pay due to a separation described in subparagraph (A) of that paragraph unless the person repays the full amount of such pay with interest (computed at a rate determined appropriate by the Director of the Office of Personnel Management) to the Department of Defense before attaining early deferred retirement age.

(c) RETIREMENT BENEFITS OF TRANSFERRED EMPLOYEES.—In the case of a transferred employee covered by a pilot program under this section, payment of a deferred annuity for which the transferred employee is eligible under section 8338(a) of title 5, United States Code, shall commence on the first day of the first month that begins after the date on which the transferred employee attains early deferred retirement age, notwithstanding the age requirement under that section.

(d) COMPUTATION OF AVERAGE PAY.—(1)(A) This paragraph applies to a transferred employee who was employed in a position classified under the General Schedule immediately before the employee's covered separation from Federal service.

(B) Subject to subparagraph (C), for purposes of computing the deferred annuity for a transferred employee referred to in subparagraph (A), the average pay of the transferred employee, computed under section 8331(4) of title 5, United States Code, as of the date of the employee's covered separation from Federal service, shall be adjusted at the same time and by the same percentage that rates of basic pay are increased under section 5303 of such title during the period beginning on that date and ending on the date on which the transferred employee attains early deferred retirement age.

(C) The average pay of a transferred employee, as adjusted under subparagraph (B), may not exceed the amount to which an annuity of the transferred employee could be increased under section 8340 of title 5, United States Code, in accordance with the limitation in subsection (g)(1) of such section (relating to maximum pay, final pay, or average pay).

(2)(A) This paragraph applies to a transferred employee who was a prevailing rate employee (as defined under section 5342(2) of title 5, United States Code) immediately before the employee's covered separation from Federal service.

(B) For purposes of computing the deferred annuity for a transferred employee referred to in subparagraph (A), the average pay of the transferred employee, computed under section 8331(4) of title 5, United States Code, as of the date of the employee's covered separation from Federal service, shall be adjusted at the same time and by the same percentage that pay rates for positions that are in the same area as, and are comparable to, the last position the transferred employee held as a prevailing rate employee, are increased under section 5343(a) of such title during the period beginning on that date and ending on the date on which the transferred employee attains early deferred retirement age.

(e) PAYMENT OF UNFUNDED LIABILITY.—(1) The military department concerned shall be liable for that portion of any estimated increase in the unfunded liability of the Civil Service Retirement and Disability Fund established under section 8348 of title 5, United States Code, which is attributable to any benefits payable from such Fund to a transferred employee, and any survivor of a transferred employee, when the increase results from—

(A) an increase in the average pay of the transferred employee under subsection (d) upon which such benefits are computed; and

(B) the commencement of an early deferred annuity in accordance with this section before the attainment of 62 years of age by the transferred employee.

(2) The estimated increase in the unfunded liability for each department referred to in paragraph (1), shall be determined by the Director of the Office of Personnel Management. In making the determination, the Director shall consider any savings to the Fund as a result of the program established under this section. The Secretary of the military department concerned shall pay the amount so determined to the Director in 10 equal annual installments with interest computed at

the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the fiscal year in which an increase in average pay under subsection (d) becomes effective.

(f) CONTRACTOR SERVICE NOT CREDITABLE.—Service performed by a transferred employee for a defense contractor after the employee's covered separation from Federal service is not creditable service for purposes of subchapter III of chapter 83 of title 5, United States Code.

(g) RECEIPT OF BENEFITS WHILE EMPLOYED BY A DEFENSE CONTRACTOR.—A transferred employee may commence receipt of an early deferred annuity in accordance with this section while continuing to work for a defense contractor.

(h) LUMP-SUM CREDIT PAYMENT.—If a transferred employee dies before attaining early deferred retirement age, such employee shall be treated as a former employee who dies not retired for purposes of payment of the lump-sum credit under section 8342(d) of title 5, United States Code.

(i) CONTINUED FEDERAL HEALTH BENEFITS COVERAGE.—Notwithstanding section 5905a(e)(1)(A) of title 5, United States Code, the continued coverage of a transferred employee for health benefits under chapter 89 of such title by reason of the application of section 8905a of such title to such employee shall terminate 90 days after the date of the employee's covered separation from Federal employment. For the purposes of the preceding sentence, a person who, except for subsection (b)(2), would be a transferred employee shall be considered a transferred employee.

(j) REPORT BY GAO.—The Comptroller General of the United States shall conduct a study of each pilot program, if any, established under this section and submit a report on the pilot program to Congress not later than two years after the date on which the program is established. The report shall contain the following:

(1) A review and evaluation of the program, including—

(A) an evaluation of the success of the privatization outcomes of the program;

(B) a comparison and evaluation of such privatization outcomes with the privatization outcomes with respect to facilities at other military installations closed or realigned under the base closure laws;

(C) an evaluation of the impact of the program on the Federal workforce and whether the program results in the maintenance of a skilled workforce for defense contractors at an acceptable cost to the military department concerned; and

(D) an assessment of the extent to which the pilot program is a cost-effective means of facilitating privatization of the performance of Federal activities.

(2) Recommendations relating to the expansion of the program to other installations and employees.

(3) Any other recommendation relating to the program.

(k) IMPLEMENTING REGULATIONS.—Not later than 30 days after the Secretary of Defense notifies the Director of the Office of Personnel Management of a decision to establish a pilot program under this section, the Director shall prescribe regulations to carry out the provisions of this section with respect to that pilot program. Before prescribing the regulations, the Director shall consult with the Secretary.

(l) DEFINITIONS.—In this section:

(1) The term ''transferred employee'' means a person who, pursuant to subsection (b), is eligible for benefits under this section.

(2) The term ''covered separation from Federal service'' means a separation from Federal service as described under subsection (b)(1)(A).

(3) The term ''Civil Service Retirement System'' means the retirement system under subchapter III of chapter 83 of title 5, United States Code.

(4) The term ''defense contractor'' means any entity that—

(A) contracts with the Department of Defense to perform a function previously performed by Department of Defense employees;

(B) performs that function at the same installation at which such function was previously performed by Department of Defense employees or in the vicinity of that installation; and

(C) is the employer of one or more transferred employees.

(5) The term ''early deferred retirement age'' means the first age at which a transferred employee would have been eligible for immediate retirement under subsection (a) or (b) of section 8336 of title 5, United States Code, if such transferred employee had remained an employee within the meaning of section 8331(1) of such title continuously until attaining such age.

(6) The term ''severance pay'' means severance pay payable under section 5595 of title 5, United States Code.

(7) The term ''separation pay'' means separation pay payable under section 5597 of title 5, United States Code.

(m) EFFECTIVE DATE.—This section shall take effect on August 1, 1996, and shall apply to covered separations from Federal service on or after that date.

SEC. 1122. TROOPS-TO-TEACHERS PROGRAM IMPROVEMENTS APPLIED TO CIVILIAN PERSONNEL.

(a) SEPARATED CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.—(1) Subsection (a) of section 1598 of title 10, United States Code, is amended by striking out ''may establish'' and inserting in lieu thereof ''shall establish''.

(2) Subsection (d)(2) of such section is amended by striking out ''five school years'' in subparagraphs (A) and (B) and inserting in lieu thereof ''two school years''.

(b) DISPLACED DEPARTMENT OF DEFENSE CONTRACTOR EMPLOYEES.—Section 2410j(f)(2) of such title is amended by striking out ''five school years'' in subparagraphs (A) and (B) and inserting in lieu thereof ''two school years''.

(c) SAVINGS PROVISION.—The amendments made by this section do not effect obligations under agreements entered into in accordance with section 1598 or 2410j of title 10, United States Code, before the date of the enactment of this Act.

Subtitle C—Defense Intelligence Personnel

SEC. 1131. SHORT TITLE.

This subtitle may be cited as the ''Department of Defense Civilian Intelligence Personnel Reform Act of 1996''.

SEC. 1132. CIVILIAN INTELLIGENCE PERSONNEL MANAGEMENT.

Section 1590 of title 10, United States Code, is amended to read as follows:

''§ 1590. Management of civilian intelligence personnel of the Department of Defense

''(a) GENERAL PERSONNEL MANAGEMENT AUTHORITY.—The Secretary of Defense may, without regard to the provisions of any other law relating to the appointment, number, classification, or compensation of employees—

''(1) establish—

''(A) as positions in the excepted service, such defense intelligence component positions (including Intelligence Senior Level positions) as the Secretary determines necessary to carry out the intelligence functions of the defense intelligence components, but not to exceed in number the number of the defense intelligence component positions established as of January 1, 1996; and

''(B) such Intelligence Senior Executive Service positions as the Secretary determines necessary to carry out functions referred to in subparagraph (B);

''(2) appoint individuals to such positions (after taking into consideration the availability of preference eligibles for appointment to such positions); and

''(3) fix the compensation of such individuals for service in such positions.

''(b) BASIC PAY.—(1)(A) Subject to subparagraph (B) and paragraph (2), the Secretary of Defense shall fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in subpart D of part III of title 5 for positions subject to that subpart which have corresponding levels of duties and responsibilities.

''(B) Except as otherwise provided by law, no rate of basic pay fixed under subparagraph (A) for a position established under subsection (a) may exceed—

''(i) in the case of an Intelligence Senior Executive Service position, the maximum rate provided in section 5382 of title 5;

''(ii) in the case of an Intelligence Senior Level position, the maximum rate provided in section 5382 of title 5; and

''(iii) in the case of any other defense intelligence component position, the maximum rate provided in section 5306(e) of title 5.

''(2) The Secretary of Defense may, consistent with section 5341 of title 5, adopt such provisions of that title as provide for prevailing rate systems of basic pay and may apply those provisions to positions for civilian employees in or under which the Department of Defense may employ individuals described by section 5342(a)(2)(A) of such title.

''(c) ADDITIONAL COMPENSATION, INCENTIVES, AND ALLOWANCES.—(1) Employees in defense intelligence component positions may be paid additional compensation, including benefits, incentives, and allowances, in accordance with this subsection if, and to the extent, authorized in regulations prescribed by the Secretary of Defense.

''(2) Additional compensation under this subsection shall be consistent with, and not in excess of the levels authorized for, comparable positions authorized by title 5.

''(3)(A) Employees in defense intelligence component positions, if citizens or nationals of the United States, may be paid an allowance while stationed outside the continental United States or in Alaska.

''(B) Subject to subparagraph (C), allowances under subparagraph (A) shall be based on—

''(i) living costs substantially higher than in the District of Columbia;

''(ii) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

''(iii) both of the factors described in clauses (i) and (ii).

''(C) An allowance under subparagraph (A) may not exceed an allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.

''(d) INTELLIGENCE SENIOR EXECUTIVE SERVICE.—(1) The Secretary of Defense may establish an Intelligence Senior Executive Service for defense intelligence component positions established pursuant to subsection (a) that are equivalent to Senior Executive Service positions.

''(2) The Secretary of Defense shall prescribe regulations for the Intelligence Senior Executive Service which are consistent with the requirements set forth in sections 3131,

3132(a)(2), 3396(c), 3592, 3595(a), 5384, and 6304 of title 5, subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Intelligence Senior Executive Service is entitled shall be held or decided pursuant to the regulations), and subchapter II of chapter 43 of such title. To the extent that the Secretary determines it practicable to apply to members of, or applicants for, the Intelligence Senior Executive Service other provisions of title 5 that apply to members of, or applicants for, the Senior Executive Service, the Secretary shall also prescribe regulations to implement those sections with respect to the Intelligence Senior Executive Service.

''(e) AWARD OF RANK TO MEMBERS OF THE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Intelligence Senior Executive Service whose positions may be established pursuant to this section. The awarding of such rank shall be made in a manner consistent with the provisions of that section.

''(f) INTELLIGENCE SENIOR LEVEL POSITIONS.—The Secretary of Defense may, in accordance with regulations prescribed by the Secretary, designate as an Intelligence Senior Level position any defense intelligence component position that, as determined by the Secretary—

''(1) is classifiable above grade GS–15 of the General Schedule;

''(2) does not satisfy functional or program management criteria for being designated an Intelligence Senior Executive Service position; and

''(3) has no more than minimal supervisory responsibilities.

''(g) TIME LIMITED APPOINTMENTS.—(1) The Secretary of Defense may, in regulations, authorize appointing officials to make time limited appointments to defense intelligence component positions specified in the regulations.

''(2) The Secretary of Defense shall review each time limited appointment in a defense intelligence component position at the end of the first year of the period of the appointment and determine whether the appointment should be continued for the remainder of the period. The continuation of a time limited appointment after the first year shall be subject to the approval of the Secretary.

''(3) An employee serving in a defense intelligence component position pursuant to a time limited appointment is not eligible for a permanent appointment to an Intelligence Senior Executive Service position (including a position in which serving) unless selected for the permanent appointment on a competitive basis.

''(4) In this subsection, the term 'time limited appointment' means an appointment (subject to the condition in paragraph (2)) for a period not to exceed two years.

''(h) TERMINATION OF CIVILIAN INTELLIGENCE EMPLOYEES.—(1) Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any employee in a defense intelligence component position if the Secretary—

''(A) considers such action to be in the interests of the United States; and

''(B) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security.

''(2) A decision by the Secretary of Defense to terminate the employment of an employee under this subsection is final and may not be appealed or reviewed outside the Department of Defense.

''(3) The Secretary of Defense shall promptly notify the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate whenever the Secretary terminates the employment of any employee under the authority of this subsection.

''(4) Any termination of employment under this subsection shall not affect the right of the employee involved to seek or accept employment with any other department or agency of the United States if that employee is declared eligible for such employment by the Director of the Office of Personnel Management.

''(5) The authority of the Secretary of Defense under this subsection may be delegated only to the Deputy Secretary of Defense and the head of a defense intelligence component (with respect to employees of that component). An action to terminate employment of such an employee by any such official may be appealed to the Secretary of Defense.

''(i) REDUCTIONS AND OTHER ADJUSTMENTS IN FORCE.—(1) The Secretary of Defense, in consultation with the Director of the Office of Personnel Management, shall prescribe regulations for the separation of employees in defense intelligence component positions, including members of the Intelligence Senior Executive Service and employees in Intelligence Senior Level positions, in a reduction in force or other adjustment in force. The regulations shall apply to such a reduction in force or other adjustment in force notwithstanding sections 3501(b) and 3502 of title 5.

''(2) The regulations shall give effect to—

''(A) tenure of employment;

''(B) military preference, subject to sections 3501(a)(3) and 3502(b) of title 5;

''(C) the veteran's preference under section 3502(b) of title 5;

''(D) performance; and

''(E) length of service computed in accordance with the second sentence of section 3502(a) of title 5.

''(2) The regulations relating to removal from the Intelligence Senior Executive Service in a reduction in force or other adjustment in force shall be consistent with section 3595(a) of title 5.

''(3)(A) The regulations shall provide a right of appeal regarding a personnel action under the regulations. The appeal shall be determined within the Department of Defense. An appeal determined at the highest level provided in the regulations shall be final and not subject to review outside the Department of Defense. A personnel action covered by the regulations is not subject to any other provision of law that provides appellate rights or procedures.

''(B) Notwithstanding subparagraph (A), a preference eligible referred to in section 7511(a)(1)(B) of title 5 may appeal to the Merit Systems Protection Board any personnel action taken under the regulations. Section 7701 of title 5 shall apply to any such appeal.

''(j) APPLICABILITY OF MERIT SYSTEM PRINCIPLES.—Section 2301 of title 5 shall apply to the exercise of authority under this section.

''(k) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this section may be construed to impair the continued effectiveness of a collective bargaining agreement with respect to an agency or office that is a successor to an agency or office covered by the agreement before the succession.

''(l) NOTIFICATION OF CONGRESS.—At least 60 days before the effective date of regulations prescribed to carry out this section, the Secretary of Defense shall submit the regulations to the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate.

''(m) DEFINITIONS.—In this section:

''(1) The term 'defense intelligence component position' means a position of civilian employment as an intelligence officer or employee of a defense intelligence component.

''(2) The term 'defense intelligence component' means each of the following components of the Department of Defense:

''(A) The National Security Agency.

''(B) The Defense Intelligence Agency.

''(C) The Central Imagery Office.

''(D) Any component of a military department that performs intelligence functions and is designated as a defense intelligence component by the Secretary of Defense.

''(E) Any other component of the Department of Defense that performs intelligence functions and is designated as a defense intelligence component by the Secretary of Defense.

''(F) Any successor to a component listed in, or designated pursuant to, this paragraph.

''(3) The term 'Intelligence Senior Level position' means a defense intelligence component position designated as an Intelligence Senior Level position pursuant to subsection (f).

''(4) The term 'excepted service' has the meaning given such term in section 2103 of title 5.

''(5) The term 'preference eligible' has the meaning given such term in section 2108(3) of title 5.

''(6) The term 'Senior Executive Service position' has the meaning given such term in section 3132(a)(2) of title 5.

''(7) The term 'collective bargaining agreement' has the meaning given such term in section 7103(8) of title 5.''.

SEC. 1133. REPEALS.

(a) DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—Sections 1601, 1603, and 1604 of title 10, United States Code, are repealed.

(b) NATIONAL SECURITY AGENCY PERSONNEL MANAGEMENT AUTHORITIES.—(1) Sections 2 and 4 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) are repealed.

(2) Section 303 of the Internal Security Act of 1950 (50 U.S.C. 833) is repealed.

SEC. 1134. CLERICAL AMENDMENTS.

(a) AMENDED SECTION HEADING.—The item relating to section 1590 in the table of sections at the beginning of chapter 81 of title 10, United States Code, is amended to read as follows:

''1590. Management of civilian intelligence personnel of the Department of Defense.''.

(b) REPEALED SECTIONS.—The table of sections at the beginning of chapter 83 of title 10, United States Code, is amended by striking out the items relating to sections 1601, 1603, and 1604.

TITLE XII—FEDERAL CHARTER FOR THE FLEET RESERVE ASSOCIATION

SEC. 1201. RECOGNITION AND GRANT OF FEDERAL CHARTER.

The Fleet Reserve Association, a nonprofit corporation organized under the laws of the State of Delaware, is recognized as such and granted a Federal charter.

SEC. 1202. POWERS.

The Fleet Reserve Association (in this title referred to as the ''association'') shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 1203. PURPOSES.

The purposes of the association are those provided in its bylaws and articles of incorporation and shall include the following:

(1) Upholding and defending the Constitution of the United States.

(2) Aiding and maintaining an adequate naval defense for the United States.

(3) Assisting the recruitment of the best personnel available for the United States Navy, United States Marine Corps, and United States Coast Guard.

(4) Providing for the welfare of the personnel who serve in the United States Navy, United States Marine Corps, and United States Coast Guard.

(5) Continuing to serve loyally the United States Navy, United States Marine Corps, and United States Coast Guard.

(6) Preserving the spirit of shipmanship by providing assistance to shipmates and their families.

(7) Instilling love of the United States and the flag and promoting soundness of mind and body in the youth of the United States.

SEC. 1204. SERVICE OF PROCESS.

With respect to service of process, the association shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 1205. MEMBERSHIP.

Except as provided in section 1208(g), eligibility for membership in the association and the rights and privileges of members shall be as provided in the bylaws and articles of incorporation of the association.

SEC. 1206. BOARD OF DIRECTORS.

Except as provided in section 1208(g), the composition of the board of directors of the association and the responsibilities of the board shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the State in which it is incorporated.

SEC. 1207. OFFICERS.

Except as provided in section 1208(g), the positions of officers of the association and the election of members to such officers shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the State in which it is incorporated.

SEC. 1208. RESTRICTIONS.

(a) INCOME AND COMPENSATION.—No part of the income or assets of the association may inure to the benefit of any member, officer, or director of the association or be distributed to any such individual during the life of this charter. Nothing in this subsection may be construed to prevent the payment of reasonable compensation to the officers and employees of the association or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The association may not make any loan to any member, officer, director, or employee of the association.

(c) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The association may not issue any shares of stock or declare or pay any dividend.

(d) FEDERAL APPROVAL.—The association may not claim the approval of the Congress or the authorization of the Federal Government for any of its activities by virtue of this title.

(e) CORPORATE STATUS.—The association shall maintain its status as a corporation organized and incorporated under the laws of the State of Delaware.

(f) CORPORATE FUNCTION.—The association shall function as an educational, patriotic, civic, historical, and research organization under the laws of the State in which it is incorporated.

(g) NONDISCRIMINATION.—In establishing the conditions of membership in the association and in determining the requirements for serving on the board of directors or as an officer of the association, the association may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

SEC. 1209. LIABILITY.

The association shall be liable for the acts of its officers, directors, employees, and agents whenever such individuals act within the scope of their authority.

SEC. 1210. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The association shall keep correct and complete books and records of account and minutes of any proceeding of the association involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The association shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the association.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the association may be inspected by any member having the right to vote in any proceeding of the association, or by any agent or attorney of such member, for any proper purpose at any reasonable time.

(d) APPLICATION OF STATE LAW.—This section may not be construed to contravene any applicable State law.

SEC. 1211. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled ''An Act to provide for audit of accounts of private corporations established under Federal law'', approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following:

''(77) Fleet Reserve Association.''.

SEC. 1212. ANNUAL REPORT.

The association shall annually submit to Congress a report concerning the activities of the association during the preceding fiscal year. The annual report shall be submitted on the same date as the report of the audit required by reason of the amendment made in section 1211. The annual report shall not be printed as a public document.

SEC. 1213. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this title is expressly reserved to Congress.

SEC. 1214. TAX-EXEMPT STATUS.

The association shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

SEC. 1215. TERMINATION.

The charter granted in this title shall expire if the association fails to comply with any of the provisions of this title.

SEC. 1216. DEFINITION.

For purposes of this title, the term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States Of Micronesia, the Republic of Palau, and any other territory or possession of the United States.

TITLE XIII—DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION

SEC. 1301. SHORT TITLE.

This title may be cited as the ''Defense Against Weapons of Mass Destruction Act of 1996''.

SEC. 1302. FINDINGS.

Congress makes the following findings:

(1) Weapons of mass destruction and related materials and technologies are increasingly available from worldwide sources. Technical information relating to such weapons is readily available on the Internet, and raw materials for chemical, biological, and radiological weapons are widely available for legitimate commercial purposes.

(2) The former Soviet Union produced and maintained a vast array of nuclear, biological, and chemical weapons of mass destruction.

(3) Many of the states of the former Soviet Union retain the facilities, materials, and technologies capable of producing additional quantities of weapons of mass destruction.

(4) The disintegration of the former Soviet Union was accompanied by disruptions of command and control systems, deficiencies in accountability for weapons, weapons-related materials and technologies, economic hardships, and significant gaps in border control among the states of the former Soviet Union. The problems of organized crime and corruption in the states of the former Soviet Union increase the potential for proliferation of nuclear, radiological, biological, and chemical weapons and related materials.

(5) The conditions described in paragraph (4) have substantially increased the ability of potentially hostile nations, terrorist groups, and individuals to acquire weapons of mass destruction and related materials and technologies from within the states of the former Soviet Union and from unemployed scientists who worked on those programs.

(6) As a result of such conditions, the capability of potentially hostile nations and terrorist groups to acquire nuclear, radiological, biological, and chemical weapons is greater than any time in history.

(7) The President has identified North Korea, Iraq, Iran, and Libya as hostile states which already possess some weapons of mass destruction and are developing others.

(8) The acquisition or the development and use of weapons of mass destruction is well within the capability of many extremist and terrorist movements, acting independently or as proxies for foreign states.

(9) Foreign states can transfer weapons to or otherwise aid extremist and terrorist movements indirectly and with plausible deniability.

(10) Terrorist groups have already conducted chemical attacks against civilian targets in the United States and Japan, and a radiological attack in Russia.

(11) The potential for the national security of the United States to be threatened by nuclear, radiological, chemical, or biological terrorism must be taken as seriously as the risk of an attack by long-range ballistic missiles carrying nuclear weapons.

(12) There is a significant and growing threat of attack by weapons of mass destruction on targets that are not military targets in the usual sense of the term.

(13) Concomitantly, the threat posed to the citizens of the United States by nuclear, radiological, biological, and chemical weapons delivered by unconventional means is significant and growing.

(14) Mass terror may result from terrorist incidents involving nuclear, radiological, biological, or chemical materials, even if such materials are not configured as military weapons.

(15) Facilities required for production of radiological, biological, and chemical weapons are much smaller and harder to detect than nuclear weapons facilities, and biological, and chemical weapons can be deployed by alternative delivery means that are much harder to detect than long-range ballistic missiles.

(16) Such delivery systems have no assignment of responsibility, unlike ballistic missiles, for which a launch location would be unambiguously known.

(17) Covert or unconventional means of delivery of nuclear, radiological, biological, and chemical weapons, which might be preferable to foreign states and nonstate organizations, include cargo ships, passenger aircraft, commercial and private vehicles and vessels, and commercial cargo shipments routed through multiple destinations.

(18) Traditional arms control efforts assume large state efforts with detectable manufacturing programs and weapons production programs, but are ineffective in monitoring and controlling smaller, though potentially more dangerous, unconventional proliferation efforts.

(19) Conventional counterproliferation efforts would do little to detect or prevent the rapid development of a capability to suddenly manufacture several hundred chemical or biological weapons with nothing but commercial supplies and equipment.

(20) The United States lacks adequate planning and countermeasures to address the threat of nuclear, radiological, biological, and chemical terrorism.

(21) The Department of Energy has established a Nuclear Emergency Response Team which is available in case of nuclear or radiological emergencies, but no comparable units exist to deal with emergencies involving biological, or chemical weapons or related materials.

(22) State and local emergency response personnel are not adequately prepared or trained for incidents involving nuclear, radiological, biological, or chemical materials.

(23) Exercises of the Federal, State, and local response to nuclear, radiological, biological, or chemical terrorism have revealed serious deficiencies in preparedness and severe problems of coordination.

(24) The development of, and allocation of responsibilities for, effective countermeasures to nuclear, radiological, biological, or chemical terrorism in the United States requires well-coordinated participation of many Federal agencies, and careful planning by the Federal Government and State and local governments.

(25) Training and exercises can significantly improve the preparedness of State and local emergency response personnel for emergencies involving nuclear, radiological, biological, or chemical weapons or related materials.

(26) Sharing of the expertise and capabilities of the Department of Defense, which traditionally has provided assistance to Federal, State, and local officials in neutralizing, dismantling, and disposing of explosive ordnance, as well as radiological, biological, and chemical materials, can be a vital contribution to the development and deployment of countermeasures against nuclear, biological, and chemical weapons of mass destruction.

(27) The United States lacks effective policy coordination regarding the threat posed by the proliferation of weapons of mass destruction.

SEC. 1303. DEFINITIONS.

In this title:

(1) The term ''weapon of mass destruction'' means any weapon or device that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of—

(A) toxic or poisonous chemicals or their precursors;

(B) a disease organism; or

(C) radiation or radioactivity.

(2) The term ''independent states of the former Soviet Union'' has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(3) The term ''highly enriched uranium'' means uranium enriched to 20 percent or more in the isotope U–235.

Subtitle A—Domestic Preparedness

SEC. 1311. EMERGENCY RESPONSE ASSISTANCE PROGRAM.

(a) PROGRAM REQUIRED.—(1) The Secretary of Defense shall carry out a program to provide civilian personnel of Federal, State, and local agencies with training and expert advice regarding emergency responses to a use or threatened use of a weapon of mass destruction or related materials.

(2) The President may designate the head of an agency other than the Department of Defense to assume the responsibility for carrying out the program on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(3) Hereafter in this section, the official responsible for carrying out the program is referred to as the ''lead official''.

(b) COORDINATION.—In carrying out the program, the lead official shall coordinate with each of the following officials who is not serving as the lead official:

(1) The Director of the Federal Emergency Management Agency.

(2) The Secretary of Energy.

(3) The Secretary of Defense.

(4) The heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergency responses described in subsection (a)(1).

(c) ELIGIBLE PARTICIPANTS.—The civilian personnel eligible to receive assistance under the program are civilian personnel of Federal, State, and local agencies who have emergency preparedness responsibilities.

(d) INVOLVEMENT OF OTHER FEDERAL AGENCIES.—(1) The lead official may use personnel and capabilities of Federal agencies outside the agency of the lead official to provide training and expert advice under the program.

(2)(A) Personnel used under paragraph (1) shall be personnel who have special skills relevant to the particular assistance that the personnel are to provide.

(B) Capabilities used under paragraph (1) shall be capabilities that are especially relevant to the particular assistance for which the capabilities are used.

(e) AVAILABLE ASSISTANCE.—Assistance available under this program shall include the following:

(1) Training in the use, operation, and maintenance of equipment for—

(A) detecting a chemical or biological agent or nuclear radiation;

(B) monitoring the presence of such an agent or radiation;

(C) protecting emergency personnel and the public; and

(D) decontamination.

(2) Establishment of a designated telephonic link (commonly referred to as a ''hot line'') to a designated source of relevant data and expert advice for the use of State or local officials responding to emergencies involving a weapon of mass destruction or related materials.

(3) Use of the National Guard and other reserve components for purposes authorized under this section that are specified by the lead official (with the concurrence of the Secretary of Defense if the Secretary is not the lead official).

(4) Loan of appropriate equipment.

(f) LIMITATIONS ON DEPARTMENT OF DEFENSE ASSISTANCE TO LAW ENFORCEMENT AGENCIES.—Assistance provided by the Department of Defense to law enforcement agencies under this section shall be provided under the authority of, and subject to the restrictions provided in, chapter 18 of title 10, United States Code.

(g) ADMINISTRATION OF DEPARTMENT OF DEFENSE ASSISTANCE.—The Secretary of Defense shall designate an official within the Department of Defense to serve as the executive agent of the Secretary for the coordination of the provision of Department of Defense assistance under this section.

(h) FUNDING.—(1) Of the total amount authorized to be appropriated under section 301, $35,000,000 is available for the program required under this section.

(2) Of the amount available for the program pursuant to paragraph (1), $10,500,000 is available for use by the Secretary of Defense to assist the Surgeon General of the United States in the establishment of metropolitan emergency medical response teams (commonly referred to as ''Metropolitan Medical Strike Force Teams'') to provide medical services that are necessary or potentially necessary by reason of a use or threatened use of a weapon of mass destruction.

(3) The amount available for the program under paragraph (1) is in addition to any other amounts authorized to be appropriated for the program under section 301.

SEC. 1312. NUCLEAR, CHEMICAL, AND BIOLOGICAL EMERGENCY RESPONSE.

(a) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall designate an official within the Department of Defense as the executive agent for—

(1) the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving biological or chemical weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of biological and chemical weapons and related materials and technologies; and

(2) the coordination of Department of Defense assistance to the Department of Energy in carrying out that department's responsibilities under subsection (b).

(b) DEPARTMENT OF ENERGY.—The Secretary of Energy shall designate an official within the Department of Energy as the executive agent for—

(1) the coordination of Department of Energy assistance to Federal, State, and local officials in responding to threats involving nuclear weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear weapons and related materials and technologies; and

(2) the coordination of Department of Energy assistance to the Department of Defense in carrying out that department's responsibilities under subsection (a).

(c) FUNDING.—(1)(A) Of the total amount authorized to be appropriated under section 301, $15,000,000 is available for providing assistance described in subsection (a).

(B) The amount available under subparagraph (A) for providing assistance described in subsection (a) is in addition to any other amounts authorized to be appropriated under section 301 for that purpose.

(2)(A) Of the total amount authorized to be appropriated under title XXXI, $15,000,000 is available for providing assistance described in subsection (b).

(B) The amount available under subparagraph (A) for providing assistance is in addition to any other amounts authorized to be appropriated under title XXXI for that purpose.

SEC. 1313. MILITARY ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS IN EMERGENCY SITUATIONS INVOLVING BIOLOGICAL OR CHEMICAL WEAPONS.

(a) ASSISTANCE AUTHORIZED.—(1) The chapter 18 of title 10, United States Code, is amended by adding at the end the following:

''§ 382. Emergency situations involving chemical or biological weapons of mass destruction

''(a) IN GENERAL.— The Secretary of Defense, upon the request of the Attorney General, may provide assistance in support of Department of Justice activities relating to the enforcement of section 175 or 2332c of title 18 during an emergency situation involving a biological or chemical weapon of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

''(1) the Secretary of Defense and the Attorney General jointly determine that an emergency situation exists; and

''(2) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

''(b) EMERGENCY SITUATIONS COVERED.—As used in this section, the term 'emergency situation involving a biological or chemical weapon of mass destruction' means a circumstance involving a biological or chemical weapon of mass destruction—

''(1) that poses a serious threat to the interests of the United States; and

''(2) in which—

''(A) civilian expertise and capabilities are not readily available to provide the required assistance to counter the threat immediately posed by the weapon involved;

''(B) special capabilities and expertise of the Department of Defense are necessary and critical to counter the threat posed by the weapon involved; and

''(C) enforcement of section 175 or 2332c of title 18 would be seriously impaired if the Department of Defense assistance were not provided.

''(c) FORMS OF ASSISTANCE.—The assistance referred to in subsection (a) includes the operation of equipment (including equipment made available under section 372 of this title) to monitor, contain, disable, or dispose of the weapon involved or elements of the weapon.

''(d) REGULATIONS.—(1) The Secretary of Defense and the Attorney General shall jointly issue regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this section.

''(2)(A) Except as provided in subparagraph (B), the regulations may not authorize the following actions:

''(i) Arrest.

''(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175 or 2332c of title 18.

''(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

''(B) The regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

''(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

''(ii) The action is otherwise authorized under subsection (c) or under otherwise applicable law.

''(e) REIMBURSEMENTS.—The Secretary of Defense shall require reimbursement as a condition for providing assistance under this section to the extent required under section 377 of this title.

''(f) DELEGATIONS OF AUTHORITY.—(1) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this section. The Secretary of Defense may delegate the Secretary's authority under this section only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

''(2) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this section. The Attorney General may delegate that authority only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

''(g) RELATIONSHIP TO OTHER AUTHORITY.— Nothing in this section shall be construed to restrict any executive branch authority regarding use of members of the armed forces or equipment of the Department of Defense that was in effect before the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997.''.

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

''382. Emergency situations involving chemical or biological weapons of mass destruction.''.

(b) CONFORMING AMENDMENT TO CONDITION FOR PROVIDING EQUIPMENT AND FACILITIES.— Section 372(b)(1) of title 10, United States Code, is amended by adding at the end the following: ''The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.''.

(c) CONFORMING AMENDMENTS RELATING TO AUTHORITY TO REQUEST ASSISTANCE.—(1)(A) Chapter 10 of title 18, United States Code, is amended by inserting after section 175 the following:

''§ 175a. Requests for military assistance to enforce prohibition in certain emergencies

''The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 175 of this title in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.''.

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 175 the following:

''175a. Requests for military assistance to enforce prohibition in certain emergencies.''.

(2)(A) The chapter 133B of title 18, United States Code, that relates to terrorism is amended by inserting after section 2332c the following:

''§ 2332d. Requests for military assistance to enforce prohibition in certain emergencies

''The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 2332c of this title during an emergency situation involving a chemical weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.''.

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2332c the following:

''2332d. Requests for military assistance to enforce prohibition in certain emergencies.''.

(d) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce the reliance of civilian law enforcement officials on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States. The measures shall include—

(1) actions to increase civilian law enforcement expertise to counter such a threat; and

(2) actions to improve coordination between civilian law enforcement officials and other civilian sources of expertise, within and outside the Federal Government, to counter such a threat.

(e) REPORTS.—The President shall submit to Congress the following reports:

(1) Not later than 90 days after the date of the enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States.

(2) Not later than one year after such date, a report describing—

(A) the actions planned to be taken to carry out subsection (d); and

(B) the costs of such actions.

(3) Not later than three years after such date, a report updating the information provided in the reports submitted pursuant to paragraphs (1) and (2), including the measures taken pursuant to subsection (d).

SEC. 1314. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, AND BIOLOGICAL WEAPONS.

(a) EMERGENCIES INVOLVING CHEMICAL OR BIOLOGICAL WEAPONS.—(1) The Secretary of Defense shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving biological weapons and related materials and emergencies involving chemical weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Energy, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(b) EMERGENCIES INVOLVING NUCLEAR AND RADIOLOGICAL WEAPONS.—(1) The Secretary of Energy shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving nuclear and radiological weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Defense, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(c) ANNUAL REVISIONS OF PROGRAMS.—The official responsible for carrying out a program developed under subsection (a) or (b) shall revise the program not later than June 1 in each fiscal year covered by the program. The revisions shall include adjustments that the official determines necessary or appropriate on the basis of the lessons learned from the exercise or exercises carried out under the program in the fiscal year, including lessons learned regarding coordination problems and equipment deficiencies.

(d) OPTION TO TRANSFER RESPONSIBILITY.—(1) The President may designate the head of an agency outside the Department of Defense to assume the responsibility for carrying out the program developed under subsection (a) beginning on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(2) The President may designate the head of an agency outside the Department of Energy to assume the responsibility for carrying out the program developed under subsection (b) beginning on or after October 1, 1999, and relieve the Secretary of Energy of that responsibility upon the assumption of the responsibility by the designated official.

(e) FUNDING.—(1) Of the total amount authorized to be appropriated under section 301, $15,000,000 is available for the development and execution of the programs required by this section, including the participation of State and local agencies in exercises carried out under the programs.

(2) The amount available under paragraph (1) for the development and execution of programs referred to in that paragraph is in addition to any other amounts authorized to be appropriated under section 301 for such purposes.

Subtitle B—Interdiction of Weapons of Mass Destruction and Related Materials

SEC. 1321. UNITED STATES BORDER SECURITY.

(a) PROCUREMENT OF DETECTION EQUIPMENT.—(1) Of the amount authorized to be appropriated by section 301, $15,000,000 is available for the procurement of—

(A) equipment capable of detecting the movement of weapons of mass destruction and related materials into the United States;

(B) equipment capable of interdicting the movement of weapons of mass destruction and related materials into the United States; and

(C) materials and technologies related to use of equipment described in subparagraph (A) or (B).

(2) The amount available under paragraph (1) for the procurement of items referred to in that paragraph is in addition to any other amounts authorized to be appropriated under section 301 for such purpose.

(b) AVAILABILITY OF EQUIPMENT TO COMMISSIONER OF CUSTOMS.—To the extent authorized under chapter 18 of title 10, United States Code, the Secretary of Defense may make equipment of the Department of Defense described in subsection (a), and related materials and technologies, available to the Commissioner of Customs for use in detecting and interdicting the movement of weapons of mass destruction into the United States.

SEC. 1322. NONPROLIFERATION AND COUNTER-PROLIFERATION RESEARCH AND DEVELOPMENT.

(a) ACTIVITIES AUTHORIZED.—The Secretary of Defense and the Secretary of Energy are each authorized to carry out research on and development of technical means for detecting the presence, transportation, production, and use of weapons of mass destruction and technologies and materials that are precursors of weapons of mass destruction.

(b) FUNDING.—(1)(A) There is authorized to be appropriated for the Department of Defense for fiscal year 1997, $10,000,000 for research and development carried out by the Secretary of Defense pursuant to subsection (a).

(B) The amount authorized to be appropriated for research and development under subparagraph (A) is in addition any other amounts that are authorized to be appropriated under this Act for such research and development, including funds authorized to be appropriated for research and development relating to nonproliferation of weapons of mass destruction.

(2)(A) Of the total amount authorized to be appropriated under title XXXI, $19,000,000 is available for research and development carried out by the Secretary of Energy pursuant to subsection (a).

(B) The amount available under subparagraph (B) is in addition to any other amount authorized to be appropriated under title XXXI for such research and development.

SEC. 1323. INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) is amended—

(1) in subsection (a)(1)(B), by striking out ''importation or exportation of,'' and inserting in lieu thereof ''importation, exportation, or attempted importation or exportation of,''; and

(2) in subsection (b)(3), by striking out ''importation from any country, or the exportation'' and inserting in lieu thereof ''importation or attempted importation from any country, or the exportation or attempted exportation''.

SEC. 1324. CRIMINAL PENALTIES.

It is the sense of Congress that—

(1) the sentencing guidelines prescribed by the United States Sentencing Commission for the offenses of importation, attempted importation, exportation, and attempted exportation of nuclear, biological, and chemical weapons materials constitute inadequate punishment for such offenses; and

(2) Congress urges the United States Sentencing Commission to revise the relevant sentencing guidelines to provide for increased penalties for offenses relating to importation, attempted importation, exportation, and attempted exportation of nuclear, biological, or chemical weapons or related materials or technologies under—

(A) section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410);

(B) sections 38 and 40 the Arms Export Control Act (22 U.S.C. 2778 and 2780);

(C) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); and

(D) section 309(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 2156a(c).

SEC. 1325. INTERNATIONAL BORDER SECURITY.

(a) SECRETARY OF DEFENSE RESPONSIBILITY.—The Secretary of Defense, in consultation and cooperation with the Commissioner of Customs, shall carry out programs for assisting customs officials and border guard officials in the independent states of the former Soviet Union, the Baltic states, and other countries of Eastern Europe in preventing unauthorized transfer and transportation of nuclear, biological, and chemical weapons and related materials. Training, expert advice, maintenance of equipment, loan of equipment, and audits may be provided under or in connection with the programs.

(b) FUNDING.—(1) Of the total amount authorized to be appropriated by section 301, $15,000,000 is available for carrying out the programs referred to in subsection (a).

(2) The amount available under paragraph (1) for programs referred to in that paragraph is in addition to any other amounts authorized to be appropriated under section 301 for such programs.

Subtitle C—Control and Disposition of Weapons of Mass Destruction and Related Materials Threatening the United States

SEC. 1331. PROTECTION AND CONTROL OF MATERIALS CONSTITUTING A THREAT TO THE UNITED STATES.

(a) DEPARTMENT OF ENERGY PROGRAM.—Subject to subsection (c)(1), the Secretary of Energy may, under materials protection, control, and accounting assistance of the Department of Energy, provide assistance for securing from theft or other unauthorized disposition nuclear materials that are not so secured and are located at any site within the former Soviet Union where effective controls for securing such materials are not in place.

(b) DEPARTMENT OF DEFENSE PROGRAM.—Subject to subsection (c)(2), the Secretary of Defense may provide materials protection, control, and accounting assistance under the Cooperative Threat Reduction Programs of the Department of Defense for securing from theft or other unauthorized disposition, or for destroying, nuclear, radiological, biological, or chemical weapons (or related materials) that are not so secure and are located at any site within the former Soviet Union where effective controls for securing such weapons are not in place.

(c) FUNDING.—(1)(A) Of the total amount authorized to be appropriated under title XXXI, $15,000,000 is available for materials protection, control, and accounting assistance of the Department of Energy for providing assistance under subsection (a).

(B) The amount available under subparagraph (A) is in addition to any other funds that are authorized to be appropriated under title XXXI for materials protection, control, and accounting assistance of the Department of Energy.

(2)(A) Of the total amount authorized to be appropriated under section 301, $10,000,000 is available for the Cooperative Threat Reduction Programs of the Department of Defense for providing materials protection, control, and accounting assistance under subsection (b).

(B) The amount available under subparagraph (A) is in addition to any other funds that are authorized to be appropriated by section 301 for materials protection, control, and accounting assistance of the Department of Defense.

SEC. 1332. VERIFICATION OF DISMANTLEMENT AND CONVERSION OF WEAPONS AND MATERIALS.

(a) FUNDING FOR COOPERATIVE ACTIVITIES FOR DEVELOPMENT OF TECHNOLOGIES.—Of the total amount authorized to be appropriated under title XXXI, $10,000,000 is available for continuing and expediting cooperative activities with the Government of Russia to develop and deploy—

(1) technologies for improving verification of nuclear warhead dismantlement;

(2) technologies for converting plutonium from weapons into forms that—

(A) are better suited for long-term storage than are the forms from which converted;

(B) facilitate verification; and

(C) are suitable for nonweapons use; and

(3) technologies that promote openness in Russian production, storage, use, and final and interim disposition of weapon-usable fissible material, including at tritium/isotope production reactors, uranium enrichment plants, chemical separation plants, and fabrication facilities associated with naval and civil research reactors.

(b) WEAPONS-USABLE FISSILE MATERIALS TO BE COVERED BY COOPERATIVE THREAT REDUCTION PROGRAMS ON ELIMINATION OR TRANSPORTATION OF NUCLEAR WEAPONS.—Section 1201(b)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 469; 22 U.S.C. 5955

note) is amended by inserting '', fissile material suitable for use in nuclear weapons,'' after ''other weapons''.

SEC. 1333. ELIMINATION OF PLUTONIUM PRODUCTION.

(a) REPLACEMENT PROGRAM.—The Secretary of Defense, in consultation with the Secretary of Energy, shall develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium by modifying or replacing the reactor cores at Tomsk–7 and Krasnoyarsk–26 with reactor cores that are less suitable for the production of weapons-grade plutonium.

(b) PROGRAM REQUIREMENTS.—(1) The program shall be designed to achieve completion of the modifications or replacements of the reactor cores within three years after the modification or replacement activities under the program are begun.

(2) The plan for the program shall—

(A) specify—

(i) successive steps for the modification or replacement of the reactor cores; and

(ii) clearly defined milestones to be achieved; and

(B) include estimates of the costs of the program.

(c) SUBMISSION OF PROGRAM PLAN TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress—

(1) a plan for the program under subsection (a);

(2) an estimate of the United States funding that is necessary for carrying out the activities under the program for each fiscal year covered by the program; and

(3) a comparison of the benefits of the program with the benefits of other nonproliferation programs.

(d) FUNDING FOR INITIAL PHASE.—(1) Of the total amount authorized to be appropriated by section 301 other than for Cooperative Threat Reduction programs, $16,000,000 is available for the initial phase of the program under subsection (a).

(2) The amount available for the initial phase of the reactor modification or replacement program under paragraph (1) is in addition to amounts authorized to be appropriated for Cooperative Threat Reduction programs under section 301(20).

SEC. 1334. INDUSTRIAL PARTNERSHIP PROGRAMS TO DEMILITARIZE WEAPONS OF MASS DESTRUCTION PRODUCTION FACILITIES.

(a) DEPARTMENT OF ENERGY PROGRAM.—The Secretary of Energy shall expand the Industrial Partnership Program of the Department of Energy to include coverage of all of the independent states of the former Soviet Union.

(b) DEPARTMENT OF DEFENSE PROGRAM.—The Secretary of Defense shall establish a program to support the dismantlement or conversion of the biological and chemical weapons facilities in the independent states of the former Soviet Union to uses for nondefense purposes. The Secretary may carry out such program in conjunction with, or separately from, the organization designated as the Defense Enterprise Fund (formerly designated as the ''Demilitarization Enterprise Fund'' under section 1204 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 22 U.S.C. 5953)).

(c) FUNDING FOR DEPARTMENT OF DEFENSE PROGRAM.—(1)(A) Of the total amount authorized to be appropriated under section 301, $15,000,000 is available for the program under subsection (b).

(B) The amount available under subparagraph (A) for the industrial partnership program of the Department of Defense established pursuant to subsection (b) is in addition to the amount authorized to be appropriated for Cooperative Threat Reduction programs under section 301.

(2) It is the sense of Congress that the Secretary of Defense should transfer to the Defense Enterprise Fund, $20,000,000 out of the funds appropriated for Cooperative Threat Reduction programs for fiscal years before fiscal year 1997 that remain available for obligation.

SEC. 1335. LAB-TO-LAB PROGRAM TO IMPROVE THE SAFETY AND SECURITY OF NUCLEAR MATERIALS.

(a) PROGRAM EXPANSION AUTHORIZED.—The Secretary of Energy is authorized to expand the Lab-to-Lab program of the Department of Energy to improve the safety and security of nuclear materials in the independent states of the former Soviet Union where the Lab-to-Lab program is not being carried out on the date of the enactment of this Act.

(b) FUNDING.—(1) Of the total amount authorized to be appropriated under title XXXI, $20,000,000 is available for expanding the Lab-to-Lab program as authorized under subsection (a).

(2) The amount available under paragraph (1) is in addition to any other amount otherwise available for the Lab-to-Lab program.

SEC. 1336. COOPERATIVE ACTIVITIES ON SECURITY OF HIGHLY ENRICHED URANIUM USED FOR PROPULSION OF RUSSIAN SHIPS.

(a) RESPONSIBLE UNITED STATES OFFICIAL.—The Secretary of Energy shall be responsible for carrying out United States cooperative activities with the Government of the Russian Federation on improving the security of highly enriched uranium that is used for propulsion of Russian military and civilian ships.

(b) PLAN REQUIRED.—(1) The Secretary shall develop and periodically update a plan for the cooperative activities referred to in subsection (a).

(2) The Secretary shall coordinate the development and updating of the plan with the Secretary of Defense. The Secretary of Defense shall involve the Joint Chiefs of Staff in the coordination.

(c) FUNDING.—(1) Of the total amount authorized to be appropriated by title XXXI, $6,000,000 is available for materials protection, control, and accounting program of the Department of Energy for the cooperative activities referred to in subsection (a).

(2) The amount available for the Department of Energy for materials protection, control, and accounting program under paragraph (1) is in addition to other amounts authorized to be appropriated by title XXXI for such program.

SEC. 1337. MILITARY-TO-MILITARY RELATIONS.

(a) FUNDING.—Of the total amount authorized to be appropriated under section 301, $2,000,000 is available for expanding military-to-military programs of the United States that focus on countering the threats of proliferation of weapons of mass destruction so as to include the security forces of independent states of the former Soviet Union, particularly states in the Caucasus region and Central Asia.

(b) RELATIONSHIP TO OTHER FUNDING AUTHORITY.—The amount available for expanding military-to-military programs under subsection (a) is in addition to the amount authorized to be appropriated for Cooperative Threat Reduction programs under section 301.

SEC. 1338. TRANSFER AUTHORITY.

(a) SECRETARY OF DEFENSE.—(1) To the extent provided in appropriations Acts, the Secretary of Defense may transfer amounts appropriated pursuant to this subtitle for the Department of Defense for programs and authorities under this subtitle to appropriations available for programs authorized under subtitle A.

(2) Amounts so transferred shall be merged with the appropriations to which transferred and shall be available for the programs for which the amounts are transferred.

(3) The transfer authority under paragraph (1) is in addition to any other transfer authority provided by this Act.

(b) SECRETARY OF ENERGY.—(1) To the extent provided in appropriations Acts, the Secretary of Energy may transfer amounts appropriated pursuant to this subtitle for the Department of Energy for programs and authorities under this subtitle to appropriations available for programs authorized under subtitle A.

(2) Amounts so transferred shall be merged with the appropriations to which transferred and shall be available for the programs for which the amounts are transferred.

(3) The transfer authority under paragraph (1) is in addition to any other transfer authority provided by this Act.

Subtitle D—Coordination of Policy and Countermeasures Against Proliferation of Weapons of Mass Destruction

SEC. 1341. NATIONAL COORDINATOR ON NONPROLIFERATION.

(a) DESIGNATION OF POSITION.—The President shall designate an individual to serve in the Executive Office of the President as the National Coordinator for Nonproliferation Matters.

(b) DUTIES.—The Coordinator shall have the following responsibilities:

(1) To be the principal adviser to the President on nonproliferation of weapons of mass destruction, including issues related to terrorism, arms control, and international organized crime.

(2) To chair the Committee on Nonproliferation established under section 1342.

(3) To take such actions as are necessary to ensure that there is appropriate emphasis in, cooperation on, and coordination of, nonproliferation research efforts of the United States, including activities of Federal agencies as well as activities of contractors funded by the Federal Government.

(c) RELATIONSHIP TO CERTAIN SENIOR DIRECTORS OF NATIONAL SECURITY COUNCIL.—(1) The senior directors of the National Security Council report to the Coordinator regarding the following matters:

(A) Nonproliferation of weapons of mass destruction and related issues.

(B) Management of crises involving use or threatened use of weapons of mass destruction, and on management of the consequences of the use or threatened use of such a weapon.

(C) Terrorism, arms control, and organized crime issues that relate to the threat of proliferation of weapons of mass destruction.

(2) Nothing in paragraph (1) shall be construed to affect the reporting relationship between a senior director and the Assistant to the President for National Security Affairs or any other supervisor regarding matters other than matters described in paragraph (1).

(d) ALLOCATION OF FUNDS.—Of the total amount authorized to be appropriated under section 201, $2,000,000 is available for carrying out research referred to in subsection (b)(3). Such amount is in addition to any other amounts authorized to be appropriated under section 201 for such purpose.

SEC. 1342. NATIONAL SECURITY COUNCIL COMMITTEE ON NONPROLIFERATION.

(a) ESTABLISHMENT.—The Committee on Nonproliferation (in this section referred to as the ''Committee'') is established as a committee of the National Security Council.

(b) MEMBERSHIP.—(1) The Committee shall be composed of the following:

(A) The Secretary of State.

(B) The Secretary of Defense.

(C) The Director of Central Intelligence.
(D) The Attorney General.
(E) The Secretary of Energy.
(F) The Administrator of the Federal Emergency Management Agency.
(G) The Secretary of the Treasury.
(H) The Secretary of Commerce.
(I) Such other members as the President may designate.

(2) The National Coordinator for Nonproliferation Matters shall chair the Committee on Nonproliferation.

(c) RESPONSIBILITIES.—The Committee has the following responsibilities:

(1) To review and coordinate Federal programs, policies, and directives relating to the proliferation of weapons of mass destruction and related materials and technologies, including matters relating to terrorism and international organized crime.

(2) To make recommendations to the President regarding the following:

(A) Integrated national policies for countering the threats posed by weapons of mass destruction.

(B) Options for integrating Federal agency budgets for countering such threats.

(C) Means to ensure that the Federal, State, and local governments have adequate capabilities to manage crises involving nuclear, radiological, biological, or chemical weapons or related materials or technologies, and to manage the consequences of a use of such a weapon or related materials or technologies, and that use of those capabilities is coordinated.

(D) Means to ensure appropriate cooperation on, and coordination of, the following:

(i) Preventing the smuggling of weapons of mass destruction and related materials and technologies.

(ii) Promoting domestic and international law enforcement efforts against proliferation-related efforts.

(iii) Countering the involvement of organized crime groups in proliferation-related activities.

(iv) Safeguarding weapons of mass destruction materials and related technologies.

(v) Improving coordination and cooperation among intelligence activities, law enforcement, and the Departments of Defense, State, Commerce, and Energy in support of nonproliferation and counterproliferation efforts.

(vi) Ensuring the continuation of effective export controls over materials and technologies that can contribute to the acquisition of weapons of mass destruction.

(vii) Reducing proliferation of weapons of mass destruction and related materials and technologies.

SEC. 1343. COMPREHENSIVE PREPAREDNESS PROGRAM.

(a) PROGRAM REQUIRED.—The President, acting through the Committee on Nonproliferation established under section 1342, shall develop a comprehensive program for carrying out this title.

(b) CONTENT OF PROGRAM.—The program set forth in the report shall include specific plans as follows:

(1) Plans for countering proliferation of weapons of mass destruction and related materials and technologies.

(2) Plans for training and equipping Federal, State, and local officials for managing a crisis involving a use or threatened use of a weapon of mass destruction, including the consequences of the use of such a weapon.

(3) Plans for providing for regular sharing of information among intelligence, law enforcement, and customs agencies.

(4) Plans for training and equipping law enforcement units, customs services, and border security personnel to counter the smuggling of weapons of mass destruction and related materials and technologies.

(5) Plans for establishing appropriate centers for analyzing seized nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(6) Plans for establishing in the United States appropriate legal controls and authorities relating to the exporting of nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(7) Plans for encouraging and assisting governments of foreign countries to implement and enforce laws that set forth appropriate penalties for offenses regarding the smuggling of weapons of mass destruction and related materials and technologies.

(8) Plans for building the confidence of the United States and Russia in each other's controls over United States and Russian nuclear weapons and fissile materials, including plans for verifying the dismantlement of nuclear weapons.

(9) Plans for reducing United States and Russian stockpiles of excess plutonium, reflecting—

(A) consideration of the desirability and feasibility of a United States-Russian agreement governing fissile material disposition and the specific technologies and approaches to be used for disposition of excess plutonium; and

(B) an assessment of the options for United States cooperation with Russia in the disposition of Russian plutonium.

(10) Plans for studying the merits and costs of establishing a global network of means for detecting and responding to terroristic or other criminal use of biological agents against people or other forms of life in the United States or any foreign country.

(c) REPORT.—(1) At the same time that the President submits the budget for fiscal year 1998 to Congress pursuant to section 1105(a) of title 31, United States Code, the President shall submit to Congress a report that sets forth the comprehensive program developed under subsection (a).

(2) The report shall include the following:

(A) The specific plans for the program that are required under subsection (b).

(B) Estimates of the funds necessary for carrying out such plans in fiscal year 1998.

(3) The report shall be in an unclassified form. If there is a classified version of the report, the President shall submit the classified version at the same time.

SEC. 1344. TERMINATION.

After September 30, 1999, the President—

(1) is not required to maintain a National Coordinator for Nonproliferation Matters under section 1341; and

(2) may terminate the Committee on Nonproliferation established under section 1342.

Subtitle E—Miscellaneous

SEC. 1351. CONTRACTING POLICY.

It is the sense of Congress that the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State—

(1) in the administration of funds available to such officials in accordance with this title, should (to the extent possible under law) contract directly with suppliers in independent states of the former Soviet Union to facilitate the purchase of goods and services necessary to carry out effectively the programs and authorities provided or referred to in subtitle C; and

(2) to do so should seek means, consistent with law, to utilize innovative contracting approaches to avoid delay and increase the effectiveness of such programs and of the exercise of such authorities.

SEC. 1352. TRANSFERS OF ALLOCATIONS AMONG COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) FINDINGS.—Congress makes the following findings:

(1) The various Cooperative Threat Reduction programs are being carried out at different rates in the various countries covered by such programs.

(2) It is necessary to authorize transfers of funding allocations among the various programs in order to maximize the effectiveness of United States efforts under such programs.

(b) TRANSFERS AUTHORIZED.—Funds appropriated for the purposes set forth in subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 409) may be used for any such purpose without regard to the allocation set forth in that section and without regard to subsection (b) of such section.

SEC. 1353. ADDITIONAL CERTIFICATIONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Cooperative Threat Reduction programs and other United States programs that are derived from programs established under the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484; 22 U.S.C. 2901 et seq.) should be expanded by offering assistance under those programs to other independent states of the former Soviet Union in addition to Russia, Ukraine, Kazakstan, and Belarus; and

(2) the President should offer assistance to additional independent states of the former Soviet Union in each case in which the participation of such states would benefit national security interests of the United States by improving border controls and safeguards over materials and technology associated with weapons of mass destruction.

(b) EXTENSION OF COVERAGE.—Assistance under programs referred to in subsection (a) may, notwithstanding any other provision of law, be extended to include an independent state of the former Soviet Union if the President certifies to Congress that it is in the national interests of the United States to extend the assistance to that state.

SEC. 1354. PURCHASE OF LOW-ENRICHED URANIUM DERIVED FROM RUSSIAN HIGHLY ENRICHED URANIUM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the allies of the United States and other nations should participate in efforts to ensure that stockpiles of weapons-grade nuclear material are reduced.

(b) ACTIONS BY THE SECRETARY OF STATE.—Congress urges the Secretary of State to encourage, in consultation with the Secretary of Energy, other countries to purchase low-enriched uranium that is derived from highly enriched uranium extracted from Russian nuclear weapons.

SEC. 1355. PURCHASE, PACKAGING, AND TRANSPORTATION OF FISSILE MATERIALS AT RISK OF THEFT.

It is the sense of Congress that—

(1) the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State should purchase, package, and transport to secure locations weapons-grade nuclear materials from a stockpile of such materials if such officials determine that—

(A) there is a significant risk of theft of such materials; and

(B) there is no reasonable and economically feasible alternative for securing such materials; and

(2) if it is necessary to do so in order to secure the materials, the materials should be imported into the United States, subject to the laws and regulations that are applicable to the importation of such materials into the United States.

SEC. 1356. REDUCTIONS IN AUTHORIZATION OF APPROPRIATIONS.

(a) NAVY RDT&E.—(1) The total amount authorized to be appropriated under section 201(2) is reduced by $150,000,000.

(2) The reduction in paragraph (1) shall be applied to reduce by $150,000,000 the amount authorized to be appropriated under section 201(2) for the Distributed Surveillance System.

(b) OPERATIONS AND MAINTENANCE, DEFENSE-WIDE.—The total amount authorized to be appropriated under section 301(5) is reduced by $85,000,000.

TITLE XIV—FEDERAL EMPLOYEE TRAVEL REFORM

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Travel Reform and Savings Act of 1996''.

Subtitle A—Relocation Benefits

SEC. 1411. MODIFICATION OF ALLOWANCE FOR SEEKING PERMANENT RESIDENCE QUARTERS.

Section 5724a of title 5, United States Code, is amended to read as follows:

''§ 5724a. Relocation expenses of employees transferred or reemployed

''(a) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government, a per diem allowance or the actual subsistence expenses, or a combination thereof, of the immediate family of the employee for en route travel of the immediate family between the employee's old and new official stations.

''(b)(1) An agency may pay to or on behalf of an employee who transfers in the interest of the Government between official stations located within the United States—

''(A) the expenses of transportation, and either a per diem allowance or the actual subsistence expenses, or a combination thereof, of the employee and the employee's spouse for travel to seek permanent residence quarters at a new official station; or

''(B) the expenses of transportation, and an amount for subsistence expenses in lieu of a per diem allowance or the actual subsistence expenses or a combination thereof, authorized in subparagraph (A) of this paragraph.

''(2) Expenses authorized under this subsection may be allowed only for one round trip in connection with each change of station of the employee.''.

SEC. 1412. MODIFICATION OF TEMPORARY QUARTERS SUBSISTENCE EXPENSES ALLOWANCE.

Section 5724a of title 5, United States Code, is further amended by adding at the end the following new subsection:

''(c)(1) An agency may pay to or on behalf of an employee who transfers in the interest of the Government—

''(A) actual subsistence expenses of the employee and the employee's immediate family for a period of up to 60 days while occupying temporary quarters when the new official station is located within the United States as defined in subsection (d) of this section; or

''(B) an amount for subsistence expenses instead of the actual subsistence expenses authorized in subparagraph (A) of this paragraph.

''(2) The period authorized in paragraph (1) of this subsection for payment of expenses for residence in temporary quarters may be extended up to an additional 60 days if the head of the agency concerned or the designee of such head of the agency determines that there are compelling reasons for the continued occupancy of temporary quarters.

''(3) The regulations implementing paragraph (1)(A) shall prescribe daily rates and amounts for subsistence expenses per individual.''.

SEC. 1413. MODIFICATION OF RESIDENCE TRANSACTION EXPENSES ALLOWANCE.

(a) EXPENSES OF SALE.—Section 5724a of title 5, United States Code, is further amended by adding at the end the following new subsection:

''(d)(1) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government, expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station and purchase of a residence at the new official station that are required to be paid by the employee, when the old and new official stations are located within the United States.

''(2) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government from a post of duty located outside the United States to an official station within the United States (other than the official station within the United States from which the employee was transferred when assigned to the foreign tour of duty)—

''(A) expenses required to be paid by the employee of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station from which the employee was transferred when the employee was assigned to the post of duty located outside the United States; and

''(B) expenses required to be paid by the employee of the purchase of a residence at the new official station within the United States.

''(3) Reimbursement of expenses under paragraph (2) of this subsection shall not be allowed for any sale (or settlement of an unexpired lease) or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the post of duty outside the United States.

''(4) Reimbursement for brokerage fees on the sale of the residence and other expenses under this subsection may not exceed those customarily charged in the locality where the residence is located.

''(5) Reimbursement may not be made under this subsection for losses incurred by the employee on the sale of the residence.

''(6) This subsection applies regardless of whether title to the residence or the unexpired lease is—

''(A) in the name of the employee alone;

''(B) in the joint names of the employee and a member of the employee's immediate family; or

''(C) in the name of a member of the employee's immediate family alone.

''(7)(A) In connection with the sale of the residence at the old official station, reimbursement under this subsection shall not exceed 10 percent of the sale price.

''(B) In connection with the purchase of a residence at the new official station, reimbursement under this subsection shall not exceed 5 percent of the purchase price.

''(8) For purposes of this subsection, the term 'United States' means the several States of the United States, the District of Columbia, the territories and possessions of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979).''.

(b) RELOCATION SERVICES.—Section 5724c of title 5, United State Code, is amended to read as follows:

''§ 5724c. Relocation services

''Under regulations prescribed under section 5737, each agency may enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out this subchapter. An agency may pay a fee for such services. Such services include arranging for the purchase of a transferred employee's residence.''.

SEC. 1414. AUTHORITY TO PAY FOR PROPERTY MANAGEMENT SERVICES.

Section 5724a of title 5, United States Code, is further amended—

(1) in subsection (d) (as added by section 1413 of this title)—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following new paragraph:

''(8) An agency may pay to or on behalf of an employee who transfers in the interest of the Government, expenses of property management services when the agency determines that such transfer is advantageous and cost-effective to the Government, instead of expenses under paragraph (2) or (3) of this subsection, for sale of the employee's residence.''; and

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

''(e) An agency may pay to or on behalf of an employee who transfers in the interest of the Government, the expenses of property management services when the employee transfers to a post of duty outside the United States as defined in subsection (d) of this section. Such payment shall terminate upon return of the employee to an official station within the United States as defined in subsection (d) of this section.''.

SEC. 1415. AUTHORITY TO TRANSPORT A PRIVATELY OWNED MOTOR VEHICLE WITHIN THE CONTINENTAL UNITED STATES.

(a) IN GENERAL.—Section 5727 of title 5, United States Code, is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

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

''(c) Under regulations prescribed under section 5737, the privately owned motor vehicle or vehicles of an employee, including a new appointee or a student trainee for whom travel and transportation expenses are authorized under section 5723, may be transported at Government expense to a new official station of the employee when the agency determines that such transport is advantageous and cost-effective to the Government.''; and

(3) in subsection (e) (as so redesignated), by striking ''subsection (b) of this section'' and by inserting ''subsection (b) or (c) of this section''.

(b) AVAILABILITY OF APPROPRIATIONS.—(1) Section 5722(a) of title 5, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(C) by adding at the end the following:

''(3) the expenses of transporting a privately owned motor vehicle to the extent authorized under section 5727(c).''.

(2) Section 5723(a) of title 5, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (1);

(B) by inserting ''and'' after the semicolon at the end of paragraph (2); and

(C) by adding at the end the following:

''(3) the expenses of transporting a privately owned motor vehicle to the extent authorized under section 5727(c);''.

SEC. 1416. AUTHORITY TO PAY LIMITED RELOCATION ALLOWANCES TO AN EMPLOYEE WHO IS PERFORMING AN EXTENDED ASSIGNMENT.

(a) IN GENERAL.—Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5736. Relocation expenses of an employee who is performing an extended assignment

''(a) Under regulations prescribed under section 5737, an agency may pay to or on behalf of an employee assigned from the employee's official station to a duty station for a period of no less than 6 months and no greater than 30 months, the following expenses in lieu of payment of expenses authorized under subchapter I of this chapter:

''(1) Travel expenses to and from the assignment location in accordance with section 5724.

''(2) Transportation expenses of the immediate family and household goods and personal effects to and from the assignment location in accordance with section 5724.

''(3) A per diem allowance for the employee's immediate family to and from the assignment location in accordance with section 5724a(a).

''(4) Travel and transportation expenses of the employee and spouse to seek residence quarters at the assignment location in accordance with section 5724a(b).

''(5) Subsistence expenses of the employee and the employee's immediate family while occupying temporary quarters upon commencement and termination of the assignment in accordance with section 5724a(c).

''(6) An amount, in accordance with section 5724a(g), to be used by the employee for miscellaneous expenses.

''(7) The expenses of transporting a privately owned motor vehicle or vehicles to the assignment location in accordance with section 5727.

''(8) An allowance as authorized under section 5724b of this title for Federal, State, and local income taxes incurred on reimbursement of expenses paid under this section or on services provided in kind under this section.

''(9) Expenses of nontemporary storage of household goods and personal effects as defined in section 5726(a). The weight of the household goods and personal effects stored under this subsection, together with the weight of property transported under section 5724(a), may not exceed the total maximum weight which could be transported in accordance with section 5724(a).

''(10) Expenses of property management services.

''(b) An agency shall not make payment under this section to or on behalf of the employee for expenses incurred after termination of the temporary assignment.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5735 the following new item:

''5736. Relocation expenses of an employee who is performing an extended assignment.''.

SEC. 1417. AUTHORITY TO PAY A HOME MARKETING INCENTIVE.

(a) IN GENERAL.—Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5756. Home marketing incentive payment

''(a) Under such regulations as the Administrator of General Services may prescribe, an agency may pay to an employee who transfers in the interest of the Government an amount, not to exceed a maximum payment amount established by the Administrator in consultation with the Director of the Office of Management and Budget, to encourage the employee to aggressively market the employee's residence at the old official station when—

''(1) the residence is entered into a program established under a contract in accordance with section 5724c of this chapter, to arrange for the purchase of the residence;

''(2) the employee finds a buyer who completes the purchase of the residence through the program; and

''(3) the sale of the residence to the individual results in a reduced cost to the Government.

''(b) For fiscal years 1997 and 1998, the Administrator shall establish a maximum payment amount of 5 percent of the sales price of the residence.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting at the end the following:

''5756. Home marketing incentive payment.''.

SEC. 1418. CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—(1) Section 5724a of title 5, United States Code, is further amended by adding at the end the following new subsections:

''(g)(1) Subject to paragraph (2), an employee who is reimbursed under subsections (a) through (f) of this section or section 5724(a) of this title is entitled to an amount for miscellaneous expenses—

''(A) not to exceed 2 weeks' basic pay, if such employee has an immediate family; or

''(B) not to exceed 1 week's basic pay, if such employee does not have an immediate family.

''(2) Amounts paid under paragraph (1) may not exceed amounts determined at the maximum rate payable for a position at GS–13 of the General Schedule.

''(h) A former employee separated by reason of reduction in force or transfer of function who within 1 year after the separation is reemployed by a nontemporary appointment at a different geographical location from that where the separation occurred, may be allowed and paid the expenses authorized by sections 5724, 5725, 5726(b), and 5727 of this title, and may receive the benefits authorized by subsections (a) through (g) of this section, in the same manner as though such employee had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated.

''(i) Payments for subsistence expenses, including amounts in lieu of per diem or actual subsistence expenses or a combination thereof, authorized under this section shall not exceed the maximum payment allowed under regulations which implement section 5702 of this title.

''(j) Subsections (a), (b), and (c) shall be implemented under regulations issued under section 5737.''.

(2) Section 3375 of title 5, United States Code, is amended—

(A) in subsection (a)(3), by striking ''section 5724a(a)(1) of this title'' and inserting ''section 5724a(a) of this title'';

(B) in subsection (a)(4), by striking ''section 5724a(a)(3) of this title'' and inserting ''section 5724a(c) of this title''; and

(C) in subsection (a)(5), by striking ''section 5724a(b) of this title'' and inserting ''section 5724a(g) of this title''.

(3) Section 5724(e) of title 5, United States Code, is amended by striking ''section 5724a(a), (b) of this title'' and inserting ''section 5724a(a) through (g) of this title''.

(b) MISCELLANEOUS.—(1) Section 707 of title 38, United States Code, is amended—

(A) in subsection (a)(6), by striking ''Section 5724a(a)(3)'' and inserting ''Section 5724a(c)''; and

(B) in subsection (a)(7), by striking ''Section 5724a(a)(4)'' and inserting ''section 5724a(d)''.

(2) Section 501 of the Public Health Service Act (42 U.S.C. 290aa) is amended—

(A) in subsection (g)(2)(A), by striking ''5724a(a)(1)'' and inserting ''5724a(a)''; and

(B) in subsection (g)(2)(A), by striking ''5724a(a)(3)'' and inserting ''5724a(c)''.

(3) Section 925 of the Public Health Service Act (42 U.S.C. 299c–4) is amended—

(A) in subsection (f)(2)(A), by striking ''5724a(a)(1)'' and inserting ''5724a(a)''; and

(B) in subsection (f)(2)(A), by striking ''5724a(a)(3)'' and inserting ''5724a(c)''.

Subtitle B—Miscellaneous Provisions

SEC. 1431. REPEAL OF THE LONG-DISTANCE TELEPHONE CALL CERTIFICATION REQUIREMENT.

Section 1348 of title 31, United States Code, is amended—

(1) by striking the last sentence of subsection (a)(2);

(2) by striking subsection (b); and

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 1432. TRANSFER OF AUTHORITY TO ISSUE REGULATIONS.

(a) IN GENERAL.—Subchapter II of chapter 57 of title 5, United States Code, is further amended by adding at the end the following new section:

"§ 5737. Regulations

''(a)(1) Except as specifically provided in this subchapter, the Administrator of General Services shall prescribe regulations necessary for the administration of this subchapter.

''(2) Notwithstanding any limitation of this subchapter, in promulgating regulations under paragraph (1) of this subsection, the Administrator of General Services shall include a provision authorizing the head of an agency or his designee to waive any limitation of this subchapter or in any implementing regulation for any employee relocating to or from a remote or isolated location who would otherwise suffer hardship.

''(b) The Administrator of General Services shall prescribe regulations necessary for the implementation of section 5724b of this subchapter in consultation with the Secretary of the Treasury.

''(c) The Secretary of Defense shall prescribe regulations necessary for the implementation of section 5735 of this subchapter.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is further amended by inserting after the item relating to section 5736 the following new item:

''5737. Regulations.''.

(c) CONFORMING AMENDMENTS.—(1) Section 5722 of title 5, United States Code, is amended by striking ''Under such regulations as the President may prescribe'', and inserting ''Under regulations prescribed under section 5737 of this title''.

(2) Section 5723 of title 5, United States Code, is amended by striking ''Under such regulations as the President may prescribe'', and inserting ''Under regulations prescribed under section 5737 of this title''.

(3) Section 5724 of title 5, United States Code, is amended—

(A) in subsections (a) through (c), by striking ''Under such regulations as the President may prescribe'' each place it appears and inserting ''Under regulations prescribed under section 5737 of this title'';

(B) in subsections (c) and (e), by striking ''under regulations prescribed by the President'' and inserting ''under regulations prescribed under section 5737 of this title''; and

(C) in subsection (f), by striking ''under the regulations of the President'' and inserting ''under regulations prescribed under section 5737 of this title''.

(4) Section 5724b of title 5, United States Code, is amended by striking ''Under such regulations as the President may prescribe'' and inserting ''Under regulations prescribed under section 5737 of this title''.

(5) Section 5726 of title 5, United States Code, is amended—

(A) in subsection (a), by striking ''as the President may by regulation authorize'' and inserting ''as authorized under regulations prescribed under section 5737 of this title''; and

(B) in subsections (b) and (c), by striking ''Under such regulations as the President may prescribe'' each place it appears and inserting ''under regulations prescribed under section 5737 of this title''.

(6) Section 5727(b) of title 5, United States Code, is amended by striking ''Under such regulations as the President may prescribe'' and inserting ''Under regulations prescribed under section 5737 of this title''.

(7) Section 5728 of title 5, United States Code, is amended in subsections (a), (b), and (c)(1), by striking ''Under such regulations as the President may prescribe'' each place it appears and inserting ''Under regulations prescribed under section 5737 of this title''.

(8) Section 5729 of title 5, United States Code, is amended in subsections (a) and (b), by striking ''Under such regulations as the President may prescribe'' each place it appears and inserting ''Under regulations prescribed under section 5737 of this title''.

(9) Section 5731 of title 5, United States Code, is amended by striking ''in accordance with regulations prescribed by the President'' and inserting ''in accordance with regulations prescribed under section 5737 of this title''.

SEC. 1433. REPORT ON ASSESSMENT OF COST SAVINGS.

No later than 1 year after the effective date of the final regulations issued under section 1434(b), the General Accounting Office shall submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives on an assessment of the cost savings to Federal travel administration resulting from statutory and regulatory changes under this Act.

SEC. 1434. EFFECTIVE DATE; ISSUANCE OF REGULATIONS.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act.

(b) REGULATIONS.—The Administrator of General Services shall issue final regulations implementing the amendments made by this title by not later than the expiration of the period referred to in subsection (a).

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Military Construction Authorization Act for Fiscal Year 1997''.

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	Total
Alabama	Fort Rucker	$3,250,000
California	Camp Roberts	$5,500,000
	Naval Weapons Station, Concord	$27,000,000
Colorado	Fort Carson	$13,000,000
District of Columbia	Fort McNair	$6,900,000
Georgia	Fort Benning	$53,400,000
	Fort McPherson	$3,500,000
	Fort Stewart	$6,000,000
Hawaii	Schofield Barracks	$16,500,000
Kansas	Fort Riley	$29,350,000
Kentucky	Fort Campbell	$67,600,000
	Fort Knox	$13,000,000
Louisiana	Fort Polk	$4,800,000
New Mexico	White Sands Missile Range	$10,000,000
New York	Fort Drum	$6,500,000
Texas	Fort Hood	$40,900,000
	Fort Sam Houston	$3,100,000
Virginia	Fort Eustis	$3,550,000
Washington	Fort Lewis	$54,600,000
CONUS Classified	Classified Locations	$4,600,000
	Total:	$373,050,000

(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	Total
Germany	Spinellii Barracks, Mannheim	$8,100,000
	Taylor Barracks, Mannheim	$9,300,000
Italy	Camp Ederle	$3,100,000
Korea	Camp Casey	$16,000,000
	Camp Red Cloud	$14,000,000
Overseas Classified	Classified Locations	$64,000,000
Worldwide	Host Nation Support	$20,000,000
	Total:	$134,500,000

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	Total
Hawaii	Schofield Barracks	54 Units	$10,000,000
North Carolina	Fort Bragg	88 Units	$9,800,000
Texas	Fort Hood	140 Units	$18,500,000
		Total:	$38,300,000

(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 $4,083,000.

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 sections 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $109,750,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1996, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,910,897,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $373,050,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $134,500,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $31,748,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $152,133,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,212,466,000.

(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 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2105. PLAN FOR REPAIRS AND STABILIZATION OF THE HISTORIC DISTRICT AT THE FOREST GLEN ANNEX OF WALTER REED MEDICAL CENTER, MARYLAND.

Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a comprehensive plan for basic repairs and stabilization measures throughout the historic district at the Forest Glen Annex of Walter Reed Army Medical Center, Maryland, together with funding options for the implementation of the plan.

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 2205(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Navy Detachment, Camp Navajo	$3,920,000
California	Marine Corps Air-Ground Combat Center, Twentynine Palms	$4,020,000
	Marine Corps Air Station, Camp Pendleton	$6,240,000
	Marine Corps Base, Camp Pendleton	$51,630,000
	Marine Corps Recruit Depot, San Diego	$8,150,000
	Naval Air Station, North Island	$76,872,000
	Naval Facility, San Clemente Island	$17,000,000
	Naval Station, San Diego	$7,050,000
	Naval Command Control & Ocean Surveillance Center, San Diego	$1,960,000
Connecticut	Naval Submarine Base, New London	$13,830,000
District of Columbia	Naval District, Commandant, Washington	$19,300,000
Florida	Naval Air Station, Key West	$2,250,000
Hawaii	Naval Station, Pearl Harbor	$19,600,000
	Naval Submarine Base, Pearl Harbor	$35,890,000
Idaho	Naval Surface Warfare Center, Bayview	$7,150,000
Illinois	Naval Training Center, Great Lakes	$22,900,000
Maryland	Naval Air Warfare Center, Patuxent River	$1,270,000
	United States Naval Academy	$10,480,000
Mississippi	Naval Station, Pascagoula	$4,990,000
	Stennis Space Center	$7,960,000
Nevada	Naval Air Station, Fallon	$20,600,000
North Carolina	Marine Corps Air Station, Cherry Point	$1,630,000
	Marine Corps Air Station, New River	$17,040,000
	Marine Corps Base, Camp LeJeune	$20,750,000
Rhode Island	Naval Undersea Warfare Center	$8,900,000
South Carolina	Marine Corps Recruit Depot, Parris Island	$2,550,000
Texas	Naval Station, Ingleside	$16,850,000
	Naval Air Station, Kingsville	$1,810,000
Virginia	Armed Forces Staff College, Norfolk	$12,900,000
	Marine Corps Combat Development Command, Quantico	$14,570,000
	Naval Station, Norfolk	$47,920,000
	Naval Surface Warfare Center, Dahlgren	$8,030,000
Washington	Naval Station, Everett	$25,740,000
	Total:	$521,752,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2205(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
Bahrain	Administrative Support Unit, Bahrain	$5,980,000
Greece	Naval Support Activity, Souda Bay	$7,050,000
Italy	Naval Air Station, Sigonella	$15,700,000
	Naval Support Activity, Naples	$8,620,000
Puerto Rico	Naval Station, Roosevelt Roads	$23,600,000
United Kingdom	Joint Maritime Communications Center, St. Mawgan	$4,700,000
	Total:	$65,650,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2205(a)(6)(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
Arizona	Marine Corps Air Station, Yuma	Community Center	$709,000
California	Marine Corps Air-Ground Combat Center, Twentynine Palms	Community Center	$1,982,000
	Marine Corps Air-Ground Combat Center, Twentynine Palms	Housing Office	$956,000
	Marine Corps Base, Camp Pendleton	128 Units	$19,483,000
	Naval Air Station, Lemoore	276 Units	$39,837,000
	Navy Public Works Center, San Diego	366 Units	$48,719,000

Navy: Family Housing—Continued

State	Installation	Purpose	Amount
Hawaii	Marine Corps Air Station, Kaneohe Bay	54 Units	$11,676,000
	Navy Public Works Center, Pearl Harbor	264 Units	$52,586,000
Maryland	Naval Air Warfare Center, Patuxent River	Community Center	$1,233,000
North Carolina	Marine Corps Base, Camp LeJeune	Community Center	$845,000
Virginia	AEGIS Combat Systems Center, Wallops Island	20 Units	$2,975,000
	Naval Security Group Activity, Northwest	Community Center	$741,000
Washington	Naval Station, Everett	100 Units	$15,015,000
	Naval Submarine Base, Bangor	Housing Office	$934,000
		Total:	$197,691,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2205(a)(6)(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 $23,142,000.

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 2205(a)(6)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $189,383,000.

SEC. 2204. DEFENSE ACCESS ROADS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2205(a)(5), the Secretary of the Navy may make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at various locations in the amount of $300,000.

SEC. 2205. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1996, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,054,793,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $515,952,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $65,650,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,115,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $47,519,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $300,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $410,216,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $1,014,241,000.

(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 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 $12,000,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$7,875,000
Alaska	Eielson Air Force Base	$3,900,000
	Elmendorf Air Force Base	$21,530,000
	King Salmon Air Force Base	$5,700,000
Arizona	Davis–Monthan Air Force Base	$9,920,000
Arkansas	Little Rock Air Force Base	$18,105,000
California	Beale Air Force Base	$14,425,000
	Edwards Air Force Base	$20,080,000
	Travis Air Force Base	$14,980,000
	Vandenberg Air Force Base	$3,290,000
Colorado	Buckley Air National Guard Base	$17,960,000
	Falcon Air Force Station	$2,095,000
	Peterson Air Force Base	$20,720,000
	United States Air Force Academy	$12,165,000
Delaware	Dover Air Force Base	$19,980,000
Florida	Eglin Air Force Base	$4,590,000
	Eglin Auxiliary Field 9	$6,825,000
	Patrick Air Force Base	$10,495,000
	Tyndall Air Force Base	$3,600,000
Georgia	Moody Air Force Base	$3,350,000
	Robins Air Force Base	$25,045,000
Idaho	Mountain Home Air Force Base	$15,945,000
Kansas	McConnell Air Force Base	$25,830,000
Louisiana	Barksdale Air Force Base	$4,890,000
Maryland	Andrews Air Force Base	$8,140,000
Mississippi	Keesler Air Force Base	$14,465,000
Montana	Malmstrom Air Force Base	$6,300,000
Nevada	Indian Springs Air Force Auxiliary Air Field	$4,690,000
	Nellis Air Force Base	$14,700,000
New Jersey	McGuire Air Force Base	$8,080,000
New Mexico	Cannon Air Force Base	$7,100,000
	Kirtland Air Force Base	$16,300,000
North Carolina	Pope Air Force Base	$5,915,000
	Seymour Johnson Air Force Base	$11,280,000
North Dakota	Grand Forks Air Force Base	$12,470,000
	Minot Air Force Base	$3,940,000
Ohio	Wright–Patterson Air Force Base	$7,400,000
Oklahoma	Tinker Air Force Base	$9,880,000
South Carolina	Charleston Air Force Base	$43,110,000
	Shaw Air Force Base	$14,465,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
South Dakota	Ellsworth Air Force Base	$4,150,000
Tennessee	Arnold Engineering Development Center	$6,781,000
Texas	Dyess Air Force Base	$5,895,000
	Kelly Air Force Base	$3,250,000
	Lackland Air Force Base	$9,413,000
	Sheppard Air Force Base	$9,400,000
Utah	Hill Air Force Base	$3,690,000
Virginia	Langley Air Force Base	$8,005,000
Washington	Fairchild Air Force Base	$18,155,000
	McChord Air Force Base	$57,065,000
	Total:	$607,334,000

(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 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	Ramstein Air Force Base	$5,370,000
	Spangdahlem Air Base	$1,890,000
Italy	Aviano Air Base	$10,066,000
Korea	Osan Air Base	$9,780,000
Turkey	Incirlik Air Base	$7,160,000
United Kingdom	Croughton Royal Air Force Base	$1,740,000
	Lakenheath Royal Air Force Base	$17,525,000
	Mildenhall Royal Air Force Base	$6,195,000
Overseas Classified	Classified Locations	$18,395,000
	Total:	$78,115,000

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	Installation	Purpose	Amount
Alaska	Eielson Air Force Base	72 units	$21,127,000
		Fire Station	$2,950,000
California	Beale Air Force Base	56 units	$8,893,000
	Travis Air Force Base	70 units	$8,631,000
	Vandenberg Air Force Base	112 units	$20,891,000
District of Columbia	Bolling Air Force Base	40 units	$5,000,000
Florida	Eglin Auxiliary Field 9	1 unit	$249,000
	MacDill Air Force Base	56 units	$8,822,000
	Patrick Air Force Base	Housing Maintenance Facility.	$853,000
		Housing Support & Storage Facility.	$756,000
		Housing Office	$821,000
Louisiana	Barksdale Air Force Base	80 units	$9,570,000
Massachusetts	Hanscom Air Force Base	32 units	$5,100,000
Missouri	Whiteman Air Force Base	68 units	$9,600,000
Montana	Malmstrom Air Force Base	20 units	$5,242,000
New Mexico	Kirtland Air Force Base	87 units	$11,850,000
North Dakota	Grand Forks Air Force Base	66 units	$7,784,000
	Minot Air Force Base	46 units	$8,740,000
Texas	Lackland Air Force Base	50 units	$6,500,000
		Housing Office	$450,000
		Housing Maintenance Facility.	$350,000
Washington	McChord Air Force Base	40 units	$5,659,000
United Kingdom	Lakenheath Royal Air Force Base	Family Housing, Phase I	$8,300,000
		Total:	$158,138,000

(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 $12,350,000.

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 $94,550,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1996, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,844,786,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $607,334,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $78,115,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $11,328,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $53,497,000.

(5) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $265,038,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $829,474,000.

(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 the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

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 2406(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Agents and Munitions Destruction.		
	Pueblo Army Depot, Colorado	$179,000,000
Defense Finance & Accounting Service.		
	Norton Air Force Base, California	$13,800,000
	Naval Training Center, Orlando, Florida	$2,600,000
	Rock Island Arsenal, Illinois	$14,400,000
	Loring Air Force Base, Maine	$6,900,000
	Offutt Air Force Base, Nebraska	$7,000,000
	Griffiss Air Force Base, New York	$10,200,000
	Gentile Air Force Station, Ohio	$11,400,000
	Charleston, South Carolina	$6,200,000
Defense Intelligence Agency.		
	Bolling Air Force Base, District of Columbia	$6,790,000
	National Ground Intelligence Center, Charlottesville, Virginia	$2,400,000
Defense Logistics Agency.		
	Elmendorf Air Force Base, Alaska	$21,000,000
	Defense Distribution, San Diego, California	$15,700,000
	Naval Air Facility, El Centro, California	$5,700,000
	Travis Air Force Base, California	$15,200,000
	McConnell Air Force Base, Kansas	$2,200,000
	Barksdale Air Force Base, Louisiana	$4,300,000
	Andrews Air Force Base, Maryland	$12,100,000
	Naval Air Station, Fallon, Nevada	$2,100,000
	Defense Construction Supply Center, Columbus, Ohio	$600,000
	Altus Air Force Base, Oklahoma	$3,200,000
	Shaw Air Force Base, South Carolina	$2,900,000
	Naval Air Station, Oceana, Virginia	$1,500,000
Defense Medical Facility Office.		
	Maxwell Air Force Base, Alabama	$25,000,000
	Marine Corps Base, Camp Pendleton, California	$3,300,000
	Naval Air Station, Lemoore, California	$38,000,000
	Naval Air Station, Key West, Florida	$15,200,000
	Andrews Air Force Base, Maryland	$15,500,000
	Fort Bragg, North Carolina	$11,400,000
	Charleston Air Force Base, South Carolina	$1,300,000
	Fort Bliss, Texas	$6,600,000
	Fort Hood, Texas	$1,950,000
	Naval Air Station, Norfolk, Virginia	$1,250,000
Special Operations Command.		
	Naval Amphibious Base, Coronado, California	$7,700,000
	Naval Station, Ford Island, Pearl Harbor, Hawaii	$12,800,000
	Fort Campbell, Kentucky	$4,200,000
	Fort Bragg, North Carolina	$14,000,000
	Total:	$505,390,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2406(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	Installation or location	Amount
Defense Logistics Agency.		
	Naval Air Station, Sigonella, Italy	$6,100,000
	Moron Air Base, Spain	$12,958,000
Defense Medical Facility Office.		
	Administrative Support Unit, Bahrain, Bahrain	$4,600,000
	Total:	$23,658,000

SEC. 2402. MILITARY HOUSING PLANNING AND DESIGN.

Using amounts appropriated pursuant to the authorization of appropriation in section 2406(a)(15)(A), the Secretary of Defense 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 $500,000.

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 appropriation in section 2406(a)(15)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $3,871,000.

SEC. 2404. MILITARY HOUSING IMPROVEMENT PROGRAM.

(a) AVAILABILITY OF FUNDS FOR CREDIT TO FAMILY HOUSING IMPROVEMENT FUND.—The amount authorized to be appropriated pursuant to section 2406(a)(15)(C) 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.

(b) AVAILABILITY OF FUNDS FOR CREDIT TO UNACCOMPANIED HOUSING IMPROVEMENT FUND.—The amount authorized to be appropriated pursuant to section 2406(a)(14) shall be available for crediting to the Department of Defense Military Unaccompanied Housing Improvement Fund established by section 2883(a)(2) of title 10, United States Code.

(c) 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 with respect to military family housing and may use funds credited to the Department of Defense Military Unaccompanied Housing Improvement Fund under subsection (b) to carry out any activities authorized by that subchapter with respect to military unaccompanied housing.

SEC. 2405. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2406(a)(12), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

SEC. 2406. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1996, 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 $3,399,166,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $340,287,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $23,658,000.

(3) For military construction projects at Naval Hospital, Portsmouth, Virginia, hospital replacement, 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), $24,000,000.

(4) 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), $92,000,000.

(5) For military construction projects at Fort Bragg, North Carolina, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (106 Stat. 2599), $89,000,000.

(6) For military construction projects at Pine Bluff Arsenal, Arkansas, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of the Public Law 103–337; 108 Stat. 3040), $46,000,000.

(7) For military construction projects at Umatilla Army Depot, Oregon, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1995 (108 Stat. 3040), $64,000,000.

(8) For military construction projects at Defense Finance and Accounting Service, Columbus, Ohio, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 535), $20,822,000.

(9) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $9,500,000.

(10) For unspecified minor construction projects under section 2805 of title 10, United States Code, $21,874,000.

(11) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $14,239,000.

(12) For energy conservation projects under section 2865 of title 10, United States Code, $47,765,000.

(13) 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), $2,507,476,000.

(14) For credit to the Department of Defense Military Unaccompanied Housing Improvement Fund as authorized by section 2404(b) of this Act, $5,000,000.

(15) For military family housing functions:

(A) For improvement and planning of military family housing and facilities, $4,371,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $30,963,000, of which not more than $25,637,000 may be obligated or expended for the leasing of military family housing units worldwide.

(C) For credit to the Department of Defense Family Housing Improvement Fund as authorized by section 2404(a) of this Act, $20,000,000.

(D) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $36,181,000, to remain available until expended.

(b) LIMITATION ON 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);

(2) $161,503,000 (the balance of the amount authorized under section 2401(a) of this Act for the construction of a chemical demilitarization facility at Pueblo Army Depot, Colorado); and

(3) $1,600,000 (the balance of the amount authorized under section 2401(a) of this Act for the construction of a replacement facility for the medical and dental clinic, Key West Naval Air Station, Florida).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment 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, 1996, 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 Security Investment program as authorized by section 2501, in the amount of $172,000,000.

SEC. 2503. REDESIGNATION OF NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE PROGRAM.

(a) REDESIGNATION.—Subsection (b) of section 2806 of title 10, United States Code, is amended by striking out ''North Atlantic Treaty Organization Infrastructure program'' and inserting in lieu thereof ''North Atlantic Treaty Organization Security Investment program''.

(b) REFERENCES.—Any reference to the North Atlantic Treaty Organization Infrastructure program in any Federal law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Defense shall be deemed to refer to the North Atlantic Treaty Organization Security Investment program.

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

''§ 2806. Contributions for North Atlantic Treaty Organizations Security Investment''.

(2) The table of sections at the beginning of subchapter I of chapter 169 of title 10, United States Code, is amended by striking out the item relating to section 2806 and inserting in lieu thereof the following:

''2806. Contributions for North Atlantic Treaty Organizations Security Investment.''.

(d) CONFORMING AMENDMENTS.—(1) Section 2861(b)(3) of title 10, United States Code, is amended by striking out ''North Atlantic Treaty Organization Infrastructure program'' and inserting in lieu thereof ''North Atlantic Treaty Organization Security Investment program''.

(2) Section 21(h)(1)(B) of the Arms Export Control Act (22 U.S.C. 2761(h)(1)(B)) is amended by striking out ''North Atlantic Treaty Organization Infrastructure Program'' and inserting in lieu thereof ''North Atlantic Treaty Organization Security Investment program''.

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, 1996, 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 1803 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, $94,528,000: Notwithstanding any other provision of this Act, none of the funds authorized for construction, phase I, of a combined support maintenance shop at Camp Guernsey, Wyoming may be obligated until the Secretary of Defense certifies to Congress that the project is in the future years defense plan; and

(B) for the Army Reserve, $59,174,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $32,743,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $209,884,000; and

(B) for the Air Force Reserve, $54,770,000.

SEC. 2602. FUNDING FOR CONSTRUCTION AND IMPROVEMENT OF RESERVE CENTERS IN THE STATE OF WASHINGTON.

(a) FUNDING.—Notwithstanding any other provision of law, of the funds appropriated under the heading ''MILITARY CONSTRUCTION, NAVAL RESERVE'' in the Military Construction Appropriations Act, 1995 (Public Law 103–307; 108 Stat. 1661), that are available for the construction of a Naval Reserve center in Seattle, Washington—

(1) $5,200,000 shall be available for the construction of an Army Reserve Center at Fort Lawton, Washington, of which $700,000 may be used for program and design activities relating to such construction;

(2) $4,200,000 shall be available for the construction of an addition to the Naval Reserve Center in Tacoma, Washington;

(3) $500,000 shall be available for unspecified minor construction at Naval Reserve facilities in the State of Washington; and

(4) $500,000 shall be available for planning and design activities with respect to improvements at Naval Reserve facilities in the State of Washington.

(b) MODIFICATION OF LAND CONVEYANCE AUTHORITY.—Paragraph (2) of section 127(d) of the Military Construction Appropriations Act, 1995 (Public Law 103–337; 108 Stat. 1666), is amended to read as follows:

''(2) Before commencing construction of a facility to be the replacement facility for the Naval Reserve Center under paragraph (1), the Secretary shall comply with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) with respect to such 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 Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1999; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2000.

(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 Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1999; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2000 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1994 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1880), authorizations for the projects set forth in the tables in subsection (b), as provided in section 2101, 2102, 2201, 2301, or 2601 of that Act, shall remain in effect until October 1, 1997, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 1994 Project Authorizations

State	Installation or location	Project	Amount
New Jersey	Picatinny Arsenal	Advance Warhead Development Facility.	$4,400,000
North Carolina	Fort Bragg	Land Acquisition	$15,000,000
Wisconsin	Fort McCoy	Family Housing Construction (16 units).	$2,950,000

Navy: Extension of 1994 Project Authorizations

State or Location	Installation or location	Project	Amount
California	Camp Pendleton Marine Corps Base	Sewage Facility	$7,930,000
Connecticut	New London Naval Submarine Base	Hazardous Waste Transfer Facility.	$1,450,000
New Jersey	Earle Naval Weapons Station	Explosives Holding Yard	$1,290,000
Virginia	Oceana Naval Air Station	Jet Engine Test Cell Replacement.	$5,300,000
Various Locations	Various Locations	Land Acquisition Inside the United States.	$540,000
Various Locations	Various Locations	Land Acquisition Outside the United States.	$800,000

Air Force: Extension of 1994 Project Authorizations

State	Installation or Location	Project	Amount
Alaska	Eielson Air Force Base	Upgrade Water Treatment Plant.	$3,750,000
	Elmendorf Air Force Base	Corrosion Control Facility	$5,975,000
California	Beale Air Force Base	Educational Center	$3,150,000
Florida	Tyndall Air Force Base	Base Supply Logistics Center.	$2,600,000
Mississippi	Keesler Air Force Base	Upgrade Student Dormitory	$4,500,000
North Carolina	Pope Air Force Base	Add To and Alter Dormitories.	$4,300,000
Virginia	Langley Air Force Base	Fire Station	$3,850,000

Army National Guard: Extension of 1994 Project Authorizations

State	Installation or Location	Project	Amount
Alabama	Birmingham	Aviation Support Facility	$4,907,000
Arizona	Marana	Organization Maintenance Shop.	$553,000
	Marana	Dormitory/Dining Facility	$2,919,000
California	Fresno	Organization Maintenance Shop Modification.	$905,000
	Van Nuys	Armory Addition	$6,518,000
New Mexico	White Sands Missile Range	Organization Maintenance Shop.	$2,940,000
	White Sands Missile Range	Tactical Site	$1,995,000
	White Sands Missile Range	Mobilization and Training Equipment Site.	$3,570,000
Pennsylvania	Indiantown Gap	State Military Building	$9,200,000
	Johnstown	Armory Addition/Flight Facility.	$5,004,000
	Johnstown	Armory	$3,000,000

SEC. 2703. 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 and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 541), shall remain in effect until October 1, 1997, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 1993 Project Authorization

State	Installation or location	Project	Amount
Arkansas	Pine Bluff Arsenal	Ammunition Demilitarization Support Facility.	$15,000,000

Air Force: Extension of 1993 Project Authorization

Country	Installation or location	Project	Amount
Portugal	Lajes Field	Water Wells	$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

SEC. 2704. 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 table in subsection (b), as provided in section 2101 of that Act and extended by section 2702(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3047) and section 2703(a) of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 543), shall remain in effect until October 1, 1997, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is 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

SEC. 2705. PROHIBITION ON USE OF FUNDS FOR CERTAIN PROJECTS.

(a) PROHIBITION.—Notwithstanding any other provision of this Act, no funds authorized to be appropriated by this Act may be obligated or expended for the military construction project listed under subsection (b) until the Secretary of Defense certifies to Congress that the project is included in the current future-years defense program.

(b) COVERED PROJECT.—Subsection (a) applies to the following military construction project:

(1) Phase II, Construction, Consolidated Education Center, Fort Campbell, Kentucky.

(2) Phase III, Construction, Western Kentucky Training Site.

SEC. 2706. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 1996; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. INCREASE IN CERTAIN THRESHOLDS FOR UNSPECIFIED MINOR CONSTRUCTION PROJECTS.

(a) O&M FUNDING FOR PROJECTS.—Section 2805(c)(1)(B) of title 10, United States Code, is amended by striking out ''$300,000'' and inserting in lieu thereof ''$500,000''.

(b) O&M FUNDING FOR RESERVE COMPONENT FACILITIES.—Subsection (b) of section 18233a of such title is amended by striking out ''$300,000'' and inserting in lieu thereof ''$500,000''.

(c) NOTIFICATION FOR EXPENDITURES AND CONTRIBUTIONS FOR RESERVE COMPONENT FACILITIES.—Subsection (a)(1) of such section 18233a is amended by striking out ''$400,000'' and inserting in lieu thereof ''$1,500,000''.

SEC. 2802. CLARIFICATION OF AUTHORITY TO IMPROVE MILITARY FAMILY HOUSING.

(a) EXCLUSION OF MINOR MAINTENANCE AND REPAIR.—Subsection (a)(2) of section 2825 of title 10, United States Code, is amended by inserting ''(other than day-to-day maintenance or repair work)'' after ''work''.

(b) APPLICABILITY OF LIMITATION ON FUNDS FOR IMPROVEMENTS.—Subsection (b)(2) of such section is amended—

(1) by striking out ''the cost of repairs'' and all that follows through ''in connection with'' and inserting in lieu thereof ''of the unit or units concerned the cost of maintenance or repairs undertaken in connection with the improvement of the unit or units and any cost (other than the cost of activities undertaken beyond a distance of five feet from the unit or units) in connection with''; and

(2) by inserting '', drives,'' after ''roads''.

SEC. 2803. AUTHORITY TO GRANT EASEMENTS FOR RIGHTS-OF-WAY.

(a) EASEMENTS FOR ELECTRIC POLES AND LINES AND FOR COMMUNICATIONS LINES AND FACILITIES.—Section 2668(a) of title 10, United States Code, is amended—

(1) by striking out ''and'' at the end of paragraph (9);

(2) by redesignating paragraph (10) as paragraph (13); and

(3) by inserting after paragraph (9) the following new paragraphs:

''(10) poles and lines for the transmission or distribution of electric power;

''(11) poles and lines for the transmission or distribution of communications signals (including telephone and telegraph signals);

''(12) structures and facilities for the transmission, reception, and relay of such signals; and''.

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

(1) in paragraph (3), by striking out '', telephone lines, and telegraph lines,''; and

(2) in paragraph (13), as redesignated by subsection (a)(2), by striking out ''or by the Act of March 4, 1911 (43 U.S.C. 961)''.

Subtitle B—Defense Base Closure and Realignment

SEC. 2811. RESTORATION OF AUTHORITY UNDER 1988 BASE CLOSURE LAW TO TRANSFER PROPERTY AND FACILITIES TO OTHER ENTITIES IN THE DEPARTMENT OF DEFENSE.

(a) RESTORATION OF AUTHORITY.—Section 204(b)(2) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

''(D) The Secretary may transfer real property or facilities located at a military installation to be closed or realigned under this title, with or without reimbursement, to a military department or other entity (including a nonappropriated fund instrumentality) within the Department of Defense or the Coast Guard.''.

(b) RATIFICATION OF TRANSFERS—Any transfer by the Secretary of Defense of real property or facilities at a military installation closed or realigned under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) to a military department or other entity of the Department of Defense or the Coast Guard during the period beginning on November 30, 1993, and ending on the date of the enactment of this Act is hereby ratified.

SEC. 2812. AGREEMENTS FOR SERVICES AT INSTALLATIONS AFTER CLOSURE.

(a) 1988 LAW.—Section 204(b)(8)(A) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by inserting '', or at facilities not yet transferred or otherwise disposed of in the case of installations closed under this title,'' after ''under this title''.

(b) 1990 LAW.—Section 2905(b)(8)(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) is amended by inserting '', or at facilities not yet transferred or otherwise disposed of in the case of installations closed under this part,'' after ''under this part''.

Subtitle C—Land Conveyances

SEC. 2821. TRANSFER OF LANDS, ARLINGTON NATIONAL CEMETERY, ARLINGTON, VIRGINIA.

(a) REQUIREMENT FOR SECRETARY OF INTERIOR TO TRANSFER CERTAIN SECTION 29 LANDS.—(1) Subject to paragraph (2), the Secretary of the Interior shall transfer to the Secretary of the Army administrative jurisdiction over the following lands located in section 29 of the National Park System at Arlington National Cemetery, Virginia:

(A) The lands known as the Arlington National Cemetery Interment Zone.

(B) All lands in the Robert E. Lee Memorial Preservation Zone, other than those lands in the Preservation Zone that the Secretary of the Interior determines must be retained because of the historical significance of such lands or for the maintenance of nearby lands or facilities.

(2)(A) The Secretary of the Interior may not make the transfer referred to in paragraph (1)(B) until 60 days after the date on which the Secretary submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives—

(i) a summary of the document entitled ''Cultural Landscape and Archaeological Study, Section 29, Arlington House, The Robert E. Lee Memorial'';

(ii) a summary of any environmental analysis required with respect to the transfer under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(iii) the proposal of the Secretary and the Secretary of the Army setting forth the lands to be transferred and the general manner in which the Secretary of the Army will develop such lands after transfer.

(B) The Secretary of the Interior shall submit the information required under subparagraph (A) not later than October 31, 1997.

(3) The transfer of lands under paragraph (1) shall be carried out in accordance with

the Interagency Agreement Between the Department of the Interior, the National Park Service, and the Department of the Army, Dated February 22, 1995.

(4) The exact acreage and legal descriptions of the lands to be transferred under paragraph (1) shall be determined by surveys satisfactory to the Secretary of the Interior and the Secretary of the Army.

(b) REQUIREMENT FOR ADDITIONAL TRANSFERS.—(1) The Secretary of the Interior shall transfer to the Secretary of the Army administrative jurisdiction over a parcel of land, including any improvements thereon, consisting of approximately 2.43 acres, located in the Memorial Drive entrance area to Arlington National Cemetery.

(2)(A) The Secretary of the Army shall transfer to the Secretary of the Interior administrative jurisdiction over a parcel of land, including any improvements thereon, consisting of approximately 0.17 acres, located at Arlington National Cemetery, and known as the Old Administrative Building site. The site is part of the original reservation of Arlington National Cemetery.

(B) In connection with the transfer under subparagraph (A), the Secretary of the Army shall grant to the Secretary of the Interior a perpetual right of ingress and egress to the parcel transferred under that subparagraph.

(3) The exact acreage and legal descriptions of the lands to be transferred pursuant to this subsection shall be determined by surveys satisfactory to the Secretary of the Interior and the Secretary of the Army. The costs of such surveys shall be borne by the Secretary of the Army.

SEC. 2822. LAND TRANSFER, POTOMAC ANNEX, DISTRICT OF COLUMBIA.

(a) TRANSFER REQUIRED.—Subject to subsection (b), the Secretary of the Navy shall transfer, without consideration other than the reimbursement provided for in subsection (d), to the United States Institute of Peace (in this section referred to as the ''Institute'') administrative jurisdiction over a parcel of real property, including any improvements thereon, consisting of approximately 3 acres, at the northwest corner of Twenty-third Street and Constitution Avenue, Northwest, District of Columbia, the site of the Potomac Annex.

(b) CONDITION.—The Secretary may not make the transfer specified in subsection (a) unless the Institute agrees to provide the Navy a number of parking spaces at or in the vicinity of the headquarters to be constructed on the parcel transferred equal to the number of parking spaces available to the Navy on the parcel as of the date of the transfer.

(c) REQUIREMENT RELATING TO TRANSFER.—The transfer specified in subsection (a) may not occur until the Institute obtains all permits, approvals, and site plan reviews required by law with respect to the construction on the parcel of a headquarters for operations of the Institute.

(d) COSTS.—The Institute shall reimburse the Secretary for the costs incurred by the Secretary in carrying out the transfer specified in subsection (a).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be transferred 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 Institute.

SEC. 2823. LAND CONVEYANCE, ARMY RESERVE CENTER, MONTPELIER, VERMONT.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may convey, without consideration, to the City of Montpelier, Vermont (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 4.3 acres and located on Route 2 in Montpelier, Vermont, the site of the Army Reserve Center, Montpelier, Vermont.

(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) CONDITION.—The conveyance authorized under subsection (a) shall be subject to the condition that the City agree to lease to the Civil Air Patrol, at no rental charge to the Civil Air Patrol, the portion of the real property and improvements located on the parcel to be conveyed that the Civil Air Patrol leases from the Secretary as of the date of the enactment of this Act.

(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 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. 2824. LAND CONVEYANCE, FORMER NAVAL RESERVE FACILITY, LEWES, DELAWARE.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Navy may convey, without consideration, to the State of Delaware (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, consisting of approximately 16.8 acres at the site of the former Naval Reserve Facility, Lewes, Delaware.

(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) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the State use the real property conveyed under that subsection in perpetuity solely for public park or recreational purposes.

(d) REVERSION.—If the Secretary of the Interior determines at any time that the real property conveyed pursuant to this section is not being used for a purpose specified in subsection (b), all right, title, and interest in and to such real property, including any improvements thereon, shall revert to the United States and the United States shall have the right of immediate entry thereon.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of such survey shall be borne by the State.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy 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. 2825. LAND CONVEYANCE, RADAR BOMB SCORING SITE, BELLE FOURCHE, SOUTH DAKOTA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Air Force may convey, without consideration, to the Belle Fourche School District, Belle Fourche, South Dakota (in this section referred to as the ''District''), 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 37 acres located in Belle Fourche, South Dakota, which has served as the location of a support complex and housing facilities for Detachment 21 of the 554th Range Squadron, an Air Force radar bomb scoring site. The conveyance may not include any portion of the radar bomb scoring site located in the State of Wyoming.

(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) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the District—

(1) use the property and facilities conveyed under that subsection for education, economic development, or housing purposes; or

(2) enter into an agreement with an appropriate public or private entity to sell or lease the property and facilities to such entity for such purposes.

(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 District.

(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. 2826. CONVEYANCE OF PRIMATE RESEARCH COMPLEX, HOLLOMAN AIR FORCE BASE, NEW MEXICO.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any provision of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), or any regulations prescribed thereunder, the Secretary of the Air Force may convey all right, title, and interest of the United States in and to the primate research complex at Holloman Air Force Base, New Mexico. The conveyance shall include the colony of chimpanzees owned by the Air Force that are housed at or managed from the primate research complex. The conveyance may not include the real property on which the primate research complex is located.

(b) COMPETITIVE PROCEDURES REQUIRED.—The Secretary shall use competitive procedures in selecting the person or entity to which to make the conveyance authorized by subsection (a).

(c) STANDARDS TO BE USED IN SOLICITATION OF BIDS.—The Secretary shall develop standards for the care and use of the primate research complex, and of chimpanzees, to be used in soliciting bids for the conveyance authorized by subsection (a). The Secretary shall develop such standards in consultation with the Secretary of Agriculture and the Director of the National Institutes of Health.

(d) CONDITIONS OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the followings conditions:

(1) That the recipient of the primate research complex—

(A) utilize any chimpanzees included in the conveyance only for scientific research or medical research purposes; or

(B) retire and provide adequate care for such chimpanzees.

(2) That the recipient of the primate research complex assume from the Secretary any leases at the primate research complex

that are in effect at the time of the conveyance.

(e) DESCRIPTION OF COMPLEX.—The exact legal description of the primate research complex to be conveyed under subsection (a) shall be determined by a survey or 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 recipient of the primate research complex.

(f) 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. 2827. DEMONSTRATION PROJECT FOR INSTALLATION AND OPERATION OF ELECTRIC POWER DISTRIBUTION SYSTEM AT YOUNGSTOWN AIR RESERVE STATION, OHIO.

(a) AUTHORITY.—The Secretary of the Air Force may carry out a demonstration project to assess the feasibility and advisability of permitting private entities to install, operate, and maintain electric power distribution systems at military installations. The Secretary shall carry out the demonstration project through an agreement under subsection (b).

(b) AGREEMENT.—(1) In order to carry out the demonstration project, the Secretary shall enter into an agreement with an electric utility or other company in the Youngstown, Ohio, area under which the utility or company, as the case may be, installs, operates, and maintains (in a manner satisfactory to the Secretary and the utility or company) an electric power distribution system at Youngstown Air Reserve Station, Ohio.

(2) The Secretary may not enter into an agreement under this subsection until—

(A) the Secretary submits to the congressional defense committees a report on the agreement to be entered into, including the costs to be incurred by the United States under the agreement; and

(B) a period of 21 days has elapsed from the date of the receipt of the report by the committees.

(c) LICENSES AND EASEMENTS.—In order to facilitate the installation, operation, and maintenance of the electric power distribution system under the agreement under subsection (b), the Secretary may grant the utility or company with which the Secretary enters into the agreement such licenses, easements, and rights-of-way as the Secretary and the utility or company, as the case may be, jointly determine necessary for such purposes.

(d) OWNERSHIP OF SYSTEM.—The agreement between the Secretary and the utility or company under subsection (b) may provide that the utility or company, as the case may be, shall own the electric power distribution system installed under the agreement.

(e) RATES.—The rates charged by the utility or company for providing and distributing electric power at Youngstown Air Reserve Station through the electric power distribution system installed under the agreement under subsection (b) may not include the costs, including the amortization of any costs, incurred by the utility or company, as the case may be, in installing the system.

(f) REPORTS.—Not later than February 1, 1997, and February 1 of each year following a year in which the Secretary carries out the demonstration project under this section, the Secretary shall submit to the congressional defense committees a report on the project. The report shall include the Secretary's current assessment of the project and the recommendations, if any, of the Secretary of extending the authority with respect to the project to other facilities and installations of the Department of Defense.

(g) FUNDING.—In order to pay the costs of the United States under the agreement under subsection (b), the Secretary may use funds authorized to be appropriated by section 2601(3)(B) of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 540) for the purpose of rebuilding the electric power distribution system at the Youngstown Air Reserve Station that were appropriated for that purpose by the Military Construction Appropriations Act, 1996 (Public Law 104–32; 109 Stat. 283) and that remain available for obligation for that purpose as of the date of the enactment of this Act.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in the agreement under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2828. TRANSFER OF JURISDICTION AND LAND CONVEYANCE, FORT SILL, OKLAHOMA.

(a) TRANSFER OF LAND FOR NATIONAL CEMETERY.—

(1) TRANSFER AUTHORIZED.—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 400 acres and comprising a portion of Fort Sill, Oklahoma.

(2) USE OF LAND.—The Secretary of Veterans Affairs shall use the real property transferred under paragraph (1) as a national cemetery under chapter 24 of title 38, United States Code.

(3) RETURN OF UNUSED LAND.—If the Secretary of Veterans Affairs determines that any portion of the real property transferred under paragraph (1) is not needed for use as a national cemetery, the Secretary of Veterans Affairs shall return such portion to the administrative jurisdiction of the Secretary of the Army.

(b) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred or conveyed under this section shall be determined by surveys that are satisfactory to the Secretary of the Army. The cost of such surveys shall be borne by the recipient of the real property.

SEC. 2829. RENOVATION OF THE PENTAGON RESERVATION.

The Secretary of Defense shall take such action as is necessary to reduce the total cost of the renovation of the Pentagon Reservation to not more than $1,118,000,000.

SEC. 2830. LAND CONVEYANCE, WILLIAM LANGER JEWEL BEARING PLANT, ROLLA, NORTH DAKOTA.

(a) AUTHORITY TO CONVEY.—The Administrator of General Services may convey, without consideration, to the Job Development Authority of the City of Rolla, North Dakota (in this section referred to as the ''Authority''), all right, title, and interest of the United States in and to a parcel of real property, with improvements thereon and all associated personal property, consisting of approximately 9.77 acres and comprising the William Langer Jewel Bearing Plant in Rolla, North Dakota.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Authority—

(1) use the real and personal property and improvements conveyed under that subsection for economic development relating to the jewel bearing plant;

(2) enter into an agreement with an appropriate public or private entity or person to lease such property and improvements to that entity or person for such economic development; or

(3) enter into an agreement with an appropriate public or private entity or person to sell such property and improvements to that entity or person for such economic development.

(c) PREFERENCE FOR DOMESTIC DISPOSAL OF JEWEL BEARINGS.—(1) In offering to enter into agreements pursuant to any provision of law for the disposal of jewel bearings from the National Defense Stockpile, the President shall give a right of first refusal on all such offers to the Authority or to the appropriate public or private entity or person with which the Authority enters into an agreement under subsection (b).

(2) For the purposes of this section, 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. 98(c)).

(d) AVAILABILITY OF FUNDS FOR MAINTENANCE AND CONVEYANCE OF PLANT.—Notwithstanding any other provision of law, funds available in fiscal year 1995 for the maintenance of the William Langer Jewel Bearing Plant in Public Law 103–335 shall be available for the maintenance of that plant in fiscal year 1996, pending conveyance, and for the conveyance of that plant under this section.

(e) 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 Administrator. The cost of the survey shall be borne by the Administrator.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under this section as the Administrator determines appropriate to protect the interests of the United States.

SEC. 2831. REAFFIRMATION OF LAND CONVEYANCES, FORT SHERIDAN, ILLINOIS.

As soon as practicable after the date of the enactment of this Act, the Secretary of the Army shall complete the land conveyances involving Fort Sheridan, Illinois, required or authorized under section 125 of the Military Construction Appropriations Act, 1996 (Public Law 104–32; 109 Stat. 290).

SEC. 2832. LAND CONVEYANCE, CRAFTS BROTHERS RESERVE TRAINING CENTER, MANCHESTER, NEW HAMPSHIRE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Saint Anselm College, Manchester, New Hampshire, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 3.5 acres and located on Rockland Avenue in Manchester, New Hampshire, the site of the Crafts Brothers Reserve Training Center.

(b) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not make the conveyance authorized by subsection (a) until the Army Reserve units currently housed at the Crafts Brothers Reserve Training Center are relocated to the Joint Service Reserve Center to be constructed at the Manchester Airport, New Hampshire.

(c) 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.

(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.

(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. 2833. LAND TRANSFER, VERNON RANGER DISTRICT, KISATCHIE NATIONAL FOREST, LOUISIANA.

(a) TRANSFER PURSUANT TO ADMINISTRATIVE AGREEMENT.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of the Army and the Secretary of Agriculture shall enter into an agreement providing for the transfer to the Secretary of the Army of administrative jurisdiction over such portion of land currently owned by the United States within the Vernon Ranger District of the Kisatchie National Forest, Louisiana, as the Secretary of the Army and the Secretary of Agriculture jointly determine appropriate for military training activities in connection with Fort Polk, Louisiana. The agreement shall allocate responsibility for land management and conservation activities with respect to the property transferred between the Secretary of the Army and the Secretary of Agriculture.

(2) The Secretary of the Army and the Secretary of Agriculture may jointly extend the deadline for entering into an agreement under paragraph (1). The deadline may be extended by not more than six months.

(b) ALTERNATIVE TRANSFER REQUIREMENT.—If the Secretary of the Army and the Secretary of Agriculture fail to enter into the agreement referred to paragraph (1) of subsection (a) within the time provided for in that subsection, the Secretary of Agriculture shall, at the end of such time, transfer to the Secretary of the Army administrative jurisdiction over property consisting of approximately 84,825 acres of land currently owned by the United States and located in the Vernon Ranger District of the Kisatchie National Forest, Louisiana, as generally depicted on the map entitled ''Fort Polk Military Installation map'', dated June 1995.

(c) LIMITATION ON ACQUISITION OF PRIVATE PROPERTY.—The Secretary of the Army may acquire privately-owned land within the property transferred under this section only with the consent of the owner of the land.

(d) USE OF PROPERTY.—(1) Subject to paragraph (2), the Secretary of the Army shall use the property transferred under this section for military maneuvers, training and weapons firing, and other military activities in connection with Fort Polk, Louisiana.

(2) The Secretary may not permit the firing of live ammunition on or over any portion of the property unless the firing of such ammunition on or over such portion is permitted as of the date of the enactment of this Act.

(e) MAP AND LEGAL DESCRIPTION.—(1) As soon as practicable after the date of the transfer of property under this section, the Secretary of Agriculture shall—

(A) publish in the Federal Register a notice containing the legal description of the property transferred; and

(B) file a map and the legal description of the property with the Committee on Energy and Natural Resources, the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Armed Services of the Senate and the Committee on Resources, the Committee on Agriculture, and the Committee on National Security of the House of Representatives.

(2) The maps and legal descriptions prepared under paragraph (1) shall have the same force and effect as if included in this subsection, except that the Secretary of Agriculture may correct clerical and typographical errors in the maps and legal descriptions.

(3) As soon as practicable after the date of the enactment of this Act, copies of the maps and legal descriptions prepared under paragraph (1) shall be available for public inspection in the following offices:

(A) The Office of the Secretary of Agriculture.

(B) Such offices of the United States Forest Service as the Secretary of Agriculture shall designate.

(C) The Office of the Commander of Fort Polk, Louisiana.

(D) The appropriate office in the Vernon Parish Court House, Louisiana.

(f) MANAGEMENT OF PROPERTY.—(1) If the transfer of property under this section occurs under subsection (a), the Secretary of the Army and the Secretary of Agriculture shall manage the property in accordance with the agreement entered into under that subsection.

(2)(A) If the transfer of property under this section occurs under subsection (b), the Secretary of the Army and the Secretary of Agriculture shall manage the property in accordance with the management plan under subparagraph (B) and the memorandum of understanding under subparagraph (C).

(B)(i) For purposes of managing the property under this paragraph, the Secretary of the Army shall, with the concurrence of the Secretary of Agriculture, develop a plan for the management of the property not later than two years after the transfer of the property. The Secretary of the Army shall provide for a period of public comment in developing the plan in order to ensure that the concerns of local citizens are taken into account in the development of the plan. The Secretary of the Army may utilize the property pending the completion of the plan.

(ii) The Secretary of the Army shall develop and implement the plan in compliance with applicable Federal law, including the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(iii) The plan shall provide for the management of the natural, cultural, and other resources of the property, including grazing, the management of wildlife and wildlife habitat, recreational uses (including hunting and fishing), and non-public uses of non-Federal lands within the property.

(C)(i) For purposes of managing the property under this paragraph, the Secretary of the Army and the Secretary of Agriculture shall enter into a memorandum of understanding in order to provide for—

(I) the implementation of the management plan developed under subparagraph (B); and

(II) the management by the Secretary of Agriculture of such areas of the property as the Secretary of the Army and the Secretary of Agriculture designate for use for non-military purposes.

(ii) The Secretary of the Army and the Secretary of Agriculture may amend the memorandum of understanding by mutual agreement.

(g) REVERSION.—If at any time after the transfer of property under this section the Secretary of the Army determines that the property, or any portion thereof, is no longer to be retained by the Army for possible use for military purposes, jurisdiction over the property, or such portion thereof, shall revert to the Secretary of Agriculture who shall manage the property, or portion thereof, as part of the Kisatchie National Forest.

(h) IDENTIFICATION OF LAND FOR TRANSFER TO FOREST SERVICE.—The Secretary of Defense shall seek to identify land equal in acreage to the land transferred under this section and under the jurisdiction of the Department of Defense that is suitable for transfer to the Secretary of Agriculture for use by the Forest Service.

SEC. 2834. LAND CONVEYANCE, AIR FORCE PLANT NO. 85, COLUMBUS, OHIO.

(a) CONVEYANCE AUTHORIZED.—(1) Notwithstanding any other provision of law, the Secretary of the Air Force may instruct the Administrator of General Services to convey, without consideration, to the Columbus Municipal Airport Authority (in this section referred to as the ''Authority'') all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, at Air Force Plant No. 85, Columbus, Ohio, consisting of approximately 240 acres that contains the land and buildings referred to as the ''airport parcel'' in the correspondence from the General Services Administration to the Authority dated April 30, 1996, and is located adjacent to the Port Columbus International Airport.

(2) If the Secretary does not have administrative jurisdiction over the parcel on the date of the enactment of this Act, the conveyance shall be made by the Federal official who has administrative jurisdiction over the parcel as of that date.

(b) REQUIREMENT FOR FEDERAL SCREENING.—The Federal official may not carry out the conveyance of property authorized in subsection (a) unless the Federal official determines, in consultation with the Administrator of General Services, that no department or agency of the Federal Government will accept the transfer of the property.

(c) CONDITION OF CONVEYANCE.—The conveyance required under subsection (a) shall be subject to the condition that the Authority use the conveyed property for public airport purposes.

(d) REVERSION.—If the Federal official making the conveyance under subsection (a) determines that any portion of the conveyed property is not being utilized in accordance with subsection (c), all right, title, and interest in and to such portion shall revert to the United States and the United States shall have immediate right of entry thereon.

(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 Federal official making the conveyance. The cost of the survey shall be borne by the Authority.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Federal official making the conveyance of property under subsection (a) may require such additional terms and conditions in connection with the conveyance as such official considers appropriate to protect the interests of the United States.

SEC. 2835. LAND CONVEYANCE, PINE BLUFF ARSENAL, ARKANSAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Economic Development Alliance of Jefferson County, Arkansas (in this section referred to as the ''Alliance''), 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 1,500 acres and comprising a portion of the Pine Bluff Arsenal, Arkansas.

(b) REQUIREMENTS RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance of property authorized under subsection (a) until—

(1) the completion by the Secretary of any environmental restoration and remediation that is required with the respect to the property under applicable law;

(2) the Secretary secures all permits required under law applicable regarding the conduct of the proposed chemical demilitarization mission at the arsenal; and

(3) 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 a certification that the conveyance will not adversely affect the ability of the Department of Defense to conduct that chemical demilitarization mission.

(c) CONDITIONS OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the Alliance agree not to carry out any activities on the property to be conveyed that interfere with the construction, operation, and decommissioning of the chemical demilitarization facility to be constructed at Pine Bluff Arsenal. If the Alliance fails to comply with its agreement in paragraph (1) the property conveyed under this section, all rights, title, and interest in and to the property shall revert to the United States and the United States shall have immediate rights of entry thereon.

(2) That the property be used during the 25-year period beginning on the date of the conveyance only as the site of the facility known as the ''Bioplex'', and for activities related thereto.

(d) COSTS OF CONVEYANCE.—The Alliance shall be responsible for any costs of the Army associated with the conveyance of property under this section, including administrative costs, the costs of an environmental baseline survey with respect to the property, and the cost of any protection services required by the Secretary in order to secure operations of the chemical demilitarization facility from activities on the property after the conveyance.

(e) REVERSIONARY INTERESTS.—If the Secretary determines at any time during the 25-year period referred to in subsection (c)(2) that the property conveyed under this section is not being used in accordance with that subsection, all right, title, and interest in and to the property shall revert to the United States and the United States shall have immediate right of entry thereon.

(f) SALE OF PROPERTY BY ALLIANCE.—If at any time during the 25-year period referred to in subsection (c)(2) the Alliance sells all or a portion of the property conveyed under this section, the Alliance shall pay the United States an amount equal to the lesser of—

(1) the amount of the sale of the property sold; or

(2) the fair market value of the property sold at the time of the sale, excluding the value of any improvements to the property sold that have been made by the Alliance.

(g) 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 Alliance.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2836. MODIFICATION OF BOUNDARIES OF WHITE SANDS NATIONAL MONUMENT AND WHITE SANDS MISSILE RANGE.

(a) PURPOSE.—The purpose of this section is to effect an exchange between the Secretary of the Interior and the Secretary of the Army of administrative jurisdiction over the lands described in subsection (c) in order to facilitate administration of the White Sands National Monument and the White Sands Missile Range.

(b) DEFINITIONS.—In this section:

(1) MISSILE RANGE.—The term ''missile range'' means the White Sands Missile Range, New Mexico, administered by the Secretary of the Army.

(2) MONUMENT.—The term ''monument'' means the White Sands National Monument, New Mexico, established by Proclamation No. 2025 (16 U.S.C. 431 note) and administered by the Secretary of the Interior.

(c) EXCHANGE OF JURISDICTION.—The lands exchanged under this Act are the lands generally depicted on the map entitled ''White Sands National Monument, Boundary Proposal'', numbered 142/80,061 and dated January 1994, comprising—

(1) approximately 2,524 acres of land within the monument that is under the jurisdiction of the Secretary of the Army, which are transferred to the Secretary of the Interior;

(2) approximately 5,758 acres of land within the missile range abutting the monument, which are transferred to the Secretary of the Interior; and

(3) approximately 4,277 acres of land within the monument abutting the missile range, which are transferred to the Secretary of the Army.

(d) BOUNDARY MODIFICATION.—The boundary of the monument is modified to include the land transferred to the Secretary of the Interior and exclude the land transferred to the Secretary of the Army by subsection (c). The boundary of the missile range is modified accordingly.

(e) ADMINISTRATION.—

(1) MONUMENT.—The Secretary of the Interior shall administer the lands transferred to the Secretary of the Interior by subsection (c) in accordance with laws (including regulations) applicable to the monument.

(2) MISSILE RANGE.—The Secretary of the Army shall administer the lands transferred to the Secretary of the Army by subsection (c) as part of the missile range.

(3) AIRSPACE.—The Secretary of the Army shall maintain control of the airspace above the lands transferred to the Secretary of the Army by subsection (c) as part of the missile range.

(f) PUBLIC AVAILABILITY OF MAP.—The Secretary of the Interior and the Secretary of the Army shall prepare, and the Secretary of the Interior shall keep on file for public inspection in the headquarters of the monument, a map showing the boundary of the monument as modified by this Act.

(g) WAIVER OF LIMITATION UNDER PRIOR LAW.—Notwithstanding section 303(b)(1) of the National Parks and Recreation Act of 1978 (92 Stat. 3476), land or an interest in land that was deleted from the monument by section 301(19) of the Act (92 Stat. 3475) may be exchanged for land owned by the State of New Mexico within the boundaries of any unit of the National Park System in the State of New Mexico, may be transferred to the jurisdiction of any other Federal agency without monetary consideration, or may be administered as public land, as the Secretary considers appropriate.

SEC. 2837. BANDELIER NATIONAL MONUMENT.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) under the provisions of a special use permit, sewage lagoons for Bandelier National Monument, established by Proclamation No. 1322 (16 U.S.C. 431 note) (referred to in this section as the ''monument'') are located on land administered by the Secretary of Energy that is adjacent to the monument; and

(B) modification of the boundary of the monument to include the land on which the sewage lagoons are situated—

(i) would facilitate administration of both the monument and the adjacent land that would remain under the administrative jurisdiction of the Secretary of Energy; and

(ii) can be accomplished at no cost.

(2) PURPOSE.—The purpose of this section is to modify the boundary between the monument and adjacent Department of Energy land to facilitate management of the monument and Department of Energy land.

(b) BOUNDARY MODIFICATION.—

(1) TRANSFER OF ADMINISTRATIVE JURISDICTION.—There is transferred from the Secretary of Energy to the Secretary of the Interior administrative jurisdiction over the land comprising approximately 4.47 acres depicted on the map entitled ''Boundary Map, Bandelier National Monument'', No. 315/80,051, dated March 1995.

(2) BOUNDARY MODIFICATION.—The boundary of the monument is modified to include the land transferred by paragraph (1).

(3) PUBLIC AVAILABILITY OF MAP.—The map described in paragraph (1) shall be on file and available for public inspection in the Lands Office at the Southwest System Support Office of the National Park Service, Santa Fe, New Mexico, and in the Superintendent's Office of Bandelier National Monument.

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.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of $1,636,767,000, to be allocated as follows:

(1) For core stockpile stewardship, $1,200,907,000, to be allocated as follows:

(A) For operation and maintenance, $1,112,570,000.

(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), $88,337,000, to be allocated as follows:

Project 96–D–102, stockpile stewardship facilities revitalization, Phase VI, various locations, $19,250,000.

Project 96–D–103, ATLAS, Los Alamos National Laboratory, Los Alamos, New Mexico, $15,100,000.

Project 96–D–104, processing and environmental technology laboratory (PETL), Sandia National Laboratories, Albuquerque, New Mexico, $14,100,000.

Project 96–D–105, contained firing facility addition, Lawrence Livermore National Laboratory, Livermore, California, $17,100,000.

Project 95–D–102, Chemical and Metallurgy Research Building upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $15,000,000.

Project 94–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, $7,787,000.

(2) For inertial fusion, $366,460,000, to be allocated as follows:

(A) For operation and maintenance, $234,560,000.

(B) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto):

Project 96–D–111, national ignition facility, location to be determined, $131,900,000.

(3) For technology transfer and education, $69,400,000.

(b) STOCKPILE MANAGEMENT.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of $1,988,831,000, to be allocated as follows:

(1) For operation and maintenance, $1,894,470,000.

(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), $94,361,000, to be allocated as follows:

Project 97–D–121, consolidated pit packaging system, Pantex Plant, Amarillo, Texas, $870,000.

Project 97–D–122, nuclear materials storage facility renovation, Los Alamos National Laboratory, Los Alamos, New Mexico, $4,000,000.

Project 97–D–123, structural upgrades, Kansas City Plant, Kansas City, Missouri, $1,400,000.

Project 97–D–124, steam plant waste water treatment facility upgrade, Y–12 plant, Oak Ridge, Tennessee, $600,000.

Project 96–D–122, sewage treatment quality upgrade (STQU), Pantex Plant, Amarillo, Texas, $100,000.

Project 96–D–123, retrofit heating, ventilation, and air conditioning and chillers for ozone protection, Y–12 plant, Oak Ridge, Tennessee, $7,000,000.

Project 96–D–125, Washington measurements operations facility, Andrews Air Force Base, Camp Springs, Maryland, $3,825,000.

Project 95–D–122, sanitary sewer upgrade, Y–12 plant, Oak Ridge, Tennessee, $10,900,000.

Project 94–D–124, hydrogen fluoride supply system, Y–12 plant, Oak Ridge, Tennessee, $4,900,000.

Project 94–D–125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, $5,200,000.

Project 94–D–127, emergency notification system, Pantex Plant, Amarillo, Texas, $2,200,000.

Project 93–D–122, life safety upgrades, Y–12 plant, Oak Ridge, Tennessee, $7,200,000.

Project 93–D–123, non-nuclear reconfiguration, complex-21, various locations, $14,487,000.

Project 88–D–122, facilities capability assurance program, various locations, $21,940,000.

Project 88–D–123, security enhancement, Pantex Plant, Amarillo, Texas, $9,739,000.

(c) PROGRAM DIRECTION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for program direction in carrying out weapons activities necessary for national security programs in the amount of $323,404,000.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) ENVIRONMENTAL RESTORATION.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for environmental restoration in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,777,194,000.

(b) WASTE MANAGEMENT.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,601,653,000, to be allocated as follows:

(1) For operation and maintenance, $1,513,326,000.

(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), $88,327,000, to be allocated as follows:

Project 97–D–402, tank restoration and safe operations, Richland, Washington, $7,584,000.

Project 96–D–408, waste management upgrades, various locations, $11,246,000.

Project 95–D–402, install permanent electrical service, Waste Isolation Pilot Plant, Carlsbad, New Mexico, $752,000.

Project 95–D–405, industrial landfill V and construction/demolition landfill VII, Phase III, Y–12 Plant, Oak Ridge, Tennessee, $200,000.

Project 94–D–404, Melton Valley storage tank capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $6,345,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $12,600,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $8,100,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River Site, South Carolina, $20,000,000.

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, $10,000,000.

(c) TECHNOLOGY DEVELOPMENT.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for technology development in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $328,771,000.

(d) NUCLEAR MATERIALS AND FACILITIES STABILIZATION.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for nuclear materials and facilities stabilization in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $994,821,000, to be allocated as follows:

(1) For operation and maintenance, $909,664,000.

(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), $85,157,000, to be allocated as follows:

Project 97–D–450, actinide packaging and storage facility, Savannah River Site, Aiken, South Carolina, $7,900,000.

Project 97–D–451, B–plant safety class ventilation upgrades, Richland, Washington, $1,500,000.

Project 96–D–406, spent nuclear fuels canister storage and stabilization facility, Richland, Washington, $60,672,000.

Project 96–D–464, electrical and utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $10,440,000.

Project 95–D–456, security facilities upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $4,645,000.

(e) POLICY AND MANAGEMENT.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 policy and management activities (including development and direction of policy, training and education, and management) in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $26,155,000.

(f) SITE OPERATIONS.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for site operations in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $363,469,000, to be allocated as follows:

(1) For operation and maintenance, $331,054,000.

(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), $32,415,000, to be allocated as follows:

Project 96–D–461, electrical distribution upgrade, Idaho National Engineering Laboratory, Idaho, $6,790,000.

Project 96–D–470, environmental monitoring laboratory, Savannah River Site, Aiken, South Carolina, $2,500,000.

Project 96–D–471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, $8,541,000.

Project 96–D–473, health physics site support facility, Savannah River Site, Aiken, South Carolina, $2,000,000.

Project 95–E–600, hazardous materials management and emergency response training center, Richland, Washington, $7,900,000.

Project 95–D–155, upgrade site road infrastructure, Savannah River, South Carolina, $4,137,000.

Project 94–D–401, emergency response facility, Idaho National Engineering Laboratory, Idaho, $547,000.

(g) ENVIRONMENTAL SCIENCE AND RISK POLICY.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for environmental science and risk policy activities in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $52,136,000.

(h) ENVIRONMENTAL MANAGEMENT PRIVATIZATION.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for environmental management privatization activities in carrying out environmental restoration and waste management necessary for national security programs in the amount of $185,000,000.

(i) PROGRAM DIRECTION.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $436,511,000.

(j) 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 (i) reduced by the sum of—

(1) $150,400,000, for use of prior year balances; and

(2) $8,000,000, for Savannah River Pension Refund.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for other defense activities in carrying out programs necessary for national security in the amount of $1,560,700,000, to be allocated as follows:

(1) For verification and control technology, $456,348,000, to be allocated as follows:

(A) For nonproliferation and verification research and development, $204,919,000.

(B) For arms control, $216,244,000.

(C) For intelligence, $35,185,000.

(2) For nuclear safeguards and security, $47,208,000.

(3) For security investigations, $22,000,000.

(4) For environment, safety, and health, defense, $53,094,000.

(5) For program direction, environment, safety, and health, defense, $10,706,000.

(6) For worker and community transition assistance, $62,659,000.

(7) For program direction, worker and community transition assistance, $4,341,000.

(8) For fissile materials $93,796,000, to be allocated as follows:

(A) For control and disposition, $73,163,000.

(B) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto):

Project 97–D–140, consolidated special nuclear materials storage plant, location to be determined, $17,000,000.

(C) For program direction, $3,633,000.

(9) For emergency management, $16,794,000.

(10) For program direction, nonproliferation and national security, $90,622,000.

(11) For naval reactors development, $681,932,000, to be allocated as follows:

(A) For operation and infrastructure, $649,330,000.

(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), $13,700,000, to be allocated as follows:

Project 97–D–201, advanced test reactor secondary coolant system upgrades Idaho National Engineering Laboratory, Idaho, $400,000.

Project 95–D–200, laboratory systems and hot cell upgrades, various locations, $4,800,000.

Project 95–D–201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, $500,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $8,000,000.

(C) For program direction, $18,902,000.

(12) For international nuclear safety, $15,200,000.

(13) For nuclear security, $6,000,000.

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 $200,000,000.

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 $5,000,000.

(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 $5,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

(c) STUDY ON PERMANENT AUTHORIZATION FOR GENERAL PLANT PROJECTS.—Not later than February 1, 1997, the Secretary of Energy shall report to the appropriate congressional committees on the need for, and desirability of, a permanent authorization formula for defense and civilian general plant projects in the Department of Energy that includes periodic adjustments for inflation, including any legislative recommendations to enact such formula into permanent law. The report of the Secretary shall describe actions that would be taken by the Department to provide for cost control of general plant projects, taking into account the size and nature of such projects.

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 section 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. The Secretary shall submit to Congress a report on each conceptual design completed under this paragraph.

(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 $5,000,000; 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 appropriations 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. TRITIUM PRODUCTION.

(a) ACCELERATION OF TRITIUM PRODUCTION.—(1) The Secretary of Energy shall, during fiscal year 1997, make a final decision on the technologies to be utilized, and the accelerated schedule to be adopted, for tritium production in order to meet the requirements of the Nuclear Weapons Stockpile Memorandum relating to tritium production, including the new tritium production date of 2005 specified in the Nuclear Weapons Stockpile Memorandum.

(2) In making the final decision, the Secretary shall take into account the following:

(A) The requirements for tritium production specified in the Nuclear Weapons Stockpile Memorandum, including, in particular, the requirements for the ''upload hedge'' component of the nuclear weapons stockpile.

(B) The ongoing activities of the Department relating to the evaluation and demonstration of technologies under the accelerator reactor program and the commercial light water reactor program.

(b) REPORT.—(1) Not later than April 15, 1997, the Secretary shall submit to the Congress a report that sets forth the final decision of the Secretary under subsection (a)(1). The report shall set forth in detail—

(A) the technologies decided on under that subsection; and

(B) the accelerated schedule for the production of tritium decided on under that subsection.

(2) If the Secretary determines that it is not possible to make the final decision by the date specified in paragraph (1), the Secretary shall submit to Congress on that date a report that explains in detail why the final decision cannot be made by that date.

(c) NEW TRITIUM PRODUCTION FACILITY.—The Secretary shall commence planning and design activities and infrastructure development for a new tritium production facility.

(d) IN-REACTOR TESTS.—The Secretary may perform in-reactor tests of tritium target rods as part of the activities carried out under the commercial light water reactor program.

(e) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy pursuant to section 3101(b)(1)—

(1) not more than $45,000,000 shall be available for research, development, and technology demonstration activities and other activities relating to the production of tritium in accelerators;

(2) not more than $15,000,000 shall be available for the commercial light water reactor project, including activities relating to target development, extraction capability, and reactor acquisition or initial tritium operations; and

(3) not more than $100,000,000 shall be available for other tritium production research activities.

SEC. 3132. MODERNIZATION AND CONSOLIDATION OF TRITIUM RECYCLING FACILITIES.

(a) IN GENERAL.—The Secretary of Energy shall carry out activities to modernize and consolidate the facilities for recycling tritium for weapons at the Savannah River Site, South Carolina, so as to ensure that such facilities have a capacity to recycle tritium from weapons that is adequate to meet the tritium requirements for weapons specified in the Nuclear Weapons Stockpile Memorandum.

(b) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy pursuant to section 3101, not more than $6,000,000 shall be available for activities under subsection (a).

SEC. 3133. MODIFICATION OF REQUIREMENTS FOR MANUFACTURING INFRASTRUCTURE FOR REFABRICATION AND CERTIFICATION OF NUCLEAR WEAPONS STOCKPILE.

(a) GENERAL PROGRAM REQUIREMENTS.—Subsection (a) of section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 620; 42 U.S.C. 2121 note) is amended—

(1) by inserting ''(1)'' before ''The Secretary of Energy'';

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively; and

(3) by adding at the end the following:

''(2) The purpose of the program carried out under paragraph (1) shall also be to develop manufacturing capabilities and capacities necessary to meet the requirements specified in the annual Nuclear Weapons Stockpile Review.''.

(b) REQUIRED CAPABILITIES.—Subsection (b)(3) of such section is amended to read as follows:

''(3) The capabilities of the Savannah River Site relating to tritium recycling and fissile materials components processing and fabrication.''.

(c) PLAN AND REPORT.—Not later than March 1, 1997, the Secretary of Energy shall submit to Congress a report containing a plan for carrying out the program established under section 3137(a) of the National Defense Authorization Act for Fiscal Year 1996, as amended by this section. The report shall set forth the obligations that the Secretary has incurred, and proposes to incur, during fiscal year 1997 in carrying out the program.

(d) FUNDING.—Of the funds authorized to be appropriated pursuant to section 3101(b), $5,000,000 shall be available for carrying out the program established under section 3137(a) of the National Defense Authorization Act for Fiscal Year 1996, as so amended.

SEC. 3134. LIMITATION ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.

(a) LIMITATION.—No funds appropriated or otherwise made available to the Department of Energy for fiscal year 1997 under section 3101 may be obligated or expended for activities under the Department of Energy Laboratory Directed Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the national security mission of the Department of Energy.

(b) ANNUAL REPORT.—(1) The Secretary of Energy shall annually submit to the congressional defense committees a report on the funds expended during the preceding fiscal year on activities under the Department of Energy Laboratory Directed Research and Development Program. The purpose of the report is to permit an assessment of the extent to which such activities support the national security mission of the Department of Energy.

(2) Each report shall be prepared by the officials responsible for Federal oversight of the funds expended on activities under the program.

(3) Each report shall set forth the criteria utilized by the officials preparing the report in determining whether or not the activities reviewed by such officials support the national security mission of the Department.

SEC. 3135. ACCELERATED SCHEDULE FOR ISOLATING HIGH-LEVEL NUCLEAR WASTE AT THE DEFENSE WASTE PROCESSING FACILITY, SAVANNAH RIVER SITE.

The Secretary of Energy shall accelerate the schedule for the isolation of high-level nuclear waste in glass canisters at the Defense Waste Processing Facility at the Savannah River Site if the Secretary determines that the acceleration of such schedule—

(1) will achieve long-term cost savings to the Federal Government; and

(2) could accelerate the removal and isolation of high-level nuclear waste from long-term storage tanks at the site.

SEC. 3136. PROCESSING OF HIGH-LEVEL NUCLEAR WASTE AND SPENT NUCLEAR FUEL RODS.

(a) IN GENERAL.—In order to provide for an effective response to requirements for managing spent nuclear fuel that is sent to Department of Energy consolidation sites pursuant to the Department of Energy Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Final Environmental Impact Statement, dated April 1995, there shall be available to the Secretary of Energy, from amounts authorized to be appropriated pursuant to section 3102(b), the following amounts for the purposes stated:

(1) Not more than $65,700,000 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 Department of Energy aluminum clad spent fuel rods and foreign spent fuel rods in the H-canyon facility and F-canyon facility.

(2) Not more than $80,000,000 for the development and implementation of a program for the treatment, preparation, and conditioning of high-level nuclear waste associated with Department of Energy non-aluminum clad spent nuclear fuel rods (including naval spent nuclear fuel) for interim storage and final disposition.

(b) UPDATE OF IMPLEMENTATION PLAN.—Not later than April 30, 1997, the Secretary shall submit to Congress a plan which updates the five-year plan required by section 3142(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 622). The updated plan shall include—

(1) the matters required by paragraphs (1) through (4) of such section, current as of the date of the updated plan; and

(2) the assessment of the Secretary of the progress made in implementing the program covered by the plans.

SEC. 3137. FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX.

(a) FUNDING.—Subject to subsection (b), of the funds authorized to be appropriated pursuant to section 3101(b), $5,000,000 may be

used for conducting the fellowship program for the development of skills critical to the ongoing mission of the Department of Energy nuclear weapons complex required by section 3140 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 621; 42 U.S.C. 2121 note).

(b) NOTICE AND WAIT.—The Secretary of Energy may not obligate or expend funds under subsection (a) for the fellowship program referred to in that subsection until—

(1) the Secretary submits to Congress a report setting forth—

(A) the steps the Department has taken to implement the fellowship program;

(B) the amount the Secretary proposes to obligate; and

(C) the purposes for which such amount will be obligated; and

(2) a period of 21 days elapses from the date of the receipt of the report by Congress.

SEC. 3138. PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE AT NEVADA TEST SITE.

Notwithstanding any other provision of law and effective as of September 30, 1996, the costs associated with operating and maintaining the infrastructure at the Nevada Test Site, Nevada, with respect to any activities initiated at the site after that date by the Department of Defense pursuant to a work for others agreement may be paid for from funds authorized to be appropriated to the Department of Energy for activities at the Nevada Test Site.

Subtitle D—Other Matters

SEC. 3151. REQUIREMENT FOR ANNUAL FIVE-YEAR BUDGET FOR THE NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

(a) REQUIREMENT.—The Secretary of Energy shall prepare each year a budget for the national security programs of the Department of Energy for the five-year period beginning in the year the budget is prepared. Each budget shall contain the estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the national security programs during the five-year period covered by the budget and shall be at a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) SUBMITTAL.—The Secretary shall submit each year to the congressional defense committees the budget required under subsection (a) in that year at the same time as the President submits to Congress the budget for the coming fiscal year pursuant to such section 1105.

SEC. 3152. REQUIREMENTS FOR DEPARTMENT OF ENERGY WEAPONS ACTIVITIES BUDGETS FOR FISCAL YEARS AFTER FISCAL YEAR 1997.

(a) IN GENERAL.—The weapons activities budget of the Department of Energy for any fiscal year after fiscal year 1997 shall—

(1) set forth with respect to each of the activities under the budget (including stockpile stewardship, stockpile management, and program direction) the funding requested to carry out each project or activity that is necessary to meet the requirements of the Nuclear Weapons Stockpile Memorandum; and

(2) identify specific infrastructure requirements arising from the Nuclear Posture Review, the Nuclear Weapons Stockpile Memorandum, 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 any fiscal year after fiscal year 1997 that is submitted by the President pursuant to section 1105 of title 31, United States Code, the following:

(1) A long-term program plan, and a near-term program plan, for the certification and stewardship of the nuclear weapons stockpile.

(2) An assessment of the effects of the plans referred to in paragraph (1) on each nuclear weapons laboratory and each nuclear weapons production plant.

(c) DEFINITIONS.—In this section:

(1) 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.

(2) The term ''nuclear weapons laboratory'' means the following:

(A) Lawrence Livermore National Laboratory, California.

(B) Los Alamos National Laboratory, New Mexico.

(C) Sandia National Laboratories.

(3) The term ''nuclear weapons production plant'' means the following:

(A) The Pantex Plant.

(B) The Savannah River Site.

(C) The Kansas City Plant, Missouri.

(D) The Y–12 Plant, Oak Ridge, Tennessee.

SEC. 3153. REPEAL OF REQUIREMENT RELATING TO ACCOUNTING PROCEDURES FOR DEPARTMENT OF ENERGY FUNDS.

Section 3151 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3089) is repealed.

SEC. 3154. PLANS FOR ACTIVITIES TO PROCESS NUCLEAR MATERIALS AND CLEAN UP NUCLEAR WASTE AT THE SAVANNAH RIVER SITE.

(a) NEAR-TERM PLAN FOR PROCESSING SPENT FUEL RODS.—(1) Not later than March 15, 1997, the Secretary of Energy shall submit to Congress a plan for a near-term program to process the spent nuclear fuel rods described in paragraph (2) in the H-canyon facility and the F-canyon facility at the Savannah River Site. The plan shall include cost projections and resource requirements for the program and identify program milestones for the program.

(2) The spent nuclear fuel rods to be processed under the program referred to in paragraph (1) are the following:

(A) Spent nuclear fuel rods produced at the Savannah River Site.

(B) Spent nuclear fuel rods being sent to the site from other Department of Energy facilities for processing, interim storage, and other treatment.

(C) Foreign nuclear spent fuel rods being sent to the site for processing, interim storage, and other treatment.

(b) MULTI-YEAR PLAN FOR CLEAN-UP AT SITE.—The Secretary shall develop and implement a multi-year plan for the clean-up of nuclear waste at the Savannah River Site that results, or has resulted, from the following:

(1) Nuclear weapons activities carried out at the site.

(2) The processing of Department of Energy domestic and foreign spent nuclear fuel rods at the site.

(c) REQUIREMENT FOR CONTINUING OPERATIONS.—The Secretary shall continue operations and maintain a high state of readiness at the H-canyon facility and the F-canyon facility at the Savannah River Site, and shall provide technical staff necessary to operate and so maintain such facilities, pending the development and implementation of the plan referred to in subsection (b).

SEC. 3155. UPDATE OF REPORT ON NUCLEAR TEST READINESS POSTURES.

Not later than February 15, 1997, the Secretary of Energy shall submit to Congress a report which updates the report submitted by the Secretary under section 3152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 623). The updated report shall include the matters specified under such section, current as of the date of the updated report.

SEC. 3156. REPORTS ON CRITICAL DIFFICULTIES AT NUCLEAR WEAPONS LABORATORIES AND NUCLEAR WEAPONS PRODUCTION PLANTS.

(a) REPORTS BY HEADS OF LABORATORIES AND PLANTS.—In the event of a difficulty at a nuclear weapons laboratory or a nuclear weapons production plant that has a significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, the head of the laboratory or plant, as the case may be, shall submit to the Assistant Secretary of Energy for Defense Programs a report on the difficulty. The head of the laboratory or plant shall submit the report as soon as practicable after discovery of the difficulty.

(b) TRANSMITTAL BY ASSISTANT SECRETARY.—As soon as practicable after receipt of a report under subsection (a), the Assistant Secretary shall transmit the report (together with the comments of the Assistant Secretary) to the congressional defense committees and to the Secretary of Energy and the Secretary of Defense.

(c) REPORTS BY NUCLEAR WEAPONS COUNCIL.—Section 179 of title 10, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

''(e) In addition to the responsibilities set forth in subsection (d), the Council shall also submit to Congress a report on any analysis conducted by the Council with respect to difficulties at nuclear weapons laboratories or nuclear weapons production plants that have significant bearing on confidence in the safety or reliability of nuclear weapons or nuclear weapon types.''.

(d) DEFINITIONS.—In this section:

(1) The term ''nuclear weapons laboratory'' means the following:

(A) Lawrence Livermore National Laboratory, California.

(B) Los Alamos National Laboratory, New Mexico.

(C) Sandia National Laboratories.

(2) The term ''nuclear weapons production plant'' means the following:

(A) The Pantex Plant.

(B) The Savannah River Site.

(C) The Kansas City Plant, Missouri.

(D) The Y–12 Plant, Oak Ridge, Tennessee.

SEC. 3157. EXTENSION OF APPLICABILITY OF NOTICE-AND-WAIT REQUIREMENT REGARDING PROPOSED COOPERATION AGREEMENTS.

Section 3155(b) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 2153 note) is amended by striking out ''October 1, 1996'' and inserting in lieu thereof ''December 31, 1997''.

SEC. 3158. SENSE OF CONGRESS RELATING TO REDESIGNATION OF DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT PROGRAM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the program of the Department of Energy known as the Defense Environmental Restoration and Waste Management Program, and also known as the Environmental Management Program, be redesignated as the Defense Nuclear Waste Management Program of the Department of Energy.

(b) REPORT ON REDESIGNATION.—Not later than January 31, 1997, the Secretary of Energy shall submit to the congressional defense committees a report on the costs and other difficulties, if any, associated with the following:

(1) The redesignation of the program of known as the Defense Environmental Restoration and Waste Management Program,

and also known as the Environmental Management Program, as the Defense Nuclear Waste Management Program of the Department of Energy.

(2) The redesignation of the Defense Environmental Restoration and Waste Management Account as the Defense Nuclear Waste Management Account.

SEC. 3159. COMMISSION ON MAINTAINING UNITED STATES NUCLEAR WEAPONS EXPERTISE.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the ''Commission on Maintaining United States Nuclear Weapons Expertise'' (in this section referred to as the ''Commission'').

(b) ORGANIZATIONAL MATTERS.—(1)(A) The Commission shall be composed of nine members appointed from among individuals in the public and private sectors who have significant experience in matters relating to nuclear weapons as follows:

(i) Two shall be appointed by the Majority Leader of the Senate (in consultation with the Minority Leader of the Senate).

(ii) One shall be appointed by the Minority Leader of the Senate (in consultation with the Majority Leader of the Senate).

(iii) Two shall be appointed by the Speaker of the House of Representatives (in consultation with the Minority Leader of the House of Representatives).

(iv) One shall be appointed by the Minority Leader of the House of Representatives (in consultation with the Speaker of the House of Representatives).

(v) Three shall be appointed by the Secretary of Energy.

(B) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(C) The chairman of the Commission shall be designated from among the members of the Commission appointed under subparagraph (A) by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate.

(2) The members of the Commission shall establish procedures for the activities of the Commission, including procedures for calling meetings, requirements for quorums, and the manner of taking votes.

(c) DUTIES.—(1) The Commission shall develop a plan for recruiting and retaining within the Department of Energy nuclear weapons complex such scientific, engineering, and technical personnel as the Commission determines appropriate in order to permit the Department to maintain over the long term a safe and reliable nuclear weapons stockpile without engaging in underground testing.

(2) In developing the plan, the Commission shall—

(A) identify actions that the Secretary may undertake to attract qualified scientific, engineering, and technical personnel to the nuclear weapons complex of the Department; and

(B) review and recommend improvements to the on-going efforts of the Department to attract such personnel to the nuclear weapons complex.

(d) REPORT.—Not later than March 15, 1998, the Commission shall submit to the Secretary and to Congress a report containing the plan developed under subsection (c). The report may include recommendations for legislation and administrative action.

(e) COMMISSION PERSONNEL MATTERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) The Commission may, without regard to the civil service laws and regulations, appoint and terminate such personnel as may be necessary to enable the Commission to perform its duties. The Commission may fix the compensation of the personnel of the Commission without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(4) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) TERMINATION.—The Commission shall terminate 30 days after the date on which the Commission submits its report under subsection (d).

(g) APPLICABILITY OF FACA.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission.

(h) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 3101, not more than $1,000,000 shall be available for the activities of the Commission under this section. Funds made available to the Commission under this section shall remain available until expended.

SEC. 3160. SENSE OF SENATE REGARDING RELIABILITY AND SAFETY OF REMAINING NUCLEAR FORCES.

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

(1) The United States is committed to proceeding with a robust science-based stockpile stewardship program with respect to production of nuclear weapons, and to maintaining nuclear weapons production capabilities and capacities, that are adequate—

(A) to ensure the safety, reliability, and performance of the United States nuclear arsenal; and

(B) to meet such changing national security requirements as may result from international developments or technical problems with nuclear warheads.

(2) The United States is committed to reestablishing and maintaining production of nuclear weapons at levels that are sufficient—

(A) to satisfy requirements for the safety, reliability, and performance of United States nuclear weapons; and

(B) to demonstrate and sustain production capabilities and capacities.

(3) The United States is committed to maintaining the nuclear weapons laboratories and protecting core nuclear weapons competencies.

(4) The United States is committed to ensuring the rapid access to a new production source of tritium within the next decade, as it currently has no meaningful capability to produce tritium, a component that is essential to the performance of modern nuclear weapons.

(5) The United States reserves the right, consistent with United States law, to resume underground nuclear testing to maintain confidence in the United States' stockpile of nuclear weapons if warhead design flaws or aging of nuclear weapons result in problems that a robust stockpile stewardship program cannot solve.

(6) The United States is committed to funding the Nevada Test Site at a level that maintains the ability of the United States to resume underground nuclear testing within one year after a national decision to do so is made.

(7) The United States reserves the right to invoke the supreme national interest of the United States and withdraw from any future arms control agreement to limit underground nuclear testing.

(b) SENSE OF THE SENATE REGARDING PRESIDENTIAL CONSULTATION WITH CONGRESS.—It is the sense of the Senate that the President should consult closely with Congress regarding United States policy and practices to ensure confidence in the safety and reliability of the nuclear stockpile of the United States.

(c) SENSE OF THE SENATE REGARDING NOTIFICATION AND CONSULTATION.—It is the sense of the Senate that, upon a determination by the President that a problem with the safety or reliability of the nuclear stockpile has occurred and that the problem cannot be corrected within the stockpile stewardship program, the President shall—

(1) immediately notify Congress of the problem; and

(2) submit to Congress in a timely manner a plan for corrective action with respect to the problem, including—

(A) a technical description of the activities required under the plan; and

(B) if underground testing of nuclear weapons would assist in such corrective action, an assessment of advisability of withdrawing from any treaty that prohibits underground testing of nuclear weapons.

SEC. 3161. REPORT ON DEPARTMENT OF ENERGY LIABILITY AT DEPARTMENT SUPERFUND SITES.

(a) STUDY.—The Secretary of Energy shall, using funds authorized to be appropriated to the Department of Energy by section 3102, carry out a study of the liability of the Department for damages for injury to, destruction of, or loss of natural resources under section 107(a)(4)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)(4)(C)) at each site controlled or operated by the Department that is or is anticipated to become subject to the provisions of that Act.

(b) CONDUCT OF STUDY.—(1) The Secretary shall carry out the study using personnel of the Department or by contract with an appropriate private entity.

(2) In determining the extent of Department liability for purposes of the study, the Secretary shall treat the Department as a private person liable for damages under section 107(f) of that Act (42 U.S.C. 9607(f)) and subject to suit by public trustees of natural resources under such section 107(f) for such damages.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit a report on the study carried out under subsection (a) to the following committees:

(1) The Committees on Environment and Public Works and Armed Services and Energy and Natural Resources of the Senate.

(2) The Committees on Commerce and National Security and Resources of the House of Representatives.

SEC. 3162. FISCAL YEAR 1998 FUNDING FOR GREENVILLE ROAD IMPROVEMENT PROJECT, LIVERMORE, CALIFORNIA.

(a) FUNDING.—The Secretary of Energy shall include in budget for fiscal year 1998 submitted by the Secretary of Energy to the Office of Management and Budget, a request

for sufficient funds to pay the United States portion of the cost of transportation improvements under the Greenville Road Improvement Project, Livermore, California.

(b) COOPERATION WITH LIVERMORE, CALIFORNIA.—The Secretary shall work with the City of Livermore, California, to determine the cost of the transportation improvements referred to in subsection (a).

SEC. 3163. OPPORTUNITY FOR REVIEW AND COMMENT BY STATE OF OREGON REGARDING CERTAIN REMEDIAL ACTIONS AT HANFORD RESERVATION, WASHINGTON.

(a) OPPORTUNITY.—(1) Subject to subsection (b), the Site Manager at the Hanford Reservation, Washington, shall, in consultation with the signatories to the Tri-Party Agreement, provide the State of Oregon an opportunity to review and comment upon any information the Site Manager provides the State of Washington under the Hanford Tri-Party Agreement if the agreement provides for the review of and comment upon such information by the State of Washington.

(2) In order to facilitate the review and comment of the State of Oregon under paragraph (1), the Site Manager shall provide information referred to in that paragraph to the State of Oregon at the same time, or as soon thereafter as is practicable, that the Site Manager provides such information to the State of Washington

(b) CONSTRUCTION.—This section may not be construed—

(1) to require the Site Manager to provide the State of Oregon sensitive information on enforcement under the Tri-Party Agreement or information on the negotiation, dispute resolution, or State cost recovery provisions of the agreement;

(2) to require the Site Manager to provide confidential information on the budget or procurement at Hanford under terms other than those provided in the Tri-Party Agreement for the transmission of such confidential information to the State of Washington;

(3) to authorize the State of Oregon to participate in enforcement actions, dispute resolution, or negotiation actions conducted under the provisions of the Tri-Party Agreement;

(4) to authorize any delay in the implementation of remedial, environmental management, or other programmatic activities at Hanford; or

(5) to require the Department of Energy to provide funds to the State of Oregon.

SEC. 3164. SENSE OF SENATE ON HANFORD MEMORANDUM OF UNDERSTANDING.

It is the sense of the Senate that—

(1) the State of Oregon has the authority to enter into a memorandum of understanding with the State of Washington, or a memorandum of understanding with the State of Washington and the Site Manager of the Hanford Reservation, Washington, in order to address issues of mutual concern to such States regarding the Hanford Reservation; and

(2) such agreements are not expected to create any additional obligation of the Department of Energy to provide funds to the State of Oregon.

SEC. 3165. FOREIGN ENVIRONMENTAL TECHNOLOGY.

Section 2536(b) of title 10, United States Code, is amended to read as follows:

(b) WAIVER AUTHORITY.—(1) The Secretary concerned may waive the application of subsection (a) to a contract award if—

(A) the Secretary concerned determines that the waiver is essential to the national security interests of the United States; or

(B) in the case of a Department of Energy contract awarded for environmental restoration, remediation, or waste management at a Department of Energy facility—

(i) the Secretary determines that the waiver will advance the environmental restoration, remediation, or waste management objectives of the Department of Energy and will not harm the national security interests of the United States; and

(ii) the entity to which the contract is awarded is controlled by a foreign government with which the Secretary is authorized to exchange Restricted Data under section 144(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2164(c)).

(2) The Secretary of Energy shall notify the appropriate committees of Congress of any decision to grant a waiver under paragraph (1)(B). The contract may be executed only after the end of the 45-day period beginning on the date the notification is received by the committees.

SEC. 3166. STUDY ON WORKER PROTECTION AT THE MOUND FACILITY.

(a) Not later than March 15, 1997, the Secretary of Energy shall report to the defense committees of the Congress regarding the status of projects and programs to improve worker safety and health at the Mound Facility in Miamisburg, Ohio.

(b) The report shall include the following:

(1) the status of actions completed in fiscal year 1996;

(2) the status of actions completed or proposed to be completed in fiscal years 1997 and 1998;

(3) a description of the fiscal year 1998 budget request for Mound worker safety and health protection; and

(4) an accounting of expenditures for worker safety and health at Mound by year from fiscal year 1994 through and including fiscal year 1996.

Subtitle E—Environmental Restoration at Defense Nuclear Facilities

SEC. 3171. SHORT TITLE.

This subtitle may be cited as the ''Defense Nuclear Facility Environmental Restoration Pilot Program Act of 1996''.

SEC. 3172. APPLICABILITY.

(a) IN GENERAL.—The provisions of this subtitle shall apply to the following defense nuclear facilities:

(1) Hanford.

(2) Any other defense nuclear facility if—

(A) the chief executive officer of the State in which the facility is located submits to the Secretary a request that the facility be covered by the provisions of this subtitle; and

(B) the Secretary approves the request.

(b) LIMITATION.—The Secretary may not approve a request under subsection (a)(2) until 60 days after the date on which the Secretary notifies the congressional defense committees of the Secretary's receipt of the request.

SEC. 3173. DESIGNATION OF COVERED FACILITIES AS ENVIRONMENTAL CLEANUP DEMONSTRATION AREAS.

(a) DESIGNATION.—Each defense nuclear facility covered by this subtitle under section 3172(a) is hereby designated as an environmental cleanup demonstration area. The purpose of the designation is to establish each such facility as a demonstration area at which to utilize and evaluate new technologies to be used in environmental restoration and remediation at other defense nuclear facilities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal and State regulatory agencies, members of the surrounding communities, and other affected parties with respect to each defense nuclear facility covered by this subtitle should continue to—

(1) develop expedited and streamlined processes and systems for cleaning up such facility;

(2) eliminate unnecessary administrative complexity and unnecessary duplication of regulation with respect to the clean up of such facility;

(3) proceed expeditiously and cost-effectively with environmental restoration and remediation activities at such facility;

(4) consider future land use in selecting environmental clean up remedies at such facility; and

(5) identify and recommend to Congress changes in law needed to expedite the clean up of such facility.

SEC. 3174. SITE MANAGERS.

(a) APPOINTMENT.—(1)(A) The Secretary shall appoint a site manager for Hanford not later than 90 days after the date of the enactment of this Act.

(B) The Secretary shall develop a list of the criteria to be used in appointing a site manager for Hanford. The Secretary may consult with affected and knowledgeable parties in developing the list.

(2) The Secretary shall appoint the site manager for any other defense nuclear facility covered by this subtitle not later than 90 days after the date of the approval of the request with respect to the facility under section 3172(a)(2).

(3) An individual appointed as a site manager under this subsection shall, if not an employee of the Department at the time of the appointment, be an employee of the Department while serving as a site manager under this subtitle.

(b) DUTIES.—(1) Subject to paragraphs (2) and (3), in addition to other authorities provided for in this subtitle, the site manager for a defense nuclear facility shall have full authority to oversee and direct operations at the facility, including the authority to—

(A) enter into and modify contractual agreements to enhance environmental restoration and waste management at the facility;

(B) request that the Department headquarters submit to Congress a reprogramming package shifting among accounts funds available for the facility in order to facilitate the most efficient and timely environmental restoration and waste management at the facility, and, in the event that the Department headquarters does not act upon the request within 30 days of the date of the request, submit such request to the appropriate committees of Congress for review;

(C) negotiate amendments to environmental agreements applicable to the facility for the Department; and

(D) manage environmental management and programmatic personnel of the Department at the facility.

(2) A site manager shall negotiate amendments under paragraph (1)(C) with the concurrence of the Secretary.

(3) A site manager may not undertake or provide for any action under paragraph (1) that would result in an expenditure of funds for environmental restoration or waste management at the defense nuclear facility concerned in excess of the amount authorized to be expended for environmental restoration or waste management at the facility without the approval of such action by the Secretary.

(c) INFORMATION ON PROGRESS.—The Secretary shall regularly inform Congress of the progress made by site managers under this subtitle in achieving expedited environmental restoration and waste management at the defense nuclear facilities covered by this subtitle.

SEC. 3175. DEPARTMENT OF ENERGY ORDERS.

Effective 60 days after the appointment of a site manager for a defense nuclear facility under section 3174(a), an order relating to the execution of environmental restoration, waste management, technology development, or other site operation activities at

the facility may be imposed at the facility if the Secretary makes a finding that the order—

(1) is essential to the protection of human health or the environment or to the conduct of critical administrative functions; and

(2) will not interfere with bringing the facility into compliance with environmental laws, including the terms of any environmental agreement.

SEC. 3176. DEMONSTRATIONS OF TECHNOLOGY FOR REMEDIATION OF DEFENSE NUCLEAR WASTE.

(a) IN GENERAL.—The site manager for a defense nuclear facility under this subtitle shall promote the demonstration, verification, certification, and implementation of innovative environmental technologies for the remediation of defense nuclear waste at the facility.

(b) DEMONSTRATION PROGRAM.—To carry out subsection (a), each site manager shall establish a program at the defense nuclear facility concerned for testing environmental technologies for the remediation of defense nuclear waste at the facility. In establishing such a program, the site manager may—

(1) establish a simplified, standardized, and timely process for the testing and verification of environmental technologies;

(2) solicit and accept applications to test environmental technology suitable for environmental restoration and waste management activities at the facility, including prevention, control, characterization, treatment, and remediation of contamination;

(3) consult and cooperate with the heads of existing programs at the facility for the certification and verification of environmental technologies at the facility; and

(4) pay the costs of the demonstration of such technologies.

(c) FOLLOW-ON CONTRACTS.—(1) If the Secretary and a person demonstrating a technology under the program enter into a contract for remediation of nuclear waste at a defense nuclear facility covered by this subtitle, or at any other Department facility, as a follow-on to the demonstration of the technology, the Secretary shall ensure that the contract provides for the Secretary to recoup from the contractor the costs incurred by the Secretary pursuant to subsection (b)(4) for the demonstration.

(2) No contract between the Department and a contractor for the demonstration of technology under subsection (b) may provide for reimbursement of the costs of the contractor on a cost plus fee basis.

(d) SAFE HARBORS.—In the case of an environmental technology demonstrated, verified, certified, and implemented at a defense nuclear facility under a program established under subsection (b), the site manager of another defense nuclear facility may request the Secretary to waive or limit contractual or Department regulatory requirements that would otherwise apply in implementing the same environmental technology at such other facility.

SEC. 3177. REPORTS TO CONGRESS.

Not later than 120 days after the date of the appointment of a site manager under section 3174(a), the site manager shall submit to Congress and the Secretary a report describing the expectations of the site manager with respect to environmental restoration and waste management at the defense nuclear facility concerned by reason of the exercise of the authorities provided in this subtitle. The report shall describe the manner in which the exercise of such authorities is expected to improve environmental restoration and waste management at the facility and identify saving that are expected to accrue to the Department as a result of the exercise of such authorities.

SEC. 3178. TERMINATION.

The authorities provided for in this subtitle shall expire five years after the date of the enactment of this Act.

SEC. 3179. DEFINITIONS.

In this subtitle:

(1) The term ''Department'' means the Department of Energy.

(2) The term ''defense nuclear facility'' has the meaning given the term ''Department of Energy defense nuclear facility'' in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

(3) The term ''Hanford'' means the defense nuclear facility located in southeastern Washington State known as the Hanford Reservation, Washington.

(4) The term ''Secretary'' means the Secretary of Energy.

Subtitle F—Waste Isolation Pilot Plant Land Withdrawal Act Amendments.

SEC. 3181. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This subtitle may be cited as the ''Waste Isolation Pilot Plant Land Withdrawal Amendment Act''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this subtitle 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 the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102–579).

SEC. 3182. DEFINITIONS.

Paragraphs (18) and (19) of section 2 are repealed.

SEC. 3183. TEST PHASE AND RETRIEVAL PLANS.

Section 5 and the item relating to such section in the table of contents are repealed.

SEC. 3184. MANAGEMENT PLAN.

Section 4(b)(5)(B) is amended by striking ''or with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)''.

SEC. 3185. TEST PHASE ACTIVITIES.

Section 6 is amended—

(1) by repealing subsections (a) and (b),

(2) by repealing paragraph (1) of subsection (c),

(3) by redesignating subsection (c) as subsection (a) and in that subsection—

(A) by repealing subparagraph (A) of paragraph (2),

(B) by striking the subsection heading and the matter immediately following the subsection heading and inserting ''STUDY.—The following study shall be conducted:'',

(C) by striking ''(2) REMOTE-HANDLED WASTE.—'',

(D) by striking ''(B) STUDY.—'',

(E) by redesignating clauses (i), (ii), and (iii) as paragraphs (1), (2), and (3), respectively, and

(F) by realigning the margins of such clauses to be margins of paragraphs,

(4) in subsection (d), by striking '', during the test phase, a biennial'' and inserting ''a'' and by striking '', consisting of a documented analysis of'' and inserting ''as necessary to demonstrate'', and

(5) by redesignating subsection (d) as subsection (b).

SEC. 3186. DISPOSAL OPERATIONS.

Section 7(b) is amended to read as follows:

''(b) REQUIREMENTS FOR COMMENCEMENT OF DISPOSAL OPERATIONS.—The Secretary may commence emplacement of transuranic waste underground for disposal at WIPP only upon completion of—

''(1) the Administrator's certification under section 8(d)(1) that the WIPP facility will comply with the final disposal regulations;

''(2) the acquisition by the Secretary (whether by purchase, condemnation, or otherwise) of Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C, unless the Administrator determines, under section 4(b)(5), that such acquisition is not required; and,

''(3) the expiration of the 30-day period beginning on the date on which the Secretary notifies Congress that the requirements of section 9(a)(1) have been met.''.

SEC. 3187. ENVIRONMENTAL PROTECTION AGENCY DISPOSAL REGULATIONS.

(a) SECTION 8(d)(1).—Section 8(d)(1) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) APPLICATION FOR COMPLIANCE.—Within 30 days after the date of the enactment of the Waste Isolation Pilot Plant Land Withdrawal Amendment Act, the Secretary shall provide to Congress a schedule for the incremental submission of chapters of the application to the Administrator beginning no later than 30 days after such date. The Administrator shall review the submitted chapters and provide requests for additional information from the Secretary as needed for completeness within 45 days of the receipt of each chapter. The Administrator shall notify Congress of such requests. The schedule shall call for the Secretary to submit all chapters to the Administrator no later than October 31, 1996. The Administrator may at any time request additional information from the Secretary as needed to certify, pursuant to subparagraph (B), whether the WIPP facility will comply with the final disposal regulations.''; and

(2) in subparagraph (D), by striking ''after the application is'' and inserting ''after the full application has been''.

(b) SECTION 8(d) (2) and (3).—Section 8(d) is amended by striking paragraphs (2) and (3), by striking ''(1) COMPLIANCE WITH DISPOSAL REGULATIONS.—'', and by redesignating subparagraphs (A), (B), (C), and (D) of paragraph (1) as paragraph (1), (2), (3), and (4), respectively.

(c) SECTION 8(g).—Section 8(g) is amended to read as follows:

''(g) ENGINEERED AND NATURAL BARRIERS, ETC.—The Secretary shall use both engineered and natural barriers and any other measures (including waste form modifications) to the extent necessary at WIPP to comply with the final disposal regulations.''.

SEC. 3188. COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS.

(a) SECTION 9(a)(1).—Section 9(a)(1) is amended by adding after and below subparagraph (H) the following: ''With respect to transuranic mixed waste designated by the Secretary for disposal at WIPP, such waste is exempt from treatment standards promulgated pursuant to section 3004(m) of the Solid Waste Disposal Act (42 U.S.C. 6924(m)) and shall not be subject to the land disposal prohibitions in section 3004(d), (e), (f), and (g) of the Solid Waste Disposal Act.''.

(b) SECTION 9(b).—Subsection (b) of section 9 is repealed.

(c) SECTION 9(c)(2).—Subsection (c)(2) of section 9 is repealed.

(d) SECTION 14.—Section 14 is amended—

(1) in subsection (a), by striking ''No provision'' and inserting ''Except for the exemption from the land disposal restrictions described in section 9(a)(1), no provision''; and

(2) in subsection (b)(2), by striking ''including all terms and conditions of the No-Migration Determination'' and inserting ''except that the transuranic mixed waste designated by the Secretary for disposal at WIPP is exempt from the land disposal restrictions described in section 9(a)(1)''.

SEC. 3189. RETRIEVABILITY.

(a) SECTION 10.—Section 10 is amended to read as follows:

''SEC. 10. TRANSURANIC WASTE.

''It is the intent of Congress that the Secretary will complete all actions required

under section 7(b) to commence emplacement of transuranic waste underground for disposal at WIPP no later than November 30, 1997.''.

(b) CONFORMING AMENDMENT.—The item relating to section 10 in the table of contents is amended to read as follows:

''Sec. 10. Transuranic waste.''.

SEC. 3190. DECOMMISSIONING OF WIPP

Section 13 is amended—

(1) by repealing subsection (a), and

(2) in subsection (b), by striking ''(b) MANAGEMENT PLAN FOR THE WITHDRAWAL AFTER DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the'' and inserting ''The''.

SEC. 3191. ECONOMIC ASSISTANCE AND MISCELLANEOUS PAYMENTS.

(a) Section 15(a) is amended by adding at the end the following: ''An appropriation to the State shall be in addition to any appropriation for WIPP.''.

(b) $20,000,000 is authorized to be appropriated in fiscal year 1997 to the Secretary for payment to the State of New Mexico for road improvements in connection with the WIPP.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1997, $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

SEC. 3301. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) OBLIGATIONS AUTHORIZED.—During fiscal year 1997, the National Defense Stockpile Manager may obligate up to $60,000,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section.

(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. 3302. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL REQUIRED.—The President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in amounts equal to—

(1) $338,000,000 during the five-fiscal year period ending on September 30, 2001; and

(2) $649,000,000 during the seven-fiscal year period ending on September 30, 2003.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	30,000,000 pounds contained
Columbium Ferro	930,911 pounds contained
Germanium Metal	40,000 kilograms
Indium	35,000 troy ounces
Palladium	15,000 troy ounces
Platinum	10,000 troy ounces
Rubber, Natural	125,138 long tons
Tantalum, Carbide Powder	6,000 pounds contained
Tantalum, Minerals	750,000 pounds contained
Tantalum, Oxide	40,000 pounds contained

(c) DEPOSIT OF RECEIPTS.—(1) Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) and except as provided in paragraph (2), funds received as a result of the disposal of materials under subsection (a) shall be deposited into the general fund of the Treasury.

(2) Funds received as a result of such disposal in excess of the amount of receipts specified in subsection (a)(2) shall be deposited in the National Defense Stockpile Transaction Fund established by section 9(a) of that Act.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) DEFINITION.—The term ''National Defense Stockpile'' means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 3303. ADDITIONAL AUTHORITY TO DISPOSE OF MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL REQUIRED.—Subject to subsection (c), the President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in amounts equal to—

(1) $110,000,000 during the five-fiscal year period ending September 30, 2001;

(2) $260,000,000 during the seven-fiscal year period ending September 30, 2003; and

(3) $440,000,000 during the nine-fiscal year period ending September 30, 2005.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Chrome Metal, Electrolytic	8,471 short tons
Cobalt	9,902,774 pounds
Columbium Carbide	21,372 pounds
Columbium Ferro	249,395 pounds
Diamond, Bort	91,542 carats
Diamond, Stone	3,029,413 carats
Germanium	28,207 kilograms
Indium	15,205 troy ounces
Palladium	1,249,601 troy ounces
Platinum	442,641 troy ounces
Rubber	567 long tons
Tantalum, Carbide Powder	22,688 pounds contained
Tantalum, Minerals	1,748,947 pounds contained
Tantalum, Oxide	123,691 pounds contained
Titanium Sponge	36,830 short tons
Tungsten	76,358,235 pounds
Tungsten, Carbide	2,032,942 pounds
Tungsten, Metal Powder	1,181,921 pounds
Tungsten, Ferro	2,024,143 pounds

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) TREATMENT OF RECEIPTS.—(1) Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a) shall be deposited into the general fund of the Treasury and used to offset the revenues lost as a result of the amendments made by subsection (a) of section 4303 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 658).

(2) This section shall be treated as qualifying offsetting legislation for purposes of subsection (b) of such section 4303.

(e) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(f) DEFINITION.—The term ''National Defense Stockpile'' means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(g) ADDITIONAL LIMITATION.—Of the amounts listed in the table in subsection (b), titanium sponge may be sold only to the extent necessary to attain the level of receipts specified in subsection (a), after taking into account the estimated receipts from the other materials in such table.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to the Secretary of Energy $149,500,000 for fiscal year 1997 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.

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE.

This title may be cited as the ''Panama Canal Commission Authorization Act for Fiscal Year 1997''.

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, to be derived from the Panama Canal Commission Revolving Fund, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, improvement, and administration of the Panama Canal for fiscal year 1997.

(b) LIMITATIONS.—For fiscal year 1997, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $73,000 for reception and representation expenses, of which—

(1) not more than $18,000 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.

SEC. 3503. PURCHASE OF VEHICLES.

Notwithstanding any provision of law relating to purchase of vehicles by agencies of the Federal Government, funds available to the Panama Canal Commission shall be available for the purchase of, and for transportation to the Republic of Panama of, passenger motor vehicles, including large, heavy-duty vehicles.

SEC. 3504. EXPENDITURES IN ACCORDANCE WITH OTHER LAWS.

Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

TITLE XXXVI—MISCELLANEOUS PROVISION

SEC. 3601. SENSE OF THE SENATE REGARDING THE REOPENING OF PENNSYLVANIA AVENUE.

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

(1) In 1791, President George Washington commissioned Pierre Charles L'Enfant to draft a blueprint for America's new capital city; they envisioned Pennsylvania Avenue as a bold, ceremonial boulevard physically linking the U.S. Capitol building and the White House, and symbolically the Legislative and Executive branches of government.

(2) An integral element of the District of Columbia, Pennsylvania Avenue stood for 195 years as a vital, working, unbroken roadway, elevating it into a place of national importance as ''America's Main Street''.

(3) 1600 Pennsylvania Avenue, the White House, has become America's most recognized address and a primary destination of visitors to the Nation's Capital; ''the People's House'' is host to 5,000 tourists daily, and 15,000,000 annually.

(4) As home to the President, and given its prominent location on Pennsylvania Avenue and its proximity to the People, the White House has become a powerful symbol of freedom, openness, and an individual's access to their government.

(5) On May 20, 1995, citing possible security risks from vehicles transporting terrorist bombs, President Clinton ordered the Secret Service, in conjunction with the Department of the Treasury, to close Pennsylvania Avenue to vehicular traffic for two blocks in front of the White House.

(6) While the security of the President and visitors to the White House is of grave concern and is not to be taken lightly, the need to assure the President's safety must be balanced with the expectation of freedom inherent in a democracy; the present situation is tilted too heavily toward security at freedom's expense.

(7) By impeding access and imposing undue hardships upon tourists, residents of the District, commuters, and local business owners and their customers, the closure of Pennsylvania Avenue, undertaken without the counsel of the government of the District of Columbia, has replaced the former openness of the area surrounding the White House with barricades, additional security checkpoints, and an atmosphere of fear and distrust.

(8) In the year following the closure of Pennsylvania Avenue, the taxpayers have borne a significant burden for additional security measures along the Avenue near the White House.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President should request the Department of the Treasury and the Secret Service to work with the Government of the District of Columbia to develop a plan for the permanent reopening to vehicular traffic of Pennsylvania Avenue in front of the White House in order to restore the Avenue to its original state and return it to the people: *Provided,* That the Secretary of the Treasury and the Secret Service certify that the plan protects the security of the people who live and work in the White House.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to table the motion.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SHELBY). Under the previous order, the Senate now proceeds en bloc to the consideration of S. 1762, S. 1763, and S. 1764. All after the enacting clause of each bill is stricken and the appropriate text of S. 1745, as amended, is inserted in lieu thereof.

The Senate bills are considered read the third time and passed, and the motion to reconsider the vote on passage is laid upon the table.

Under the previous order, the Senate will now proceed to consideration of H.R. 3230. All after the enacting clause is stricken, and the text of S. 1745, as amended, is inserted in lieu thereof. The bill is read the third time and passed, and the motion to reconsider the vote on passage is laid upon the table.

Under the previous order, the Senate insists on its amendment, and requests a conference with the House.

The PRESIDING OFFICER (Mr. SHELBY) appointed Mr. THURMOND, Mr. WARNER, Mr. COHEN, Mr. MCCAIN, Mr. COATS, Mr. SMITH, Mr. KEMPTHORNE, Mrs. HUTCHISON, Mr. INHOFE, Mr. SANTORUM, Mrs. FRAHM, Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. BYRD, Mr. ROBB, Mr. LIEBERMAN, and Mr. BRYAN, conferees on the part of the Senate.

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENT—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the cloture motion on the motion to proceed to S. 1788.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 1788, the National Right To Work Act:

Trent Lott, Orrin Hatch, Paul Coverdell, Judd Gregg, Jesse Helms, Lauch Faircloth, Connie Mack, John Warner, Don Nickles, Robert F. Bennett, Hank Brown, Phil Gramm, Strom Thurmond, Kay Bailey Hutchison, Richard Shelby, Bob Smith

Mr. KENNEDY. Mr. President, I ask unanimous consent that we proceed for 1 minute of debate, and the time be divided equally between those in support of cloture and those opposed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this bill has a simple message. It would give people the benefits of collective bargaining without having to pay their

fair share. It ought to be called the national freeloaders bill. We have no business telling the States that we know better than they how they should manage their affairs. This is a direct attack on the ability of working people to protect their economic interests. I urge that the Senate reject cloture and protect the rights of working families in State after State, in order to protect their economic interests.

Mr. GRAMM. Mr. President, there is no issue that better defines the differences that exist between the two parties than the issue that is now before the Senate. It is a simple, straightforward issue that many Members of the Senate hope the public does not understand. Should a man or a woman in the greatest and freest country in the history of the world be forced to join a union in order to have the right to work? That is the issue.

If, in order to exercise one of our basic rights—the right to contract our labor—we are forced to pay an institution that we do not wish to join, are we free, or is our freedom abridged? That is the question that is before the Senate, and I think the American people understand it.

Mr. BYRD. Mr. President, the Senate is set to vote on a motion to invoke cloture on the motion to proceed to S. 1788, the National Right to Work Act. This measure was introduced on May 21 of this year, and it is my understanding that there have been no committee hearings or reports on the bill in the Senate. In addition, we are now preparing to vote to limit debate before having begun to debate this measure on the Senate floor. This does not convey a sense of responsible legislating.

Mr. President, I am opposed to federal right-to-work legislation. Let me first say that right-to-work is a concept that is often believed to mean ''equal opportunity,'' when it really does not extend to anyone a ''right'' that he or she does not already have. The National Labor Relations Act of 1935 set forth a worker's right to belong to a union of his or her choice, as determined by democratic balloting. Under this arrangement, unions and management were free to negotiate collective bargaining agreements which included a security clause. Essentially, these clauses, which could not be approved without the consent of both labor and management, required all employees of a unionized company to pay dues to cover the costs of their representation. However, in 1947, the Congress approved the Taft-Hartley Act, which gave each State the option to make its own determination on the so-called right-to-work issue. Currently, 21 States have approved right-to-work legislation, effectively outlawing union security clauses. Workers in these States are not required to pay dues toward the cost of their union's representation. However, 29 States continue to have free collective bargaining. If we approve this legislation, we will be imposing a Federal mandate on those States, including my home State of West Virginia, that have chosen not to restrict union security clauses.

Mr. President, the right-to-work issue has become an emotional debate, and this is the wrong debate. We should focus on the economics of the issue. There is no evidence that supports the argument that right-to-work will improve the wages, benefits, and working conditions of our Nation's workers. A report issued just last week by the Congressional Research Service concluded that right-to-work States have a mean manufacturing wage of $10.91, compared to $12.56 for non-right-to-work States. Approving this legislation now will not demonstrably improve the conditions of workers in those States that currently protect free collective bargaining, and it may in fact lower their wages. This will not help workers in my State of West Virginia. Right-to-work is not a panacea for declining real wages for workers. In fact, the evidence suggests that it may be a contributor to lower wages because it undermines organized labor's ability to bargain effectively on behalf of its workers. While organized labor has made mistakes, it has also accomplished a great deal for all working people, union and non-union. What my State needs in order to create a favorable economic climate and higher wages is to foster positive labor-management relations—not to restrict labor and management from freely entering into collective bargaining contracts. As such, I cannot support the proposal before us today.

Mr. DORGAN. Mr. President, today the Senate will vote on legislation which undermines the basic principles of State rights and workplace democracy. S. 1788 would require all States to permit workers to receive the benefits of collective bargaining without sharing in the cost of union representation.

Under current Federal law, States decide for themselves whether or not to require all workers in unionized workplaces to share in the costs of union representation. My State of North Dakota is one of 21 States that have enacted so-called right-to-work statutes permitting workers to elect not to pay union dues.

In the remaining 29 States with no similar statutes, unions and employers negotiate to determine whether all workers will be required to share the costs of union representation. There is no general requirement, even in these States, that all workers must pay union dues.

I support the ability of States to choose whether to enact laws permitting workers to opt out of paying union dues, or whether to permit workers and employers to negotiate freely on this issue during the collective bargaining process. I do not support the legislation before us, which preempts the State's role in this important policy decision.

For these reasons, I oppose the legislation before us today.

Mr. DODD. Mr. President, I rise today to voice my strong opposition to the National Right-to-Work Act.

Today's legislation, coming on the heels of yesterday's unsuccessful effort to eviscerate the minimum wage, is simply one more example of the Republican Party's systematic and unremitting attack on America's labor unions.

Yesterday, my Republican colleagues fought against giving working Americans a much needed helping hand, with a minimum wage increase. Today, they've brought to the floor a bill that would fundamentally undermine union efforts to genuinely represent and assist working families.

At a time when we have many vital issues before this body, including genuine health insurance reform—which remains mired in partisan conflict—the last thing the Senate should be doing is spending our time debating this hasty and blatantly antiunion legislation.

Now, this bill was neither marked up nor reported out of the Labor and Human Resources Committee. In fact, I wonder how many of my colleagues have even had the opportunity to thoroughly understand this legislation.

We've heard no testimony and we've held no hearings on this bill, even though it represents a major override of the laws in 29 States—including my home State of Connecticut—which reject right-to-work legislation.

Now, since 1959, only three States have seen the need to enact right-to-work laws. In fact, over the past year, six State legislatures rejected such forms of right-to-work legislation.

But, at a time when I constantly hear talk from my colleagues across the aisle about the need to shift responsibility to the States, this legislation would fundamentally change numerous State laws governing labor relations—laws that have remained largely unchanged over the past 37 years.

It would undermine our time-honored system of free collective bargaining by imposing unnecessary Government interference in the rights of labor and management to negotiate fair and agreed-upon collective bargaining agreements.

But, this bill is more than just a usurpation of State's rights. It would also outlaw any form of collectively bargained union security provisions. These are commonsense provisions that require nonunion workers to pay their fair share for the costs of union representation.

It would say to nonunion members: ''You can receive the benefits of union representation without having to foot the bill.''

In my view, these provisions are antiunion, anti-worker, and frankly antidemocratic. When it comes to the question of union benefits, no American deserves something for nothing. But, that's exactly what this bill would do.

These provisions undermine the fundamental rights of employees who have

voted to unionize their workplace and I urge all my colleagues to reject this legislation and vote against cloture.

Mr. LOTT. Mr. President, before the Senate votes on cloture on my motion to proceed to S. 1788, the National Right to Work Act, I want to give credit where due.

This bill represents the determination of Senator LAUCH FAIRCLOTH to bring to the national agenda a critically important issue. That issue is the question of whether an American worker can be compelled to join a union and pay dues to it.

The right to join a union is secured by law, as indeed it should be. The right not to join is another matter.

Language to that effect in the National Labor Relations Act of 1935 was vitiated in the same legislation by a provision permitting union officials to secure contracts requiring union membership as a condition of employment.

It is long past time for us to rectify that mistake.

I emphasize that this is not a matter of being pro-union or anti-union. My father was a union pipefitter in a Mississippi shipyard, and I can personally appreciate the importance of union membership to millions of our fellow Americans.

But the American people do not like compulsion, whether it is directed against them or against their neighbors. Although we are a nation of joiners, we like to join groups and organizations of our own volition, not because someone in authority tells us to do so.

That principle is especially important when it comes to earning a living for yourself and your family. We should not tolerate efforts to hinder any American from that goal.

Twenty-one States have now enshrined that principle in their own laws, to protect workers from compulsory unionism. In the remaining States, entrenched interests have thus far staved off reform efforts.

I believe it is time to give all American workers the same right, whether they live in 1 of those 21 States or in a State without a right-to-work law.

So I urge a vote for cloture on the pending motion to proceed, so that the Senate can at last reconsider the issue of compulsory unionism, and vote on it, and do right by the working men and women of this country.

CALL OF THE ROLL

The PRESIDING OFFICER. The mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to consideration of S. 1788, the National Right to Work Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The yeas and nays resulted—yeas 31, nays 68, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—31

Bennett	Gregg	Nickles
Brown	Hatch	Pressler
Burns	Helms	Shelby
Coats	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Kempthorne	Thomas
Faircloth	Kyl	Thompson
Frahm	Lott	Thurmond
Frist	Lugar	Warner
Gramm	Mack	
Grassley	McCain	

NAYS—68

Abraham	Exon	Lieberman
Akaka	Feingold	McConnell
Ashcroft	Feinstein	Mikulski
Baucus	Ford	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Gorton	Murkowski
Bond	Graham	Murray
Boxer	Grams	Nunn
Bradley	Harkin	Pell
Breaux	Hatfield	Pryor
Bryan	Heflin	Reid
Bumpers	Hollings	Robb
Byrd	Inouye	Rockefeller
Campbell	Jeffords	Roth
Chafee	Johnston	Santorum
Cohen	Kassebaum	Sarbanes
Conrad	Kennedy	Simon
D'Amato	Kerrey	Snowe
Daschle	Kerry	Specter
DeWine	Kohl	Stevens
Dodd	Lautenberg	Wellstone
Domenici	Leahy	Wyden
Dorgan	Levin	

NOT VOTING—1

Cochran

The PRESIDING OFFICER. On this vote, the yeas are 31, the nays are 68. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

TEAMWORK FOR EMPLOYEES AND MANAGEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 295, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 295) to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dorgan modified amendment No. 4437, of a perfecting nature.

Kassebaum amendment No. 4438, of a perfecting nature.

Mr. PELL. Mr. President, I have many times made statements about my long interest in developing improved avenues of communication between employees and their bosses, often referred to as codetermination. My statement therefore, will be brief today.

When employees and employers decide to enter into workplace committees to discuss workplace-related issues, both sides must place a great amount of trust and faith in the other. But society has instilled in workers the idea that employers are not allies but adversaries. Employers, who must be concerned about the health of the company, often view their employees in a similarly skeptical fashion.

For that reason, labor and management should always be commended when they join together in sincere cooperation for the benefit of all concerned. It is, however, important that the two be really interested in cooperating with the other and that the cooperation be sincere. Both employees and employers must trust the other and be sure that their views matter to the other.

While I do not see the need to create a strict framework for these conversations to take place, I do believe it is vital that employees feel confident they will not be punished for sharing their honest views with their employer. Workers must also feel that their views and thoughts are honestly being represented by those employee members of a workplace committee.

For that reason, I strongly oppose S. 295. Workers cannot be expected to take part in any committee under the total control of their boss. In any competitive job market, what right-minded worker would take the risk of sharing unpopular views about his workplace when the boss has complete control of the work committee?

During the 103d Congress, I introduced legislation outlining my views on this issue. During Labor Committee consideration of S. 295, I worked to develop compromise legislation to allow employees to select their representatives for workplace committees, to ensure that committee agendas are open to amendment by both labor and management and to prohibit unilateral termination of a workplace committee.

Teamwork is important on the playing field or in the workplace. As a old Princeton rugby player, I know you don't win the scrum unless you and your teammates have confidence in each other and work for the benefit of all.

Mrs. MURRAY. Mr. President, I rise today in full support of teams and yet, must voice my concerns with the proposed TEAM Act. It is very difficult not to support the initial goals of S. 295.

Who doesn't want cooperation between employees and their managers? I have met with countless companies from across Washington State who have boasted of increased productivity and efficiency from these teams. Their results have been impressive and have encouraged initiative and employee participation.

However, these cooperative partnerships are currently in place and functioning without disruption. Teams today, throughout my State and across American are succeeding and thriving. In fact, 96 percent of large employers and 75 percent of all employers report using such teams and employee involvement programs. These facts lead to my confusion over the need for additional legislation.

Employee committees, work teams, and quality circles that discuss questions of efficiency, productivity, quality, and work practices are currently allowed. Nothing prevents these teams from existing today and their growing popularity in corporations everywhere is proof of their strong existence.

I am most concerned about the delicate balance between management and employees established by the National Labor Relations Act and enforced by the National Labor Relations Board. This board has been charged with investigating possible section 8(a)(2) violations which have averaged just three violations per year for the last 22 years. In fact 20 years ago, the NLRB ruled against 29 section 8(a)(2) violations. Last year, the NLRB ruled against just 24 violations. There is no growing trend to stop these partnerships. There are no attempts by the NLRB to seek out and prevent these law-abiding employee-employer teams.

These cases can be compared to the 7,478 cases in 1995 which forced employers to hire back unlawfully discharged employees and the 8,987 cases last year in which employers had to provide employees back pay.

I wholeheartedly support the cooperation fostered through teams in companies both large and small. Washington State has witnessed enormous benefits from these employee committees that discuss issued from efficiency to quality of life. Let's continue this cooperation without tipping the scale and sacrificing workplace democracy.

If the employer chooses committee representatives to discuss issues of wages and hours, we will lose the entire management-employee balance. Mr. President, I have spoken with Secretary Reich about this issue after several meetings with concerned Washington State companies. I am confident that the teams now in place will remain in place and continue to prosper.

Let's maintain this current system, which is working, without jeopardizing these critical relationships.

Mr. HATFIELD. Mr. President, I rise to speak in support of the Teamwork for Employees and Management Act, S. 295, better known as the TEAM Act. I firmly believe that to be competitive in today's marketplace managers and employees need to have open lines of communication. The TEAM Act would amend the National Labor Relations Act [NLRA] to clarify that an employer may establish and participate in worker-management organization to address matters of mutual interest; quality, productivity, and efficiency. In addition, the bill would not allow the entity to negotiate or enter into collective-bargaining agreements.

Many American businesses have discovered that including their employees in workplace decisionmaking has increased their productivity. Unfortunately, a series of rulings by the National Labor Relations Board [NLRB] has prohibited employers from meeting with employees to discuss issues such as productivity, safety, and quality. While the NLRB made a decision based upon a fair interpretation which takes into account current law, this law was written at a time when company unions were commonly used to avoid unionization. However, I do point to the NLRA's failure to account for today's work force situations where there is an honest effort to increase productivity, safety, and quality among employees and employers.

Mr. President, in my home State of Oregon we have seen tremendous growth and development, much of it attributed to the influence of the electronics industry. To be competitive in today's international electronics market, employees must act in partnership with management. These partnerships succeed in a cooperative rather than an adversarial environment. However, under the specter of litigation, companies are fearful of implementing employee involvement programs [EI] or have stopped them altogether. Under the current National Labor Relations Board interpretation of the law, the definitions are so broad as to prohibit or restrict implementing these employee involvement programs. Again, many of our Federal labor laws were written in the 1930's, at time when employers used company unions or sham unions to avoid negotiating with representatives of employee selected unions. Labor laws such as Davis-Bacon were written in the 1930's and we know that it is in dire need of reform. These laws need to be updated and employers must be able to discuss the workplace environment without the fear of litigation or violating the National Labor Relations Act.

I believe that the TEAM Act will update and improve existing law to address the issue of legitimate company efforts to include employee input and increase competition in the marketplace. As written, S. 295 only amends the section of the NLRA which prohibits employer-dominated labor organizations and specifically provides that all other rights under the NLRA remain intact. Organizations do not have the authority to enter into or negotiate collective-bargaining agreements or to amend existing agreements and the TEAM Act certainly does not affect an employee's right to choose union representation. If workers choose to work through union representation, the employer must recognize and then arbitrate with the union.

Mr. President, my father was a longshoreman and I am an advocate for the common worker. Yet, I support the TEAM Act. It is not a contradiction to support labor and management when both mutually agree to improve work force efficiency, safety, and productivity; benefiting all those involved in the process. Give credit to today's workers who know their options and know when they are being treated fairly or unfairly. The TEAM Act secures an innovative opportunity for workers to contribute to the success of their companies. Let us ensure that workers have that option by passing the TEAM Act.

Ms. MOSELEY-BRAUN. Mr. President, I rise today in opposition to the TEAM Act.

The future prosperity of the United States depends, in no small part, on fostering a cooperative partnership between labor and management, so that we can continue to produce the best products, provide the best services, and develop the best work force in the world. This partnership is built on the principal of equality.

The United States is founded on this principal of equality. We, as a Nation, have a strong sense of fair play and of the importance of a level playing field. Allowing workers a real opportunity to unionize, to elect representation, and to bargain collectively is an important and basic part of these values.

In the 1920's and 1930's companies routinely used company unions or employee representation plans, as they were called to rebuff attempts by legitimate unions to organize and seek election by the workers within the company.

These company unions were created and controlled by management and could be disbanded or disregarded at the convenience of the company. The employee representatives were handpicked so that workers would not democratically elect their own representatives.

The company unions ended with the enactment of section 8(a)(2) of the National Labor Relations Act in 1935. Section 8(a)(2) was enacted to provide workers with the opportunity to be represented by someone who was not selected by the company, but rather someone who was democratically elected. The TEAM Act erodes that essential protection, and therefore represents a step back toward the days of company unions.

Current law does not prevent any worker from discussing any subject with management. The law merely prohibits a worker or workers from acting as the representative of the employees, in an employer dominated committee, to make decisions regarding wages, hours, and conditions of employment. Workers can meet individually, in small groups, or as a whole with management to talk, express opinions, or give suggestions.

What Section 8(2)(a) prohibits is employer creation and domination of employee groups where terms and conditions of employment are worked out. This falls under the prohibition that a company may not dominate or interfere with the formation or administration of any labor organization.

The fear of a return to company unions as a means of preventing union representation is very real. In fact, a company called Executive Enterprises is holding conferences across the country this summer entitled, ''How to Stay Union-Free Into the 21st Century.'' At a session called ''What Your Company Can Do Now to Preserve its

Union-Free Status Before Organizing Starts,'' the brochure tells participants they will learn—how your employee participation and empowerment programs can be successfully modified to avoid unfair labor practices and aid in union avoidance. The intent could not be more clear, nor could a better argument be made against this legislation.

The legislation we are considering today was written based on the false premise that the protections provided to workers under section 8(a)(2) of the National Labor Relations Act prevent cooperation in the workplace. Proponents argue that the National Labor Relations Act does not allow modern management to work with employees in a cooperative manner or in teams within the workplace.

In fact, section 8(a)(2) does not need to be weakened in order for this cooperation or these teams to exist. Under the current protections provided for in the National Labor Relations Act teams are flourishing throughout the country.

There are teams operating in companies across my State of Illinois. I have had the pleasure of talking with CEO's of Illinois companies who highlighted the excellent results of having workers come together on teams to address production problems and quality problems.

Under current law, companies are allowed to delegate significant managerial responsibilities to employee work teams. Employers can put together employee committees to consider quality, efficiency, and productivity. Employers can use employee expertise to help them create better, higher quality products in less time and with less cost, so that American goods are better, cheaper, and more competitive in overseas markets.

Thirty thousand companies across the Nation have some form of employee teams operating in their factories and shops; 96 percent of large employers have employee involvement programs and 75 percent of all workplaces have such programs. The numbers speak for themselves.

This legislation goes far beyond allowing cooperative teams designed to increase quality, efficiency, and productivity. This bill would allow employer chosen teams to engage in give-and-take regarding wages, hours, and other conditions of employment. Unelected employees would have the ability to make decisions about the basic working conditions of their fellow workers.

One of the key arguments many companies have made is that they are concerned that the teams operating in their shops may be found to violate section 8(a)(2) in some way. The Electromation case has been held up as an example of teams being ruled illegal by the National Labor Relations Board.

The background on this case is instructive. The employees at Electromation were unhappy over a series of changes the employer had made to compensation and work rules. The employer responded by implementing action committees. When the employees nonetheless turned to an outside union for representation, the employer suspended the committees and blamed the union for the suspension. The action committees were a vehicle to prevent union representation. A Bush administration appointed NLRB found that, in the Electromation case, the company had violated the law.

This case illustrates exactly the reason section 8(a)(2) exists, to protect against abuse. Under current law, employee teams are legal and they exist. As long as employers do not control the proceedings, employers can talk with employees about any issue they choose. Cooperation between employees and employers is vital to any successful business and the law in no way prevents this cooperation. The law merely prevents abuse.

Let us support a strong partnership between innovative employers and creative employees, and continue to let this section 8(a)(2) of the National Labor Relations Act protect the precious balance between the rights of employees and employers. I urge my colleagues to vote against the TEAM Act.

Mr. FEINGOLD. Mr. President, I rise today to speak in strong opposition of S. 295, the teamwork for employees and management bill. This bill, the so-called TEAM bill, is part of the continuing Republican assault on working families. It would virtually nullify section 8(a)(2) of the National Labor Relations Act, which forms the basis for collective bargaining procedures in the United States, and prohibits employers from dominating or interfering with the formation of labor organizations. Labor organizations, as defined by the NLRA, are composed of employee participants and exist for the purpose of dealing with employers regarding grievances, labor disputes, wages, rates of pay, hours of employment, or working conditions.

The TEAM Act would gut section 8(a)(2). In the name of promoting collaboration and communication between workers and managers, this bill would allow companies to dictate the membership and agenda of workplace teams. These teams would make recommendations to management on issues of quality, efficiency, and productivity, but could also discuss broader issues related to wages, hours, and working conditions.

Mr. President, I want to make it clear that I have no problem with the concept of employers and employees working together in crosscutting groups to develop innovative ways to improve quality or increase efficiency in the workplace. I have visited workplaces in my State that have implemented quality circles and labor-management committees, and have been impressed with their results.

An example is Master Lock, Inc., which I toured several summers ago. This leading Wisconsin company is a shining example of how employer-employee cooperation has led to improved working relationships and increased competitiveness. The company's joint labor and management coalition, comprised of various committees which address issues such as health and safety and ergonomics, has the support of the union and has resulted in improved employee morale and productivity.

Indeed, there has been a vast proliferation of such committees, or teams, in recent years. These organizations are useful, and legal, as long as they do not interfere with the collective bargaining process. Current law allows employee involvement, which I wholeheartedly support.

What I do object to is the notion that companies should appoint all members of workplace teams, particularly in cases in which teams are given broad reign to discuss issues that have been the domain of collective bargaining for the last 60 years. Under this bill, employers would have the right not only to select who belongs to teams, but would also be able to remove those members at any time, for any reason. Management could set the agenda, including discussion of wages, hours, and working conditions, as long as the employee members did not make official recommendations on behalf of their colleagues on these issues. This, I am convinced, would undermine the collective bargaining process.

Senator Robert Wagner, the original sponsor of the NLRA, recognized that employees are empowered only when they select their own representatives in a democratic process. More than 60 years ago, he said, ''[only] representatives who are not subservient to the employer with whom they deal can act freely in the interest of employees. Simple common sense tells us that a man does not possess this freedom when he bargains with those who control his source of livelihood.'' And yet, the TEAM Act threatens to take precisely that freedom away from America's workers. Allowing companies to select all worker representatives and dominate team activities would be a significant step backward in workplace democracy. It would take us back to the days of company unions.

Supporters of the TEAM Act are quick to point out that the language of the bill specifically prohibits teams from engaging in collective bargaining with management. But in fact, employees who serve on management-selected teams will represent their coworkers. That is a labor organization, and that is precisely what Congress intended to prevent when it passed the NLRA. In fact, Congress has repeatedly rejected the notion of company-dominated labor organizations—in the 1930's, and again in 1947 during debate on the Taft-Hartley Act.

This bill threatens real, democratically elected worker representation. Even though the bill says that management-dominated teams would not be allowed to negotiate with employers

about wages, benefits, or working conditions, teams can still discuss all these issues, as long as they don't make recommendations to management on behalf of workers. It is not difficult to imagine situations in which managers who prefer dealing with self-selected teams would place more weight on the ideas of teams than on the proposals of unions. In this way, the bill threatens the viability of unions.

Labor experts agree. The bipartisan Dunlop Commission, made up of leading business, union, and academic representatives, conducted an in-depth analysis of labor-management relations in 1993 and 1994. One of their recommendations, upon completion of the study, was: ''The law should continue to make it illegal to set up or operate company-dominated forms of employee representation.'' Members of the Dunlop Commission, including four former Cabinet Secretaries, the CEO of Xerox, a representative from the small business community, and several academics, unanimously oppose the TEAM Act. I'm sure all of my colleagues have also read the letter signed by more than 400 of the Nation's labor law and industrial relations professors opposing this bill. They say in their letter, ''we are persuaded that passage of the TEAM Act would quickly lead to the return of the kind of employer-dominated employee organization and employee representation plans which existed in the 1920's and 1930's.''

And in fact, that is the real goal of the TEAM Act. Management-dominated teams are antidemocratic mechanisms for companies to fight real worker-selected representative labor organizations. They are anti-union tools. Research has shown that employers who establish teams, or employee involvement plans, after union organizing campaigns are more likely to defeat unions than those who do not. Without exception, managers surveyed in a 1989 Harvard Business School study agreed that employee representation plans were ''a valuable and proven defense against unionization.''

Edward Miller, a former chairman of the NLRB and a current management-side labor lawyer, testified in 1993 before the Dunlop Commission, ''While I represent management, I do not kid myself. If section 8(a)(2) were repealed, I have no doubt that in not too many months or years sham company unions would again recur.''

There are many misconceptions among my colleagues about current labor law, and about what this bill would do. Fred Feinstein, the general counsel of the NLRB, investigates possible violations of the NLRA and prosecutes meritorious claims. Mr. Feinstein recently responded to a letter from the senior Senator from Massachusetts, Senator KENNEDY, to clarify what in his opinion were some inaccurate statements about the NLRA and the TEAM Act, made last week on the Senate floor. In his letter, Mr. Feinstein explained that, under current law, it is not illegal for employers to supply office supplies and meeting space to employee organizations, or to talk to employees or seek suggestions. It is not illegal for employers to discuss flexible work schedules with employees, or to seek input from them about improving productivity, or to talk to them about tornado warning procedures. Despite assertions to the contrary made by my colleagues last week, none of these procedures is illegal.

The bottom line, according to the general counsel of the NLRB, is that ''employees can provide information or ideas without engaging in dealing under the NLRA. Further, employees can make proposals through an organization, to which the employer may respond, where the employees have control of the structure and function of the organization.''

If this Congress really wanted to empower workers and encourage employee involvement and communication with management, it would allow workers to select their own representatives to teams, so that they would be accountable only to their fellow employees. More importantly, it would empower the NLRB to impose more powerful sanctions on companies that unlawfully discharge employees involved in union organizing. According to the Dunlop Commission, union supporters are fired illegally in one out of four elections. This rate is five times higher than it was in the 1950's, and remedies often take place several years after the event.

The real purpose of this bill is to undermine workplace democracy, and to bash on unions, not to empower employees. I am pleased that President Clinton has taken a stand on behalf of working men and women by pledging to veto this unwise and destructive bill. But I hope the bill never reaches his desk. I urge my colleagues to support representative democracy in the workplace, and to oppose the TEAM Act. Let's respect the right of employees to select their own representation, just as we have insisted on the right of citizens to select their own representatives to this body for over 200 years.

Mr. CHAFEE. Mr. President. I appreciate the opportunity to speak in favor of the TEAM Act, S. 295. I want to commend our able chairman of the Labor and Human Resources Committee, Senator KASSEBAUM, for her vision and tenacity in shepherding this bill to the floor.

I have closely examined the arguments made by both labor and management on the issue of teaming, and the state of current law in this area.

In my view, Congress has a responsibility to provide an unambiguous safe harbor for employers to utilize employee participation groups, quality circles, and other team concepts to advance the competitiveness of U.S. industry. The health of our economy and the jobs on which we all depend are at stake in this struggle.

The National Labor Relations Board [NLRB] has been left with the difficult task of administering a 61-year-old statute which has changed little since its enactment in 1935. The state of labor management relations was very different in those days, with unions struggling to secure their place in our industrial fabric.

The National Labor Relations Act [NLRA] was a logical response to this turbulent period in our labor management history. The provision of the NLRA aimed at preventing employers from creating sham unions, section 8(a)(2), was a direct response to this challenging period.

It is this very provision and how it is being interpreted today by the NLRB that is the cause for this debate and the legislation now before the Senate.

Most labor management strife faded from the industrial landscape long ago. In contrast, today, American businesses and their employees are in the fight of their lives to remain competitive in this global marketplace. We have lost tens of thousands of high-paying manufacturing jobs over this past decade to foreign competition. Unfortunately, I can identify countless casualties in my own State of Rhode Island.

This troubling circumstance has forced American industry to produce better products, to become more efficient and to increase productivity. This painful, but necessary reexamination has placed an absolute premium on labor-management cooperation.

Those firms that have been able to succeed and adapt to this new environment have increasingly relied upon employee participation groups, quality circles, and other team concepts to strengthen productivity, weed out inefficiency, and respond rapidly to changing consumer attitudes and demands.

Mr. President, enactment of the TEAM Act would simply conform labor law with what is already occurring on shop floors throughout America. The fact is, employee involvement committees, quality circles and other team concepts exist in some 30,000 workplaces across the country. All but a small percentage of our largest employers stake their very survival on the ability to form team mechanisms and employee participation groups.

Here is the problem in a nutshell. Section 8(a)(2) of the NLRA prohibits employers from interfering with the formation and/or organization of any ''labor organization,'' or from contributing financial support to such entities. On the surface that seems reasonable.

However, the definition of ''labor organization'' makes illegal most of the employee involvement committees in operation today, since it stipulates that any organization which deals with hours of employment or conditions of work is a ''labor organization.''

The fact is that in today's complex workplace conditions of employment can be very broadly construed to apply

to how an assembly line is configured, to the kind of protective gear employees must wear, or even to attendance policies.

Faced with this ambiguous situation, employers need to have a safe harbor within which such employee involvement committees can operate without fear of NLRB intervention.

The Team Act is that safe harbor. It would authorize the use of employee participation teams to help strengthen the competitiveness of American firms, while making clear that such mechanisms cannot be used to subvert or replace the collective bargaining process, or an employee's right to union representation.

Employers and employees must be empowered with the necessary tools to compete in a global economy. S. 295 is a logical, balanced response, which contains the necessary safeguards to protect unions and workers, while at the same time strengthening needed employer-employee cooperation.

I am hopeful President Clinton will reconsider his staunch opposition to this critical legislation.

AMENDMENT NO. 4437

The PRESIDING OFFICER. The question occurs on amendment 4437 offered by the Senator from North Dakota [Mr. DORGAN]. There will be 1 minute of debate on the amendment equally divided in the usual form.

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, there is not a disagreement in this Chamber about whether there ought to be teamwork in the workplace. We believe there ought to be opportunities for management and workers—those who own businesses and those who work in the businesses—to get together and establish conditions to work together to become more efficient and to find ways to do things in a better way.

There is a lack of clarity as a result of NLRB decisions. I have offered an amendment that tries to establish additional clarity that permits workplace cooperation. There is a right way to do this and a wrong way to do this.

The amendment that I have offered, I think, is the right way to enhance teamwork in the workplace to achieve those goals. I believe the underlying legislation that comes to the floor of the Senate does much more than that in a negative way.

So I ask the Chamber to support the amendment that I have offered and to oppose the proposal that is brought to the floor of the Senate in the underlying piece of legislation.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, regarding the Dorgan amendment, I would just say that I think we are better off the way things are than to try to develop a rigidity that I think would occur in the amendment offered by the Senator from North Dakota. It requires a committee structure that is very rigid and lacks the flexibility that we were trying to address. I do not believe it in any way answers the concerns and the questions that have been raised by the actions of the NLRB regarding a lack of understanding on how employees get together under the National Labor Relations Act. That was the purpose of the legislation before in the TEAM Act, and I will address my amendment later.

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. CAMPBELL). The question is on agreeing to amendment of the Senator from North Dakota. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 36, nays 63, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—36

Akaka	Dorgan	Levin
Baucus	Exon	Mikulski
Biden	Feinstein	Moynihan
Boxer	Ford	Pell
Bradley	Glenn	Pryor
Breaux	Graham	Reid
Bryan	Harkin	Robb
Bumpers	Inouye	Rockefeller
Byrd	Johnston	Sarbanes
Conrad	Kennedy	Simon
Daschle	Kerry	Wellstone
Dodd	Kohl	Wyden

NAYS—63

Abraham	Gramm	Mack
Ashcroft	Grams	McCain
Bennett	Grassley	McConnell
Bingaman	Gregg	Moseley-Braun
Bond	Hatch	Murkowski
Brown	Hatfield	Murray
Burns	Heflin	Nickles
Campbell	Helms	Nunn
Chafee	Hollings	Pressler
Coats	Hutchison	Roth
Cohen	Inhofe	Santorum
Coverdell	Jeffords	Shelby
Craig	Kassebaum	Simpson
D'Amato	Kempthorne	Smith
DeWine	Kerrey	Snowe
Domenici	Kyl	Specter
Faircloth	Lautenberg	Stevens
Feingold	Leahy	Thomas
Frahm	Lieberman	Thompson
Frist	Lott	Thurmond
Gorton	Lugar	Warner

NOT VOTING—1

Cochran

The amendment (No. 4437), as modified, was rejected.

Mrs. KASSEBAUM. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4438

The PRESIDING OFFICER. Under the previous order, the question occurs on agreeing to amendment No. 4438 offered by the Senator from Kansas [Mrs. KASSEBAUM]. There will now be 1 minute of debate on the amendment equally divided and controlled in the usual form.

The Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, my amendment is identical with the House-passed language. I want to make a couple of points about why I believe the TEAM Act is important. One, it applies only to nonunion settings.

The PRESIDING OFFICER. The Senator will withhold her comments until we can get order in the Chamber.

The Senator may proceed.

Mrs. KASSEBAUM. This applies only to nonunion settings.

It has been misrepresented by some as applying to union companies as well.

Second, the purpose for this is in order to say to employers that they should be free to discuss with employees those issues of concern to both. It is to address an environment in the workplace that will help us meet the new reality of our competition and our productivity today that is important for good communication. It is a bill that only represents common sense. It is not in any way designed to be a destroyer of the unions, and I urge support for my amendment and the TEAM legislation.

The PRESIDING OFFICER. Is there further debate?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

May we have order in the Senate, please.

The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, this is a cosmetic change to the underlying bad bill. Effectively, the TEAM Act would apply to 90 percent of American businesses. The fact is 30,000 companies now have these joint, cooperative programs in workplaces across the country. They cover 75 percent of all the employers, 96 percent of the Nation's biggest employers. There have been 224 cases that have been brought over the period of the last 4 years. There have only been 15 cases decided by the NLRB—only 15 cases; 30,000 incidents of cooperation and only 15 cases in the last 4 years.

This is a solution to a problem that does not exist. Basically, what you are doing with it is opening up the very real possibilities of companies being able to dictate who will speak for the employees on working conditions and all other matters that concern them in the workplace. It puts management in control of both sides of the bargaining table. It means management will be talking to itself instead of talking honestly with workers, and it does not deserve to pass. It deserves the veto that it will receive.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. COHEN. I ask for the yeas and nays.

Mrs. KASSEBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—61

Abraham	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Nunn
Breaux	Gregg	Pressler
Brown	Hatch	Pryor
Bryan	Hatfield	Reid
Bumpers	Heflin	Roth
Burns	Helms	Santorum
Byrd	Hollings	Shelby
Chafee	Hutchison	Simpson
Coats	Inhofe	Smith
Cohen	Jeffords	Snowe
Coverdell	Kassebaum	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lieberman	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner
Frahm	Mack	
Frist	McCain	

NAYS—38

Akaka	Feinstein	Levin
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Inouye	Pell
Campbell	Johnston	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
Dodd	Kerry	Simon
Dorgan	Kohl	Wellstone
Exon	Lautenberg	Wyden
Feingold	Leahy	

NOT VOTING—1

Cochran

The amendment (No. 4438) was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate bill is considered read a third time, and the House bill, H.R. 743, is discharged from the Committee on Labor and Human Resources. The clerk will report the House bill.

The assistant legislative clerk read as follows:

A bill (H.R. 743) to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 743 is stricken, the text of the S. 295, as amended, is inserted in lieu thereof, and the bill is considered read a third time.

The question is, Shall the bill, H.R. 743, as amended, pass? A rollcall vote has not yet been requested.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—53

Abraham	Gramm	McConnell
Ashcroft	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Nunn
Brown	Hatch	Pressler
Burns	Hatfield	Roth
Chafee	Helms	Santorum
Coats	Hollings	Shelby
Cohen	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Kassebaum	Specter
DeWine	Kempthorne	Stevens
Domenici	Kyl	Thomas
Faircloth	Lott	Thompson
Frahm	Lugar	Thurmond
Frist	Mack	Warner
Gorton	McCain	

NAYS—46

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Pell
Breaux	Heflin	Pryor
Bryan	Inouye	Reid
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Campbell	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Exon	Levin	

NOT VOTING—1

Cochran

The bill (H.R. 743), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 743) entitled ''An Act to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Teamwork for Employees and Managers Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of employers in the United States to make dramatic changes in workplace and employer-employee relationships;

(2) such changes involve an enhanced role for the employee in workplace decisionmaking, often referred to as ''Employee Involvement'', which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;

(3) Employee Involvement programs, which operate successfully in both unionized and nonunionized settings, have been established by over 80 percent of the largest employers in the United States and exist in an estimated 30,000 workplaces;

(4) in addition to enhancing the productivity and competitiveness of businesses in the United States, Employee Involvement programs have had a positive impact on the lives of such employees, better enabling them to reach their potential in the workforce;

(5) recognizing that foreign competitors have successfully utilized Employee Involvement techniques, the Congress has consistently joined business, labor and academic leaders in encouraging and recognizing successful Employee Involvement programs in the workplace through such incentives as the Malcolm Baldrige National Quality Award;

(6) employers who have instituted legitimate Employee Involvement programs have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930's when employers established deceptive sham ''company unions'' to avoid unionization; and

(7) Employee Involvement is currently threatened by legal interpretations of the prohibition against employer-dominated ''company unions''.

(b) PURPOSES.—The purpose of this Act is—

(1) to protect legitimate Employee Involvement programs against government interference;

(2) to preserve existing protections against deceptive, coercive employer practices; and

(3) to allow legitimate Employee Involvement programs, in which workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

SEC. 3. EMPLOYER EXCEPTION.

Section 8(a)(2) of the National Labor Relations Act is amended by striking the semicolon and inserting the following: '': Provided further, That it shall not constitute or be evidence of an unfair labor practice under this paragraph for an employer to establish, assist, maintain, or participate in any organization or entity of any kind, in which employees who participate to at least the same extent practicable as representatives of management participate, to address matters of mutual interest, including, but not limited to, issues of quality, productivity, efficiency, and safety and health, and which does not have, claim, or seek authority to be the exclusive bargaining representative of the employees or to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization, except that in a case in which a labor organization is the representative of such employees as provided in section 9(a), this proviso shall not apply;''.

SEC. 4. LIMITATION ON EFFECT OF ACT.

Nothing in this Act shall affect employee rights and responsibilities contained in provisions other than section 8(a)(2) of the National Labor Relations Act, as amended.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent that with respect to the previously ordered morning business period, that Senator DASCHLE

or his designee be in control of the first 40 minutes and that Senator THOMAS or his designee be in control of the remaining 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. 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. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEMOCRATIC AGENDA

Mr. DORGAN. Mr. President, we had asked for some time today to discuss the agenda that we have developed over recent months, to talk about what we think we ought to be doing and where we think this country ought to be heading. I am going to speak for a few minutes. My colleague, Senator REID from Nevada, will address a number of the topics, and our colleague, Senator BOXER from California, will address a number of them. We will similarly have a discussion tomorrow about the same issues.

The reason we wanted to do this, it is easy to be against things. It does not take any skill or any great intelligence to be opposed to things. I think it was Mark Twain who once, when asked if he would participate in a debate, said, ''Fine, provided that I can be on the opposing side.'' They said, ''Why?'' And he said, ''That will take no preparation.''

It takes no skill, time, or preparation to oppose. Those who oppose can do it immediately and quickly without much thought.

The question is not what are we opposed to. The question in Congress is, what do we stand for? Why are we here? What are we doing? What do we want for this country?

I begin by saying, in the end and in the final analysis, the question of whether we are on the right track in this country, whether we are headed in the right direction, is not measured by any myriad of statistics put out by the Federal Reserve Board or the Treasury Department or the Census Bureau or any organization in this town or elsewhere; it is, finally, measured when people sit down at the supper table at home at night and ask themselves, how are we doing? Is our standard of living improving? Are we moving ahead? Are we able to find good jobs, keep good jobs? Are our children able to find good jobs? Are we secure? Is there crime in the street that threatens us? Do our kids have an opportunity to go to good schools? Are our roads in good shape?

A whole range of questions like that relate to the determination of whether individual families are doing better. In shorthand, the way of saying it is, if at the end of the day the standard of living in this country is not increasing, then we are not moving in the right direction. The question is, what kind of choices, what menu of opportunities exist for us to make decisions in this country in both the private sector and the public sector that increase the standard of living, keep us moving forward?

As a society, if you read the history of our country, you will discover that we have always had a circumstance where, generally speaking, parents believed things work better for their children and they were willing to do things to make life better for their children—investing in schools, for example, so that we would have the best education in the world. Those are the kinds of things that created a circumstance where our economy has been a remarkable economy, producing jobs and opportunities, so that standards of living increased in our country routinely and regularly.

We have now reached a period where we are more challenged in those areas. We now have what is called a global economy in which 2 or 3 billion workers around the world now compete with about two-thirds of the American work force, and many of those other people around the world work for very low wages. It is not unusual to hear the stories of 10-year-olds, 12-year-olds, 20- or 40-year-olds working for 10 cents an hour, 20 cents an hour or $1 an hour, for 10 hours or 15 hours a day in other parts of world. The product of that work shows up in Pittsburgh or Denver or New York or Fargo, to be sold on the shelf and purchased by the American consumer.

It all relates to this question: Are we doing the things necessary in the public sector and the private sector to improve life in America and to increase the standard of living in our country?

About a year ago, Senator DASCHLE, the minority leader, asked Senator REID and myself to engage in an effort with other members of our caucus, a fairly substantial group of the Democratic caucus, to put together an analysis of what is it that represents our positive agenda, what kind of things do we want to see accomplished in Congress, what kind of ideas exist that we think will improve life in America. We held meeting after meeting and tried to get the best ideas that existed among those from the Democratic side of the aisle here in Congress in order to develop an agenda. The Senator from Nevada was very active in that with me, and the Senator from California, Senator BOXER was very active. We developed an agenda and worked with the Democratic caucus on that agenda.

Following that, we took that as a starting point and then worked with the members of the Democratic caucus in the House of Representatives and with President Clinton and others and synthesized this and developed this into a fairly common agenda that says: Here is what we are for, here is why we are here, here is what we want to have happen that we think will improve life in America.

Let me give you some examples. The agenda talks about ''families first.'' This is families first. I talk about it in the context of jobs, kids, and values. That is what people who sit around the dinner table talk about. What kind of jobs do we have? What kind of opportunity do we have? What kind of security do we have? What about our kids; how are the schools? What about crime? What about values? What are they seeing on television? A whole series of issues surrounding families, American families.

We talk about it in the context of responsibility and security. First, we say we believe that we ought to have a balanced Federal budget. We believe it is possible, we believe it is achievable, and we believe it ought to be done. It ought to be done the right way.

There are some who would balance the budget with all the wrong priorities. Last year I spoke at length about those who would say, ''Let us cut the Star Schools Program by 40 percent and increase the star wars program by 100 percent.''

Now, that is a wrongheaded approach, but we should balance the Federal budget. The era of big government is over. Our agenda does not suggest that Government can, should, or will solve all of the problems of this country. But we can contribute in the right way. So we say we ought to balance the Federal budget. That is part of the democratic agenda.

We ought to help small businesses, medium-sized businesses, and others in this country thrive, survive, and create jobs and compete. There are a series of ways to do that, and we talk about that in the agenda.

We ought to also reinvest in our communities and infrastructure. We ought to make sure that the basic things that deal with everyday life—roads, bridges, rail systems, and others—are up to date and are not decaying.

Then we talk about individual responsibility and a welfare system that works. We call it work first. That is what we stand for—work first. We say, especially in this proposal for welfare, that we ought to get tough with deadbeat parents. Why on earth should other taxpayers be stuck paying tens of billions of dollars that is owed especially by fathers who have left their families and decided they are not going to pay a cent for the welfare of their children, so those deadbeats say to the rest of the taxpayers, ''You pick up the tab of something I will not pay for,'' which is basic care for their children. We say that has to stop. That is part of welfare reform as well.

A national crusade to end this burgeoning teenage pregnancy in this country is part of our agenda. That, of course, starts at home, in the home, in the community. But we believe that is an important element of what we ought to be doing to try to improve life in this country.

On the issue of security and crime, we think the President's proposal to put more cops on the street, on the beat, to have more community policing, makes eminent good sense. We support that and would increase it. We believe that there are initiatives to keep kids off the street and out of gangs that ought to be employed. Communities know best how to do that, and we can help those communities with programs and resources.

We believe that we ought to make an even greater effort to clean the drugs out of our schools. We ought to say to everybody in this country who is on probation or on parole that you are going to be drug tested while you are on probation or parole.

Our agenda talks about retirement security. We say those who would dip into employee pension funds and leave the pension funds vulnerable are doing a disservice to the people who work in this country. Stiffer penalties for the abuse of pension funds and a crackdown on companies who have taken the money that you have earned and that you have saved in that pension funds is part of our agenda.

Making pensions portable, to move from one job to another, encouraging companies to make pensions available. Half of the American work force does not have a pension.

The issue of health care. We have already passed a health care bill that we have pushed hard for, which makes health care insurance portable and eliminates, in many instances, the preexisting-condition requirement.

Those are the kinds of things that are in our agenda. With respect to the issue of jobs, we believe that it is time to say to American corporations, and to all companies, that we want you to create jobs in this country, not move jobs overseas. Our agenda says we are going to take the first baby step—and it is only a baby step, but we are going to force it to be taken—to shut down this idiotic and perverse tax benefit that says you can close your American plant, move your jobs overseas, and the taxpayers will give you a benefit. There is $2.2 billion of reward in our Tax Code to go to companies who close American plants and shut off jobs here and move overseas. We say in this agenda that, if you cannot take that first baby step, we do not have a chance of solving the jobs problem in this country.

Well, Mr. President, the families first agenda is not a big government solution to what ails our country. This is a wonderful, remarkable country filled with strength, filled with, I think, hope and optimism, a country that needs to be led by people with a vision and agenda that says here are the practical steps that we can take to make this a better country, to provide for opportunity and to provide for hope for all Americans. That is why we constructed an agenda. Is it perfect? No. Does it move us in the right direction? Yes.

This is not about appealing to special interests. It is not, as so often happens in this town, responding to the needs of the powerful. But it is about putting the families first, trying to understand that when all the dust settles and the day is ended, the standard by which we measure whether America has progressed is one in which we ask ourselves: Have we improved life in this country for working families?

Mr. President, let me now turn to my colleague from Nevada, Senator REID, who cochaired the effort with me in the Senate caucus, and Senator REID will continue to discuss part of this agenda. He will be followed by Senator BOXER.

Mr. REID. Would the Chair advise the Senator how much time is left under the control?

The PRESIDING OFFICER. The Senator from North Dakota has 27 minutes 35 seconds.

Mr. REID. Will the Chair advise the Senator when I have used 10 minutes?

The PRESIDING OFFICER. Yes.

Mr. REID. Mr. President, as Senator DORGAN indicated, we were asked by the minority leader to be cochairs of a Democratic task force to come up with an agenda for the Democrats. We were cochairs, and we had a number of people who worked on the task force. The Senator from California, Senator BOXER, was one that attended, I think, every meeting that we held of the task force. I also think it is important, Mr. President, to note that we did not do any polling to determine how we should stand on issues. We had people come in and talk to us. We came up with an agenda not based on opinion polls, but based on our gut, what we felt was the right thing to do for this country.

After having made that decision, Mr. President, we presented our task force results to the Democratic minority, the leadership here, and they accepted, with some revisions, what we did. We then asked every member of the caucus to make some remarks, to go over what we had done, and to get back to us with the changes they thought should be made in our agenda. A significant number of Senators told us what they felt should be changed. Many of those we were able to incorporate in the final product.

After that, Mr. President, we went to the ranking members and made a presentation to them of what we had come up with. They approved of what we did. After that, we again took it to the entire caucus. They accepted what we did. At that time, the minority leader, Senator DASCHLE, started a series of meetings with Representative GEPHARDT, the minority leader in the House of Representatives. After several weeks of consultations and meetings, there was an agreement on refining what we had done here in the Senate. Following that, the presentation was made to the President, the executive branch of Government, and they approved of it. Then there was a final roll-out of this product. We are very proud of what we have done. We believe that this agenda gives Democrats across the Nation a view of how we stand on issues.

The agenda is designed to do some good for American families, instead of what we believe is a misguided scheme to reshape America, which has been offered this past year and a half.

This new agenda features realistic, moderate, achievable ways to help every hard-working American family. It is the families first agenda, Mr. President. It is an important program because we, first of all, talk about security. There are all kinds of different securities that we must be concerned with. A healthy, safe family certainly is a start. Before you can discuss any of the security issues, you have to understand that we believe American families deserve economic and personal security, paycheck security, health care security, retirement security, and personal security.

Let us first talk about personal security. Never in the history of this country have we had such difficult problems with security for kids. I am a father of five children, and it was a big occasion for us when our kids started school because the kids were getting into a new environment. It was a big occasion in our life when we would take the kids to school the first day. But basically after that the kids were safe. They either went on a bus or lived close enough that they walked. Kids did not have to worry about being beaten up or shot on the way to school. But now they do. I can remember a real trauma in the life of one of my children. They had been sprayed with a water gun on the way home. Not anymore. Kids are sprayed with bullets from real guns. They are injured, maimed, and killed. These days we have to be concerned about a world where we have this violence. All across America violence from drugs and gangs is creeping into the halls of our schools and streets in neighborhoods all over America.

The Presiding Officer is from the beautiful State of Colorado. Mr. President, Colorado has gang problems. Colorado has drug problems. That would have been unheard of to talk about 10 or 15 years ago. But not anymore. It is that way all over America. You cannot escape random violence and problems.

Parents across this Nation in cities, suburbs, and small towns alike are increasingly worried about their children's safety. No one will ever come up with a single magic solution for the crime problem. But we can take a strong step to fight crime by giving our police and community leaders the tools they need to tackle violence and combat the influence of this pernicious drug problem.

We want to make sure we have enough police on our streets, and we will work to keep our promise of 100,000 new police officers for local communities. We are about 40 percent of the way there.

I can speak being a Senator from Nevada. These police officers have helped. Even in Nevada, the tourist mecca of

the world, violent crime by adults is going down. We have problems with violent crime by kids as we do all over America. But we are making progress all over America. We are making progress because we have come to the realization that it is a small number of criminals—about 8 percent of the criminals—that contribute to over 70 percent of the violent crime in America, and we are taking steps to make sure that we do something with that 8 percent.

We have to be concerned—that we not only have to do something about crimes being committed, but law enforcement must be involved in programs to give them greater power to intervene with kids before they commit crimes. That is before it is too late.

We want to help local community groups offer supervised places where kids can go after school to stay out of trouble. We spend these huge amounts of money on capital construction for schools, and after 3 or 4 o'clock in the afternoon the fences are put up, the lights are turned off, and they are not used. We believe they should be used.

The families first agenda calls for putting more cops on the beat, keeping kids off the streets and out of gangs, cleaning drugs out of schools, and testing drug offenders.

Mr. President, security covers a lot. Safer families—we talked about more cops on the beat. We talked about keeping kids out of gangs and off the streets.

But we also have to be concerned about paycheck security. Mr. President, paycheck security is something that we talk a lot about. But we do not do a lot about it sometimes. It used to be when people went to work they stayed on the job a lifetime. Now the average life of a job is a little over 6 years. People are continually afraid of losing their jobs. We are concerned about that also. We believe that if we are going to have paycheck security there are certain minimums we must have.

First, affordable child care—if we are going to get women off welfare because—the vast majority of people who get aid to families with dependent children are women. If we are going to get women into the job market, we are going to have to do something about child care. There is no other way.

We have to ban imports using child labor. And we have to have fair pay for women; that is, we do not shy away from it.

This is a specific plank of the Democrats' families first agenda—fair pay for women. We just passed yesterday the minimum wage bill. Most people think the minimum wage bill is for teenagers at McDonald's flipping hamburgers—not true. Sixty percent of the people who draw the minimum wage are women. For 40 percent of the women it is the only money they get for themselves, and their families. We believe we have to have fair pay for women, and we did it a little bit yesterday—a small step by making sure that we increase the minimum wage.

Retirement security—many Americans cannot afford to worry about a secure retirement until it is far too late because they are preoccupied paying the bills, keeping their kids clothed, fed, and in school.

Many parents do not realize the limits of their pension plans until they are ready to retire, and there is nothing more they can do. Retirement security can also be easily thrown into jeopardy.

For elderly couples, their fixed-income pensions are dramatically cut because of a company bankruptcy, or one of the mergers that is taking place in the last 10 years. Merger mania has run rampant in American business.

Middle-aged workers are forced to change jobs, and they lose years of equity in their pension plans, and sometimes totally lose their pension plans. Women learn after it is too late that their husband unwittingly signed away their survivor's benefits.

We want to make people's pensions more secure and more flexible. We want to give more people access to pensions, including employees with small businesses. We want to let people take their pensions when they leave a job—portability.

We want to give families flexibility to use their IRA to buy a home for the first time, or maybe even pay for college tuition. We want to protect widows from unethical insurance companies who try to mislead them into signing away their survivor's benefits.

Most importantly, we want to stop companies from raiding employee pensions.

The PRESIDING OFFICER (Mrs. SNOWE). The Senator has used 10 minutes.

Mr. REID. We have 17 minutes remaining. Is that right?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask for 3 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. The families first agenda calls for pension reform, making pensions portable, and protecting women's pension benefits.

Madam President, it is important, if we are going to have retirement, that it be dependable. And that is why we talk about protecting the pension savings to include Social Security and Medicare—better access and protection for women of the pension plans that they should be able to have at the right time.

We want an opportunity for a better future, to create jobs at home, boost small businesses, invest in our communities.

Education—we want educational opportunities.

One of a parent's proudest moments—and we have all been to them—is when they get a diploma. It does not have to be a diploma from Harvard or Yale or UCLA. It can be a diploma from a trade school. A parent is just as proud.

We have to make sure that a person's ability to go to college is not dependent on how much money their parents have.

That is what our families first agenda talks about.

For parents lucky enough to get children through school, the most common graduation present is thousands of dollars in student loan debt, and that applies whether the student goes to Harvard or Yale or a trade school. Parents have to borrow the same.

Education is the key to opportunity. We want to offer families a helping hand—a way to make sure their kids get to college or to a trade school without busting the family budget. We want to make sure that all children have the opportunity to advance educationally.

That is why we will offer some new scholarships to children who make good grades and stay away from drugs—a new tax deduction making college and vocational school tuition tax deductible to help families afford education and job training. Our families first agenda calls for a $10,000 tax deduction for college and job training—2 years of college for kids with good grades. And this includes trade schools.

We need affordable education. We have to make sure that our young people can advance to the best of their ability. This requires responsibility from all of us.

That is why we have supported a balanced budget without destroying Social Security and Medicare. We want to make sure that we do what we can to have corporations with a conscience.

We want to make sure that corporations have a conscience, and we feel that must be done legislatively. They have to have environmental responsibility. And certainly, can we not do away with giving tax breaks to companies that move overseas and take jobs with them? The answer is yes. We need personal responsibility. That has to be part of the program, and that is why we have called for welfare reform that requires work. We want to crack down on deadbeat parents, and we want to do what we can to attack teenage pregnancy. It is not enough to say what we stand for. We have a responsibility to tell America what a Democratic Congress would stand for, and that is what the families first agenda does—tells the American public what we stand for.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I would appreciate it if you would inform me when I have used 10 minutes.

Madam President, I am very proud to be here today speaking on behalf of the Democrats' families first agenda. I thank my colleagues, BYRON DORGAN and HARRY REID, who preceded me today. We think it is important, as Senator REID has said, the American

people know what Democrats stand for. We have been fighting for a lot of things this year. Sometimes we have won those battles. We have turned back the deepest cuts ever offered in Medicare. We have turned back the deepest cuts ever offered in Medicaid. We have turned back some of the most outrageous attacks on our environment.

We have not won every battle at all. If one looks at the budget that passed this Republican Congress, it still calls for huge cuts in Medicare and Medicaid and tax breaks for the wealthiest. So those battles are still out there. But we Democrats believe it is important for us to tell the American people not only that we are going to fight against these misplaced priorities but also that we have a positive agenda that addresses the needs of America's families, wherever they live in this great Nation of ours.

Why was it that we also felt we needed a Democratic agenda? Quite clearly, the voters sent us a message in 1994 when they said, Democrats, you are not going to control Congress anymore. We are going to put the Republicans in control of the Congress.

Frankly, many of us were very stunned by that, but when I looked back on it, I realized that what happened was we did not do a good job of letting the people know what we believed in. We assumed they knew. We assumed they knew we were fighting for families. We assumed they knew we were fighting for children. We assumed they knew we were fighting for the environment. We assumed they knew we were fighting for choice, a woman's right to choose, individual rights, and for a budget that moved toward balance but reflected our shared values.

Well, we were wrong. We were wrong. People did not really know that. Therefore, we decided to put together an agenda that spoke to the American people. We have had many, many meetings, as Senator DORGAN has stated, and I was very glad to be at some of those meetings to put together this agenda that we bring to you.

In this agenda, we make clear our priorities. Yesterday, for example, we tried to make sure that the minimum wage went to all of the workers at the bottom of the ladder. I was very appreciative that three or four Republicans crossed over the line, and we defeated a Republican leadership amendment that actually would have deprived half the people on the minimum wage of the increase they deserve.

So I really do think that it makes a difference who is here, and although we turned back the most egregious of the amendments, we still have a policy where the people who are tipped employees are frozen at $2.13 an hour in this year, 1996, when it is hard to make it. It is hard to make it even on a salary that is far greater than that.

The Democratic agenda stems from three ideas.

One is security. There are various aspects of feeling secure in your life. Certainly paycheck security is a part of it. It is very important. We need to know that we can pay for a roof over our family's heads. We need to know that we can put food on the table; we can pay for health care bills; we can pay for college education, or at least afford to pay back the loans. So that is very important.

We need to know that we are safe in our streets. That is why we Democrats applaud what President Clinton has done to put thousands and thousands of police in our communities. We applaud him for his courage in getting assault weapons out of the hands of gangs. We applaud him for signing the Brady bill, where thousands of people with criminal records have been denied applications for guns. This has made America safer.

We have more to do. We Democrats want to put more cops on the beat. That is part of our security agenda.

We also do not want to see pensions taken away from people.

There was an extraordinary story on the front page of the Wall Street Journal about the employees of a company called Color Tile working day in and day out, putting aside for their pension. Do you know what happened to their pension? The boss put it in the company, and when the company went bankrupt they not only lost their jobs, they also lost their pensions.

That is wrong, and we Democrats are going to fight for pension protection. That is just one example of it. There are many, many more.

We read also in the area of pensions where people with 401(k)'s, again employer-controlled plans, they buy antique cars and decorate their offices with paintings. This should not be allowed. We need more protection for those pensions. People count on those pensions, and, in many cases, women suffer the most when a working spouse dies and they are not treated fairly.

I think we can really move forward on security—paycheck security, pension security, security from crime. These are the things that we are talking about.

We talk about providing kids, all of our kids, with health care. It is a travesty to see a situation where little kids cannot get health care, and then they wind up with serious problems, go to the emergency room, and it costs a fortune for society to pick up the tab when we should have provided, at a minimal cost, basic quality health care for those children.

So we have a lot to do, and I think we can deliver.

Opportunity is the second idea. That is security. This is opportunity. Educational opportunity. I am an example of someone who went to public schools all her life.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mrs. BOXER. And how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 50 seconds.

Mrs. BOXER. I thank the Chair.

Educational opportunity. I got a public education all the way from kindergarten through college. I serve in the U.S. Senate and I go toe to toe with some folks here who have gone to the best private colleges. That is America. We give our young people the educational opportunity, regardless of their income. That is what separates us out from so many other countries. It is what makes us great. It is what has built the great middle class. We need to make sure all of our young people have a chance to go to college, and we Democrats say that is what we will do. Everyone will have a chance to go to college under our opportunity agenda, which will provide tax deductions for college and job training. For children with good grades and no drug records we have proposed a $1,500 tax credit for the first 2 years of college in HOPE scholarships. The student has to maintain a B average and be drug free.

Economic opportunity. We are talking about making sure if you have a family business, you do not get taxed to death when it is passed to the next generations. We are talking about a special program called State infrastructure banks, where States can leverage small amounts of taxpayer dollars to build the physical infrastructure to make sure that we have safe highways and transit, to make sure we have a safe water supply.

We must take care of our air and water. Here in Washington, a water alert has just been issued. We ought to make sure around here that those who pollute our water are held responsible. We ought to make sure we invest in systems that work, that will provide that clean water. That is something else that we Democrats stand for.

We also stand for responsibility, not only on the part of the Government, but on the part of individuals. Yes, we call for a balanced budget. I voted for three different ones—every one of them I was proud to vote for, certified by the CBO to balance and did not hurt Medicare. You do not have to hurt Medicare, you do not have to hurt Medicaid, you do not have to cut education, you do not have to cut environmental protection to balance the budget. But the Republican plan, because of huge tax cuts to those who are doing just fine, makes unconscionable cuts in those important programs.

We Democrats stand in opposition to that. We want to bring everybody along. We do not want to give special deals to the people who earn over $250,000 a year. They are doing just great. They are doing just fine. We need to make sure that average Americans can make it. We need to make sure they have that opportunity and that sense of security to make it.

So, I think, all in all, we have an excellent Families First agenda. I, for one, am very proud of it.

The PRESIDING OFFICER. All the Senator's time has expired.

Mrs. BOXER. So I think it is time to pass this Democratic agenda. I hope we will get that chance.

I yield the floor.

Mr. REID. Madam 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. THOMAS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Madam President, I think we had some time allotted. I would like to take that time now, as much as I use.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PERFORMANCE RATHER THAN RHETORIC

Mr. THOMAS. Madam President, we wanted to visit just a little bit about the program that has been set up by our friends on the other side of the aisle. I am delighted that there has been some kind of effort to put together an agenda. I think it goes to indicate a little bit about the differences that we have, in terms of solving problems for this country; differences that we have in terms of how we see the role of the Federal Government in our lives and, really, an issue about this whole matter of the end of big Government.

It is interesting. The Prime Minister this morning quoted the President and so on, saying ''The era of big Government is over,'' yet our friends on the other side bring out an agenda that describes all the things that the Government is going to do. I have to tell you, I am a little impressed with the notion that it is a matter of some spinning for political purposes, rather than talking about what we really want to do.

The Democrats come out with an agenda to do something at the same time they are keeping from happening all the things practically that we decided to do this year. It seems to me it is a transparent kind of an idea of talking about it but not doing. Walking the walk? No. Talking the talk? Of course. And that is where we are.

So I really think we ought to challenge our friends over there to really take a look at what is happening here, and if they are talking, really wanting to do what they are saying, let us do it. Let us talk about health care. My friends on that side have not even allowed us to appoint conferees, to do something with the health care program that is there and ready to be passed.

Our friends talk about balancing the budget. The Democrats were in charge of this place and the House for 25 years and never balanced the budget. Now the agenda is: Balance the budget.

Madam President, when you and I were in the House, we had a budget called ''Putting Families First.'' That budget included a $500 per child tax credit, it included anticrime initiatives, it included welfare reform, it included market-based health care reform, indexed capital gains. Our friends opposed it. They said, ''We can't do that.''

That budget would have been putting families first, giving an opportunity for families to do the things for themselves that we think they ought to do—putting families first. I guess all I can say is I am really getting exasperated with this process of ours where the idea is to see how much you can spin and how much you can talk and how much you can say but not do anything about causing it to happen.

It is almost cynical that we have now the most technical, greatest opportunities to communicate so people can have input into their own Government and, at the same time, it is more and more difficult to really understand what people are for. And as this election comes up, that is what we ought to be deciding: What direction do we want this country to take, not what people are going to say but, in fact, what they have done.

The records do not match this kind of rhetoric. President Clinton opposed the balanced budget amendment. Those folks all voted against a balanced budget amendment, practically all. The President vetoed the first balanced budget in a generation. That is the walk, that is not the talk. We have had that this year.

Most of us came to the Senate and said voters told us very clearly, ''We have too much Federal Government, it costs too much and we're overregulated,'' and we have tried to change that.

Frankly, the Democrats have done all they can do this whole year to keep things from happening. We had an opportunity and we still have an opportunity: the first balanced budget in a generation to reduce the size of Government, telecommunications reform happened this year, line-item veto happened this year. It never happened before. Congressional accountability, product liability. We have done those things, and we were able to achieve some of these goals, understanding that Washington is part of the problem, not, indeed, part of the solution.

So, Madam President, I have been very impatient with this idea of getting up and making all these great speeches about things we are for, and then when we have an opportunity to do it, we have an opportunity to put it into place, then all we find is opposition, all we find is, ''Well, I'm for a balanced budget, but I can't be for this one.''

''I'm for welfare reform, but I can't be for this one.''

''I'm for sending Medicaid back to the States some more, but I can't be for this one.''

That is what we have heard the entire year, and continue to hear that.

Now they come forth with the families first agenda, promoting most of the things they have opposed throughout the year.

Madam President, I just find it frustrating, as you can probably tell. It is time that we begin to measure performance rather than measure rhetoric. We have an opportunity to do the things that we set out to do this year. We still have an opportunity to do it. We have an opportunity to have medical reform, we have an opportunity to have some welfare reform, we have an opportunity to balance the budget, we have an opportunity to reduce the size of Government, we have the opportunity to have some tax relief.

Which of those things have been supported on the other side of the aisle? None. But then they have an agenda, an agenda because that is what the polls say, and that is what it sounds good to say to people. It does not matter that it is not going to happen. It does not matter that they are not walking the walk, it is just talk the talk.

I suppose this is fairly harsh stuff, but I can tell you, I have watched this go on now for some time, and it continues. Of course, as we get toward an election year, it becomes more and more heightened in terms of the rhetoric that is there.

So I hope that as we make some of the changes that need to be made in this Government, a government of the people and people deciding, making decisions—that is what elections are about, talking about what direction this country will take, and we have an opportunity to really measure performance, not rhetoric, and that is what we have an opportunity to do.

Madam President, let me yield to my associate from Minnesota.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

WORKING FAMILIES DESERVE SOLUTIONS, NOT SLOGANS

Mr. GRAMS. Madam President, we have heard a lot of talk from Washington recently about the hardships that are facing working Americans. Tax rates are up, job opportunities are down, interest rates are rising while paychecks are shrinking and take-home pay is not going anywhere at all. But the families trapped on this economic seesaw are feeling anxious and unsure about the future, and they are looking to the Federal Government for some change.

Most everyone agrees that a fundamental responsibility of Congress and the President is to try to help ensure greater opportunities for working Americans, so men and women can seek better jobs that will lift their standard of living, and the real debate going on in Washington today centers around just how that should be accomplished.

The Democrats in Congress are saying the answer is to simply raise the minimum wage. But that is a political

smokescreen that flies in the face of reality, an attempt to mask a 40-year record of voting for policies that have actually lowered family incomes.

The truth is that most minimum wage positions are either part-time jobs that are held by students, entry-level jobs for young people who are just trying to get into the work force, or second jobs held by men or women whose spouse is the primary breadwinner.

Raising the cost of doing business by raising the minimum wage is probably going to mean even fewer of those jobs. Some statistics say as many as 600,000 of those jobs will be lost, killing work opportunities for young people and those families who depend on that second income.

Besides artificially inflating salaries by hiking the minimum wage, it ignores the real concerns of many working Americans, working Minnesotans. Yes, they want better jobs that pay better salaries, but they have told me repeatedly that what matters most is not how much you earn but how much of your own paycheck you are allowed to keep after the Federal Government has deducted its taxes.

We have debated the issue and put the issue of minimum wage to rest by passing that legislation yesterday. Yet, the issue of tax relief for families has been virtually ignored in the Democrats' ideas recently in their recently released blueprint for their 1996 campaign season that they have entitled ''Families First.''

They are billing their plan as a roadmap for the future of their party. Congressional Democrats have not created an agenda for change but have instead produced a byproduct of some ambitious political polling. They say that they are in favor of education, in support of welfare recipients working, and helping families and helping children. In other words, if a majority of Americans told the pollsters they liked it, then according to the Democrats, they like it, too. ''Some people say it is a tiny agenda, it is too modest or too bland * * * and my answer is that whatever it is, it is what people told us is their concern now.'' And these are the words of House Minority Leader RICHARD GEPHARDT, in what really was a surprisingly forthright nod to the power of election-year polls.

Let me say again what RICHARD GEPHARDT said. He said, ''Some people say it's a tiny agenda, it's too modest or too bland * * *'' Mr. GEPHARDT went on to say, ''and my answer is that whatever it is, it's what people told us is their concern now.''

Again, the results of their polling.

This tiny agenda, however, comes with a massive price tag. Paying for the families-first promises could cost American taxpayers an additional $500 billion over the next 6 years. While the document is so intentionally vague that computing a precise cost estimate is next to impossible, it is clear that the cost would be enormous, especially if you add that new cost onto the $265 billion tax hike imposed by President Clinton and the Democrat-controlled Congress in 1993.

If the families first title sounds familiar, well, it ought to because back in 1994, Republicans in the U.S. House championed a proposal we called ''Putting Families First,'' which I introduced along with Congressman TIM HUTCHINSON of Arkansas.

We introduced the families-first bill in 1993; and in 1994 it became the Republican alternative; and in 1995 we worked it into our first balanced budget that we sent to the President last year. So the families first title is not new.

Unlike the Democrats' families first, however, it was not a political statement, it was not a statement that we conjured up to coax voters in an election year. Our plan, our families-first version, was a well-reasoned alternative budget proposal that was specifically crafted to create new opportunities for working Americans, to give them those job opportunities and the better pay that they are talking about.

The heart of our plan was a $500 per-child tax credit that would benefit 529,000 Minnesota families. Nearly $50 million a year in tax savings would go just to the residents in my State of Minnesota. That is far more than the 12,000 heads of households in Minnesota who would be eligible for the boost in the minimum wage, according to data compiled by the Joint Economic Committee.

So what would have done more good? It would have been better to pass some of the tax relief that we have advocated and called for rather than a smokescreen of just a small portion in the minimum wage. Putting families first sought to further strengthen families by reforming the broken welfare system, combating crime through new get-tough initiatives, by offering sensible health care reform while reducing the deficit by $150 billion. Republicans in both the House and the Senate embraced it as our alternative to the big taxing, big spending budgets of the past.

As a potent prescription for dramatic change, putting families first offered a strong defense of the American family. The Democrats' version of families first is a placebo, a lackluster concoction that will masquerade as some new medicine, but in reality it offers no cures.

Republicans followed through on putting families first by passing budgets in 1995 and 1996, balanced budgets, that built on that strong foundation. We have pledged to continue to fight for the $500 per-child tax credit, for additional tax relief to make it easier for businesses to be able to create those better paying jobs, and a balanced budget that will reduce interest rates and the amount that a family has to pay on their mortgage, on their car loans and student loans.

Minnesota families deserve solutions, not a lot of empty slogans. If the Democrats are serious, if they are serious about trying to ease the tremendous burden faced by American workers, then they will drop the campaign theatrics and they will help join the Republicans in truly putting families first by turning our promises into law. I think they deserve nothing less than that.

I thank you, Madam President, and I yield the floor. If there are no other speakers, 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. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, as I understand, morning business has expired.

The PRESIDING OFFICER. That is correct.

Mr. DASCHLE. I will use my leader time and only take so much time as may be required prior to the time we are prepared to go to the DOD bill, which I understand is imminent.

THE ACTION AGENDA

Mr. DASCHLE. Madam President, I wanted to call attention to the fact that yesterday, as we passed the important piece of legislation dealing with minimum wage, one of the issues that I do not think got the kind of attention that I had hoped it would receive, and really deserves, has to do with pensions and has to do with the significant new contribution we made to pension reform in the package of amendments that we added to the minimum wage bill.

That legislation dealing with pensions has several categories, one of which is an issue which a number of our colleagues have expressed a great deal of concern about and are prepared to support in a series of amendments dealing with women's pension equity. There is a significant disparity among working people, between men and women, with regard to pension equity.

Senator BOXER and Senator MOSELEY-BRAUN, in particular, added amendments to this package which would begin to address that disparity, which would begin to close the gap, the chasm, really, between men and women when it comes to pensions. I want to publicly commend them for their leadership and their willingness to work with all of us to find a way with which to begin making the effort to close that gap and to provide the kind of equity that I know all of our colleagues would like to achieve. Senator BOXER's provision will make it more likely that surviving spouses—typically women—will be able to avoid significant cutbacks in the level of retirement income provided while their spouses were alive. Senator MOSELEY-BRAUN's provisions

will remove roadblocks that can prevent surviving spouses and former spouses from getting the benefits they are entitled to from both private sector pension plans and Federal retirement programs.

Beyond women's equity, we also dealt with the issue of pension portability. We have a very significant problem in this country that exists every time someone wants to leave their job to go to another job. Pension portability is almost as serious a problem as health care portability. We need to find ways with which our workers can take pensions with them and keep increasing retirement savings without obstacles or cutbacks as they move from one job to the next. This bill will expand the PBGC's missing participant program to help ensure that retirees who have lost touch with their former employer never find their benefits unexpectedly forfeited when the pension plan terminates. It will also make it easier for new employees to enter their employers' 401k plan immediately, rather than waiting to benefit.

Finally, there are a number of issues relating directly to pension security that have to be addressed. Security for pensions is something that increases in urgency for workers as they get closer to that date when they will retire. There is a pervasive sense of insecurity about pensions in retirement today. Working people, men and women, are very concerned about whether or not they will have the capacity to deal with the problems that they know they will confront with regard to their own income viability, their own ability to ensure some confidence that they will have the necessary means to live in some security and comfort during retirement. The way that we are going to be able to address that effectively is to put the kind of priority and attention on pension security that it deserves. We took an important step yesterday by increasing the guaranteed benefit provided to retirees from multiemployer pension plans that become insolvent.

Several months ago, we laid out our desire to see an action agenda addressed. That action agenda has four components. The first was personal security and the need to ensure that people are safe in their neighborhoods. The second was paycheck security and the real desire that working people have to earn more income. The third was health security. And the fourth is pension security.

Madam President, we are now at a point where we have been able to address all four of those security questions. We have been able to protect the cops on the beat program. We have made a downpayment in providing better personal security out on the street than we had before. Yesterday, we passed the minimum wage bill.

We are working on both sides of the aisle, hopefully, to resolve our differences in the Kennedy-Kassebaum legislation. I hope we can, at some point, put that bill back before the Senate in an effort to resolve what remaining differences there are, in an effort to move it forward and to have a Presidential signature and, at long last, declare our victory with regard to the Kennedy-Kassebaum bill.

Health insurance portability is something we all ought to support, and, in fact, have supported. The Kennedy-Kassebaum bill passed by a vote of 100 to 0. There is no reason whatever that we cannot finish that legislation this month. I hope we can continue to keep our eye on the ball. Our eye on the ball in this case is clearly portability for health insurance.

All the other issues, as important as they may be, can be resolved, as well. But the important issue, the one matter that unites us all, is the need to have that portability. We ought to use this legislation to get that job done.

Now, finally, pension portability and pension security—it is critical we get that legislation passed. I am hopeful with the action taken yesterday that will happen.

This is part of a larger agenda the Democrats have laid out, having three components—security, which I have addressed, opportunity, and responsibility. We will have a lot more to say about those three components in the weeks and months ahead. I know that we are now prepared to go to the pending matter. For that, I yield the floor.

(Mr. DEWINE assumed the chair.)

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, we have now completed the process that was laboriously worked out to take up and consider the small business tax relief package, the House-passed package that included minimum wage and some tax considerations. Then we added to it the Finance Committee's work and the managers' bill. We completed that whole process yesterday, and we have now taken up and considered amendments to the TEAM Act. We have passed the TEAM Act.

In connection with all of that, earlier, we had caught up in that maze the taxpayers bill of rights II. I tried yesterday to clear that for unanimous consent because I believe there is overwhelming support for the taxpayers bill of rights bill. I know one of the principal architects of that legislation is Senator PRYOR from Arkansas. But there was objection heard to it because I understood maybe there were amendments that were being considered to be offered to that bill. I understand now that maybe that is not true. I know that Senator PRYOR, Senator FORD, and I think maybe Senator GRASSLEY, and others, are working to see if we can get agreement on that. That is something that we clearly should do to give the American people some further rights with regard to how they are dealt with by the Internal Revenue Service. That is something we should do, and it is long overdue. But there was objection.

Now, today, also caught up in the small business tax relief, minimum wage, TEAM Act, and gas tax act was another matter commonly referred to as the White House Travel Office. So I wish to seek unanimous consent that we could get that legislation taken up and acted on because, once again, it is clearly something that involves equity for the people involved. I thought that once we got all these other issues dealt with, this would be something we could move.

So I am going to continue to try to move bills that are pending before the Senate. Some have been pending for a long time. It is my intent to try to clear for a unanimous consent agreement the bill dealing with the Gaming Commission, which is not something I am particularly excited about, but there is a lot of interest in it, again, on this side from Senator LUGAR and Senator COATS of Indiana. I know that Senator SIMON is interested in that. My intent is to try to get it up and have it considered and deal with it, vote it up or down, but stop holding things up.

I am trying to develop a pattern here of moving legislation, certainly legislation that is not controversial, such as the taxpayers bill of rights, the White House Travel Office, and the Gaming Commission—although that could get to be controversial. If I find out that there will be a lot of amendments beyond what were agreed to in the committee, after consultation with the Democratic leader, we might decide not to bring that up if we are going to have protracted debate on that. We have work we need to do, such as the Department of Defense appropriations bill. The two managers are here and are ready to go. We need to get on with that. If we are going to have objections, then I guess we will not be able to proceed.

UNANIMOUS-CONSENT REQUEST—H.R. 2937

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 380, H.R. 2937, relating to the White House Travel Office. This provides for the reimbursement of attorney's fees and costs incurred by former employees of the White House Travel Office with respect to the termination of their employment in that office on May 19, 1993; further, that a substitute amendment, which is at the desk, offered by Senator HATCH, be offered and agreed to, the bill be deemed read the third time and passed, as amended, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, Mr. President. We have not seen this amendment, to my knowledge. I do not know that anyone has shared it with us. I have not seen it. But I say that, beyond the issue of the Hatch amendment, there are Members

on this side who believe that it is important that we have a good debate about this bill and about this issue. They have amendments that they may be interested in offering. They want the opportunity to offer those amendments, or to at least have the right to offer them at some point.

So we would not be in a position to agree today to pass this piece of legislation. We would need to look at the Hatch amendment. We need the opportunity, at least, to offer amendments. I think it is important that that be done.

So, on that basis, we object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I would like to yield to the distinguished Senator from Utah, the manager of this legislation, and just note that this was brought up and debated for a period of time. I was under the impression that the Hatch amendment was available. I have a copy. I know the other side does have it now. I would like to hear from Senator HATCH on this matter. If, after review, perhaps they find that they could then agree, then we would be prepared to ask for unanimous consent later today to get this matter taken up and considered.

I yield to the Senator from Utah.

Mr. HATCH. Mr. President, the minority has had this amendment for a long time. Frankly, all it does is it takes the House bill, which would reimburse Billy Dale for his attorney's fees incurred in the criminal matter. Our amendment makes it clear that we are only reimbursing him for those attorney's fees, not for any congressional appearances; nor are we reimbursing anybody else for any congressional appearances. It clarifies and, I think, refines the bill so that it can be sent back to the House. I believe they will take that in an instant because there is a terrific injustice here. It is time to solve it. It got embroiled within the minimum wage debate. This is one of the reasons why many of us on our side agreed to go ahead with the minimum wage, which I believe the distinguished Senator from South Dakota and others on that side believe was a victory for them yesterday. I thought that once the minimum wage problem was solved, there would be absolutely nobody in this Chamber who would not want to resolve what is really a tremendous injustice to a person who has been treated very badly. I do not believe there is anybody here who would really object to this bill.

Let me just say this. In the wake of this FBI matter, Mr. Dale and his colleagues have found themselves in the news once again. After trying to put the circumstances of their firings behind them, it was discovered that Mr. Dale's FBI file was requested by the White House Security Office after—let me repeat, after—he was fired—7 months after—and right before he was indicted. It appears that the Travel Office seven were not only fired unjustifiably, but in some cases their personal and private FBI background investigation files, or file summaries, were inappropriately requested and possibly reviewed.

I find it outrageous—as I think most others do on both sides of the aisle—that the Clinton White House would have fired these public servants in such an insensitive and unfair manner and then improperly access private information on some of them—especially Mr. Dale. That is how this whole Filegate thing has arisen. When they found that long after they fired this man, and had done so inappropriately, and then intended to indict and prosecute him unjustly, they got these special secret files from the FBI on Billy Dale.

Now, this just simply demonstrates the arrogance of power of some in the White House with regard to this matter. To hold this up any further, even for amendments, it seems to me is something that really anybody has to think about, because previous attempts to pass this measure were stalled by our colleagues on the other side of the aisle, even though many of them told me they support the measure, including the distinguished Senator from Arkansas, Senator PRYOR, who was the one who spoke up when we first brought this bill to the floor.

First, Members on that side wanted to offer the GATT amendment. That was Senator PRYOR. Then there was the minimum wage amendment. I thought once we solved the minimum wage issue, we would surely be able to bring this up and get it done. Now the Senate has dealt with both the GATT program and the minimum wage. And now I understand, if I heard correctly my colleague from South Dakota, that some of his colleagues have a desire to bring up additional unspecified amendments. Indeed, I have to say it was requested at the staff level that the Senate delay consideration of this legislation until Mr. Dale responds to some questions submitted to him at the Filegate hearing.

Give me a break. It is beginning to look like some of my colleagues on the other side of the aisle want to kill this bill more than anything else. I do not know of anybody who is willing to stand up and say that. But that is what it looks like.

If there are legitimate germane amendments to the Billy Dale bill, I encourage my colleagues to produce them. Let us review them.

My hope would be to work something out and pass this bill today. And I am willing to work with my colleagues and accommodate it. This is a bill with the support of both Republicans and Democrats alike in the House.

Frankly, I fail to see any reason for holding up a measure that would simply remedy the injustice resulting from the Travel Office firings. Throughout the lengthy debate on this bill, we must not forget that the bill is about Billy Dale and the other Travel Office employees. It is a bill that would reimburse their legal expenses for defending themselves against an unjust criminal investigation and prosecution.

Let me again explain unbelievable circumstances for their terminations.

After years of faithful service to the Government, Mr. Dale and other Travel Office employees were fired on May 19, 1993. In an attempt to justify the firings of these loyal public servants who worked for both Democrats and Republicans in the White House, the current White House met with and urged the FBI to investigate the Travel Office. The allegations brought against the Travel Office employees were conducted by those who had a vested interest in running the office themselves. If being fired was not tragic enough, the Department of Justice launched a Federal criminal investigation against the Travel Office employees.

As I have said, Mr. Dale was subsequently indicted, and despite the weakness of the case against him and after only 2 hours of jury deliberations he was acquitted. Because of this questionable use of the Federal criminal justice system, Mr. Dale was forced to spend $500,000 in legal fees. The other Travel Office employees collectively spent $200,000 in legal fees for their defense. And aside from the crushing financial burdens on these people, these individuals were also burdened and continue to be burdened with defending their reputations.

The targeting of these dedicated public servants because they held positions coveted by political profiteers, I think, demands an appropriate response by this institution. And, although we can do absolutely nothing to restore their reputations, their dignity, and their faith in the White House, it is only just that the Congress do what it can do to rectify this wrong.

By providing attorneys' fees we can at least financially make these Government employees whole—these innocent Government employees whole.

That is why we are here. That is why we would like to do it. This bill will be a mere statement by Congress that there was clearly an arrogant abuse of power by White House officials against seven innocent employees in favor of some close to the President who stood to gain financially.

It is one thing for the President to exercise his prerogative and dismiss them, it is another to do so and then concoct an investigation to justify dismissing them.

And we should all be embarrassed by the way our Government treated these seven Travel Office employees, and we should make up for it by passing this measure today.

One last thing: The President himself indicated that he would sign this bill. He knows that it was an injustice. I give him credit for that. And, frankly, it was his White House that caused these tragedies. And he is willing to sign the bill.

There are other bills that the amendments can be added to that are nongermane. If there is something that is germane to this bill, bring it up. We will bring it up now. We will solve those problems. But we will right this tremendous injustice and wrong. And this is the time to do it.

I am hoping that my colleague, the distinguished minority leader of the Senate, will recognize this. I hope that he can get the folks on his side to cooperate and get this measure passed once and for all and then let us go to battle on these other future issues at a later time.

On this one I do not think there is that much opposition among anybody on the Senate floor. At least I have never heard one ounce of opposition to this bill to right these wrongs.

Mr. LOTT. I yield the floor.

Mr. DASCHLE. Mr. President, the distinguished Senator from Utah raises a couple of points that I wish to take just a moment to respond to. I know there are others on the floor who want to go to the DOD bill.

The Senator from Utah indicated that there are those who are asking questions from Dale in particular with regard to his legal fees, and that we were using that as the reason for holding this bill up. We are not using that as the reason. We have not said that until we get that information we are going to prevent the bill from coming to the floor. That is not our desire necessarily. But there are reports that Mr. Dale had a fee arrangement with his attorneys, and that fee arrangement was just a fraction of what this bill would provide with regard to reimbursement for legal fees. If that is the case, then to provide a fee or a reimbursement many times what the fee may have been for Mr. Dale it seems to us to be inappropriate.

The second issue is how unprecedented the nature of this legislation really is. It is virtually unprecedented. I will not ask the distinguished Senator from Utah today if he can give me a list of all of those occasions when we have done this in the past. But I think he would be hard pressed to do that.

Mr. HATCH. Will my colleague yield on that point?

Mr. DASCHLE. Yes.

Mr. HATCH. I think it is unprecedented. Talk about unprecedented. It is unprecedented for the White House to order the investigation, which is what happened here.

Mr. DASCHLE. Mr. President, I take back the floor. Let me just say that is not the case. And the Senator from Utah certainly knows is not the case. That is not what happened, and I hope we could make sure that the RECORD at least would be accurate as we address the circumstances involving this matter.

But the issue is are we willing to establish a new precedent here; that every time somebody is investigated, every time somebody is found to be innocent of some charges, the Government then automatically reimburses that person for whatever legal fees they have incurred. If we are prepared to do that, I think this side would have a very significant list of people that we may want to address. Shall we do that for Congress as well? Where does it stop?

I think all of this needs to be considered much more carefully than we have done thus far.

We have amendments we want to talk about. We think a good debate may be in order before we set this precedent. Before we are asked to put our names on the line and vote affirmatively or negatively on this issue, ultimately I think a much better understanding of the facts and a far better understanding of the complications regarding the unprecedented nature of this legislation ought to be considered.

So for those reasons, we are not prepared to go to the bill today.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. The minority leader is my friend. He knows that. I care for him. He is a very fine person. I have to tell you that I do not think anybody can come to the floor and say the White House in this instance did not do an injustice here; that they did not try to use the force of Government, the FBI, the Justice Department, and others to take apart a very, very good person, and others working with him who have worked for both Republican and Democrat administrations and to do it to take care of their own people.

I have to correct the record with regard to that. I do not think anybody doubts that. It is pretty much admitted. Even the President said he would sign this bill. That was not easy for him because he was in essence saying that he recognized that this is terrifically wrong and that his people in the White House did it.

This is what happened, on May 19, 1993 the White House fired all seven of these people. At least two of the individuals learned of their dismissal in the evening news that night. That is how they learned about it.

The White House first stated that the firings came as a result of an internal audit revealing financial irregularities in the office. Several months of independent review and oversight hearings uncovered the actual motivation for the firings. Certain people in the White House and outside of the White House —friends of this President hoping to advance their own financial interests— attempted to destroy the reputations of the Travel Office employees and take over the Travel Office business.

This issue is not going away nor am I going to let it go away. It ought to be resolved. I am willing to say that the President has done what is right here in saying he will sign this bill. These same persons who did this to these seven Travel Office people used the White House staff members to initiate a baseless criminal investigation by the FBI. That is outrageous.

If somebody in a Republican White House had done that, the fuss and furor would never end.

We have tried just to resolve this problem in a dignified, reasonable way, and do it by paying their attorneys' fees that they incurred just for this unjust criminal investigation and trial.

According to the congressional investigation, certain individuals in the White House and outside of the White House were responsible for these firings. Catherine Cornelius, a cousin of the President, employed at the White House, Harry Thomason, a personal friend of the President and First Lady, Darnell Martens, Mr. Thomason's business partner, and David Watkins, again—how often does he surface—assistant to the President for management and administration, these are the people who shoved it to these time-honored employees.

In December 1992, discussions took place between Miss Cornelius and World Wide Travel—a very appropriate name—the agency that served the Clinton-Gore campaign, about the eventual takeover of the White House Travel Office business.

In January 1993, Watkins hired Miss Cornelius—keep in mind, that is the cousin of the President—and soon thereafter, after he hired Miss Cornelius, the Travel Office began taking calls for Miss Cornelius as the new head of the Travel Office.

In February 1993, Miss Cornelius provided Watkins with a proposal that would make her, the President's cousin, codirector of the White House Travel Office and would hire World Wide Travel, the Clinton-Gore campaign travel group, as the outside travel specialists.

In April and May of 1993, Cornelius began to focus on the Travel Office and, with Harry Thomason, claimed that there were allegations of corruption within the office. During this time, Miss Cornelius and Mr. Thomason pushed that World Wide Travel take over the Travel Office business of the White House and other offices in Government.

In mid-May 1993, employees of the White House counsel's office, Miss Cornelius and others, met with the FBI regarding the Travel Office. Although the FBI was unsure that there was any evidence, or certainly enough evidence in existence to warrant a criminal investigation, William Kennedy, whose name constantly surfaces, former law partner of the First Lady's at the Rose Law Firm, who was then at the White House counsel's office, informed FBI bureau agents that a request for an FBI evaluation came from the highest levels of the White House.

At this time, they determined that Peat Marwick and Mitchell, the accounting firm, would be asked to perform an audit of the Travel Office.

On May 14, Peat Marwick's management consultants made their first trip to the White House.

On May 17, Mr. Watkins and Mr. McLarty decided to fire the Travel Office staff. Although Mr. Dale offered to retire, Mr. Watkins told him to wait until the review was complete.

On May 19, Patsy Thomasson informed Mr. Kennedy that a decision had been made to fire the Travel Office workers and employees. Kennedy informed the FBI, who warned him that the firings could interfere with their criminal investigation, Kennedy informed the bureau that the firings would go ahead anyway.

That same day, before the bodies were even cold, Mr. Martens called a friend from Air Advantage to have her arrange the Presidential press charters. Meanwhile, Mr. Kennedy then instructed Mr. Watkins to delete any reference to the FBI investigation from talking points on the firings. At 10 a.m. that morning, that very same morning, Watkins informed the Travel Office employees that they were fired because a review revealed gross mismanagement in the office. They were initially told that after all these years of service to this country, service to the White House, both Democrat and Republican administrations, that they had 2 hours to pack up their desks and leave.

Watkins learned that Press Secretary Dee Dee Myers had publicly disclosed existence of the FBI investigation as well as the Peat Marwick review. Later that same day, Myers gave another press briefing in which she denied that an FBI investigation had taken place. She had been warned. She knew that what they had done was wrong. She claimed that the firings were based on the Peat Marwick review.

Interestingly, the Peat Marwick review was not finalized until May 21, 1993, 2 days after the firings. The report was dated on the 17th, however. So you can see what we are dealing with here. The report gave no assurances as to either its completeness or its accuracy. In any event, while the report found certain accounting irregularities, it found no—none—evidence of fraud.

In May 1994, the General Accounting Office reported to Congress that while the White House claimed the terminations were based on ''findings of serious financial management weaknesses, we noted that the individuals who had personal and business interests in the Travel Office created the momentum that ultimately led to the examination of the Travel Office operations.''

The General Accounting Office further noted that ''the public acknowledgement of the criminal investigation had the effect of tarnishing the employees'''—that is s apostrophe— ''reputations and the existence of the criminal investigation caused the employees to retain legal counsel, reportedly at considerable expense.''

Of course, as everybody in this body knows, Mr. Dale was the only Travel Office employee to be indicted, and it took a jury only 2 hours to acquit Mr. Dale after a lengthy 13-day trial.

Mr. President, I sat on the Whitewater Committee. I have to say I was absolutely amazed at the improprieties and the wrongdoing and the other things that were really brought out. It was just a layer all across that event. Even so, it was very difficult to understand because there was just one thing after another, and I think people in this country are very mixed up about the Whitewater matter. They feel something is wrong, but it is so convoluted and complex, so filled with what some people call ''the sleaze factor'' that it is very difficult to point to any particular huge bubble in that sleaze. But one thing everybody in this country does understand and one thing that is not going to go away, certainly not until these people are reimbursed for their legal fees, will be the Billy Dale and the White House Travel Office matter.

In all honesty, I do not think anybody knows that there was a tremendous arrogance of power in the White House that really brought about this improper action and these unjustified actions, what really were offensive actions in misusing the FBI and other forces of law enforcement to indict and prosecute a really fine man that everybody today feels somewhat guilty about.

Let me tell you something. This is an appropriate case and one of the few that I can cite in the history of the country where the right thing to do is to reimburse these people for these reasonable costs. In all honesty, they have had even more legal fees because they have had to appear up here on Capitol Hill. My amendment however, would just correct the matter and make it very clear that the only reimbursement for attorneys fees that they can get through this legislation, the only reimbursement will be for what happened in that limited period of time when they were criminally prosecuted and unjustly persecuted, and I am using that word selectively, unjustly persecuted because of White House actions.

I do not care whether it is a Republican White House or a Democrat White House; we ought to all be concerned about doing what is right for these people. In this case, it was a Democrat White House.

This issue is not going to go away. We are still searching to get to the bottom of it. That is how the whole Filegate thing has come to pass. That is how we now find two political operatives, people who throughout their political careers have done opposition research, have spent their time trying to even sling mud at their own Democrat Presidential candidates—who were entrusted with the most sensitive, secret, FBI files pertaining to people who had patriotically served the White House for years and years, young people who no longer are going to go back, or certainly nobody expected them to go back but who believe to this day now that somebody, somewhere, especially since the reports of Mr. Marceca taking computer disks home with Filegate information on people, they are concerned that someday, sometime in the future when they want to serve the Government again some of these secret things that were in those files will be brought forth to smear them and their lives.

I happen to know a lot about FBI files because, as chairman of the Judiciary Committee, somebody who has been on that committee for 20 years, we review these judgeship files all the time. Some of the best judges on the bench today during their younger years did things that were not quite right. Some of them abused drugs. Some of them had problems with alcohol. Some of them did things that, really, you would find reprehensible today and would stop them from holding these positions. But they, in the intervening years, straightened out their lives, repented, did the things that were right, and we confirmed them because it is what they are today that counts.

But if somebody got hold of these files, which contain written down—a bit like Mr. Aldrich's book—everything that is said, whether it is true or not, by people who have axes to grind, by people who are dishonest, by people who hate the nominee, by people who just plain are misinformed, if some of those matters came out, they could destroy the lives of some of these eminent people today who are doing terrific jobs, deserve our acclaim, deserve our support, and who, literally, are among the greatest people in our society today.

All of us are sinners in the sense that all of us fall short of the glory of God. These files show that in many ways.

Frankly, nobody to this day knows just what was taken out of those sensitive files. What we do know is that two people who had absolutely no qualifications, no credentials whatsoever, no training whatsoever, who were known to do opposition research—which is what politicians do, sometimes, to find out all they can about the other side; generally, it is called dirt digging—these people who were known to do this were placed in charge of that office, and one of them ordered up all these files that now are approaching almost 900 files. People thought it was only 307 at first, but now it is up to 900 files, and it may be more than that. We have no absolute way of knowing.

We do not know what was taken out of those files, but we do know there were pink slips put in some of the files that indicate the guts had been taken out and been used somewhere in the White House, and then the testimony was they put the guts back in and pulled the pink slip out. So we do not know how many of those files were copied. We do not know how many of them were on Mr. Marceca's computer disk that he took home from the office, this low-level employee. We do not know any of that.

What we do know is this. Senator DECONCINI, at a very appropriate time here, was chairman of the Senate Intelligence Committee. His top staffer in charge of security on that committee, and thus one of the top experts in the whole country on how you keep these files secure, conducted an investigation of the White House Security Office and found its operations seriously inadequate. Senator DECONCINI wrote to the White House, telling them they better fix up this problem of security at the White House over FBI files and recommended they get somebody other than Mr. Livingstone and Mr. Marceca to take care of these matters and to get some people there who are trained in that area.

As I understand it, Lloyd Cutler—for whom I have a lot of respect, who is certainly a brilliant White House counsel—agreed with the letter 2 years before all this surfaced, and still nothing was done.

Now, we do not know who in the world hired Mr. Livingstone and Mr. Marceca, other than Mr. Stephanopoulos said, ''Well, it was Vincent Foster.'' Vincent Foster is no longer with us, tragically; tragically, now deceased. It is easy to blame somebody who is deceased, who cannot speak for himself. But we know there are others there who had something to do with hiring these two yo-yos and putting them in charge of these sensitive files.

That is what is involved here. The only way all of that came out was because when the excellent chairman of the House Government Reform and Oversight Committee, Congressman CLINGER, demanded papers that the White House refused to give, throwing up executive privilege. They refused to give those papers. Finally he forced them into giving 1,000 of 3,000 pages that clearly were not covered by executive privilege. The White House tried to hold back on him. And, lo and behold, looming up out of all of those names was the name of Billy Dale, that for which they were looking, to see how badly treated this man and his associates were.

Frankly, that is how this has all arisen. But it is not only Billy Dale, but all kinds of other former White House heavyweight Republicans, as well as many others who were not.

People all over the country are now asking, when is this all going to end? When is the Federal Government going to quit being the all-seeing eye into the backgrounds and personal matters of its citizens? How can we protect ourselves from a ''1984''-type government that noses into everything that we do or have done? All of that came out of the Billy Dale matter.

To my colleagues on the other side, I am going to give them just a little bit of advice. I am not used to giving them advice, but I will. This is one you would not want to play around with. This is one that, it seems to me, would be well to pass. Do what is right and get rid of it. I think the White House, my friends on the other side and everybody else will be much better off if we do.

If this is not resolved and resolved quite soon, I have to admit, this is never going to end, because it is a mess. It is wrong. I, for one, am very, very upset about it. I hope my friends on the other side will see the clarity of getting rid of this matter and going on to the business of the U.S. Senate.

I hope we will not have any more desires to have nongermane amendments after we have gone through this fiasco of the minimum wage, which was ostensibly the reason for holding up the Billy Dale matter. If they have germane amendments, let us face them. Bring them out here, we will debate them, we will vote on them, and whoever wins, wins; whoever loses, loses. And we will pass this bill and do what is right, and, hopefully, when the President signs it, it will put it to bed. That is what I would like to do.

I know I have taken a little longer than I care to take on this, but this is something I feel very deeply about. I have gotten acquainted with Billy Dale through the hearing process and so forth. He is a very fine man. He did not deserve what happened to him. We should do what is right in rectifying this wrong that started in the White House, which misused the criminal process to abuse and persecute and, ultimately, prosecute this man at a huge cost, probably the cost of losing his whole estate under the circumstances.

So I apologize to my colleagues for taking so much time. I do feel deeply about this. I know my friend from Hawaii and others have important business to go ahead with.

I yield the floor at this time.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, first, let me commend my colleague from Utah. I think he made a very able, very cogent presentation with respect to the merits of reimbursing someone who found himself in a situation, through no fault of his own, having to spend hundreds of thousands of dollars. I certainly think we should move with speed to deal with that.

SEVERE ECONOMIC CONSEQUENCES TO NEW YORK UTILITY RATEPAYERS

Mr. D'AMATO. Mr. President, I rise to speak on another issue. Yesterday, the Senate gave overwhelming passage to H.R. 3448. Among other things, H.R. 3448 contained the Small Business Job Protection Act. That bill did a lot of good things for many Americans. For example, it extended the employer-provided education expenses for undergraduates and graduate students, something that had been allowed to run out.

It helped provide volunteer firefighters with their service awards—hundreds of thousands throughout this Nation. It brought about spousal IRA's for nonworking spouses, which is long overdue. Both Republicans and Democrats talked about this. And the tax provisions were provisions which were unanimously supported by the Finance Committee. Indeed, the distinguished senior Senator from New York, my colleague and ranking member of the committee, and I both supported this bill.

But, Mr. President, we supported it with a caveat, as it came up for markup—before the markup. We pointed out to the committee and to the chairman and to the staff that there was a provision that would bring about very severe economic consequences to the State of New York and to the ratepayers, the utility ratepayers, because in this bill there was a provision that would require those utility companies, namely Brooklyn Union Gas, Long Island Lighting Co., and Con Edison to redeem their tax-exempt bonds within a period of 6 months. Let me tell you what that would mean, and let me tell you how much in the way of bonds that we have.

We have outstanding $3.3 billion worth of tax-exempt bonds. Con Edison has $1.7 billion; LILCO, $950 million; Brooklyn Union Gas, $650 million. If these utilities were required to redeem their tax-exempt bonds with ordinary bonds, it would mean that the taxpayers and ratepayers of Long Island, Westchester, and New York City would pay an additional $65 million a year over the life of those bonds. We are talking about $1.6 billion—more than $1.6 billion.

Let me say, we already pay the highest electric rates in the Nation. This would cost Long Islanders alone more than $35 million a year.

That is just unconscionable. Let me say here and now, we are not going to stand still for this. This Senator is not going to agree to conferees being appointed until or unless this onerous, ridiculous, confiscatory provision is dropped from the bill.

Now, we were assured that it would be dropped from the bill, it would be dealt with, that technically they would take care of it. ''Don't worry,'' in between the time of the markup and bringing this bill to the floor and passage, ''don't worry about it. It will be taken care of.''

We are not looking to disadvantage anybody. If my State and the taxpayers of my State have to pay $65 million a year more in order to save $80 million over a 10-year period of time, somebody's arithmetic does not add up, and it does not make sense. I am not going to stand by and have our ratepayers get hit with this unconscionable kind of nonsensical—nonsensical—legal gymnastics. It does not make sense.

Understand, the Treasury will pick up $80 million—approximately $80 million—over a 10-year period of time, but it will wind up costing the New York ratepayers and taxpayers and those

who pay their utility bills, because those costs will be passed on from the utility to the ratepayers, $65 million a year more. Over a 25-year life—and it is a minimum of 25 years—it is $1.6 billion.

Let me tell you, Long Island already has the highest energy cost in the Nation. We are going to add another $30 to $35 million a year to that? We have jobs that are fleeing, industries that cannot compete, people who cannot use their air-conditioning in the summer because the rates are so high, the highest rates in the Nation.

So it was not an idle threat when this Senator and my distinguished colleague, Senator MOYNIHAN, indicated to the committee and to the chairman that this provision was not one that was acceptable. As a matter of fact, I assumed, given the promises that were made to us that it was taken care of, that it was dealt with in a way that would not create that burden, and that is what we were promised. That is not the case.

Mr. MOYNIHAN. Will my distinguished friend yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. He used the word ''threat,'' but then said ''promise.'' The point here is that we had an understanding. Would he not agree we had an understanding?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. Would he not agree that this can be changed, but that if the bill is to go to conference, since we cannot bring it back up, it is possible for it to go to conference with an understanding on the part of the conferees that they will not return without a correction having been made?

Mr. D'AMATO. I believe that would be the only way in which we could handle this matter.

Mr. MOYNIHAN. We would not be able to agree to conferees.

Mr. D'AMATO. That is correct.

Mr. REID. Will the Senator from New York yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. We have two here.

Mr. REID. Whichever New York Senator has the floor. It appears this is a bipartisan statement. I want to make sure it is a nonregional statement, and covers the whole United States. We in Nevada have utilities extremely hindered by the result of what we did to you yesterday.

Mr. MOYNIHAN. We would welcome associates and—I do not presume to speak for my colleague, I just think I can say that we would like to be of help to anybody on this question.

Mr. D'AMATO. Let me assure my colleague from Nevada that it would not be my intent to have this deal just with New York. Indeed, all of those utilities that would be impaired and the ratepayers should not suffer regardless of what State they are in.

Indeed, if your utilities have used tax-exempt bonds—and I imagine they have—they would find themselves in a similar position we find ourselves in.

Mr. REID. I appreciate the answer of the Senator. Nevada Power is the utility that handles the power generation for 67 percent of the people in the State of Nevada and is affected very badly. Therefore, we stand by the New York delegation to assist you in whatever way we can.

Mr. MOYNIHAN. If I may just say, with one last question, does the Senator agree we should speak with our distinguished friend, the chairman of the committee, and see if we cannot work out instructions to the conferees at the time they are appointed?

Mr. D'AMATO. I agree with my colleague and friend, the distinguished senior Senator and ranking member of the committee. That is why I have a great deal of confidence in the Senator's suggestion that this would be a way in which we could work it out.

I am sorry that we had to come to the floor. Let me say, this matter is now one that has been outstanding for approximately a week—more than a week—in which we have been attempting at the staff level to work it out. Then when we find that it has not been done, it gives me great cause for concern, because unless we can get that agreement prior to going to conference, I think we would be foolish to move to conference.

So I hope we can get this agreement worked out. But, failing that, notwithstanding there are some magnificent provisions in this bill—just take a look: giving to employers the educational expenses that my colleague and I have worked to restore, and I am very proud of the fact we worked to restore that. Our graduate students, our nurses who are required to get additional education, right now if the hospitals reimburse them, they have to pay income tax on their tuition. That is silly. We want to encourage education.

The spousal IRA is a wonderful thing. We want nonworking spouses to be able to contribute to an IRA.

Having said that, I do not believe that it is fair to the ratepayers of New York to be stuck with this onerous provision that does little in the way of raising revenue but creates a $1.6 billion hit on our ratepayers.

Mr. President, I thank my distinguished colleague for joining with me, and I certainly hope we can resolve this matter, because I think the legislation is good, it is important, I want to see it passed, and I certainly hope we can work this out before this matter goes to conference.

I yield the floor. 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. REID. 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. REID. Mr. President, I ask unanimous consent that the brief statement that I made will not consist of a second speech on the same issue. I am going to talk now on the underlying bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR WASTE POLICY ACT

Mr. REID. Mr. President, I advised my colleagues, Senator STEVENS and Senator INOUYE, that I have been very patient here, but I think it would be to their interest if they went back to their offices and spent the afternoon doing something more profitable. I am going to talk here for as long as I am able to do so, which may take 4 or 5 hours. I may get tired after that.

But I have been over here. I told my friends I would not object to the defense appropriations bill being brought up, which I will not do. But I have been listening to what has gone on here this afternoon, and I think that we should talk about things that are important to talk about.

I have had the good fortune, since I came to the Senate, to be able to serve on the Appropriations Committee with my friend from Alaska, the senior Senator from Alaska, and the senior Senator from Hawaii. I have only the greatest respect for them and the work that they have done all the time I have served with them on the Appropriations Committee.

I think they have rendered great service to the country in the way that they have handled the appropriations bills every year that I have been on the committee. I am sure that will be the same this year. I am sure when the appropriations bill comes up, that I will support that appropriations bill. I am not on the subcommittee, but I have watched with interest and sometimes in awe at the way they have handled the bill.

But, Mr. President, there comes a time in the life of a Senator when you have to talk about principle. Even though I have the deepest respect for Senator STEVENS and Senator INOUYE, I am going to have to take a little time with my colleague, Senator BRYAN, and talk about what is happening to the State of Nevada.

We have heard some lectures here this afternoon about moving to important things. We talked about something dealing with the Travelgate and Billy Dale. I am sure that is important, and I think we should spend some time debating that issue. I am willing to do that at the right time.

Mr. President, we have a matter that we have been told is going to be brought up, S. 1936, the Nuclear Waste Policy Act of 1996, which is a fancy name for putting, without any regulation or control or safeguards, nuclear waste in Nevada. In effect, what they will do is pour a cement pad and start dumping nuclear waste on top of the ground. That is about it. We cannot allow that to happen without putting up a fight.

I regret that the Senate has decided to take its limited and valuable time

to consider this needless and reckless bill. That is what it is. It is needless because the President of the United States, Bill Clinton, said he is going to veto the bill. He said so in writing and he said so publicly. The last time he said it publicly was in Las Vegas, NV. But we are in some political season here where chits are being exchanged or whatever.

Give me a reason why you would bring up a nuclear waste bill that the President said he is going to veto when we have 12 appropriations bills to do? According to an hour-long speech I have listened to here today, we have Billy Dale we are concerned about. We have not done anything with health care reform, and should do that sometime, should take a couple days debating that.

Mr. President, we have more important issues that deserve our attention. I wish we would spend a little time here debating organ transplantation. I wish we would take a day here and tell the American public how important that is. The Chair understands how important it is. I was in the House of Representatives, served on the Science and Technology Committee. AL GORE, now the Vice President of the United States, was a Member of the House from Tennessee, and he was chairman of the subcommittee called Investigations and Oversight.

We held a hearing that lasted several days on organ transplantation. I will never forget as long as I live a little girl by the name of Jamie Fiske, a girl that came to see us. She was yellow. Her color was so bad because she needed a liver. As a result of the publicity from that hearing, Jamie Fiske was a lucky little girl. She got a new liver. As a result of that, her color changed. She became a healthy little girl.

We have not traveled that far since those hearings 12 years ago. I would like to be here debating what this body can do about organ transplantation. We do not have to spend the fortunes of the United States to do that. We just have to make it easier for people to do that.

I carry in my wallet, Mr. President, in case something happens to me, attached to the back of my driver's license, an organ donor card, it reads, ''Pursuant to the Uniform Anatomical Gift Act, I hereby give, effective on my death, any needed organs, tissues, eyes, parts for medical research.'' And, Mr. President, they can have anything they want.

I wish we would spend a little time talking about that, rather than a bill that is going nowhere except take up time here and embarrass the Senators from Nevada and take up our time and that of the President. There will have to be a conference if, in fact, it passes.

S. 1936 is being offered as a replacement for the 1982 Nuclear Waste Policy Act, as amended. The 1982 act says that the State that gets the permanent repository is not going to jump with joy, but the thought was we will go through some scientific observations and experimentations and determine if it is safe to have a permanent repository in a State.

In 1986, the law was changed where previously we were going to have three sites that would be chosen; the first site, second site, and third site. The President would be able to observe these three sites, and when it came time to put nuclear waste in one of these containment areas, he would choose between the three. It would not be as political. If one proved not to be scientifically proper, he would still have two others.

In 1986, for a lot of reasons, most of which were political—everyone acknowledges that now—two sites were eliminated. Texas was eliminated and the State of Washington was eliminated. Nevada now is the State. The law said—and was not changed in 1986—it said you cannot have the permanent repository and the temporary repository in the same State. It seems fair. But what this bill is going to do is take away what limited fairness we have. It is going to say you can put them both in Nevada.

It is a replacement. S. 1936 is a replacement that guts the existing law of its environmental and safety provisions and forces the Government to take responsibility for the waste and liabilities of the nuclear power industry.

Mr. BRYAN. Will the Senator yield for a question?

Mr. REID. I will yield to the Senator for a question, with the understanding that it would not violate the two-speech rule and when the Senator's question is asked and answered I would retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. As I understand what the Senator is indicating, in the 1982 Nuclear Waste Policy Act, we would have an attempt to find a suitable location, we would canvass America. We would look for the best location, wherever it would be, whether the formation would be granite in the Northeast or the salt dome formations in the South, or whether it would be tuff in Nevada, and that after that search was made, that there would be three sites that would be studied and referred to the President of the United States, and that one of those sites would ultimately be chosen.

If I understand what the Senator from Nevada is saying, that the 1986, 1987 changes to the law in effect said no longer do we search the country for the best site. Forget those criteria. We will just study, in terms of a permanent repository, the State of Nevada, and that at that time we had some assurance and some protection in the sense of equity or fairness that a State could not be studied for a permanent site, as I understood the Senator to say, that No. 1, you could not locate a temporary facility until after the permanent site was sited, and that, second, a State could not be both a permanent and a temporary site. I believe that is what I understood the Senator to say. The Senator can perhaps enlighten me if I misstated that case.

Mr. REID. The Senator is absolutely right. No one in this world who knows the nuclear waste issue has worked harder on the issue for the people of the State of Nevada in this country than the former Governor of Nevada and the present junior Senator from Nevada. He is a wealth of wisdom and knowledge on this issue, and he understands as much, if not more, than anyone else how the State of Nevada has been put upon.

Now, we do not like it, but we have accepted the characterization of going forward with the permanent repository. There is a tunnel, Mr. President, that is in that mountain, as large as this room and 2 miles deep, right into the side of a mountain, dug with a machine like a large auger. Now, we do not like it, but they are doing it. It is being done scientifically.

Now, I do not especially like how the DOE has conducted itself, but the truth of the matter is the Department of Energy has gotten all kinds of mixed signals from the Congress. We cannot blame it all on them.

As it will be developed during my remarks here this evening, Mr. President, you cannot fix important problems when you do not give individuals, organizations, and institutions enough time to fix them.

This proposal in S. 1936 is corporate welfare at its worst. It will needlessly expose people across the America—not Nevada, but across America—to the risk of nuclear accidents, I say in the plural. It is a replacement that guts existing law of its environmental and safety provisions and forces the Government to take responsibility for the waste and liability of the nuclear power industry.

Now, we are trying to get Government out of things. But not here; we are putting Government back in things. The existing Nuclear Waste Policy Act need not be changed or replaced.

As I have indicated, Mr. President, we do not like the permanent repository going forward in Nevada, but it is going forward. But not fast enough for the corporate giants. They want it to happen yesterday. They want it to happen without adequate safety, environmental, and science checks. Let it go forward and do not short-circuit it with this interim storage fiasco.

The present law is providing an adequate framework for the current program plan. It is being implemented by the Department of Energy to provide for the long-term disposition of nuclear waste.

Mr. President, as I have indicated, progress is being made on the scientific investigation of a permanent repository at Yucca Mountain. The exploratory tunnel is already, as I indicated, miles into the mountain.

Our Nation's nuclear powerplants are operating and have the capability to manage their spent fuel for many decades. There is no emergency, and there will be no interim storage problem for decades.

The current law has health, safety, and environmental safeguards to protect our citizenry from the risks involved in moving and disposing of a high-level nuclear waste. S. 1936 would effectively end the work on a permanent repository and abandon the health, safety, and environmental protection the citizens of Nevada and this country deserve.

Mr. President, as we talk about this today, we are going to find it is not only Nevada citizens that should be concerned, but they are going to be transporting tens of thousands of tons of nuclear waste across this country. They are going to be transporting the most poisonous substance known to man. How are they going to transport it? On trucks and railroad cars.

Mr. CONRAD. Will the Senator yield?

Mr. REID. I yield as long as there is an agreement it would not violate the two-speech rule, and that I would retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. I have been following this issue with some interest and note the strong interest of the Senator and his colleague, Senator BRYAN, with respect to this issue. Obviously, you have a very strong State interest.

I have been attempting to understand the full dimensions of this controversy. I notice on my schedule that I have individuals from the utility in my region coming in to see me tomorrow or the day thereafter with respect to this question. I wanted to have the opportunity to be able to ask a few questions in preparation for that meeting, if you do not mind.

The issue, as I understand it, is the question of an immediate storage capacity, and the question of whether or not you take the steps now to have that capacity located in the State of Nevada. Is that basically the question before the Senate?

Mr. REID. Yes, that is absolutely the case. I say to my friend from North Dakota, I have only been to North Dakota once in my life. That was to meet with a number of people in North Dakota. Some of the people with whom I met were people from the power industry. I was very impressed with the State of North Dakota and how it helped supply power for much more than the State of North Dakota. It was quite impressive, to be quite frank.

I say to my friend from North Dakota, and I hope he would convey this to the people that he is going to meet with tomorrow, having said that, I have been to North Dakota, been to Beulah. Right outside Beulah, they have this large power-generating facility. We in Nevada are not happy that they are putting the permanent repository there. They are characterizing it. But we have come to accept that. It is going forward. They are characterizing it.

What I say to the people from the power interests that are coming to see the Senator, why do they not let that move ahead, move ahead the way it is scheduled, not try to rush things? That is what has messed up this whole program. Everyone is trying to put science behind time schedules. You cannot do that.

As I have indicated, they have a hole as large as this room, 2 miles into the side of the mountain. They moved a great way in making progress, but let me ask my friend from North Dakota to explain to those people that they are going to ruin everything that they have worked for by trying to short-circuit this.

The President of the United States, who has no dog in this fight, said he will veto this bill. This is unfair to do it to a State, any State, but particularly Nevada, because we have the permanent repository.

Also, with the permanent repository, there are certain scientific guidelines that have been established. I say to my friend from North Dakota, let me show my friend what this bill does. Radiation exposure under this bill, anything you look at in millirems per year, are real low. Safe drinking water is way down here at 4; low-level nuclear waste, 25; also EPA and independent spent nuclear fuel storage—until we get to interim storage—100 millirems per year, four times what anybody else is asked to bear.

Mr. CONRAD. Can I ask the Senator if there are any scientific bases for that 100-millirem provision in this equation?

Mr. REID. I make a parliamentary inquiry.

Mr. President, when the Senator from Nevada is asked a question, is it necessary, as I already have received unanimous consent on one occasion, that I would not violate the two-speech rule by answering the question, and I retain the floor following the question to be answered? Do I need to repeat that each time that a question is asked?

The PRESIDING OFFICER (Mr. THOMPSON). That request is not necessary so long as you yield only for the question.

Mr. REID. As long as I yield only for a question.

Mr. CONRAD. I stipulate for the RECORD that I would like to engage the Senator from Nevada in a series of questions and responses, and we would stipulate that they would yield a response to questions. Is that appropriate, so that we do not have any question that these are questions that are being posed by the Senator from North Dakota to the Senator from Nevada?

I ask unanimous consent that we just have an understanding that these be all understood to be questions posed by the Senator from North Dakota to the Senator from Nevada.

The PRESIDING OFFICER. Is there objection?

So long as they are questions, without objection, it is so ordered.

Mr. CONRAD. I thank the Chair. As I indicated before, I am going to have this meeting, and I want to be certain that I understand this issue very well before I have that meeting. I want to thank my colleague from Nevada for indulging the Senator from North Dakota so I can get these questions answered.

Is there any scientific basis to this 100-millirem level that is provided for in this legislation?

Mr. REID. Absolutely none. There has been no evidence produced at hearings that this is adequate. There have been no scientific documents submitted. Everything is quite to the contrary. But I do not know anyone in the scientific community that would ever suggest that.

Mr. CONRAD. So we do not have anything from the National Academy of Sciences, for example, or anything from the National Institutes of Health? We do not have anything from any of the relevant agencies or departments that would say to us that this 100-millirem standard is one that meets some scientific test; is that correct?

Mr. REID. Absolutely true. During the time that the Senator was asking the question, I wanted to make sure that I was confident that the answer was correct. So I leaned over my shoulder to my colleague from Nevada, and he nodded that I was absolutely right. I have never seen anything to suggest that 100 millirems is appropriate in any way.

Mr. CONRAD. If I might further inquire, do either of the Senators from Nevada—the Senator who currently has the floor—know what would the cost be of this interim storage facility?

Mr. REID. This is interesting. Each site—and we have a little over 100 nuclear waste generating facilities in the United States—it would cost about $6 million per site to store nuclear waste where it now exists.

Mr. CONRAD. That would be a dry cask storage?

Mr. REID. Yes. Now, the dry cask storage container would cost—in addition to making that acceptable for temporary storage, but as I will develop during my remarks, you do not have the transportation problems. I also say to my friend that the National Academy of Sciences recommends for this 10 to 30 millirems, which is right here on the chart.

Mr. CONRAD. They have made a specific recommendation with respect to the potential risk, and they have asserted that a 10- to 30-millirem standard is appropriate. But this legislation has a 100-millirem standard; is that right?

Mr. REID. The Senator from North Dakota is absolutely right. The answer is still the same. Nobody ever suggested that 100 is appropriate. The National Academy of Sciences has suggested 10 to 30 millirems.

Mr. CONRAD. Again, I would like to go back to the question of cost, if I could, because I think that is an important consideration in anything we do around here to anybody who appreciates, as the Senator from Nevada does, the intense budget pressure that we are under. The first question I always ask my staff on any legislation that is brought to me is, ''What does it cost?'' Could the Senator from Nevada tell me what the estimated cost is of this temporary storage facility?

Mr. REID. I am happy to. The operating cost for on-site dry cask storage amounts to about $1 million per year per site. It is $6 million to establish it and, after that, $1 million per year.

Mr. CONRAD. So that would be the sites that would be at some 100 locations where we have nuclear power facilities around the country; is that correct?

Mr. REID. Yes, in cooling ponds. Some of them are saying, ''We are getting to capacity, so what should we do?'' What we and the scientists say is, ''If you want to leave it on-site, you can establish a site for dry cask storage containment for $6 million, and after you get it in the cask, it will cost $1 million a year to keep an eye on it.''

Mr. CONRAD. Then the question is, what is the alternative? If we go to a temporary storage in the State of Nevada, what would the cost of that approach be? Do you have an estimate of that?

Mr. REID. We do not have an estimate. The reason is that the cost of transportation is significant. We have here another chart. This is a sign of nuclear—do you understand what I am saying?

Mr. CONRAD. Yes.

Mr. REID. If we eliminate those, we have to transport these, probably now about 50-some-odd thousand metric tons of nuclear waste. This is how we would transport it. The cost is very significant, because what they have decided is that they would have to move most of it by rail. But to get it to rail, they have to go by trucks to get it to some of the rail sites. My staff just tells me that the information we have been given is that the interim site would cost $1.3 billion, plus the transportation.

Mr. CONRAD. It would cost $1.3 billion for the interim site itself?

Mr. REID. That is right, plus transportation.

Mr. CONRAD. The transportation would be in addition. So it would cost $1.3 billion, and the alternative, as you have outlined, would be $6 million per site, plus $1 million a year.

Mr. REID. That is right.

Mr. CONRAD. Well, do we have any estimate of once you have established this site—which would cost $1.3 billion initially, and have on top of that the transportation cost—what the annual operating cost of that facility would be?

Mr. REID. It would be around $30 million a year.

Mr. CONRAD. About $30 million a year. We are talking about, obviously, a very substantial expenditure. Is this an expenditure by the Federal Government, out of the Federal coffers, the $1.3 billion?

Mr. REID. Yes, because they have asked the Federal Government to take over the project. Up to this time, much of the expense has been borne by ratepayers at so much per kilowatt per electricity into this fund. The fund has been used to repair the nuclear repository. I tell the Senator some interesting statistics. This will make the people shudder, and the Senator from North Dakota is one of our budget experts here, so he probably will not shudder as much because he has gotten used to things like this.

When the 1982 act passed, everyone was told that characterization would cost about $200 million.

Mr. CONRAD. That is with an ''M,'' not a ''B''?

Mr. REID. That is right. But now the estimate is about $7 billion.

Mr. CONRAD. So it is loaded by a factor of 35.

Mr. REID. They were a little off. They are now approaching $3 billion for what they have done at Yucca Mountain. I say, without placing all the blame on the Department of Energy, a lot of it has been, I repeat, trying to put time ahead of science. They get mixed signals to do this and do that. It has made it an impossible situation. But its move forward has been two steps forward and one step back. But they have made tremendous progress in the deserts of Nevada to determine if Yucca Mountain is scientifically proper for geological burial of nuclear waste.

Mr. CONRAD. The question that I have is this. The Federal Government is going to take on this expenditure, the $1.3 billion; is that financed by the ratepayers, or does this come out of the Federal Treasury, the $1.3 billion?

Mr. REID. Mr. President, that is a debatable issue. There are some who say that the ratepayers should continue and it should not be appropriated money of the United States. But there are others who are saying we are going to sue you, the Federal Government, because you do not have a place to put nuclear waste like you told us you would. So we are going to sue you and make the Federal taxpayers pay for it because the timeline for having a repository first in Washington, Texas, and Nevada has slipped.

Mr. CONRAD. So what we may have here is another lawsuit, or series of lawsuits, endless litigation no doubt with respect to the question of who pays?

Mr. REID. Yes. I also say to my friend from North Dakota that there are many who say that there is no problem the way things now stand. The Nuclear Waste Technical Reviewing Board clearly stated:

> The board sees no compelling technical or safety reason to move spent fuel to a centralized storage facility for the next few years.

This a statement they just made:

> The methods now used to store spent fuel at reactor sites are safe and will remain safe for decades to come.

Mr. CONRAD. Let me ask this question. We do not have any nuclear facility in North Dakota. We have some customers in North Dakota who are part of the NSP. NSP has a nuclear plant in Minnesota. So some of our customers in North Dakota have been paying into a fund for some period of time to handle their spent fuel. But as I am hearing the Senator, we could have here a transfer of costs to other taxpayers in North Dakota to take on what would be a Federal facility. In other words, the taxpayers of North Dakota, most of whom have not been benefited by nuclear power, would be asked to pay as Federal taxpayers the Federal share of this facility that would be located in Nevada.

So would I be correct in assuming that North Dakota taxpayers would be asked to take on this burden which has been created by an industry that has been benefiting folks largely not in the State of North Dakota?

Mr. REID. I believe that is absolutely true. I say also to my friend that, first of all, everyone acknowledges that the Federal Government should pay for defense wastes. And the nuclear waste fund—the money we get from the ratepayers—is supposed to take care of the permanent repository. But there are even some who say that is underfunded; that the taxpayers will have to accept responsibility for that.

Finally, I respond to my friend that there is no reason for any of this. I repeat for the third time here today. I do not like the permanent repository in Nevada. It is unpopular. Any place Senator BRYAN or Senator REID goes in the State of Nevada, the seventh-largest State in America, any place we go, whether it is in Elko in northern Nevada, in the far northeast, or Nelson, in the far south, wherever you go the first thing people talk about is nuclear waste.

I am saying there is no need to have this problem. We do not like the permanent repository. But there is no need to compound the problem, not only for the people of Nevada but for the whole country.

I say to my friend from North Dakota, these are not figures that I came up with. These are from the Department of Transportation and the Department of Energy. These are 43 States at risk. This is where the nuclear waste is going to have to go.

Mr. CONRAD. Is North Dakota on that list?

Mr. REID. North Dakota is not on that list.

Mr. CONRAD. I am relieved to find that out.

Mr. REID. You are one of the seven. You are very fortunate. But North Dakota is located in the perimeter of this State. As we have learned, North Dakota produces a lot of things. But one

thing it produces is very good students. We have heard Senator MOYNIHAN lecture about that. For whatever reason, people from North Dakota do very well in school.

Mr. CONRAD. Do especially well in math, I might add.

Mr. REID. I know one Senator from North Dakota who does well in math.

But we have 43 States, and they are at risk because of the truckloads—Arizona, 6,173 truckloads of nuclear waste; 783 trainloads of nuclear waste.

We would go through the list. When you get to Missouri, it has almost 8,000 trainloads. This is unnecessary. We do not need to fill a single truck or a single train with nuclear waste.

Do what the Nuclear Waste Technical Review Board says: Leave it where it is until we get the permanent repository, and then you move it once.

Mr. CONRAD. If I could just wrap up, I appreciate very much the patience of my colleague. Tomorrow or the day thereafter when the people from the utility in my region of the country—not directly from North Dakota—come to see me, I presume that their key message will be, ''Senator, we have a problem developing because our pools are filling with this waste, and we have to move it somewhere. We have to do something with it.'' What would the Senator's answer be to those folks if they presented him with that question?

Mr. REID. I would say that the Nuclear Waste Technical Review Board, which has no interest in this other than to do the right scientific thing, says: ''The board sees no compelling technical or safety reason to move the spent fuel to a centralized storage facility.''

Mr. CONRAD. Their judgment is that it ought to be left in the locations where it is today, and to the extent that the ponds that are the current repository are filling that they move those quantities to dry cask storage.

Is that the essence of their recommendation?

Mr. REID. That is the statement of the Senator. I have read verbatim what they have said. I feel very confident in stating that the board knows—I am talking about the Nuclear Waste Technical Review Board—that of the more than 100 operating nuclear power reactors at 75 sites in 34 States, 23 will require additional storage space probably before the turn of the century. They are saying those 23, just leave them like they are. They have seen them, studied them, do not worry about them. The cooling ponds are fine. But if you have to move them to dry cask storage then do that.

Mr. CONRAD. Then that would be their recommendation. In those places where the ponds have reached their capacity, or about to reach their capacity, those quantities be moved to dry cask storage on the spot, not be transported to an interim facility, but wait for the long-term repository.

Mr. REID. That is right.

Mr. CONRAD. If I could just finish by asking my colleague, what is the schedule for the creation and development of a permanent repository? Is that something that is anticipated to be done in 10 years or 20 years?

Mr. REID. We expect a final decision to be made probably in the year 2009.

Mr. CONRAD. That would be a decision made.

Mr. REID. Yes. But that is when they start moving. That is when they declare the site scientifically safe.

Mr. CONRAD. At that point would it be operational?

Mr. REID. Yes. The dates slip a little bit.

Mr. CONRAD. Thirteen or fourteen years from now.

Mr. REID. Yes.

Mr. CONRAD. I thank my colleague from Nevada for this chance to get some of my questions answered. I appreciate very much the efforts that he and his colleagues have put into this thing.

I must say I have rarely seen two colleagues more determined on an issue than Senator REID and Senator BRYAN. I think it speaks volumes to our colleagues. It speaks volumes to this Senator about the seriousness with which they regard this issue; the time they have taken in our caucus; the time they have taken on the floor; the time they have taken individually to alert colleagues as to the critical nature of this issue for their State.

If I resided in Nevada I would be very proud to have two Senators like Senators REID and BRYAN representing me because one thing you want, whoever you send here, when there is a time to fight for your State that somebody is going to stand up and fight.

I must say I have not reached a conclusion on this issue. I have more to learn. I want to hear from both sides before I reach a conclusion. But if there are ever two men who are fighting for their State, I must say it is Senators REID and BRYAN.

I would like to conclude by saying that I admire and respect the effort that you are making on behalf of the citizens of Nevada.

Mr. REID. I appreciate the penetrating questions of the Senator from North Dakota.

I only respond that I have been in this body as long as the Senator from North Dakota. We came at the same time. I think it is important to remind the people of America that the Senator from North Dakota, as far as this Senator is concerned, speaks volumes of what integrity is all about.

I will remind people—and I am sure it is embarrassing to the Senator, but I will say it while he is on the floor—the Senator came to Washington at the same time I came to the Senate, and he said that he felt the No. 1 responsibility was to reduce the deficit. When the deficit was not reduced as much as he thought it should be, he decided not to run for office, and he did not.

I also say that the Senator has been very complimentary to the two Senators from Nevada about the issue about which I address the Senate today, but I say to the people of North Dakota, I have learned a great deal in the 10 years I have served in the Senate with the Senator from North Dakota, because in North Dakota anything dealing with agriculture is a burning issue, and I have watched the Senator, since my colleague has come to the Senate, devour the rest of the Senate on agricultural issues. So I appreciate the nice remarks, but certainly it is mutual admiration.

Mr. President, as I have spoken, we have a lot to do in this body. As I indicated, my good friend from the neighbor State of Utah has spoken about an issue, and he has spoken very fervently. The chairman of the Judiciary Committee has stated that he feels we should do something about the Billy Dale matter, attorney's fees and cost reimbursement.

I think there are some issues that we need to talk about. I would like to talk about some of those issues. That is why I am talking here today. We should be talking about issues that the President has said, ''I am not going to veto that.'' You heard the Senator from Utah; he said that the President would accept a Billy Dale bill. He has said, on the matter about which I speak, S. 1936, he will veto it. He has not said it once. He said it many times.

You will note that Senator Dole did not bring up this matter. Why did he not bring it up? I would think that he probably has a pretty good idea about Presidential politics. I think he knows that in Nevada, there are a lot of important issues, but there is nothing that is at the top of people's lists like nuclear waste. He said he is going to veto it. He has said it in Washington. He has said it in Nevada. And he will veto it.

If there is anybody who believes that Clinton will not sweep the State of Nevada if he vetoes this, they have got another think coming. He carried the State 4 years ago. Right now, the polls show Clinton ahead a little bit in Nevada. But if he vetoes this bill, he will be a long ways ahead in Nevada. That is why Senator Dole did not bring it up, because he knew that when November comes, this election is going to be pretty close, even though Nevada is not a real populated State—we now only have two congressional representatives—in the next census, we will probably have three or four, but right now we only have two, meaning we have four electoral votes, and that could make the difference in this election. That is why Senator Dole did not bring up this issue.

It is my understanding, Mr. President, that our colleague from Indiana is present, and that he wishes to recess for a short time so that he can introduce a parliamentary delegation.

I ask unanimous consent that I not lose any privileges of the floor, that I retain the floor as soon as the 10-minute recess is ended, that I lose no rights, privileges, or other matters

that may be at my disposal as a result of this brief 10-minute recess.

Is there agreement to that, Mr. President?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. I would therefore on those conditions yield to my distinguished colleague from Indiana for the introductions.

The PRESIDING OFFICER. The distinguished Senator from Indiana.

VISIT TO THE SENATE BY MEMBERS OF THE EUROPEAN PARLIAMENTARY GROUP

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Nevada for his cooperation. Likewise, I'd like to thank all Senators who are with us, and staff.

It is my privilege and honor to have the opportunity to welcome on behalf of the entire Senate a distinguished delegation from the European Parliamentary Group who are here for the 44th European Parliament and U.S. Congress Interparliamentary Meeting. This delegation, which is led by Mr. Alan Donnelly, from the United Kingdom, and Mrs. Karla Peijs, from the Netherlands, is here to meet with Members of the Congress and other American officials to discuss a wide range of issues of mutual concern.

The European Parliament plays an increasingly important role in shaping the new Europe. Parliament's authority has been expanded recently. It will continue to play a central role in the many challenges and opportunities facing Europe as European nations build upon free market economics, as they deepen the roots of democracy, as they define their relationships with Russia and the former Warsaw Pact countries and reach out to the rest of the world to forge viable economic, political, and security linkages.

Continued contact with and strong relations between the European Parliament and the U.S. Congress are essential in developing better economic relations with Europe and in reinforcing the many common goals which bring us together.

I ask all of my colleagues to join me in welcoming individually, by greeting them by hand, each of the distinguished parliamentarians who are here today from the European Parliament.

Mr. President, I ask unanimous consent that a list of all of the delegation be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

EUROPEAN PARLIAMENT DELEGATION FOR RELATIONS WITH THE UNITED STATES, JULY 1996

SOCIALIST GROUP (PSE)

Alan Donnelly (U.K.) Chairman.
Jean Pierre Cot (France).
Mrs. Ilona Graenitz (Austria).
Ms. Irini Lambraki (Greece).
Mrs. Bernie Malone (Ireland).
Gerhard Schmid (Germany).
Erhard Meier (Austria).

EUROPEAN PEOPLE'S PARTY (PPE—CHRISTIAN DEMOCRATS)

Mrs. Karla Peijs (Netherlands) Vice Chairman.
Ms. Mary Banotti (Ireland).
Bryan Cassidy (U.K.).
Reinhard Rack (Austria).
Elmar Brok (Germany).
Giampaolo D'Andrea (Italy).
Paul Rübig (Austria).

UNION FOR EUROPE GROUP

Raul Miguel Rosado Fernandes (Portugal).
Franco E. Malerba (Italy).

Mr. LUGAR. It is, indeed, a privilege to have this delegation with us, and I appreciate the time taken by the Chair and by the Senators so that we may have an opportunity to greet this distinguished delegation. I encourage all of us to do so before we proceed with our debate.

I thank the Chair.

RECESS

Mr. LUGAR. Mr. President, I ask unanimous consent, under the conditions stipulated by the distinguished Senator from Nevada, that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 4:37 p.m., recessed until 4:46 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. THOMPSON).

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The Senator from Nevada has the floor. I wonder if I can have unanimous consent that I not lose my right to the floor. I want to speak with the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. There is no quorum call in progress.

The Senator from Nevada.

NUCLEAR WASTE POLICY ACT

Mr. REID. Mr. President, as we were discussing before the senior Senator from Indiana asked for a recess for the European Parliamentarians, we have a lot to do in this body. I hope we can do a welfare reform bill. It is part of the Democratic families first agenda. It is something my colleagues on the other side of the aisle have said that they want to pass, and I believe that.

I am a member of the Environment and Public Works Committee. I have responsibilities with my friend from Idaho, Senator KEMPTHORNE. I am the ranking member of a subcommittee, and we passed out of this body, with bipartisan support, a safe drinking water bill. That conference is now ready to meet. We should get a bill back here and debate that conference report and pass, for the people of this country, the Safe Drinking Water Act.

Health care reform: Health care is important. There is no way that we are going to be able to do all that needs to be done with health care, but we need to do what is possible to go with health care. Can we not do the portability of insurance? Can we not handle preexisting disability? We need to finish that important issue.

The only appropriations bill that we have passed is one that is chaired by the junior Senator from Montana, and I am the ranking member of that subcommittee, military construction. It was a bill that passed here on a bipartisan basis. We had very good debate on the underlying issues when the defense authorization bill came up. We had fully exhausted talking about those military construction matters when the military construction appropriations bill came up. When it came up, it passed out of here without a contrary vote.

There are many things that we need to do here that are doable, but the more time we waste on issues like nuclear waste, an issue that the President has said he is going to veto—interim storage—we are taking away from the important matters at hand.

I repeat, we were lectured today by my friend, the senior Senator from Utah, about the situation with the White House Travel Office. Listening to my friend from Utah, I think that is an issue that needs to be debated at length, because there are two sides to every story. Maybe Billy Dale is entitled to be compensated for all of his attorney's fees, but that would set a kind of strange precedent in this body that any time a Federal prosecution goes awry, we reimburse the defendant, who is acquitted, for his attorney's fees? Think about that one as a precedent-setting matter.

I have also seen a letter that was written on Billy Dale's behalf to the Justice Department that he would agree to plead guilty to a felony. I have also seen that one of the reasons that criminal prosecution was considered is he used to take part of the money home with him every night—I do not know about every night—but he would take cash home with him, kept it in his home. I think that would raise some suspicions in some people's minds.

Maybe Billy Dale is entitled to be reimbursed for his expenses. Maybe there are some overwhelming merits on his behalf of which I am not aware. But it is not a slam dunk, as the Senator from Utah would lead us to believe.

So, should that not be something we talk about here? The President has not said he is going to veto that. But, no, what we are being told is we are going to go to S. 1936, a bill that the President of the United States, Bill Clinton, has said he is going to veto. It will take up time of this body and take up time of the other body in conference.

The President said he is going to veto it. Why should he not veto it? It is one of the most irresponsible pieces of legislation that I can even imagine. I am sure there are more, but I do not know what they would be.

Remember, the 1982 act said that you could not put the permanent repository and the temporary repository in the same State. What S. 1936 tries to do is it says we are going to set that long-standing policy aside and site both the temporary storage and permanent storage in the same State. Is it any wonder that the President said, ''This is unfair, and I'm going to veto it?''

Our Nation's nuclear powerplants are operating and have the capability to manage the spent fuel for many decades. There is no emergency. There will be no interim storage problem for decades. I have heard every year that I have been in this body that there is an emergency. They have cried wolf so many times. To this Senator they have cried wolf 13 or 14 times. There is just no reason that we continually hear these cries: ''Please help us, we have no alternative. You've got to help us.''

Mr. BRYAN. Will the Senator yield for a question?

Mr. REID. I will be happy to yield for a question under the preceding request that is outstanding that I not lose my right to the floor if it is a question.

Mr. BRYAN. Apropos to the Senator's comment that we have heard time and time again that there is a crisis that is unfolding, does the Senator recall back in the early 1980's when a program that was referred to as the away-from-reactor-storage concept, which is similar to the interim storage that we are dealing with, that the nuclear utilities in America came forward and indicated that if they did not have away-from-reactor-storage capability—this was in the early eighties—that by 1983 there may be brownouts across the country, that nuclear utilities would be forced to close with all kinds of electrical distribution crises appearing in cities across the country?

And if the Senator recalls that, does this not seem like a familiar refrain of the old cry of wolf again and again and again because, in point of fact, as I understand it—and I invite the Senator to respond to my question—there really is no crisis? There is no reason for us to be on an issue such as the S. 1936 bill, as the Senator mentions.

Does the Senator recall that history? The Senator has been in this Chamber longer than I have. But this is such a familiar refrain to this Senator.

Mr. REID. I remember very clearly that plea for mercy. ''We have to do it or we can't survive.'' The Senator is absolutely right. They said there would be parts of the United States that would have no power, there would be brownouts. Of course, there have been some brownouts, but those had nothing to do with nuclear power.

Mr. BRYAN. I believe, if the Senator would yield for a further question——

Mr. REID. I will yield for a question.

Mr. BRYAN. I believe that the state of the record will bear this out, that no nuclear utility in America has ever been required to close or cease generation of power because of the absence of storage.

Mr. REID. The Senator is absolutely right. It is very clear that the cooling ponds are sufficient. But one of the interesting things that my colleagues should understand is, since 1982, the scientific community has been working on a number of scientific endeavors relating to nuclear waste.

One of the things they have worked on is, if we are going to transport nuclear waste, we have to do it safely. How can we do it? You just cannot throw it in the back of a truck. You cannot just throw it in one of the boxcars. So they have worked and they have come up with something called a dry cask storage container. With a dry cask storage container, they said, you know, I think we can transport this stuff safely.

I will talk a little later how probably—not probably; there are still some safety problems in transporting. But all the scientists say you can store nuclear waste on site in a dry cask storage container and that will be perfectly safe because you do not have the problems with train wrecks and truck wrecks and fires on-site.

Mr. BRYAN. If the Senator would yield for a further question.

Mr. REID. I will yield for a question.

Mr. BRYAN. It is my understanding of the state of the record that in point of fact some nuclear utilities today are storing their high-level nuclear waste on-site in the facilities which the Senator has just described, dry cask storage. So as I understand it, we are not talking about some theoretical or technical possibility. We are talking about technology off the shelf, currently available, being used by many utilities and available currently today.

Mr. REID. The Senator's question is directly to the point. It is absolutely true. It is now beyond the planning stage. Dry cask storage containers work. They work better when you leave them on-site. Then you do not encounter the problems, as I indicated, with train wrecks and truck wrecks and firings and those kinds of things. So the Senator is absolutely right. The current law has health, safety and environmental safeguards to protect our citizenry from risks involved in moving and disposing of high-level nuclear waste.

S. 1936 would effectively end the work on a permanent repository and abandon the health, safety and environmental protection our citizens deserve. I am not talking about just Nevada citizens; I am talking about citizens of this country. It would create an unneeded and costly interim storage facility. It would expose the Government and its citizens to needless financial risk.

So, Mr. President, why are we here addressing this issue instead of issues that need attention, actions that will improve the condition of the average American, instead of this bill, which will only improve the bottom line of the nuclear power industry, at best?

We are here because the nuclear industry wants to transfer their risks, their responsibilities, and their legitimate business expenses to the American taxpayer. This has been their agenda for almost two decades. They think that now is the time to close the deal. They want the nuclear waste out of their backyard and into someone else's backyard. They do not care what the risks are.

The bill is not in the best interest of the people of this country. It should not become law. Because of Bill Clinton, it will not become law. The President will veto this. If we do not have the foresight, Mr. President, to kill it here and now, the President will veto it.

S. 1936 is not just bad, it is dangerous legislation. It tramples due process and it gives the lie to the claims of support for self-determination and local control, made with great piety by some of our membership. It legislates technical guidelines for public health and safety, arrogantly assuming the mantle of ''the Government knows best,'' when in actual fact this branch of Government knows virtually nothing about these technical issues. It mandates a level of risk to citizens of this country and the citizens of Nevada that is at least four times the level permissible at any other radioactive waste facility.

Mr. President, let me go over this chart again that I did with my colleague from North Dakota. There is no exposure level—there is no exposure level—any place in the country, anyplace in the world, that has laws like this.

The EPA safe drinking water, 4 millirems per year; NRC Low-Level Nuclear Waste Site, 25 millirems per year; the EPA WIPP facility in New Mexico, 15 millirems per year; the Independent Spent Nuclear Fuel Storage Facility, 25 millirems; the International Exposure Range, 10 to 30.

What do we have in S. 1936? One hundred millirems. I mean, look at it. Why would we allow radiation exposure levels to individuals that have anything to do with nuclear waste in Nevada 4 times, 10 times, 20 times what it is in other places, other agencies? It just simply is wrong.

Mr. BRYAN. Will the Senator yield for a question?

Mr. REID. I will be happy to yield to my colleague for a question.

Mr. BRYAN. If I understand what the Senator is saying, this is absolutely astounding. Is the Senator suggesting that the EPA has said, as a safe drinking standard for America, 4 millirems? That is per year?

Mr. REID. Four millirems is the correct answer.

Mr. BRYAN. As the Senator well knows, the WIPP is a facility in New Mexico designed to receive transuranic nuclear waste. Is the Senator indicating for the good citizens of New Mexico, 15 millirems?

Mr. REID. The Senator is correct.

Mr. BRYAN. And that the citizens in the State of Nevada—we were admitted to the Union, if I recall, before the

good State of New Mexico—but somehow for the rest of America, they have a 4-millirem standard for safe drinking water, at another nuclear storage area in our country they are proposing 15 millirems, but in the State of Nevada from a sole source, a single source, they are suggesting that Nevadans would have to accept a standard of 100 millirems from one source on an annual basis? Is that what they are suggesting?

Mr. REID. My colleague is absolutely right, absolutely right. In Nevada they are saying, ''We're going to pour this cement pad and dump this out. If it leads to 100 millirems exposure, that is OK.'' That is what they are saying.

Mr. BRYAN. I must say, it prompts the question in this Senator's mind. There must be more to this than we understand. Somehow, in a deliberative chamber, that there would be a suggestion made that health and safety standards, which presumably are legislated for the Nation, and with each of us entitled to equal protection under the law, and presumably I would think we would be entitled to equal protection in terms of health and safety standards, that a Congress which purports to be interested and concerned with the rights and sovereignty of States, individual States, would suggest that one State out of the Nation, and one State alone, would have a standard applied to that State that is 25 times the safe standard for safe drinking water and would be more than 6 times the standard that the citizens of our southwestern State, New Mexico, would be subjected to for the transuranic, that somehow we have a standard of 100 millirems.

Mr. REID. The Senator is correct. The answer is yes. As the Senator from North Dakota, in questions to this Senator earlier in the day asked, is there any reason for that? No. There is no scientific basis. There is no scientific theory. There are only people who want to jam this down the throats of the people in Nevada saying, ''Don't worry about it. It will be OK.''

Mr. BRYAN. I must say, the thought occurs to this Senator, and the question arises in this Senator's mind, that why would any legislative body seek to impose a standard on a single State that no other Member of this body would be willing to accept for his or her State, when what we are talking about is health and safety? We are talking about potential dangers from the standpoint of cancer, genetic health problems, all of which, as I recall, we experience currently as a result of some of the atmospheric experiences in Nevada State in the 1950's and 1960's.

(Mr. ABRAHAM assumed the chair.)

Mr. REID. I say to my friend from Nevada, the question is absolutely pertinent. The answer is, we do not know why that standard is set. There is no scientific basis. There is none whatever.

It goes to show how maybe the two Senators from Nevada were not such great advocates after all to get the President of the United States to agree to veto this. For Heaven's sake, why would we? On this basis alone, the President should veto this legislation. On this basis alone, he should veto this legislation, notwithstanding the fact that they are trying to change the substantive law in effect since 1982, that you could not have a permanent site and a temporary site in the same State. The President of the United States has many, many reasons to veto this bill. That is why he has said he will veto the bill.

Yet, what are we doing? We have 34 legislative days left until we adjourn in October. I think it is 34 or 35 days. We are here talking about nuclear waste. We should be talking about health care, welfare reform, teenage pregnancy. We have a lot of things to do with pensions that we need to do work on. We have 12 appropriations bills we could better spend our time on. We have reconciliation. We have numerous conferences we could be completing and here debating. But what are we doing? We are going to spend days on a bill that the President has said he is going to veto.

Now, the State of Nevada, I say to my friend, the Presiding Officer, unlike his State, which is a very populous State, we are a small State. For many, many years we were the least populated State in the Union. We are used to having people say, ''Well, Nevada is not much. It is just a big desert, so we will give you anything we want.'' I think they have carried it too far in this instance. The President of the United States acknowledges it has been carried too far.

We have sacrificed a great deal for this country, and we have been willing to do it, the citizens of the State of Nevada. We have had numerous military installations in the State of Nevada. We still have a number. We have the most important airplane fighter training facility in the world, one for the Navy at Fallon—the best. If you want to be a Navy pilot and you want to be the best Navy pilot, you will train in Fallon. If you are in the Air Force and you fly fighter planes, if you want the Ph.D. of flying, you go to Nellis. Forty percent of the State of Nevada airspace is restricted to the military. If you want to fly to Nevada, you avoid 40 percent of the airspace in Nevada because this is restricted. We have given a lot. We have been willing to do that.

There have been almost 1,000 atomic devices set off in Nevada, some of them above ground, causing sickness and injury to people in Nevada and wherever the clouds went—lots of people upwind, including some in Utah. We sacrificed that.

There comes a time when the line has to be drawn. It has been drawn, Mr. President. We are wasting our time on this bill. As long as this bill is going to be brought before this body—there is no one that can say the President will not veto it—we are wasting our time.

We are going to talk about this bill at great length. That is why we have the Senate of the United States. That is why two Senators from Nevada, a sparsely populated State, have as much right, as much authority in this body, as Senators from very populated States like Michigan, New York, Florida, Texas, and California.

The two Senators from Nevada, although we are a State now of about 1.6 or 1.7 million—small by most standards—we have as much right to do whatever a Senator can do as our sister State of California, which has 32 million people. We are here exercising our rights that were set up in the Constitution of the United States. I carry one in my pocket, a Constitution of the United States. It gives us the rights we have on this floor.

We will do what we can to protect the State of Nevada. That is why we are here. This is not some unique thing that a couple of Senators from Nevada dreamed up. This is something that the Founding Fathers dreamed up over 200 years ago. We will use the Constitution that has established the Senate of the United States to protect the rights of the people of the State of Nevada, and we believe in the rights of the people of this country who are being misled and misguided by this very dangerous law that is being proposed.

Mr. President, S. 1936 is not just bad, it is dangerous. It tramples due process. I repeat, it makes light of the claims of support for self-determination made with great piety by some of our membership. It legislates technical guidelines for public health and safety, arrogantly assuming the mantle that Government knows best, when, in actual fact, as I have stated before, the Government knows virtually nothing about these technical issues.

I repeat, because it is worth repeating, it mandates a level of risk to Nevada citizens that is 25 times the level permissible at other radioactive standards. Radioactive exposure levels deemed safe by the sponsors of this bill are 25 times the level permitted by this Nation's Safe Drinking Water Act.

This bill prohibits the timely application of Federal, State and local environmental regulation activities that deal with some of the most hazardous materials known to man. I do not qualify that: It deals with the most hazardous substance known to man. I defy anyone to tell me anything that is more dangerous and more potent that plutonium.

Why would the sponsors abandon these protections? Could it be because this material is so hazardous that regulators of public health and safety might interfere with this rush to move waste out of the sponsors' and generators' backyards? Or could it be because there are serious uncertainties about how much contamination is safe, so that moving it around and storing it safely is a time-consuming and complicated process? Could it be possible that the desire to make this waste

someone else's problem is so intense that the proponents of this bill and the generators of this poison have abandoned all pretense of caring for our environment or caring for the health, safety, and prosperity of our fellow citizens?

I say, Mr. President, look at this chart: 25 times the level of safe drinking water, 4 times independent spent-nuclear-fuel storage; over 6 times more than the WIPP facility setup in New Mexico.

By denying the protections of environmental regulation, this bill makes a mockery of significant advances this Nation has made in promoting wise and prudent care for our increasingly fragile environment. But the sponsors do not care because it will be someone else's problem or at least that is what they think.

If they can do this to Nevada, what is next? Take, for example, a State that borders on Nevada—Idaho. Idaho is a beautiful State. I have floated down the Snake River. I have stayed at Sun Valley. It is a beautiful State, sparsely settled. But assume that California or assume one of the other States who have all the problems with landfills, solid waste, they decide they want to bring their mountains of garbage, of refuge that are accumulating in California or some other densely settled Eastern State, where usable landfill space is rapidly disappearing, and imagine the reaction if Idaho were made a garbage dump by prohibiting applicable environmental law, by denying judicial review of dangerous and intrusive activities and by legislative definition of unacceptable health and safety standards. What would the reaction be of the people of the State of Idaho, that beautiful State of Idaho, which suddenly was told that they are going to be the repository for mountains of garbage—every kind of garbage? They will just take it and pick a spot in Idaho and start dumping it. What would their reaction be?

Idaho did not generate the garbage. Idaho did not benefit from the products that generated this garbage. Their economy did not gain a single cent from the sale of products that generated this garbage. Idaho is just conveniently rural and is outnumbered by those who do generate it, those who did benefit and enrich themselves through the generation of the garbage. Could Idaho stop such a blatant, inexcusable abuse of power in their own home State, or of its environment, or of its future freedom to develop, occupy, or use its land? Could Idaho at least take action to ensure the health and safety of its residents and their children and their children's children in countless generations? Well, could they?

Before the introduction of this bill, I would say, sure they could. But if this bill is allowed to pass, that will not be the case. After all, that is what this Government is all about, protecting the rights of each and every one of us—our health, and protecting the security of our homes, protecting the rights of each of us in the pursuit of prosperity, assuring each of us the enjoyment of the freedoms of this great land.

Mr. President, I am not so sure that we could not start dumping garbage in Idaho. I am not so sure anymore because this bill proposes to deny the appeal to legal authority that has assured these rights to generations of Americans.

Mr. President, this bill denies due process and the rights of States to protect its citizens. It denies due process by legislating against legal injunctions against intrusive activity.

Mr. President, you, the occupant of the chair, are relatively new to this body, but you came with the reputation of being a legal scholar, really understanding the law. You are a graduate of one of the finest, if not the finest, law schools in America. You did very well there academically. I invite you to read this bill—you, as a person who understands the law and what the law is meant to be. This law stops the State of Nevada from going to court. How do you like that? That is what it does.

The sponsors say: Well, you will get your day in court sometime. Mr. President, I have tried about 100 jury trials. I always prided myself—when I talked to the jury, I said, ''You know, a lot of things have changed since we became a country. We no longer ride horses, we ride cars, which was something that people never thought about. We have airplanes, and we have gone to the Moon.'' I went through the process of how things have changed. But I said, ''You know, one thing has not changed since King John signed the Magna Carta in 1215. He gave those barons a right to a trial by a jury of their peers. That was carried across the ocean in the common law, and we have that right now—a trial by jury.''

I was very proud to be a lawyer and representing people who had problems that I thought I could help with. I also, on occasion, went to court for injunctive relief. Well, I say to those people who know a little bit about the law, read this bill. This changes the process of the legal system in our country. The bill says that you can sue, but you must wait a long time, and wait until there are a lot of actions that take place—in fact, until there is a done deal before you can even apply to court. It reverses the Nation's progress toward assuring our offspring a safe and nurturing environment. It does it by delaying assessments of environmental conferences until much of the groundwork, if not all of it, has been done. The sponsors will say, ''But we have not started construction yet.'' But the bill mandates land withdrawal, acquisitions of rights of way, and development of rail and roadway systems prior to the development of an environmental impact statement. That is an unusual theory of the law. Of course, the damage has already been done to the communities. Rights of way have been withdrawn. We have had Federal land withdrawals. We have had the development of rail and roadway systems prior to the development of an environmental impact statement.

These abuses of legislative power to relieve the nuclear power generating industry of its serious responsibility to manage and fund its business affairs are outrageous, Mr. President. They are outrageous, if not scandalous. It is more outrageous that this bill would mandate radioactive exposure risks to the people in Nevada—remember, we have millions and millions of visitors every year. It would mandate radioactive exposure risks for citizens far above that permissible in any other State—or foreign land, for that matter.

Did the sponsors single out Nevada residents for punishment? How can this bill be seen as equal protection of the law when it is so obviously not equitable, so clearly not protective of the Nevada residents? Do the sponsors think they know so much that they can decide what is OK for Nevada, but not OK for New Mexico? Why would the WIPP facility have a 15 millirem standard and Nevada have a 100 millirem standard?

If they think that they can decide what is OK for Nevada, how do they explain that the permissible exposure level at the generator sites is only one-fourth the level they say is OK for Nevada? The States in which this waste is generated and presently stored—remember, there is none generated in Nevada—and the businesses that profit from this generation say that their residents and employees have four times the protection they say is OK for Nevada.

I am trying to deal with this bill using the formal and really courteous traditions of this great institution. But, Mr. President, I am really upset. I am disgusted. I think this is wrong. I say that on behalf of the people of the State of Nevada. The people in Nevada are the first people whose health and safety, whose freedom to prosper and rights to equal protection under the law are being attacked by the nuclear power industry and the sponsors of this legislation. But they may not be the last to experience this kind of treatment by their own Government. If this bill is passed, it sets a dangerous precedent. The big utilities are in control here.

Interim storage. S. 1936 explores new regions of outlandish legislation by needlessly, and with great cost, requiring the establishment of a temporary interim storage facility. This interim storage facility is only a temporary facility, because it would be developed under S. 1936 at a site that does not meet the permanent repository requirements. So if Yucca Mountain is found unsuitable as a disposal site, under S. 1936 an interim storage facility would have to be developed somewhere else.

So, Mr. President, let us not play games here. In short, the reason for

this legislation is to do away with the permanent repository. That is what it is all about. They want to go on the cheap. They want to avoid all the environmental standards that have been set by law, and they want to shortcut it, because everyone knows that interim storage will be permanent storage. It will not be buried geologically. It will be dumped on top of the ground. But if it were only a Nevada problem and it would somehow miraculously appear in Nevada, I can understand why other States would not be concerned. But the fact of the matter is, Mr. President, this is not only the concern of Nevada. It is a concern of, and should be the concern of, States all over this country, because the nuclear waste will be transported all over this country.

We know that we have had a few train accidents lately. In the last 10 years, we have had over 26,000 train accidents. We average about 2,500 train accidents per year.

Mr. President, I am going to again look at this chart that shows how a lot of this activity is going to take place. Of course, we have a picture here of a train wreck which is all too familiar. We recently had one near the California border with Nevada, and the very, very heavily traveled freeway between Las Vegas and Los Angeles was actually closed because of a train wreck. The highway was about a mile from where the railroad wreck occurred, but the materials in the train were so caustic that they had to close the highway.

We have seen pictures of train accidents all too frequently. We also had one in Arizona that is believed by all authorities—local, State and Federal—to have been an act of terrorism. People are killed in these accidents, and tremendous property damage is done. We know of one train accident during this past year that burned for 4 days because of the materials.

I have talked about train accidents. That does not take into consideration the rail crossing accidents. Of course, in rail crossings, we know how many people are killed. We all have in our mind's eye the event that took place last year where the train took off the back of a school bus, killing those children.

Rail crossing accidents—during the past 10 years, we have had almost 61,000 train accidents, about 6,000 a year. We have hazardous material accidents averaging more than two a month on trains. We have hazardous material accidents averaging more than two a month.

So this is not a problem only of the State of Nevada. It is a problem of the people of this country, because the people of this country are going to be exposed to thousands of trainloads and truckloads—I should say, tens of thousands of trainloads and truckloads of the most poisonous substances known to man. Arizona: 6,100 truckloads, 783 trainloads. California: 44 truckloads, 1,242 trainloads.

The other interesting thing—we will talk about this later—is where trains go. Take through the Rocky Mountains. Colorado is a State that is going to be heavily impacted with trucks and trains; 1,347 trucks loaded, 180 trains.

I have never ridden a train through the Rocky Mountains in Colorado. That is something I would like to do. I understand it is a beautiful, very picturesque ride. But if an accident happens there like happened in California, where it wrecked over the river and dumped all of the chemicals into the river, it is very difficult to get to. It is very difficult to get accident crews in to take care of the trains or the truck. But not only do we have a problem with location, but we also know that there are no train people to take care of these accidents.

Interestingly, we just received an evaluation of emergency-response capability along the waste routes in Nevada. It would apply to any place in the United States.

A study was done to assist the Western Governors Association in planning for the onset of the U.S. Department of Energy's transuranic waste shipments to the WIPP facility in Carlsbad, NM. As a result of this, it was learned that there are some significant problems with transporting nuclear waste. Remember, the quantity of nuclear waste going to the WIPP facility pales in comparison to the waste that goes to these other waste facilities. Contractors surveyed personnel from fire departments, law enforcement officers, hospitals, ambulance services, emergency management offices, State, Federal, and travel agencies.

In short, in this report, which is entitled ''Evaluation of Emergency Response Capabilities Along Potential WIPP Waste Routes,'' prepared for the Western Governors Association, you find that there is no preparation. There are no people that are trained to take care of these potential accidents.

The study described four potential waste routes in detail, and it asked questions. Is the current level of training and equipment adequate for safety and to identify the hazard, isolate the scene, notify the authorities in incidents involving the WIPP shipments alone or in conjunction with other hazardous materials? The answer is ''No.''

Is there an emergency plan? Do these plans address the response to radiological incidents in local jurisdictions? The answer is ''No.''

Do respondents feel that they are able to handle radiological incidents? The answer is ''No.''

What other factors require emergency response near the jurisdiction? They list numerous factors.

Mr. President, this brings me back to the point that we addressed early on. Why are we doing this? Not only is it unnecessary to haul these truckloads of nuclear waste all over the United States, haul them partly in trains and ship them even farther, but why are we doing that, especially when we can avoid the potential for accidents by just leaving it on site, as we are told we should do? Why are we doing that? To satisfy a few big utility companies that are afraid they will be embarrassed because they have spent so much money on permanent geological storage. They are unwilling to let the process go forward to see what science will come up with. They want to short-circuit the system. They want to trample on the rights of people in Nevada and all over this country, and expose the people of this country to dangers that certainly are unnecessary.

Interim storage is not necessary. For now, let me deal simply with the fact that interim storage facility sites are not needed. We talked about it a little bit. We will talk about it some more.

In accordance with its charter, the Nuclear Waste Technical Review Board this year—I answered this question for the Senator from North Dakota earlier today. The one thing I failed to add for him is that the decision they made is not stagnant, not stale. The decision they made was made this year, 1996. They reported to Congress that it found ''no compelling safety or technical reason to accelerate the centralization of spent nuclear fuel. The board knows that of the more than 100 operating nuclear power reactors on 75 sites in 34 States, 23 will require additional storage by the year 1998.'' Twenty-three will require additional storage by 1998, and the Nuclear Waste Technical Review Board knows that. It may be the year 2000, but we can say 1998.

The board also notes that implementation of dry cask storage at generating sites is feasible and cheap. I told the Senator from North Dakota how inexpensive it is to set up a dry cask storage facility, and how cheap it is to monitor. In fact, the dry cask storage, if it is properly implemented on site, the investment will double its return by storing the material in certified, multipurpose transportation canisters so the material is ready for shipment once the permanent repository is designated. That could be in 5 years, 25 years, 50 years, or 100 years.

Operating costs for on-site dry cask storage amounts only to $1 million per year per site; capital costs for on-site storage in preparation of an replacement site and cannisterization of this spent fuel. Storing spent fuel in multipurpose canisters means that the marginal on-site capitalization costs only a few million dollars compared to more than $1 billion with interim storage. Implementing on-site storage at all sites claiming a need for additional storage space would require less than $60 million for capitalization and less than $30 million per year for open operations.

So on-site storage could be maintained for 40 years at least before equalling the construction costs of interim storage at Yucca Mountain as estimated by the sponsors of this bill.

Mr. President, the marginal expense of on-site storage of spent fuel is very

cheap when compared to the unnecessary and redundant transportation costs and risks of a premature interim storage facility.

Mr. BRYAN. Will the Senator yield for a question?

Mr. REID. I will be happy to yield to my colleague for a question.

Mr. BRYAN. The Senator may be aware of this. The Senator was making a very telling point, when the Senator was pointing out to our colleagues and to the listening audience in America, that 43 States are impacted and the number of shipments. The Senator may not be aware of the fact that as you look across this chart—here we have 50 million Americans who are within a mile of either the rail or highway shipment routes, so for people who are watching the floor of the Senate tonight who may think it is just the two Senators from Nevada that would be impacted by this, my question to the Senator is, this has a national impact, does it not?

Mr. REID. It certainly does. As the Senator has pointed out, within a mile of these routes are 50 million Americans.

Now, the Senator will recall—it happened within the past year, but I just mention it briefly—within a mile of the freeway between Los Angeles and Las Vegas a train wreck occurred. They closed that route. That wreck did not involve the most dangerous substance known to man. It had some cars loaded with chemicals, but it did not have nuclear waste.

It is difficult to imagine how long that road would have been blocked off had there been nuclear waste involved.

As I pointed out to the Senator and the rest of the people within the sound of my voice, we do not have people trained to deal with nuclear waste accidents. We do not have people trained to deal with nuclear waste at all as indicated by the report that I just received today on the ''Evaluation of the Emergency Response Capabilities Along Potential Waste Routes.''

Mr. BRYAN. I think the Senator's point is that in New York, with over 7 million people; in Los Angeles with over 5.5 million; Chicago, with 2.7 million; Houston, TX, 1.6 million; Dallas, over a million; San Antonio, nearly a million; Baltimore, 736,000; Jacksonville City, 635,000; Columbus, 632,000; Milwaukee, 628,000; the Nation's Capital, 606,000; El Paso, 515,000; Cleveland, 555,000; New Orleans, 496,000; Nashville-Davidson, 488,000; Denver, 467,000 people; Fort Worth, TX, 447,000; Portland, OR, 437,000; Kansas City, MO, 435,000; Tucson, 405,000; St. Louis, 396,000; Charlotte, NC, 396,000, and Atlanta, site of the Olympics, 394,000; Albuquerque, 384,000; Pittsburgh, 369,000; Sacramento, 369,000; Minneapolis, 368,000; Fresno, 354,000; Omaha, 335,000; Toledo, 332,000; Buffalo, 328,000; Santa Ana, CA, 293,000; Colorado Springs, 281,000; St. Paul, 272,000; Louisville, 269,000; Anaheim, 266,000; Birmingham, 265,000; Arlington, TX, 261,000; our own home city of Las Vegas, 258,000; Rochester, 231,000; Jersey City, 228,000; Riverside, CA, 226,000; Akron, 223,000; Baton Rouge, 219,000; Stockton, 210,000; Richmond, 203,000; Shreveport, 198,000; Mobile, 196,000; Des Moines, 193,000; Lakeland, FL, 188,000; Hialeah, 187,000; Montgomery, 186,000; Lubbock, 180,000; Glendale, CA, 180,000; Columbus City, 178,000; Little Rock, 175,000; Bakersfield, 174,000; Fort Wayne, IN, 173,000; Newport News, VA, 170,000; Worcester, MA, 169,000, and I could go on and on, but I believe the Senator's point, if I understand him—and this is my question—is that this is not just a fight that just concerns the citizens of Nevada?

What the Senator is suggesting, for those who may be watching the floor of the Senate tonight, is that it is not just two Nevada Senators who are fighting for the health and safety of their States, but there are people in these communities who do not think they have a stake in this fight who ought to be sharing their concerns with our colleagues and saying, look, we are affected, we are within a mile of these transportation routes and thousands of shipments of nuclear waste may be coming through our communities. I believe that is the Senator's point that he is trying to make, if I understand the Senator correctly.

Mr. REID. In answer to my friend's question, I was not aware of these numbers, but having had the Senator read them to me, I must say that, if anything, these numbers are small because we can look at Las Vegas as an example. If you look at Las Vegas, you will know that the greater Las Vegas area is about 2.1 million people and most of those people would be affected because it is down in that basin. If something happened, it would spread like wildfire, and I would bet the same applies to other cities. These are very conservative, very unrealistic numbers, and it would probably involve more than 50 million people.

I should also say in response to my friend's question, let us look, for example, at Chicago, 2,673,000 people. If I were a resident of the State of Illinois and particularly a resident of the city of Chicago, I would not want—they produce a lot of nuclear power in Illinois—I personally would not want this nuclear waste taken from where it is in Illinois.

I think it would be much safer, if I were a Chicago resident—I am going there at the convention this summer—it would be much safer for the people of Chicago if they put these materials in dry cask storage containers or leave them in the cooling ponds because, if they do not, they are going to have thousands and thousands of trainloads of nuclear waste being shipped right through that main railhead, which is Chicago—not only the Chicago nuclear waste, not only the Illinois nuclear waste, but nuclear waste from all over the eastern and southern parts of the United States. That is a main railhead just like Omaha, NE, is.

So I appreciate very much the question of my colleague from Nevada. It is very enlightening.

I ask unanimous consent that we have printed in the RECORD these cities with these very conservative, modest numbers. We, of course, for the RECORD will reduce this to letter size.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Major population centers affected by proposed nuclear transportation routes

City and State	*Population*
New York, NY	7,321,564
Los Angeles, CA	3,485,398
Chicago, IL	2,783,726
Houston, TX	1,630,672
Dallas, TX	1,006,831
San Antonio, TX	935,927
Baltimore, MD	736,014
Jacksonville City, FL	635,230
Columbus, OH	632,258
Milwaukee, WI	628,088
Washington, DC	606,900
El Paso, TX	515,342
Cleveland, OH	505,616
New Orleans, LA	496,938
Nashville-Davidson, TN	488,518
Denver, CO	467,610
Fort Worth, TX	447,619
Portland, OR	437,398
Kansas City, MO	433,141
Tucson, AZ	405,390
St. Louis, MO	396,685
Charlotte, NC	396,003
Atlanta, GA	394,017
Albuquerque, NM	384,736
Pittsburgh, PA	389,870
Sacramento, CA	369,365
Minneapolis, MN	368,383
Fresno, CA	354,202
Omaha, NE	335,795
Toledo, OH	332,943
Buffalo, NY	328,123
Santa Ana, CA	293,742
Colorado Springs, CO	281,140
St. Paul, MN	272,235
Louisville, KY	269,157
Anaheim, CA	266,406
Birmingham, AL	265,852
Arlington, TX	261,763
Las Vegas, NV	758,295
Rochester, NY	231,636
Jersey City, NJ	228,537
Riverside, CA	226,505
Akron, OH	223,019
Baton Rouge, LA	219,531
Stockton, CA	210,943
Richmond, VA	203,056
Shreveport, LA	198,528
Mobile, AL	196,278
Des Moines, IA	193,187
Lincoln, NE	191,973
Hialeah, FL	188,004
Montgomery, AL	187,106
Lubbock, TX	186,281
Glendale, CA	180,038
Columbus City, CA	178,701
Little Rock, AR	175,781
Bakersfield, CA	174,820
Fort Wayne, IN	173,072
Newport News, VA	170,043
Knoxville, TN	165,121
Modesto, CA	164,730
San Bernardino, CA	164,164
Syracuse, NY	163,860
Salt Lake City, UT	159,936
Huntsville, AL	159,866
Amarillo, TX	157,615
Springfield, MA	156,983
Chattanooga, TN	152,488
Kansas City, KS	149,768
Metairie, LA	149,428
Fort Lauderdale, FL	149,377
Oxnard, CA	142,192

City and State	Population
Hartford, CT	139,739
Reno, NV	133,850
Hampton, VA	133,793
Ontanio, CA	133,179
Pomona, CA	131,723
Lansing, MI	127,321
East Los Angeles, CA	126,379
Evansville, IN	126,272
Tallahassee, FL	124,773
Paradise, NV	124,682
Hollywood, FL	121,697
Topeka, KS	119,883
Gary, IN	116,646
Beaumont, TX	114,323
Fullerton, CA	114,144
Santa Rosa, CA	113,313
Eugene, OR	112,669
Independence, MO	112,301
Overland Park, KS	111,790
Alexandria, VA	111,183
Orange, CA	110,658
Santa Clarita, CA	110,642
Irvine, CA	110,330
Cedar Rapids, IA	108,751
Erie, PA	108,718
Salem, OR	107,786
Citrus Heights, CA	107,439
Abilene, TX	106,665
Macon, GA	106,640
South Bend, IN	105,536
Springfield, IL	105,227
Thousand Oaks, CA	104,352
Waco, TX	103,590
Lowell, MA	103,439
Mesquite, TX	101,484
Simi Valley, CA	100,217

Mr. BRYAN. A further question of the Senator, if the Senator will yield.

Mr. REID. I will be happy to yield for a question from my friend.

Mr. BRYAN. I think the Senator's point was that the population numbers that I read of part of those cities represents the corporate city limits, and I believe the Senator's point, if I understood him correctly, is that each of these communities are part of a metropolitan area. As the Senator pointed out, in our hometown of Las Vegas, there are roughly a million people in the metropolitan area who would be directly and adversely impacted by a rail or highway accident. Yet, Las Vegas is listed for purposes of population as 258,000. I believe, if I understood the Senator's point, in addition to the population indicated here, there are suburban communities that would be populated as well, perhaps even greater.

Mr. REID. The Senator's question is appropriate, pertinent, and in fact very enlightening. The city of Las Vegas is part of a metropolitan area, and it is just like most areas in the United States. You have a city surrounded by suburbs, and that is, in effect, what we have in Las Vegas. Of course, the numbers that were brought forth by my colleague from Nevada are staggering even if you do not take into consideration the fact that these are only the incorporated areas.

If you elaborate on that and indicate that the population of nearly every place we talked about is much greater than almost every place we talked about on the chart, it involves more than 50 million people. The example we talked about, with Chicago, is certainly in point. Chicago would not only be responsible for, in effect, gathering up its nuclear waste and transporting it, but they would be responsible also, being the major railhead that it is, for other people's nuclear waste. The people of Illinois should tell the nuclear power industry, ''Don't do us any favors. Leave it here. You will not only save the ratepayers and taxpayers huge amounts of money, but it will be safer to leave it where it is either in the cooling ponds or in the dry cask storage containers.''

There is simply no need, certainly no compelling need, to rush to a centralized interim storage before a permanent repository site has been designated.

I say again, the statement I just made is not a statement developed by the Governor of the State of Nevada or the Nevada State Legislature or the Chamber of Commerce of Las Vegas. In accordance with its charter, the Nuclear Waste Technical Review Board just this year reported to the Congress that it ''found no compelling safety or technical reason to accelerate the centralization of spent nuclear fuel.'' In effect what they are saying is give the process an opportunity to work.

I said before and I will say again, the President has stated he will veto this bill since it would designate interim storage at a specific site before the viability of a permanent repository has been determined. Both the Department of Energy and the Environmental Protection Agency have taken strong positions in opposition to this bill.

Here we are at 6 o'clock at night. It is Wednesday. At my home in the suburbs here it is garbage night, which I will miss—taking the garbage out. We should be debating welfare reform or the 12 appropriations bills. We should be talking about matters that need to be addressed. We should not be wasting time on a bill the President has said he is going to veto. The Secretary of the Department of Energy said she does not like it. The director of the Environmental Protection Agency, the Director of that has stated she is opposed to it.

As the administration points out, personally through the President of the United States and through its agency heads and Cabinet-level officers, they have a plan which is making significant progress and provides appropriate protection to the environment of our citizens. The President of the United States, the first time I ever met the man—Senator BRYAN who was Governor then, was with him and knew him, I did not know the man—he was running for President 4 years or so ago. I met him at National Airport. Four years ago one of the issues we talked about—we only talked about two or three issues. We had a 40-minute meeting with him. He was very busy, but he gave us 40 minutes—was nuclear waste. As we told him at the time it is a very important issue for the State of Nevada. We told him then the scientific community had almost perfected a dry cask storage container, and that we wanted him to take a look at that, as far as storage goes. He told us at the time: We have nuclear waste in the State of Arkansas. I understand what you are trying to do. I think it is a good idea. And he has never wavered from that. This is an issue he understands. This is not something he suddenly decided that he wanted to do because Nevada was important in a Presidential election. The President of the United States has been with us from the first time I met him. He has been with us this whole time.

The President of the United States has not said I am opposed to permanent storage in Nevada. He has not said that. But what he has said, unequivocally, without hesitation, to anyone who will listen, is it is unfair what you are trying to do to Nevada with bills like S. 1936. Do not do it. Because if you do, I will veto it. And he should. But we are wasting our time here at 6 o'clock at night when we should be doing important amendments on the defense appropriations bill. I am a member of the Appropriations Committee.

My colleagues have to understand that we are protecting our rights, the rights of the people of the State of Nevada and the rights of the people of this country. It is wrong what is being done. It is being driven by big business, and it is wrong. If there were ever a time that the rules of the U.S. Senate become important, to me it is when you are trying to protect the interests of the people of the State of Nevada. I am doing no more than what the Presiding Officer of this body would do. I am doing no more than what any Senator from these United States would do.

It would be as if there was legislation offered in the State of Maryland to do away with Chesapeake Bay. It would be like telling the States that surround the Great Lakes: We are going to take one of the lakes away from you. Would you fight? Sure you would fight. You would use all the rules at your disposal, and we are going to do that.

I expect the two Senators from Idaho, if they were suddenly told that we were going to start hauling thousands of tons of garbage into their State—I would think they should have some rights, minimal rights, the rights equal to other States in this Nation, that we should not allow garbage to be dumped in Idaho. That is what we are doing here to Nevada.

We are saying: In Nevada, you are not only going to get permanent repository, you are going to get a temporary repository and the temporary repository is worse than the permanent because we are setting the safety standards so low, and the exposure levels so high.

The President stated he will veto the bill. He is doing the right thing. Technical review boards, commissioned by the Government, have consistently found there is no immediate or anticipated risk with continuing dry cask

storage for several decades. What I am saying is there is no reason for this legislation. The administration acknowledges that. The technical review bodies have also found the environmental and safety standards should be retained or strengthened, rather than weakened as this bill calls for.

Mr. BRYAN. Will the Senator yield for a question?

Mr. REID. I will be happy to yield for a question from my friend.

Mr. BRYAN. The Senator just made the point there is really no need for this legislation. I call to the attention of the Senator, and I ask him if he recalls that in the CONGRESSIONAL RECORD on July 28, 1980, in the context of a debate on the away-from-reactor proposal, a statement was made on the floor by one of our colleagues that this bill—referring to this away-from-reactor storage, which is a progenitor, if you will, of this temporary storage facility that we are dealing with in our discussion this evening—it was said, the date again, July 28, 1980:

This bill deals comprehensively with the problem of civilian nuclear waste. It is an urgent problem, Mr. President, for this Nation. It is urgent first because we are running out of reactor space at reactors for the storage of the fuel and if we do not build what we call away-from-reactor storage and begin that soon, we could begin shutting down civilian nuclear reactors in this country as soon as 1983.

Mr. REID. Could I ask my friend to repeat the date of that CONGRESSIONAL RECORD?

Mr. BRYAN. Responding to my colleague, this is kind of a deja vu. This is in the CONGRESSIONAL RECORD, on July 28, 1980. That is almost 16 years ago, in which, on the floor of the Senate it was asserted that, if this particular legislation, this away-from-reactor storage was not obtained, that by 1983—that is 13 years ago—that civilian nuclear reactors in this country would shut down.

I do not know if my colleague from Nevada is aware of this but, upon my propounding the question to him—was he aware that among those utilities that were claiming they would be shut down was Alabama Power Co., the J. Farly Reactor, Arkansas Power & Light Co., Arkansas Nuclear 1 and 2, Boston Edison Co., Pilgrim 1, Carolina Power & Light Co., Brunswick 1, Brunswick 2, Robinson 2, Cincinnati Gas & Electric Co., Zimmer No. 1, Commonwealth Edison Co., La Salle 1 and 2, Consumers' Dairy Co., Palisades, Duke Power Co., Maguire No. 1, Maguire No. 2, Okonee No. 1, Okonee 2 and 3; Florida Power & Light, St. Lucy 1, St. Lucy 2, Turkey Point 3, Turkey Point 4, General Public Utilities, Oyster Creek, Northeast Nuclear Energy Co., Millstone 1, Millstone 2, Northern States Power Co., Monticello, Omaha Power District, Fort Calhoun, Power Authority of the State of New York, J.A. Fitzpatric, Indian Point No. 3, Philadelphia Electric Co., Peach Bottom 2 and 3, Rochester Gas and Electric, R.E. Genna facility, Virginia Electric & Power Co., North Anna No. 1, North Anna No. 2, Surrey 1, Surrey 2, and the Vermont Yankee Nuclear Power Co., Vermont Yankee.

I ask unanimous consent the material from the CONGRESSIONAL RECORD of 1980 be printed in today's CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM THE CONGRESSIONAL RECORD, JULY 28, 1980

Mr. JOHNSTON. Mr. President, I yield myself 15 minutes.

Mr. President, this bill deals comprehensively with the problem of civilian nuclear waste. It is an urgent problem. Mr. President, for this Nation. It is urgent, first, because we are running out of reactor space at reactors for the storage of the fuel, and if we do not build what we call away-from-reactor storage and begin that soon, we could begin shutting down civilian nuclear reactors in this country as soon as 1983, those predictions coming from the Nuclear Regulatory Commission and the Department of Energy.

It is essential that we set a predictable policy for utilities to operate on so that they know if they begin either to run a reactor, or if they are making a decision now as to whether to build one, that they have some policy to which they can refer that is predictable and certain for the United States.

Mr. BRYAN. My question is that we were told in 1980 that if that away-from-reactor legislation that was on the floor being debated on July 28 was not enacted, that these utilities would have to close by 1983.

My question to the Senator is, Is he aware of any of these facilities ever closing as a result of the lack of storage, as was suggested to us, in the crisis-ridden prediction?

Mr. REID. I say to my friend in response to the question, I had forgotten about this. I appreciate very much the Senator bringing it to my attention.

The Senator knows during the past 10 years, we have heard in this body, and other places, dire pleas for emergency help; that you have to do something tomorrow. These are the perennial crying-wolf stories.

That is why the technical review boards have said, ''Cool it.'' I guess they are saying leave it in the coolers, leave it in the cooling ponds. There is no reason to rush into this. The technical review boards commissioned by the Government consistently found there is no immediate reason for continuing with these continual cries for help. They are saying, slow down. There is no need or excuse for this bill. It threatens the health and safety of all Americans and is a reckless and unnecessary expense.

Mr. President, the sponsors of this bill say one thing, and what I say to them is, if you really think there is a need for interim storage in the near term, then let's put this bill in committee and have a good hearing and try to make a determination why we are doing this. There is no reason for it. It is not fair, and certainly if you are going to do this on a fair basis to find the best site, we should remove from this legislation the site specificity. We must restore the environmental and safety provisions of the current law. We must observe the same rights of Nevada residents to health and prosperity as the citizens of any other State, and we must be assured that a search for a permanent solution is not sidetracked by short-term business or political agenda.

We have talked several times today about the transportation risks, and they are significant. One of the greatest risks of this bill is that it will force vast amounts of dangerous nuclear waste to be transported cross country. But it is unnecessary, and it is certainly premature. If this is to be done, should we not wait until the permanent repository is completed?

In the past, we have had roughly 100 shipments per year of nuclear waste, and most of these shipments were relatively short hauls in the East between nuclear power plants and reprocessing facilities. This bill will increase the shipment rate into thousands and thousands of shipments per year and send them on cross-country journeys through routes in our most populated cities in America. The pressure to start shipments as soon as possible and to move as much as possible can only increase the risk of an accident. Safety last rather than safety first is the hallmark of this bill.

Mr. President, we have here a map that shows the routes the nuclear waste will travel. I ask those who are looking at this map, are any of these routes in your backyard? Are any of these routes in cities where your family lives or your kid is going to college? If it is, you should be concerned.

Most of the waste, of course, is produced in the Eastern part of the United States. Is it not interesting that we are going to ship the waste 3,000 miles, in some instances, for no reason? If you live in the heartland of America, ask, why should all the Eastern nuclear waste be shipped through your State, perhaps your town, when we do not yet know where the final repository will be?

If you live in Wyoming, Utah, or Colorado, you should note that you are on the main line for these shipments. S. 1936 mandates shipment of nuclear waste crosscountry by 1999, regardless of technical problems or risks involved.

There is no need for these shipments at this time. There may never be a need for these shipments. If and when they are needed, we should take our time to do it right and not force this issue as it is being done today.

The industry and the sponsors of this bill would like you to believe that this transportation is risk free. Well, it is not. There have been truck and train accidents involving nuclear waste, and there will continue to be accidents involving nuclear waste and other hazardous substances.

I am reminded of a friend of mine who I went to high school with. He was a police officer in a town in east-central Nevada, a town called Ely,

E-l-y. Kennecott had a big mine there at one time. He was, as I indicated, a police officer, and he told me:

Harry, one of the things that I do that gives me as much concern as anything else is we get notices every day of hazardous substances that are being driven through our town.

He said:

It would be better if they didn't even tell us about it, because if something happened with one of those vehicles with the hazardous substance in it, there is nothing we can do about it anyway. We have no equipment. None of our personnel, police or fire, are trained to handle these hazardous substances. Our equipment is certainly inadequate.

Multiply this thousands and thousands of times all over America. We are going to ship nuclear waste on trucks and trains. There will be accidents. There have been accidents. We have already had seven nuclear waste accidents. They have not been significantly harmful, but there have been accidents.

The industry and the sponsors of this bill, as I have indicated, would have you believe, would like you to believe that this transportation is risk free. Well, it is not. There have been truck and train accidents involving nuclear waste, and there will continue to be accidents involving nuclear waste. There will be many more accidents because there will be many more shipments.

The industry and the sponsors of this bill will tell you that the probability of an accident resulting in a large radioactive release is very small; that, in fact, we have never had a significant release. Well, probabilities have inevitable results, that if you push them long and hard enough, the adverse outcome will occur.

The day before Chernobyl, the probability of such an accident was very, very low. But the day after the accident, the consequences were enormous, and the probabilities of other such accidents increased significantly.

Mr. President, there are a number of us who have been concerned about the safety and reliability of our nuclear arsenal. In working on these issues, I came to realize that there have been numerous accidents involving nuclear weapons. We have been so fortunate. We have been so lucky that there has not been death and destruction as a result of those accidents. In North Dakota, a B–52 caught fire loaded with nuclear weapons. The wind usually blew in one direction, but during the course of this fire on the airplane, it blew in the other direction and, as a result of that, there was no danger as a result of nuclear weaponry.

We know that there has been an accident in Canada of an airplane with nuclear weapons on it. Again, it was found and everything worked out fine. But these accidents will happen. The day before Chernobyl, the probability of such an accident was very low. But the accident happened. And the consequences were enormous. The same potential exists here.

Mr. President, again, I would like to draw your attention to the chart that shows the number of trucks and trains that will be used to transport this very high-level nuclear waste. I, of course, highlighted the States with the biggest risks. It is in bold print: Illinois, Nebraska, Nevada, Utah, and Wyoming. There are others that are close to that. But I just highlighted those.

It is significant, because we are talking about over 12,000 shipments through Illinois alone; over 11,000 shipments through Nebraska and Wyoming; over 14,000 through Utah; over 15,000 for Nevada. These are some of the States.

As I have indicated, we have already had seven nuclear waste transportation accidents. The average has been 1 accident for every 300 shipments of nuclear waste. Well, we do not know for sure how many new trains and trucks will be required because of S. 1936. But we know it will be magnified significantly. So we can expect at least 150 or 200 accidents if this S. 1936 is implemented.

Where will the accidents take place? Omaha? Chicago? New York? Atlanta? I do not know. No one knows, just like no one knew that this inferno would occur at Chernobyl. We should not be ready to take that risk, because it is unnecessary. Why would we want to take the risk? To help the nuclear industry reduce its costs and risk exposure? It is a tautology that accidents are unpredictable; but that an accident will happen is certain.

Based on studies done for the Nuclear Regulatory Commission, at least one serious radioactive accident with leakage and contamination will happen sometime, somewhere along the transportation route. That is a very modest estimate. We cannot know where it will happen before it happens. We cannot know when it will happen before it happens.

So, Mr. President, today we could not respond effectively or rapidly to accident sites because we have not taken the time, the trouble or gone to the expense to equip and train emergency responders along the routes that the waste will take. We have not made the investments necessary to assure capable response to remote, inaccessible areas where the accidents could happen.

Mr. President, we simply could not respond. But how long would it take to get trained and equipped emergency crews to a railway accident site somewhere in the mountains, like the Rocky Mountains I talked about earlier, like the Sierra Nevada Mountains between California and Nevada? What about the Wasatch Range in Utah? What about the mountains of Arizona? It makes a big difference how well and how rapidly we can respond. Let me give some illustrations.

The Nuclear Regulatory Commission requires that transportation containers survive a 30-minute exposure to a fire environment of 1,475 degrees Fahrenheit temperature. Sounds very strong and protective—30-minute exposure to a fire environment of 1,475 degrees.

Yet diesel fuel fire temperatures can exceed 3,200 degrees and their average temperatures are about 1,800 degrees Fahrenheit. So a diesel fuel fire—and most trucks use diesel fuel, most trains use diesel fuel—the average temperature of a diesel fuel fire is 1,800 degrees, 325 degrees higher than what the Nuclear Regulatory Commission requires these containers to survive. And these are exposed for only 30 minutes.

I indicated earlier today we all read in the newspaper about a fire that occurred on a train this year that lasted 4 days, not 30 minutes, but 4 days. One recent train wreck, as I have indicated, burned with its hazardous chemical cargo for 4 days. The firefighters could not even get access to the wreck for 4 days. It was so hot, so caustic that they could not get close to it for 4 days.

Transportation canisters are meant to contain the waste material in fires or collisions. The nuclear regulatory certification requirements for thermal survivability are no guarantee against fire-disbursed radioactive debris. The collision survival criteria appear just as inadequate.

We have talked about the fire exposure. We know that for a diesel fire—these are all diesel trucks here—the average temperature of a fire in a diesel vehicle is 325 degrees higher than what the Nuclear Regulatory Commission has set.

That is for fire. What about collisions? The collision survival criteria appear just as inadequate. The Nuclear Regulatory Commission requires that a canister survive a 30-mile-per-hour collision. I was driving this weekend in Las Vegas, from Boulder City to Las Vegas, on an expressway. I was going 75 miles an hour, and I was passed by two heavily loaded trucks, big semis. I was going 75. They were going 80. I say to my friend from Nevada—he knows the area—as you are coming down Henderson, going toward the Henderson plants, that downhill grade there, trucks were going 80 miles an hour. They passed me. I remember it because it was frightening.

The NRC has set these canisters to survive a collision at 30 miles per hour. I do not know of many trucks that go 30 miles an hour. The collisions are going to take place at much higher speeds than that most of the time.

The NRC also requires that the 30-mile-per-hour collision be with a rigid flat surface. Most collisions are not going to be with a rigid flat surface. It is going to be with a pile of rocks alongside the road, going to be hitting another truck, another car. So that is why it is beyond the ability to comprehend why you would want to move these poisonous, spent fuel rods from where they are now located so that they are exposed potentially to fire or potentially to collisions.

My question I ask to the world is, Would it not be much safer to leave them on-site in these dry cask storage containers than to take the uncertain

route in a train or truck, knowing that there is going to be an accident, only wondering when and where it will occur? Well, I ask the world, but the world must respond that the only logical thing to do is to leave it where it is—leave it where it is. By leaving it where it is, you avoid totally the danger of an accident. You also avoid not only the fire but the collision. I say ''also,'' Mr. President.

One of the things I have not talked about that we should be doing here, we should be clearing judges. We have 23 judges that should be cleared. We have not cleared a single one of them. The last year that we were in power, the Democrats were in power, we cleared 60-some-odd judges. We have not cleared a single judge this year. There are 23 that need to be cleared.

While we are talking about the court, I see the Presiding Officer here, one of the things we need to get done is to get a study of the circuits so we can make determinations on how we should realign the circuits. Anyone that has practiced law in the Federal court system knows we probably need to do some realigning of the Federal appeals court. We should get that done. I hope we can get it done right away so that the questions that have been raised by the Senator from Montana, the junior Senator from Montana and others, about some of the appellate courts, we can get those resolved. That is one thing we can do.

There is no good reason that we cannot leave the nuclear waste where it is to avoid collisions, to avoid fires.

Certainly, what we should be doing is talking about welfare reform. I see walking off the floor the junior Senator from Louisiana who has spent weeks of his time, weeks of his time working on welfare reform. As a result of the work that he and Senator MIKULSKI did, we came up with a proposal here that we passed by over 80 votes. It went to conference, fell apart, was vetoed. I hope we would use his good work in building another welfare reform bill.

Many Senators are concerned about judges, whether there should be approval of judges. I hope we can do that, rather than wasting our time on a bill the President has said he will veto.

I repeat, the Nuclear Regulatory Commission has said if there is a fire, one of these canisters must withstand temperatures of 1475 degrees; diesel, when it burns, is 1800 degrees. We know, also, that collisions are survivable under the Nuclear Regulatory Commission standards only at 30 miles an hour. That is inadequate. We do not need to expose these canisters to collisions or to fire. All we need to do is put dry cask storage containers on site, and as a result of doing that, we could avoid all the concerns that the Nuclear Regulatory Commission has.

As we know, most accidents will exceed the criteria set by the Nuclear Regulatory Commission on highway and rail accidents. The NRC certification requirement for spent-fuel transportation containers are not insurance against the consequences of a remote inaccessible accident, but the consequence of an accident will not observe the boundaries of the accident. Just because the accident might be remote is no basis for comfort. Radioactive waste will burn and disperse many tens of miles that will contaminate far distant territory.

So, along the transportation routes, within a mile, include at least 50 million residents being at risk. Are we going to warn this at-risk population to stay tuned to some emergency frequency just in case something unexpected happens? If we do that, what are we going to tell them to do if an accident does happen?

Mr. President, as my colleague pointed out, and the chart has been printed in the RECORD, at least 50 million people are within a mile of the routes that we have pointed out time and time again today, the train travels and the truck travels. Are we going to warn this at-risk population to stay tuned to some emergency frequency just in case something unexpected happens? If we do that, what are we going to tell them to do if an accident does happen? Who will help? We do not have people trained. When will they get help? We do not know. Who will be liable?

The term Mobile Chernobyl has been coined for this legislation. That is what it is. ''Mobile Chernobyl'' has been coined for S. 1936. A trainload of waste may not contain the potential for disaster that Chernobyl supplied, but the result will be little different for those affected by this inevitable accident.

Mr. President, I submit that we are not prepared to implement the transportation of this hazardous material—not today and not tomorrow. The risk is real, and we are responsible for assuring readiness and preparation to reduce it to minimal levels for both probability and consequence. It does not make sense to double that risk by premature and unnecessary transportation to an interim storage site that has not been determined to be the final disposition site.

Mr. President, one thing we need to talk about is terrorism, vandalism, and protests generally. There are unforeseeable accidents, but accidents are only one kind of a problem that we may be dealing with. Much has been spoken of America's vulnerability to both domestic and foreign terrorist attacks.

It saddens me, Mr. President, to agree that some of America's enemies today are not people from outside its borders but American citizens. Misguided they may be, enemies they certainly are. We know from this past weekend in Arizona, a sister State to Nevada, a large group of terrorists were arrested. They were luckily infiltrated by some patriotic person. There were films of explosions that they set, conversations of how they would kill anyone that turned against them. They are out there.

There are vipers all over, Mr. President. There are also known foreign enemies of America, and the values that America stands for they do not like. There are known foreign enemies of America in our open society, which is our national heritage and the essence of America. We cannot deny our enemies many of the same freedoms we enjoy ourselves.

There are, as well, many foreign interests, some clandestine, that will want to promote and publicize their existence and goals through outrageous acts of blatant terrorism and destruction. We know that they occur not only in Saudi Arabia but in Oklahoma City, New York City, and even in the city of Reno, NV, where we had, recently, an act of terrorism that failed. They tried to blow up the Internal Revenue building. The bomb was a dud.

Terrorists have had, on a smaller scale, success in Nevada, blowing the roof off of a BLM building. They twice attacked a forest ranger, once blowing up the office, another time blowing up a device in his driveway at his home.

There are evil people in America, Mr. President. I do not say that with pride, but it is a fact. What better stage could be set for these enemies than a trainload or a truckload of the most hazardous substance known to man, clearly and predictably moving through our free and open society.

We face a fraction of this kind of risk every day in our cities, at our airports, and around our centers of local, State and Federal governments. But the opportunity to inflict widespread contamination, terror, and horror, to engender real health risks to millions of Americans, to encumber our treasury with hundreds of millions of dollars in cleanup costs, to further reduce the confidence of all Americans in our treasured freedoms will be irresistible to our enemies.

Why would we want to transport nuclear waste when we do not have to? I go back to what has been stated time and time again, Mr. President, by the people that we have assigned to determine what should be done with nuclear waste—that is, the technical review board, which has said consistently that there is no immediate or anticipated risk in continuing using either cooling ponds or dry cask storage containers on-site. So there is no need to do that.

Mr. President, we have had a number of problems in America in the last few years that we are not proud of in dealing with terrorists. We look for ways to avoid terrorist activity. Some of it is somewhat painful, like closing off Pennsylvania Avenue and closing off the ways into the Capitol Building. I consented to that, even though I did not have a lot of control over it.

When I was chairman of the Legislative Branch Appropriations Committee, Senator FORD, and others who serve on the Rules Committee, indicated that was the right thing to do. So

I went out of my way to make sure that the Capitol Police had enough money to do the things that it would require because of these terrorist activities in our Nation's Capital. Why do we not avoid those activities even more? We can do that, Mr. President. We can do it by simply not hauling nuclear waste. Just do what the technical review board said we should do and leave it on-site. We avoid all these problems.

We must prepare for such realities as terrorism, vandalism, and protests. We must prepare for such realities that accompany the massive transportation campaign that will be required to consolidate nuclear waste at a repository site. They do not want to be bothered by reality. They ask that we not confuse them with facts. The old saying is that ''haste makes waste.''

That takes on a whole new dimension in the context of S. 1936, because the waste that we are talking about is the most poisonous substance known to man. Mr. President, we also, of course, must be concerned about vandalism, such as graffiti sprayed on walls, and windows knocked out of buildings, and buildings that are completely destroyed for no good reason. ''Vandalism'' is a word that came as a result of the invasion of the Vandals. They came and destroyed for no good reason. They destroyed just to be destroying.

Protests. In Nevada, it has become very standard that we have people who come there to protest. They come there to protest at the Nevada Test Site. Some of them protest because they think there are aliens out there, secret storage facilities for aliens from outer space. We have people that come there and protest because they believe at the test site they are doing things dealing with atomic devices, which they should not be doing. They lay down in the streets. They stop people from coming to and going from work. They are going to do the same with transporting nuclear waste. There is no reason that we should give these people the opportunity to cause mischief. I am not saying that the people who believe that there are alien test sites are mischievous. I am sure they believe they are there. I am sure they are people of good will, who picket the test site and do those kinds of things.

But I say, why should we allow terrorism activity to take place? Why should we allow the opportunity for vandals at these nuclear storage facilities transportation when it is unnecessary? Why would we want to do that? Why do we need the protests? Why do we not simply leave the spent fuel on-site, where the technical review board said it should be left until we get a permanent repository or determine there cannot be one, which is not very likely.

We have talked about the exposure risks a little bit. But S. 1936 will certainly gut our environmental laws and expose Americans to unreasonable risks. S. 1936 removes the Environmental Protection Agency's authority to set environmental standards. This runs directly counter to the recommendations of the National Academy of Sciences' recommendations, which were asked for by Congress. S. 1936 mandates a radiation exposure safety limit that is inconsistent.

Mr. President, I will yield to the two leaders, who are on the floor. I ask that until some agreement is reached, I not lose my opportunity to maintain the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The majority leader.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, it is our intention at this point to ask unanimous consent with regard to the Executive Calendar and then have a closing script, which would involve us closing up for tonight. We would come in in the morning at 9 and have morning business which, I believe, was requested by the Democratic leader, equally divided between 9 and 10. And then at 10 we would go to the Department of Defense appropriations bill.

I know how seriously the two Senators from Nevada feel about this issue. I appreciate them letting me intervene at this point. I look forward to working with them later as we go along.

Mr. REID. Reserving the right to object, it is my understanding that this is wrap-up, and there is going to be no more after we finish here.

Mr. LOTT. That is right.

Mr. REID. I thank the majority leader.

MORNING BUSINESS

FOREIGN OIL CONSUMED BY THE U.S.? HERE'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending July 5, the U.S. imported 8,000,000 barrels of oil each day, 1,500,000 barrels more than the 6,500,000 barrels imported during the same week a year ago.

Americans relied on foreign oil for 55 percent of their needs last week, and there are no signs that this upward spiral will abate. Before the Persian Gulf war, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Shouldn't more attention be paid to this perilous situation in light of the June 25 bombing which killed 19 American servicemen in Saudi Arabia? American troops are in Saudi Arabia to protect United States petroleum interests.

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 8,000,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, July 9, 1996, the Federal debt stood at $5,151,106,744,723.87.

On a per capita basis, every man, woman, and child in America owes $19,419.07 as his or her share of that debt.

SUSTAINABLE FISHERIES ACT

Mr. PRESSLER. Mr. President, on March 28, 1996, the Committee on Commerce, Science, and Transportation reported S. 39, the Sustainable Fisheries Act. A report on the bill was filed on May 23, 1996. At that time, the committee was unable to provide a cost estimate for the bill from the Congressional Budget Office. On July 8, 1996, the accompanying letter was received from the Congressional Budget Office, and I now make it available to the Senate. I ask unanimous consent that the letter from CBO be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 8, 1996.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 39, the Sustainable Fisheries Act.

Enactment of S. 39 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill. S. 39 contains several new private-sector mandates (see the enclosed mandates statement), but it does not contain any intergovernmental mandates as defined in Public Law 104–4.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill).

Enclosures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 39.

2. Bill title: The Sustainable Fisheries Act.

3. Bill status: As reported by the Senate Committee on Commerce, Science, and Transportation on May 23, 1996.

4. Bill purpose: S. 39 would amend the Magnuson Fishery Conservation and Management Act (the Magnuson Act), which governs federal regulation of commercial and recreational fishing within the exclusive economic zone (EEZ) of the United States. The bill also would amend other marine fishery and maritime laws including the Anadromous Fisheries Act, the Interjurisdictional Fisheries Act, the Fish and Wildlife Act of 1956, the Atlantic Coastal Cooperative Management Act, the Merchant Marine Act, and the Saltonstall-Kennedy Act. Programs authorized under these acts are managed locally by eight regional fishery councils and

at the national level by the National Oceanic and Atmospheric Administration (NOAA).

Program authorizations

S. 39 would authorize funding through fiscal year 2000 for fisheries conservation and management, information collection and analysis, and state/industry assistance programs. Other provisions of the will would:

Reauthorize the Fishing Vessel Obligation Guarantee (FVOG) program and provide for guarantees of up to $40 million in loans annually;

Expand the FVOG program to allow refinancing of fishing vessel loans during a fishery recovery effort;

Authorize appropriations of such sums as may be necessary to rebuild failed commercial fisheries and mitigate losses of participants in such fisheries;

Make fishing observers federal employees for the purpose of compensation for work injuries under the Federal Employee Compensation Act; and

Increase NOAA's flexibility in providing grants to commercial fishermen who have suffered uninsured losses as a direct result of a natural disaster.

Revenues and fees

The bill also would establish a number of new fees and would affect revenues from existing fees. Major provisions would:

Direct the Secretary of Commerce (hereafter referred to as the Secretary) to collect a 3 percent fee on the annual ex-vessel (dockside) value of fish harvested under any individual fishing quota (IFQ) or community development quota (CDQ) program;

Direct the Secretary to collect fees on foreign vessels that transport fish products from points within U.S. waters to foreign ports;

Authorize the Secretary of State to enter into agreements to authorize foreign fishing within the EEZ adjacent to Pacific Insular Areas (PIAs); such agreements would include an annual determination of fees to be charged foreign vessels;

Authorize the Secretary of Commerce to collect a fee equal to one-half of 1 percent of the value of limited access permits;

Authorize a 1 percent fee on the annual ex-vessel value of bycatch (incidental catch of nontarget fish) targeted for conservation in the North Pacific;

In the case of American Samoa, Guam, and the Northern Marina Islands, require that amounts received by the Secretary from fines and penalties imposed under the Magnuson Act be transferred to the treasury of the PIA adjacent to the exclusive economic zone in which the violation occurred and be available for spending by the Governor of that area for any purposes; in the case of other PIAs, require that such amounts be deposited in a newly created Western Pacific Sustainable Fisheries Fund in the U.S. Treasury and spent without appropriation on conservation and management measures; and

Authorize the Secretary of State to enter into international agreements to reduce bycatch. The Secretary of the Treasury would be required to impose trade sanctions on fish and fish products from those nations that fail to enter into agreements.

Titles I and III of S. 39 would authorize NOAA to institute fishing capacity reduction programs (FCRPs) to ameliorate overfishing in certain areas. Such programs would enable the agency to reduce permanently the number of fishing concerns operating in eligible fisheries by purchasing fishing vessels or federal permits from voluntary sellers or by guaranteeing debt obligations issued by approved entities for that purpose. NOAA would conduct the FCRP regardless of whether the agency guarantees such debt obligations or provides direct funding to owners of fishing vessels or permits.

Section 118 of the bill would provide for several possible funding sources for the FCRPs, including: (1) grants from the Promote and Develop Fisheries Fund, (2) amounts appropriated for fisheries disasters, (3) grants from any state or other public source and private or nonprofit organizations, and (4) industry fees paid by participants in the fishery. In addition, section 302 would provide for financing of private buyouts by authorizing NOAA to guarantee bonds to eligible entities under Title XI of the Merchant Marine Act, 1936. Such guarantees would be subject to the appropriation of the necessary amounts to cover the estimated subsidy cost as defined by the Federal Credit Reform Act.

Under the bill, guarantees could only be made if the participants of a fishery approve an industry fee to be used to repay any debt issued. The unpaid principal outstanding at any time could not exceed $100 million for each participating fishery. Amounts from sources other than subsidy appropriations would be deposited to individual fishing capacity reduction funds. Such amounts would be available without appropriation to pay program costs, including payments to financial institutions for guaranteed debt obligations incurred by entities to finance buyouts. Fund balances would be invested in government securities, but the bill makes no provision for the deposit or spending of any interest that may be earned.

5. Estimated cost to the Federal Government: Assuming appropriation of the necessary amounts, CBO estimates that enacting the bill will result in new discretionary spending totaling about $1.4 billion over the 1997–2002 period. Enacting the bill also would result in new direct spending totaling $23 million over the 1997–2002 period, and new revenues totaling about $26 million over the same period. Additional amounts of both direct spending and revenues, each at roughly $6 million a year, would continue for several years after 2002. Table 1 summarizes the estimated budgetary impact of S. 39.

TABLE 1.—ESTIMATED BUDGETARY IMPACT OF S. 39

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Spending Subject to Appropriations							
Spending under current law:							
Budget authority	239	—	—	—	—	—	—
Estimated outlays	237	122	59	17	—	—	—
Proposed changes:							
Estimated authorization level	—	339	355	356	360	1	1
Estimated outlays	—	197	299	329	357	151	55
Spending under S. 39:							
Estimated authorization level [1]	239	339	355	356	360	1	1
Estimated outlays	237	320	358	346	357	151	55
Additional Revenues and Direct Spending							
Revenues:							
Estimated revenues	—	1	(2)	6	6	6	6
Direct spending:							
Estimated budget authority	—	—	—	6	6	6	6
Estimated outlays	—	−1	—	6	6	6	6

[1] The 1996 amount is the appropriated level for that year.
[2] Less than $500,000.

The costs of this bill fall within budget function 300.

6. Basis of estimate:

Spending subject to appropriations

For purposes of this estimate, CBO has assumed that S. 39 would be enacted by the end of fiscal year 1996 and that the entire amounts authorized or estimated to be necessary would be appropriated for each fiscal year. Outlays have been estimated on the basis of historical spending patterns for ongoing fisheries programs and information provided by NOAA.

CBO estimates that S. 39 would authorize appropriations totaling $1,412 million over the 1997–2002 period (see Table 2). Of this amount, $1,403 million is from authorizations specified in the bill. Estimates accounting for the remaining $9 million are discussed below.

Fishing Vessel Obligation Guarantee Fund (FVOG).—CBO estimates an authorization of $2.4 million (less than $500,000 a year for 1997 through 2002) for appropriations to subsidize the FVOG program. S. 39 would amend the Merchant Marine Act to authorize the FVOG program to guarantee up to $40 million in loans annually. The bill would not change the guarantee fees, which along with the default rates, determine the subsidy rate for the program. Hence, CBO estimates that the current subsidy rate of 1 percent would continue to apply so that the annual loan limitation of $40 million would limit new subsidies to $400,000 a year.

Refinancing of Fishing Vessel Loans.—This estimate also includes $4 million for the projected costs of subsidizing the refinancing of certain loans. S. 39 would authorize the Secretary of Commerce to refinance fishing vessel loans for those fishermen that lose revenues as a result of fishery conservation efforts. Because the bill would authorize NOAA to relax underwriting standards, CBO would expect a higher default rate on the refinanced loans than under the current FVOG program. The greater number of defaults would increase the cost of the program to the government. CBO estimates a subsidy rate of nearly 7 percent for the refinancing program, as compared to the rate of 1 percent for the FVOG program. The higher subsidy rate reflects the expected present value of the loans to the federal government. Based on information from NOAA, CBO estimates that FVOG would refinance about $10 million in fishing vessel loans a year or about $60 million over the 1997–2002 period.

TABLE 2.—Specified and Estimated Authorizations Contained in S. 39

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
CHANGES IN SPENDING SUBJECT TO APPROPRIATIONS (Authorization Levels Only)						
Specified authorizations: [1]						
Magnuson Act	151	160	164	168	--	--
Fish and Wildlife Act of 1956	103	106	106	106	--	--
Interjurisdictional Fisheries Act	70	70	70	70	--	--
Anadromous Fisheries Act	8	8	8	8	--	--
Atlantic Coastal Fisheries Cooperative Management Act	7	7	7	7	--	--
Estimated authorizations:						
FVOG	(2)	(2)	(2)	(2)	(2)	(2)
Refinancing of vessel loans	(2)	1	1	1	1	1
FCRP loan guarantees	--	3	--	--	--	--
Total estimated authorization level [3]	339	355	356	360	1	1

[1] The bill specifies authorization levels for 1996 but CBO assumes that the bill would be enacted too late in the fiscal year to affect 1996 spending.
[2] Less than $500,000.
[3] The table does not show any additional amount for fisheries failures or workers compensation because CBO assumes that funding would come from amounts authorized under other sections of the bill.

Fishing Capacity Reduction Program.—Finally, Table 2 shows an estimated authorization for 1998 of $3 million for costs of guaranteeing debt obligations to nonfederal entities under Title III. This estimate is highly uncertain because it depends on how the program is implemented and on how many fisheries participate. Based on information provided by the National Marine Fisheries Service (NFS) and several fisheries councils, CBO expects that the Pacific groundfish fishery would be the only area likely to adopt a program over the next several years. We further

expect that buyouts in this fishery would be made by a fishing association or nonprofit organization that would issue an estimated $20 million in federally guaranteed bonds to finance the purchase of about one-third of the fishery's capacity in 1998.

CBO estimates that the subsidy rate for the debt obligations would be about 15 percent, resulting in a cost to the federal government of $3 million in 1998 to guarantee $20 million in debt for the Pacific groundfish fishery. The subsidy rate of 15 percent is comparable to the subsidy rate for a program in which the government guarantees debentures for venture capital firms that invest in small businesses. As with the small business debentures, the repayment of the guaranteed bonds in the fisheries program would be uncertain. The only allowable source of debt repayments would be the industry fees. Because such fees would be based on a percentage of the value of fish caught in the fishery, repayment of the debt would be highly susceptible to market fluctuations, natural disasters, and other unpredictable factors. Moreover, limiting repayments to this source implies that no collateral could be required on any debt.

CBO assumes that no other fishery would adopt a capacity reduction program or use this authority to expand existing programs in the near future because industry participants have indicated that they are unwilling to pay for the program.

Other Provisions.—The estimated authorization for 1997–2002 does not include any estimate of appropriations to assist in dealing with failures of commercial fisheries pursuant to Title I. Section 118 of this title authorizes such sums as needed to mitigate such failures—through FCRPs or other methods—through 2000. Based on information from NOAA, CBO assumes that funding for dealing with future fisheries failures would more likely be provided under other authorities in the bill (namely, Title III loan subsidies for FCRPs). This estimate also does not include any additional amounts for the provision that makes observers federal employees for the purpose of workers compensation. CBO estimates that any needed amounts—which are likely to average less than $1 million a year—would be paid out of the authorizations specified in the bill.

Revenues

Enacting S. 39 would result in new revenues totaling about $26 million over the 1997–2002 period and roughly $6 million a year for several years after 2002. This includes about $2 million a year over the 2002–2018 period from fees paid by participants in a capacity reduction program in the Pacific groundfish fishery. Roughly $4 million a year in revenues would continue indefinitely from fees collected pursuant to Pacific Insular Area Fishing Agreements (PIAFAs) and from individuals holding permits and paying fees in limited access fisheries. Table 3 presents the estimated impact of S. 39 on revenues.

TABLE 3.—ESTIMATED IMPACT OF S. 39 ON REVENUES

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
Changes in Revenues						
Estimated changes in revenues:						
FCRPs	0	0	2	2	2	2
PIAFA Revenues	0	0	4	4	4	4
Limited Access Permits	1	(1)	(1)	(1)	(1)	(1)
Total estimated revenues[2]	1	(1)	6	6	6	6

[1] Less than $500,000.

[2] The bill also could raise revenues from fees on bycatch, or reduce existing revenues from duties on imported fisheries products (which could be banned if a foreign nation fails to comply with future international agreements to reduce bycatch), but CBO estimates that these provisions would have no impact.

Revenues from Fishing Capacity Reduction Programs.—CBO estimates that fees associated with capacity reduction programs would generate additional federal revenues of about $2 million a year beginning in 1999. Section 118 would require NOAA to impose an annual fee on businesses that continue operating in a fishery subject to a capacity reduction program. The fee would have to be approved in a referendum before a buyout program could be implemented. CBO expects that such fees would be imposed on entities fishing for Pacific groundfish and that this would be the only fishery likely to adopt a buyout program in the near future. This estimate is based on a fee equal to 2.5 percent of the estimated annual gross sale proceeds in that fishery (about $80 million), which is the level that would be required to pay the principal and interest on $20 million of bonds over 20 years at a rate slightly higher than the federal government's cost of borrowing.

PIAFA Revenues.—CBO estimates revenues of about $16 million over the 1997–2002 period from fees that might be included in future PIAFAs. The bill would authorize the Secretary of State, with the concurrence of the Secretary of Commerce, the Western Pacific Fishery Management Council, and in some cases the Governor of the PIA, to conclude three-year international agreements that would permit foreign fishing in the exclusive economic zone adjacent to PIAs. The agreements would be required to include an annual determination of fees that would be imposed on foreign vessels. Any fees charged would likely be treated as revenues because a permit would be compulsory for fishery participants and the corresponding fees could exceed the administrative costs of issuing permits. Fees collected by the Secretary of Commerce pursuant to PIAFAs for American Samoa, Guam, and the Northern Mariana Islands would be deposited in the Treasury and then transferred to the PIA in which they were collected. Funds would be available for spending by the Governors of each PIA to reimburse the Western Pacific Council and the Secretary of State for the costs of establishing the PIAFA, for conservation and management measures, and for other coastal and marine-relate uses. Fees collected by the Secretary of Commerce pursuant to PIAFAs for PIAs other than American Samoa, Guam, and the Northern Mariana Islands would be available without appropriation to the Secretary of the Western Pacific Council to reimburse the Secretary of State for the costs of establishing the PIAFA, for conservation and management measures, and for other coastal and marine-related uses.

CBO estimates that, beginning in 1999, about $2 million a year would be collected in and transferred to American Samoa, Guam, and the Northern Mariana Islands and an additional $2 million would be collected and spent for other PIAs. This estimate is uncertain because the timing of future agreements will depend on the level of interest of participating nations and the complexity of negotiations. Based on information provided by the Department of State, CBO assumes that PIAFAs would be in place by 1999, and that collections would be consistent with amounts levied by other territories in this region that are currently charging fees.

Limited Access Permit Revenues.—CBO estimates revenues of about $1 million in 1997 and less than $0.2 million each year after 1997 from fees on the holders of limited access permits. S. 39 would direct the Secretary of Commerce to collect a fee of up to one-half of 1 percent of the value of limited access permits. Fees would be used to pay for a national registry of permit holders and would be levied at the time an individual's permit is recorded in the registry. Spending of these fees would be subject to appropriations.

The estimate of revenues assumes that a fee could be charged almost exclusively in those limited-access fisheries managed by individual transferable quota (ITQ) programs. Because permits in these fisheries are transferable, there is a secondary market that allows permit values to be determined. (A nominal fee based on the administrative cost of issuing permits may be charged in other limited-access fisheries.) Eligible fisheries include those for halibut and sablefish in the North Atlantic and the wreckfish, surf-clam, and ocean quahog in the South Atlantic. The only additional fishery included in our estimate is the Pacific groundfish fishery where—although there is no ITQ program—a secondary market exists for the limited number of permits in the fishery. Information used to estimate permit values was provided by NOAA. CBO assumes that the maximum fee would be levied in all eligible fisheries.

Other Provisions.—CBO estimates no additional revenues from proposed fees on bycatch in the North Pacific. Based on information provided by the National Marine Fisheries Service and the North Pacific Fishery Management Council, CBO believes that a fee system is unlikely to be proposed by the council in the near future. Rather, the council will consider alternative methods for reducing harvest that do not involve fees. CBO also estimates no decrease in revenues from the provision that would require the Secretary of the Treasury to ban imports of fisheries products from those nations that fail to enter into future international agreements to reduce bycatch. Because few significant measures to reduce bycatch are in place domestically at this time, international agreements on standards comparable to those in the U.S. are unlikely until more extensive domestic measures for bycatch reduction have been implemented.

Direct spending

CBO estimates that enacting S. 39 would result in new direct spending totaling $23 million over the 1997–2002 period and about $6 million a year for several years after 2002. The direct spending would be funded by revenues collected pursuant to a capacity reduction program in the Pacific groundfish fishery (about $2 million a year over the 1999–2019 period) and from future Pacific Insular Area Fishery Agreements (about $4 million a year beginning in 1999 and continuing indefinitely). Table 4 presents the estimated impact of S. 39 on direct spending.

Fishing Capacity Reduction Program (FCRP).—CBO estimates that fees collected pursuant to a capacity reduction in the Pacific groundfish fishery—the only fishery likely to adopt a capacity reduction program in the near future—are likely to total roughly $2 million a year over the 1999–2018 period. The $2 million would be spent each year without further appropriation to pay off bondholders.

TABLE 4.—ESTIMATED IMPACT OF S. 139 ON DIRECT SPENDING

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
Changes in Direct Spending						
Spending of FCRP revenues:						
Estimated budget authority	.....	.....	2	2	2	2
Estimated outlays	.....	.....	2	2	2	2
IFQ/CDQ offsetting receipts:						
Estimated budget authority	−5	−6	−6	−8	−8	−8
Estimated outlays	−5	−6	−6	−8	−8	−8
Spending from IFQ/CDQ receipts:						
Estimated budget authority	5	6	6	8	8	8
Estimated outlays	4	6	6	8	8	8
Spending of PIAFA revenues:						
Estimated budget authority	.....	.....	4	4	4	4

TABLE 4.—ESTIMATED IMPACT OF S. 139 ON DIRECT SPENDING—Continued

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
Estimated outlays	.....	.....	4	4	4	4
Total changes in direct spending:[1]						
Estimated budget authority	.....	.....	6	6	6	6
Estimated outlays	−1	.....	6	6	6	6

[1] The bill also could affect spending for disaster assistance to fishermen and spending from certain fines and penalties, but CBO estimates that these provisions would have no impact.

Fees from Quota Programs.—CBO estimates that the proposed fee on permit holders for fishing under individual fishing quota (IFQ) and community development quota (CDQ) programs would result in a net decrease in outlays of $1 million in 1997 and have no net budgetary impact in other years. S. 39 would direct the Secretary of Commerce to collect a fee of up to 3 percent of the annual dockside value of fish harvested under any eligible IFQ or CDQ program. CBO estimates that this provision will result in new receipts totaling about $39 million over the 1997–2002 period. Fees would likely be treated as offsetting receipts and would be available for spending without further appropriation action. Accordingly, the increase in receipts would be offset by additional direct spending and the provision would have no significant net impact on the federal budget, CBO estimates that NOAA would be able to spend most of the receipts collected in each year.

For purposes of this estimate, CBO assumes that individuals holding permits in IFQ and CDQ programs for halibut, sablefish, and pollock begin paying fees in 1997 and that CDQs for North Pacific groundfish, king crab, and tanner crab would be implemented and participants would pay fees by 1998. Individuals holding permits in the wreckfish, surf clam, and ocean quahog CDQ programs would not be required to pay fees until January 1, 2000. CBO assumes that the Secretary would collect the full 3 percent of the annual ex-vessel value of fish caught in fisheries managed by IFQs and that the corresponding rate for fisheries managed by CDQs would be slightly lower—about 2.75 percent—to reflect participants' deductions for higher observer and reporting costs. The estimate of spending from these receipts assumes, pursuant to the bill, that 25 percent of the fees collected pursuant to this provision would subsidize loans for fishermen who purchase IFQs. The remainder would be used to pay for the management and enforcement costs of IFQ and CDQ programs.

Spending of PIAFA Revenues.—CBO estimates direct spending of $16 million over the 1997–2002 period from authority to spend without appropriation the revenues collected pursuant to Pacific Insular Area Fishery Agreements.

Other Provisions.—CBO estimates that the proposed changes to the Interjurisdictional Fisheries Act for fishery relief programs would have no cost because the changes have already been incorporated into current law by Public Law 104–134, the Omnibus Consolidated Rescissions and Appropriations Act of 1996. CBO estimates no new direct spending from authority in S. 39 to spend Magnuson Act fines and penalties collected in the EEZ adjacent to Pacific Insular Areas. Penalties and proceeds from asset forfeitures may already be spent without appropriation. The only effect of this provision would be to change the parties that would be eligible to spend the funds.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enacting S. 39 would affect both direct spending and receipts; therefore, pay-as-you-go procedures would apply to the bill.

Direct Spending.—Proposed IFQ and CDQ program fees would result in additional offsetting receipts and spending of those fees. We estimate that spending would lag behind fee collections slightly, resulting in a net reduction in outlays of about $1 million in 1997. Because most receipts would be spent in the year they are collected, CBO estimates that the net impact of this provision on outlays after 1997 would be less than $500,000 a year.

S. 39 also would allow spending without appropriation of the fees collected on participants in fishing capacity reduction programs and from PIAFAs. However, CBO estimates that these fees would not be collected or spent until 1999.

Revenues.—The bill would raise new revenues from a fee on limited access permits. Revenues from other new fees would accrue after 1998.

CBO's estimate of S. 39's pay-as-you-go impact is summarized in the following table:

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	0	−1	0
Change in receipts	0	1	0

8. Estimated impact on State, local, and tribal governments: The bill contains no intergovernmental mandates as defined in Public Law 104–4, and would impose no direct costs on State, local, or tribal governments. The bill would authorize appropriations of at least $87 million over fiscal years 1997 through 2000 for financial assistance to State and local governments. This assistance would help State and local governments protect and manage fishery resources. If the Secretary of State enters into agreements to allow foreign fishing within the exclusive economic zones adjacent to Pacific Insular Areas, the bill could also result in increased funding for these governments. Such funding would be earmarked for managing and conserving fisheries.

9. Estimated impact on the private sector: S. 39 contains several new private-sector mandates, but the direct costs of those mandates are not likely to exceed the $100 million threshold established by Public Law 104–4 (see the attached private-sector mandate statement).

10. Previous CBO estimate: On July 10, 1995, CBO provided a cost estimate for H.R. 39, the Fishery Conservation and Management Amendments of 1995, as reported by the House Committee on Resources on June 30, 1995. CBO estimated that H.R. 39 would authorize new appropriations totaling $660 million over the 1996–2000 period, including $610 million in specified authorizations and an estimated $50 million for an FCRP for the Northeast. CBO also estimated that H.R. 39 would result in direct spending of less than $0.5 million a year from the collection of fees on foreign vessels that transport fish products from United States waters to foreign ports. Additional receipts of up to $5 million a year would be collected from fees on IFQ permits. However, the fees would be available for spending without appropriation and CBO estimated that the increase in receipts would be offset by additional direct spending. Finally, CBO estimated that H.R. 39 would result in $2 million to $4 million a year in new revenues from an annual fee on holders of federal fishing permits who continue operating in the Northeast FCRP. These revenues would be authorized for spending without appropriation for other FCRP programs, but CBO assumed that no other programs would be enacted and that those revenues would not be spent. Differences in CBO estimates for similar provisions of H.R. 39 and S. 39 are attributable to significant differences in the bills and to the availability of new information since last July.

11. Estimate prepared by: Federal Cost Estimate: Gary Brown, Rachel Forward, and Deborah Reis; and for revenues, Stephanie Weiner.

State and local government impact: Pepper Santalucia.

Private sector impact: Patrice Gordon.

12. Estimate approved by:

ROBERT A. SUNSHINE
(For Paul N. Van de Water, Assistant Director for Budget Analysis.)

NOTICE OF ADOPTION OF REGULATIONS AND SUBMISSION FOR APPROVAL

Mr. THURMOND. Mr. President, pursuant to section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a notice of adoption of regulations and submission for approval was submitted by the Office of Compliance, U.S. Congress. The notice contains final regulations related to Federal service labor-management relations—regulations under section 220(d) of the Congressional Accountability Act.

Section 304(b) requires this notice to be printed in the CONGRESSIONAL RECORD; therefore I ask unanimous consent that the notice 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, PROTECTIONS AND RESPONSIBILITIES UNDER CHAPTER 71 OF TITLE 5, UNITED STATES CODE, RELATING TO FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS (REGULATIONS UNDER SECTION 220(d) OF THE CONGRESSIONAL ACCOUNTABILITY ACT)

NOTICE OF ADOPTION OF REGULATIONS AND SUBMISSION FOR APPROVAL

Summary: The Board of Directors of the Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published May 15, 1996 in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations implementing section 220 of the Congressional Accountability Act of 1995, Pub. L. 104–1, 109 Stat. 3. Specifically, these regulations are adopted under section 220(d) of the CAA.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, DC 20540–1999, Telephone: (202) 724–9250.

SUPPLEMENTARY INFORMATION

I. Background and Summary

The Congressional Accountability Act of 1995 (''CAA'' or ''Act'') was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered Congressional employees and employing offices. Section 220 of the CAA concerns the application of chapter 71 of title 5, United States Code (''chapter 71'') relating to Federal service labor-management relations. Section 220(a) of the CAA applies the rights, protections and responsibilities established under sections 7102, 7106, 7111 through 7117,

7119 through 7122 and 7131 of title 5, United States Code to employing offices and to covered employees and representatives of those employees.

Section 220(d) authorizes the Board of Directors of the Office of Compliance (''Board'') to issue regulations to implement section 220 and further states that, except as provided in subsection (e), such regulations ''shall be the same as substantive regulations promulgated by the Federal Labor Relations Authority [''FLRA''] to implement the statutory provisions referred to in subsection (a) except—(A) to the extent that 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; or (B) as the Board deems necessary to avoid a conflict of interest or appearance of a conflict of interest.''

On March 6, 1996, the Board of Directors of the Office of Compliance (''Office'') issued an Advance Notice of Proposed Rulemaking (''ANPR'') that solicited comments from interested parties in order to obtain participation and information early in the rulemaking process. 142 Cong. R. S1547 (daily ed., Mar. 6, 1996).

On May 15, 1996, the Board published in the Congressional Record a Notice of Proposed Rulemaking (''NPR'') (142 Cong. R. S5070–89, H5153–72 (daily ed., May 15, 1996). In response to the NPR, the Board received three written comments, two of which were from offices of the Congress and one of which was from a labor organization.

Parenthetically, it should also be noted that, on May 23, 1996, the Board published a Notice of Proposed Rulemaking (142 Cong. R. S5552–56, H5563–68 (daily ed., May 23, 1996)) inviting comments from interested parties on proposed regulations under section 220(e). That subsection further authorizes the Board to issue regulations on the manner and extent to which the requirements and exemptions of chapter 71 should apply to covered employees who are employed in certain specified offices, ''except . . . that the Board shall exclude from coverage under [section 220] any covered employees who are employed in [the specified offices] if the Board determines that such exclusion is required because of (i) a conflict of interest or appearance of a conflict of interest; or (ii) Congress' constitutional responsibilities.'' Final regulations under section 220(e) will be adopted and submitted for Congressional approval separately.

II. Consideration of Comments and Conclusions

A. Investigative and adjudicatory responsibilities

In the NPR, the Board proposed that, like the FLRA , it would decide representation issues, negotiability issues and exceptions to arbitral awards based upon a record developed through direct submissions from the parties and, where necessary, through further investigation by the Board (through the person of the Executive Director). Under the Board's proposed rule, only unfair labor practice issues (and not representation, arbitrability or negotiability issues) would be referred to hearing officers for initial decision under section 405 of the CAA.

One commenter expressly approved of this proposal. Conversely, two commenters argued that the proposal violates the plain and unambiguous language of the statute, which they read as requiring the Board to refer all section 220 issues, including representation, arbitrability, and negotiability issues, to hearing officers for initial decision under section 405.

Contrary to the argument that the statutory text *unambiguously* requires referral of representation, arbitrability, and negotiability issues (as well as unfair labor practice issues) to hearing officers for initial decision pursuant to section 405, section 220(c)(1) simply does not define the ''matter[s]'' that must be referred to hearing officers for initial decision under section 405, much less specify that these ''matter[s]'' include disputed issues of representation, negotiability and/or arbitrability. Moreover, contrary to the assumption of the commenters, there is no sound reason to assume that the ''matter[s]'' that the Board must refer to hearing officers for initial decision under section 405 are co-extensive with the ''petition[s], or other submission[s]'' that the Board receives under section 220(c)(1). Since Congress did *not* require the Board to refer to a hearing officer for initial decision ''any petition or other submission'' that it receives under section 220(c)(1), but rather only ''any matter under this paragraph,'' the interpretive presumption in fact must be that the ''matter[s]'' which the Board must refer are not co-extensive with the ''petitions or other submissions'' that it receives under section 220(c)(1) (but, rather, are only a subset of them.) Whether or not this interpretative presumption can be overcome by other relevant interpretive materials, it is plain that, contrary to the assertion of the commenters, the statutory text is in fact seriously ambiguous about whether controversies involving representation, negotiability, and arbitrability issues are ''matter[s]'' within the meaning of section 220(c)(1) that must be referred to a Hearing Officer pursuant to section 405.

Moreover, as explained in the NPR, this textual ambiguity is best resolved by interpreting the statutory phrase ''matter'' in section 220(c)(1) to encompass only controversies involving disputed unfair labor practice issues. The term ''matter'' in section 220(c)(1) simply does not appear to refer to representation or other such issues arising out of the Board's ''investigative authorities.'' Indeed, section 220(c)(1) expressly contemplates that the Board may direct the General Counsel (and, a fortiori, not a hearing officer) to carry out these ''investigative authorities,'' which under chapter 71 include the authority, for example, to decide (and not, as one commenter suggests, merely to investigate) disputed representation issues such as whether an individual must be excluded from a unit because he or she is a supervisor.

Under chapter 71, only controversies involving unfair labor practice issues are subject to formal adversarial processes like those established by section 405; and nothing in the CAA's legislative history shows that Congress understood itself to be departing from chapter 71 in this respect. In these circumstances, under the CAA, the textual ambiguity must be resolved by reference to the interpretive presumption that Congress has subjected itself to the same rules that the executive branch is subject to under chapter 71.

Furthermore, contrary to the suggestion of one commenter, the reference in the last sentence of section 220(c)(2) to initial hearing officer consideration of unfair labor practice complaints does not detract in any way from the Board's construction of the term ''matter'' in section 220(c)(1). The Board's construction of the term ''matter'' in section 220(c)(1) simply does not render this reference in section 220(c)(2) to initial hearing officer consideration of unfair labor practice complaints ''redundant and meaningless,'' as the commenter claims; rather, the reference in section 220(c)(2) simply completes the statute's instruction to the General Counsel concerning how he should process a controversy involving an unfair labor practice issue (just as section 220(c)(1) in parallel instructs the Board concerning how it should process a controversy involving an unfair labor practice issue). Indeed, construing the phrase ''matter'' in section 220(c)(1) to encompass more than just controversies involving unfair labor practice issues would not in any way reduce the redundancy and lack of meaning that the commenter perceives (since, in all events, both section 220(c) (1) and (2) would effectively encompass initial hearing officer consideration of unfair labor practice issues).

The commenters similarly err in suggesting that the judicial review provisions of section 220(c)(3) demonstrate that the Board must refer more than just unfair labor practice issues to a hearing officer for initial decision under section 405. In making this suggestion, the commenters omit mention of the critical statutory language in section 220(c)(3) that only the General Counsel or the respondent to the complaint may seek judicial review of a final Board decision under section 220(c) (1) or (2). This language appears to limit judicial review to cases involving unfair labor practice issues, because it is only in unfair labor practice cases that the parties include either ''the General Counsel or the respondent to the complaint.'' In all events, even if section 220(c)(3) authorized judicial review of more than just unfair labor practice issues, referral of more than controversies involving unfair labor practice issues would not be required: Judicial review does not always require a record created by a formal adversary process, and the Board still has not found a statutory command sufficient to require a formal adversary process where chapter 71 does not do so.

Finally, there is simply no foundation for the suggestion that the ''real reason'' for the Board's reading of the statute is that referral of representation, arbitrability, or negotiability issues to a hearing officer for initial decision under section 405 would be ''overly cumbersome.'' It is in fact the judgment of the Board, based on its members' many years of practice and experience in this area, that referral of such issues for formal adversary hearings would be overly cumbersome and would undermine considerably the effective implementation of section 220 of the CAA. Indeed, it is difficult for the Board's members to even conceive of how an election could practicably be conducted in the confidential, adversarial processes contemplated by section 405. But, while the Board is in fact entitled in its interpretive process to presume that Congress did not intend to be so impracticable, the ''real reason'' for the Board's construction of section 220 is not this significant practical concern. Rather, the ''real reason'' is the one that is stated in the NPR and here—to wit, that neither the statutory language nor the legislative history contain a sufficiently clear command that, in supposedly subjecting itself to the same labor laws as are applicable to the executive branch, Congress intended to make an exception for itself and require formal adversarial proceedings where they are not required under chapter 71. As the Supreme Court has stated: '''In a case where the construction of legislative language such as this makes so sweeping and so relatively unorthodox a change as that [suggested] here, [we] think judges as well as detectives may take into consideration the fact that a watch dog did not bark in the night.''' *Chisom v. Roemer,* 501 U.S. 380, 397 (1991), *quoting Harrison v. PPG Industries, Inc.,* 446 U.S. 578, 602 (1980) (Rehnquist, J., *dissenting).*

B. Pre-election investigatory hearings

In the NPR, the Board proposed to add a new subsection 2422.18(d) to provide that the parties have an obligation to produce existing documents and witnesses for pre-election

investigatory hearings, in accordance with the instructions of the Board (acting through the person of the Executive Director), and that a willful failure to comply with such instructions could result in an adverse inference being drawn on the issue for which the evidence is sought. The Board noted that section 7132 of chapter 71, which authorizes the issuance of subpoenas by various FLRA officials, was not made applicable by the CAA and that, as pre-election investigatory hearings are not conducted under section 405 of the CAA, subpoenas for documents or witnesses in such pre-election proceedings are not available under the CAA, as they are under chapter 71. The Board thus concluded that there is good cause to modify section 2422.18 of the FLRA's regulations to include subsection (d) because, in order to properly decide disputed representation issues and effectively implement section 220 of the CAA, a complete investigatory record comparable to that developed under chapter 71 is necessary.

One commenter asserted, consistent with that commenter's view that pre-election investigatory hearings must be conducted under section 405 of the CAA, that the addition of subsection 2422.18(d) is not necessary. Based upon the same rationale, another commenter suggested (1) that section 2422.18(b) be modified to provide that the Federal rules of evidence shall apply in pre-election investigatory hearings, and (2) that the Board ''should make the proposed regulations governing service of subpoenas consistent with its own procedural regulations.'' This same commenter also suggested that the Board specifically not adopt that portion of section 2422.18(b) which provides that pre-election investigatory hearings are open to the public, because this provision allegedly ''appears to be included to comply with the Sunshine Act'' which ''does not apply to Congress.''

As noted above, the Board continues to be of the view that pre-election investigatory hearings need not and should not be conducted under section 405 of the CAA. Accordingly, since the commenters criticisms of this proposed regulation are based upon a contrary false premise, the Board adheres to its original conclusion that there is good cause to modify section 2422.18 of the FLRA's regulations by including section 2422.18(d). Further, because pre-election investigatory hearings should not be conducted under section 405 of the CAA, there is no good cause to modify section 2422.18 to require the application of the Federal rules of evidence or to provide for the issuance or service of subpoenas in connection with such investigatory hearings. Finally, contrary to the assertion of one commenter, there is no indication that the ''Sunshine Act'' (Pub. L. 94–409) formed the basis for the section 2422.18(b) requirement that pre-election hearings be open to the public, and there is no basis for not adopting that subsection, as suggested by the commenter.

C. Selection of the unfair labor practice procedure or the negotiability procedure

In the NPR, the Board determined that there is good cause to delete the concluding sentences of sections 2423.5 and 2424.4 of the FLRA's regulations. Specifically, the Board proposed to omit the requirement that a labor organization file a petition for review of a negotiability issue, rather than an unfair labor practice charge, in cases that solely involve an employing office's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained and that do not involve actual or contemplated changes in conditions of employment. The Board reasoned that, by eliminating that restriction, a labor organization could choose to seek a Board determination on the issue, as it can with respect to other assertions by employing offices that there is no duty to bargain, through an unfair labor practice proceeding and, if the determination is unfavorable, the labor organization could possibly obtain judicial review by persuading the General Counsel to file a petition for review of the unfavorable Board decision under section 220(c)(3) of the Act. In this regard, the Board stated its view that, unlike chapter 71, the CAA does not provide for direct judicial review of Board decisions and orders on petitions for review of negotiability issues.

One commenter expressly and specifically agreed that there is good cause for this proposed modification of the FLRA's regulations. The two other commenters asserted that there is not good cause to delete the pertinent sentences from the FLRA's regulations because of their view that, under section 220(c)(3), direct judicial review of Board decisions on petitions for review of negotiability issues is available.

The Board has further considered this issue and has concluded, for reasons different than those urged by the commenters, that it should not delete the concluding sentences of the referenced sections of the FLRA's regulations. Under section 7117 of chapter 71, which is incorporated into the CAA, a labor organization is the only party that may file a petition for Board review of a negotiability issue; the labor organization is always the petitioner and never a respondent, and the General Counsel is never a party. Moreover, section 220(c)(3) provides that only ''the General Counsel or the respondent to the complaint, if aggrieved by a final decision of the Board'' may file a petition for judicial review of a Board decision. Accordingly, it is clear that, under the CAA, it was Congress' intent not to accord labor organizations the right to seek direct judicial review of unfavorable decisions on negotiability issues. Further, in the Board's judgment, questions involving the duty to bargain, where there are no actual or contemplated changes in conditions of employment, are best resolved through a negotiability determination; procedures for the consideration of petitions for review of negotiability issues are more expeditious and less adversarial than unfair labor practice proceedings, and thus the requirement that labor organizations utilize the negotiability procedures is more effective for the implementation of section 220. Accordingly, the concluding sentences of section 2423.5 and 2424.5 of the FLRA's regulations will be included in the Board's final regulations.

D. Exclusion of certain employing offices from coverage under section 220

One commenter urged the Board to exclude certain specific employing offices from coverage under section 220 of the CAA. The commenter reasoned that, since section 7103(a)(3) of chapter 71 specifically defines ''agency'' not to include certain named executive branch agencies, the Board should exempt ''parallel'' employing offices in the House of Representatives from the definition of ''employing office'' in the Board's regulations.

The Board declines this suggestion. Just as Congress defined the term ''agency'' under chapter 71, Congress has defined ''employing office'' in the CAA. The Board cannot, as the commentor has requested, redefine ''employing office'' by regulation to exclude employing offices that are encompassed by statutory definition.

E. Exercise of the Board's authority under section 7103(b) of chapter 71, as applied by the CAA

Under section 220(c)(1) of the CAA, the Board has been granted the authority that the President has under section 7103(b) of chapter 71 to ''issue an order excluding any [employing office] or subdivision from coverage under this chapter if the [Board] determines that—

(a) the [employing office] or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(b) the provisions of this chapter cannot be applied to that [employing office] or subdivision in a manner consistent with national security requirements and considerations.''

Two commenters requested that the Board issue regulations under this authority. In doing so, one commenter named five employing offices that it simply asserted should be excluded because their ''primary function . . . is intelligence investigative or national security work''; the other commenter made no specific suggestions as to appropriate exclusions.

While the Board is willing to exercise its authority derived from section 7103(b) of chapter 71 (when and if it receives information that would allow it to do so), the authority that the Board possesses is to exclude employing offices from coverage under section 220 by ''order,'' not by regulation. Congress wisely recognized that sensitive security issues of this type are not properly addressed in a public rulemaking procedure, but rather are better addressed by executive or administrative order.

F. Definition of labor organization

One commenter correctly pointed out that the words ''bylaws, tacit agreement among its members,'' were omitted from the definition of ''labor organization'' in section 2421.3(d). The final regulation has been modified to correct this inadvertent omission.

G. Substitution of the term ''disability'' for ''handicapping condition''

The proposed regulations, in sections 2421.3(d)(1) and 2421.4(d)(2)(iv), make reference to the term ''handicapping condition''. That term appears in the FLRA regulations and is derived from the Rehabilitation Act of 1973. In section 201(a)(3) of the CAA, the Congress used the term ''disability,'' rather than the term ''handicap'' or ''handicapping condition''. Accordingly, as urged by one commenter, the Board finds good cause to substitute the term ''disability'' for the term ''handicapping condition'' wherever it appears in the regulations.

H. Conditions of employment

One commenter suggested that the Board should modify the definition of the term ''conditions of employment'' in section 2421.3(m)(3) of the proposed regulations to provide that, in addition to ''matters specifically provided for by Federal statute,'' matters specifically provided for by ''resolutions, rules, regulations and other pronouncements of the House of Representatives and/or the Senate having the force and effect of law'' are among the matters excluded from that term. But the definition of ''conditions of employment'' in section 2421.3(m) of the proposed regulations is identical to the statutory definition incorporated by reference into the FLRA's regulations. Moreover, to the extent that resolutions, rules, regulations and pronouncements of the House or Senate have the force and effect of Federal statutes, matters specifically provided for therein are already excluded from ''conditions of employment'' under section 220. The Board thus does not find good cause to change the FLRA's regulation.

I. Applicability of certain terms

1. Government-wide rule or regulation.—The term ''Government-wide rule or regulation'' is found in various contexts in the incorporated provisions of chapter 71 and applicable regulations of the FLRA. One commenter

asked that the Board clarify that the term includes ''rules or regulations issued by the House or Senate, as appropriate.'' The commenter cited no authority for the requested change.

The Board has carefully considered the matter. Its own research reveals that the FLRA has interpreted this term to include only rules or regulations that are generally applicable to the Federal civilian workforce within the executive branch. The Board thus does not find good cause to revise the term to apply to rules or regulations that are not generally applicable to covered employees throughout the entire legislative branch.

2. Activity; primary national subdivision.—One commenter asserted that the terms ''activity'' and ''primary national subdivision'' have no applicability in the legislative branch and should be omitted from the regulations. However, there was not sufficient information in the comment to allow the Board to make an informed judgment about the validity of the assertion. The Board therefore does not have good cause to modify the FLRA's regulations by deleting these terms; indeed, if the terms are inapplicable, their inclusion in the regulations will have no substantial consequence.

J. Consultation rights

1. National.—Under section 2426.1(a) of the proposed rules, an employing office shall accord national consultation rights to a labor organization that holds exclusive recognition for 10% or more of the total number of personnel employed by the employing office. In this regard, the Board noted that the FLRA has considered 10% of the employees of an agency or primary national subdivision to be a significant enough proportion of the employee complement to allow for meaningful consultations, no matter the size of the agency or the number of its employees. The Board determined that there is no apparent reason why there should be a different threshold requirement for small legislative branch employing offices from that applicable to small executive branch agencies.

One commenter urged that the Board reconsider its determination. The commenter argued that the threshold should be raised, because in a small employing office of 10 employees ''a union could gain consultation rights on the basis of the interest of one employee.''

The commenter's concern that one employee's ''interest'' in a 10-employee office could require consultations is unfounded. In order to obtain national consultation rights, a labor organization must hold ''exclusive recognition'' for 10% of the employees. Section 2421.4(c) of the Board's proposed rules defines the term ''exclusive recognition'' to mean that ''a labor organization has been selected as the sole representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast ballots in an election.'' The mere ''interest'' of employees does not constitute ''exclusive recognition.'' Further, exclusive recognition cannot, under applicable precedent, be granted for a single employee, because a one-employee unit is not appropriate for exclusive recognition. The Board thus has decided to adhere to its conclusion that there is not good cause to change the 10% threshold.

2. Government-wide rules or regulations.—In the NPR, the Board concluded that it had good cause to modify the threshold requirement contained in the FLRA's regulations that provide for an agency, in appropriate circumstances, to accord consultation rights on Government-wide rules or regulations to a labor organization that holds exclusive recognition for 3,500 or more employees. The Board reasoned that, because of the size of employing offices covered by the CAA, the 3,500 employee threshold could never be met and needed to be revised. Accordingly, by analogy to the eligibility requirement for national consultation rights, the Board adopted a threshold requirement of 10% of employees.

One commenter asserted that the Board improperly replaced the 3,500 employee threshold requirement with the 10% requirement, arguing that the intent of the 3,500 employee threshold was to permit consultation only in large agencies. The commenter stated that, because no covered employing office has 3,500 employees, ''consultation on government-wide rules or regulations should not be a requirement under the CAA.''

The Board has carefully considered the comment and has now concluded that the substitution of a 10% threshold for the 3,500 employee requirement would not result in the appropriate standard for the grant of consultation rights on Government-wide rules or regulations. However, contrary to the commenter's assertion, such consultation rights should be, and indeed are, accorded under the CAA.

Section 7117(d) of chapter 71, which is incorporated into the CAA, provides that a labor organization that is the exclusive representative of a substantial number of employees, as determined in accordance with criteria prescribed by the FLRA, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency that effects any substantive change in any condition of employment. For example, under the FLRA's regulations, in appropriate circumstances, the Office of Personnel Management (OPM) would be required to accord consultation rights on an OPM-issued government-wide regulation to labor organizations that are the exclusive representatives of at least 3,500 executive branch employees, even if those employees are not employees of OPM. Section 7117(d) of chapter 71 was incorporated into the CAA. Thus, in the legislative branch, consultation rights on legislative branch-wide rules or regulations issued by an employing office that effect any substantive change in any condition of employment must be granted to the exclusive representative(s) of a substantial number of covered legislative branch employees.

The FLRA determined in its regulations that 3,500 employees is a ''substantial'' number of employees in the executive branch. The most recent statistics compiled by OPM's Office of Workforce Information reveal that there are approximately 1,958,200 civilian, non-postal, Federal employees. In contrast, the Congressional Research Service reports that there are only approximately 20,100 legislative branch employees currently covered by the CAA. As the covered workforce in the legislative branch is approximately one-tenth the size of the analogous executive branch employee complement, the Board concludes that the appropriate threshold requirement for the grant of consultation rights in the legislative branch is 350 employees, or one-tenth the requirement in the executive branch. Accordingly, the Board finds that there is good cause to modify section 2426.11(a) of the FLRA's rules to provide that requests for consultation rights on Government-wide rules or regulations (e.g. rules or regulations that are generally applicable to the legislative branch) will be granted by an employing office, as appropriate, to a labor organization that holds exclusive recognition for 350 or more covered employees in the legislative branch.

K. Posting of notices in representation cases

One commenter asserted that sections 2422.7 and 2422.23, which provide for the posting or distribution of certain notices by employing offices, should be modified. In this regard, the commenter argued that these sections of the proposed rules ''give the Executive Director the authority to determine the placement'' of the notice posting and that such determination should be left to the discretion of the employing office. Contrary to the commenter's assertions, however, nothing in the aforementioned regulations deprives an employing office of the desired discretion so long as the notices are posted ''in places where notices to employees are customarily posted and/or distributed in a manner by which notices are normally distributed.'' Accordingly, there is no reason to modify the regulations, as requested by the commenter.

L. Enforcement of decisions of the Assistant Secretary of Labor

In the NPR, the Board found good cause to modify section 2428.3 of the FLRA's regulations to delete the requirement in section 2428.3(a) that the Board enforce any decision or order of the Assistant Secretary of Labor (Assistant Secretary) unless it is ''arbitrary and capricious or based upon manifest disregard of the law.'' Noting that section 225(f)(3) of the CAA specifically states that the CAA does not authorize executive branch enforcement of the Act, the Board concluded that it should not adopt a regulatory provision that would require the Board to defer to decisions of an executive branch agency.

Two commenters asserted that the Board did not have good cause to modify the FLRA's regulation. Both argued that requiring the Board to enforce a decision and order of the Assistant Secretary is not tantamount to executive branch enforcement of the Act.

The Board continues to be of the view that, in order to give full effect to section 225(f)(3) of the CAA, it should not defer to decisions of the Assistant Secretary. There is thus good cause to modify section 2428.3 of the FLRA's regulations.

M. Regulations under section 220(d)(2)(B) of the CAA

Section 220(d)(2)(B) of the CAA provides that, in issuing regulations to implement section 220, the Board may modify the FLRA's regulations ''as the Board deems necessary to avoid a conflict of interest or appearance of a conflict of interest.'' In the ANPR, the Board requested commenters to identify, where applicable, why a proposed modification of the FLRA's regulations is necessary to avoid a conflict of interest or appearance thereof. In this regard, commenters were advised not only to fully and specifically describe the conflict of interest or appearance thereof that they believed would exist were the pertinent FLRA regulations not modified, but also to explain the necessity for avoiding the asserted conflict or appearance of conflict and how any proposed modification would avoid the identified concerns.

In response to the ANPR, one commenter argued that the posting requirements of sections 2422.7 and 2422.23 of the FLRA's regulations should be modified. In the NPR, the Board discussed the commenter's suggested modifications and determined that the modifications were not necessary under section 220(d)(2)(B). No other modifications were requested or discussed.

Another commenter has now urged the Board to ''promulgate a regulation for the exclusion from a bargaining unit of any employee whose membership or participation in the labor organization would present an actual or apparent conflict of interest with the duties of the employee'' in order to ''eliminate by regulation the possibility, or even the appearance of the possibility, that the contents of legislation or legislative policy might be influenced by union membership of

Congressional employees.'' This commenter provided no additional explanation for the proposed regulation. Nor did the commenter provide a list of the employees who should be so excluded (or, indeed, any examples).

The Board has concluded that it is appropriate to adopt a regulation authorizing parties in appropriate circumstances to assert, and the Board to decide where appropriate and relevant, that a conflict of interest (real or apparent) exists that makes it necessary for the Board to modify a requirement that would otherwise be applicable. The regulation is found at section 2420.2.

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 apply to other covered employees and employing offices should be approved by concurrent resolution.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the Congress the following regulations.

Signed at Washington, D.C., on this 9th day of July, 1996.

GLEN D. NAGER,
Chair of the Board of Directors,
Office of Compliance.

ADOPTED REGULATIONS

Subchapter C

Subchapter D

Subchapter C

PART 2420—PURPOSE AND SCOPE

§ 2420.1 Purpose and scope.

The regulations contained in this subchapter are designed to implement the provisions of chapter 71 of title 5 of the United States Code, as applied by section 220 of the Congressional Accountability Act (CAA). They prescribe the procedures, basic principles or criteria under which the Board and the General Counsel, as applicable, will:

(a) Determine the appropriateness of units for labor organization representation under 5 U.S.C. 7112, as applied by the CAA;

(b) Supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of 5 U.S.C. 7111, as applied by the CAA, relating to the according of exclusive recognition to labor organizations;

(c) Resolve issues relating to the granting of national consultation rights under 5 U.S.C. 7113, as applied by the CAA;

(d) Resolve issues relating to determining compelling need for employing office rules and regulations under 5 U.S.C. 7117(b), as applied by the CAA;

(e) Resolve issues relating to the duty to bargain in good faith under 5 U.S.C. 7117(c), as applied by the CAA;

(f) Resolve issues relating to the granting of consultation rights with respect to conditions of employment under 5 U.S.C. 7117(d), as applied by the CAA;

(g) Conduct hearings and resolve complaints of unfair labor practices under 5 U.S.C. 7118, as applied by the CAA;

(h) Resolve exceptions to arbitrators' awards under 5 U.S.C. 7122, as applied by the CAA; and

(i) Take such other actions as are necessary and appropriate effectively to administer the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA.

§ 2420.2

Notwithstanding any other provisions of these regulations, the Board may, in deciding an issue, add to, delete from or modify otherwise applicable requirements as the Board deems necessary to avoid a conflict of interest or the appearance of a conflict of interest.

PART 2421—MEANING OF TERMS AS USED IN THIS SUBCHAPTER

Sec.

§ 2421.1 Act; CAA.

The terms ''Act'' and ''CAA'' mean the Congressional Accountability Act of 1995 (P.L. 104–1, 109 Stat. 3, 2 U.S.C. §§ 1301–1438).

§ 2421.2 Chapter 71.

The term ''chapter 71'' means chapter 71 of title 5 of the United States Code.

§ 2421.3 General Definitions.

(a) The term ''person'' means an individual, labor organization or employing office.

(b) Except as noted in subparagraph (3) of this subsection, the term ''employee'' means an individual—

(1) Who is a current employee, applicant for employment, or former employee of: the House of Representatives; the Senate; the Capitol Guide Service; the Capitol Police; the Congressional Budget Office; the Office of the Architect of the Capitol; the Office of the Attending Physician; the Office of Compliance; or the Office of Technology Assessment; or

(2) Whose employment in an employing office has ceased because of any unfair labor practice under section 7116 of title 5 of the United States Code, as applied by the CAA, and who has not obtained any other regular and substantially equivalent employment as determined under regulations prescribed by the Board, but does not include—

(i) An alien or noncitizen of the United States who occupies a position outside of the United States;

(ii) A member of the uniformed services;

(iii) A supervisor or a management official or;

(iv) Any person who participates in a strike in violation of section 7311 of title 5 of the United States Code, as applied by the CAA.

(3) For the purpose of determining the adequacy of a showing of interest or eligibility for consultation rights, except as required by law, applicants for employment and former employees are not considered employees.

(c) 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.

(d) The term ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an employing office concerning grievances and conditions of employment, but does not include—

(1) An organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or disability;

(2) An organization which advocates the overthrow of the constitutional form of government of the United States;

(3) An organization sponsored by an employing office; or

(4) An organization which participates in the conduct or a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike.

(e) The term ''dues'' means dues, fees, and assessments.

(f) The term ''Board'' means the Board of Directors of the Office of Compliance.

(g) The term ''collective bargaining agreement'' means an agreement entered into as a result of collective bargaining pursuant to the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA.

(h) The term ''grievance'' means any complaint—

(1) By any employee concerning any matter relating to the employment of the employee;

(2) By any labor organization concerning any matter relating to the employment of any employee; or

(3) By any employee, labor organization, or employing office concerning—

(i) The effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

(ii) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

(i) The term ''supervisor'' means an individual employed by an employing office having authority in the interest of the employing office to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term ''supervisor'' includes only those individuals who devote a preponderance of their employment time to exercising such authority.

(j) The term ''management official'' means an individual employed by an employing office in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the employing office.

(k) The term ''collective bargaining'' means the performance of the mutual obligation of the representative of an employing office and the exclusive representative of employees in an appropriate unit in the employing office to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.

(l) The term ''confidential employee'' means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations.

(m) The term ''conditions of employment'' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

(1) Relating to political activities prohibited under subchapter III of chapter 73 of title 5 of the United States Code, as applied by the CAA;

(2) Relating to the classification of any position; or

(3) To the extent such matters are specifically provided for by Federal statute.

(n) The term ''professional employee'' means—

(1) An employee engaged in the performance of work—

(i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(ii) Requiring the consistent exercise of discretion and judgment in its performance;

(iii) Which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(iv) Which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

(2) An employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (1)(i) of this paragraph and is performing related work under appropriate direction and guidance to qualify the employee as a professional employee described in subparagraph (1) of this paragraph.

(o) The term ''exclusive representative'' means any labor organization which is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of title 5 of the United States Code, as applied by the CAA.

(p) The term ''firefighter'' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment.

(q) The term ''United States'' means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(r) The term ''General Counsel'' means the General Counsel of the Office of Compliance.

(s) The term ''Assistant Secretary'' means the Assistant Secretary of Labor for Labor-Management Relations.

§ 2421.4 National consultation rights; consultation rights on Government-wide rules or regulations; exclusive recognition; unfair labor practices.

(a)(1) The term ''national consultation rights'' means that a labor organization that is the exclusive representative of a substantial number of the employees of the employing office, as determined in accordance with criteria prescribed by the Board, shall—

(i) Be informed of any substantive change in conditions of employment proposed by the employing office; and

(ii) Be permitted reasonable time to present its views and recommendations regarding the changes.

(2) National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Board. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Board.

(b)(1) The term ''consultation rights on Government-wide rules or regulations'' means that a labor organization which is the exclusive representative of a substantial number of employees of an employing office determined in accordance with criteria prescribed by the Board, shall be granted consultation rights by the employing office with respect to any Government-wide rule or regulation issued by the employing office effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Board. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Board.

(2) A labor organization having consultation rights under paragraph (1) of this subsection shall—

(i) Be informed of any substantive change in conditions of employment proposed by the employing office; and

(ii) shall be permitted reasonable time to present its views and recommendations regarding the changes.

(3) If any views or recommendations are presented under paragraph (2) of this subsection to an employing office by any labor organization—

(i) The employing office shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(ii) The employing office shall provide the labor organization a written statement of the reasons for taking the final action.

(c) The term ''exclusive recognition'' means that a labor organization has been selected as the sole representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in an election.

(d) The term ''unfair labor practices'' means—

(1) Any of the following actions taken by an employing office—

(i) Interfering with, restraining, or coercing any employee in the exercise by the employee of any right under chapter 71, as applied by the CAA;

(ii) Encouraging or discouraging membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other condition of employment;

(iii) Sponsoring, controlling, or otherwise assisting any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

(iv) Disciplining or otherwise discriminating against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under chapter 71, as applied by the CAA;

(v) Refusing to consult or negotiate in good faith with a labor organization as required by chapter 71, as applied by the CAA;

(vi) Failing or refusing to cooperate in impasse procedures and impasse decisions as required by chapter 71, as applied by the CAA;

(vii) Enforcing any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

(viii) Otherwise failing or refusing to comply with any provision of chapter 71, as applied by the CAA;

(2) Any of the following actions taken by a labor organization—

(i) Interfering with, restraining, or coercing any employee in the exercise by the employee of any right under this chapter;

(ii) Causing or attempting to cause an employing office to discriminate against any employee in the exercise by the employee of any right under this chapter;

(iii) Coercing, disciplining, fining, or attempting to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

(iv) Discriminating against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or disability;

(v) Refusing to consult or negotiate in good faith with an employing office as required by chapter 71, as applied by the CAA;

(vi) Failing or refusing to cooperate in impasse procedures and impasse decisions as required by chapter 71, as applied by the CAA;

(vii)(A) Calling, or participating in, a strike, work stoppage, or slowdown, or picketing of an employing office in a labor-management dispute if such picketing interferes with an employing office's operations; or

(B) Condoning any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

(viii) Otherwise failing or refusing to comply with any provision of chapter 71, as applied by the CAA;

(3) Denial of membership by an exclusive representative to any employee in the appropriate unit represented by such exclusive representative except for failure—

(i) To meet reasonable occupational standards uniformly required for admission, or

(ii) To tender dues uniformly required as a condition of acquiring and retaining membership.

§ 2421.5 Activity.

The term ''activity'' means any facility, organizational entity, or geographical subdivision or combination thereof, of any employing office.

§ 2421.6 Primary national subdivision.

''Primary national subdivision'' of an employing office means a first-level organizational segment which has functions national in scope that are implemented in field activities.

§ 2421.7 Executive Director.

''Executive Director'' means the Executive Director of the Office of Compliance.

§ 2421.8 Hearing Officer.

The term ''Hearing Officer'' means any individual designated by the Executive Director to preside over a hearing conducted pursuant to section 405 of the CAA on matters within the Office's jurisdiction, including a hearing arising in cases under 5 U.S.C. 7116, as applied by the CAA, and any other such matters as may be assigned.

§ 2421.9 Party.

The term ''party'' means:

(a) Any labor organization, employing office or employing activity or individual filing a charge, petition, or request;

(b) Any labor organization or employing office or activity

(1) Named as

(i) A charged party in a charge,

(ii) A respondent in a complaint, or

(iii) An employing office or activity or an incumbent labor organization in a petition;

(2) Whose intervention in a proceeding has been permitted or directed by the Board; or

(3) Who participated as a party

(i) In a matter that was decided by an employing office head under 5 U.S.C. 7117, as applied by the CAA, or

(ii) In a matter where the award of an arbitrator was issued; and

(c) The General Counsel, or the General Counsel's designated representative, in appropriate proceedings.

§ 2421.10 Intervenor.

The term ''intervenor'' means a party in a proceeding whose intervention has been permitted or directed by the Board, its agents or representatives.

§ 2421.11 Certification.

The term ''certification'' means the determination by the Board, its agents or representatives, of the results of an election, or the results of a petition to consolidate existing exclusively recognized units.

§ 2421.12 Appropriate unit.

The term ''appropriate unit'' means that grouping of employees found to be appropriate for purposes of exclusive recognition under 5 U.S.C. 7111, as applied by the CAA, and for purposes of allotments to representatives under 5 U.S.C. 7115(c), as applied by the CAA, and consistent with the provisions of 5 U.S.C. 7112, as applied by the CAA.

§ 2421.13 Secret ballot.

The term ''secret ballot'' means the expression by ballot, voting machine or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed, except in that instance in which any determinative challenged ballot is opened.

§ 2421.14 Showing of interest.

The term ''showing of interest'' means evidence of membership in a labor organization; employees' signed and dated authorization cards or petitions authorizing a labor organization to represent them for purposes of exclusive recognition; allotment of dues forms executed by an employee and the labor organization's authorized official; current dues records; an existing or recently expired agreement; current certification; employees' signed and dated petitions or cards indicating that they no longer desire to be represented for the purposes of exclusive recognition by the currently certified labor organization; employees' signed and dated petitions or cards indicating a desire that an election be held on a proposed consolidation of units; or other evidence approved by the Board.

§ 2421.15 Regular and substantially equivalent employment.

The term ''regular and substantially equivalent employment'' means employment that entails substantially the same amount of work, rate of pay, hours, working conditions, location of work, kind of work, and seniority rights, if any, of an employee prior to the cessation of employment in an employing office because of any unfair labor practice under 5 U.S.C. 7116, as applied by the CAA.

§ 2421.16 Petitioner.

Petitioner means the party filing a petition under Part 2422 of this Subchapter.

§ 2421.17 Eligibility period.

The term ''eligibility period'' means the payroll period during which an employee must be in an employment status with an employing office or activity in order to be eligible to vote in a representation election under Part 2422 of this Subchapter.

§ 2421.18 Election agreement.

The term ''election agreement'' means an agreement under Part 2422 of this Subchapter signed by all the parties, and approved by the Board, the Executive Director, or any other individual designated by the Board, concerning the details and procedures of a representation election in an appropriate unit.

§ 2421.19 Affected by issues raised.

The phrase ''affected by issues raised'', as used in Part 2422, should be construed broadly to include parties and other labor organizations, or employing offices or activities that have a connection to employees affected by, or questions presented in, a proceeding.

§ 2421.20 Determinative challenged ballots.

''Determinative challenged ballots'' are challenges that are unresolved prior to the tally and sufficient in number after the tally to affect the results of the election.

PART 2422—REPRESENTATION PROCEEDINGS

Sec.

§ 2422.1 Purposes of a petition.

A petition may be filed for the following purposes:

(a) *Elections or Eligibility for dues allotment.* To request:

(1) (i) An election to determine if employees in an appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative; and/or

(ii) A determination of eligibility for dues allotment in an appropriate unit without an exclusive representative; or

(2) An election to determine if employees in a unit no longer wish to be represented for the purpose of collective bargaining by an exclusive representative.

(3) Petitions under this subsection must be accompanied by an appropriate showing of interest.

(b) *Clarification or Amendment.* To clarify, and/or amend:

(1) A certification then in effect; and/or

(2) Any other matter relating to representation.

(c) *Consolidation.* To consolidate two or more units, with or without an election, in an employing office and for which a labor organization is the exclusive representative.

§ 2422.2 Standing to file a petition.

A representation petition may be filed by: an individual; a labor organization; two or more labor organizations acting as a joint-petitioner; an individual acting on behalf of any employee(s); an employing office or activity; or a combination of the above: *provided, however,* that (a) only a labor organization has standing to file a petition pursuant to section 2422.1(a)(1); (b) only an individual has standing to file a petition pursuant to section 2422.1(a)(2); and (c) only an employing office or a labor organization may file a petition pursuant to section 2422.1(b) or (c).

§ 2422.3 Contents of a petition.

(a) *What to file.* A petition must be filed on a form prescribed by the Board and contain the following information:

(1) The name and mailing address for each employing office or activity affected by issues raised in the petition, including street number, city, state and zip code.

(2) The name, mailing address and work telephone number of the contact person for each employing office or activity affected by issues raised in the petition.

(3) The name and mailing address for each labor organization affected by issues raised in the petition, including street number,

city, state and zip code. If a labor organization is affiliated with a national organization, the local designation and the national affiliation should both be included. If a labor organization is an exclusive representative of any of the employees affected by issues raised in the petition, the date of the certification and the date any collective bargaining agreement covering the unit will expire or when the most recent agreement did expire should be included, if known.

(4) The name, mailing address and work telephone number of the contact person for each labor organization affected by issues raised in the petition.

(5) The name and mailing address for the petitioner, including street number, city, state and zip code. If a labor organization petitioner is affiliated with a national organization, the local designation and the national affiliation should both be included.

(6) A description of the unit(s) affected by issues raised in the petition. The description should generally indicate the geographic locations and the classifications of the employees included (or sought to be included) in, and excluded (or sought to be excluded) from, the unit.

(7) The approximate number of employees in the unit(s) affected by issues raised in the petition.

(8) A clear and concise statement of the issues raised by the petition and the results the petitioner seeks.

(9) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that the contents of the petition are true and correct to the best of the person's knowledge and belief.

(10) The signature, title, mailing address and telephone number of the person filing the petition.

(b) *Compliance with 5 U.S.C. 7111(e), as applied by the CAA.* A labor organization/petitioner complies with 5 U.S.C. 7111(e), as applied by the CAA, by submitting to the employing office or activity and to the Department of Labor a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives. By signing the petition form, the labor organization/petitioner certifies that it has submitted these documents to the employing activity or office and to the Department of Labor.

(c) *Showing of interest supporting a representation petition.* When filing a petition requiring a showing of interest, the petitioner must:

(1) So indicate on the petition form;

(2) Submit with the petition a showing of interest of not less than thirty percent (30%) of the employees in the unit involved in the petition; and

(3) Include an alphabetical list of the names constituting the showing of interest.

(d) *Petition seeking dues allotment.* When there is no exclusive representative, a petition seeking certification for dues allotment shall be accompanied by a showing of membership in the petitioner of not less than ten percent (10%) of the employees in the unit claimed to be appropriate. An alphabetical list of names constituting the showing of membership must be submitted.

§ 2422.4 Service requirements.

Every petition, motion, brief, request, challenge, written objection, or application for review shall be served on all parties affected by issues raised in the filing. The service shall include all documentation in support thereof, with the exception of a showing of interest, evidence supporting challenges to the validity of a showing of interest, and evidence supporting objections to an election. The filer must submit a written statement of service to the Executive Director.

§ 2422.5 Filing petitions.

(a) *Where to file.* Petitions must be filed with the Executive Director.

(b) *Number of copies.* An original and two (2) copies of the petition and the accompanying material must be filed with the Executive Director.

(c) *Date of filing.* A petition is filed when it is received by the Executive Director.

§ 2422.6 Notification of filing.

(a) *Notification to parties.* After a petition is filed, the Executive Director, on behalf of the Board, will notify any labor organization, employing office or employing activity that the parties have identified as being affected by issues raised by the petition, that a petition has been filed with the Office. The Executive Director, on behalf of the Board, will also make reasonable efforts to identify and notify any other party affected by the issues raised by the petition.

(b) *Contents of the notification.* The notification will inform the labor organization, employing office or employing activity of:

(1) The name of the petitioner;

(2) The description of the unit(s) or employees affected by issues raised in the petition; and,

(3) A statement that all affected parties should advise the Executive Director in writing of their interest in the issues raised in the petition.

§ 2422.7 Posting notice of filing of a petition.

(a) *Posting notice of petition.* When appropriate, the Executive Director, on behalf of the Board, after the filing of a representation petition, will direct the employing office or activity to post copies of a notice to all employees in places where notices are normally posted for the employees affected by issues raised in the petition and/or distribute copies of a notice in a manner by which notices are normally distributed.

(b) *Contents of notice.* The notice shall advise affected employees about the petition.

(c) *Duration of notice.* The notice should be conspicuously posted for a period of ten (10) days and not be altered, defaced, or covered by other material.

§ 2422.8 Intervention and cross-petitions.

(a) *Cross-petitions.* A cross-petition is a petition which involves any employees in a unit covered by a pending representation petition. Cross-petitions must be filed in accordance with this subpart.

(b) *Intervention requests and cross-petitions.* A request to intervene and a cross-petition, accompanied by any necessary showing of interest, must be submitted in writing and filed with the Executive Director before the pre-election investigatory hearing opens, unless good cause is shown for granting an extension. If no pre-election investigatory hearing is held, a request to intervene and a cross-petition must be filed prior to action being taken pursuant to § 2422.30.

(c) *Labor organization intervention requests.* Except for incumbent intervenors, a labor organization seeking to intervene shall submit a statement that it has complied with 5 U.S.C. 7111(e), as applied by the CAA, and one of the following:

(1) A showing of interest of ten percent (10%) or more of the employees in the unit covered by a petition seeking an election, with an alphabetical list of the names of the employees constituting the showing of interest; or

(2) A current or recently expired collective bargaining agreement covering any of the employees in the unit affected by issues raised in the petition; or

(3) Evidence that it is or was, prior to a reorganization, the certified exclusive representative of any of the employees affected by issues raised in the petition.

(d) *Incumbent.* An incumbent exclusive representative, without regard to the requirements of paragraph (c) of this section, will be considered a party in any representation proceeding raising issues that affect employees the incumbent represents, unless it serves the Board, through the Executive Director, with a written disclaimer of any representation interest in the claimed unit.

(e) *Employing office.* An employing office or activity will be considered a party if any of its employees are affected by issues raised in the petition.

(f) *Employing office or activity intervention.* An employing office or activity seeking to intervene in any representation proceeding must submit evidence that one or more employees of the employing office or activity may be affected by issues raised in the petition.

§ 2422.9 Adequacy of showing of interest.

(a) *Adequacy.* Adequacy of a showing of interest refers to the percentage of employees in the unit involved as required by §§ 2422.3 (c) and (d) and 2422.8(c)(1).

(b) *Executive Director investigation and action.* The Executive Director, on behalf of the Board, will conduct such investigation as deemed appropriate. The Executive Director's determination, on behalf of the Board, that the showing of interest is adequate is final and binding and not subject to collateral attack at a representation hearing or on appeal to the Board. If the Executive Director determines, on behalf of the Board, that a showing of interest is inadequate, the Executive Director will dismiss the petition, or deny a request for intervention.

§ 2422.10 Validity of showing of interest.

(a) *Validity.* Validity questions are raised by challenges to a showing of interest on grounds other than adequacy.

(b) *Validity challenge.* The Executive Director or any party may challenge the validity of a showing of interest.

(c) *When and where validity challenges may be filed.* Party challenges to the validity of a showing of interest must be in writing and filed with the Executive Director before the pre-election investigatory hearing opens, unless good cause is shown for granting an extension. If no pre-election investigatory hearing is held, challenges to the validity of a showing of interest must be filed prior to action being taken pursuant to § 2422.30.

(d) *Contents of validity challenges.* Challenges to the validity of a showing of interest must be supported with evidence.

(e) *Executive Director investigation and action.* The Executive Director, on behalf of the Board, will conduct such investigation as deemed appropriate. The Executive Director's determination, on behalf of the Board, that a showing of interest is valid is final and binding and is not subject to collateral attack or appeal to the Board. If the Executive Director finds, on behalf of the Board, that the showing of interest is not valid, the Executive Director will dismiss the petition or deny the request to intervene.

§ 2422.11 Challenge to the status of a labor organization.

(a) *Basis of challenge to labor organization status.* The only basis on which a challenge to the status of a labor organization may be made is compliance with 5 U.S.C. 7103(a)(4), as applied by the CAA.

(b) *Format and time for filing a challenge.* Any party filing a challenge to the status of a labor organization involved in the processing of a petition must do so in writing to the Executive Director before the pre-election investigatory hearing opens, unless good cause is shown for granting an extension. If no hearing is held, challenges must be filed prior to action being taken pursuant to § 2422.30.

§ 2422.12 Timeliness of petitions seeking an election.

(a) *Election bar.* Where there is no certified exclusive representative, a petition seeking

an election will not be considered timely if filed within twelve (12) months of a valid election involving the same unit or a subdivision of the same unit.

(b) *Certification bar.* Where there is a certified exclusive representative of employees, a petition seeking an election will not be considered timely if filed within twelve (12) months after the certification of the exclusive representative of the employees in an appropriate unit. If a collective bargaining agreement covering the claimed unit is pending employing office head review under 5 U.S.C. 7114(c), as applied by the CAA, or is in effect, paragraphs (c), (d), or (e) of this section apply.

(c) *Bar during employing office head review.* A petition seeking an election will not be considered timely if filed during the period of employing office head review under 5 U.S.C. 7114(c), as applied by the CAA. This bar expires upon either the passage of thirty (30) days absent employing office head action, or upon the date of any timely employing office head action.

(d) *Contract bar where the contract is for three (3) years or less.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of three (3) years or less from the date it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days prior to the expiration of the agreement.

(e) *Contract bar where the contract is for more than three (3) years.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of more than three (3) years from the date it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days prior to the expiration of the initial three (3) year period, and any time after the expiration of the initial three (3) year period.

(f) *Unusual circumstances.* A petition seeking an election or a determination relating to representation matters may be filed at any time when unusual circumstances exist that substantially affect the unit or majority representation.

(g) *Premature extension.* Where a collective bargaining agreement with a term of three (3) years or less has been extended prior to sixty (60) days before its expiration date, the extension will not serve as a basis for dismissal of a petition seeking an election filed in accordance with this section.

(h) *Contract requirements.* Collective bargaining agreements, including agreements that go into effect under 5 U.S.C. 7114(c), as applied by the CAA, and those that automatically renew without further action by the parties, do not constitute a bar to a petition seeking an election under this section unless a clear and unambiguous effective date, renewal date where applicable, duration, and termination date are ascertainable from the agreement and relevant accompanying documentation.

§2422.13 Resolution of issues raised by a petition.

(a) *Meetings prior to filing a representation petition.* All parties affected by the representation issues that may be raised in a petition are encouraged to meet prior to the filing of the petition to discuss their interests and narrow and resolve the issues. If requested by all parties a representative of the Office will participate in these meetings.

(b) *Meetings to narrow and resolve the issues after the petition is filed.* After a petition is filed, the Executive Director may require all affected parties to meet to narrow and resolve the issues raised in the petition.

§2422.14 Effect of withdrawal/dismissal.

(a) *Withdrawal/dismissal less than sixty (60) days before contract expiration.* When a petition seeking an election that has been timely filed is withdrawn by the petitioner or dismissed by the Executive Director or the Board less than sixty (60) days prior to the expiration of an existing agreement between the incumbent exclusive representative and the employing office or activity or any time after the expiration of the agreement, another petition seeking an election will not be considered timely if filed within a ninety (90) day period from either:

(1) The date the withdrawal is approved; or

(2) The date the petition is dismissed by the Executive Director when no application for review is filed with the Board; or

(3) The date the Board rules on an application for review; or

(4) The date the Board issues a Decision and Order dismissing the petition.

Other pending petitions that have been timely filed under this Part will continue to be processed.

(b) *Withdrawal by petitioner.* A petitioner who submits a withdrawal request for a petition seeking an election that is received by the Executive Director after the notice of pre-election investigatory hearing issues or after approval of an election agreement, whichever occurs first, will be barred from filing another petition seeking an election for the same unit or any subdivision of the unit for six (6) months from the date of the approval of the withdrawal by the Executive Director.

(c) *Withdrawal by incumbent.* When an election is not held because the incumbent disclaims any representation interest in a unit, a petition by the incumbent seeking an election involving the same unit or a subdivision of the same unit will not be considered timely if filed within six (6) months of cancellation of the election.

§2422.15 Duty to furnish information and cooperate.

(a) *Relevant information.* After a petition is filed, all parties must, upon request of the Executive Director, furnish the Executive Director and serve all parties affected by issues raised in the petition with information concerning parties, issues, and agreements raised in or affected by the petition.

(b) *Inclusions and exclusions.* After a petition seeking an election is filed, the Executive Director, on behalf of the Board, may direct the employing office or activity to furnish the Executive Director and all parties affected by issues raised in the petition with a current alphabetized list of employees and job classifications included in and/or excluded from the existing or claimed unit affected by issues raised in the petition.

(c) *Cooperation.* All parties are required to cooperate in every aspect of the representation process. This obligation includes cooperating fully with the Executive Director, submitting all required and requested information, and participating in prehearing conferences and pre-election investigatory hearings. The failure to cooperate in the representation process may result in the Executive Director or the Board taking appropriate action, including dismissal of the petition or denial of intervention.

§2422.16 Election agreements or directed elections.

(a) *Election agreements.* Parties are encouraged to enter into election agreements.

(b) *Executive Director directed election.* If the parties are unable to agree on procedural matters, specifically, the eligibility period, method of election, dates, hours, or locations of the election, the Executive Director, on behalf of the Board, will decide election procedures and issue a Direction of Election, without prejudice to the rights of a party to file objections to the procedural conduct of the election.

(c) *Opportunity for an investigatory hearing.* Before directing an election, the Executive Director shall provide affected parties an opportunity for a pre-election investigatory hearing on other than procedural matters.

(d) *Challenges or objections to a directed election.* A Direction of Election issued under this section will be issued without prejudice to the right of a party to file a challenge to the eligibility of any person participating in the election and/or objections to the election.

§2422.17 Notice of pre-election investigatory hearing and prehearing conference.

(a) *Purpose of notice of an investigatory hearing.* The Executive Director, on behalf of the Board, may issue a notice of pre-election investigatory hearing involving any issues raised in the petition.

(b) *Contents.* The notice of hearing will advise affected parties about the pre-election investigatory hearing. The Executive Director will also notify affected parties of the issues raised in the petition and establish a date for the prehearing conference.

(c) *Prehearing conference.* A prehearing conference will be conducted by the Executive Director or her designee, either by meeting or teleconference. All parties must participate in a prehearing conference and be prepared to fully discuss, narrow and resolve the issues set forth in the notification of the prehearing conference.

(d) *No interlocutory appeal of investigatory hearing determination.* The Executive Director's determination of whether to issue a notice of pre-election investigatory hearing is not appealable to the Board.

§2422.18 Pre-election investigatory hearing procedures.

(a) *Purpose of a pre-election investigatory hearing.* Representation hearings are considered investigatory and not adversarial. The purpose of the hearing is to develop a full and complete record of relevant and material facts.

(b) *Conduct of hearing.* Pre-election investigatory hearings will be open to the public unless otherwise ordered by the Executive Director or her designee. There is no burden of proof, with the exception of proceedings on objections to elections as provided for in §2422.27(b). Formal rules of evidence do not apply.

(c) *Pre-election investigatory hearing.* Pre-election investigatory hearings will be conducted by the Executive Director or her designee.

(d) *Production of evidence.* Parties have the obligation to produce existing documents and witnesses for the investigatory hearing in accordance with the instructions of the Executive Director or her designee. If a party willfully fails to comply with such instructions, the Board may draw an inference adverse to that party on the issue related to the evidence sought.

(e) *Transcript.* An official reporter will make the official transcript of the pre-election investigatory hearing. Copies of the official transcript may be examined in the Office during normal working hours. Requests by parties to purchase copies of the official transcript should be made to the official hearing reporter.

§2422.19 Motions.

(a) *Purpose of a motion.* Subsequent to the issuance of a notice of pre-election investigatory hearing in a representation proceeding, a party seeking a ruling, an order, or relief must do so by filing or raising a motion stating the order or relief sought and the

grounds therefor. Challenges and other filings referenced in other sections of this subpart may, in the discretion of the Executive Director or her designee, be treated as a motion.

(b) *Prehearing motions.* Prehearing motions must be filed in writing with the Executive Director. Any response must be filed with the Executive Director within five (5) days after service of the motion. The Executive Director shall rule on the motion.

(c) *Motions made at the investigatory hearing.* During the pre-election investigatory hearing, motions will be made to the Executive Director or her designee, and may be oral on the record, unless otherwise required in this subpart to be in writing. Responses may be oral on the record or in writing, but, absent permission of the Executive Director or her designee, must be provided before the hearing closes. The Executive Director or her designee will rule on motions made at the hearing.

(d) *Posthearing motions.* Motions made after the hearing closes must be filed in writing with the Board. Any response to a posthearing motion must be filed with the Board within five (5) days after service of the motion.

§ 2422.20 Rights of parties at a pre-election investigatory hearing.

(a) *Rights.* A party at a pre-election investigatory hearing will have the right:

(1) To appear in person or by a representative;

(2) To examine and cross-examine witnesses; and

(3) To introduce into the record relevant evidence.

(b) *Documentary evidence and stipulations.* Parties must submit two (2) copies of documentary evidence to the Executive Director or her designee and copies to all other parties. Stipulations of fact between/among the parties may be introduced into evidence.

(c) *Oral argument.* Parties will be entitled to a reasonable period prior to the close of the hearing for oral argument. Presentation of a closing oral argument does not preclude a party from filing a brief under paragraph (d) of this section.

(d) *Briefs.* A party will be afforded an opportunity to file a brief with the Board.

(1) An original and two (2) copies of a brief must be filed with the Board within thirty (30) days from the close of the hearing.

(2) A written request for an extension of time to file a brief must be filed with and received by the Board no later than five (5) days before the date the brief is due.

(3) No reply brief may be filed without permission of the Board.

§ 2422.21 Duties and powers of the Executive Director in the conduct of the pre-election investigatory hearing.

(a) *Duties.* The Executive Director or her designee, on behalf of the Board, will receive evidence and inquire fully into the relevant and material facts concerning the matters that are the subject of the investigatory hearing, and may make recommendations on the record to the Board.

(b) *Powers.* During the period a case is assigned to the Executive Director or her designee for pre-election investigatory hearing and prior to the close of the hearing, the Executive Director or her designee may take any action necessary to schedule, conduct, continue, control, and regulate the pre-election investigatory hearing, including ruling on motions when appropriate.

§ 2422.22 Objections to the conduct of the pre-election investigatory hearing.

(a) *Objections.* Objections are oral or written complaints concerning the conduct of a pre-election investigatory hearing.

(b) *Exceptions to rulings.* There are automatic exceptions to all adverse rulings.

§ 2422.23 Election procedures.

(a) *Executive Director conducts or supervises election.* The Executive Director, on behalf of the Board, will decide to conduct or supervise the election. In supervised elections, employing offices or activities will perform all acts as specified in the Election Agreement or Direction of Election.

(b) *Notice of election.* Prior to the election a notice of election, prepared by the Executive Director, will be posted by the employing office or activity in places where notices to employees are customarily posted and/or distributed in a manner by which notices are normally distributed. The notice of election will contain the details and procedures of the election, including the appropriate unit, the eligibility period, the date(s), hour(s) and location(s) of the election, a sample ballot, and the effect of the vote.

(c) *Sample ballot.* The reproduction of any document purporting to be a copy of the official ballot that suggests either directly or indirectly to employees that the Board endorses a particular choice in the election may constitute grounds for setting aside an election if objections are filed under § 2422.26.

(d) *Secret ballot.* All elections will be by secret ballot.

(e) *Intervenor withdrawal from ballot.* When two or more labor organizations are included as choices in an election, an intervening labor organization may, prior to the approval of an election agreement or before the direction of an election, file a written request with the Executive Director to remove its name from the ballot. If the request is not received prior to the approval of an election agreement or before the direction of an election, unless the parties and the Executive Director, on behalf of the Board, agree otherwise, the intervening labor organization will remain on the ballot. The Executive Director's decision on the request is final and not subject to the filing of an application for review with the Board.

(f) *Incumbent withdrawal from ballot in an election to decertify an incumbent representative.* When there is no intervening labor organization, an election to decertify an incumbent exclusive representative will not be held if the incumbent provides the Executive Director with a written disclaimer of any representation interest in the unit. When there is an intervenor, an election will be held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Executive Director.

(g) *Petitioner withdraws from ballot in an election.* When there is no intervening labor organization, an election will not be held if the petitioner provides the Executive Director with a written request to withdraw the petition. When there is an intervenor, an election will be held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Executive Director.

(h) *Observers.* All parties are entitled to representation at the polling location(s) by observers of their own selection subject to the Executive Director's approval.

(1) Parties desiring to name observers must file in writing with the Executive Director a request for specifically named observers at least fifteen (15) days prior to an election. The Executive Director may grant an extension of time for filing a request for specifically named observers for good cause where a party requests such an extension or on the Executive Director's own motion. The request must name and identify the observers requested.

(2) An employing office or activity may use as its observers any employees who are not eligible to vote in the election, except:

(i) Supervisors or management officials;

(ii) Employees who have any official connection with any of the labor organizations involved; or

(iii) Non-employees of the legislative branch.

(3) A labor organization may use as its observers any employees eligible to vote in the election, except:

(i) Employees on leave without pay status who are working for the labor organization involved; or

(ii) Employees who hold an elected office in the union.

(4) Objections to a request for specific observers must be filed with the Executive Director stating the reasons in support within five (5) days after service of the request.

(5) The Executive Director's ruling on requests for and objections to observers is final and binding and is not subject to the filing of an application for review with the Board.

§ 2422.24 Challenged ballots.

(a) *Filing challenges.* A party or the Executive Director may, for good cause, challenge the eligibility of any person to participate in the election prior to the employee voting.

(b) *Challenged ballot procedure.* An individual whose eligibility to vote is in dispute will be given the opportunity to vote a challenged ballot. If the parties and the Region are unable to resolve the challenged ballot(s) prior to the tally of ballots, the unresolved challenged ballot(s) will be impounded and preserved until a determination can be made, if necessary, by the Executive Director or the Board.

§ 2422.25 Tally of ballots.

(a) *Tallying the ballots.* When the election is concluded, the Executive Director or her designee will tally the ballots.

(b) *Service of the tally.* When the tally is completed, the Executive Director will serve the tally of ballots on the parties in accordance with the election agreement or direction of election.

(c) *Valid ballots cast.* Representation will be determined by the majority of the valid ballots cast.

§ 2422.26 Objections to the election.

(a) *Filing objections to the election.* Objections to the procedural conduct of the election or to conduct that may have improperly affected the results of the election may be filed by any party. Objections must be filed and received by the Executive Director within five (5) days after the tally of ballots has been served. Any objections must be timely regardless of whether the challenged ballots are sufficient in number to affect the results of the election. The objections must be supported by clear and concise reasons. An original and two (2) copies of the objections must be received by the Executive Director.

(b) *Supporting evidence.* The objecting party must file with the Executive Director evidence, including signed statements, documents and other materials supporting the objections within ten (10) days after the objections are filed.

§ 2422.27 Determinative challenged ballots and objections.

(a) *Investigation.* The Executive Director, on behalf of the Board, will investigate objections and/or determinative challenged ballots that are sufficient in number to affect the results of the election.

(b) *Burden of proof.* A party filing objections to the election bears the burden of proof by a preponderance of the evidence concerning those objections. However, no party bears the burden of proof on challenged ballots.

(c) *Executive Director action.* After investigation, the Executive Director will take appropriate action consistent with § 2422.30.

(d) *Consolidated hearing on objections and/or determinative challenged ballots and an unfair labor practice hearing.* When appropriate, and in accordance with §2422.33, objections and/or determinative challenged ballots may be consolidated with an unfair labor practice hearing. Such consolidated hearings will be conducted by a Hearing Officer. Exceptions and related submissions must be filed with the Board and the Board will issue a decision in accordance with Part 2423 of this chapter and section 406 of the CAA, except for the following:

(1) Section 2423.18 of this Subchapter concerning the burden of proof is not applicable;

(2) The Hearing Officer may not recommend remedial action to be taken or notices to be posted; and,

(3) References to ''charge'' and ''complaint'' in Part 2423 of this chapter will be omitted.

§2422.28 Runoff elections.

(a) *When a runoff may be held.* A runoff election is required in an election involving at least three (3) choices, one of which is ''no union'' or ''neither,'' when no choice receives a majority of the valid ballots cast. However, a runoff may not be held until the objections to the election and determinative challenged ballots have been resolved.

(b) *Eligibility.* Employees who were eligible to vote in the original election and who are also eligible on the date of the runoff election may vote in the runoff election.

(c) *Ballot.* The ballot in the runoff election will provide for a selection between the two choices receiving the largest and second largest number of votes in the election.

§2422.29 Inconclusive elections.

(a) *Inconclusive elections.* An inconclusive election is one where challenged ballots are not sufficient to affect the outcome of the election and one of the following occurs:

(1) The ballot provides for at least three (3) choices, one of which is ''no union'' or ''neither'' and the votes are equally divided; or

(2) The ballot provides for at least three (3) choices, the choice receiving the highest number of votes does not receive a majority, and at least two other choices receive the next highest and same number of votes; or

(3) When a runoff ballot provides for a choice between two labor organizations and results in the votes being equally divided; or

(4) When the Board determines that there have been significant procedural irregularities.

(b) *Eligibility to vote in a rerun election.* A current payroll period will be used to determine eligibility to vote in a rerun election.

(c) *Ballot.* If a determination is made that the election is inconclusive, the election will be rerun with all the choices that appeared on the original ballot.

(d) *Number of reruns.* There will be only one rerun of an inconclusive election. If the rerun results in another inconclusive election, the tally of ballots will indicate a majority of valid ballots has not been cast for any choice and a certification of results will be issued. If necessary, a runoff may be held when an original election is rerun.

§2422.30 Executive Director investigations, notices of pre-election investigatory hearings, and actions; Board Decisions and Orders.

(a) *Executive Director investigation.* The Executive Director, on behalf of the Board, will make such investigation of the petition and any other matter as the Executive Director deems necessary.

(b) *Executive Director notice of pre-election investigatory hearing.* On behalf of the Board, the Executive Director will issue a notice of pre-election investigatory hearing to inquire into any matter about which a material issue of fact exists, where there is an issue as to whether a question concerning representation exists, and any time there is reasonable cause to believe a question exists regarding unit appropriateness.

(c) *Executive Director action.* After investigation and/or hearing, when a pre-election investigatory hearing has been ordered, the Executive Director may, on behalf of the Board, approve an election agreement, dismiss a petition or deny intervention where there is an inadequate or invalid showing of interest, or dismiss a petition where there is an undisputed bar to further processing of the petition under law, rule or regulation.

(d) *Appeal of Executive Director action.* A party may file with the Board an application for review of an Executive Director action taken pursuant to section (c) above.

(e) *Contents of the Record.* When no pre-election investigatory hearing has been conducted all material submitted to and considered by the Executive Director during the investigation becomes a part of the record. When a pre-election investigatory hearing has been conducted, the transcript and all material entered into evidence, including any posthearing briefs, become a part of the record.

(f) *Transfer of record to Board; Board Decisions and Orders.* In cases that are submitted to the Board for decision in the first instance, the Board shall decide the issues presented based upon the record developed by the Executive Director, including the transcript of the pre-election investigatory hearing, if any, documents admitted into the record and briefs and other approved submissions from the parties. The Board may direct that a secret ballot election be held, issue an order dismissing the petition, or make such other disposition of the matter as it deems appropriate.

§2422.31 Application for review of an Executive Director action.

(a) *Filing an application for review.* A party must file an application for review with the Board within sixty (60) days of the Executive Director's action. The sixty (60) day time limit provided for in 5 U.S.C. 7105(f), as applied by the CAA, may not be extended or waived.

(b) *Contents.* An application for review must be sufficient to enable the Board to rule on the application without recourse to the record; however, the Board may, in its discretion, examine the record in evaluating the application. An application must specify the matters and rulings to which exception(s) is taken, include a summary of evidence relating to any issue raised in the application, and make specific reference to page citations in the transcript if a hearing was held. An application may not raise any issue or rely on any facts not timely presented to the Executive Director.

(c) *Review.* The Board may, in its discretion, grant an application for review when the application demonstrates that review is warranted on one or more of the following grounds:

(1) The decision raises an issue for which there is an absence of precedent;

(2) Established law or policy warrants reconsideration; or,

(3) There is a genuine issue over whether the Executive Director has:

(i) Failed to apply established law;

(ii) Committed a prejudicial procedural error;

(iii) Committed a clear and prejudicial error concerning a substantial factual matter.

(d) *Opposition.* A party may file with the Board an opposition to an application for review within ten (10) days after the party is served with the application. A copy must be served on the Executive Director and all other parties and a statement of service must be filed with the Board.

(e) *Executive Director action becomes the Board's action.* An action of the Executive Director becomes the action of the Board when:

(1) No application for review is filed with the Board within sixty (60) days after the date of the Executive Director's action; or

(2) A timely application for review is filed with the Board and the Board does not undertake to grant review of the Executive Director's action within sixty (60) days of the filing of the application; or

(3) The Board denies an application for review of the Executive Director's action.

(f) *Board grant of review and stay.* The Board may rule on the issue(s) in an application for review in its order granting the application for review. Neither filing nor granting an application for review shall stay any action ordered by the Executive Director unless specifically ordered by the Board.

(g) *Briefs if review is granted.* If the Board does not rule on the issue(s) in the application for review in its order granting review, the Board may, in its discretion, afford the parties an opportunity to file briefs. The briefs will be limited to the issue(s) referenced in the Board's order granting review.

§2422.32 Certifications and revocations.

(a) *Certifications.* The Executive Director, on behalf of the Board, will issue an appropriate certification when:

(1) After an election, runoff, or rerun,

(i) No objections are filed or challenged ballots are not determinative, or

(ii) Objections and determinative challenged ballots are decided and resolved; or

(2) The Executive Director takes an action requiring a certification and that action becomes the action of the Board under §2422.31(e) or the Board otherwise directs the issuance of a certification.

(b) *Revocations.* Without prejudice to any rights and obligations which may exist under the CAA, the Executive Director, on behalf of the Board, will revoke a recognition or certification, as appropriate, and provide a written statement of reasons when an incumbent exclusive representative files, during a representation proceeding, a disclaimer of any representational interest in the unit.

§2422.33 Relief obtainable under Part 2423.

Remedial relief that was or could have been obtained as a result of a motion, objection, or challenge filed or raised under this subpart, may not be the basis for similar relief if filed or raised as an unfair labor practice under Part 2423 of this Chapter: *provided, however,* that related matters may be consolidated for hearing as noted in §2422.27(d) of this subpart.

§2422.34 Rights and obligations during the pendency of representation proceedings.

(a) *Existing recognitions, agreements, and obligations under the CAA.* During the pendency of any representation proceeding, parties are obligated to maintain existing recognitions, adhere to the terms and conditions of existing collective bargaining agreements, and fulfill all other representational and bargaining responsibilities under the CAA.

(b) *Unit status of individual employees.* Notwithstanding paragraph (a) of this section and except as otherwise prohibited by law, a party may take action based on its position regarding the bargaining unit status of individual employees, pursuant to 5 U.S.C. 7103(a)(2), 7112 (b) and (c), as applied by the CAA: *provided, however,* that its actions may be challenged, reviewed, and remedied where appropriate.

PART 2423 UNFAIR LABOR PRACTICE PROCEEDINGS

Sec.

2423.1 Applicability of this part.

§2423.1 Applicability of this part.

This part is applicable to any charge of alleged unfair labor practices occurring on or after October 1, 1996.

§2423.2 Informal proceedings.

(a) The purposes and policies of chapter 71, as applied by the CAA, can best be achieved by the cooperative efforts of all persons covered by the program. To this end, it shall be the policy of the Board and the General Counsel to encourage all persons alleging unfair labor practices and persons against whom such allegations are made to meet and, in good faith, attempt to resolve such matters prior to the filing of unfair labor practice charges.

(b) In furtherance of the policy referred to in paragraph (a) of this section, and noting the 180 day period of limitation set forth in section 220(c)(2) of the CAA, it shall be the policy of the Board and the General Counsel to encourage the informal resolution of unfair labor practice allegations subsequent to the filing of a charge and prior to the filing of a complaint by the General Counsel.

(c) In order to afford the parties an opportunity to implement the policy referred to in paragraphs (a) and (b) of this section, the investigation of an unfair labor practice charge by the General Counsel will normally not commence until the parties have been afforded a reasonable amount of time, not to exceed fifteen (15) days from the filing of the charge, during which period the parties are urged to attempt to informally resolve the unfair labor practice allegation.

§2423.3 Who may file charges.

An employing office, employing activity, or labor organization may be charged by any person with having engaged in or engaging in any unfair labor practice prohibited under 5 U.S.C. 7116, as applied by the CAA.

§2423.4 Contents of the charge; supporting evidence and documents.

(a) A charge alleging a violation of 5 U.S.C. 7116, as applied by the CAA, shall be submitted on forms prescribed by the General Counsel and shall contain the following:

(1) The name, address and telephone number of the person(s) making the charge;

(2) The name, address and telephone number of the employing office or activity, or labor organization against whom the charge is made;

(3) A clear and concise statement of the facts constituting the alleged unfair labor practice, a statement of the section(s) and subsection(s) of chapter 71 of title 5 of the United States Code made applicable by the CAA alleged to have been violated, and the date and place of occurrence of the particular acts; and

(4) A statement of any other procedure invoked involving the subject matter of the charge and the results, if any, including whether the subject matter raised in the charge (i) has been raised previously in a grievance procedure; (ii) has been referred to the Board under Part 2471 of these regulations, or the Federal Mediation and Conciliation Service, or (iii) involves a negotiability issue raised by the charging party in a petition pending before the Board pursuant to Part 2424 of this subchapter.

(b) Such charge shall be in writing and signed and shall contain a declaration by the person signing the charge, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of that person's knowledge and belief.

(c) When filing a charge, the charging party shall submit to the General Counsel any supporting evidence and documents.

§2423.5 Selection of the unfair labor practice procedure or the negotiability procedure.

Where a labor organization files an unfair labor practice charge pursuant to this part which involves a negotiability issue, and the labor organization also files pursuant to part 2424 of this subchapter a petition for review of the same negotiability issue, the Board and the General Counsel ordinarily will not process the unfair labor practice charge and the petition for review simultaneously. Under such circumstances, the labor organization must select under which procedure to proceed. Upon selection of one procedure, further action under the other procedure will ordinarily be suspended. Such selection must be made regardless of whether the unfair labor practice charge or the petition for review of a negotiability issue is filed first. Notification of this selection must be made in writing at the time that both procedures have been invoked, and must be served on the Board, the General Counsel and all parties to both the unfair labor practice case and the negotiability case. Cases which solely involve an employing office's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained and which do not involve actual or contemplated changes in conditions of employment may only be filed under part 2424 of this subchapter.

§2423.6 Filing and service of copies.

(a) An original and four (4) copies of the charge together with one copy for each additional charged party named shall be filed with the General Counsel.

(b) Upon the filing of a charge, the charging party shall be responsible for the service of a copy of the charge (without the supporting evidence and documents) upon the person(s) against whom the charge is made, and for filing a written statement of such service with the General Counsel. The General Counsel will, as a matter of course, cause a copy of such charge to be served on the person(s) against whom the charge is made, but shall not be deemed to assume responsibility for such service.

(c) A charge will be deemed to be filed when it is received by the General Counsel in accordance with the requirements in paragraph (a) of this section.

§2423.7 Investigation of charges.

(a) The General Counsel shall conduct such investigation of the charge as the General Counsel deems necessary. Consistent with the policy set forth in §2423.2, the investigation will normally not commence until the parties have been afforded a reasonable amount of time, not to exceed fifteen (15) days from the filing of the charge, to informally resolve the unfair labor practice allegation.

(b) During the course of the investigation all parties involved will have an opportunity to present their evidence and views to the General Counsel.

(c) In connection with the investigation of charges, all persons are expected to cooperate fully with the General Counsel.

(d) The purposes and policies of chapter 71, as applied by the CAA, can best be achieved by the full cooperation of all parties involved and the voluntary submission of all potentially relevant information from all potential sources during the course of the investigation. To this end, it shall be the policy of the Board and the General Counsel to protect the identity of individuals and the substance of the statements and information they submit or which is obtained during the investigation as a means of assuring the Board's and the General Counsel's continuing ability to obtain all relevant information.

§2423.8 Amendment of charges.

Prior to the issuance of a complaint, the charging party may amend the charge in accordance with the requirements set forth in §2423.6.

§2423.9 Action by the General Counsel.

(a) The General Counsel shall take action which may consist of the following, as appropriate:

(1) Approve a request to withdraw a charge;

(2) Refuse to file a complaint;

(3) Approve a written settlement and recommend that the Executive Director approve a written settlement agreement in accordance with the provisions of section 414 of the CAA;

(4) File a complaint;

(5) Upon agreement of all parties, transfer to the Board for decision, after filing of a complaint, a stipulation of facts in accordance with the provisions of §2429.1(a) of this subchapter; or

(6) Withdraw a complaint.

§2423.10 Determination not to file complaint.

(a) If the General Counsel determines that the charge has not been timely filed, that the charge fails to state an unfair labor practice, or for other appropriate reasons, the General Counsel may request the charging party to withdraw the charge, and in the absence of such withdrawal within a reasonable time, decline to file a complaint.

(b) The charging party may not obtain a review of the General Counsel's decision not to file a complaint.

§2423.11 Settlement or adjustment of issues.

(a) At any stage of a proceeding prior to hearing, where time, the nature of the proceeding, and the public interest permit, all interested parties shall have the opportunity to submit to the Executive Director or General Counsel, as appropriate, for consideration, all facts and arguments concerning offers of settlement, or proposals of adjustment.

Precomplaint settlements

(b) (1) Prior to the filing of any complaint or the taking of other formal action, the General Counsel will afford the charging party and the respondent a reasonable period of time in which to enter into a settlement

agreement to be submitted to and approved by the General Counsel and the Executive Director. Upon approval by the General Counsel and Executive Director and compliance with the terms of the settlement agreement, no further action shall be taken in the case. If the respondent fails to perform its obligations under the settlement agreement, the General Counsel may determine to institute further proceedings.

(2) In the event that the charging party fails or refuses to become a party to a settlement agreement offered by the respondent, if the General Counsel concludes that the offered settlement will effectuate the policies of chapter 71, as applied by the CAA, the agreement shall be between the respondent and the General Counsel and the latter shall decline to file a complaint.

Post complaint settlement policy

(c) Consistent with the policy reflected in paragraph (a) of this section, even after the filing of a complaint, the Board favors the settlement of issues. Such settlements may be accomplished as provided in paragraph (b) of this section. The parties may, as part of the settlement, agree to waive their right to a hearing and agree further that the Board may issue an order requiring the respondent to take action appropriate to the terms of the settlement. Ordinarily such a settlement agreement will also contain the respondent's consent to the Board's application for the entry of a decree by the United States Court of Appeals for the Federal Circuit enforcing the Board's order.

Post complaint prehearing settlements

(d) (1) If, after the filing of a complaint, the charging party and the respondent enter into a settlement agreement, and such agreement is accepted by the General Counsel, the settlement agreement shall be submitted to the Executive Director for approval.

(2) If, after the filing of a complaint, the charging party fails or refuses to become a party to a settlement agreement offered by the respondent, and the General Counsel concludes that the offered settlement will effectuate the policies of chapter 71, as applied by the CAA, the agreement shall be between the respondent and the General Counsel. The charging party will be so informed and provided a brief written statement by the General Counsel of the reasons therefor. The settlement agreement together with the charging party's objections, if any, and the General Counsel's written statements, shall be submitted to the Executive Director for approval. The Executive Director may approve or disapprove any settlement agreement.

(3) After the filing of a complaint, if the General Counsel concludes that it will effectuate the policies of chapter 71, as applied by the CAA, the General Counsel may withdraw the complaint.

Settlements after the opening of the hearing

(e) (1) After filing of a complaint and after opening of the hearing, if the General Counsel concludes that it will effectuate the policies of chapter 71, as applied by the CAA, the General Counsel may request the Hearing Officer for permission to withdraw the complaint and, having been granted such permission to withdraw the complaint, may approve a settlement and recommend that the Executive Director approve the settlement pursuant to paragraph (b) of this section.

(2) If, after filing of a complaint and after opening of the hearing, the parties enter into a settlement agreement that contains the respondent's consent to the Board's application for the entry of a decree by the United States Court of Appeals for the Federal Circuit enforcing the Board's order, the General Counsel may request the Hearing Officer and the Executive Director to approve such settlement agreement, and upon such approval, to transmit the agreement to the Board for approval.

(3) If the charging party fails or refuses to become a party to a settlement agreement, offered by the respondent, that contains the respondent's consent to the Board's application for the entry of a decree by the United States Court of Appeals for the Federal Circuit enforcing the Board's order, and the General Counsel concludes that the offered settlement will effectuate the policies of chapter 71, as applied to the CAA, the agreement shall be between the respondent and the General Counsel. After the charging party is given an opportunity to state on the record or in writing the reasons for opposing the settlement, the General Counsel may request the Hearing Officer and the Executive Director to approve such settlement agreement, and upon such approval, to transmit the agreement to the Board for approval. The Board may approve or disapprove any such settlement agreement or return the case to the Hearing Officer for other appropriate action.

§ 2423.12 Filing and contents of the complaint.

(a) After a charge is filed, if it appears to the General Counsel that formal proceedings in respect thereto should be instituted, the General Counsel shall file a formal complaint: provided, however, that a determination by the General Counsel to file a complaint shall not be subject to review.

(b) The complaint shall include:

(1) Notice of the charge;

(2) Any information required pursuant to the Procedural Rules of the Office.

(c) Any such complaint may be withdrawn before the hearing by the General Counsel.

§ 2423.13 Answer to the complaint.

A respondent shall file an answer to a complaint in accordance with the requirements of the Procedural Rules of the Office.

§ 2423.14 Prehearing disclosure; conduct of hearing.

The procedures for prehearing discovery and the conduct of the hearing are set forth in the Procedural Rules of the Office.

§ 2423.15 Intervention.

Any person involved and desiring to intervene in any proceeding pursuant to this part shall file a motion in accordance with the procedures set forth in the Procedural Rules of the Office. The motion shall state the grounds upon which such person claims involvement.

§ 2423.16 [Reserved]

§ 2423.17 [Reserved]

§ 2423.18 Burden of proof before the Hearing Officer.

The General Counsel shall have the responsibility of presenting the evidence in support of the complaint and shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

2423.19 Duties and powers of the Hearing Officer.

It shall be the duty of the Hearing Officer to inquire fully into the facts as they relate to the matter before such Hearing Officer, subject to the rules and regulations of the Office and the Board.

§ 2423.20 [Reserved]

§ 2423.21 [Reserved]

§ 2423.22 [Reserved]

§ 2423.23 [Reserved]

§ 2423.24 [Reserved]

§ 2423.25 [Reserved]

§ 2423.26 Hearing Officer decisions; entry in records of the Office.

In accordance with the Procedural Rules of the Office, the Hearing Officer shall issue a written decision and that decision will be entered into the records of the Office.

§ 2423.27 Appeal to the Board.

An aggrieved party may seek review of a decision and order of the Hearing Officer in accordance with the Procedural Rules of the Office.

§ 2423.28 [Reserved]

§ 2423.29 Action by the Board.

(a) If an appeal is filed, the Board shall review the decision of the Hearing Officer in accordance with section 406 of the CAA, and the Procedural Rules of the Office.

(b) Upon finding a violation, the Board shall issue an order:

(1) To cease and desist from any such unfair labor practice in which the employing office or labor organization is engaged;

(2) Requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Board and requiring that the agreement, as amended, be given retroactive effect;

(3) Requiring reinstatement of an employee with backpay in accordance with 5 U.S.C. 5596; or

(4) Including any combination of the actions described in paragraphs (1) through (3) of this paragraph (b), or such other action as will carry out the purpose of the chapter 71, as applied by the CAA.

(c) Upon finding no violation, the Board shall dismiss the complaint.

§ 2423.30 Compliance with decisions and orders of the Board.

When remedial action is ordered, the respondent shall report to the Office within a specified period that the required remedial action has been effected. When the General Counsel or the Executive Director finds that the required remedial action has not been effected, the General Counsel or the Executive Director shall take such action as may be appropriate, including referral to the Board for enforcement.

§ 2423.31 Backpay proceedings.

After the entry of a Board order directing payment of backpay, or the entry of a court decree enforcing such order, if it appears to the General Counsel that a controversy exists which cannot be resolved without a formal proceeding, the General Counsel may issue and serve on all parties a backpay specification accompanied by a request for hearing or a request for hearing without a specification. Upon receipt of the request for hearing, the Executive Director will appoint an independent Hearing Officer. The respondent shall, within twenty (20) days after the service of a backpay specification, file an answer thereto in accordance with the Office's Procedural Rules. No answer need be filed by the respondent to a notice of hearing issued without a specification. After the issuance of a notice of hearing, with or without a backpay specification, the hearing procedures provided in the Procedural Rules of the Office shall be followed insofar as applicable.

PART 2424—EXPEDITED REVIEW OF NEGOTIABILITY ISSUES

Subpart A—Instituting an Appeal

Sec.

Subpart A—Instituting an Appeal

§ 2424.1 Conditions governing review.

The Board will consider a negotiability issue under the conditions prescribed by 5 U.S.C. 7117 (b) and (c), as applied by the CAA, namely: If an employing office involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter proposed to be bargained because, as proposed, the matter is inconsistent with law, rule or regulation, the exclusive representative may appeal the allegation to the Board when—

(a) It disagrees with the employing office's allegation that the matter as proposed to be bargained is inconsistent with any Federal law or any Government-wide rule or regulation; or

(b) It alleges, with regard to any employing office rule or regulation asserted by the employing office as a bar to negotiations on the matter, as proposed, that:

(1) The rule or regulation violates applicable law, or rule or regulation of appropriate authority outside the employing office;

(2) The rule or regulation was not issued by the employing office or by any primary national subdivision of the employing office, or otherwise is not applicable to bar negotiations with the exclusive representative, under 5 U.S.C. 7117(a)(3), as applied by the CAA; or

(3) No compelling need exists for the rule or regulation to bar negotiations on the matter, as proposed, because the rule or regulation does not meet the criteria established in subpart B of this part.

§ 2424.2 Who may file a petition.

A petition for review of a negotiability issue may be filed by an exclusive representative which is a party to the negotiations.

§ 2424.3 Time limits for filing.

The time limit for filing a petition for review is fifteen (15) days after the date the employing office's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained is served on the exclusive representative. The exclusive representative shall request such allegation in writing and the employing office shall make the allegation in writing and serve a copy on the exclusive representative: *provided, however,* that review of a negotiability issue may be requested by an exclusive representative under this subpart without a prior written allegation by the employing office if the employing office has not served such allegation upon the exclusive representative within ten (10) days after the date of the receipt by any employing office bargaining representative at the negotiations of a written request for such allegation.

§ 2424.4 Content of petition; service.

(a) A petition for review shall be dated and shall contain the following:

(1) A statement setting forth the express language of the proposal sought to be negotiated as submitted to the employing office;

(2) An explicit statement of the meaning attributed to the proposal by the exclusive representative including:

(i) Explanation of terms of art, acronyms, technical language, or any other aspect of the language of the proposal which is not in common usage; and

(ii) Where the proposal is concerned with a particular work situation, or other particular circumstances, a description of the situation or circumstances which will enable the Board to understand the context in which the proposal is intended to apply;

(3) A copy of all pertinent material, including the employing office's allegation in writing that the matter, as proposed, is not within the duty to bargain in good faith, and other relevant documentary material; and

(4) Notification by the petitioning labor organization whether the negotiability issue is also involved in an unfair labor practice charge filed by such labor organization under part 2423 of this subchapter and pending before the General Counsel.

(b) A copy of the petition including all attachments thereto shall be served on the employing office head and on the principal employing office bargaining representative at the negotiations.

(c)(1) Filing an incomplete petition for review will result in the exclusive representative being asked to provide the missing or incomplete information. Noncompliance with a request to complete the record may result in dismissal of the petition.

(2) The processing priority accorded to an incomplete petition, relative to other pending negotiability appeals, will be based upon the date when the petition is completed—not the date it was originally filed.

§ 2424.5 Selection of the unfair labor practice procedure or the negotiability procedure.

Where a labor organization files an unfair labor practice charge pursuant to part 2423 of this subchapter which involves a negotiability issue, and the labor organization also files pursuant to this part a petition for review of the same negotiability issue, the Board and the General Counsel ordinarily will not process the unfair labor practice charge and the petition for review simultaneously. Under such circumstances, the labor organization must select under which procedure to proceed. Upon selection of one procedure, further action under the other procedure will ordinarily be suspended. Such selection must be made regardless of whether the unfair labor practice charge or the petition for review of a negotiability issue is filed first. Notification of this selection must be made in writing at the time that both procedures have been invoked, and must be served on the Board, the General Counsel and all parties to both the unfair labor practice case and the negotiability case. Cases which solely involve an employing office's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained and which do not involve actual or contemplated changes in conditions of employment may only be filed under this part.

§ 2424.6 Position of the employing office; time limits for filing; service.

(a) Within thirty (30) days after the date of the receipt by the head of an employing office of a copy of a petition for review of a negotiability issue the employing office shall file a statement—

(1) Withdrawing the allegation that the duty to bargain in good faith does not extend to the matter proposed to be negotiated; or

(2) Setting forth in full its position on any matters relevant to the petition which it wishes the Board to consider in reaching its decision, including a full and detailed statement of its reasons supporting the allegation. The statement shall cite the section of any law, rule or regulation relied upon as a basis for the allegation and shall contain a copy of any internal employing office rule or regulation so relied upon. The statement shall include:

(i) Explanation of the meaning the employing office attributes to the proposal as a whole, including any terms of art, acronyms, technical language or any other aspect of the language of the proposal which is not in common usage; and

(ii) Description of a particular work situation, or other particular circumstance the employing office views the proposal to concern, which will enable the Board to understand the context in which the proposal is considered to apply by the employing office.

(b) A copy of the employing office's statement of position, including all attachments thereto shall be served on the exclusive representative.

§ 2424.7 Response of the exclusive representative; time limits for filing; service.

(a) Within fifteen (15) days after the date of the receipt by an exclusive representative of a copy of an employing office's statement of position the exclusive representative shall file a full and detailed response stating its position and reasons for:

(1) Disagreeing with the employing office's allegation that the matter, as proposed to be negotiated, is inconsistent with any Federal law or Government-wide rule or regulation; or

(2) Alleging that the employing office's rules or regulations violate applicable law, or rule or regulation or appropriate authority outside the employing office; that the rules or regulations were not issued by the employing office or by any primary national subdivision of the employing office, or otherwise are not applicable to bar negotiations under 5 U.S.C. 7117(a)(3), as applied by the CAA; or that no compelling need exists for the rules or regulations to bar negotiations.

(b) The response shall cite the particular section of any law, rule or regulation alleged to be violated by the employing office's rules or regulations; or shall explain the grounds for contending the employing office rules or regulations are not applicable to bar negotiations under 5 U.S.C. 7117(a)(3), as applied by the CAA, or fail to meet the criteria established in subpart B of this part, or were not issued at the employing office headquarters level or at the level of a primary national subdivision.

(c) A copy of the response of the exclusive representative including all attachments thereto shall be served on the employing office head and on the employing office's representative of record in the proceeding before the Board.

§ 2424.8 Additional submissions to the Board.

The Board will not consider any submission filed by any party, whether supplemental or responsive in nature, other than those authorized under § 2424.2 through 2424.7 unless such submission is requested by the Board; or unless, upon written request by any party, a copy of which is served on all other parties, the Board in its discretion grants permission to file such submission.

§ 2424.9 Hearing.

A hearing may be held, in the discretion of the Board, before a determination is made under 5 U.S.C. 7117(b) or (c), as applied by the CAA. If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.

§ 2424.10 Board decision and order; compliance.

(a) Subject to the requirements of this subpart the Board shall expedite proceedings under this part to the extent practicable and shall issue to the exclusive representative and to the employing office a written decision on the allegation and specific reasons therefor at the earliest practicable date.

(b) If the Board finds that the duty to bargain extends to the matter proposed to be bargained, the decision of the Board shall include an order that the employing office shall upon request (or as otherwise agreed to by the parties) bargain concerning such matter. If the Board finds that the duty to bargain does not extend to the matter proposed to be negotiated, the Board shall so state

and issue an order dismissing the petition for review of the negotiability issue. If the Board finds that the duty to bargain extends to the matter proposed to be bargained only at the election of the employing office, the Board shall so state and issue an order dismissing the petition for review of the negotiability issue.

(c) When an order is issued as provided in paragraph (b) of this section, the employing office or exclusive representative shall report to the Executive Director within a specified period failure to comply with an order that the employing office shall upon request (or as otherwise agreed to by the parties) bargain concerning the disputed matter.

Subpart B—Criteria for Determining Compelling Need for Employing Office Rules and Regulations

§2424.11 Illustrative criteria.

A compelling need exists for an employing office rule or regulation concerning any condition of employment when the employing office demonstrates that the rule or regulation meets one or more of the following illustrative criteria:

(a) The rule or regulation is essential, as distinguished from helpful or desirable, to the accomplishment of the mission or the execution of functions of the employing office or primary national subdivision in a manner which is consistent with the requirements of an effective and efficient government.

(b) The rule or regulation is necessary to insure the maintenance of basic merit principles.

(c) The rule or regulation implements a mandate to the employing office or primary national subdivision under law or other outside authority, which implementation is essentially nondiscretionary in nature.

PART 2425—REVIEW OF ARBITRATION AWARDS

Sec.

§2425.1 Who may file an exception; time limits for filing; opposition; service.

(a) Either party to arbitration under the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA, may file an exception to an arbitrator's award rendered pursuant to the arbitration.

(b) The time limit for filing an exception to an arbitration award is thirty (30) days beginning on the date the award is served on the filing party.

(c) An opposition to the exception may be filed by a party within thirty (30) days after the date of service of the exception.

(d) A copy of the exception and any opposition shall be served on the other party.

§2425.2 Content of exception.

An exception must be a dated, self-contained document which sets forth in full:

(a) A statement of the grounds on which review is requested;

(b) Evidence or rulings bearing on the issues before the Board;

(c) Arguments in support of the stated grounds, together with specific reference to the pertinent documents and citations of authorities; and

(d) A legible copy of the award of the arbitrator and legible copies of other pertinent documents; and

(e) The name and address of the arbitrator.

§2425.3 Grounds for review.

The Board will review an arbitrator's award to which an exception has been filed to determine if the award is deficient—

(a) Because it is contrary to any law, rule or regulation; or

(b) On other grounds similar to those applied by Federal courts in private sector labor-management relations.

§2425.4 Board decision.

The Board shall issue its decision and order taking such action and making such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

PART 2426—NATIONAL CONSULTATION RIGHTS AND CONSULTATION RIGHTS ON GOVERNMENT-WIDE RULES OR REGULATIONS

Subpart A—National Consultation Rights

Sec.

Subpart B—Consultation Rights on Government-wide Rules or Regulations

Subpart A—National Consultation Rights

§2426.1 Requesting; granting; criteria.

(a) An employing office shall accord national consultation rights to a labor organization that:

(1) Requests national consultation rights at the employing office level; and

(2) Holds exclusive recognition for ten percent (10%) or more of the total number of personnel employed by the employing office.

(b) An employing office's primary national subdivision which has authority to formulate conditions of employment shall accord national consultation rights to a labor organization that:

(1) Requests national consultation rights at the primary national subdivision level; and

(2) Holds exclusive recognition for ten percent (10%) or more of the total number of personnel employed by the primary national subdivision.

(c) In determining whether a labor organization meets the requirements as prescribed in paragraphs (a)(2) and (b)(2) of this section, the following will not be counted:

(1) At the employing office level, employees represented by the labor organization under national exclusive recognition granted at the employing office level.

(2) At the primary national subdivision level, employees represented by the labor organization under national exclusive recognition granted at the agency level or at that primary national subdivision level.

(d) An employing office or a primary national subdivision of an employing office shall not grant national consultation rights to any labor organization that does not meet the criteria prescribed in paragraphs (a), (b) and (c) of this section.

2426.2 Requests; petition and procedures for determination of eligibility for national consultation rights.

(a) Requests by labor organizations for national consultation rights shall be submitted in writing to the headquarters of the employing office or the employing office's primary national subdivision, as appropriate, which headquarters shall have fifteen (15) days from the date of service of such request to respond thereto in writing.

(b) Issues relating to a labor organization's eligibility for, or continuation of, national consultation rights shall be referred to the Board for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for national consultation rights under criteria set forth in §2426.1 may be filed by a labor organization.

(2) A petition for determination of eligibility for national consultation rights shall be submitted on a form prescribed by the Board and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address and telephone number;

(ii) A statement that the petitioner has submitted to the employing office or the primary national subdivision and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title and telephone number;

(v) The name, address, and telephone number of the employing office or primary national subdivision in which the petitioner seeks to obtain or retain national consultation rights, and the persons to contact and their titles, if known;

(vi) A showing that petitioner holds adequate exclusive recognition as required by §2426.1; and

(vii) A statement as appropriate:

(A) That such showing has been made to and rejected by the employing office or primary national subdivision, together with a statement of the reasons for rejection, if any, offered by that employing office or primary national subdivision;

(B) That the employing office or primary national subdivision has served notice of its intent to terminate existing national consultation rights, together with a statement of the reasons for termination; or

(C) That the employing office or primary national subdivision has failed to respond in writing to a request for national consultation rights made under §2426.2(a) within fifteen (15) days after the date the request is served on the employing office or primary national subdivision.

(3) The following regulations govern petitions filed under this section:

(i) A petition for determination of eligibility for national consultation rights shall be filed with the Executive Director.

(ii) An original and four (4) copies of a petition shall be filed, together with a statement of any other relevant facts and of all correspondence.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on all known interested parties, and a written statement of such service shall be filed with the Executive Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the employing office or primary national subdivision of its refusal to accord national consultation rights pursuant to a request under §2426.2(a) or its intention to terminate existing national consultation rights. If an employing office or primary national subdivision fails to respond in writing to a request for national consultation rights made under §2426.2(a) within fifteen (15) days after the date the request is served on the employing office or primary national subdivision, a petition shall be filed within thirty (30) days after the expiration of such fifteen (15) day period.

(v) If an employing office or primary national subdivision wishes to terminate national consultation rights, notice of its intention to do so shall include a statement of its reasons and shall be served not less than

thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed herein, and thereby cause to be stayed further action by the employing office or primary national subdivision pending disposition of the petition. If no petition has been filed within the provided time period, an employing office or primary national subdivision may terminate national consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the employing office or primary national subdivision shall file a response thereto with the Executive Director raising any matter which is relevant to the petition.

(vii) The Executive Director, on behalf of the Board, shall make such investigations as the Executive Director deems necessary and thereafter shall issue and serve on the parties a determination with respect to the eligibility for national consultation rights which shall be final: *provided, however,* that an application for review of the Executive Director's determination may be filed with the Board in accordance with the procedure set forth in §2422.31 of this subchapter. A determination by the Executive Director to issue a notice of hearing shall not be subject to the filing of an application for review. On behalf of the Board, the Executive Director, if appropriate, may cause a notice of hearing to be issued to all interested parties where substantial factual issues exist warranting an investigatory hearing. Investigatory hearings shall be conducted by the Executive Director or her designee in accordance with §2422.17 through 2422.22 of this subchapter and after the close of the investigatory hearing a Decision and Order shall be issued by the Board in accordance with §2422.30 of this subchapter.

§2426.3 Obligation to consult.

(a) When a labor organization has been accorded national consultation rights, the employing office or the primary national subdivision which has granted those rights shall, through appropriate officials, furnish designated representatives of the labor organization:

(1) Reasonable notice of any proposed substantive change in conditions of employment; and

(2) Reasonable time to present its views and recommendations regarding the change.

(b) If a labor organization presents any views or recommendations regarding any proposed substantive change in conditions of employment to an employing office or a primary national subdivision, that employing office or primary national subdivision shall:

(1) Consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(2) Provide the labor organization a written statement of the reasons for taking the final action.

(c) Nothing in this subpart shall be construed to limit the right of any employing office or exclusive representative to engage in collective bargaining.

Subpart B—Consultation Rights on Government-wide Rules or Regulations

§2426.11 Requesting; granting; criteria.

(a) An employing office shall accord consultation rights on Government-wide rules or regulations to a labor organization that:

(1) Requests consultation rights on Government-wide rules or regulations from an employing office; and

(2) Holds exclusive recognition for 350 or more covered employees within the legislative branch.

(b) An employing office shall not grant consultation rights on Government-wide rules or regulations to any labor organization that does not meet the criteria prescribed in paragraph (a) of this section.

§2426.12 Requests; petition and procedures for determination of eligibility for consultation rights on Government-wide rules or regulations.

(a) Requests by labor organizations for consultation rights on Government-wide rules or regulations shall be submitted in writing to the headquarters of the employing office, which headquarters shall have fifteen (15) days from the date of service of such request to respond thereto in writing.

(b) Issues relating to a labor organization's eligibility for, or continuation of, consultation rights on Government-wide rules or regulations shall be referred to the Board for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for consultation rights under criteria set forth in §2426.11 may be filed by a labor organization.

(2) A petition for determination of eligibility for consultation rights shall be submitted on a form prescribed by the Board and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address and telephone number;

(ii) A statement that the petitioner has submitted to the employing office and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title and telephone number;

(v) The name, address, and telephone number of the employing office in which the petitioner seeks to obtain or retain consultation rights on Government-wide rules or regulations, and the persons to contact and their titles, if known;

(vi) A showing that petitioner meets the criteria as required by §2426.11; and

(vii) A statement, as appropriate:

(A) That such showing has been made to and rejected by the employing office, together with a statement of the reasons for rejection, if any, offered by that employing office;

(B) That the employing office has served notice of its intent to terminate existing consultation rights on Government-wide rules or regulations, together with a statement of the reasons for termination; or

(C) That the employing office has failed to respond in writing to a request for consultation rights on Government-wide rules or regulations made under §2426.12(a) within fifteen (15) days after the date the request is served on the employing office.

(3) The following regulations govern petitions filed under this section:

(i) A petition for determination of eligibility for consultation rights on Government-wide rules or regulations shall be filed with the Executive Director.

(ii) An original and four (4) copies of a petition shall be filed, together with a statement of any other relevant facts and of all correspondence.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on the employing office, and a written statement of such service shall be filed with the Executive Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the employing office of its refusal to accord consultation rights on Government-wide rules or regulations pursuant to a request under §2426.12(a) or its intention to terminate such existing consultation rights. If an employing office fails to respond in writing to a request for consultation rights on Government-wide rules or regulations made under §2426.12(a) within fifteen (15) days after the date the request is served on the employing office, a petition shall be filed within thirty (30) days after the expiration of such fifteen (15) day period.

(v) If an employing office wishes to terminate consultation rights on Government-wide rules or regulations, notice of its intention to do so shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed herein, and thereby cause to be stayed further action by the employing office pending disposition of the petition. If no petition has been filed within the provided time period, an employing office may terminate such consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the employing office shall file a response thereto with the Executive Director raising any matter which is relevant to the petition.

(vii) The Executive Director, on behalf of the Board, shall make such investigation as the Executive Director deems necessary and thereafter shall issue and serve on the parties a determination with respect to the eligibility for consultation rights which shall be final: *Provided, however,* that an application for review of the Executive Director's determination may be filed with the Board in accordance with the procedure set forth in §2422.31 of this subchapter. A determination by the Executive Director to issue a notice of investigatory hearing shall not be subject to the filing of an application for review. On behalf of the Board, the Executive Director, if appropriate, may cause a notice of investigatory hearing to be issued where substantial factual issues exist warranting a hearing. Investigatory hearings shall be conducted by the Executive Director or her designee in accordance with §2422.17 through 2422.22 of this chapter and after the close of the investigatory hearing a Decision and Order shall be issued by the Board in accordance with §2422.30 of this subchapter.

§2426.13 Obligation to consult.

(a) When a labor organization has been accorded consultation rights on Government-wide rules or regulations, the employing office which has granted those rights shall, through appropriate officials, furnish designated representatives of the labor organization:

(1) Reasonable notice of any proposed Government-wide rule or regulation issued by the employing office affecting any substantive change in any condition of employment; and

(2) Reasonable time to present its views and recommendations regarding the change.

(b) If a labor organization presents any views or recommendations regarding any proposed substantive change in any condition of employment to an employing office, that employing office shall:

(1) Consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(2) Provide the labor organization a written statement of the reasons for taking the final action.

PART 2427—GENERAL STATEMENTS OF POLICY OR GUIDANCE

Sec.

§ 2427.1 Scope.

This part sets forth procedures under which requests may be submitted to the Board seeking the issuance of general statements of policy or guidance under 5 U.S.C. 7105(a)(1), as applied by the CAA.

§ 2427.2 Requests for general statements of policy or guidance.

(a) The head of an employing office (or designee), the national president of a labor organization (or designee), or the president of a labor organization not affiliated with a national organization (or designee) may separately or jointly ask the Board for a general statement of policy or guidance. The head of any lawful association not qualified as a labor organization may also ask the Board for such a statement provided the request is not in conflict with the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA, or other law.

(b) The Board ordinarily will not consider a request related to any matter pending before the Board or General Counsel.

§ 2427.3 Content of request.

(a) A request for a general statement of policy or guidance shall be in writing and must contain:

(1) A concise statement of the question with respect to which a general statement of policy or guidance is requested together with background information necessary to an understanding of the question;

(2) A statement of the standards under § 2427.5 upon which the request is based;

(3) A full and detailed statement of the position or positions of the requesting party or parties;

(4) Identification of any cases or other proceedings known to bear on the question which are pending under the CAA; and

(5) Identification of other known interested parties.

(b) A copy of each document also shall be served on all known interested parties, including the General Counsel, where appropriate.

§ 2427.4 Submissions from interested parties.

Prior to issuance of a general statement of policy or guidance the Board, as it deems appropriate, will afford an opportunity to interested parties to express their views orally or in writing.

§ 2427.5 Standards governing issuance of general statements of policy or guidance.

In deciding whether to issue a general statement of policy or guidance, the Board shall consider:

(a) Whether the question presented can more appropriately be resolved by other means;

(b) Where other means are available, whether a Board statement would prevent the proliferation of cases involving the same or similar question;

(c) Whether the resolution of the question presented would have general applicability under chapter 71, as applied by the CAA;

(d) Whether the question currently confronts parties in the context of a labor-management relationship;

(e) Whether the question is presented jointly by the parties involved; and

(f) Whether the issuance by the Board of a general statement of policy or guidance on the question would promote constructive and cooperative labor-management relationships in the legislative branch and would otherwise promote the purposes of chapter 71, as applied by the CAA.

PART 2428—ENFORCEMENT OF ASSISTANT SECRETARY STANDARDS OF CONDUCT DECISIONS AND ORDERS

§ 2428.1 Scope.

This part sets forth procedures under which the Board, pursuant to 5 U.S.C. 7105(a)(2)(I), as applied by the CAA, will enforce decisions and orders of the Assistant Secretary in standards of conduct matters arising under 5 U.S.C. 7120, as applied by the CAA.

§ 2428.2 Petitions for enforcement.

(a) The Assistant Secretary may petition the Board to enforce any Assistant Secretary decision and order in a standards of conduct case arising under 5 U.S.C. 7120, as applied by the CAA. The Assistant Secretary shall transfer to the Board the record in the case, including a copy of the transcript if any, exhibits, briefs, and other documents filed with the Assistant Secretary. A copy of the petition for enforcement shall be served on the labor organization against which such order applies.

(b) An opposition to Board enforcement of any such Assistant Secretary decision and order may be filed by the labor organization against which such order applies twenty (20) days from the date of service of the petition, unless the Board, upon good cause shown by the Assistant Secretary, sets a shorter time for filing such opposition. A copy of the opposition to enforcement shall be served on the Assistant Secretary.

§ 2428.3 Board decision.

The Board shall issue its decision on the case enforcing, enforcing as modified, or refusing to enforce, the decision and order of the Assistant Secretary.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

Subpart A—Miscellaneous

Subpart B—General Requirements

Subpart A—Miscellaneous

§ 2429.1 Transfer of cases to the Board.

In any unfair labor practice case under part 2423 of this subchapter in which, after the filing of a complaint, the parties stipulate that no material issue of fact exists, the Executive Director may, upon agreement of all parties, transfer the case to the Board; and the Board may decide the case on the basis of the formal documents alone. Briefs in the case must be filed with the Board within thirty (30) days from the date of the Executive Director's order transferring the case to the Board. The Board may also remand any such case to the Executive Director for further processing. Orders of transfer and remand shall be served on all parties.

§ 2429.2 [Reserved]

§ 2429.3 Transfer of record.

In any case under part 2425 of this subchapter, upon request by the Board, the parties jointly shall transfer the record in the case, including a copy of the transcript, if any, exhibits, briefs and other documents filed with the arbitrator, to the Board.

§ 2429.4 Referral of policy questions to the Board.

Notwithstanding the procedures set forth in this subchapter, the General Counsel, or the Assistant Secretary, may refer for review and decision or general ruling by the Board any case involving a major policy issue that arises in a proceeding before any of them. Any such referral shall be in writing and a copy of such referral shall be served on all parties to the proceeding. Before decision or general ruling, the Board shall obtain the views of the parties and other interested persons, orally or in writing, as it deems necessary and appropriate. The Board may decline a referral.

§ 2429.5 Matters not previously presented; official notice.

The Board will not consider evidence offered by a party, or any issue, which was not presented in the proceedings before the Executive Director, Hearing Officer, or arbitrator. The Board may, however, take official notice of such matters as would be proper.

§ 2429.6 Oral argument.

The Board or the General Counsel, in their discretion, may request or permit oral argument in any matter arising under this subchapter under such circumstances and conditions as they deem appropriate.

§ 2429.7 [Reserved]

§ 2429.8 [Reserved]

§ 2429.9 [Reserved]

§ 2429.10 Advisory opinions.

The Board and the General Counsel will not issue advisory opinions.

§ 2429.11 [Reserved]

§ 2429.12 [Reserved]

§ 2429.13 Official time.

If the participation of any employee in any phase of any proceeding before the Board under section 220 of the CAA, including the investigation of unfair labor practice charges and representation petitions and the participation in hearings and representation elections, is deemed necessary by the Board, the Executive Director, the General Counsel, any Hearing Officer, or other agent of the Board designated by the Board, such employee shall be granted official time for such participation, including necessary travel time, as occurs during the employee's regular work hours and when the employee would otherwise be in a work or paid leave status.

§ 2429.14 Witness fees.

(a) Witnesses (whether appearing voluntarily, or under a subpena) shall be paid the fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States: *Provided,* that any witness who is employed by the Federal Government shall not be entitled to receive witness fees in addition to compensation received pursuant to § 2429.13.

(b) Witness fees and mileage allowances shall be paid by the party at whose instance the witnesses appear, except when the witness receives compensation pursuant to §2429.13.

§2429.15 Board requests for advisory opinions.

(a) Whenever the Board, pursuant to 5 U.S.C. 7105(i), as applied by the CAA, requests an advisory opinion from the Director of the Office of Personnel Management concerning the proper interpretation of rules, regulations, or policy directives issued by that Office in connection with any matter before the Board, a copy of such request, and any response thereto, shall be served upon the parties in the matter.

(b) The parties shall have fifteen (15) days from the date of service of a copy of the response of the Office of Personnel Management to file with the Board comments on that response which the parties wish the Board to consider before reaching a decision in the matter. Such comments shall be in writing and copies shall be served upon the other parties in the matter and upon the Office of Personnel Management.

§2429.16 General remedial authority.

The Board shall take any actions which are necessary and appropriate to administer effectively the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA.

§2429.17 [Reserved]
§2429.18 [Reserved]

Subpart B—General Requirements

§2429.21 [Reserved]
§2429.22 [Reserved]
§2429.23 Extension; waiver.

(a) Except as provided in paragraph (d) of this section, the Board or General Counsel, or their designated representatives, as appropriate, may extend any time limit provided in this subchapter for good cause shown, and shall notify the parties of any such extension. Requests for extensions of time shall be in writing and received by the appropriate official not later than five (5) days before the established time limit for filing, shall state the position of the other parties on the request for extension, and shall be served on the other parties.

(b) Except as provided in paragraph (d) of this section, the Board or General Counsel, or their designated representatives, as appropriate, may waive any expired time limit in this subchapter in extraordinary circumstances. Request for a waiver of time limits shall state the position of the other parties and shall be served on the other parties.

(c) The time limits established in this subchapter may not be extended or waived in any manner other than that described in this subchapter.

(d) Time limits established in 5 U.S.C. 7105(f), 7117(c)(2) and 7122(b), as applied by the CAA, may not be extended or waived under this section.

§2429.24 [Reserved]
§2429.25 [Reserved]
§2429.26 [Reserved]
§2429.27 [Reserved]
§2429.28 Petitions for amendment of regulations.

Any interested person may petition the Board in writing for amendments to any portion of these regulations. Such petition shall identify the portion of the regulations involved and provide the specific language of the proposed amendment together with a statement of grounds in support of such petition.

SUBCHAPTER D—IMPASSES

PART 2470—GENERAL

Subpart A Purpose

Sec.

Subpart B—Definitions

Subpart A—Purpose

§2470.1 Purpose.

The regulations contained in this subchapter are intended to implement the provisions of section 7119 of title 5 of the United States Code, as applied by the CAA. They prescribe procedures and methods which the Board may utilize in the resolution of negotiation impasses when voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve the disputes.

Subpart B—Definitions

§2470.2 Definitions.

(a) The terms *Executive Director, employing office, labor organization, and conditions of employment* as used herein shall have the meaning set forth in Part 2421 of these rules.

(b) The terms *designated representative or designee* of the Board means a Board member, a staff member, or other individual designated by the Board to act on its behalf.

(c) The term *hearing* means a factfinding hearing, arbitration hearing, or any other hearing procedure deemed necessary to accomplish the purposes of 5 U.S.C. 7119, as applied by the CAA.

(d) The term *impasse* means that point in the negotiation of conditions of employment at which the parties are unable to reach agreement, notwithstanding their efforts to do so by direct negotiations and by the use of mediation or other voluntary arrangements for settlement.

(e) The term *Board* means the Board of Directors of the Office of Compliance.

(f) The term *party* means the agency or the labor organization participating in the negotiation of conditions of employment.

(g) The term *voluntary arrangements* means any method adopted by the parties for the purpose of assisting them in their resolution of a negotiation dispute which is not inconsistent with the provisions of 5 U.S.C. 7119, as applied by the CAA.

PART 2471—PROCEDURES OF THE BOARD IN IMPASSE PROCEEDINGS

Sec.

§2471.1 Request for Board consideration; request for Board approval of binding arbitration.

If voluntary arrangements, including the services of the Federal Mediation and Conciliation Services or any other third-party mediation, fail to resolve a negotiation impasse:

(a) Either party, or the parties jointly, may request the Board to consider the matter by filing a request as hereinafter provided; or the Board may, pursuant to 5 U.S.C. 7119(c)(1), as applied by the CAA, undertake consideration of the matter upon request of (i) the Federal Mediation and Conciliation Service, or (ii) the Executive Director; or

(b) The parties may jointly request the Board to approve any procedure, which they have agreed to adopt, for binding arbitration of the negotiation impasse by filing a request as hereinafter provided.

§2471.2 Request form.

A form has been prepared for use by the parties in filing a request with the Board for consideration of an impasse or approval of a binding arbitration procedure. Copies are available from the Executive Director, Office of Compliance.

§2471.3 Content of request.

(a) A request from a party or parties to the Board for consideration of an impasse must be in writing and include the following information:

(1) Identification of the parties and individuals authorized to act on their behalf;

(2) Statement of issues at impasse and the summary positions of the initiating party or parties with respect to those issues; and

(3) Number, length, and dates of negotiation and mediation sessions held, including the nature and extent of all other voluntary arrangements utilized.

(b) A request for approval of a binding arbitration procedure must be in writing, jointly filed by the parties, and include the following information about the pending impasse:

(1) Identification of the parties and individuals authorized to act on their behalf;

(2) Brief description of the impasse including the issues to be submitted to the arbitrator;

(3) Number, length, and dates of negotiation and mediation sessions held, including the nature and extent of all other voluntary arrangements utilized;

(4) Statement that the proposals to be submitted to the arbitrator contain no questions concerning the duty to bargain; and

(5) Statement of the arbitration procedures to be used, including the type of arbitration, the method of selecting the arbitrator, and the arrangement for paying for the proceedings or, in the alternative, those provisions of the parties' labor agreement which contain this information.

§2471.4 Where to file.

Requests to the Board provided for in this part, and inquiries or correspondence on the status of impasses or other related matters, should be addressed to the Executive Director, Office of Compliance.

§2471.5 Copies and service.

(a) Any party submitting a request for Board consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Board and shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, upon parties not so represented, and upon any mediation service which may have been utilized. When the Board acts on a request from the Federal Mediation and Conciliation Service or acts on a request from the Executive Director, it will notify the parties to the dispute, their counsel of record or designated representatives, if any, and any mediation service which may have been utilized. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(b) Any party submitting a response to or other document in connection with a request for Board consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Board and shall serve a copy of the

document upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) A signed and dated statement of service shall accompany each document submitted to the Board. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person.

(e) Unless otherwise provided by the Board or its designated representatives, any document or paper filed with the Board under these rules, together with any enclosure filed therewith, shall be submitted on 8½11-inch size paper.

§2471.6 Investigation of request; Board recommendation and assistance; approval of binding arbitration.

(a) Upon receipt of a request for consideration of an impasse, the Board or its designee will promptly conduct an investigation, consulting when necessary with the parties and with any mediation service utilized. After due consideration, the Board shall either:

(1) Decline to assert jurisdiction in the event that it finds that no impasse exists or that there is other good cause for not asserting jurisdiction, in whole or in part, and so advise the parties in writing, stating its reasons; or

(2) Recommend to the parties procedures, including but not limited to arbitration, for the resolution of the impasse and/or assist them in resolving the impasse through whatever methods and procedures the Board considers appropriate.

(b) Upon receipt of a request for approval of a binding arbitration procedure, the Board or its designee will promptly conduct an investigation, consulting when necessary with the parties and with any mediation service utilized. After due consideration, the Board shall either approve or disapprove the request; *provided, however,* that when the request is made pursuant to an agreed-upon procedure for arbitration contained in an applicable, previously negotiated agreement, the Board may use an expedited procedure and promptly approve or disapprove the request, normally within five (5) workdays.

§2471.7 Preliminary hearing procedures.

When the Board determines that a hearing is necessary under §2471.6, it will:

(a) Appoint one or more of its designees to conduct such hearing; and

(b) issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state: (1) The names of the parties to the dispute; (2) the date, time, place, type, and purpose of the hearing; (3) the date, time, place, and purpose of the prehearing conference, if any; (4) the name of the designated representatives appointed by the Board; (5) the issues to be resolved; and (6) the method, if any, by which the hearing shall be recorded.

§2471.8 Conduct of hearing and prehearing conference.

(a) A designated representative of the Board, when so appointed to conduct a hearing, shall have the authority on behalf of the Board to:

(1) Administer oaths, take the testimony or deposition of any person under oath, receive other evidence, and issue subpenas;

(2) Conduct the hearing in open, or in closed session at the discretion of the designated representative for good cause shown;

(3) Rule on motions and requests for appearance of witnesses and the production of records;

(4) Designate the date on which posthearing briefs, if any, shall be submitted;

(5) Determine all procedural matters concerning the hearing, including the length of sessions, conduct of persons in attendance, recesses, continuances, and adjournments; and take any other appropriate procedural action which, in the judgment of the designated representative, will promote the purpose and objectives of the hearing.

(b) A prehearing conference may be conducted by the designated representative of the Board in order to:

(1) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(2) Explore the possibilities of obtaining stipulations of fact;

(3) Clarify the positions of the parties with respect to the issues to be heard; and

(4) Discuss any other relevant matters which will assist the parties in the resolution of the dispute.

§2471.9 Report and recommendations.

(a) When a report is issued after a hearing conducted pursuant to §§2471.7 and 2471.8, it normally shall be in writing and, when authorized by the Board, shall contain recommendations.

(b) A report of the designated representative containing recommendations shall be submitted to the parties, with two (2) copies to the Executive Director, within a period normally not to exceed thirty (30) calendar days after receipt of the transcript or briefs, if any.

(c) A report of the designated representative not containing recommendations shall be submitted to the Board with a copy to each party within a period normally not to exceed thirty (30) calendar days after receipt of the transcript or briefs, if any. The Board shall then take whatever action it may consider appropriate or necessary to resolve the impasse.

§2471.10 Duties of each party following receipt of recommendations.

(a) Within thirty (30) calendar days after receipt of a report containing recommendations of the Board or its designated representative, each party shall, after conferring with the other, either:

(1) Accept the recommendations and so notify the Executive Director; or

(2) Reach a settlement of all unresolved issues and submit a written settlement statement to the Executive Director; or

(3) Submit a written statement to the Executive Director setting forth the reasons for not accepting the recommendations and for not reaching a settlement of all unresolved issues.

(b) A reasonable extension of time may be authorized by the Executive Director for good cause shown when requested in writing by either party prior to the expiration of the time limits.

§2471.11 Final action by the Board.

(a) If the parties do not arrive at a settlement as a result of or during actions taken under §§2471.6(a)(2), 2471.7, 2471.8, 2471.9, and 2471.10, the Board may take whatever action is necessary and not inconsistent with 5 U.S.C. chapter 71, as applied by the CAA, to resolve the impasse, including but not limited to, methods and procedures which the Board considers appropriate, such as directing the parties to accept a factfinder's recommendations, ordering binding arbitration conducted according to whatever procedure the Board deems suitable, and rendering a binding decision.

(b) In preparation for taking such final action, the Board may hold hearings, administer oaths, and take the testimony or deposition of any person under oath, or it may appoint or designate one or more individuals pursuant to 5 U.S.C. 7119(c)(4), as applied by the CAA, to exercise such authority on its behalf.

(c) When the exercise of authority under this section requires the holding of a hearing, the procedure contained in §2471.8 shall apply.

(d) Notice of any final action of the Board shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless they agree otherwise.

§2471.12 Inconsistent labor agreement provisions.

Any provisions of the parties' labor agreements relating to impasse resolution which are inconsistent with the provisions of either 5 U.S.C. 7119, as applied by the CAA, or the procedures of the Board shall be deemed to be superseded.

THE NUCLEAR WASTE POLICY ACT OF 1996

Mr. CRAIG. Mr. President, as we reach the final days of the 104th Congress, an urgent environmental problem remains unresolved. However, unlike many issues, fortunately the question of how to deal with this Nation's high-level nuclear waste has an answer that is responsible, fair, environmentally friendly and supported by members of both parties.

Today, high level nuclear waste and highly radioactive used nuclear fuel is accumulating at more than 80 sites in 41 States. Each year, as that increases, our ability to continue storage of this used fuel at each of these sites in a safe and responsible way diminishes. The only responsible choice is to support legislation that solves this problem by safely moving this used fuel to a safe, monitored facility in the remote Nevada desert. This answer will lead us to a safer future for all Americans.

To facilitate our consideration of such legislation, yesterday I, along with Senator MURKOWSKI, introduced S. 1936, a bill to amend the Nuclear Waste Policy Act of 1982, and it was placed on the calendar. S. 1936 retains the fundamental goals and structure of the substitute for S. 1271 that was reported out of the Energy and Natural Resources Committee last March.

However, S. 1936 contains many important clarifications and changes that deal with concerns raised regarding the details of that legislation by Members of this body. In addition, we took into account the provisions of H.R. 1020, which was reported out of the House Commerce Committee on an overwhelming bipartisan vote last year. We adopted much of the language found in H.R. 1020 in order to make the bill as similar to the bill under consideration in the House as possible.

I would like to describe some of the most significant of these changes. S.

1936 eliminates certain provisions contained in S. 1271 that would have limited the application of the National Environmental Policy Act to the intermodal transfer facility and imposed a general limitation on NEPA's application to the Secretary's actions to only those NEPA requirements specified in the bill. This was to allay the concern that sufficient environmental analysis would not be done under S. 1271.

S. 1936 clarifies that transportation of spent fuel shall be governed by all requirements of Federal, State, and local governments and Indian tribes to the same extent that any person engaging in transportation in interstate commerce must comply with those requirements. S. 1936 also allows that the Secretary provide technical assistance and funds for training to Unions with experience in safety training for transportation workers. In addition, S. 1936 clarifies that existing employee protections in title 49, United States Code in connection with refusal to work in hazardous conditions apply to transportation under this act. It also provides that certain inspection activities will be carried out by carmen and operating crews only if they are adequately trained. Finally, S. 1936 provides authority for the Secretary of Transportation to establish training standards, as necessary, for workers engaged in the transportation, storage and disposal of spent fuel and high-level waste.

In order to ensure that the size and scope of the interim storage facility is manageable in the context of the overall nuclear waste program, and yet adequate to address the Nation's immediate spent fuel storage needs, S. 1936 would limit the size of phase I of the interim storage facility to 15,000 metric tons of spent fuel, and the size of phase II of the facility to 40,000 metric tons. Phase II of the facility would be expandable to 60,000 metric tons if the Secretary fails to meet her projected goals with regard to site characterization and licensing of the permanent repository site. In contrast, S. 1271 provided for storage of 20,000 metric tons of spent fuel in phase I and 100,000 metric tons in phase II.

Unlike S. 1271, which provided for unlimited use of existing facilities at the Nevada Test Site for handling spent fuel at the interim facility, S. 1936 allows only the use of those facilities for emergency situations during phase I of the interim facility. These facilities should not be needed during phase I and construction of new facilities will be overseen by the Nuclear Regulatory Commission for any fuel handling during phase II of the interim facility.

S. 1271 would have set the standard for releases of radioactivity from the repository at a maximum annual dose to an average member of the general population in the vicinity of Yucca Mountain at 100 millirem.

The 100 millirem standard is fully consistent with current national and international standards designed to protect public health and safety and the environment. While maintaining an initial 100 millirem standard, S. 1936 would allow the Nuclear Regulatory Commission to apply another standard if it finds that the standard in the legislation would pose an unreasonable risk to the health and safety of the public.

S. 1936 contains provisions not found in S. 1271 that would grant financial and technical assistance for oversight activities and payments in lieu of taxes to affected units of local government and Indian tribes within the State of Nevada. S. 1936 also contains new provisions transferring certain Bureau of Land Management parcels to Nye County, NV.

In order to ensure that monies collected for the Nuclear Waste Fund are utilized for purposes of the Nuclear Waste Program, beginning in fiscal year 2003, S. 1936 would convert the current Nuclear Waste Fee that is paid by electricity consumers into a user fee that is assessed based upon the level of appropriations for the year in which the fee is collected.

Section 408 of S. 1271 provided authority for the Secretary to execute emergency relief contracts with certain eligible utilities that would provide for qualified entities to ship, store, and condition spent nuclear fuel. This provision concerned some who feared it could be interpreted to provide new authority for reprocessing in this country or abroad. This provision is not contained in S. 1936.

S. 1271 contained a provision that stated the actions authorized by the bill would be governed only by the requirements of the Nuclear Waste Policy Act, the Atomic Energy Act and the Hazardous Materials Transportation Act. S. 1936 eliminates this provision and instead provides that, if any law is inconsistent with the provisions of the Nuclear Waste Policy Act and the Atomic Energy Act, those acts will govern. S. 1936 further provides that any requirement of a State or local government is preempted only if complying with the State or local requirement and the Nuclear Waste Policy Act is impossible, or if the requirement is an obstacle to carrying out the act. This language is consistent with the preemption authority found in the existing Hazardous Materials Transportation Act.

S. 1936 authorizes the Secretary to take title to the fuel at the Dairyland Power Cooperative's La Crosse reactor, and authorizes the Secretary to pay for the on-site storage of the fuel until DOE removes the fuel from the site under terms of the act.

S. 1936 contains language making a number of changes designed to improve the management of the nuclear waste program to ensure the program is operated, to the maximum extent possible, in like manner to a private business.

Finally, although we had not reached a final agreement with Senator JOHNSTON on language regarding the schedule and conditions for the beginning of construction on the interim facility at the time S. 1936 was filed, the bill contains new language that was drafted in an attempt to address Senator JOHNSTON's concerns. The language in S. 1936 provides that construction shall not begin on an interim storage facility at Yucca Mountain before December 31, 1998.

The bill provides for the delivery of an assessment of the viability of the Yucca Mountain site to the President and Congress by the Secretary of Energy 6 months before the construction can begin on the interim facility. If, based upon the information before him, the President determines, in his discretion, that Yucca Mountain is not suitable for development as a repository, then the Secretary shall cease work on both the interim and permanent repository programs at the Yucca Mountain site. The bill further provides that, if the President makes such a determination, he shall have 18 months to designate an interim storage facility site. If the President fails to designate a site, or if a site he has designated has not been approved by Congress within 2 years of his determination, the Secretary is instructed to construct an interim storage facility at the Yucca Mountain Site.

This provision ensures that the construction of an interim storage facility at the Yucca Mountain site will not occur before the President and Congress have had an ample opportunity to review the technical assessment of the suitability of the Yucca Mountain site for a permanent repository and to designate an alternative site for interim storage based upon that technical information. However, this provision also ensures that, ultimately, an interim storage facility site will be chosen. Without this assurance, we leave open the possibility we will find in 1998 we have no interim storage, no permanent repository program, and—after more than 15 years and $6 billion spent—that we are back to where we started in 1982 when we passed the first version of the Nuclear Waste Policy Act .

This issue provides a clear and simple choice. We can choose to have one, remote, safe and secure nuclear waste storage facility. Or, through inaction and delay, we can perpetuate the status quo and have 80 such sites spread across the Nation. It is irresponsible to shirk our responsibility to protect the environment and the future for our children and grandchildren. This Nation needs to confront its nuclear waste problem now. I urge my colleagues to vote for cloture and support the passage of S. 1936.

PACTA SUNT SERVANDA

Mr. MOYNIHAN. Mr. President, today, Israeli Prime Minister Bingamin Netanyahu delivered an important address to Congress in which he outlined his vision of continued close ties between our two democracies

and of the peace process between Israel and her neighbors. A process with which we have been so closely involved.

His address had many important elements, none more so than when he deviated from his prepared statement to pronounce the ancient Roman maxim: Pacta sunt servanda—agreements must be honored. It should not come as a surprise that the disciple of the disciple of Vladimir Jabotinsky speaks of the importance of international law when addressing the U.S. Congress.

Jabotinsky found the Revisionist party—the forerunner of the present Likud party—in 1925 which had as its goal the establishment of a Jewish state in Palestine under the protection of international law. When Prime Minister Netanyahu asserts that agreements must be honored, he aligns himself with a principle that was of vital importance in international affairs at the beginning of this century but which suffered neglect during the cold war.

From its earliest days the leaders of the Soviet Union had asserted, in the words of Maxim Litvinov, People's Commissar for Foreign Affairs, in 1922 that ''there was not one world but two—a Soviet world and a non-Soviet world * * * there was no third world to arbitrate. * * *'' Which is to say there was no common law against which to measure conduct.

This was the Soviet view until Mikhail Gorbachev came before the General Assembly of the United Nations on December 7, 1988, to remind the General Assembly of the political, juridical and moral importance of Pacta sunt servanda. Mr. Gorbachev went on:

> While championing demilitarization of international relations, we would like political and legal methods to reign supreme in all attempts to solve the arising problems.
>
> Our ideal is a world community of states with political systems and foreign policies based on law.
>
> This could be achieved with the help of an accord within the framework of the U.N. on a uniform understanding of the principles and norms of international law; their codification with new conditions taken into consideration; and the elaboration of legislation for new areas of cooperation.
>
> In the nuclear era, the effectiveness of international law must be based on norms reflecting a balance of interests of states, rather than on coercion.
>
> As the awareness of our common fate grows, every state would be genuinely interested in confining itself within the limits of international law.

The chairman of the Presidium of the Supreme Soviet had come to New York and offered terms of surrender. Gorbachev knew what it meant for the Soviets to assert that they would be bound by norms of international law. Quite simply, official Washington did not, for it no longer actively felt that the United States was bound by such norms. Passively, yes; if pressed. But this was not something we pressed on others in general or thought much about. I wrote:

> In the annals of forgetfulness there is nothing quite to compare with the fading from the American mind of the idea of the law of nations. In the beginning this law was set forth as the foundation of our national existence. By all means wash this proposition with cynical acid and see how it shrinks.

Prime Minister Netanyahu has raised the possibility that we may one day close that chapter in the annals of forgetfulness. I hope that my colleagues and those in the administration have taken note.

Mr. Netanyahu stresses that the peace agreements that Israel has made with her neighbors will be followed and that future agreements will be based on law. As he stated, ''we seek to broaden the circle of peace to the whole Arab world and the rest of the Middle East.''

This is an important day for both our countries. I congratulate Mr. Netanyahu for his address and wish him well as he embarks on his term as Prime Minister.

REPORT RELATIVE TO THE PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT—PM 159

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 Foreign Relations:

To the Congress of the United States:

Pursuant to the authority vested in me by section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) (''the Act''), and as President of the United States, I hereby report to the Congress that it is in the national interest of the United States to terminate the suspensions under section 902(a) of the Act with respect to the issuance of licenses for defense article exports to the People's Republic of China and the export of U.S.-origin satellites, insofar as such restrictions pertain to the Globalstar satellite project. License requirements remain in place for these exports and require review and approval on a case-by-case basis by the United States Government.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 9, 1996.*

MESSAGES FROM THE HOUSE

At 12:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 3121) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker signed the following enrolled bill:

H.R. 3121. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

At 2:02 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 248. An act to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes.

H.R. 3431. An act to amend the Armored Car Industry Reciprocity Act of 1993 to clarify certain requirements and to improve the flow of interstate commerce.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3431. An act to amend the Armored Car Industry Reciprocity Act of 1993 to clarify certain requirements and to improve the flow of interstate commerce; to the Committee on Commerce, Science, and Transportation.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S. 1936. A bill to amend the Nuclear Waste Policy Act of 1982.

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–3270. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Viruses, Serums, Toxins, and Analogous Products,'' received on July 2, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3271. A communication from the Assistant Secretary of the Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Fees for Rice Inspection,'' (RIN0580–AA47) received on July 2, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3272. A communication from the President of the United States, transmitting, to law, a proposal relative to the Department of Agriculture appropriations request for fiscal year 1997; to the Committee on Appropriations.

EC–3273. A communication from the Acting Architect of the Capitol, transmitting, pursuant to law, a report of the expenditures of the Architect from October 1, 1995 through March 31, 1996; to the Committee on Appropriations.

EC–3274. A communication from the Secretary of the Department of Defense, transmitting, pursuant to law, a report relative to

the Abrams Upgrade program; to the Committee on Armed Services.

EC–3275. A communication from the Secretary of the Department of Defense, transmitting, pursuant to law, the notice of a retirement; to the Committee on Armed Services.

EC–3276. A communication from the Assistant Comptroller General, National Security and International Affairs Division, General Accounting Office, transmitting, pursuant to law, a report relative to major weapon systems; to the Committee on Armed Services.

EC–3277. A communication from the Director of the Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the report of a rule entitled ''Minimum Capital,'' (RIN2550–AA03) received on July 1, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–3278. A communication from the Secretary of the Department of Housing and Urban Development, transmitting, pursuant to law, a report relative to alternatives to mortgage forclosures; to the Committee on Banking, Housing, and Urban Affairs.

EC–3279. A communication from the President of the United States, transmitting, pursuant to law, a proclamation of a State of Emergency; to the Committee on Banking, Housing, and Urban Affairs.

EC–3280. A communication from the Acting Under Secretary for Food Safety, Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, ''Pathogen Reduction,'' (RIN0583–AB69) received on July 9, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3281. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Karnal Bunt,'' received on July 9, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3282. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report relative to the interstate shipment of meat and poultry products inspected under state programs; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3283. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Correction Docket,'' received July 8, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3284. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Assessment Rate for Domestically Produced Peanuts handled by Persons Not Subject to Peanut Marketing Agreement No. 146,'' received on July 8, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3286. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Grading and Inspection, General Specification for Approved Plants and Standards for Grades of Dairy Products,'' received on July 8, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3287. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon, and Imported Onions,'' received on July 8, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3288. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Washington,'' received on July 8, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3289. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement,'' received on July 8, 1996; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 483. A bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for the other purposes (Rept. No. 104–315).

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 Mrs. FEINSTEIN (for herself, Mrs. BOXER, Ms. MOSELEY-BRAUN, and Ms. SNOWE):

S. 1937. A bill to allow postal patrons to contribute to funding for breast-cancer research through the voluntary purchase of certain specially issued United States postage stamps; to the Committee on Governmental Affairs.

By Mr. BOND (for himself and Mr. SANTORUM):

S. 1938. A bill to enact the model Good Samaritan Act Food Donation Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CONRAD (for himself, Mr. DORGAN, and Mr. KERREY):

S. 1939. A bill to improve reporting in the livestock industry and to ensure the competitiveness of livestock producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FRIST (for himself, Mr. THOMPSON, and Ms. MOSELEY-BRAUN):

S. 1940. A bill to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges and universities; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1941. A bill to designate the Federal building located at 290 Broadway in New York, New York, as the ''Ronald H. Brown Federal Building''; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. GORTON, and Mrs. MURRAY):

S. 1942. A bill to amend the Internal Revenue Code of 1986 to provide tax treatment for foreign investment through a United States regulated investment company comparable to the tax treatment for direct foreign investment and investment through a foreign mutual fund; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, Ms. MOSELEY-BRAUN AND MS. SNOWE):

S. 1937. A bill to allow postal patrons to contribute to funding for breast-cancer research through the voluntary purchase of certain specially issued United States postage stamps; to the Committee on Governmental Affairs.

THE BREAST CANCER RESEARCH STAMP ACT

● Mrs. FEINSTEIN. Mr. President, I, along with Senators BOXER, MOSELEY-BRAUN, and SNOWE would like to introduce the Breast Cancer Research Stamp Act.

In a time of shrinking budgets and resources for breast cancer research, this legislation would provide an innovative way to provide additional funding for breast cancer research.

This bill would: authorize the U.S. Postal Service to issue an optional special first class stamp to be priced at 1 cent above the cost of normal first-class postage; earmark a penny of every stamp for breast cancer research; provide administrative costs from the revenues for post office expenses; and clarify current law, that any similar stamp would require an act of Congress to be issued in the future.

If only 10 percent of all the first class mail used this optional 33 cent stamp, $60 million could be raised for breast cancer research annually.

There is wide support for this legislation. Congressman FAZIO, along with 62 cosponsors have already introduced the companion bill in the House.

The breast cancer epidemic has been called this Nation's best kept secret. There are 2.6 million women in America today with breast cancer, 1 million of whom have yet to be diagnosed with the disease.

In 1996, an estimated 184,000 will be diagnosed with, and 44,300 will die from, breast cancer. It is the No. 1 killer of women ages 40 to 44 and the leading cause of cancer death in women ages 15 to 54, claiming a woman's life every 12 minutes in this country.

For California, 17,100 women will be diagnosed with breast cancer and 4,100 women will die from the disease in 1996.

In addition to the cost of women's lives, the annual cost of treatment of beast cancer in the United States is approximately $10 billion. This means the average American woman will have $5,000 added to her health care costs because of the disease.

Over the last 25 years, the National Institutes of Health has spent over $31.5 billion on cancer research—$2 billion of that on breast cancer. In the last 6 years alone, appropriations for breast cancer research have risen from $90 million in 1990 to $600 million today. That is the good news.

But, the bad news is that the national commitment to cancer research overall has been hamstrung since 1980. Currently, NIH is able to fund only 23 percent of applications received by all the institutes. For the Cancer Institute, only 23 percent can be funded—significant drop from the 60 percent of applications funded in the 1970's.

Most alarming is the rapidly diminishing grant funding available for new researcher applicants.

In real numbers, the National Cancer Institute will fund approximately 3,600 research projects, of which about 1,000 are new, previously unfunded activities. For investigator-initiated research, only 600 out of 1,900 research projects will be new.

The United States is privileged to have some of the most talented scientists and many of the leading cancer research centers in the world such as UCLA, UC San Francisco, Memorial Sloan-Kettering, and the M.D. Anderson.

This lack of funding is starving some of the most important research—because scientists will have to look elsewhere for their livelihood.

The United States must reverse the trend of diminishing research funds if these scientists and institutions are to continue to contribute their vast talents to the war on cancer and finding a cure.

What is clear is that there is a direct correlation between increases in research funding and the likelihood of finding a cure.

Cancer mortality has declined by 15 percent from 1950 to 1992 due to increases in cancer research funding. In fact, federally funded cancer research has yielded vast amounts of knowledge about the disease—information which is guiding our efforts to improve treatment and search for a cure. We have more knowledge and improvements in prevention through: identification of a cancer gene, use of mammographies, clinical exams, and encouragement of self breast exams. Yet there is still no cure.

The Bay Area has one of the highest rates of breast cancer incidence and mortality in the world. According to data given to my staff by the Northern California Cancer Center, Bay Area white women have the highest reported breast cancer rate in the world, 104 per 100,000 population. Bay Area African-American women have the fourth highest reported rate in the world at 82 per 100,000.

I want to recognize Dr. Balazs (Ernie) Bodai who suggested this innovative funding approach. Dr. Bodai is the chief of the surgery department at the Kaiser Permanente Medical Group in Sacramento, CA. He is the founder of Cure Cancer Now, which is a nonprofit organization committed to developing a funding source for breast cancer research.

As you know, last week the Postal Service introduced their breast cancer awareness stamp. Although the issuance of the awareness stamp was an important step toward educating the public about the disease, the Breast Cancer Research Stamp Act is a new and different effort in that it would actually raise funds for the NIH research on breast cancer, and if the stamps were purchased and not used, the postal service would still make money.

This legislation is also supported by the American Cancer Society, Association of Operating Room Nurses, California Health Collaborative Foundations, YWCA-Encore Plus, the Sacramento City Council and Mayor Joe Serna, Siskiyou County Board of Supervisors, Sutter County Board of Supervisors, Nevada County Board of Supervisors, Yuba City Council, California State Senator Diane Watson and California State Assemblywoman Dede Alpert as well as the Public Employees Union, San Joaquin Public Employees Association, and Sutter and Yuba County Employees Association.

Given the intense competition for Federal research funds in a climate of shrinking budgets, the Breast Cancer Research Stamp Act would allow anyone who uses the postal service to contribute in finding a cure for the breast cancer epidemic.

In a sense, this particular proposal is a pilot. I recognize that the postal service may oppose this since it has not been done before. I also recognize that in a day of diminishing Federal resources, this innovation is an idea whose time has come.

It will make money for the post office and for breast cancer research. No one is forced to buy it, but women's organizations may even wish to sell the stamps in a fundraising effort.

The administrative costs can be handled with the 1 cent added on the 32 cent stamp and conservatively it can make from $60 million per year for NIH's research on breast cancer.

We need to find a cure for breast cancer and I believe the Breast Cancer Research Stamp Act is an innovative response to the hidden epidemic among women. I urge my colleagues to support this important legislation.

By Mr. BOND (for himself and Mr. SANTORUM):

S. 1938. A bill to enact the model Good Samaritan Act Food Donation Act, and for other purposes; to the Committee on Labor and Human Resources.

THE BILL EMERSON GOOD SAMARITAN FOOD DONATION ACT

● Mr. BOND. Mr. President, I pay tribute to my good friend and colleague from Missouri, Congressman Bill Emerson, who represented southeast Missouri's Eighth Congressional District for 16 years. Bill Emerson was well known in this body, and certainly to many around this city, and was loved by the people of southeast Missouri. He had a long and distinguished career of service in the U.S. Congress.

Bill was especially well known for his work in agriculture and in the fight against hunger, including being an ardent supporter of food distribution programs. One of his legislative priorities this session was a bill that would make it easier for millions of tons of unused food by restaurants, supermarkets, and other private businesses to end up in food pantries and shelters rather than in garbage cans and dumpsters.

In honor of Bill Emerson, I now send to the desk the Bill Emerson Good Samaritan Food Donation Act, which is identical to legislation championed by Bill Emerson before his death. In the past, private donors have been reluctant to make contributions to nonprofit organizations because they are concerned about potential civil and criminal liability. With this legislation, private donors will be protected from such liability, except in cases of gross negligence and intentional misconduct. Those in need will truly benefit from this legislation.

I am happy to continue Bill Emerson's effort, and I will work hard to ensure that the Senate passes this common sense approach to fight hunger. I hope my colleagues will join me in this effort.●

By Mr. CONRAD (for himself, Mr. DORGAN and Mr. KERREY):

S. 1939. A bill to improve reporting in the livestock industry and to ensure the competitiveness of livestock producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE LIVESTOCK MARKET REVITALIZATION ACT OF 1996

Mr. CONRAD. Mr. President, I rise today to introduce the Livestock Market Revitalization Act of 1996. My colleagues, Senator DORGAN and Senator KERREY of Nebraska, are cosponsors of this legislation.

I offer this legislation at a time of tremendous challenges within the livestock sector. The occupant of the Chair knows full well what we are facing in the livestock industry. His State is a major producer, as is mine. From long, drawn-out battles over meat inspection to sudden flareups like ''mad cow disease'' in England, to the debilitating price declines we have been experiencing for the last several months, the industry is facing repeated and difficult challenges.

The biggest challenge facing individual producers is the need to climb out of the downturn in the market and ensure a stable income long into the future. I know the occupant of the Chair knows full well, as other of my colleagues do, what has happened to the prices of livestock over the last year. It has been in precipitous and dramatic decline. The pressure this is putting on producers is enormous.

Let me just say that according to North Dakota State University, in 1995 net farm income in my State of North Dakota was down 24 percent. That is a 24-percent reduction in farm income, its lowest level in 6 years, largely because of the steep drop in cattle prices. In fact, for some, net farm income dropped as much as 30 percent from the previous year.

I was recently in my home State talking to some of my closest friends, many of them cattle producers. One after another related to me the extraordinary economic pressure they are under as a result of this steep decline in prices. These price declines are occurring at the same time concentration

within the livestock industry is at record levels. The top four meatpacking firms in America controlled 82 percent of the market in 1994, the latest statistic available. When Congress last took action to address this industry in 1920, the level of concentration was only 49 percent.

Mr. President, producers are deeply frustrated because they lack confidence in the livestock market and find it difficult to obtain timely, reliable market information.

Mr. President, I believe that is the least that we can do to ensure that market participants are engaged in a level playing field.

For this reason, I am introducing the Livestock Market Revitalization Act of 1996. This bill will restore confidence to the livestock market by achieving the following objectives:

First, define captive supplies to include livestock controlled by or committed to a packer more than 7 days prior to slaughter through standing arrangements, instead of the current 2 weeks.

Second, strengthen the position of the seller in the livestock market by providing them daily information on the demand for his or her livestock.

Third, collect and disseminate data on national, regional, and local market activities to monitor possible anticompetitive behavior.

Fourth, promote the use of a value-based pricing system that is equitable to all cattle dealers and packers.

Fifth, improve collection and dissemination of data on imports and exports of cattle and meat.

If there is one thing my producers have said to me, it is, ''We deserve to know what is going on in this market on a regional basis and on a local basis. We deserve to know what is happening with imports and exports. We deserve that information more readily.

Sixth, recognize that the USDA may need additional resources to achieve the objectives of the bill and ask the USDA to report its needs in this area.

Seventh, protect the interests of farmer-owned cooperatives by strengthening their ability to compete in the livestock market.

Eighth, improve labeling of cattle and meat so producers and consumers have more information about the origins of meat and meat products in retail markets.

Let me say that is not just in the interest of producers, that is in the interest of consumers as well. Where is the meat that they are buying coming from? What is the country of origin? I think that has been something that has been delayed for a little too long.

Ninth, encourage the livestock industry to review its efforts on product development to improve the demand for red meat.

Mr. President, now is the time to act. We must make action possible now. There should be no further delay.

The current depressed cattle market is devastating producers in all cattle producing States. While Members on both sides of the aisle, and the administration, have been actively seeking ideas to solve this problem, it is time to turn those ideas into action.

My bill addresses real concerns about an industry no one can argue is perfect, and many can argue has serious problems.

I have specifically designed this bill to be one which Republicans and Democrats can support—one that can achieve quick passage.

I would prefer to make the bill broader but I understand that in the interest of getting legislation through Congress in this shortened and busy year, lean and targeted legislation has better prospects.

Some of the items in my bill will bolster the authorities currently held by the USDA, and will complement the actions the administration has already taken. Those actions include the President's and the Secretary of Agriculture's decision to open the Conservation Reserve Program for haying and grazing, to accelerate the purchase of beef for the School Lunch Program, and to continue to maintain our net-exporter status on beef with an expected 16 percent increase in total beef exports from 1995 to 1996.

But while administrative actions are good, in a period as serious as this in which prices are depressed and market behaviors are troubling, it is incumbent on Congress to take action.

I believe the first action we should take is to get the best possible information. That is the main focus of my bill. It is not burdensome. It is not invasive. It does not point fingers. It is focused and forward-thinking.

It is an effort to help everyone understand the pressures at each level of the livestock industry, from producing to marketing to packing to retailing.

I hope my colleagues will join me in this very important effort.

I ask unanimous consent that a section-by-section description of the bill as well as the bill itself be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1939

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 ''Livestock Market Revitalization Act of 1996''.

SEC. 2. CAPTIVE SUPPLY.

(a) DEFINITION OF CAPTIVE SUPPLY.—Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)), is amended by adding at the end the following:

''(12) CAPTIVE SUPPLY.—The term 'captive supply' means livestock acquired for slaughter by a packer (including livestock delivered 7 days or more before slaughter) under a standing purchase arrangement, forward contract, or packer ownership, feeding, or financing arrangement, as determined by the Secretary.''.

(b) ANNUAL REPORT ON LIVESTOCK MARKETED OR SLAUGHTERED.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228), is amended by adding at the end the following:

''(f) ANNUAL REPORT ON LIVESTOCK MARKETED OR SLAUGHTERED.—

''(1) IN GENERAL.—The Secretary shall make available to the public an annual statistical report on the number and volume of livestock marketed or slaughtered in the United States, including—

''(A) information collected on the date of enactment of this Act; and

''(B) information on transactions involving livestock in regional and local markets.

''(2) ADMINISTRATION.—In carrying out paragraph (1), the Secretary shall ensure that—

''(A) a significant share of regional and local livestock transactions are reported; and

''(B) the confidentiality of individual livestock transactions is maintained.''.

(c) INFORMATION ON CAPTIVE SUPPLY TRANSACTIONS.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228), as amended by subsection (b), is amended by adding at the end the following:

''(g) INFORMATION ON CAPTIVE SUPPLY TRANSACTIONS.—

''(1) IN GENERAL.—Not later than 24 hours after a transaction involving captive supply is recorded, the Secretary shall make information concerning the transaction (including the specific standing arrangement) available to the public using electronic and other means that will ensure wide availability of the information.

''(2) ONGOING LIVESTOCK TRANSACTIONS.—Any information collected on captive supply under paragraph (1) shall be reported in conjunction with ongoing livestock transactions.''.

SEC. 3. MONITORING OF ANTITRUST AND ANTICOMPETITIVE BEHAVIOR AMONG PACKERS AND STOCKYARDS.

(a) IN GENERAL.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228) (as amended by section 2(c)), is amended by adding at the end the following:

''(h) MONITORING OF ANTITRUST AND ANTICOMPETITIVE BEHAVIOR.—

''(1) IN GENERAL.—The Secretary shall—

''(A) review and monitor the degree of antitrust and anticompetitive behavior on a national, regional, and local basis (as defined by the Secretary) among packers, stockyard owners, market agencies, and dealers to ensure compliance with Federal law and to ensure that actions taken by packers, stockyard owners, market agencies, and dealers will enhance, and not diminish, competitiveness; and

''(B) report the results of the review and monitoring to Congress, the Attorney General, and the public.

''(2) COORDINATION.—The Secretary and the Attorney General shall coordinate efforts to ensure that packers, stockyard owners, market agencies, and dealers do not violate Federal law relating to antitrust and anticompetitive behavior.''.

(b) REPORTS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

(1) a report that—

(A) assesses the resource needs of the Department of Agriculture for effectively carrying out section 407(h) of the Packers and Stockyards Act, 1971 (7 U.S.C. 228(h)) (as added by subsection (a)); and

(B) includes a request for any additional funding that may be required for effectively carrying out section 407(h) of the Act; and

(2) a report that assesses progress in implementing additional monitoring activities

identifying geographical procurement markets described in the report entitled ''Monitoring by Packers and Stockyard Administration'', dated October 1991 (GAO/RCED-92-36).

SEC. 4. COLLECTION AND DISSEMINATION OF MARKETING INFORMATION.

Section 204(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g)) is amended by adding at the end the following: ''In carrying out this subsection, on a national, regional, and local basis (as defined by the Secretary), the Secretary shall—

''(1) provide price information, with emphasis on providing the information at the point of sale;

''(2) provide price and other information on a regular and timely basis;

''(3) make the information available to the public electronically;

''(4) collect and disseminate information supplied by packers (as defined in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191)) on contract pricing related to captive supply (as defined in section 2 of the Act (7 U.S.C. 182));

''(5) to the extent practicable, promote the use of consistent, value-based pricing methodology throughout the meat industry; and

''(6) report, on a weekly basis, the volume of cattle and meat products imported into the United States.''.

SEC. 5. COOPERATIVE BARGAINING.

Section 4 of the Agricultural Fair Practices Act of 1967 (7 U.S.C. 2303) is amended by adding at the end the following:

''(g) To fail to engage in good-faith negotiations with producer cooperatives (including new cooperatives), or to unfairly discriminate among producer cooperatives (including new cooperatives), with respect to the purchase, acquisition, or other handling of agricultural products.''.

SEC. 6. LABELING OF MEAT AND MEAT FOOD PRODUCTS.

Section 7(b) of the Federal Meat Inspection Act (21 U.S.C. 607(b)) is amended by striking ''require,'' and all that follows through the period at the end and inserting ''require—

''(1) the information required under section 1(n); and

''(2) if it was imported (or was produced from an animal that was located in another country for at least 120 days) and is graded, a grading labeling that bears the words 'imported', 'may have been imported', 'this product contains imported meat', 'this product may contain imported meat', 'this container contains imported meat', or 'this container may contain imported meat', as the case may be, or words to indicate its country of origin.''.

SEC. 7. LIVESTOCK INDUSTRY COMMISSION.

(a) IN GENERAL.—The Secretary of Agriculture shall, in consultation with representatives of the livestock industry, establish a national commission composed of non-governmental members appointed by the Secretary to study and recommend means of modernizing the livestock industry and responding to the consumer demand for red meat.

(b) STUDY.—In carrying out this section, the commission shall analyze costs and benefits, and make recommendations with respect to—

(1) value-added livestock products;

(2) the impact of antitrust and anticompetitive behavior on cattle prices;

(3) the grading system for meat used by the Secretary; and

(4) refunds of assessments collected under the Beef Research and Information Act (7 U.S.C. 2901 et seq.).

(c) REPORT.—Not later January 1, 2000, the commission shall submit a report the describes the results of the study required under this section to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SECTION-BY-SECTION DESCRIPTION

SECTION 1. SHORT TITLE

The bill is titled Livestock Market Revitalization Act of 1996 to convey the sense that more information and monitoring is needed on a regional and local basis to ensure the competitiveness of the livestock industry.

SECTION 2. CAPTIVE SUPPLIES

(a) The intent is to respond to concerns that information about captive supplies is inadequate. The bill requests that the Secretary defines captive supply transactions to be when packers use any standing arrangement to procure cattle to be delivered for slaughter more than 7 days out. It is also intended that efforts to monitor anticompetitive and antitrust behavior be improved by collecting data nationally, regionally and locally on the types of standing arrangements used, so as a distribution of standing arrangements is provided.

(b) The intent is to provide guidance to packers using captive supplies to ensure that markets are as competitive as possible. The extent to which captive supplies are utilized nationally, regionally and locally are unknown.

(c) The intent is to ensure that the USDA reports statistics on livestock transactions in a regular and timely fashion, at least annually. In addition, the reports need to provide for more disaggregate information on the industry, maintaining all confidentially concerns. Specifically, the intent is to define and report by geographical procurement markets.

(d) The intent is to provide information on captive supplies in a more timely fashion and with the advancement and availability of technology, report no later than 24 hours after a transaction. This reporting requirement is not intended to be burdensome to any of the parties involved. It is intended to strengthen the position of the seller in the market with respect to knowing the demand for his/her livestock.

SECTION 3. MONITORING OF ANTITRUST AND ANTICOMPETITIVE BEHAVIOR AMONG PACKERS AND STOCKYARDS

(a) It is the intent to recognize the high level of concentration in the packing industry, and to ensure that the proper data is collected and disseminated to the industry so that cattlemen and stockmen can have the necessary data to go to Justice or USDA for enforcing the Sherman and Clayton and P&S Acts. Data on more disaggregate levels in needed for the Department to better monitor and report on anticompetitive and antitrust behavior.

(b) The intent is to allow the Secretary to recognize and request additional funding because this bill requires new efforts data be undertaken to ensure the competitiveness of the livestock industry and may have to review its resources on hand.

In addition to the resource report, the Secretary will report on progress made after the GAO report recommending that the Secretary of Agriculture determine a feasible and practical approach for monitoring the activity in regional livestock markets. In defining the relevant markets, P&SA must determine the types of data and analysis it needs and the cost-effectiveness of obtaining and analyzing the data. The GAO study reports that P&SA officials agree that effective monitoring for anticompetitive behavior depends upon knowing the relative boundaries for geographical livestock procurement markets. By focusing on calculating national statistics on concentration in the meat packing industry and not defining regional livestock procurement markets, P&SA may in its data be understanding the potential risks associated with concentration in some areas.

SECTION 4. COLLECTION AND DISSEMINATION OF MARKETING INFORMATION

The intention is to direct the Secretary to collect and disseminate more timely and relevant information to the industry and to utilize existing technologies which enhance the timeliness of delivery. The red meat sector pricing system is largely based on visual quality characteristics and not measurable value. It is intended that the Secretary work with the industry to develop a value based pricing methodology that is equitable to all cattle dealers and packers. Producers also need to have timely information on imports and exports of cattle and meat in order to better schedule their sales.

SECTION 5. COOPERATIVE BARGAINING

The intent is to strengthen the ability of cooperatives ability to bargain with the large packers on the terms of sale. It is important to ensure that packers utilize the supplies from cooperatives in the same fashion as other feedlots.

SECTION 6. LABELING OF MEAT AND MEAT FOOD PRODUCTS

The intent here is to provide the consumer with information about the country of origin of meat and meat food products so as to eliminate any confusion about the USDA grade label implying the beef was produced in the United States. It also requires that cattle entering the United States to be slaughter be label as having resided in other countries unless it has resided here for 120 days.

SECTION 7. LIVESTOCK INDUSTRY COMMISSION

It is the intent to set up an industry lead Commission to research and report on the more contentious issues swirling around in the industry. The red meat industry lags behind poultry and pork in investments and product development. Many reasons exists, but it is time to identify the most important ones and design a strategy to improve the demand for red meat.

By Mr. FRIST (for himself, Mr. THOMPSON, and Ms. MOSELEY-BRAUN):

S. 1940. A bill to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges and universities; to the Committee on Energy and Natural Resources.

APPROPRIATIONS AUTHORIZATION LEGISLATION

Mr. FRIST. Mr. President, I rise today in conjunction with Senators THOMPSON and MOSELEY-BRAUN, to reintroduce a bill to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges and universities.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1940

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term ''historically black college or university'' means a part B institution (as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061)).

(2) HISTORIC BUILDING OR STRUCTURE.—The term ''historic building or structure'' means a building or structure listed on the National Register of Historic Places or designated as a national historic landmark.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

TITLE I—HISTORICALLY BLACK COLLEGES AND UNIVERSITIES HISTORIC BUILDING RESTORATION AND PRESERVATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Historically Black Colleges and Universities Historic Building Restoration and Preservation Act''.

SEC. 102. FINDINGS.

Congress finds that—

(1) the Nation's historically black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for African-American, low-income, and educationally disadvantaged Americans;

(2) over our Nation's history, States and the Federal Government have discriminated in the allocation of land and financial resources to support historically black colleges and universities, forcing historically black colleges and universities to rely on the generous support of private individuals and charitable organizations;

(3) the development of sources of private and charitable financial support for historically black colleges and universities has resulted in buildings and structures of historic importance and architecturally unique design on the campuses of those historically black colleges and universities; and

(4) many of the buildings and structures are national treasures worthy of preservation and restoration for future generations of Americans and for the students and faculty of historically black colleges and universities.

SEC. 103. PRESERVATION AND RESTORATION GRANTS FOR HISTORIC BUILDINGS AND STRUCTURES AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

(a) AUTHORITY TO MAKE GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants in accordance with this section to historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campuses of the historically black colleges and universities.

(2) SOURCE OF FUNDING.—Subject to the availability of appropriations, grants under paragraph (1) shall be made out of amounts authorized to be appropriated to carry out the National Historic Preservation Act (16 U.S.C. 470 et seq.) for fiscal years 1996 through 1999.

(b) GRANT CONDITIONS.—Grants made under subsection (a) shall be subject to the condition that the grantee covenant, for the period of time specified by the Secretary, that—

(1) no alteration will be made in the property with respect to which the grant is made without the concurrence of the Secretary; and

(2) reasonable public access to the property with respect to which the grant is made will be permitted by the grantee for interpretive and educational purposes.

(c) MATCHING REQUIREMENT FOR BUILDINGS AND STRUCTURES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the Secretary may obligate funds made available under this section for a grant with respect to a building or structure listed on the National Register of Historic Places only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

(2) WAIVER.—The Secretary may waive paragraph (1) with respect to a grant if the Secretary determines from circumstances that an extreme emergency exists or that a waiver is in the public interest to ensure the preservation of historically significant resources.

(d) FUNDING PROVISIONS.—

(1) AMOUNTS TO BE MADE AVAILABLE.—Not more than $20,000,000 for fiscal year 1995 and not more than $15,000,000 for each of the fiscal years 1996, 1997, and 1998 may be made available under this section.

(2) ALLOCATIONS FOR FISCAL YEAR 1995.—

(A) IN GENERAL.—Of the amounts made available under this section for fiscal year 1995—

(i) $5,000,000 shall be available only for grants under subsection (a) to Fisk University; and

(ii) $10,000,000 shall be available only for grants under subsection (a) to the historically black colleges and universities identified for inclusion in the Department of the Interior Historically Black College and University Historic Preservation Initiative.

(B) LESS THAN $20,000,000 AVAILABLE.—If less than $20,000,000 is made available for fiscal year 1995 for the purpose of subparagraph (A), the amount that is made available shall be allocated as follows:

(i) 25 percent shall be made available as provided in subparagraph (A)(i).

(ii) 50 percent shall be made available as provided in subparagraph (A)(ii).

(iii) 25 percent shall be made available for grants under subsection (a) to other eligible historically black colleges and universities.

(e) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this title.

TITLE II—COOPER HALL AND SCIENCE HALL PRESERVATION AND RESTORATION

SEC. 201. AUTHORITY TO MAKE GRANTS.

(a) IN GENERAL.—The Secretary shall make grants in accordance with this title to preserve and restore—

(1) Cooper Hall, Sterling College, Sterling, Kansas; and

(2) Science Hall, Simpson College, Indianola, Iowa.

(b) SOURCE OF FUNDING.—Subject to the availability of appropriations, grants under subsection (a) shall be made out of amounts authorized to be appropriated to carry out the National Historic Preservation Act (16 U.S.C. 470 et seq.).

SEC. 202. MATCHING REQUIREMENT.

The Secretary may obligate funds made available under this title only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

SEC. 203. FUNDING PROVISIONS.

Not more than $3,600,000 may be made available for grants for Cooper Hall and not more than $1,500,000 may be made available for grants for Science Hall under this title.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1941. A bill to designate the Federal building located at 290 Broadway in New York, NY, as the ''Ronald H. Brown Federal Building''; to the Committee on Environment and Public Works.

THE RONALD H. BROWN FEDERAL BUILDING DESIGNATION ACT OF 1996

● Mr. MOYNIHAN. Mr. President, I introduce a bill to honor and remember a truly exceptional American, Ronald H. Brown. The bill would designate the Federal building located at 290 Broadway in New York, NY, as the ''Ronald H. Brown Federal Building''.

It is a grand gesture to recognize the passing of this remarkable American and special friend, and I would ask for the support of all Senators of this legislation to place one more marker in history on Ron Brown's behalf.

Ron Brown had a great love for enterprise and industry as reflected in his achievements as the first African-American to hold the office of U.S. Secretary of Commerce.

His was a life of outstanding achievement and service to his country: Army captain; general counsel, deputy executive officer, and vice president of the National Urban League; partner in a prestigious law firm; chief counsel, and chairman of the National Democratic Committee; husband and father. And these are but a few of the achievements that demonstrated Ron's spirited pursuit of life.

To have held any one of these posts in the Government, and in the private sector, is extraordinary. To have held all of the positions he did and prevail as he did, is unique. Indeed, Ron Brown was unfairly taken from us; however, while with us, he lived a sweeping and comprehensive life. And we are all diminished by his loss.

Therefore, I cannot think of a more fitting tribute to this uncommon man.●

By Mr. BAUCUS (for himself, Mr. GORTON and Mrs. MURRAY):

S. 1942. A bill to amend the Internal Revenue Code of 1986 to provide tax treatment for foreign investment through a U.S. regulated investment company comparable to the tax treatment for direct foreign investment and investment through a foreign mutual fund; to the Committee on Finance.

THE INVESTMENT COMPETITIVENESS ACT OF 1996

● Mr. BAUCUS. Mr. President, the U.S. mutual fund industry has become a dominant force in developing, marketing, and managing assets for American investors. Since 1990, assets under management by U.S. mutual funds have grown from $1 trillion to more than $3 trillion in 1995. Yet, while direct foreign investment in U.S. securities is strong, foreign investment in U.S. mutual funds has remained relatively flat.

Mr. President, today I am introducing, along with Senators GORTON and MURRAY, the Investment Competitiveness Act of 1996. This legislation, which I have had the honor of cosponsoring in each of the last two Congresses, would eliminate a major barrier to attracting foreign capital into the United States while improving the competitiveness of the U.S. mutual fund industry.

This legislation would remove a barrier to the sale and distribution of U.S. mutual funds outside the United States. The bill would change the Internal Revenue Code to provide that foreign investors in U.S. mutual funds be accorded the same tax treatment as if they had made their investments directly in U.S. stocks or shares of a foreign mutual fund.

Under current law, most kinds of interest and short-term capital gains received directly by an investor outside the United States or received through a foreign mutual fund are not subject to the 30-percent withholding tax on investment income. However, interest and short-term capital gain income received by a foreign investor through a U.S. mutual fund are subject to the withholding tax. This result occurs because current law characterizes interest income and short-term capital gain distributed by a U.S. mutual fund to a foreign investor as a dividend subject to withholding.

The Investment Competitiveness Act would correct this inequity and put U.S. mutual funds on a competitive footing with foreign funds. The bill would correctly permit interest income and short-term capital gain to retain their character upon distribution.

Current law acts as a prohibitive export tax on foreign investors who choose to invest in U.S. funds. That is why the amount of foreign investment in U.S. mutual funds is small.

Mr. President, it is time to dismantle the unfair and unwanted tax barrier to foreign investment in U.S. mutual funds. The American economy will benefit from exporting U.S. mutual funds, creating an additional inflow of investment into U.S. securities markets without a dilution of U.S. control of American business that occurs through direct foreign investment in U.S. companies. Moreover, the legislation will support job creation among ancillary fund service providers located in the United States, rather than in offshore service facilities.

Mr. President, I very much appreciate the efforts of Senators GORTON and MURRAY in cosponsoring this legislation and I urge my colleagues to support this bill and help to move it forward.●

● Mr. GORTON. Mr. President, I am pleased to join my distinguished colleagues, Senators BAUCUS and MURRAY, in introducing the Investment Competitiveness Act of 1996, a bill that will make the tax treatment for foreign investment through a U.S. regulated investment company comparable to the tax treatment for direct foreign investment and investment through a foreign mutual fund.

The service industry continues to grow rapidly as a vital form of trade for the United States. While the United States continues to suffer a trade deficit in merchandise, exports of services ran at a surplus of $63 billion in 1995. In my home State of Washington, services such as financial investments and telecommunications are integral to job creation and economic growth.

Improving the international competitiveness of the United States is of the utmost importance, and encouraging capital investment in U.S. companies is a critical component of improving our international competitiveness. Increasingly, foreign capital has been drawn into U.S. securities markets. We need to permit that capital to be invested in U.S. companies through U.S. mutual funds. This legislation will help ensure that U.S. mutual funds become a leading export for the United States and the leader in providing worldwide mutual fund services that attract more capital to the United States. Putting U.S. funds on a level playing field with foreign-based funds or foreign investments made directly in U.S. securities, produces a worldwide market for U.S. mutual funds and releases a flow of international capital into U.S. investments.

The U.S. mutual fund industry is clearly the most technologically advanced in the world, and thus is the most cost efficient in delivering services to its client. Current law, however, imposes a 30-percent withholding tax on mutual fund distributions, a tax that does not apply in the case of comparable foreign-based funds or to direct investments in the United States. The withholding tax, which effectively imposes an export tax on the U.S. mutual fund industry, makes U.S. funds less attractive from a pricing standpoint and creates an administrative burden for foreign institutional investors. This tax discourages global institutional investors and the managers who invest their funds from using U.S.-based mutual funds, thus providing a competitive disadvantage to foreign-based funds.

The Investment Competitiveness Act of 1996 addresses this disparate treatment by making the tax treatment of foreign investment in U.S. mutual funds comparable to that afforded to foreign investments made directly in U.S. securities or indirectly through foreign based funds.

Without this change, U.S. mutual funds would have a strong incentive to establish offshore funds in order to compete with foreign-based funds and satisfy the demand for U.S. securities in world markets. This has the unsatisfactory effect of moving U.S. mutual fund jobs and expertise to offshore facilities. Instead, we should be working to increase the demand for the fund services provided by U.S. fund managers, custodians, accountants, transfer agents, and others based in the United States, rather than locate those jobs offshore. This legislation will benefit our capital markets by exporting U.S. mutual funds, while creating and maintaining mutual fund jobs in the United States.

I encourage my colleagues to support this important piece of legislation.●

● Mrs. MURRAY. Mr. President, I am pleased to join Senator BAUCUS in cosponsoring the Investment Competitiveness Act of 1996, legislation that will correct a provision in the Internal Revenue Code that currently makes it difficult to sell mutual funds outside the United States.

I believe Congress has an obligation to implement public policies that encourage investments in U.S. companies. These investments are essential to raising capital, initiating research and development, expanding our Nation's economy and ultimately improving our international competitiveness.

Our current Tax Code deters foreign investors from investing in U.S. mutual funds by treating interest income and short-term capital gain as a dividend that is subject to a 30-percent withholding tax. On the other hand, a foreign investor can invest in other foreign funds or directly in U.S. securities without paying this tax.

Mr. President, the U.S. mutual fund industry has grown significantly over the past 6-years. Since 1990, U.S. mutual fund assets have grown from $1 trillion to more than $3 trillion. This rapid growth has occurred despite the fact that foreign investment in U.S. funds has stayed roughly the same.

Rather than dissuading foreign investment, we should be encouraging foreign investment in U.S. funds and companies. Quite simply, American companies are put at a disadvantage by a Tax Code that encourages foreign investors to invest in other countries and other companies.

More importantly, our Tax Code forces U.S. mutual fund companies to set up subsidiary funds overseas in order to reach the world marketplace. For instance, the Frank Russell Co. in Tacoma, WA, is a highly successful and innovative mutual fund company that employs more than 1,000 people. Unfortunately, in order to serve the world market, the company has been forced to move its expertise and some jobs overseas. In doing so, foreign investors can avoid the U.S. withholding tax.

Mr. President, it makes no sense to continue a tax policy that both encourages our companies to move jobs overseas and hampers our ability to attract foreign investment and raise capital in the United States.

I am pleased to be working with Senators BAUCUS and GORTON on this important legislation, and I am hopeful Congress can act quickly on this legislation.●

ADDITIONAL COSPONSORS

S. 55

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 55, a bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

S. 1616

At the request of Mr. INOUYE, the names of the Senator from Wyoming [Mr. THOMAS] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 1616, a bill to establish a visa waiver pilot program for nationals of Korea who are traveling in tour groups to the United States.

S. 1702

At the request of Mr. BINGAMAN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1702, a bill to require institutions of higher education to provide voter registration information and opportunities to students registering for class, and for other purposes.

S. 1735

At the request of Mr. PRESSLER the names of the Senator from Colorado [Mr. CAMPBELL] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1735, a bill to establish the United States Tourism Organization as a nongovernmental entity for the purpose of promoting tourism in the United States.

S. 1838

At the request of Mr. FAIRCLOTH, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1838, a bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903.

S. 1886

At the request of Mr. FRIST, the name of the Senator from Tennessee [Mr. THOMPSON] was added as a cosponsor of S. 1886, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of educational grants by private foundations, and for other purposes.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. LOTT, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of Senate Concurrent Resolution 26, a concurrent resolution to authorize the Newington-Cropsey Foundation to erect on the Capitol Grounds and present to Congress and the people of the United States a monument dedicated to the Bill of Rights.

SENATE CONCURRENT RESOLUTION 64

At the request of Mr. INOUYE, the names of the Senator from Virginia [Mr. WARNER] and the Senator from California [Mrs. BOXER] were added as cosponsors of Senate Concurrent Resolution 64, a concurrent resolution to recognize and honor the Filipino World War II veterans for their defense of democratic ideals and their important contribution to the outcome of World War II.

SENATE RESOLUTION 276

At the request of Mr. ROBB, the names of the Senator from Wyoming [Mr. THOMAS], the Senator from Rhode Island [Mr. PELL], the Senator from Oregon [Mr. HATFIELD], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Resolution 276, a resolution congratulating the people of Mongolia on embracing democracy in Mongolia through their participation in the parliamentary elections held on June 30, 1996.

NOTICE OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. COHEN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, will hold a hearing on Wednesday, July 17, 1996, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building, on oversight of the implementation of the Information Technology Management Reform Act of 1996.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, July 10, 1996, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider S. 1877, the Environmental Improvement Timber Contract Extension Act, a bill to ensure the proper stewardship of publicly owned assets in the Tongass National Forest in the State of Alaska, a fair return to the United States for public timber in the Tongass, and a proper balance among multiple use interests in the Tongass to enhance forest health, sustainable harvest, and the general economic health and growth in southeast Alaska and the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 10, 1996, at 11 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. NICKLES. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 10, 1996, at 11 a.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

VIETNAM VETERANS OF AMERICA 1996 CONGRESSIONAL STAFFER OF THE YEAR AWARD

● Mr. ROCKEFELLER. Mr. President, I note with great pride that one of my staff members has been honored with a very special award: Charlotte Moreland, who serves me on the minority staff of the Senate Committee on Veterans' Affairs, has been named 1996 Congressional Staffer of the Year by the Vietnam Veterans of America.

I can think of no one who has earned this award more than Charlotte. She has been a loyal member of my personal staff ever since I joined the Senate in 1984, and I have been most grateful for the many strengths she brought to that job. But Charlotte really found her forté when I became chairman of the Senate Committee on Veterans' Affairs in 1993, and she became my Special Projects Director on the committee. She has continued to work for me in my capacity now as the committee's ranking Democratic member.

Charlotte has helped countless veterans from West Virginia and all around the country obtain the services and benefits they are due from the Department of Veterans Affairs. Some of the work she has done is truly amazing; she has been able to get results where many others have failed, or failed to even try, lacking the drive and compassion that are Charlotte's trademark.

Charlotte was born and raised in West Virginia, and she has never lost the stubborn persistence, tenacity, and deep caring that are so characteristic of my home State. Charlotte is a vigorous—I might say, ferocious—advocate for the underdog, the vulnerable, those who would otherwise get lost in the system. She is not afraid to fight Government bureaucracy, redtape, and complacency, and she will follow through on a case until all avenues of help are exhausted.

Whether it involves quality or availability of medical care in a VA hospital, or timely and appropriate decisions on disability claims, veterans need a place to turn when they believe the system has failed them. Charlotte acts as my eyes and ears out in the community, listening to the concerns of individual veterans and reporting them back to me, so that I can address systemic problems through legislation and oversight. I count on her tremendously, and I truly would not be able to perform my job well on the committee if she were not performing hers.

Charlotte is a prime example of a very special class of employees—dedicated congressional staffers who labor, often anonymously, behind the scenes, making our Government work and providing services to our citizens. Too often they do not receive the recognition they so richly deserve. In saluting Charlotte, I salute also these other unsung heroes. As Members of Congress, we are often in the limelight. But our accomplishments would be far less without the dedicated staff that serve us, and we should never forget that.

Veterans—in West Virginia and throughout our country—are incredibly lucky to have Charlotte as their

advocate. I am grateful to have her on my staff, and enormously proud of all she has accomplished.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider, en bloc, the following nominations on the Executive Calendar:

No. 514, Gary A. Fenner of Missouri to be U.S. district judge for the western district of Missouri, and No. 587, the nomination of Mary Ann Vial Lemmon of Louisiana to be U.S. district judge for the eastern district of Louisiana.

I further ask unanimous consent that the nominations be confirmed, en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and that the Senate return then to the legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, Mr. President. Let me begin by thanking the two distinguished colleagues from Nevada for their cooperation this afternoon in allowing us to get to this point. As the majority leader indicated, they care deeply about this issue. Nevada is well served by their representation and their determination on this issue.

I also want to thank the majority leader for his effort to work with us. He has said again today what he said yesterday. He is prepared to try to work through these things in a way that would allow us to resolve all of the outstanding questions.

He has given me his assurance again today that we will attempt—all we can do is attempt—to work through the list of the 23 judges that are currently on the calendar. This is the first downpayment.

I appreciate his willingness to work with us on all of them. I believe that this is a good process. I think it is the way we should proceed.

So I am very pleased that we have been able to reach this point.

So I have no objection.

Mr. BREAUX. Mr. President, reserving the right to object—and I assure the two distinguished leaders that I have no intention of objecting—I will just say that I congratulate both leaders for being able to reach this point where I think there is, indeed, light at the end of the tunnel.

I think that the courtesies that they have shown to me and to other Members of this body on both sides of the aisle really is a very positive indication of the cooperation that will allow us to get through the list of judges that have been approved by the Judiciary Committee.

I also would echo the comments by the two distinguished Senators from Nevada about how far they have been able to go, and I thank them for being willing to cooperate on the Defense authorization bill which I know is very, very important.

I congratulate both leaders for the work that they have done. I think this is a spirit of cooperation that we need more of. I congratulate both of them for their work.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Without objection, it is so ordered.

The nominations were considered and confirmed, en bloc, as follows:

THE JUDICIARY

Gary A. Fenner, of Missouri, to be United States District Judge for the Western District of Missouri.

Mary Ann Vial Lemmon, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Mr. LOTT. Mr. President, I would like to just note with regard to the nomination of Mary Lemmon from Louisiana there are other judges that had been on the list longer. But there was a particular problem with this judge due to the fact that she does hold office. I believe she is a judge. And she has to qualify in the next day or two or she would not be able to run for reelection. And then, if she did not get this position, she would be really caught in the middle. That is why we moved this one up to sort of the head of the list. I am glad it worked out.

I thank the Democratic leader for his comments.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR THURSDAY, JULY 11, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 a.m. on Thursday, July 11; further, that immediately following the prayer the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved, as usual, for their use later in the day, and that there then be a period for morning business until the hour of 10 a.m. as under the previous order, with Senator DASCHLE, or his designee, controlling the first 40 minutes, and Senator COVERDELL in control of the last 20 minutes.

I further ask that at 10 a.m. the Senate turn to the consideration of S. 1894, the Department of Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will begin the DOD appropriations bill tomorrow morning at 10 a.m. Several amendments are expected to be offered. Therefore, votes can be expected during Thursday's session of the Senate, and the Senate may be asked to be in session into the evening in order to make progress on the appropriations bill.

MEASURE PLACED ON THE CALENDAR—S. 295

Mr. LOTT. Mr. President, I ask unanimous consent that S. 295 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate at 6:42 p.m., adjourned until tomorrow, Thursday, July 11, 1996, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 10, 1996:

THE JUDICIARY

GARY A. FENNER, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MISSOURI.

MARY ANN VIAL LEMMON, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.