CHANGES IN EXISTING LAW MADE BY THE DOD PROPOSAL FOR REPEAL OR MODIFICATION OF VARIOUS REPORTING REQUIREMENTS

[NOTE: This document shows the changes in existing law that would be made by the draft legislative proposal to repeal and modify Department of Defense reporting requirements. The provisions are shown as currently in effect, that is, in their "as amended", up-to-date form.]

TITLE 10, UNITED STATES CODE

§ 113. Secretary of Defense

(a) There is a Secretary of Defense, who is the head of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) ***

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~~(j)(1) Not later than April 8 of each year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report on the cost of stationing United States forces outside of the United States. Each such report shall include a detailed statement of the following:~~

~~(A) Costs incurred in the United States and costs incurred outside the United States in connection with the stationing of United States forces outside the United States.~~

~~(B) The costs incurred outside the United States in connection with operating, maintaining, and supporting United States forces outside the United States, including all direct and indirect expenditures of United States funds in connection with such stationing.~~

~~(C) The effect of such expenditures outside the United States on the balance of payments of the United States.~~

~~(2) Each report under this subsection shall be prepared in consultation with the Secretary of Commerce.~~

~~(3) In this subsection, the term "United States", when used in a geographic sense, includes the territories and possessions of the United States.~~

(k) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the commanders of the combatant commands written guidelines to direct the effective detection and monitoring of all potential aerial and maritime threats to the national security of the United States. Those guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which the guidelines are to be in effect.

(l) The Secretary shall include in the annual report to Congress under subsection (c) the following:

(1) A comparison of the amounts provided in the defense budget for support and for mission activities for each of the preceding five fiscal years.

(2) A comparison of the number of military and civilian personnel, shown by major occupational category, assigned to support positions and to mission positions for each of the preceding five fiscal years.

(3) An accounting, shown by service and by major occupational category, of the number of military and civilian personnel assigned to support positions during each of the preceding five fiscal years.

(4) A listing of the number of military and civilian personnel assigned to management headquarters and headquarters support activities as a percentage of military end-strength for each of the preceding five fiscal years.

~~(m) Information To Accompany Funding Request for Contingency Operation.—Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation. The report shall include a discussion of the following:~~

~~(1) What clear and distinct objectives guide the activities of United States forces in the operation.~~

~~(2) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the endpoint of the operation.~~

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§ 115b. ~~Annual~~ Biennial strategic workforce plan

(a) ~~ANNUAL~~ BIENNIAL PLAN REQUIRED.—(1) The Secretary of Defense shall submit to the congressional defense committees ~~on an annual basis~~ in every even-numbered year a strategic workforce plan to shape and improve the civilian employee workforce of the Department of Defense.

(2) The Under Secretary of Defense for Personnel and Readiness shall have overall responsibility for developing and implementing the strategic workforce plan, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(b) CONTENTS.—Each strategic workforce plan under subsection (a) shall include, at a minimum, the following:

(1) An assessment of—

(A) the critical skills and competencies that will be needed in the future within the civilian employee workforce by the Department of Defense to support national security requirements and effectively manage the Department ~~during the seven-year period following the year in which the plan is submitted~~ during the five-year period corresponding to the ongoing Future-Years Defense Plan;

(B) the appropriate mix of military, civilian, and contractor personnel capabilities;

(C) the critical skills and competencies of the existing civilian employee workforce of the Department and projected trends in that workforce based on expected losses due to retirement and other attrition; and

(D) gaps in the existing or projected civilian employee workforce of the Department that should be addressed to ensure that the Department has continued access to the critical skills and competencies described in subparagraphs (A) and (C).

(2) A plan of action for developing and reshaping the civilian employee workforce of the Department to address the gaps in critical skills and competencies identified under paragraph (1)(D), including—

(A) specific recruiting and retention goals, especially in areas identified as critical skills and competencies under paragraph (1), including the program objectives of the Department to be achieved through such goals and the funding needed to achieve such goals;

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§ 116. ~~Annual operations and maintenance report~~

~~(a)(1) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, with respect to the operations and maintenance of the Army, Navy, Air Force, and Marine Corps for the next fiscal year. The Secretary shall include in each such report recommendations for—~~

~~(A) the number of aircraft flying hours for the Army, Navy, Air Force, and Marine Corps for the next fiscal year, the number of ship steaming hours for the Navy for the next fiscal year, and the number of field training days for the combat arms battalions of the Army and Marine Corps for the next fiscal year;~~

~~(B) the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed during the next fiscal year; and~~

~~(C) the number of airframe reworks, aircraft engine reworks, and vehicle overhauls which should be performed by the Army, Navy, Air Force, and Marine Corps during the next fiscal year.~~

~~(2) The Secretary shall also include in each such report the justification for and an explanation of the level of funding recommended in the Budget of the President for the next fiscal year for aircraft flying hours, ship steaming hours, field training days for the combat arms battalions, major repair work to be performed on ships of the Navy, airframe reworks, aircraft engine reworks, and vehicle overhauls.~~

~~(b) In this section:~~

~~(1) The term "combat arms battalions" means armor, infantry, mechanized infantry, air assault infantry, airborne infantry, ranger, artillery, and combat engineer battalions and armored cavalry and air cavalry squadrons.~~

~~(2) The term "major repair work" means, in the case of any ship to which subsection (a) is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000~~.

§ 117. Readiness reporting system: establishment; reporting to congressional committees

(a) Required Readiness Reporting System. - The Secretary of Defense shall establish a comprehensive readiness reporting system for the Department of Defense. The readiness reporting system shall measure in an objective, accurate, and timely manner the capability of the armed forces to carry out -

(1) the National Security Strategy prescribed by the President in the most recent annual national security strategy report under section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

(2) the defense planning guidance provided by the Secretary of Defense pursuant to section 113(g) of this title; and

(3) the National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff.

(b) Readiness Reporting System Characteristics. - In establishing the readiness reporting system, the Secretary shall ensure -

(1) that the readiness reporting system is applied uniformly throughout the Department of Defense;

(2) that information in the readiness reporting system is continually updated, with (A) any change in the overall readiness status of a unit that is required to be reported as part of the readiness reporting system being reported within 24 hours of the event necessitating the change in readiness status, and (B) any change in the overall readiness status of an element of the training establishment or an element of defense infrastructure that is required to be reported as part of the readiness reporting system being reported within 72 hours of the event necessitating the change in readiness status; and

(3) that sufficient resources are provided to establish and maintain the system so as to allow reporting of changes in readiness status as required by this section.

(c) Capabilities. - The readiness reporting system shall measure such factors relating to readiness as the Secretary prescribes, except that the system shall include the capability to do each of the following:

(1) ***

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(d) Quarterly and Monthly Joint Readiness Reviews. –

(1) The Chairman of the Joint Chiefs of Staff shall -

(A) on a quarterly basis, conduct a joint readiness review; and

(B) on a monthly basis, review any changes that have been reported in readiness since the previous joint readiness review.

(2) The Chairman shall incorporate into both the joint readiness review required under paragraph (1)(A) and the monthly review required under paragraph (1)(B) the current information derived from the readiness reporting system and shall assess the capability of the armed forces to execute their wartime missions based upon their posture at the time the review is conducted. The Chairman shall submit to the Secretary of Defense the results of each review under paragraph (1), including the deficiencies in readiness identified during that review.

~~(e) Submission to Congressional Committees. - The Secretary shall each quarter submit to the congressional defense committees a report in writing containing the results of the most recent joint readiness review under subsection (d)(1)(A), including the current information derived from the readiness reporting system. Each such report shall be submitted in unclassified form and may, as the Secretary determines necessary, also be submitted in classified form.~~

(f) Regulations. - ***

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§ 127. Emergency and extraordinary expenses

(a) Subject to the limitations of subsection (c), and within the limitation of appropriations made for the purpose, the Secretary of Defense, the Inspector General of the Department of Defense, and the Secretary of a military department within his department, may provide for any emergency or extraordinary expense which cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary concerned or the Inspector General for any purpose he determines to be proper, and such a determination is final and conclusive upon the accounting officers of the United States. The Secretary concerned or the Inspector General may certify the amount of any such expenditure authorized by him that he considers advisable not to specify, and his certificate is sufficient voucher for the expenditure of that amount.

(b) The authority conferred by this section may be delegated by the Secretary of Defense to any person in the Department of Defense, by the Inspector General to any person in the Office of the Inspector General, or by the Secretary of a military department to any person within his department, with or without the authority to make successive redelegations.

(c)(1) Funds may not be obligated or expended in an amount in excess of $500,000 under the authority of subsection (a) or (b) until the Secretary of Defense has notified the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives of the intent to obligate or expend the funds, and -

(A) in the case of an obligation or expenditure in excess of $1,000,000, 15 days have elapsed since the date of the notification; or

(B) in the case of an obligation or expenditure in excess of $500,000, but not in excess of $1,000,000, 5 days have elapsed since the date of the notification.

(2) Subparagraph (A) or (B) of paragraph (1) shall not apply to an obligation or expenditure of funds otherwise covered by such subparagraph if the Secretary of Defense determines that the national security objectives of the United States will be compromised by the application of the subparagraph to the obligation or expenditure. If the Secretary makes a determination with respect to an obligation or expenditure under the preceding sentence, the Secretary shall immediately notify the committees referred to in paragraph (1) that such obligation or expenditure is necessary and provide any relevant information (in classified form, if necessary) jointly to the chairman and ranking minority member (or their designees) of such committees.

(3) A notification under paragraph (1) and information referred to in paragraph (2) shall include the amount to be obligated or expended, as the case may be, and the purpose of the obligation or expenditure.

~~(d) Annual Report. - Not later than December 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on expenditures during the preceding fiscal year under subsections (a) and (b)~~.

§ 127a. Operations for which funds are not provided in advance: funding mechanisms

(a) In General. - (1) The Secretary of Defense shall use the procedures prescribed by this section with respect to any operation specified in paragraph (2) that involves -

(A) the deployment (other than for a training exercise) of elements of the armed forces for a purpose other than a purpose for which funds have been specifically provided in advance; or

(B) the provision of humanitarian assistance, disaster relief, or support for law enforcement (including immigration control) for which funds have not been specifically provided in advance.

(2) This section applies to -

(A) any operation the incremental cost of which is expected to exceed $50,000,000; and

(B) any other operation the expected incremental cost of which, when added to the expected incremental costs of other operations that are currently ongoing, is expected to result in a cumulative incremental cost of ongoing operations of the Department of Defense in excess of $100,000,000. Any operation the incremental cost of which is expected not to exceed $10,000,000 shall be disregarded for the purposes of subparagraph (B).

~~(3) Whenever an operation to which this section applies is commenced or subsequently becomes covered by this section, the Secretary of Defense shall designate and identify that operation for the purposes of this section and shall promptly notify Congress of that designation (and of the identification of the operation).~~

(4) This section does not provide authority for the President or the Secretary of Defense to carry out any operation, but establishes mechanisms for the Department of Defense by which funds are provided for operations that the armed forces are required to carry out under some other authority.

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§ 127b. Assistance in combating terrorism: rewards

(a) AUTHORITY. The Secretary of Defense may pay a monetary amount, or provide a payment-in-kind, to a person as a reward for providing United States Government personnel, or government personnel of allied forces participating in a combined operation with the armed forces, with information or nonlethal assistance that is beneficial to—

(1) an operation or activity of the armed forces, or of allied forces participating in a combined operation with the armed forces, conducted outside the United States against international terrorism; or

(2) force protection of the armed forces, or of allied forces participating in a combined operation with the armed forces.

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(f) ANNUAL REPORT.—(1) Not later than ~~December 1~~ February 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the rewards program under this section during the preceding fiscal year.

(2) ***

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§ 129. Prohibition of certain civilian personnel management constraints

(a) ***

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~~(f)(1) Not later than February 1 of each year, the Secretary of each military department and the head of each Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the management of the civilian workforce under the jurisdiction of that official.~~

~~(2) Each report of an official under paragraph (1) shall contain the following:~~

~~(A) The official's certification (i) that the civilian workforce under the jurisdiction of the official is not subject to any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees, and (ii) that, during the 12 months preceding the date on which the report is due, such workforce has not been subject to any such constraint or limitation.~~

~~(B) A description of how the civilian workforce is managed.~~

~~(C) A detailed description of the analytical tools used to determine civilian workforce requirements during the 12-month period referred to in subparagraph (A)~~.

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§ 138c. Assistant Secretary of Defense for Operational Energy Plans and Programs

(a) APPOINTMENT.—The Assistant Secretary of Defense for Operational Energy Plans and Programs shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the office of Assistant Secretary.

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(e) BUDGETARY AND FINANCIAL MATTERS.—(1) ***

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(4) Not later than ~~10 days after the date on which the budget for a fiscal year is submitted to Congress pursuant to section 1105 of title 31~~ March 31 in any year, the Secretary of Defense shall submit to Congress a report on the proposed budgets for that fiscal year that the Assistant Secretary has not certified under paragraph (3). The report shall include the following:

(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(5) The report required by paragraph (4) shall also include a separate statement of estimated expenditures and requested appropriations for that fiscal year for the activities of the Assistant Secretary in carrying out the duties of the Assistant Secretary.

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§ 153. Chairman: functions

(a) Planning; Advice; Policy Formulation. - Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall be responsible for the following:

(1) ***

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(b) Risks Under National Military Strategy. –

(1) Not later than January 1 of each odd-numbered year, the Chairman shall submit to the Secretary of Defense a report providing the Chairman's assessment of the nature and magnitude of the strategic and military risks associated with executing the missions called for under the current National Military Strategy.

(2) The Secretary shall forward the report received under paragraph (1) in any year, with the Secretary's comments thereon (if any), to Congress with the Secretary's next transmission to Congress of the annual Department of Defense budget justification materials in support of the Department of Defense component of the budget of the President submitted under section 1105 of title 31 for the next fiscal year. If the Chairman's assessment in such report in any year is that risk associated with executing the missions called for under the National Military Strategy is significant, the Secretary shall include with the report as submitted to Congress the Secretary's plan for mitigating that risk.

~~(c) Annual Report on Combatant Command Requirements.~~

~~(1) At or about the time that the budget is submitted to Congress for a fiscal year under section 1105(a) of title 31, the Chairman shall submit to the congressional defense committees a report on the requirements of the combatant commands established under section 161 of this title.~~

~~(2) Each report under paragraph (1) shall contain the following:~~

~~(A) A consolidation of the integrated priority lists of requirements of the combatant commands.~~

~~(B) The Chairman's views on the consolidated lists.~~

~~(C) A description of the extent to which the most recent future-years defense program (under section 221 of this title) addresses the requirements on the consolidated lists.~~

~~(D) A description of the funding proposed in the President's budget for the next fiscal year, and for the subsequent fiscal years covered by the most recent future-years defense program, to address each deficiency in readiness identified during the joint readiness review conducted under section 117 of this title for the first quarter of the current fiscal year.~~

(d) Biennial Review of National Military Strategy. –

(1) ***

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§ 184. Regional Centers for Security Studies

(a) In General. - The Secretary of Defense shall administer the Department of Defense Regional Centers for Security Studies in accordance with this section as international venues for bilateral and multilateral research, communication, and exchange of ideas involving military and civilian participants.

(b) Regional Centers Specified. - ***

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(c) Regulations. - The administration of the Regional Centers under this section shall be carried out under regulations prescribed by the Secretary.

(d) Participation. - Participants in activities of the Regional Centers may include United States and foreign military, civilian, and nongovernmental personnel.

(e) Employment and Compensation of Faculty. -***

(f) Payment of Costs. - ***

(g) Support to Other Agencies. - ***

(h) ~~Annual Report.—Not later than February 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the operation of the Regional Centers for security studies during the preceding fiscal year. The annual report shall include, for each Regional Center, the following information:~~

~~(1) The status and objectives of the center.~~

~~(2) The budget of the center, including the costs of operating the center.~~

~~(3) A description of the extent of the international participation in the programs of the center, including the costs incurred by the United States for the participation of each foreign nation.~~

~~(4) A description of the foreign gifts and donations, if any, accepted under section 2611 of this title.~~

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§ 408. Equipment and training of foreign personnel to assist in Department of Defense accounting for missing United States Government personnel

(a) IN GENERAL.—The Secretary of Defense may provide assistance to any foreign nation to assist the Department of Defense with recovery of and accounting for missing United States Government personnel.

(b) ***

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~~(f) ANNUAL REPORTS.—(1) Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the assistance provided under this section during the fiscal year ending in such year.~~

~~(2) Each report under paragraph (1) shall include, for the fiscal year covered by such report, the following:~~

~~(A) A listing of each foreign nation provided assistance under this section.~~

~~(B) For each nation so provided assistance, a description of the type and amount of such assistance.~~

(f) CONGRESSIONAL OVERSIGHT.—Whenever the Secretary of Defense provides assistance to a foreign country under this section, the Secretary shall submit to the congressional defense committees a report on the assistance provided. Each such report shall identify the country to which the assistance was provided and shall include a description of the type and amount of the assistance provided.

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§ 427. ~~Intelligence oversight activities of Department of Defense: annual reports~~

~~(a) Annual Reports Required.—(1) Not later than March 1 of each year, the Secretary of Defense shall submit—~~

~~(A) to the congressional committees specified in subparagraph (A) of paragraph (2) a report on the intelligence oversight activities of the Department of Defense during the previous calendar year insofar as such oversight activities relate to tactical intelligence and intelligence-related activities of the Department; and~~

~~(B) to the congressional committees specified in subparagraph (B) of paragraph (2) a report on the intelligence oversight activities of the Department of Defense during the previous calendar year insofar as such oversight activities relate to intelligence and intelligence-related activities of the Department other than those specified in subparagraph (A).~~

~~(2)(A) The committees specified in this subparagraph are the following:~~

~~(i) The Committee on Armed Services and the Committee on Appropriations of the Senate.~~

~~(ii) The Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.~~

~~(B) The committees specified in this subparagraph are the following:~~

~~(i) The Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate.~~

~~(ii) The Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives.~~

~~(b) Elements. - Each report under subsection (a) shall include, for the calendar year covered by such report and with respect to oversight activities subject to coverage in that report, the following:~~

~~(1) A description of any violation of law or of any Executive order or Presidential directive (including Executive Order No. 12333) that comes to the attention of any General Counsel or Inspector General within the Department of Defense, or the Under Secretary of Defense for Intelligence, and a description of the actions taken by such official with respect to such activity.~~

~~(2) A description of the results of intelligence oversight inspections undertaken by each of the following:~~

~~(A) The Office of the Secretary of Defense.~~

~~(B) Each military department.~~

~~(C) Each combat support agency.~~

~~(D) Each field operating agency.~~

~~(3) A description of any changes made in any program for the intelligence oversight activities of the Department of Defense, including any training program.~~

~~(4) A description of any changes made in any published directive or policy memoranda on the intelligence or intelligence-related activities of -~~

~~(A) any military department;~~

~~(B) any combat support agency; or~~

~~(C) any field operating agency.~~

~~(c) Definitions. - In this section:~~

~~(1) The term "intelligence oversight activities of the Department of Defense" refers to any activity undertaken by an agency, element, or component of the Department of Defense to ensure compliance with regard to requirements or instructions on the intelligence and intelligence-related activities of the Department under law or any Executive order or Presidential directive (including Executive Order No. 12333).~~

~~(2) The term "combat support agency" has the meaning given that term in section 193(f) of this title.~~

~~(3) The term "field operating agency" means a specialized subdivision of the Department of Defense that carries out activities under the operational control of the Department~~.

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§ 437. Congressional oversight

(a) Proposed Regulations. - Copies of regulations proposed to be prescribed under section 436 of this title (including any proposed revision to such regulations) shall be submitted to the intelligence committees not less than 30 days before they take effect.

(b) Current Information. - Consistent with title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), the Secretary of Defense shall ensure that the intelligence committees are kept fully and currently informed of actions taken pursuant to this subchapter, including any significant anticipated activity to be authorized pursuant to this subchapter.

~~(c) Annual Report. - Not later each year than the date provided in section 507 of the National Security Act of 1947 (50 U.S.C. 415b), the Secretary shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a)) a report on all commercial activities authorized under this subchapter that were undertaken during the previous fiscal year. Such report shall include (with respect to the fiscal year covered by the report) the following:~~

~~(1) A description of any exercise of the authority provided by section 433(b) of this title.~~

~~(2) A description of any expenditure of funds made pursuant to this subchapter (whether from appropriated or non-appropriated funds).~~

~~(3) A description of any actions taken with respect to audits conducted pursuant to section 432 of this title to implement recommendations or correct deficiencies identified in such audits.~~

~~(4) A description of each corporation, partnership, or other legal entity that was established~~.

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§ 483. ~~Reports on transfers from high-priority readiness appropriations~~

~~(a) Annual Reports.—Not later than the date on which the President submits the budget for a fiscal year to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report on transfers during the preceding fiscal year from funds available for each covered budget activity.~~

~~(b) Midyear Reports.—Not later than June 1 of each fiscal year, the Secretary of Defense shall submit to the congressional committees specified in subsection (a) a report on transfers, during the first six months of that fiscal year, from funds available for each covered budget activity.~~

~~(c) Matters To Be Included.—In each report under subsection (a) or (b), the Secretary of Defense shall include for each covered budget activity the following:~~

~~(1) A statement, for the period covered by the report, of—~~

~~(A) the total amount of transfers into funds available for that activity;~~

~~(B) the total amount of transfers from funds available for that activity; and~~

~~(C) the net amount of transfers into, or out of, funds available for that activity.~~

~~(2) A detailed explanation of the transfers into, and out of, funds available for that activity during the period covered by the report, including identification of the sources from which funds were transferred into that activity and identification of the recipients of the funds transferred out of that activity.~~

~~(d) Covered Budget Activity Defined.—In this section, the term "covered budget activity" means each of the following:~~

~~(1) The budget activity groups (known as "subactivities") within the Operating Forces budget activity of the annual Operation and Maintenance, Army, appropriation that are designated as follows:~~

~~(A) All subactivities under the category of Land Forces.~~

~~(B) Land Forces Depot Maintenance.~~

~~(C) Base Support.~~

~~(D) Maintenance of Real Property.~~

~~(2) The Air Operations budget activity groups (known as "subactivities") within the Operating Forces budget activity of the annual Operation and Maintenance, Navy, appropriation that are designated as follows:~~

~~(A) Mission and Other Flight Operations.~~

~~(B) Fleet Air Training.~~

~~(C) Aircraft Depot Maintenance.~~

~~(D) Base Support.~~

~~(E) Maintenance of Real Property.~~

~~(3) The Ship Operations budget activity groups (known as "subactivities") within the Operating Forces budget activity of the annual Operation and Maintenance, Navy, appropriation that are designated as follows:~~

~~(A) Mission and Other Ship Operations.~~

~~(B) Ship Operational Support and Training.~~

~~(C) Ship Depot Maintenance.~~

~~(D) Base Support.~~

~~(E) Maintenance of Real Property.~~

~~(4) The Expeditionary Forces budget activity groups (known as "subactivities") within the Operating Forces budget activity of the annual Operation and Maintenance, Marine Corps, appropriation that are designated as follows:~~

~~(A) Operational Forces.~~

~~(B) Depot Maintenance.~~

~~(C) Base Support.~~

~~(D) Maintenance of Real Property.~~

~~(5) The Air Operations and Combat Related Operations budget activity groups (known as "subactivities") within the Operating Forces budget activity of the annual Operation and Maintenance, Air Force, appropriation that are designated as follows:~~

~~(A) Primary Combat Forces.~~

~~(B) Primary Combat Weapons.~~

~~(C) Air Operations Training.~~

~~(D) Depot Maintenance.~~

~~(E) Base Support.~~

~~(F) Maintenance of Real Property.~~

~~(G) Combat Enhancement Forces.~~

~~(H) Combat Communications.~~

~~(6) The Mobility Operations budget activity group (known as a "subactivity") within the Mobilization budget activity of the annual Operation and Maintenance, Air Force, appropriation that is designated as Airlift Operations~~.

§ 484. ~~Annual Report on Aircraft Inventory~~

~~(a) Annual Report.—The Under Secretary of Defense (Comptroller) shall submit to Congress each year a report on the aircraft in the inventory of the Department of Defense. The Under Secretary shall submit the report when the President submits the budget to Congress under section 1105(a) of title 31.~~

~~(b) Content.—The report shall set forth, in accordance with subsection (c), the following information:~~

~~(1) The total number of aircraft in the inventory.~~

~~(2) The total number of the aircraft in the inventory that are active, stated in the following categories (with appropriate subcategories for mission aircraft, training aircraft, dedicated test aircraft, and other aircraft):~~

~~(A) Primary aircraft.~~

~~(B) Backup aircraft.~~

~~(C) Attrition and reconstitution reserve aircraft.~~

~~(3) The total number of the aircraft in the inventory that are inactive, stated in the following categories:~~

~~(A) Bailment aircraft.~~

~~(B) Drone aircraft.~~

~~(C) Aircraft for sale or other transfer to foreign governments.~~

~~(D) Leased or loaned aircraft.~~

~~(E) Aircraft for maintenance training.~~

~~(F) Aircraft for reclamation.~~

~~(G) Aircraft in storage.~~

~~(4) The aircraft inventory requirements approved by the Joint Chiefs of Staff.~~

~~(c) Display of Information.—The report shall specify the information required by subsection (b) separately for the active component of each armed force and for each reserve component of each armed force and, within the information set forth for each such component, shall specify the information separately for each type, model, and series of aircraft provided for in the future-years defense program submitted to Congress~~.

~~§ 485. Joint and service concept development and experimentation~~

~~(a) BIENNIAL REPORTS REQUIRED.—Not later than January 1 of each even numbered year, the Secretary of Defense or the Secretary's designee shall submit to the congressional defense committees a report on the conduct and outcomes of joint and service concept development and experimentation.~~

~~(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall include the following:~~

~~(1) A description of any changes since the latest report submitted under this section to each of the following:~~

~~(A) The organization of the Department of Defense responsible for executing the mission of joint concept development and experimentation, or its specific authorities related to that mission.~~

~~(B) The process for tasking forces (including forces designated as joint experimentation forces) to participate in joint concept development and experimentation, and the specific authority of the organization responsible for executing the mission of joint concept development and experimentation over those forces.~~

~~(C) The resources provided for initial implementation of joint concept development and experimentation, the process for providing such resources to the organization responsible for executing the mission of joint concept development and experimentation, the categories of funding for joint concept development and experimentation, and the authority of the organization responsible for executing the mission of joint concept development and experimentation for budget execution for such activities.~~

~~(D) The assigned role of the organization responsible for executing the mission of joint concept development and experimentation for—~~

~~(i) integrating and testing in joint concept development and experimentation the systems that emerge from warfighting experimentation by the armed forces and the Defense Agencies;~~

~~(ii) assessing the effectiveness of organizational structures, operational concepts, and technologies relating to joint concept development and experimentation; and~~

~~(iii) assisting the Secretary of Defense and the Chairman of the Joint Chiefs of Staff in setting priorities for requirements or acquisition programs in light of joint concept development and experimentation.~~

~~(2) A description of the conduct of joint concept development and experimentation activities, and of concept development and experimentation activities of each of the military departments, during the two-year period ending on the date of such report, including—~~

~~(A) the funding involved;~~

~~(B) the number of activities engaged in;~~

~~(C) the forces involved;~~

~~(D) the national and homeland security challenges addressed;~~

~~(E) the operational concepts assessed;~~

~~(F) the technologies assessed;~~

~~(G) the scenarios and measures of effectiveness utilized; and~~

~~(H) specific interactions under such activities with the commanders of the combatant commands and with other organizations and entities inside and outside the Department.~~

~~(3) A description of the conduct of joint concept development and experimentation, and of the conduct of concept development and experimentation by each of the military departments, during the two-year period ending on the date of such report with respect to the development of warfighting concepts for operational scenarios more than 10 years in the future, including—~~

~~(A) the funding involved;~~

~~(B) the number of activities engaged in;~~

~~(C) the forces involved;~~

~~(D) the challenges addressed;~~

~~(E) the operational concepts assessed;~~

~~(F) the technologies assessed;~~

~~(G) the scenarios and measures of effectiveness utilized; and~~

~~(H) specific interactions with the commanders of the combatant commands and with other organizations and entities inside and outside the Department.~~

~~(4) A description of the mechanisms used to coordinate joint, service, interagency, Coalition, and other appropriate concept development and experimentation activities.~~

~~(5) An assessment of the return on investment in concept development and experimentation activities, including a description of the following:~~

~~(A) Specific outcomes and impacts within the Department of the results of past joint and service concept development and experimentation in terms of new doctrine, operational concepts, organization, training, materiel, leadership, personnel, or the allocation of resources, or in activities that terminated support for legacy concepts, programs, or systems.~~

~~(B) Specific actions taken to implement the recommendations of the Commander of United States Joint Forces Command based on joint concept development and experimentation activities.~~

~~(6) Such recommendations (based primarily on the results of joint and service concept development and experimentation) as the Secretary considers appropriate for enhancing the development of joint warfighting capabilities by modifying activities throughout the Department relating to—~~

~~(A) the development or acquisition of specific advanced technologies, systems, or weapons or systems platforms;~~

~~(B) key systems attributes and key performance parameters for the development or acquisition of advanced technologies and systems;~~

~~(C) joint or service doctrine, organization, training, materiel, leadership development, personnel, or facilities;~~

~~(D) the reduction or elimination of redundant equipment and forces, including the synchronization of the development and fielding of advanced technologies among the armed~~

~~forces to enable the development and execution of joint operational concepts; and~~

~~(E) the development or modification of initial capabilities documents, operational requirements, and relative priorities for acquisition programs to meet joint requirements.~~

~~(7) With respect to improving the effectiveness of joint concept development and experimentation capabilities, such recommendations (based primarily on the results of joint warfighting experimentation) as the Secretary considers appropriate regarding—~~

~~(A) the conduct of, adequacy of resources for, or development of technologies to support such capabilities; and~~

~~(B) changes in support from other elements of the Department responsible for concept development and experimentation by joint or service organizations.~~

~~(8) The coordination of the concept development and experimentation activities of the Commander of the United States Joint Forces Command with the activities of the Commander of the North Atlantic Treaty Organization Supreme Allied Command Transformation.~~

~~(9) Any other matters that the Secretary consider appropriate.~~

~~(c) COORDINATION AND SUPPORT.—The Secretary of Defense shall ensure that the Secretaries of the military departments and the heads of other appropriate elements of the Department of Defense provide such information and support as is required for the preparation of the reports required by this section.~~

§ 486. ~~Quadrennial report on emerging operational concepts~~

~~(a) Quadrennial Report Required.—Not later than March 1 of each year evenly divisible by four, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on emerging operational concepts. Each such report shall be prepared by the Secretary in consultation with the Chairman of the Joint Chiefs of Staff.~~

~~(b) Content of Report Relating to DoD Processes.—Each such report shall contain a description, for the four years preceding the year in which the report is submitted, of the following:~~

~~(1) The process undertaken in the Department of Defense, and in each of the Army, Navy, Air Force, and Marine Corps, to define and develop doctrine, operational concepts, organizational concepts, and acquisition strategies to address—~~

~~(A) the potential of emerging technologies for significantly improving the operational effectiveness of the armed forces;~~

~~(B) changes in the international order that may necessitate changes in the operational capabilities of the armed forces;~~

~~(C) emerging capabilities of potential adversary states; and~~

~~(D) changes in defense budget projections.~~

~~(2) The manner in which the processes described in paragraph (1) are harmonized 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 processes described in paragraph (1) are coordinated through the Joint Requirements Oversight Council and reflected in the planning, programming, and budgeting process of the Department of Defense.~~

~~(c) Content of Report Relating to Identification of Technological Objectives for Research and Development.—Each report under this section shall set forth the military capabilities that are necessary for meeting national security requirements over the next two to three decades, including—~~

~~(1) the most significant strategic and operational capabilities (including both armed force-specific and joint capabilities) that are necessary for the armed forces to prevail against the most dangerous threats, including asymmetrical threats, that could be posed to the national security interests of the United States by potential adversaries from 20 to 30 years in the future;~~

~~(2) the key characteristics and capabilities of future military systems (including both armed force-specific and joint systems) that will be needed to meet each such threat; and~~

~~(3) the most significant research and development challenges that must be met, and the technological breakthroughs that must be made, to develop and field such systems.~~

§ 487. ~~Unit operations tempo and personnel tempo: annual report~~

~~(a) Inclusion in Annual Report.—The Secretary of Defense shall include in the annual report required by section 113(c) of this title a description of the operations tempo and personnel tempo of the armed forces.~~

~~(b) Specific Requirements.—(1) Until such time as the Secretary of Defense develops a common method to measure operations tempo and personnel tempo for the armed forces, the description required under subsection (a) shall include the methods by which each of the armed forces measures operations tempo and personnel tempo.~~

~~(2) The description shall include the personnel tempo policies of each of the armed forces and any changes to these policies since the preceding report.~~

~~(3) The description shall include a table depicting the active duty end strength for each of the armed forces for each of the preceding five years and also depicting the number of members of each of the armed forces deployed over the same period, as determined by the Secretary concerned.~~

~~(4) The description shall identify the active and reserve component units of the armed forces participating at the battalion, squadron, or an equivalent level (or a higher level) in contingency operations, major training events, and other exercises and contingencies of such a scale that the exercises and contingencies receive an official designation, that were conducted during the period covered by the report and the duration of their participation.~~

~~(5) For each of the armed forces, the description shall indicate, for the period covered by the report—~~

~~(A) the number of members who received the high-deployment allowance under section 436 of title 37;~~

~~(B) the number of members who received each rate of allowance paid;~~

~~(C) the number of members who received the allowance for one month, for two months, for three months, for four months, for five months, for six months, and for more than six months; and~~

~~(D) the total amount spent on the allowance.~~

~~(6) For each of the armed forces, the description shall indicate the number of days that high demand, low density units (as defined by the Chairman of the Joint Chiefs of Staff) were deployed during the period covered by the report, and whether these units met the force goals for limiting deployments, as described in the personnel tempo policies applicable to that armed force.~~

~~(c) Operations Tempo and Personnel Tempo Defined.—Until such time as the Secretary of Defense establishes definitions of operations tempo and personnel tempo applicable to all of the armed forces, the following definitions shall apply for purposes of the preparation of the description required under subsection (a):~~

~~(1) The term "operations tempo" means the rate at which units of the armed forces are involved in all military activities, including contingency operations, exercises, and training deployments.~~

~~(2) The term "personnel tempo" means the amount of time members of the armed forces are engaged in their official duties, including official duties at a location or under circumstances that make it infeasible for a member to spend off-duty time in the housing in which the member resides when on garrison duty at the member's permanent duty station.~~

~~(d) Inapplicability to Coast Guard.—In this section, the term "armed forces" does not include the Coast Guard when it is not operating as a service in the Department of the Navy~~.

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§ 489. ~~Annual report on Department of Defense operation and financial support for military museums~~

~~(a) Report Required.—As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, but in no case later than March 15 of each year, the Secretary of Defense shall submit a report identifying all military museums that, during the most recently completed fiscal year—~~

~~(1) were operated by the Secretary of Defense or the Secretary of a military department;~~

~~(2) were otherwise supported using funds appropriated to the Department of Defense; or~~

~~(3) were located on property under the jurisdiction of the Department of Defense, although neither operated by the Department of Defense nor supported using funds appropriated to the Department of Defense.~~

~~(b) Information on Individual Museums.—For each museum identified in a report under this section, the Secretary of Defense shall include in the report the following:~~

~~(1) The purpose and functions of the museum and the justification for the museum.~~

~~(2) A description of the facilities dedicated to the museum, including the location, size, and type of facilities and whether the facilities are included or eligible for inclusion on the National Register of Historic Places.~~

~~(3) An itemized listing of the funds appropriated to the Department of Defense that were obligated to support the museum during the fiscal year covered by the report and a description of the process used to determine the annual allocation of Department of Defense funds for the museum.~~

~~(4) An itemized listing of any other Federal funds, funds from a nonappropriated fund instrumentality account of the Department of Defense, and non-Federal funds obligated to support the museum.~~

~~(5) The management structure of the museum, including identification of the persons responsible for preparing the budget for the museum and for making acquisition and management decisions for the museum.~~

~~(6) The number of civilian employees of the Department of Defense and members of the armed forces who served full-time or part-time at the museum and their role in the management structure of the museum.~~

~~(c) Information on Support Priorities.—Each report under this section shall also include a separate description of the procedures used by the Secretary of Defense, in the case of museums identified in the report that are operated or supported by the Secretary of Defense, and the Secretary of a military department, in the case of museums identified in the report that are operated or supported by that Secretary, to prioritize funding and personnel support to the museums. The Secretary of Defense shall include a description of any such procedures applicable to the entire Department of Defense~~.

§490~~. Space cadre management: biennial report~~

~~(a) Requirement.—The Secretary of Defense and each Secretary of a military department shall develop metrics and use these metrics to identify, track, and manage space cadre personnel within the Department of Defense to ensure the Department has sufficient numbers of personnel with the expertise, training, and experience to meet current and future national security space needs.~~

~~(b) Biennial Report Required.—~~

~~(1) In general.—Not later than 180 days after the date of the enactment of this section, and every even-numbered year thereafter, the Secretary of Defense shall submit to the congressional defense committees a report on the management of the space cadre.~~

~~(2) Matters included.—The report required by paragraph (1) shall include~~

~~(A) the number of active duty, reserve duty, and government civilian space-coded billets that~~

~~(i) are authorized or permitted to be maintained for each military department and defense agency;~~

~~(ii) are needed or required for each military department and defense agency for the year in which the submission of the report is required; and~~

~~(iii) are needed or required for each military department and defense agency for each of the five years following the date of the submission of the report;~~

~~(B) the actual number of active duty, reserve duty, and government civilian personnel that are coded or classified as space cadre personnel within the Department of Defense, including the military departments and defense agencies;~~

~~(C) the number of personnel recruited or hired as accessions to serve in billets coded or classified as space cadre personnel for each military department and defense agency;~~

~~(D) the number of personnel serving in billets coded or classified as space cadre personnel that discontinued serving each military department and defense agency during the preceding calendar year;~~

~~(E) for each of the reporting requirements in subparagraphs (A) through (D), further classification of the number of personnel by~~

~~(i) space operators, acquisition personnel, engineers, scientists, program managers, and other space-related areas identified by the Department;~~

~~(ii) expertise or technical specialization area~~

~~(I) such as communications, missile warning, spacelift, and any other space-related specialties identified by the Department or classifications used by the Department; and~~

~~(II) consistent with section 1721 of this title for acquisition personnel;~~

~~(iii) rank for active duty and reserve duty personnel and grade for government civilian personnel;~~

~~(iv) qualification, expertise, or proficiency level consistent with service and agency-defined qualification, expertise, or proficiency levels; and~~

~~(v) any other such space-related classification categories used by the Department or military departments; and~~

~~(F) any other metrics identified by the Department to improve the identification, tracking, training, and management of space cadre personnel.~~

~~(3) Assessments.—The report required by paragraph (1) shall also include the Secretary's assessment of the state of the Departments space cadre, the Secretary's assessment of the space cadres of the military departments, and a description of efforts to ensure the Department has a space cadre sufficient to meet current and future national security space needs.~~

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§ 652. ~~Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned~~

~~(a) Rule for Ground Combat Personnel Policy.—(1) If the Secretary of Defense proposes to make any change described in paragraph (2)(A) or (2)(B) to the ground combat exclusion policy or proposes to make a change described in paragraph (2)(C), the Secretary shall, before any such change is implemented, submit to Congress a report providing notice of the proposed change. Such a change may then be implemented only after the end of a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) following the date on which the report is received.~~

~~(2) A change referred to in paragraph (1) is a change that—~~

~~(A) closes to female members of the armed forces any category of unit or position that at that time is open to service by such members;~~

~~(B) opens to service by female members of the armed forces any category of unit or position that at that time is closed to service by such members; or~~

~~(C) opens or closes to the assignment of female members of the armed forces any military career designator as described in paragraph (6).~~

~~(3) The Secretary shall include in any report under paragraph (1)—~~

~~(A) a detailed description of, and justification for, the proposed change; and~~

~~(B) a detailed analysis of legal implication of the proposed change with respect to the constitutionality of the application of the Military Selective Service Act (50 App. U.S.C. 451 et seq.) to males only.~~

~~(4) In this subsection, the term "ground combat exclusion policy" means the military personnel policies of the Department of Defense and the military departments, as in effect on October 1, 1994, by which female members of the armed forces are restricted from assignment to units and positions below brigade level whose primary mission is to engage in direct combat on the ground.~~

~~(5) For purposes of this subsection, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.~~

~~(6) For purposes of this subsection, a military career designator is one that is related to military operations on the ground as of May 18, 2005, and applies—~~

~~(A) for enlisted members and warrant officers, to military occupational specialties, specialty codes, enlisted designators, enlisted classification codes, additional skill identifiers, and special qualification identifiers; and~~

~~(B) for officers (other than warrant officers), to officer areas of concentration, occupational specialties, specialty codes, designators, additional skill identifiers, and special qualification identifiers.~~

~~(b) Other Personnel Policy Changes.—~~

~~(1) Except in a case covered by section 6035 of this title or by subsection (a), whenever the Secretary of Defense proposes to make a change to military personnel policies described in paragraph (2), the Secretary shall, not less than 30 days before such change is implemented, submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice, in writing, of the proposed change.~~

~~(2) Paragraph (1) applies to a proposed military personnel policy change, other than a policy change covered by subsection (a), that would make available to female members of the armed forces assignment to any of the following that, as of the date of the proposed change, is closed to such assignment:~~

~~(A) Any type of unit not covered by subsection (a).~~

~~(B) Any class of combat vessel.~~

~~(C) Any type of combat platform~~.

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§ 983. Institutions of higher education that prevent ROTC access or military recruiting on campus: denial of grants and contracts from Department of Defense, Department of Education, and certain other departments and agencies

(a) Denial of Funds for Preventing ROTC Access to Campus. – No funds described in subsection (d)(1) may be provided by contract or by grant to an institution of higher education (including any subelement of such institution) if the Secretary of Defense determines that that institution (or any subelement of that institution) has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents -

(1) the Secretary of a military department from maintaining, establishing, or operating a unit of the Senior Reserve Officer Training Corps (in accordance with section 654 of this title and other applicable Federal laws) at that institution (or any subelement of that institution); or

(2) a student at that institution (or any subelement of that institution) from enrolling in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.

(b) Denial of Funds for Preventing Military Recruiting on Campus. - No funds described in subsection (d)(1) may be provided by contract or by grant to an institution of higher education (including any subelement of such institution) if the Secretary of Defense determines that that institution (or any subelement of that institution) has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents -

(1) the Secretary of a military department or Secretary of Homeland Security from gaining access to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer; or

(2) access by military recruiters for purposes of military recruiting to the following information pertaining to students (who are 17 years of age or older) enrolled at that institution (or any subelement of that institution):

(A) Names, addresses, and telephone listings.

(B) Date and place of birth, levels of education, academic majors, degrees received, and the most recent educational institution enrolled in by the student.

(c) Exceptions. - The limitation established in subsection (a) or (b) shall not apply to an institution of higher education (or any subelement of that institution) if the Secretary of Defense determines that -

(1) the institution (and each subelement of that institution) has ceased the policy or practice described in that subsection; or

(2) the institution of higher education involved has a longstanding policy of pacifism based on historical religious affiliation.

(d) Covered Funds. - (1) Except as provided in paragraph (2), the limitations established in subsections (a) and (b) apply to the following:

(A) Any funds made available for the Department of Defense.

(B) Any funds made available for any department or agency for which regular appropriations are made in a Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act.

(C) Any funds made available for the Department of Homeland Security.

(D) Any funds made available for the National Nuclear Security Administration of the Department of Energy.

(E) Any funds made available for the Department of Transportation.

(F) Any funds made available for the Central Intelligence Agency.

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

(e) Notice of Determinations. - Whenever the Secretary of Defense makes a determination under subsection (a), (b), or (c), the Secretary -

(1) shall transmit a notice of the determination to the Secretary of Education~~,~~ and to the head of each other department and agency the funds of which are subject to the determination~~, and to Congress~~; and

(2) shall publish in the Federal Register a notice of the determination and the effect of the determination on the eligibility of the institution of higher education (and any subelement of that institution) for contracts and grants.

(f) Semiannual Notice in Federal Register. - The Secretary of Defense shall publish in the Federal Register once every six months a list of each institution of higher education that is currently ineligible for contracts and grants by reason of a determination of the Secretary under subsection (a) or (b).

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§ 1130. Consideration of proposals for decorations not previously submitted in timely fashion: procedures for review

(a) Upon request of a Member of Congress, the Secretary concerned shall review a proposal for the award or presentation of a decoration (or the upgrading of a decoration), either for an individual or a unit, that is not otherwise authorized to be presented or awarded due to limitations established by law or policy for timely submission of a recommendation for such award or presentation. Based upon such review, the Secretary shall make a determination as to the merits of approving the award or presentation of the decoration.

~~(b) Upon making a determination under subsection (a) as to the merits of approving the award or presentation of the decoration, the Secretary concerned shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives and to the requesting Member of Congress a detailed discussion of the rationale supporting the determination.~~

(c) Determinations under this section regarding the award or presentation of a decoration shall be made in accordance with the same procedures that apply to the approval or disapproval of the award or presentation of a decoration when a recommendation for such award or presentation is submitted in a timely manner as prescribed by law or regulation.

(d) In this section:

(1) The term "Member of Congress" means -

(A) a Senator; or

(B) a Representative in, or a Delegate or Resident Commissioner to, Congress.

(2) The term "decoration" means any decoration or award that may be presented or awarded to a member or unit of the armed forces.

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§ 1178. System and procedures for tracking separations resulting from refusal to participate in anthrax vaccine immunization program

~~(a) Requirement To Establish System.~~ The Secretary of each military department shall establish a system for tracking, recording, and reporting separations of members of the armed forces under the Secretary's jurisdiction that result from procedures initiated as a result of a refusal to participate in the anthrax vaccine immunization program.

~~(b) Report. The Secretary of Defense shall consolidate the information recorded under the system described in subsection (a) and shall submit to the Committees on Armed Services of the Senate and the House of Representatives not later than April 1 of each year a report on such information. Each such report shall include a description of~~

~~(1) the number of members separated, categorized by military department, grade, and active-duty or reserve status; and~~

~~(2) any other information determined appropriate by the Secretary~~.

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§ 1557. Timeliness standards for disposition of applications before Corrections Boards

(a) Ten-Month Clearance Percentage. - Of the applications received by a Corrections Board during a period specified in the following table, the percentage on which final action by the Corrections Board must be completed within 10 months of receipt (other than for those applications considered suitable for administrative correction) is as follows:

For applications received during –	The percentage on which final Correction Board action must be completed within 10 months of receipt is -

the period of fiscal years 2001 and 2002	50
the period of fiscal years 2003 and 2004	60
the period of fiscal years 2005, 2006, and 2007	70
the period of fiscal years 2008, 2009, and 2010	80
the period of any fiscal year after fiscal year 2010	90

(b) Clearance Deadline for All Applications. - Final action by a Corrections Board on all applications received by the Corrections Board (other than those applications considered suitable for administrative correction) shall be completed within 18 months of receipt.

(c) Waiver Authority. - The Secretary of the military department concerned may exclude an individual application from the timeliness standards prescribed in subsections (a) and (b) if the Secretary determines that the application warrants a longer period of consideration. The authority of the Secretary of a military department under this subsection may not be delegated.

(d) Failure To Meet Timeliness Standards Not To Affect Any Individual Application. - Failure of a Corrections Board to meet the applicable timeliness standard for any period of time under subsection (a) or (b) does not confer any presumption or advantage with respect to consideration by the board of any application.

~~(e) Reports on Failure To Meet Timeliness Standards. - The Secretary of the military department concerned shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report not later than June 1 following any fiscal year during which the Corrections Board of that Secretary's military department was unable to meet the applicable timeliness standard for that fiscal year under subsections (a) and (b). The report shall specify the reasons why the standard could not be met and the corrective actions initiated to ensure compliance in the future. The report shall also specify the number of waivers granted under subsection (c) during that fiscal year.~~

(f) Corrections Board Defined. - In this section, the term "Corrections Board" means -

(1) with respect to the Department of the Army, the Army Board for Correction of Military Records;

(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

(3) with respect to the Department of the Air Force, the Air Force Board for Correction of Military Records.

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§ 1563. ~~Consideration of proposals for posthumous and honorary promotions and appointments: procedures for review~~

~~(a) Review by Secretary Concerned. - Upon request of a Member of Congress, the Secretary concerned shall review a proposal for the posthumous or honorary promotion or appointment of a member or former member of the armed forces, or any other person considered qualified, that is not otherwise authorized by law. Based upon such review, the Secretary shall make a determination as to the merits of approving the posthumous or honorary promotion or appointment.~~

~~(b) Notice of Results of Review. - Upon making a determination under subsection (a) as to the merits of approving the posthumous or honorary promotion or appointment, the Secretary concerned shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives and to the requesting Member of Congress a detailed discussion of the rationale supporting the determination.~~

~~(c) Definition. - In this section, the term "Member of Congress" means -~~

~~(1) a Senator; or~~

~~(2) a Representative in, or a Delegate or Resident Commissioner to, Congress.~~

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§ 1597. Civilian positions: guidelines for reductions

(a) Requirement of Guidelines for Reductions in Civilian Positions. - Reductions in the number of civilian positions of the Department of Defense during a fiscal year, if any, shall be carried out in accordance with the guidelines established pursuant
to subsection (b).

(b) Guidelines. - The Secretary of Defense shall establish guidelines for the manner in which reductions in the number of civilian positions of the Department of Defense are made. The guidelines shall include procedures for reviewing civilian positions for reductions according to the following order:

(1) Positions filled by foreign national employees overseas.

(2) All other positions filled by civilian employees overseas.

(3) Overhead, indirect, and administrative positions in headquarters or field operating agencies in the United States.

(4) Direct operating or production positions in the United States.

~~(c) Master Plan.—(1) The Secretary of Defense shall include in the materials submitted to Congress in support of the budget request for the Department of Defense for each fiscal year a civilian positions master plan described in paragraph (2) for the Department of Defense as a whole and for each military department, Defense Agency, and other principal component of the Department of Defense.~~

~~(2) The master plan referred to in paragraph (1) shall include the information described in paragraph (3). Such information shall include information for each of the two fiscal years immediately preceding such fiscal year and projected information for such fiscal year and each of the two fiscal years immediately following such fiscal year.~~

~~(3) The information referred to in paragraph (2) is the following:~~

~~(A) A profile of the levels of civilian positions sufficient to establish and maintain a baseline for tracking annual accessions and losses of civilian positions and to provide for the analysis of trends in the levels of civilian positions within the Department of Defense as a whole and for each military department, major subordinate command of each military department, Defense Agency, and other principal component of the Department of Defense. The profile shall include information on the following:~~

~~(i) The total number of civilian employees.~~

~~(ii) Of the total number of civilian employees, the number of civilian employees in the United States, the number of civilian employees overseas, and the number of foreign national employees overseas.~~

~~(iii) Of the total number of civilian employees at the end of each fiscal year covered by the master plan, the number of full-time employees, the number of part-time employees, and the number of temporary and on-call employees.~~

~~(iv) Accessions and losses of civilian positions, shown in the aggregate and by the number of full-time employees, the number of part-time employees, and the number of temporary and on-call employees.~~

~~(v) The number of losses of civilian positions, by appropriation account, due to reductions in force, furloughs, or functional transfers or other significant transfers of work away from the military department, Defense Agency, or other component.~~

~~(vi) The extent to which accessions and losses of civilian positions are due to functional transfers or competitive actions that are related to the Department of Defense management review initiatives of the Secretary of Defense.~~

~~(vii) The total number of individuals employed by contractors and subcontractors of the Department of Defense under a contract or subcontract entered into pursuant to Office of Management and Budget Circular A-76 to perform commercial activities for the Department of Defense, a military department, a defense agency, or other component.~~

~~(B) For industrial-type and commercial-type activities funded through the Defense Business Operations Fund, the following information:~~

~~(i) Annual trends in the amount of funded workload for each activity, based upon the average number of months of accumulated, funded workload to be performed, or projected to be performed, by the activity.~~

~~(ii) The extent to which such workload is funded by funds that are appropriated from appropriation accounts and managed through the Defense Business Operations Fund.~~

~~(C) Information that indicates trends in the extent to which the military department, Defense Agency, or other component enters into contracts with persons outside of the Department of Defense, rather~~

~~than uses civilian positions, to perform work for the military department, Defense Agency, or other component.~~

~~(D) Information that indicates the extent to which the Department of Defense management review initiatives of the Secretary of Defense and other productivity enhancement programs of the Department of Defense significantly affect the number of losses of civilian positions, particularly administrative and management positions.~~

~~(4) The Secretary of Defense shall include in the materials referred to in paragraph (1) a report on the implementation of the master plan for the fiscal year immediately preceding the fiscal year for which such materials are submitted.~~

~~(d) Exceptions.—The Secretary of Defense may permit a variation from the guidelines established under subsection (b) or a master plan prepared under subsection (c) if the Secretary determines that such variation is critical to the national security. The Secretary shall immediately notify the Congress of any such variation and the reasons for such variation.~~

~~(e) Involuntary Reductions of Civilian Positions.—The Secretary of Defense may not implement any involuntary reduction or furlough of civilian positions in a military department, Defense Agency, or other component of the Department of Defense until the expiration of the 45-day period beginning on the date on which the Secretary submits to Congress a report setting forth the reasons why such reductions or furloughs are required and a description of any change in workload or positions requirements that will result from such reductions or furloughs~~.

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§1781b. Department of Defense policy and plans for military family readiness

(a) Policy and Plans Required. - The Secretary of Defense shall develop a policy and plans for the Department of Defense for the support of military family readiness.

(b) Purposes. - The purposes of the policy and plans required under subsection (a) are as follows:

(1) ***

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(c) Elements of Policy. - The policy required under subsection (a) shall include the following elements:

(1) ***

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~~(d) Annual Report.—Not later than March 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the plans required under subsection (a) for the five-fiscal-year period beginning with the fiscal year in which the report is submitted. Each report shall include the plans covered by the report and an assessment of the discharge by the Department of Defense of the previous plans submitted under this section~~.

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§ 2010. Participation of developing countries in combined exercises: payment of incremental expenses

(a) The Secretary of Defense, after consultation with the Secretary of State, may pay the incremental expenses of a developing country that are incurred by that country as the direct result of participation in a bilateral or multilateral military exercise if -

(1) the exercise is undertaken primarily to enhance the security interests of the United States; and

(2) the Secretary of Defense determines that the participation by such country is necessary to the achievement of the fundamental objectives of the exercise and that those objectives cannot be achieved unless the United States provides the incremental expenses incurred by such country.

~~(b) The Secretary of Defense shall submit to Congress a report each year, not later than March 1, containing -~~

~~(1) a list of the developing countries for which expenses have been paid by the United States under this section during the preceding year; and~~

~~(2) the amounts expended on behalf of each government.~~

(c) The Secretary of Defense shall establish by regulation such accounting procedures as may be necessary to ensure that funds expended under this section are properly expended.

(d) Funds available to carry out this section shall be available, to the extent provided in appropriations Acts, for bilateral or multilateral military exercises that begin in a fiscal year and end in the following fiscal year.

(e) In this section, the term "incremental expenses" means the reasonable and proper cost of the goods and services that are consumed by a developing country as a direct result of that country's participation in a bilateral or multilateral military exercise with the United States, including rations, fuel, training ammunition, and transportation. Such term does not include pay, allowances, and other normal costs of such country's personnel.

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§ 2216. Defense Modernization Account

(a) Establishment. - There is established in the Treasury an account to be known as the "Defense Modernization Account".

(b) Funds Available for Account. - The Defense Modernization Account shall consist of the following:

(1) Amounts appropriated to the Defense Modernization Account for the costs of commencing projects described in subsection (d)(1), and amounts reimbursed to the Defense Modernization Account under subsection (c)(1)(B)(iii) out of savings derived from such projects.

(2) Amounts transferred to the Defense Modernization Account under subsection (c).

(c) Transfers to Account. - (1)(A) Upon a determination by the Secretary of a military department or the Secretary of Defense with respect to Defense-wide appropriations accounts of the availability and source of funds described in subparagraph (B), that Secretary may transfer to the Defense Modernization Account during any fiscal year any amount of funds available to the Secretary described in that subparagraph. Such funds may be transferred to that account only after the Secretary concerned notifies the congressional defense committees in writing of the amount and source of the proposed transfer.

(B) This subsection applies to the following funds available to the Secretary concerned:

(i) Unexpired funds in appropriations accounts that are available for procurement and that, as a result of economies, efficiencies, and other savings achieved in carrying out a particular procurement, are excess to the requirements of that procurement.

(ii) Unexpired funds that are available during the final 30 days of a fiscal year for support of installations and facilities and that, as a result of economies, efficiencies, and other savings, are excess to the requirements for support of installations and facilities.

(iii) Unexpired funds in appropriations accounts that are available for procurement or operation and maintenance of a system, if and to the extent that savings are achieved for such accounts through reductions in life cycle costs of such system that result from one or more projects undertaken with respect to such systems with funds made available from the Defense Modernization Account under subsection (b)(1).

(C) Any transfer under subparagraph (A) shall be made under regulations prescribed by the Secretary of Defense.

(2) Funds referred to in paragraph (1), other than funds referred to in subparagraph (B)(iii) of such paragraph, may not be transferred to the Defense Modernization Account if –

(A) the funds are necessary for programs, projects, and activities that, as determined by the Secretary, have a higher priority than the purposes for which the funds would be available if transferred to that account; or

(B) the balance of funds in the account, after transfer of funds to the account, would exceed $1,000,000,000.

(3) Amounts credited to the Defense Modernization Account shall remain available for transfer until the end of the third fiscal year that follows the fiscal year in which the amounts are credited to the account.

(4) The period of availability of funds for expenditure provided for in sections 1551 and 1552 of title 31 may not be extended by transfer into the Defense Modernization Account.

(d) Authorized Use of Funds. - Funds in the Defense Modernization Account may be used for the following purposes:

(1) For paying the costs of commencing any project that, in accordance with criteria prescribed by the Secretary of Defense, is undertaken by the Secretary of a military department or the head of a Defense

Agency or other element of the Department of Defense to reduce the life cycle cost of a new or existing system.

(2) For increasing, subject to subsection (e), the quantity of items and services procured under a procurement program in order to achieve a more efficient production or delivery rate.

(3) For research, development, test, and evaluation and for procurement necessary for modernization of an existing system or of a system being procured under an ongoing procurement program.

(e) Limitations. - (1) Funds in the Defense Modernization Account may not be used to increase the quantity of an item or services procured under a particular procurement program to the extent that doing so would -

(A) result in procurement of a total quantity of items or services in excess of -

(i) a specific limitation provided by law on the quantity of the items or services that may be procured; or

(ii) the requirement for the items or services as approved by the Joint Requirements Oversight Council and reported to Congress by the Secretary of Defense; or

(B) result in an obligation or expenditure of funds in excess of a specific limitation provided by law on the amount that may be obligated or expended, respectively, for that procurement program.

(2) Funds in the Defense Modernization Account may not be used for a purpose or program for which Congress has not authorized appropriations.

(3) Funds may not be transferred from the Defense Modernization Account in any year for the purpose of -

(A) making an expenditure for which there is no corresponding obligation; or

(B) making an expenditure that would satisfy an unliquidated or unrecorded obligation arising in a prior fiscal year.

(f) Transfer of Funds. - (1) The Secretary of Defense may transfer funds in the Defense Modernization Account to appropriations available for purposes set forth in subsection (d).

(2) Funds in the Defense Modernization Account may not be transferred under paragraph (1) until 30 days after the date on which the Secretary concerned notifies the congressional defense committees in writing of the amount and purpose of the proposed transfer.

(3) The total amount of transfers from the Defense Modernization Account during any fiscal year under this subsection may not exceed $500,000,000.

(g) Availability of Funds by Appropriation. - In addition to transfers under subsection (f), funds in the Defense Modernization Account may be made available for purposes set forth in subsection (d) in accordance with the provisions of appropriations Acts, but only to the extent authorized in an Act other than an appropriations Act.

(h) Secretary To Act Through Comptroller. - (1) The Secretary of Defense shall carry out this section through the Under Secretary of Defense (Comptroller), who shall be authorized to implement this section through the issuance of any necessary regulations, policies, and procedures after consultation with the General Counsel and Inspector General of the Department of Defense.

(2) The regulations prescribed under paragraph (1) shall, at a minimum, provide for -

(A) the submission of proposals by the Secretaries concerned or heads of Defense Agencies or other elements of the Department of Defense to the Comptroller for the use of Defense Modernization Account funds for purposes set forth in subsection (d);

(B) the use of a competitive process for the evaluation of such proposals and the selection of programs, projects, and activities to be funded out of the Defense Modernization Account from among those proposed for such funding; and

(C) the calculation of -

(i) the savings to be derived from projects described in subsection (d)(1) that are to be funded out of the Defense Modernization Account; and

(ii) the amounts to be reimbursed to the Defense Modernization Account out of such savings pursuant to subsection (c)(1)(B)(iii).

~~(i) Annual Report. - (1) Not later than 15 days after the end of each fiscal year, the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) a report on the Defense Modernization Account. Each such report shall set forth the following:~~

~~(A) The amount and source of each credit to the account during that fiscal year.~~

~~(B) The amount and purpose of each transfer from the account during that fiscal year.~~

~~(C) The balance in the account at the end of the fiscal year and, of such balance, the amount attributable to transfers to the account from each Secretary concerned.~~

~~(2) The committees referred to in paragraph (1) are the congressional defense committees and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives~~.

(j) Definitions. - In this section:

(1) The term "Secretary concerned" includes the Secretary of Defense with respect to Defense-wide appropriations accounts.

(2) The term "unexpired funds" means funds appropriated for a definite period that remain available for obligation.

(k) Expiration of Authority and Account. - (1) The authority under subsection (c) to transfer funds into the Defense Modernization Account terminates at the close of September 30, 2006.

(2) Three years after the termination date specified in paragraph (1), the Defense Modernization Account shall be closed and any remaining balance in the account shall be canceled and thereafter shall not be available for any purpose.

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§ 2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications

(a) Prohibition. - Except as otherwise provided in this section, the Secretary of a military department may not carry out a modification of an aircraft, weapon, vessel, or other item of equipment that the Secretary plans to retire or otherwise dispose of within five years after the date on which the modification, if carried out, would be completed.

(b) Exceptions. -

(1) Exception for below-threshold modifications. – The prohibition in subsection (a) does not apply to a modification for which the cost is less than $100,000.

(2) Exception for transfer of reusable items of value. – The prohibition in subsection (a) does not apply to a modification in a case in which -

(A) the reusable items of value, as determined by the Secretary, installed on the item of equipment as part of such modification will, upon the retirement or disposal of the item to be modified, be removed from such item of equipment, refurbished, and installed on another item of equipment; and

(B) the cost of such modification (including the cost of the removal and refurbishment of reusable items of value under subparagraph (A)) is less than $1,000,000.

(3) Exception for safety modifications. - The prohibition in subsection (a) does not apply to a safety modification.

(c) Waiver Authority. - The Secretary concerned may waive the prohibition in subsection (a) in the case of any modification otherwise subject to that subsection if the Secretary determines that carrying out the modification is in the national security interest of the United States. ~~Whenever the Secretary issues such a waiver, the Secretary shall notify the congressional defense committees in writing~~.

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§ 2281. Global Positioning System

(a) Sustainment and Operation for Military Purposes. – The Secretary of Defense shall provide for the sustainment of the capabilities of the Global Positioning System (hereinafter in this section referred to as the "GPS"), and the operation of basic GPS services, that are beneficial for the national security interests of the United States. In doing so, the Secretary shall -

(1) develop appropriate measures for preventing hostile use of the GPS so as to make it unnecessary for the Secretary to use the selective availability feature of the system continuously while not hindering the use of the GPS by the United States and its allies for military purposes; and

(2) ensure that United States armed forces have the capability to use the GPS effectively despite hostile attempts to prevent the use of the system by such forces.

(b) Sustainment and Operation for Civilian Purposes. – The Secretary of Defense shall provide for the sustainment and operation of the GPS Standard Positioning Service for peaceful civil, commercial, and scientific uses on a continuous worldwide basis free of direct user fees. In doing so, the Secretary -

(1) shall provide for the sustainment and operation of the GPS Standard Positioning Service in order to meet the performance requirements of the Federal Radionavigation Plan prepared jointly by the Secretary of Defense and the Secretary of Transportation pursuant to subsection (c);

(2) shall coordinate with the Secretary of Transportation regarding the development and implementation by the Government of augmentations to the basic GPS that achieve or enhance uses of the system in support of transportation;

(3) shall coordinate with the Secretary of Commerce, the United States Trade Representative, and other appropriate officials to facilitate the development of new and expanded civil and commercial uses for the GPS;

(4) shall develop measures for preventing hostile use of the GPS in a particular area without hindering peaceful civil use of the system elsewhere; and

(5) may not agree to any restriction on the Global Positioning System proposed by the head of a department or agency of the United States outside the Department of Defense in the exercise of that official's regulatory authority that would adversely affect the military potential of the Global Positioning System.

(c) Federal Radionavigation Plan. - The Secretary of Defense and the Secretary of Transportation shall jointly prepare the Federal Radionavigation Plan. The plan shall be revised and updated not less often than every two years. The plan shall be prepared in accordance with the requirements applicable to such plan as first prepared pursuant to section 507 of the International Maritime Satellite Telecommunications Act (!1) (47 U.S.C. 756). The plan, and any amendment to the plan, shall be published in the Federal Register.

~~(d) Biennial Report. - (1) Not later than 30 days after the end of each even-numbered fiscal year, the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing, shall submit to the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on Armed Services, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives a report on the Global Positioning System. The report shall include a discussion of the following matters:~~

~~(A) The operational status of the system.~~

~~(B) The capability of the system to satisfy effectively (i) the military requirements for the system that are current as of the date of the report, and (ii) the validated performance requirements of the Federal Radionavigation Plan in accordance with Office of Management and Budget Circular A-109.~~

~~(C) The status of cooperative activities undertaken by the United States with the governments of other countries concerning the capability of the system or any augmentation of the system to satisfy civil, commercial, scientific, and military requirements, including a discussion of the status and results of activities undertaken under any regional international agreement.~~

~~(D) Progress and challenges in establishing GPS as an international standard for consistency of navigational service.~~

~~(E) Progress and challenges in protecting GPS from jamming, disruption, and interference.~~

~~(F) Progress and challenges in developing the enhanced Global Positioning System required by section 218(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 1951; 10 U.S.C. 2281 note).~~

~~(G) The effects of use of the system on national security, regional security, and the economic competitiveness of United States industry, including the Global Positioning System equipment and service industry and user industries.~~

~~(2) In preparing each report required under paragraph (1), the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing, shall consult with the Secretary of Defense, the Secretary of State, the Secretary of Transportation, and the Secretary of Homeland Security~~.

(e) Definitions. - In this section:

(1) The term "basic GPS services" means the following components of the Global Positioning System that are operated and maintained by the Department of Defense:

(A) The constellation of satellites.

(B) The navigation payloads that produce the Global Positioning System signals.

(C) The ground stations, data links, and associated command and control facilities.

(2) The term "GPS Standard Positioning Service" means the civil and commercial service provided by the basic Global Positioning System as defined in the 1996 Federal Radionavigation Plan (published jointly by the Secretary of Defense and the Secretary of Transportation in July 1997).

§ 2282. ~~B-2 Bomber: Annual Report~~

~~Not later than March 1 of each year through 2008, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the B-2 bomber aircraft. Each such report shall include the following:~~

~~(1) Identification of the average full-mission-capable rate of B-2 aircraft for the preceding fiscal year and the Secretary's overall assessment of the implications of that full-mission-capable rate on mission accomplishment for the B-2 aircraft, together with the Secretary's determination as to whether that rate is adequate for the accomplishment of each of the missions assigned to the B-2 aircraft as of the date of the assessment.~~

~~(2) An assessment of the technical capabilities of the B-2 aircraft and whether these capabilities are adequate to accomplish each of the missions assigned to that aircraft as of the date of the assessment.~~

~~(3) Identification of all ongoing and planned development of technologies to enhance the capabilities of that aircraft.~~

~~(4) Identification and assessment of additional technologies that would make that aircraft more capable or survivable against known and evolving threats.~~

~~(5) A fiscally phased program for each technology identified in paragraphs (3) and (4) for the budget year and the future-years defense program, based on the following three funding situations:~~

~~(A) The President's current budget.~~

~~(B) The President's current budget and the current Department of Defense unfunded priority list.~~

~~(C) The maximum executable funding for the B-2 aircraft given the requirement to maintain enough operationally ready aircraft to accomplish missions assigned to the B-2 aircraft.~~

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§ 2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries

(a) Authority To Engage in Cooperative R&D Projects. - ***

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(g) Side-by-Side Testing. - (1) It is the sense of Congress -

(A) that the Secretary of Defense should test conventional defense equipment, munitions, and technologies manufactured and developed by countries referred to in subsection (a)(2) to determine the ability of such equipment, munitions, and technologies to satisfy United States military requirements or to correct operational deficiencies; and

(B) that while the testing of nondevelopmental items and items in the late state of the development process are preferred, the testing of equipment, munitions, and technologies may be conducted to determine procurement alternatives.

(2) The Secretary of Defense may acquire equipment, munitions, and technologies of the type described in paragraph (1) for the purpose of conducting the testing described in that paragraph.

~~(3) The Assistant Secretary of Defense for Research and Engineering shall notify the congressional defense committees of the intent to obligate funds made available to carry out this subsection not less than 7 days before such funds are obligated.~~

(h) Secretary To Encourage Similar Programs. - ***

(i) Definitions. - In this section:

(1) The term "cooperative research and development project" means a project involving joint participation by the United States and one or more countries and organizations referred to in subsection (a)(2) under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program -

(A) to develop new conventional defense equipment and munitions; or

(B) to modify existing military equipment to meet United States military requirements.

(2) The term "major non-NATO ally" means a country (other than a member nation of the North Atlantic Treaty Organization) that is designated as a major non-NATO ally for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(3) The term "NATO organization" means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.

§ 2350b. Cooperative projects under Arms Export Control Act: acquisition of defense equipment

(a)(1) If the President delegates to the Secretary of Defense the authority to carry out section 27(d) of the Arms Export Control Act (22 U.S.C. 2767(d)), relating to cooperative projects (as defined in such section), the Secretary may utilize his authority under this title in carrying out contracts or obligations incurred under such section.

(2) Except as provided in subsection (c), chapter 137 of this title shall apply to such contracts (referred to in paragraph (1)) entered into by the Secretary of Defense. Except to the extent waived under subsection (c) or some other provision of law, all other provisions of law relating to procurement, if otherwise applicable, shall apply to such contracts entered into by the Secretary of Defense.

(b) When contracting or incurring obligations under section 27(d) of the Arms Export Control Act for cooperative projects, the Secretary of Defense may require subcontracts to be awarded to particular subcontractors in furtherance of the cooperative project.

(c)(1) Subject to paragraph (2), when entering into contracts or incurring obligations under section 27(d) of the Arms Export Control Act outside the United States, the Secretary of Defense may waive with respect to any such contract or subcontract the application of any provision of law, other than a provision of the Arms Export Control Act or section 2304 of this title, that specifically prescribes -

(A) procedures to be followed in the formation of contracts;

(B) terms and conditions to be included in contracts;

(C) requirements for or preferences to be given to goods grown, produced, or manufactured in the United States or in United States Government-owned facilities or for services to be performed in the United States; or

(D) requirements regulating the performance of contracts.

(2) A waiver may not be made under paragraph (1) unless the Secretary determines that the waiver is necessary to ensure that the cooperative project will significantly further standardization, rationalization, and interoperability.

(3) The authority of the Secretary to make waivers under this subsection may be delegated only to the Deputy Secretary of Defense or the Acquisition Executive designated for the Office of the Secretary of Defense.

~~(d)(1) The Secretary of Defense shall notify the Congress each time he requires that a prime contract be awarded to a particular prime contractor or that a subcontract be awarded to a particular subcontractor to comply with a cooperative agreement. The Secretary shall include in each such notice the reason for exercising his authority to designate a particular contractor or subcontractor, as the case may be.~~

~~(2) The Secretary shall also notify the Congress each time he exercises a waiver under subsection (c) and shall include in such notice the particular provision or provisions of law that were waived.~~

~~(3) A report under this subsection shall be required only to the extent that the information required by this subsection has not been provided in a report made by the President under section 27(e) of the Arms Export Control Act (22 U.S.C. 2767(e)).~~

(e)(1) In carrying out a cooperative project under section 27 of the Arms Export Control Act, the Secretary of Defense may agree that a participant (other than the United States) or a NATO organization may make a contract for requirements of the United States under the project if the Secretary determines that such a contract will significantly further standardization, rationalization, and interoperability. Except to the extent waived under this section or under any other provision of law, the Secretary shall ensure that such contract will be made on a competitive basis and that United States sources will not be precluded from competing under the contract.

(2) If a participant (other than the United States) in such a cooperative project or a NATO organization makes a contract on behalf of such project to meet the requirements of the United States, the contract may permit the contracting party to follow its own procedures relating to contracting.

(f) In carrying out a cooperative project, the Secretary of Defense may also agree to the disposal of property that is jointly acquired by the members of the project without regard to any laws of the United States applicable to the disposal of property owned by the United States. Disposal of such property may include a transfer of the interest of the United States in such property to one of the other governments participating in the cooperative agreement or the sale of such property. Payment for the transfer or sale of any interest of the United States in any such property shall be made in accordance with the terms of the cooperative agreement.

(g) Nothing in this section shall be construed as authorizing the Secretary of Defense -

(1) to waive any of the financial management responsibilities administered by the Secretary of the Treasury; or

(2) to waive the cargo preference laws of the United States, including section 2631 of this title and section 55305 of title 46.

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§ 2350j. Burden sharing contributions by designated countries and regional organizations

(a) Authority To Accept Contributions. - The Secretary of Defense, after consultation with the Secretary of State, may accept cash contributions from any country or regional organization designated for purposes of this section by the Secretary of Defense, in consultation with the Secretary of State, for the purposes specified in subsection (c).

(b) Accounting. - Contributions accepted under subsection (a) which are not related to security assistance may be accepted, managed, and expended in dollars or in the currency of the host nation (or, in the case of a contribution from a regional organization, in the currency in which the contribution was provided). Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (c). The Secretary of Defense shall establish a separate account for such purpose for each country or regional organization from which such contributions are accepted under subsection (a).

(c) Availability of Contributions. - Contributions accepted under subsection (a) shall be available only for the payment of the following costs:

(1) Compensation for local national employees of the Department of Defense.

(2) Military construction projects of the Department of Defense.

(3) Supplies and services of the Department of Defense.

(d) Authorization of Military Construction. – Contributions placed in an account established under subsection (b) may be used -

(1) by the Secretary of Defense to carry out a military construction project that is consistent with the purposes for which the contributions were made and is not otherwise authorized by law; or

(2) by the Secretary of a military department, with the approval of the Secretary of Defense, to carry out such a project.

~~(e) Notice and Wait Requirements. - (1) When a decision is made to carry out a military construction project under subsection (d), the Secretary of Defense shall submit to the congressional defense committees a report containing -~~

~~(A) an explanation of the need for the project;~~

~~(B) the then current estimate of the cost of the project; and~~

~~(C) a justification for carrying out the project under that subsection.~~

~~(2) The Secretary of Defense or the Secretary of a military department may not commence a military construction project under subsection (d) until the end of the 21-day period beginning on the date on which the Secretary of Defense submits the report under paragraph (1) regarding the project or, if earlier, the end of the 14-day period beginning on the date on which a copy of that report is provided in an electronic medium pursuant to section 480 of this title.~~

~~(3)(A) A military construction project under subsection (d) may be carried out without regard to the requirement in paragraph (1) and the limitation in paragraph (2) if the project is necessary to support the armed forces in the country or region in which the project is carried out by reason of a declaration of war, or a declaration by the President of a national emergency pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.), that is in force at the time of the commencement of the project.~~

~~(B) When a decision is made to carry out a military construction project under subparagraph (A), the Secretary of Defense shall submit to the congressional defense committees -~~

~~(i) a notice of the decision; and~~

~~(ii) a statement of the current estimated cost of the project, including the cost of any real property transaction in connection with the project.~~

(f) Reports. - Not later than 30 days after the end of each fiscal year, the Secretary of Defense shall submit to Congress a report specifying separately for each country and regional organization from which contributions have been accepted by the Secretary under subsection (a) -

(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended.

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§ 2350m. Participation in multinational military centers of excellence

(a) Participation Authorized. - The Secretary of Defense may, with the concurrence of the Secretary of State, authorize the participation of members of the armed forces and Department of Defense civilian personnel in any multinational military center of excellence for purposes of -

(1) enhancing the ability of military forces and civilian personnel of the nations participating in such center to engage in joint exercises or coalition or international military operations; or

(2) improving interoperability between the armed forces and the military forces of friendly foreign nations.

(b) Memorandum of Understanding. - (1) The participation of members of the armed forces or Department of Defense civilian personnel in a multinational military center of excellence under subsection (a) shall be in accordance with the terms of one or more memoranda of understanding entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and the foreign nation or nations concerned.

(2) If Department of Defense facilities, equipment, or funds are used to support a multinational military center of excellence under subsection (a), the memoranda of understanding under paragraph (1) with respect to that center shall provide details of any cost-sharing arrangement or other funding arrangement.

(c) Availability of Appropriated Funds. - (1) Funds appropriated to the Department of Defense for operation and maintenance are available as follows:

(A) To pay the United States share of the operating expenses of any multinational military center of excellence in which the United States participates under this section.

(B) To pay the costs of the participation of members of the armed forces and Department of Defense civilian personnel in multinational military centers of excellence under this section, including the costs of expenses of such participants.

(2) No funds may be used under this section to fund the pay or salaries of members of the armed forces and Department of Defense civilian personnel who participate in multinational military centers of excellence under this section.

(d) Use of Department of Defense Facilities and Equipment. - Facilities and equipment of the Department of Defense may be used for purposes of the support of multinational military centers of excellence under this section that are hosted by the Department.

~~(e) Annual Reports on Use of Authority. - (1) Not later than October 31, 2009, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the use of the authority in this section during the preceding fiscal year.~~

~~(2) Each report required by paragraph (1) shall include, for the fiscal year covered by such report, the following:~~

~~(A) A detailed description of the participation of the Department of Defense, and of members of the armed forces and civilian personnel of the Department, in multinational military centers of excellence under the authority of this section.~~

~~(B) For each multinational military center of excellence in which the Department of Defense, or members of the armed forces or civilian personnel of the Department, so participated -~~

~~(i) a description of such multinational military center of excellence;~~

~~(ii) a description of the activities participated in by the Department, or by members of the armed forces or civilian personnel of the Department; and~~

~~(iii) a statement of the costs of the Department for such participation, including -~~

~~(I) a statement of the United States share of the expenses of such center and a statement of the percentage of the United States share of the expenses of such center to the total expenses of such center; and~~

~~(II) a statement of the amount of such costs (including a separate statement of the amount of costs paid for under the authority of this section by category of costs).~~

(f) Multinational Military Center of Excellence Defined. – In this section, the term "multinational military center of excellence" means an entity sponsored by one or more nations that is accredited and approved by the Military Committee of the North Atlantic Treaty Organization (NATO) as offering recognized expertise and experience to personnel participating in the activities of such entity for the benefit of NATO by providing such personnel opportunities to -

(1) enhance education and training;

(2) improve interoperability and capabilities;

(3) assist in the development of doctrine; and
(4) validate concepts through experimentation.

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~~§ 2352. Defense Advanced Research Projects Agency: biennial strategic plan~~

~~(a) REQUIREMENT FOR STRATEGIC PLAN. — Every other year, and in time for submission to Congress under subsection (c), the Director of the Defense Advanced Research Projects Agency shall prepare a strategic plan for the activities of that agency.~~

~~(b) CONTENTS. — The strategic plan required by subsection (a) shall include the following matters:~~

~~(1) The long-term strategic goals of that agency.~~

~~(2) Identification of the research programs of that agency that support —~~

~~(A) achievement of those strategic goals; and~~

~~(B) exploitation of opportunities that hold the potential for yielding significant military benefits.~~

~~(3) The connection of the activities and programs of that agency to activities and missions of the armed forces.~~

~~(4) A technology transition strategy for the programs of that agency.~~

~~(5) A description of the policies of that agency on the management, organization, and personnel of that agency.~~

~~(c) SUBMISSION OF PLAN TO CONGRESS. — The Secretary of Defense shall submit to Congress the strategic plan most recently prepared under subsection (a) at the same time that the President submits to Congress the budget for an even-numbered fiscal year under section 1105(a) of title 31.~~

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§ 2401. Requirement for Authorization by Law of Certain Contracts relating to Vessels, Aircraft, and Combat Vehicles

(a)(1) ***

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(h) The Secretary of a military department may make a contract for the lease of a vessel or for the provision of a service through use by a contractor of a vessel, the term of which is for a period of greater than two years, but less than five years, only if -

~~(1)~~ the Secretary has notified the ~~Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives~~ congressional defense committees of the proposed contract and included in such notification -

(~~A~~1) a detailed description of the terms of the proposed contract and a justification for entering into the proposed contract rather than obtaining the capability provided for by the lease, charter, or services involved through purchase of the vessel;

(~~B~~2) a determination that entering into the proposed contract as a means of obtaining the vessel is the most cost-effective means of obtaining such vessel; and

(~~C~~3) a plan for meeting the requirement provided by the proposed contract upon completion of the term of the lease contract~~; and~~.

~~(2) a period of 30 days of continuous session of Congress has expired following the date on which notice was received by such committees.~~

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§ 2410i. Prohibition on contracting with entities that comply with the secondary Arab boycott of Israel

(a) Policy. - Under section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

(b) Prohibition. - (1) Consistent with the policy referred to in subsection (a), the Department of Defense may not award a contract for an amount in excess of the simplified acquisition threshold (as defined in section 134 of title 41) to a foreign entity unless that entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

(2) In paragraph (1), the term "foreign entity" means a foreign person, a foreign company, or any other foreign entity.

(c) Waiver Authority. - The Secretary of Defense may waive the prohibition in subsection (b) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States. ~~Within 15 days after the end of each fiscal year, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this subsection during that fiscal year~~.

(d) Exceptions. - Subsection (b) does not apply -

(1) to contracts for consumable supplies, provisions, or services that are intended to be used for the support of United States forces or of allied forces in a foreign country; or

(2) to contracts pertaining to the use of any equipment, technology, data, or services for intelligence or classified purposes by the United States Government in the interests of national security or to the acquisition or lease of any such equipment, technology, data, or services by the United States Government in the interests of national security.

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§ 2410m. Retention of amounts collected from contractor during the pendency of contract dispute

(a) Retention of Funds. - Notwithstanding sections 1552(a) and 3302(b) of title 31, any amount, including interest, collected from a contractor as a result of a claim made by a military department or Defense Agency under chapter 71 of title 41, shall remain available in accordance with this section to pay -

(1) any settlement of the claim by the parties;

(2) any judgment rendered in the contractor's favor on an appeal of the decision on that claim to the Armed Services Board of Contract Appeals under section 7104(a) of title 41; or

(3) any judgment rendered in the contractor's favor in an action on that claim in a court of the United States.

(b) Period of Availability. - (1) The period of availability of an amount under subsection (a), in connection with a claim -

(A) expires 180 days after the expiration of the period for bringing an action on that claim in the United States Court of Federal Claims under section 7104(b) of title 41 if, within that 180-day period -

(i) no appeal on the claim is commenced at the Armed Services Board of Contract Appeals under section 7 of such Act; and

(ii) no action on the claim is commenced in a court of the United States; or

(B) if not expiring under subparagraph (A), expires -

(i) in the case of a settlement of the claim, 180 days after the date of the settlement; or

(ii) in the case of a judgment rendered on the claim in an appeal to the Armed Services Board of Contract Appeals under section 7 of the Contract Disputes Act of 1978 or an action in a court of the United States, 180 days after the date on which the judgment becomes final and not appealable.

(2) While available under this section, an amount may be obligated or expended only for a purpose described in subsection (a).

(3) Upon the expiration of the period of availability of an amount under paragraph (1), the amount shall be covered into the Treasury as miscellaneous receipts.

~~(c) Annual Report. - Not later than 60 days after the end of each fiscal year, the Under Secretary of Defense (Comptroller) shall submit to Congress a report on the amounts, if any, that are available for obligation pursuant to this section. The report shall include, at a minimum, the following:~~

~~(1) The total amount available for obligation at the end of such fiscal year.~~

~~(2) The total amount collected from contractors under this section during that fiscal year.~~

~~(3) The total amount disbursed under this section during that fiscal year and a description of the purpose for each disbursement.~~

~~(4) The total amount returned to the Treasury under this section during that fiscal year~~.

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§ 2461. Public-private competition required before conversion to contractor performance

(a) Public-Private Competition. - (1) No function of the Department of Defense performed by Department of Defense civilian employees may be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition that—

(A) formally compares the cost of performance of the function by Department of Defense civilian employees with the cost of performance by a contractor;

(B) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A-76, as implemented on May 29, 2003, or any successor circular;

(C) includes the issuance of a solicitation;

(D) determines whether the submitted offers meet the needs of the Department of Defense with respect to factors other than cost, including quality, reliability, and timeliness;

(E) examines the cost of performance of the function by Department of Defense civilian employees and the cost of performance of the function by one or more contractors to demonstrate whether converting to performance by a contractor will result in savings to the Government over the life of the contract, including -

(i) the estimated cost to the Government (based on offers received) for performance of the function by a contractor;

(ii) the estimated cost to the Government for performance of the function by Department of Defense civilian employees; and

(iii) an estimate of all other costs and expenditures that the Government would incur because of the award of such a contract;

(F) requires continued performance of the function by Department of Defense civilian employees unless the difference in the cost of performance of the function by a contractor compared to the cost of performance of the function by Department of Defense civilian employees would, over all performance periods required by the solicitation, be equal to or exceed the lesser of -

(i) 10 percent of the personnel-related costs for performance of that function in the agency tender; or

(ii) $10,000,000;

(G) requires that the contractor shall not receive an advantage for a proposal that would reduce costs for the Department of Defense by -

(i) not making an employer-sponsored health insurance plan (or payment that could be used in lieu of such a plan), health savings account, or medical savings account available to the workers who are to be employed to perform the function under the contract;

(ii) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees of the Department under chapter 89 of title 5; or

(iii) offering to such workers a retirement benefit that, in any year, costs less than the annual retirement cost factor applicable to civilian employees of the Department of Defense under chapter 84 of title 5; and

(H) examines the effect of performance of the function by a contractor on the military mission associated with the performance of the function.

(2) A function that is performed by the Department of Defense and is reengineered, reorganized, modernized, upgraded, expanded, or changed to become more efficient, but still essentially provides the same service, shall not be considered a new requirement.

(3) In no case may a function being performed by Department of Defense personnel be -

(A) modified, reorganized, divided, or in any way changed for the purpose of exempting the conversion of the function from the requirements of this section; or

(B) converted to performance by a contractor to circumvent a civilian personnel ceiling.

(4) A military department or Defense Agency may not be required to conduct a public-private competition under Office of Management and Budget Circular A-76 or any other provision of law at the end of the performance period specified in a letter of obligation or other agreement entered into with Department of Defense civilian employees pursuant to a public-private competition for any function of the Department of Defense performed by Department of Defense civilian employees.

(5)(A) Except as provided in subparagraph (B), the duration of a public-private competition conducted pursuant to Office of Management and Budget Circular A-76 or any other provision of law for any function of the Department of Defense performed by Department of Defense civilian employees may not exceed a period of 24 months, commencing on the date on which the preliminary planning for the public-private competition begins and ending on the date on which a performance decision is rendered with respect to the function.

(B)(i) The Secretary of Defense may specify an alternative period of time for a public-private competition, which may not exceed 33 months, if the Secretary -

(I) determines that the competition is of such complexity that it cannot be completed within 24 months; and

(II) submits to Congress, as part of the formal congressional notification of a public-private competition pursuant to subsection (c), written notification that explains the basis of such determination.

(ii) The notification under clause (i)(II) shall also address each of the following:

(I) Any efforts of the Secretary to break up the study geographically or functionally.

(II) The Secretary's justification for undertaking a public-private competition instead of using internal reengineering alternatives.

(III) The cost savings that the Secretary expects to achieve as a result of the public-private competition.

(iii) If the Secretary specifies an alternative time period under this subparagraph, the alternative time period shall be binding on the Department in the same manner and to the same extent as the limitation provided in subparagraph (A).

(C) The time period specified in subparagraph (A) for a public-private competition does not include any day during which the public-private competition is delayed by reason of the filing of a protest before the Government Accountability Office or a complaint in the United States Court of Federal Claims up until the day the decision or recommendation of either authority becomes final. In the case of a protest before the Government Accountability Office, the recommendation becomes final after the period of time for filing a request for reconsideration, or if a request for reconsideration is filed, on the day the Government Accountability Office issues a decision on the reconsideration.

(D) If a protest with respect to a public-private competition before the Government Accountability Office or the United States Court of Federal Claims is sustained, and the recommendation is final as described in subparagraph (C), and if such protest and recommendation result in an unforeseen delay in implementing a final performance decision, the Secretary of Defense may terminate the public-private competition or extend the period of time specified for the public-private competition under subparagraph (A) or subparagraph (B). If the Secretary decides not to terminate a competition, the Secretary shall submit to Congress written notice of such decision. Any such notification shall include a justification for the Secretary's decision and a new time limitation for the competition, which shall not exceed 12 months from the final decision and shall be binding on the Department.

(E) For the purposes of this paragraph, preliminary planning with respect to a public-private competition, begins on the date on which the Department of Defense obligates funds for the acquisition of contract support, or formally assigns Department of Defense personnel, to carry out any of the following activities:

(i) Determining the scope of the competition.

(ii) Conducting research to determine the appropriate grouping of functions for the competition.

(iii) Assessing the availability of workload data, quantifiable outputs of functions, and agency or industry performance standards applicable to the competition.

(iv) Determining the baseline cost of any function for which the competition is conducted.

(F) To effectively establish the date that is the first day of preliminary planning for a public-private competition, the head of a military department shall submit to Congress written notice of such date and shall provide public notice by announcing such date on an appropriate Internet website. Such date is the first day of preliminary planning for a public-private competition for the purpose of computing the duration of the public private competition for purposes of this section.

(G) The Secretary of Defense shall submit to the congressional defense committees an annual report on the use, during the year covered by the report, of alternative time periods for public-private competitions under this section, and the explanations of the Secretary for such alternative time periods.

(b) Requirement to Consult DOD Employees. - ***

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~~(c) Congressional Notification.—(1) Before commencing a public–private competition under subsection (a), the Secretary of Defense shall submit to Congress a report containing the following:~~

~~(A) The function for which such public–private competition is to be conducted.~~

~~(B) The location at which the function is performed by Department of Defense civilian employees.~~

~~(C) The number of Department of Defense civilian employee positions potentially affected.~~

~~(D) The anticipated length and cost of the public–private competition, and a specific identification of the budgetary line item from which funds will be used to cover the cost of the public–private competition.~~

~~(E) A certification that a proposed performance of the function by a contractor is not a result of a decision by an official of a military department or Defense Agency to impose predetermined constraints or limitations on such employees in terms of man years, end strengths, full-time equivalent positions, or maximum number of employees.~~

~~(2) The report required under paragraph (1) shall include an examination of the potential economic effect of performance of the function by a contractor on—~~

~~(A) Department of Defense civilian employees who would be affected by such a conversion in performance; and~~

~~(B) the local community and the Government, if more than 50 Department of Defense civilian employees perform the function.~~

~~(3)(A) A representative individual or entity at a facility where a public–private competition is conducted may submit to the Secretary of Defense an objection to the public–private competition on the grounds that the report required by paragraph (1) has not been submitted or that the certification required by paragraph (1)(E) is not included in the report submitted as a condition for the public–private competition. The objection shall be in writing and shall be submitted within 90 days after the following date:~~

~~(i) In the case of a failure to submit the report when required, the date on which the representative individual or an official of the representative entity authorized to pose the objection first knew or should have known of that failure.~~

~~(ii) In the case of a failure to include the certification in a submitted report, the date on which the report was submitted to Congress.~~

~~(B) If the Secretary determines that the report required by paragraph (1) was not submitted or that the required certification was not included in the submitted report, the function for which the public–private competition was conducted for which the objection was submitted may not be the subject of a solicitation of offers for, or award of, a contract until, respectively, the report is submitted or a report containing the certification in full compliance with the certification requirement is submitted.~~

(d) Exemption for the Purchase of Products and Services of the Blind and Other Severely Handicapped Persons. - This section shall not apply to a commercial or industrial type function of the Department of Defense that-

(1) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

(2) is planned to be changed to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped persons in accordance with that Act.

(e) Inapplicability During War or Emergency. - The provisions of this section shall not apply during war or during a period of national emergency declared by the President or Congress.

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§ 2475. ~~Consolidation, restructuring, or reengineering of organizations, functions, or activities: notification requirements~~

~~(a) Requirement to Submit Plan Annually.—Concurrently with the submission of the President's annual budget request under section 1105 of title 31, the Secretary of Defense shall submit to Congress each Strategic Sourcing Plan of Action for the Department of Defense (as identified in the Department of Defense Interim Guidance dated February 29, 2000, or any successor Department of Defense guidance or directive), for the following year.~~

~~(b) Notification of Decision To Execute Plan.—If a decision is made to consolidate, restructure, or reengineer an organization, function, or activity of the Department of Defense pursuant to a Strategic Sourcing Plan of Action described in subsection (a), and such consolidation, restructuring, or reengineering would result in a manpower reduction affecting 50 or more personnel of the Department of Defense (including military and civilian personnel)—~~

~~(1) the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing that decision, including –~~

~~(A) a projection of the savings that will be realized as a result of the consolidation, restructuring, or reengineering, compared with the cost incurred by the Department of Defense to perform the function or to operate the organization or activity prior to such proposed consolidation, restructuring, or reengineering;~~

~~(B) a description of all missions, duties, or military requirements that will be affected as a result of the decision to consolidate, restructure, or reengineer the organization, function, or activity that was analyzed;~~

~~(C) the Secretary's certification that the consolidation, restructuring, or reengineering will not result in any diminution of military readiness;~~

~~(D) a schedule for performing the consolidation, restructuring, or reengineering; and~~

~~(E) the Secretary's certification that the entire analysis for the consolidation, restructuring, or reengineering is available for examination; and~~

~~(2) the head of the Defense Agency or the Secretary of the military department concerned may not implement the plan until 30 days after the date that the agency head or Secretary submits notification to the Committees on Armed Services of the Senate and House of Representatives of the intent to carry out such plan.~~

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§ 2482. Commissary stores: criteria for establishment or closure; store size

(a) ***

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(d) CONGRESSIONAL NOTIFICATION.—(1) The closure of a commissary store <u>in the United States</u> shall not take effect until the end of the 90-day period beginning on the date on which the Secretary of Defense submits to Congress written notice of the reasons supporting the closure. The written notice shall include an assessment of the impact closure will have on the quality of life for military patrons and the welfare and security of the military community in which the commissary is located.

(2) ***

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§ 2493. Fisher Houses: administration as nonappropropriated fund instrumentality

(a) Fisher Houses and Suites Defined— In this section:

(1) The term "Fisher House" means a housing facility that—

(A) is located in proximity to a health care facility of the Army, the Air Force, or the Navy;

(B) is available for residential use on a temporary basis by patients of that health care facility, members of the families of such patients, and others providing the equivalent of familial support for such patients; and

(C) is constructed and donated by—

(i) the Zachary and Elizabeth M. Fisher Armed Services Foundation; or

(ii) another source, if the Secretary of the military department concerned designates the housing facility as a Fisher House.

(2) The term "Fisher Suite" means one or more rooms that—

(A) meet the requirements of subparagraphs (A) and (B) of paragraph (1);

(B) are constructed, altered, or repaired and donated by a source described in subparagraph (C) of that paragraph; and

(C) are designated by the Secretary of the military department concerned as a Fisher Suite.

(b) Nonappropriated Fund Instrumentality— The Secretary of each military department shall administer all Fisher Houses and Fisher Suites associated with health care facilities of that military department as a nonappropriated fund instrumentality of the United States.

(c) Governance— The Secretary of each military department shall establish a system for the governance of the nonappropriated fund instrumentality required by subsection (b) for that military department.

(d) Central Fund— The Secretary of each military department shall establish a single fund as the source of funding for the operation, maintenance, and improvement of all Fisher Houses and Fisher Suites of the nonappropriated fund instrumentality required by subsection (b) for that military department.

(e) Acceptance of Contributions; Imposition of Fees—

(1) The Secretary of a military department may—

(A) accept money, property, and services donated for the support of a Fisher House or Fisher Suite associated with health care facilities of that military department; and

(B) may impose fees relating to the use of such Fisher Houses and Fisher Suites.

(2) All monetary donations, and the proceeds of the disposal of any other donated property, accepted by the Secretary of a military department under this subsection shall be credited to the fund established under subsection (d) for the Fisher Houses and Fisher Suites associated with health care facilities of that military department and shall be available to that Secretary to support all such Fisher Houses and Fisher Suites.

(f) Base Operating Support— The Secretary of a military department may provide base operating support for Fisher Houses associated with health care facilities of that military department.

~~(g) Annual Report.—Not later than January 15 of each year, the Secretary of each military department shall submit to Congress a report describing the operation of Fisher Houses and Fisher Suites associated with health care facilities of that military department. The report shall include, at a minimum, the following:~~

~~(1) The amount in the fund established by that Secretary under subsection (d) as of October 1 of the previous year.~~

~~(2) The operation of the fund during the preceding fiscal year, including—~~

~~(A) all gifts, fees, and interest credited to the fund; and~~

~~(B) all disbursements from the fund.~~

~~(3) The budget for the operation of the Fisher Houses and Fisher Suites for the fiscal year in which the report is submitted.~~

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~~§ 2504. Annual report to Congress~~

~~The Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services 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.~~

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§ 2582. ~~Military equipment identified on United States Munitions List: annual report of public sales~~

~~(a) Report Required.—The Secretary of Defense shall prepare an annual report identifying each public sale conducted by a military department or Defense Agency of military items that are—~~

~~(1) identified on the United States Munitions List maintained under section 121.1 of title 22, Code of Federal Regulations; and~~

~~(2) assigned a demilitarization code of "B" or its equivalent.~~

~~(b) Elements of Report.—~~

~~(1) A report under this section shall cover all public sales described in subsection (a) that were conducted during the preceding fiscal year.~~

~~(2) The report shall specify the following for each sale:~~

~~(A) The date of the sale.~~

~~(B) The military department or Defense Agency conducting the sale.~~

~~(C) The manner in which the sale was conducted.~~

~~(D) The military items described in subsection (a) that were sold or offered for sale.~~

~~(E) The purchaser of each item.~~

~~(F) The stated end-use of each item sold.~~

~~(c) Submission of Report. - Not later than March 31 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate the report required by this section for the preceding fiscal year~~.

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§ 2645. Indemnification of Department of Transportation for losses covered by vessel war risk insurance

(a) Prompt Indemnification Required. - (1) In the event of a loss that is covered by vessel war risk insurance, the Secretary of Defense shall promptly indemnify the Secretary of Transportation for the amount of the loss consistent with the indemnification agreement between the two Secretaries that underlies such insurance. The Secretary of Defense shall make such indemnification -

(A) in the case of a claim for the loss of a vessel, not later than 90 days after the date on which the Secretary of Transportation determines the claim to be payable or that amounts are due under the policy that provided the vessel war risk insurance; and

(B) in the case of any other claim, not later than 180 days after the date on which the Secretary of Transportation determines the claim to be payable.

(2) When there is a loss of a vessel that is (or may be) covered by vessel war risk insurance, the Secretary of Transportation may make, during the period when a claim for such loss is pending with the Secretary of Transportation, any required periodic payments owed by the insured party to a lessor or mortgagee of such vessel. Such payments shall commence not later than 30 days following the date of the presentment of the claim for the loss of the vessel to the Secretary of Transportation. If the Secretary of Transportation determines that the claim is payable, any amount paid under this paragraph arising from such claim shall be credited against the amount payable under the vessel war risk insurance. If the Secretary of Transportation determines that the claim is not payable, any amount paid under this paragraph arising from such claim shall constitute a debt to the United States, payable to the insurance fund. Any such amounts so returned to the United States shall be promptly credited to the fund or account from which the payments were made under this paragraph.

(b) Source of Funds for Payment of Indemnity. - ***

(c) Deposit of Funds. - ***

(d) Notice to Congress. - In the event of a loss that is covered by vessel war risk insurance in the case of an incident in which the covered loss is (or is expected to be) in an amount in excess of ~~$1,000,000~~ **$10,000,000**, the Secretary of Defense shall submit to Congress notification of the loss as soon after the occurrence of the loss as possible and in no event more than 30 days after the date of the loss.

(e) Implementing Matters. -***

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§ 2684a. Agreements to limit encroachments and other constraints on military training, testing, and operations

(a) Agreements Authorized. - The Secretary of Defense or the Secretary of a military department may enter into an agreement with an eligible entity or entities described in subsection (b) to address the use or development of real property in the vicinity of, or ecologically related to, a military installation or military airspace for purposes of -

(1) limiting any development or use of the property that would be incompatible with the mission of the installation; or

(2) preserving habitat on the property in a manner that -

(A) is compatible with environmental requirements; and

(B) may eliminate or relieve current or anticipated environmental restrictions that would or might otherwise restrict, impede, or otherwise interfere, whether directly or indirectly, with current or anticipated military training, testing, or operations on the installation.

(b) Eligible Entities. - An agreement under this section may be entered into with any of the following:

(1) A State or political subdivision of a State.

(2) A private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal, as determined by the Secretary concerned.

(c) Inapplicability of Certain Contract Requirements. – ***

(d) Acquisition and Acceptance of Property and Interests. – ***

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~~(g) Annual Reports. - (1) Not later than March 1 each year, the Secretary of Defense shall, in coordination with the Secretaries of the military departments and the Director of the Department of Defense Test Resource Management Center, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the projects undertaken under agreements under this section.~~

~~(2) Each report under paragraph (1) shall include the following:~~

~~(A) A description of the status of the projects undertaken under agreements under this section.~~

~~(B) An assessment of the effectiveness of such projects, and other actions taken pursuant to this section, as part of a long-term strategy to ensure the sustainability of military test and training ranges, military installations, and associated airspace.~~

~~(C) An evaluation of the methodology and criteria used to select, and to establish priorities, for projects undertaken under agreements under this section.~~

~~(D) A description of any sharing of costs by the United States and eligible entities under subsection (d) during the preceding year, including a description of each agreement under this section providing for the sharing of such costs and a statement of the eligible entity or entities with which the United States is sharing such costs.~~

~~(E) Such recommendations as the Secretary of Defense considers appropriate for legislative or administrative action in order to improve the efficiency and effectiveness of actions taken pursuant to agreements under this section.~~

(h) Funding. - (1) Except as provided in paragraph (2), funds authorized to be appropriated for operation and maintenance of the Army, Navy, Marine Corps, Air Force, or Defense-wide activities may be used to enter into agreements under this section.

(2) In the case of a military installation operated primarily with funds authorized to be appropriated for research, development, test, and evaluation, funds authorized to be appropriated for the Army, Navy, Marine Corps, Air Force, or Defense-wide activities for research, development, test, and evaluation may be used to enter into agreements under this section with respect to the installation.

(i) Definitions. - In this section:

(1) The term "Secretary concerned" means the Secretary of Defense or the Secretary of a military department.

(2) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.

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§ 2688. Utility systems: conveyance authority

(a) Conveyance Authority. - (1) The Secretary of a military department may convey a utility system, or part of a utility system, under the jurisdiction of the Secretary to a municipal, private, regional, district, or cooperative utility company or other entity. The conveyance may consist of all right, title, and interest of the United States in the utility system or such lesser estate as the Secretary considers appropriate to serve the interests of the United States.

~~(2) The Secretary concerned may not enter into a contract to convey a utility system, or part of a utility system, under this subsection until -~~

~~(A) the Secretary submits to the congressional defense committees an economic analysis, based upon accepted life-cycle costing procedures approved by the Secretary of Defense, that demonstrates that -~~

~~(i) the long-term economic benefit to the United States of the conveyance of the utility system, or part thereof, exceeds the long-term economic cost to the United States of the conveyance;~~

~~(ii) the conveyance of the utility system, or part thereof, will reduce the long-term cost to the United States of utility services provided by the utility system by 10 percent of the long-term cost for provision of those utility services in the agency tender; and~~

~~(iii) the economic benefit analysis under clause (i) and the cost reduction analysis under clause (ii) incorporate margins of error in the estimates, based upon guidance approved by the Secretary of Defense that minimize any underestimation of the costs resulting from privatization of the utility system, or part thereof, or any overestimation of the costs resulting from continued Government ownership and management of the utility system, or part thereof; and~~

~~(B) the end of the 21-day period beginning on the date on which the economic analysis prepared under subparagraph (A) with respect to the conveyance of the utility system, or part thereof, is received by the congressional defense committees or, if over earlier, the end of the 14-day period beginning on the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title.~~

(3)(A) If, as a result of the economic analysis required by paragraph (2)(A), the Secretary concerned determines that a utility system, or part of a utility system, is not eligible for conveyance under this subsection, the Secretary concerned may not further reconsider the utility system, or part of a utility system, for conversion to contractor operation under section 2461 of this title for a period of five years beginning on the date of the determination.

(B) If the results of a public-private competition for conversion of a utility system, or part of a utility system, to operation by a contractor favors continued operation by civilian employees of the Department of Defense, the Secretary concerned may not reconsider the utility system, or part of a utility system, for conversion under section 2461 of this title or for conveyance under this subsection for a period of five years beginning on the date of the completion of the public-private competition.

(b) Selection of Conveyee. - (1) If more than one utility or entity referred to in subsection (a) notifies the Secretary concerned of an interest in a conveyance under such subsection, the Secretary shall carry out the conveyance through the use of competitive procedures.

(2) Notwithstanding paragraph (1), the Secretary concerned may use procedures other than competitive procedures, but only in accordance with subsections (c) through (f) of section 2304 of this title, to select the conveyee of a utility system (or part of a utility system) under subsection (a).

(3) With respect to the solicitation process used in connection with the conveyance of a utility system (or part of a utility system) under subsection (a), the Secretary concerned shall ensure that the process is conducted in a manner consistent with the laws and regulations of the State in which the utility system is located to the extent necessary to ensure that all interested regulated and unregulated utility companies and other interested entities receive an opportunity to acquire and operate the utility system to be conveyed.

(c) Consideration. - (1) The Secretary concerned may require as consideration for a conveyance under subsection (a) an amount equal to the fair market value (as determined by the Secretary) of the right, title, or interest of the United States conveyed. The consideration may take the form of -

(A) a lump sum payment; or

(B) a reduction in charges for utility services provided by the utility or entity concerned to the military installation at which the utility system is located.

(2) If the utility services proposed to be provided as consideration under paragraph (1) are subject to regulation by a Federal or State agency, any reduction in the rate charged for the utility services shall be subject to establishment or approval by that agency.

(d) Contracts for Utility Services. - (1) Except as provided in paragraph (2), a contract for the receipt of utility services as consideration under subsection (c), or any other contract for utility services entered into by the Secretary concerned in connection with the conveyance of a utility system under this section, may be for a period not to exceed 10 years.

(2) The Secretary of Defense, or the designee of the Secretary, may authorize a contract for utility services described in paragraph (1) to have a term in excess of 10 years, but not to exceed 50 years, if the Secretary determines that a contract for a longer term will be cost effective. The economic analysis submitted to the congressional defense committees under subsection (a)(2) for the conveyance of the utility system, or part thereof, with regard to which the utility services contract will be entered into by the Secretary concerned shall include the determination required by this paragraph, an explanation of the need for the longer term contract, and a comparison of costs between a 10-year contract and the longer-term contract.

(e) Treatment of Payments. - (1) A lump sum payment received under subsection (c) shall be credited, at the election of the Secretary concerned -

(A) to an appropriation of the military department concerned available for the procurement of the same utility services as are provided by the utility system conveyed under this section;

(B) to an appropriation of the military department available for carrying out energy savings projects or water conservation projects; or

(C) to an appropriation of the military department available for improvements to other utility systems.

(2) Amounts so credited shall be merged with funds in the appropriation to which credited and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriation with which merged.

~~(f) Quarterly Report. - Not later than 30 days after the end of each quarter of a fiscal year, the Secretary shall submit to the congressional defense committees a report on the conveyances made under subsection (a) during such fiscal quarter~~.

(g) Additional Terms and Conditions. - (1) The Secretary concerned may require such additional terms and conditions in connection with a conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(2) The Secretary concerned shall require in any contract for the conveyance of a utility system (or part of a utility system) under subsection (a) that the conveyee manage and operate the utility system in a manner consistent with applicable Federal and State regulations pertaining to health, safety, fire, and environmental requirements.

(h) Assistance for Construction, Repair, or Replacement of Utility Systems. - In lieu of carrying out a military construction project to construct, repair, or replace a utility system, the Secretary concerned may use funds authorized and appropriated for the project to facilitate the conveyance of the utility system under this section by making a contribution toward the cost of construction, repair, or replacement of the utility system by the entity to which the utility system is being conveyed. ~~The Secretary concerned shall consider any such contribution in the economic analysis required under subsection (a)(2).~~

(i) Utility System Defined. - ***

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~~§ 2706. Annual Reports to Congress~~

~~(a) Report on Environmental Restoration Activities. - (1) The Secretary of Defense shall submit to the Congress each year, not later than 45 days after the date on which the President submits to the Congress the budget for a fiscal year, a report on the progress made by the Secretary in carrying out environmental restoration activities at military installations.~~

~~(2) Each such report shall include, with respect to environmental restoration activities for each military installation, the following:~~

~~(A) A statement of the number of sites at which a hazardous substance has been identified.~~

~~(B) A statement of the status of response actions proposed for or initiated at the military installation.~~

~~(C) A statement of the total cost estimated for such response actions.~~

~~(D) A statement of the amount of funds obligated by the Secretary for such response actions, and the progress made in implementing the response actions during the fiscal year preceding the year in which the report is submitted, including an explanation of -~~

~~(i) any cost overruns for such response actions, if the amount of funds obligated for those response actions exceeds the estimated cost for those response actions by the greater of 15 percent of the estimated cost or $10,000,000; and~~

~~(ii) any deviation in the schedule (including a milestone schedule specified in an agreement, order, or mandate) for such response actions of more than 180 days.~~

~~(E) A statement of the amount of funds allocated by the Secretary for, and the anticipated progress in implementing, such response actions during the fiscal year in which the report is submitted.~~

~~(F) A statement of the amount of funds requested for such response actions for the five fiscal years following the fiscal year in which the report is submitted, and the anticipated progress in implementing such response actions for the fiscal year for which the budget is submitted.~~

~~(G) A statement of the total costs incurred for such response actions as of the date of the submission of the report.~~

~~(H) A statement of the estimated cost of completing all environmental restoration activities required with respect to the military installation, including, where relevant, the estimated cost of such activities in each of the five fiscal years following the fiscal year in which the report is submitted.~~

~~(I) A statement of the estimated schedule for completing all environmental restoration activities at the military installation.~~

~~(J) A statement of the activities, if any, including expenditures for administrative expenses and technical assistance under section 2705 of this title, of the technical review committee or restoration advisory board established for the installation under such section during the preceding fiscal year.~~

~~(b) Report on Environmental Quality Programs and Other Environmental Activities.—~~

~~(1) The Secretary of Defense shall submit to Congress each year, not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year, a report on the progress made in carrying out activities under the environmental quality programs of the Department of Defense and the military departments.~~

~~(2) Each report shall include the following:~~

~~(A) A description of the environmental quality program of the Department of Defense, and of each of the military departments, during the period consisting of the four fiscal years preceding the fiscal year in which the report is submitted, the fiscal year in which the report is submitted, and the fiscal year following the fiscal year in which the report is submitted.~~

~~(B) For each of the major activities under the environmental quality programs:~~

~~(i) A specification of the amount expended, or proposed to be expended, in each fiscal year of the period covered by the report.~~

~~(ii) An explanation for any significant change in the aggregate amount to be expended in the fiscal year in which the report is submitted, and in the following fiscal year, when compared with the fiscal year preceding each such fiscal year.~~

~~(iii) An assessment of the manner in which the scope of the activities have changed over the course of the period covered by the report.~~

~~(C) A summary of the major achievements of the environmental quality programs and of any major problems with the programs.~~

~~(D) A summary of fines and penalties imposed or assessed against the Department of Defense and the military departments under Federal, State, or local environmental laws during the fiscal year in which the report is submitted and the four preceding fiscal years, which summary shall include—~~

~~(i) a trend analysis of such fines and penalties for military installations inside and outside the United States; and~~

~~(ii) a list of such fines or penalties that exceeded $1,000,000 and the provisions of law under which such fines or penalties were imposed or assessed.~~

~~(E) A statement of the amounts expended, and anticipated to be expended, during the period covered by the report for any activities overseas relating to the environment, including amounts for activities relating to environmental remediation, compliance, conservation, pollution prevention, and environmental technology.~~

~~(c) Report on Environmental Technology Program.—~~

~~(1) The Secretary of Defense shall submit to Congress each year, not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year, a report on the progress made by the Department of Defense in achieving the objectives and goals of its environmental technology program during the preceding fiscal year and an overall trend analysis for the program covering the previous four fiscal years.~~

~~(2) Each such report shall include, with respect to each project under the environmental technology program of the Department of Defense, the following:~~

~~(A) The performance objectives established for the project for the fiscal year and an assessment of the performance achieved with respect to the project in light of performance indicators for the project.~~

~~(B) A description of the extent to which the project met the performance objectives established for the project for the fiscal year.~~

~~(C) If a project did not meet the performance objectives for the project for the fiscal year—~~

~~(i) an explanation for the failure of the project to meet the performance objectives; and~~

~~(ii) a modified schedule for meeting the performance objectives or, if a performance objective is determined to be impracticable or infeasible to meet, a statement of alternative actions to be taken with respect to the project.~~

~~(d) Definitions.—In this section:~~

~~(1) The term "military installation" has the meaning given such term in section 2687(e) of this title, except that such term does not include a homeport facility for any ship and includes—~~

~~(A) each facility or site owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense;~~

~~(B) each facility or site which was under the jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances; and~~

~~(C) each facility or site at which the Secretary is conducting environmental restoration activities.~~

~~(2) The term "environmental quality program" means a program of activities relating to environmental compliance, conservation, pollution prevention, and such other activities relating to environmental quality as the Secretary concerned may designate for purposes of the program.~~

~~(3) The term "major activities", with respect to an environmental quality program, means the following activities under the program:~~

~~(A) Environmental compliance activities.~~

~~(B) Conservation activities.~~

~~(C) Pollution prevention activities.~~

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§ 2803. Emergency construction

(a) Subject to subsections (b) and (c), the Secretary concerned may carry out a military construction project not otherwise authorized by law if the Secretary determines (1) that the project is vital to the national security or to the protection of health, safety, or the quality of the environment, and (2) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(b) When a decision is made to carry out a military construction project under this section, the Secretary concerned shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (1) the justification for the project and the current estimate of the cost of the project, (2) the justification for carrying out the project under this section, and (3) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the ~~21-day~~ **seven-day** period beginning on the date the notification is received by such committees or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(c) ***

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§ 2804. Contingency construction

(a) Within the amount appropriated for such purpose, the Secretary of Defense may carry out a military construction project not otherwise authorized by law, or may authorize the Secretary of a military department to carry out such a project, if the Secretary of Defense determines that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or national interest.

(b) When a decision is made to carry out a military construction project under this section, the Secretary of Defense shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (1) the justification for the project and the current estimate of the cost of the project, and (2) the justification for carrying out the project under this section. The project may then be carried out only after the end of the ~~14-day~~ **seven-day** period beginning on the date the notification is received by such committees or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

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§ 2811. Repair of facilities

(a) REPAIRS USING OPERATIONS AND MAINTENANCE FUNDS.—Using funds available to the Secretary concerned for operation and maintenance, the Secretary concerned may carry out repair projects for an entire single-purpose facility or one or more functional areas of a multipurpose facility.

(b) APPROVAL REQUIRED FOR MAJOR REPAIRS.—A repair project costing more than $ 7,500,000 may not be carried out under this section unless approved in advance by the Secretary concerned. In determining the total cost of a repair project, the Secretary shall include all phases of a multi-year repair project to a single facility. In considering a repair project for approval, the Secretary shall ensure that the project is consistent with force structure plans, that repair of the facility is more cost effective than replacement, and that the project is an appropriate use of operation and maintenance funds.

(c) PROHIBITION ON NEW CONSTRUCTION OR ADDITIONS.—Construction of new facilities or additions to

existing facilities may not be carried out under the authority of this section.

(d) CONGRESSIONAL NOTIFICATION.—When a decision is made to carry out a repair project under this section with an estimated cost in excess of ~~**$7,500,000**~~ **$10,000,000**, the Secretary concerned shall submit to the appropriate committees of Congress a report containing—

(1) the justification for the repair project and the current estimate of the cost of the project, including, in the case of a multi-year repair project to a single facility, the total cost of all phases of the project;

(2) if the current estimate of the cost of the repair project exceeds 75 percent of the estimated cost of a military construction project to replace the facility, an explanation of the reasons why replacement of the facility is not in the best interest of the Government; and

(3) a description of the elements of military construction, including the elements specified in section 2802(b) of this title, incorporated into the repair project.

(e) REPAIR PROJECT DEFINED.—In this section, the term "repair project" means a project to restore a real property facility, system, or component to such a condition that it may effectively be used for its designated functional purpose.

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§ 2815. ~~Joint use military construction projects: annual evaluation~~

~~(a) Joint Use Military Construction Project Defined.—In this section, the term "joint use military construction project" means a military construction project for a facility intended to be used by—~~

~~(1) both the active and a reserve component of a single armed force; or~~

~~(2) two or more components (whether active or reserve components) of the armed forces.~~

~~(b) Annual Evaluation.—In the case of the budget submitted under section 1105 of title 31 for any fiscal year, the Secretary of Defense shall include in the budget justification materials submitted to Congress in support of the budget a certification by each Secretary concerned that, in evaluating military construction projects for inclusion in the budget for that fiscal year, the Secretary concerned evaluated the feasibility of carrying out the projects as joint use military construction projects~~.

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§ 2825. Improvements to family housing units

(a)(1) Authority provided by law to improve existing military family housing units and ancillary family housing support facilities is authority to make alterations, additions, expansions, and extensions.

(2) In this section, the term "improvement" includes rehabilitation of a housing unit and major maintenance or repair work to be accomplished concurrently with an improvement project. Such term does not include day-to-day maintenance and repair work.

(b)(1) Funds may not be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units that are to be converted into or are to be used as a single family housing unit, if the cost per unit of such improvement will exceed (A) $50,000 multiplied by the area construction cost index as developed by the Department of Defense for the location concerned at the time of contract award, or (B) in the case of improvements necessary to make the unit suitable for habitation by a handicapped person, $60,000 multiplied by such index. The Secretary concerned may waive the limitations contained in the preceding sentence if such Secretary determines that, considering the useful life of the structure to be improved and the useful life of a newly constructed unit and the cost of construction and of operation and maintenance of each kind of unit over its useful life, the improvement will be cost-effective. If the Secretary concerned makes a determination under the preceding sentence with respect to an improvement, the waiver under that sentence with respect to that improvement may take effect only after the Secretary transmits a notice of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective, to the appropriate committees of Congress and a period of 21 days has elapsed after the date on which the notification is received by those committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title.

(2) In determining the applicability of the limitation contained in paragraph (1), the Secretary concerned shall include as part of the cost of the improvement of the unit or units concerned the following:

(A) ***

* * * * * * *

(c)(1) The Secretary concerned may construct replacement military family housing units in lieu of improving existing military family housing units if -

(A) the improvement of the existing housing units has been authorized by law; and

(B) the Secretary determines that the improvement project is no longer cost-effective after a review of post-design or bid cost estimates~~;~~.

~~(C) the Secretary submits to the committees referred to in subsection (b)(1) a notice containing -~~

~~(i) an economic analysis demonstrating that the improvement project would exceed 70 percent of the cost of constructing replacement housing units intended for members of the armed forces in the same pay grade or grades as those members who occupy the existing housing units; and~~

~~(ii) if the replacement housing units are intended for members of the armed forces in a different pay grade or grades, a justification of the need for the replacement housing units based upon the long-term requirements of the armed forces in the location concerned; and~~

~~(D) a period of 21 days elapses after the date on which the Secretary submits the notice required by subparagraph (C) or, if over sooner, a period of 14 days elapses after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title~~.

(2) The amount that may be expended to construct replacement military family housing units under this subsection may not exceed the amount that is otherwise available to carry out the previously authorized improvement project.

(d) This section does not apply to projects authorized for restoration or replacement of housing units that have been damaged or destroyed.

§ 2826. Military family housing: local comparability of room patterns and floor areas

~~(a) Local Comparability.~~ In the construction, acquisition, and improvement of military family housing, the Secretary concerned shall ensure that the room patterns and floor areas of military family housing in a particular locality (as designated by the Secretary concerned for purposes of this section) are similar to room patterns and floor areas of similar housing in the private sector in that locality.

~~(b) Requests for Authority for Military Family Housing. (1) In submitting to Congress a request for authority to carry out the construction, acquisition, or improvement of military family housing, the Secretary concerned shall include in the request information on the net floor area of each unit of military family housing to be constructed, acquired, or improved under the authority.~~

~~(2) In this subsection, the term "net floor area", in the case of a military family housing unit, means the total number of square feet of the floor space inside the exterior walls of the unit, excluding the floor area of an unfinished basement, an unfinished attic, a utility space, a garage, a carport, an open or insect-screened porch, a stairwell, and any space used for a solar-energy system~~.

§ 2827. Relocation of military family housing units

~~(a) Subject to subsection (b), the~~ The Secretary concerned may relocate existing military family housing units from any location where the number of such units exceeds requirements for military family housing to any military installation where there is a housing shortage.

~~(b) A contract to carry out a relocation of military family housing units under subsection (a) may not be awarded until (1) the Secretary concerned has notified the appropriate committees of Congress of the proposed new locations of the housing units to be relocated and the estimated cost of and source of funds for the relocation, and (2) a period of 21 days has elapsed after the notification has been received by those committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title~~.

§ 2828. Leasing of military family housing

(a)(1) Subject to paragraph (2), the Secretary of the military department concerned may lease housing facilities at or near a military installation in the United States, Puerto Rico, or Guam for assignment, without rental charge, as family housing to members of the armed forces and for assignment, with fair market rental charge, as family housing to civilian employees of the Department of Defense stationed at such installation.

(2) A lease may only be made under paragraph (1) if the Secretary concerned finds that there is a shortage of adequate housing at or near such military installation and that -

(A) the requirement for such housing is temporary;

(B) leasing would be more cost effective than construction or acquisition of new housing;

(C) family housing is required for personnel attending service school academic courses on permanent change of station orders;

(D) construction of family housing at such installation has been authorized by law but is not yet completed; or

(E) a military construction authorization bill pending in Congress includes a request for authorization of construction of family housing at such installation.

(b)(1) Not more than 10,000 family housing units may be leased at any one time under subsection (a).

(2) Except as provided in paragraphs (3), (4), and (7), expenditures for the rental of housing units under subsection (a) (including the cost of utilities, maintenance, and operation) may not exceed $12,000 per unit per year, as adjusted from time to time under paragraph (5).

(3) Not more than 500 housing units may be leased under subsection (a) for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation) exceeds the maximum amount per unit per year in effect under paragraph (2) but does not exceed $14,000 per unit per year, as adjusted from time to time under paragraph (5).

(4)(A) The Secretary of the Army may lease not more than eight housing units in the vicinity of Miami, Florida, for key and essential personnel, as designated by the Secretary, for the United States Southern Command for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation, including security enhancements) exceeds the expenditure limitations in paragraphs (2) and (3).

(B) The amount of all leases under this paragraph may not exceed $280,000 per year, as adjusted from time to time under paragraph (6).

(C) The term of any lease under this paragraph may not exceed 5 years.

(D) Until September 30, 2008, the Secretary of the Army may authorize family members of a member of the armed forces on active duty who is assigned to a family-member-restricted area and who, before such assignment, was occupying a housing unit leased under this paragraph, to remain in the leased housing unit until the member completes the assignment. Costs incurred for the leased housing unit during the assignment shall be included in the costs subject to the limitation under subparagraph (B).

(5) At the beginning of each fiscal year, the Secretary concerned shall adjust the maximum lease amount provided for leases under paragraphs (2), (3), and (7) for the previous fiscal year by the percentage (if any) by which the national average monthly cost of housing (as calculated for purposes of determining rates of basic allowance for housing under section 403 of title 37) for the preceding fiscal year exceeds the national average monthly cost of housing (as so calculated) for the fiscal year before such preceding fiscal year.

(6) At the beginning of each fiscal year, the Secretary of the Army shall adjust the maximum aggregate amount for leases under paragraph (4) for the previous fiscal year by the percentage (if any) by which the annual average cost of housing for the Miami Military Housing Area (as calculated for purposes of determining rates of basic allowance for housing under section 403 of title 37) for the preceding fiscal year exceeds the annual average cost of housing for the Miami Military Housing Area (as so calculated) for the fiscal year before such preceding fiscal year.

(7)(A) Not more than 600 housing units may be leased by the Secretary of the Army under subsection (a) for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation) exceeds the maximum amount per unit per year in effect under paragraph (2) but does not exceed $35,000 per unit per year, as adjusted from time to time under paragraph (5).

(B) The maximum lease amount provided in subparagraph (A) shall apply only to Army family housing in areas designated by the Secretary of the Army.

(C) The term of a lease under subparagraph (A) may not exceed 2 years.

(c) The Secretary concerned may lease housing facilities in foreign countries for assignment, without rental charge, as family housing to members of the armed forces and for assignment, with or without rental charge, as family housing to civilian employees of the Department of Defense -

(1) under circumstances specified in clause (A), (B), (D), or (E) of subsection (a)(2);

(2) for incumbents of special command positions (as determined by the Secretary of Defense);

(3) in countries where excessive costs of housing or other lease terms would cause undue hardship on Department of Defense personnel; and

(4) in countries that prohibit leases by individual military or civilian personnel of the United States.

(d)(1) Leases of housing units in foreign countries under subsection (c) for assignment as family housing may be for any period not in excess of 10 years, or 15 years in the case of leases in Korea, and the costs of such leases for any year may be paid out of annual appropriations for that year.

(2) The Secretary may enter into an agreement under this paragraph in connection with a lease entered into under subsection (c). Such an agreement -

(A) shall be for the purpose of compensating a developer for any costs resulting from the termination of the lease during the construction of the housing units that are to be occupied pursuant to the lease;

(B) may be for a period not in excess of three years; and

(C) shall include a provision that the obligation of the United States to make payments under the agreement in any fiscal year is subject to the availability of appropriations.

(e)(1) Expenditures for the rental of family housing in foreign countries (including the costs of utilities, maintenance, and operation) may not exceed $20,000 per unit per year, except that 450 units may be leased in foreign countries for not more than $25,000 per unit per year. These maximum lease amounts may be waived by the Secretary concerned with respect to not more than a total of 350 such units that are leased for incumbents of special positions or for personnel assigned to Defense Attache Offices or that are leased in countries where excessive costs of housing would cause undue hardship on Department of Defense personnel.

(2) In addition to the 450 units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretaries of the military departments may lease not more than 3,300 units of family housing in Italy, subject to that maximum lease amount.

(3) In addition to the 450 units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretary of the Army may lease not more than 1,175 units of family housing in Korea subject to that maximum lease amount.

(4) In addition to the units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretary of the Army may lease not more than 2,800 units of family housing in Korea subject to a maximum lease amount of $35,000 per unit per year.

(5) The Secretary concerned shall adjust the maximum lease amounts provided for under paragraphs (1), (2), (3), and (4) for the previous fiscal year -

(A) for foreign currency fluctuations from October 1, 1987; and

(B) at the beginning of each fiscal year, by the percentage (if any) by which the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, during the preceding fiscal year exceeds such Consumer Price Index for the fiscal year before such preceding fiscal year.

(6) The maximum number of family housing units that may be leased in foreign countries under this section at any one time is 55,775.

~~(f) A lease for family housing facilities, or for real property related to family housing facilities, in a foreign country for which the average estimated annual rental during the term of the lease exceeds $1,000,000 may not be made under this section until (1) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed lease, and (2) a period of 21 days elapses after the notification is received by those committees or, if earlier, a period of 14 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title~~.

(g) Appropriations available to the Department of Defense for maintenance or construction may be used for the acquisition of interests in land under this section.

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§ 2835. Long-term leasing of military family housing to be constructed

(a) Build and Lease Authorized. ~~Subject to subsection (b), the~~The Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard, may enter into a contract for the lease of family housing units to be constructed or rehabilitated to residential use near a military installation within the United States under the Secretary's jurisdiction at which there is a shortage of family housing. Housing units leased under this section shall be assigned, without rental charge, as family housing to members of the armed forces who are eligible for assignment to military family housing.

~~(b) Submission and Authorization of Proposed Lease Contracts. (1) The Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard, may enter into a lease contract under subsection (a) for such military housing as is authorized by law for the purposes of this section.~~

~~(2) The budget material submitted to Congress by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, in connection with the budget submitted pursuant to section 1105 of title 31 for each fiscal year shall include materials that identify the military housing projects for which lease contracts are proposed to be entered into under subsection (a) in such fiscal year~~.

(c) Competitive Process. - Each contract under subsection (a) shall be awarded through the use of publicly advertised, competitively bid, or competitively negotiated, contracting procedures as provided in chapter 137 of this title. In accordance with such procedures, the Secretary of a military department, or the Secretary of Homeland Security, as the case may be, shall solicit bids or proposals for a contract for the lease of military housing authorized in accordance with subsection (b)(1). Such a contract may provide for the contractor of the housing facilities to operate and maintain such housing facilities during the term of the lease.

(d) Conditions on Obligation of Funds. - A lease contract entered into for a military housing project under subsection (a) shall include the following provisions:

(1) A statement that the obligation of the United States to make payments under the contract in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that project.

(2) A commitment to obligate the necessary amount for each fiscal year covered by the contract when and to the extent that funds are appropriated for that project for that fiscal year.

(3) A statement that such a commitment entered into under the authority of this section does not constitute an obligation of the United States.

(4) A requirement that housing units constructed pursuant to the contract shall be constructed -

(A) to Department of Defense specifications, in the case of a Department of Defense contract; and

(B) to Department of Homeland Security specifications, in the case of a contract for the Coast Guard.

(e) Lease Term. - A contract under this section may be for any period not in excess of 20 years (excluding the period required for construction of the housing facilities).

(f) Right of First Refusal to Acquire. - A contract under this section shall provide that, upon the termination of the lease period, the United States shall have the right of first refusal to acquire all right, title, and interest to the housing facilities constructed and leased under the contract.

~~(g) Notice and Wait Requirements. - A contract may not be entered into for the lease of housing facilities under this section until -~~

~~(1) the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard, submits to the appropriate committees of Congress, in writing, an economic analysis (based upon accepted life-cycle costing procedures) which demonstrates that the proposed contract is cost-effective when compared with alternative means of furnishing the same housing facilities; and~~

~~(2) a period of 21 days has expired following the date on which the economic analysis is received by those committees or, if earlier, a period of 14 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title~~.

(h) Support Buildings. - A contract for the lease of family housing under this section may include provision for the lease of a child care center, civic center building, and similar type buildings constructed for the support of family housing.

§ 2836. Military housing rental guarantee program

(a) Authority. ~~- Subject to subsection (b), the~~ The Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard, may enter into an agreement to assure the occupancy of rental housing to be constructed or rehabilitated to residential use by a private developer or by a State or local housing authority on private land, on land owned by a State or local government, or on land owned by the United States, if the housing is to be located on or near a new military installation or an existing military installation that has a shortage of housing to meet the requirements of eligible members of the armed forces (with or without accompanying dependents). The authority provided under this subsection shall be exercised under uniform regulations prescribed by the Secretary of Defense.

~~(b) Submission and Authorization of Proposed Agreements. - (1) The Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard, may enter into agreements pursuant to subsection (a) for such military housing rental guaranty projects as are authorized by law~~.

~~(2) The budget material submitted to Congress by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, in connection with the budget submitted pursuant to section 1105 of title~~

~~31 for each fiscal year shall include materials that identify the military housing rental guaranty projects for which agreements are proposed to be entered into under subsection (a) in that fiscal year.~~

(c) Content of Agreement. - An agreement under subsection (a) -

(1) ***

* * * * * * *

(d) Conditions on Obligation of Funds. - An agreement entered into for a project pursuant to subsection (a) shall include the following provisions:

(1) A statement that the obligation of the United States to make payments under the agreement in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that project.

(2) A commitment to obligate the necessary amount for each fiscal year covered by the agreement when and to the extent that funds are appropriated for such project for such fiscal year.

(3) A statement that such a commitment entered into under the authority of this section does not constitute an obligation of the United States.

(e) Competitive Process. - An agreement under subsection (a) shall be made through the use of publicly advertised, competitively bid, or competitively negotiated, contracting procedures as provided in chapter 137 of this title. In accordance with such procedures, the Secretary of a military department, or the Secretary of Homeland Security, as the case may be, shall solicit bids or proposals for a guaranty agreement for each military housing rental guaranty project authorized in accordance with subsection (b).

~~(f) Notice and Wait Requirements. - An agreement may not be entered into under subsection (a) until -~~

~~(1) the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard, submits to the appropriate committees of Congress, in writing, an economic analysis (based upon accepted life-cycle costing procedures) which demonstrates that the proposed agreement is cost effective when compared with alternative means of furnishing the same housing facilities; and~~

~~(2) a period of 21 days has expired following the date on which the economic analysis is received by those committees or, if over sooner, a period of 14 days has expired following the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title~~.

(g) Disputes. - The Secretary concerned may require that disputes arising under an agreement entered into under subsection (a) be decided in accordance with the procedures provided for by chapter 71 of title 41.

§ 2837. Limited partnerships with private developers of housing

(a) Limited Partnerships. - (1) In order to meet the housing requirements of members of the armed forces, and the dependents of such members, at a military installation described in paragraph (2), the Secretary of a military department may enter into a limited partnership with one or more private developers to encourage the construction of housing and accessory structures within commuting distance of the installation. The Secretary may contribute not less than five percent, but not more than 35 percent, of the development costs under a limited partnership.

(2) Paragraph (1) applies to a military installation under the jurisdiction of the Secretary concerned at which there is a shortage of suitable housing to meet the requirements of members and dependents referred to in such paragraph.

(b) Collateral Incentive Agreements. - The Secretary concerned may also enter into collateral incentive agreements with private developers who enter into a limited partnership under subsection (a) to ensure that, where appropriate -

(1) a suitable preference will be afforded members of the armed forces in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the limited partnership; or

(2) the rental rates or sale prices, as the case may be, for some or all of such units will be affordable for such members.

(c) Selection of Investment Opportunities. – ~~(1)~~ The Secretary concerned shall use publicly advertised, competitively bid or competitively negotiated, contracting procedures, as provided in chapter 137 of this title, to enter into limited partnerships under subsection (a).

~~(2) When a decision is made to enter into a limited partnership under subsection (a), the Secretary concerned shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include the justification for the limited partnership, the terms and conditions of the limited partnership, a description of the development costs for projects under the limited partnership, and a description of the share of such costs to be incurred by the Secretary concerned. The Secretary concerned may then enter into the limited partnership only after the end of the 21-day period beginning on the date the report is received by such committees or, if earlier,~~

~~the end of the 14-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title~~.

(d) Account. - (1) There is hereby established on the books of the Treasury an account to be known as the "Defense Housing Investment Account".

(2) There shall be deposited into the Account -

(A) such funds as may be authorized for and appropriated to the Account; and

(B) any proceeds received by the Secretary concerned from the repayment of investments or profits on investments of the Secretary under subsection (a).

(3) From such amounts as are provided in advance in appropriation Acts, funds in the Account shall be available to the Secretaries concerned in amounts determined by the Secretary of Defense for contracts, investments, and expenses necessary for the implementation of this section.

(4) The Secretary concerned may not enter into a contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) unless a sufficient amount of the unobligated balance of the funds in the Account is available to the Secretary, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.

[(e) Repealed.]

~~(f) Report. - Not later than 60 days after the end of each fiscal year in which activities are carried out under this section, the Secretaries concerned shall jointly transmit to Congress a report specifying the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of all other expenditures made pursuant to such section during such fiscal year~~.

(g) Transfer of Lands Prohibited. - Nothing in this section shall be construed to permit the Secretary concerned, as part of a limited partnership entered into under this section, to transfer the right, title, or interest of the United States in any real property under the jurisdiction of the Secretary concerned.

(h) Expiration and Termination of Authority. - The authority of the Secretary concerned to enter into a limited partnership under this section shall expire on September 30, 2000.

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§ 2853. Authorized cost and scope of work variations

(a) Except as provided in subsection (c) or (d), the cost authorized for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be increased or decreased by not more than 25 percent of the amount appropriated for such project or 200 percent of the minor construction project ceiling specified in section 2805(a)(1), whichever is less, if the Secretary concerned determines that such revised cost is required for the sole purpose of meeting unusual variations in cost and that such variations in cost could not have reasonably been anticipated at the time the project was approved originally by Congress.

(b)(1) Except as provided in subsection (c), the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be reduced by not more than 25 percent from the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(2) The scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may not be increased above the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(c) The limitation on cost variations in subsection (a) or the limitation on scope reduction in subsection (b)(1) does not apply if the variation in cost or reduction in the scope of work is approved by the Secretary concerned. ~~and -~~

~~(1) in the case of a cost increase or a reduction in the scope of work -~~

~~(A) the Secretary concerned notifies the appropriate committees of Congress in writing of the cost increase or reduction in scope and the reasons therefor, including a description of the funds proposed to be used to finance any increased costs; and~~

~~(B) a period of 21 days has elapsed after the date on which the notification is received by the committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title; or~~

~~(2) in the case of a cost decrease, the Secretary concerned notifies the appropriate committees of Congress in writing not later than 14 days after the date funds are obligated in connection with the military construction project or military family housing project~~.

(d) The limitation on cost variations in subsection (a) does not apply to the following:

(1) The settlement of a contractor claim under a contract.

(2) The costs associated with the required remediation of an environmental hazard in connection with a military construction project or military family housing project, such as asbestos removal, radon abatement, lead-based paint removal or abatement, or any other legally required environmental hazard remediation, if the required remediation could not have reasonably been anticipated at the time the project was approved originally by Congress.

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§ 2854a. Conveyance of damaged or deteriorated military family housing; use of proceeds

(a) Authority To Convey. - (1) The Secretary concerned may convey any family housing facility that, due to damage or deterioration, is in a condition that is uneconomical to repair. Any conveyance of a family housing facility under this section may include a conveyance of the real property associated with the facility conveyed.

(2) The authority of this section does not apply to family housing facilities located at military installations approved for closure under a base closure law or family housing facilities located at an installation outside the United States at which the Secretary of Defense terminates operations.

(3) The aggregate total value of the family housing facilities conveyed by the Department of Defense under the authority in this subsection in any fiscal year may not exceed $5,000,000.

(4) For purposes of this subsection, a family housing facility is in a condition that is uneconomical to repair if the cost of the necessary repairs for the facility would exceed the amount equal to 70 percent of the cost of constructing a family housing facility to replace such facility.

(b) Consideration. - (1) As consideration for the conveyance of a family housing facility under subsection (a), the person to whom the facility is conveyed shall pay the United States an amount equal to the fair market value of the facility conveyed, including any real property conveyed along with the facility.

(2) The Secretary concerned shall determine the fair market value of any family housing facility and associated real property that is conveyed under subsection (a). Such determination shall be final.

~~(c) Notice and Wait Requirements. - The Secretary concerned may not enter into an agreement to convey a family housing facility under this section until -~~

~~(1) the Secretary submits to the appropriate committees of Congress, in writing, a justification for the conveyance under the agreement, including -~~

~~(A) an estimate of the consideration to be provided the United States under the agreement;~~

~~(B) an estimate of the cost of repairing the family housing facility to be conveyed; and~~

~~(C) an estimate of the cost of replacing the family housing facility to be conveyed; and~~

~~(2) a period of 21 days has elapsed after the date on which the justification is received by the committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the justification is provided in an electronic medium pursuant to section 480 of this title~~.

(d) Inapplicability of Certain Property Disposal Laws. – The following provisions of law do not apply to the conveyance of a family housing facility under this section:

(1) Subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(2) Title V of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411 et seq.).

(e) Use of Proceeds. - (1) The proceeds of any conveyance of a family housing facility under this section shall be credited to the appropriate fund established under section 2883 of this title and shall be available -

(A) to construct family housing units to replace the family housing facility conveyed under this section, but only to the extent that the number of units constructed with such proceeds does not exceed the number of units of military family housing of the facility conveyed;

(B) to repair or restore existing military family housing; and

(C) to reimburse the Secretary concerned for the costs incurred by the Secretary in conveying the family housing facility.

(2) Notwithstanding section 2883(d) of this title, proceeds derived from a conveyance of a family housing facility under this section shall be available under paragraph (1) without any further appropriation.

(f) Description of Property. - The exact acreage and legal description of any family housing facility conveyed under this section, including any real property associated with such facility, shall be determined by such means as the Secretary concerned considers satisfactory, including by survey in the case of real property.

(g) Additional Terms and Conditions. - The Secretary concerned may require such additional terms and conditions in connection with the conveyance of family housing facilities under this section as the Secretary considers appropriate to protect the interests of the United States.

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§ 2861. Military construction projects in connection with industrial facility investment program

(a) Authority. - The Secretary of Defense may carry out a military construction project, not previously authorized, for the purpose of carrying out activities under section 2474(a)(2) of this title, using funds appropriated or otherwise made available for that purpose in military construction accounts.

(b) Crediting of Funds to Capital Budget. - Funds appropriated or otherwise made available in a fiscal year for the purpose of carrying out a military construction project with respect to a covered depot (as defined in subsection (e) of section 2476 of this title) may be credited to the amount required by subsection (a) of such section to be invested in the capital budgets of the covered depots in that fiscal year.

(c) Notice and Wait Requirement. - When a decision is made to carry out a project under subsection (a), the Secretary of Defense shall notify in writing the appropriate committees of Congress of that decision and the savings estimated to be realized from the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

~~(d) Annual Report. - Not later than December 31 of each year, the Secretary shall submit to Congress a report describing actions taken under this section and the savings realized from such actions during the fiscal year ending in the year in which the report is submitted~~.

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§ 2866. Water conservation at military installations

(a) Water Conservation Activities. – (1) ***

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(c) Water Conservation Construction Projects. - ~~(1)~~ The Secretary of Defense may carry out a military construction project for water conservation, not previously authorized, using funds appropriated or otherwise made available to the Secretary for water conservation.

~~(2) When a decision is made to carry out a project under paragraph (1), the Secretary of Defense shall notify the appropriate committees of Congress of that decision. Such project may be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title~~.

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§ 2875. Investments

(a) Investments Authorized. - The Secretary concerned may make investments in an eligible entity carrying out projects for the acquisition or construction of housing units suitable for use as military family housing or as military unaccompanied housing.

(b) Forms of Investment. - An investment under this section may take the form of an acquisition of a limited partnership interest by the United States, a purchase of stock or other equity instruments by the United States, a purchase of bonds or other debt instruments by the United States, or any combination of such forms of investment.

(c) Limitation on Value of Investment. – (1) The cash amount of an investment under this section in an eligible entity may not exceed an amount equal to 33 1/3 percent of the capital cost (as determined by the Secretary concerned) of the project or projects that the eligible entity proposes to carry out under this section with the investment.

(2) If the Secretary concerned conveys land or facilities to an eligible entity as all or part of an investment in the eligible entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the eligible entity proposes to carry out under this section with the investment.

(3) In this subsection, the term "capital cost", with respect to a project for the acquisition or construction of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.

(d) Collateral Incentive Agreements. - The Secretary concerned shall enter into collateral incentive agreements with eligible entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

~~(e) Congressional Notification Required. - Amounts in the Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund may be used to make a cash investment under this section in an eligible entity only after the end of the 30-day period beginning on the date the Secretary of Defense submits written notice of, and justification for, the investment to the appropriate committees of Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title~~.

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§ 2884. Project ~~R~~reports

(a) ~~PROJECT~~ REPORTS.~~—(1)~~The Secretary of Defense shall transmit to the appropriate committees of Congress a report describing –

(1 ~~A~~) each contract for the acquisition or construction of family housing units or unaccompanied housing units that the Secretary proposes to solicit under this subchapter; and

(2 ~~B~~) each conveyance or lease proposed under section 2878 of this title.

~~(2)~~ (b) CONTENT OF REPORTS.—(1) For each-proposed contract, conveyance, or lease and the intended method of participation of the United States in the contract, conveyance, or lease and provide a justification of such method of participation.

(~~3~~2)(A) In the case of a contract described in ~~paragraph (1)~~ subsection (a) proposed to be entered into with a private party, the report shall specify whether the contract will or may include a guarantee (including the making of mortgage or rental payments) by the Secretary to the private party in the event of –

(i) the closure or realignment of the installation for which housing will be provided under the contract;

(ii) a reduction in force of units stationed at such installation; or

(iii) the extended deployment of units stationed at such installation.

(B) If the contract will or may include such a guarantee, the report shall also –

(i) describe the nature of the guarantee; and

(ii) assess the extent and likelihood, if any, of the liability of the United States with respect to the guarantee.

(~~4~~ 3) The report shall be submitted not later than 30 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease.

~~(b) Annual Reports. - The Secretary of Defense shall include each year in the materials that the Secretary submits to Congress in support of the budget submitted by the President pursuant to section 1105 of title 31 the following:~~

~~(1) A report on the expenditures and receipts during the preceding fiscal year covering the Funds established under section 2883 of this title.~~

~~(2) A methodology for evaluating the extent and effectiveness of the use of the authorities under this subchapter during such preceding fiscal year, and such recommendations as the Secretary considers necessary for improving the extent and effectiveness of the use of such authorities in the future.~~

~~(3) A review of activities of the Secretary under this subchapter during such preceding fiscal year, shown for military family housing, military unaccompanied housing, dual military family housing and military unaccompanied housing, and ancillary supporting facilities~~.

~~(4) If a contract for the acquisition or construction of military family housing, military unaccompanied housing, or dual military family housing and military unaccompanied housing entered into during the preceding fiscal year did not include the acquisition or construction of the types of ancillary supporting facilities specifically referred to in section 2871(1) of this title, a explanation of the reasons why such ancillary supporting facilities were not included.~~

~~(5) A report setting forth, by armed force –~~

~~(A) an estimate of the amounts of basic allowance for housing under section 403 of title 37 that will be paid, during the current fiscal year and the fiscal year for which the budget is submitted, to members of the armed forces living in housing provided under the authorities in this subchapter; and~~

~~(B) the number of units of military family housing and military unaccompanied housing upon which the estimate under subparagraph (A) for the current fiscal year and the next fiscal year is based.~~

~~(6) A description of the Secretary's plans for housing privatization activities under this subchapter:~~

~~(A) during the fiscal year for which the budget is submitted; and~~

~~(B) during the period covered by the then-current future-years defense plan under section 221 of this title~~.

~~(7) A report on best practices for the execution of housing privatization initiatives, including—~~

~~(A) effective means to track and verify proper performance, schedule, and cash flow;~~

~~(B) means of overseeing the actions of bondholders to properly monitor construction progress and construction draws;~~

~~(C) effective structuring of transactions to ensure the United States Government has adequate abilities to oversee project owner performance;~~

~~(D) ensuring that notices to proceed on new work are not issued until proper bonding is in place; and~~

~~(E) such other topics that are identified as pertinent by the Department of Defense.~~

~~(8) A report identifying each family housing unit acquired or constructed under this subchapter that is used, or intended to be used, as quarters for a general officer or flag officer and for which the total operation, maintenance, and repair costs for the unit exceeded $50,000. For each housing unit so identified, the report shall also include the total of such operation, maintenance, and repair costs.~~

§ 2885. Oversight and accountability for privatization projects

(a) OVERSIGHT AND ACCOUNTABILITY MEASURES.—Each Secretary concerned shall prescribe regulations to effectively oversee and manage military housing privatization projects carried out under this subchapter. The regulations shall include the following requirements for each privatization project:

(1) The installation asset manager shall conduct monthly site visits and provide quarterly reports on the progress of the construction or renovation of the housing units. The reports shall be submitted quarterly to the assistant secretary for installations and environment of the respective military department.

(2) The installation asset manager, and, as applicable, the resident construction manager, privatization asset manager, bondholder representative, project owner, developer, general contractor, and construction consultant for the project shall conduct meetings to ensure that the construction or renovation of the units meets performance and schedule requirements and that appropriate operating and ground lease agreements are in place and adhered to.

(3) ~~If a project~~ In the case of a project for new construction, if the project is 90 days or more behind schedule or otherwise appears to be substantially failing to adhere to the obligations or milestones under the contract, the assistant secretary for installations and environment of the respective military department shall submit a notice of deficiency to the Deputy Under Secretary of Defense (Installations and Environment), the Secretary concerned, the managing member, and the trustee for the project.

(4) (A) Not later than 15 days after the submittal of a notice of deficiency under paragraph (3), the Secretary concerned or designated representative shall submit to the project owner, developer, or general contractor responsible for the project a summary of deficiencies related to the project.

(B) If the project owner, developer, or general contractor responsible for the privatization project is unable, within 60 days after receiving a notice of deficiency under subparagraph (A), to make progress on the issues outlined in such notice, the Secretary concerned shall notify the congressional defense committees of the status of the project, and shall provide a recommended course of action to correct the problems.

(b) ***

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§ 2916. Sale of electricity from alternate energy and cogeneration production facilities

(a) The Secretary of a military department may sell, contract to sell, or authorize the sale by a contractor to a public or private utility company of electrical energy generated from alternate energy or cogeneration type production facilities which are under the jurisdiction (or produced on land which is under the jurisdiction) of the Secretary concerned. The sale of such energy shall be made under such regulations, for such periods, and at such prices as the Secretary concerned prescribes consistent with the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(b)(1) Proceeds from sales under subsection (a) shall be credited to the appropriation account currently available to the military department concerned for the supply of electrical energy.

(2) Subject to the availability of appropriations for this purpose, proceeds credited under paragraph (1) may be used to carry out military construction projects under the energy performance plan developed by the Secretary of Defense under section 2911(b) of this title, including minor military construction projects authorized under section 2805 of this title that are designed to increase energy conservation.

~~(c) Before carrying out a military construction project described in subsection (b) using proceeds from sales under subsection (a), the Secretary concerned shall notify Congress in writing of the project, the justification for the project, and the estimated cost of the project. The project may be carried out only after the end of the 21-day period beginning on the date the notification is received by Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title~~.

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§ 7296. ~~Combatant surface vessels: notice before reduction in number; preservation of surge capability~~

~~(a) Notice-and-Wait Before Reductions.—(1) A reduction described in paragraph (2) in the number of combatant surface vessels may only be carried out after—~~

~~(A) the Secretary of the Navy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of the proposed reduction; and~~

~~(B) a period of 90 days has expired after the date on which such notification is received.~~

~~(2) A reduction described in this paragraph in the number of combatant surface vessels is a reduction—~~

~~(A) from 116, or a number greater than 116, to a number less than 116; or~~

~~(B) from a number less than 116 to a lesser number.~~

~~(b) Content of Notification.—Any notification under subsection (a)(1)(A) shall include the following:~~

~~(1) The schedule for the proposed reduction.~~

~~(2) The number of vessels that are to comprise the force of combatant surface vessels after the reduction.~~

~~(3) A risk assessment for a force of combatant surface vessels of the number specified under paragraph (2) that is based on the same assumptions as were applied in the QDR 2001 combatant surface force risk assessment.~~

~~(c) Definitions.—In this section:~~

~~(1) The term "combatant surface vessels" means cruisers, destroyers, and frigates that are in active service in the Navy or in active reserve service in the Navy.~~

~~(2) The term "QDR 2001 combatant surface force risk assessment" means the risk assessment associated with a force of combatant surface vessels numbering 116 that is set forth in the report on the quadrennial defense review submitted to Congress on September 30, 2001, under section 118 of this title~~.

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§ 7310. Overhaul, repair, etc. of vessels in foreign shipyards: restrictions

(a) VESSELS WITH HOMEPORT IN UNITED STATES. - A naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States or Guam, other than in the case of voyage repairs.

(b) VESSEL CHANGING HOMEPORTS. – (1) In the case of a naval vessel the homeport of which is not in the United States (or a territory of the United States), the Secretary of the Navy may not during the 15-month period preceding the planned reassignment of the vessel to a homeport in the United States (or a territory of the United States) begin any work for the overhaul, repair, or maintenance of the vessel that is scheduled to be for a period of more than six months.

(2) In the case of a naval vessel the homeport of which is in the United States (or a territory of the United States), the Secretary of the Navy shall during the 15-month period preceding the planned reassignment of the vessel to a homeport not in the United States (or a territory of the United States) perform in the United States (or a territory of the United States) any work for the overhaul, repair, or maintenance of the vessel that is scheduled –

(A) to begin during the 15-month period; and

(B) to be for a period of more than six months.

~~(c) REPORT.—(1) The Secretary of the Navy shall submit to Congress each year, at the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, a report listing all repairs and maintenance performed on any covered naval vessel that has undergone work for the repair of the vessel in any shipyard outside the United States or Guam (in this section referred to as a 'foreign shipyard') during the fiscal year preceding the fiscal year in which the report is submitted.~~

~~(2) The report shall include the percentage of the annual ship repair budget of the Navy that was spent on repair of covered naval vessels in foreign shipyards during the fiscal year covered by the report.~~

~~(3) The report also shall include the following with respect to each covered naval vessel:~~

~~(A) The justification under law for the repair in a foreign shipyard.~~

~~(B) The name and class of vessel repaired.~~

~~(C) The category of repair and whether the repair qualified as voyage repair as defined in Commander Military Sealift Command Instruction 4700.15C (September 13, 2007) or Joint Fleet Maintenance Manual (Commander Fleet Forces Command Instruction 4790.3 Revision A, Change 7), Volume III. Scheduled availabilities are to be considered as a composite and reported as a single entity without individual repair and maintenance items listed separately.~~

~~(D) The shipyard where the repair work was carried out.~~

~~(E) The number of days the vessel was in port for repair.~~

~~(F) The cost of the repair and the amount (if any) that the cost of the repair was less than or greater than the cost of the repair provided for in the contract.~~

~~(G) The schedule for repair, the amount of work accomplished (stated in terms of work days), whether the repair was accomplished on schedule, and, if not so accomplished, the reason for the schedule over-run.~~

~~(H) The homeport or location of the vessel prior to its voyage for repair.~~

~~(I) Whether the repair was performed under a contract awarded through the use of competitive procedures or procedures other than competitive procedures.~~

~~(4) In this subsection, the term 'covered naval vessel' means any of the following:~~

~~(A) A naval vessel.~~

~~(B) Any other vessel under the jurisdiction of the Secretary of the Navy~~.

* * * * * * *

§ 9356. Acceptance of guarantees with gifts for major projects

(a) Acceptance Authority. ~~- Subject to subsection (c), the~~ The Secretary of the Air Force may accept from a donor or donors a qualified guarantee for the completion of a major project for the benefit of the Academy.

(b) Obligation Authority. - The amount of a qualified guarantee accepted under this section shall be considered as contract authority to provide obligation authority for purposes of Federal fiscal and contractual requirements. Funds available for a project for which such a guarantee has been accepted may be obligated and expended for the project without regard to whether the total amount of the funds and other resources available for the project (not taking into account the amount of the guarantee) is sufficient to pay for completion of the project.

~~(c) Notice of Proposed Acceptance.—The Secretary of the Air Force may not accept a qualified guarantee under this section for the completion of a major project until after the expiration of 30 days following the date upon which a report of the facts concerning the proposed guarantee is submitted to Congress or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title~~.

(d) Prohibition on Commingling of Funds. - The Secretary of the Air Force may not enter into any contract or other transaction involving the use of a qualified guarantee and appropriated funds in the same contract or transaction.

(e) Definitions. - In this section:

(1) ***

* * * * * * *

§ 9514. Indemnification of Department of Transportation for losses covered by defense-related aviation insurance

(a) Prompt Indemnification Required. - (1) In the event of a loss that is covered by defense-related aviation insurance, the Secretary of Defense shall promptly indemnify the Secretary of Transportation for the amount of the loss consistent with the indemnification agreement between the two Secretaries that underlies such insurance. The Secretary of Defense shall make such indemnification -

(A) in the case of a claim for the loss of an aircraft hull, not later than 30 days after the date on which the Secretary of Transportation determines the claim to be payable or that amounts are due under the policy that provided the defense-related aviation insurance; and

(B) in the case of any other claim, not later than 180 days after the date on which the Secretary of Transportation determines the claim to be payable.

(2) ***

(b) Source of Funds for Payment of Indemnity. - ***

(c) Notice to Congress. - In the event of a loss that is covered by defense-related aviation insurance in the case of an incident in which the covered loss is (or is expected to be) in an amount in excess of ~~$1,000,000~~ **$10,000,000**, the Secretary of Defense shall submit to Congress notification of the loss as soon after the occurrence of the loss as possible and in no event more than 30 days after the date of the loss.

(d) Implementing Matters. - (1) Payment of indemnification under this section is not subject to section 2214 or 2215 of this title or any other provision of law requiring notification to Congress before funds may be transferred.

(2) Consolidation of claims arising from the same incident is not required before indemnification of the Secretary of Transportation for payment of a claim may be made under this section.

(e) Construction With Other Transfer Authority. - Authority to transfer funds under this section is in addition to any other authority provided by law to transfer funds (whether enacted before, on, or after the date of the enactment of this section) and is not subject to any dollar limitation or notification requirement contained in any other such authority to transfer funds.

[(f) Repealed.]

(g) Definitions. - In this section:

(1) Defense-related aviation insurance. - The term "defense-related aviation insurance" means aviation insurance and reinsurance provided through policies issued by the Secretary of Transportation under chapter 443 of title 49 that pursuant to section 44305(b) of that title is provided by that Secretary without premium at the request of the Secretary of Defense and is covered by an indemnity agreement between the Secretary of Transportation and the Secretary of Defense.

(2) Loss. - The term "loss" includes damage to or destruction of property, personal injury or death, and other liabilities and expenses covered by the defense-related aviation insurance.

* * * * * * *

§ 10504. ~~Chief of the National Guard Bureau: annual report~~

~~(a) ANNUAL REPORT — The Chief of the National Guard Bureau shall submit to the Secretary of Defense, through the Secretaries of the Army and the Air Force, an annual report on the state of the National Guard and the ability of the National Guard to meet its missions. The report shall be prepared in conjunction with the Secretary of the Army and the Secretary of the Air Force and may be submitted in classified and unclassified versions.~~

~~(b) SUBMISSION OF REPORT TO CONGRESS — The Secretary of Defense shall transmit the annual report of the Chief of the National Guard Bureau to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 (c) of this title is submitted to Congress.~~

* * * * * * *

§ 10541. National Guard and reserve component equipment: annual report to Congress

(a) The Secretary of Defense shall submit to the Congress each year, not later than ~~February 15~~ April 15, a written report concerning the equipment of the National Guard and the reserve components of the armed forces for each of the three succeeding fiscal years.

(b) Each report under this section shall include the following:

(1) ***

* * * * * * *

§ 10543. National Guard and reserve component equipment procurement and military construction funding: inclusion in future-years defense program

(a) In General. - The Secretary of Defense shall specify in each future-years defense program submitted to Congress under section 221 of this title the estimated expenditures and the proposed appropriations, for each fiscal year of the period covered by that program, for the procurement of equipment and for military construction for each of the reserve components of the armed forces.

(b) Associated Annexes. - The associated annexes of the future-years defense program shall specify, at the same level of detail as is set forth in the annexes for the active components, the amount requested for -

(1) procurement of each item of equipment to be procured for each reserve component; and

(2) each military construction project to be carried out for each reserve component, together with the location of the project.

(c) Report. - (1) If the aggregate of the amounts specified in paragraphs (1) and (2) of subsection (b) for a fiscal year is less than the amount equal to 90 percent of the average authorized amount applicable for that fiscal year under paragraph (2), the Secretary of Defense shall submit to Congress a report specifying for each reserve component the additional items of equipment that would be procured, and the additional military construction projects that would be carried out, if that aggregate amount were an amount equal to such average authorized amount. The report shall be at the same level of detail as is required by subsection (b).

(2) In this subsection, the term "average authorized amount", with respect to a fiscal year, means the average of -

(A) the aggregate of the amounts authorized to be appropriated for the preceding fiscal year for the procurement of items of equipment, and for military construction, for the reserve components; and

(B) the aggregate of the amounts authorized to be appropriated for the fiscal year preceding the fiscal year referred to in subparagraph (A) for the procurement of items of equipment, and for military construction, for the reserve components.

(3) A report required under paragraph (1) for a fiscal year shall be submitted not later than ~~15~~ **90** days after the date on which the President submits to Congress the budget for such fiscal year under section 1105(a) of title 31.

* * * * * * *

§ 12302. Ready Reserve

(a) In time of national emergency declared by the President after January 1, 1953, or when otherwise authorized by law, an authority designated by the Secretary concerned may, without the consent of the persons concerned, order any unit, and any member not assigned to a unit organized to serve as a unit, in the Ready Reserve under the jurisdiction of that Secretary to active duty for not more than 24 consecutive months.

(b) To achieve fair treatment as between members in the Ready Reserve who are being considered for recall to duty without their consent, consideration shall be given to -

(1) the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

(2) family responsibilities; and

(3) employment necessary to maintain the national health, safety, or interest.

The Secretary of Defense shall prescribe such policies and procedures as he considers necessary to carry out this subsection. ~~He shall report on those policies and procedures at least once a year to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.~~

(c) Not more than 1,000,000 members of the Ready Reserve may be on active duty, without their consent, under this section at any one time.

* * * * * * *

§ 16137. ~~Biennial report to Congress~~

~~The Secretary of Defense shall submit to Congress a report not later than March 1 of each odd-numbered year concerning the operation of the educational assistance program established by this chapter during the preceding two fiscal years. Each such report shall include the number of members of the Selected Reserve of the Ready Reserve of each armed force receiving, and the number entitled to receive, educational assistance under this chapter during those fiscal years. The Secretary may submit the report more frequently and adjust the period covered by the report accordingly.~~

Ike Skelton National Defense Authorization Act for Fiscal Year 2011
(Public Law 111-383)

SEC. 225. ACQUISITION ACCOUNTABILITY REPORTS ON THE BALLISTIC MISSILE DEFENSE SYSTEM.

(a) BASELINES REQUIRED- The Secretary of Defense shall ensure that the Missile Defense Agency establishes and maintains an acquisition baseline for each program element of the ballistic missile defense system, as specified in section 223 of title 10, United States Code.

(b) ELEMENTS OF BASELINES- Each acquisition baseline required by subsection (a) for a program element shall include the following:

(1) A comprehensive schedule for the program element, including--

(A) research and development milestones;

(B) acquisition milestones, including design reviews and key decision points;

(C) key test events, including ground and flight tests and ballistic missile defense system tests; and

(D) delivery and fielding schedules.

(2) A detailed technical description of--

(A) the capability to be developed, including hardware and software;

(B) system requirements;

(C) how the proposed capability satisfies a capability identified by the commanders of the combatant commands on a prioritized capabilities list;

(D) key knowledge points that must be achieved to permit continuation of the program and to inform production and deployment decisions; and

(E) how the Missile Defense Agency plans to improve the capability over time.

(3) A cost estimate for the program element, including--

(A) a life cycle cost estimate;

(B) program acquisition unit costs for the program element;

(C) average procurement unit costs and program acquisition costs for the program element; and

(D) an identification when the program joint cost analysis requirements description document is scheduled to be approved.

(4) A test baseline summarizing the comprehensive test program for the program element outlined in the integrated master test plan.

(c) ANNUAL REPORTS ON ACQUISITION BASELINES-

(1) ANNUAL REPORTS REQUIRED- Not later than February 15, 2011, and annually thereafter, the Director of the Missile Defense Agency shall submit to the congressional defense committees a report on the acquisition baselines required by subsection (a). The first such report shall set forth the acquisition baselines, and each later report shall identify the significant changes or variances, if any, in any such baseline from any earlier report under this subsection.

(2) FORM- Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

~~(d) ANNUAL REPORTS ON MISSILE DEFENSE EXECUTIVE BOARD ACTIVITIES- The Director shall include in each report under subsection (c) a description of the activities of the Missile Defense Executive Board during the preceding fiscal year, including the following:~~

~~(1) A list of each meeting of the Board during the preceding fiscal year.~~

~~(2) The agenda and issues considered at each such meeting.~~

~~(3) A description of any decisions or recommendations made by the Board at each such meeting.~~

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SEC. 892. ~~**PRICE TREND ANALYSIS FOR SUPPLIES AND EQUIPMENT PURCHASED BY THE DEPARTMENT OF DEFENSE.**~~

~~(a) PRICE TREND ANALYSIS PROCEDURES.~~

~~(1) IN GENERAL.—The Secretary of Defense shall develop and implement procedures that, to the maximum extent practicable, provide for the collection and analysis of information on price trends for covered supplies and equipment purchased by the Department of Defense. The procedures shall include an automated process for identifying categories of covered supplies and equipment described in paragraph (2) that have experienced significant escalation in prices.~~

~~(2) CATEGORY OF COVERED SUPPLIES AND EQUIPMENT.—A category of covered supplies and equipment referred to in paragraph (1) consists of covered supplies and equipment that have the same National Stock Number, are in a single Federal Supply Group or Federal Supply Class, are provided by a single contractor, or are otherwise logically grouped for the purpose of analyzing information on price trends.~~

~~(3) REQUIREMENT TO EXAMINE CAUSES OF ESCALATION.—An analysis conducted pursuant to paragraph (1) shall include, for any category in which significant escalation in prices is identified, a more detailed examination of the causes of escalation for such prices within the category and whether such price escalation is consistent across the Department of Defense.~~

~~(4) REQUIREMENT TO ADDRESS UNJUSTIFIED ESCALATION.—The head of a Defense Agency or the Secretary of a military department shall take appropriate action to address any unjustified escalation in prices being paid for items procured by that agency or military department as identified in an analysis conducted pursuant to paragraph (1).~~

~~(b) ANNUAL REPORT.—Not later than April 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the analyses of price trends that were conducted for categories of covered supplies and equipment during the preceding fiscal year under the procedures implemented pursuant to paragraph (1). The report shall include a description of the actions taken to identify and address any unjustified price escalation for the categories of items.~~

~~(c) DEFINITIONS.—In this section:~~

~~(1) SUPPLIES AND EQUIPMENT.—The term `supplies and equipment' means items classified as supplies and equipment under the Federal Supply Classification System.~~

~~(2) COVERED SUPPLIES AND EQUIPMENT.—The term `covered supplies and equipment' means all supplies and equipment purchased by the Department of Defense. The term does not include major weapon systems but does include individual parts and components purchased as spare or replenishment parts for such weapon systems.~~

~~(d) SUNSET DATE.—This section shall not be in effect on and after April 1, 2015.~~

National Defense Authorization Act for Fiscal Year 2010
(Public Law 111-84)

SEC. 121. LITTORAL COMBAT SHIP PROGRAM.

(a) CONTRACT AUTHORITY.—

(1) IN GENERAL.—The Secretary of the Navy may procure up to ten Littoral Combat Ships and 15 Littoral Combat Ship ship control and weapon systems by entering into a contract using competitive procedures. Such procurement may also include—

(A) materiel and equipment in economic order quantities when cost savings are achievable; and

(B) cost reduction initiatives.

(2) LIABILITY.—A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose, and that total liability to the Government for termination of any contract entered into shall be limited to the total amount of funding obligated at time of termination.

(b) TECHNICAL DATA PACKAGE.—

(1) REQUIREMENT.—As part of the solicitation for proposals for a procurement authorized by subsection (a), the Secretary shall require that an offeror submit a proposal that provides for conveying a complete technical data package as part of a proposal for a Littoral Combat Ship.

(2) RIGHTS OF THE UNITED STATES.—The Secretary shall ensure that the Government's rights in technical data for a Littoral Combat Ship are sufficient to permit the Government to—

(A) conduct a competition for a second shipyard, as soon as practicable; and

(B) transition the Littoral Combat Ship combat systems to Government-furnished equipment to achieve open architecture and foster competition to modernize future systems.

(c) LIMITATION OF COSTS.—

(1) LIMITATION.—Except as provided in subsection (d), and excluding amounts described in paragraph (2), beginning in fiscal year 2011, the total amount obligated or expended for the procurement of a Littoral Combat Ship awarded to a contractor selected as part of a procurement authorized by subsection (a) may not exceed $480,000,000 per vessel.

(2) EXCLUSION.—The amounts described in this paragraph are amounts associated with the following:

(A) Elements designated by the Secretary of the Navy as a mission package.

(B) Plans.

(C) Technical data packages.

(D) Class design services.

(E) Post-delivery, outfitting, and program support costs.

(d) WAIVER AND ADJUSTMENT OF LIMITATION AMOUNT.—

(1) WAIVER.—The Secretary of the Navy may waive the limitation in subsection (c)(1) with respect to a vessel if—

(A) the Secretary provides supporting data and certifies in writing to the congressional defense committees that—

(i) the total amount obligated or expended for procurement of the vessel–

(I) is in the best interest of the United States; and

(II) is affordable, within the context of the annual naval vessel construction plan required by section 231 of title 10, United States Code; and

(ii) the total amount obligated or expended for procurement of at least one other vessel authorized by subsection (a) has been or is expected to be less than $480,000,000; and

(B) a period of not less than 30 days has expired following the date on which such certification and data are submitted to the congressional defense committees.

(2) ADJUSTMENT.—The Secretary of the Navy may adjust the amount set forth in subsection (c)(1) for Littoral Combat Ship vessels referred to in that subsection by the following:

(A) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2009.

(B) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2009.

(C) The amounts of increases or decreases in costs of the vessel that are attributable to insertion of new technology into that vessel, as compared to the technology built into the first or second vessels of the Littoral Combat Ship class of vessels, if the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology—

(i) is expected to decrease the life-cycle cost of the vessel; or

(ii) is required to meet an emerging threat that poses grave harm to national security.

(D) The amounts of increases or decreases in costs required to correct deficiencies that may affect the safety of the vessel and personnel or otherwise preclude the vessel from safe operations and crew certifications.

(e) ANNUAL REPORTS.—At the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for each fiscal year, the Secretary of the Navy shall submit to the congressional defense committees a report on Littoral Combat Ship vessels. Each such report shall include the following:

(1) The current (as of the date of the report) and projected total basic construction costs, Government-furnished equipment costs, and other program costs associated with each of the Littoral Combat Ships under construction.

(2) Written notice of any adjustment in the amount set forth in subsection (c)(1) made during the preceding fiscal year that the Secretary adjusted under the authority provided in subsection (d)(2).

(3) A summary of investment made by the Government for cost-reduction initiatives and the projected savings or cost avoidance based on those investments.

(4) A summary of investment made by the construction yard to improve efficiency and optimization of construction along with the projected savings or cost avoidance based on those investments.

~~(5) Information, current as of the date of the report, regarding—~~

~~(A) the content of any element of the Littoral Combat Ship class of vessels that is designated as a mission package;~~

~~(B) the estimated cost of any such element; and~~

~~(C) the total number of such elements anticipated.~~

(f) DEFINITIONS.—In this section:

(1) The term ''mission package'' means the interchangeable systems that deploy with a Littoral Combat Ship vessel.

(2) The term ''technical data package'' means a compilation of detailed engineering plans and specifications for construction of the vessels.

(3) The term ''total amount obligated or expended for procurement'', with respect to a Littoral Combat Ship, means the sum of the costs of basic construction and Government furnished equipment for the ship.

(g) CONFORMING REPEAL.—***

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SEC. 219. PROGRAMS FOR GROUND COMBAT VEHICLE AND SELF-PROPELLED HOWITZER CAPABILITIES FOR THE ARMY.

(a) PROGRAMS REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall carry out a separate program to achieve each of the following:

(A) The development, test, and fielding of an operationally effective, suitable, survivable, and affordable next generation ground combat vehicle for the Army.

(B) The development, test, and fielding of an operationally effective, suitable, survivable, and affordable next generation self-propelled howitzer capability for the Army.

(2) COMPLIANCE WITH CERTAIN ACQUISITION REQUIREMENTS.—Each program under paragraph (1) shall comply with the requirements of the Weapons Systems Acquisition Reform Act of 2009, and the amendments made by that Act.

(b) STRATEGY AND PLAN FOR ACQUISITION.—

(1) IN GENERAL.—Not later than March 31, 2010, the Secretary shall submit to the congressional defense committees a report setting forth a strategy and plan for the acquisition of weapon systems under the programs required by subsection (a). Each strategy and plan shall include measurable goals and objectives for the acquisition of such weapon systems, and shall identify all proposed major development, testing, procurement, and fielding events toward the achievement of such goals and objectives.

(2) ELEMENTS.—In developing each strategy and plan under paragraph (1), the Secretary shall consider the following:

(A) A single vehicle or family of vehicles utilizing a common chassis and automotive components.

(B) The incorporation of weapon, vehicle, communications, network, and system of systems common operating environment technologies developed under the Future Combat Systems program.

~~(c) ANNUAL REPORTS.—~~

~~(1) REPORTS REQUIRED.—The Secretary shall submit to the congressional defense committees, at the same time the President submits to Congress the budget for each of fiscal years 2011 through 2015 (as submitted pursuant to section 1105(a) of title 31, United States Code), a report on the investments proposed to be made under such budget with respect to each program required by subsection (a).~~

~~(2) ELEMENTS.—Each report under paragraph (1) shall set forth, for the fiscal year covered by the budget with which such report is submitted—~~

~~(A) the manner in which amounts requested in such budget would be available for each program required by subsection (a); and~~

~~(B) an assessment of the extent to which utilizing such amount in such manner would improve ground combat capabilities for the Army.~~

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SEC. 1113. PROVISIONS RELATING TO THE NATIONAL SECURITY PERSONNEL SYSTEM.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''National Security Personnel System'' or ''NSPS'' refers to a human resources management system established under authority of section 9902 of title 5, United States Code (as in effect before the date of the enactment of this Act); and

(2) the term ''statutory pay system'' means a pay system under—

(A) subchapter III of chapter 53 of title 5, United States Code (relating to General Schedule pay rates); or

(B) such other provisions of law as would apply if section 9902 of title 5, United States Code, had never been enacted.

(b) REPEAL OF PROVISIONS RELATING TO NSPS.—***

(c) TERMINATION OF NSPS AND CONVERSION OF EMPLOYEES AND POSITIONS.—

(1) IN GENERAL.—The Secretary of Defense shall take all actions which may be necessary to provide, beginning no later than 6 months after the date of enactment of this Act, for the orderly termination of the National Security Personnel System and conversion of all employees and positions from such System, by not later than January 1, 2012, to—

(A) the statutory pay system and all other aspects of the personnel system that last applied to such employee or position (as the case may be) before the National Security Personnel System applied; or

(B) if subparagraph (A) does not apply, the statutory pay system and all other aspects of the personnel system that would have applied if the National Security Personnel System had never been established. No employee shall suffer any loss of or decrease in pay because of the preceding sentence, and, for purposes of carrying out such preceding sentence, any determination of the system that last applied (or that would have applied) with respect to an employee or position shall take into account any modifications to such system pursuant to the provisions of subsections (a) and (b) of section 9902 of title 5, United States Code, as amended by subsection (d).

(2) TRANSITION PERIOD APPOINTMENTS.—To the extent practicable, any individual who, during the NSPS transition period, is appointed to any position within the Department of Defense which is subject to the NSPS shall be subject to the statutory pay system and all other aspects of the personnel system to which such individual or position is to be converted in accordance with the requirements of paragraph (1).

(3) TEMPORARY CONTINUATION OF NSPS.—Notwithstanding any other provision of this section, the National Security Personnel System, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to any employees and positions remaining subject to the NSPS, in accordance with paragraph (1), during the NSPS transition period.

(4) RESTORATION OF FULL ANNUAL PAY ADJUSTMENTS UNDER NSPS PENDING ITS TERMINATION.—Notwithstanding subsection (b)(1)(A), section 9902(e)(7) of title 5, United States Code, to the extent that it remains in force under paragraph (3), shall be applied by substituting ''100 percent'' for ''no less than 60 percent''.

(5) NSPS TRANSITION PERIOD DEFINED.—For purposes of this subsection, the term ''NSPS transition period'' means the period beginning on the date of the enactment of this Act and ending on January 1, 2012.

(d) AUTHORITY RELATING TO PERFORMANCE MANAGEMENT AND WORKFORCE INCENTIVES, HIRING FLEXIBILITIES, AND TRAINING OF SUPERVISORS.—***

****

(e) REPORTS.—The Secretary of Defense shall provide a report to the covered committees (as defined by subsection (g)(6))—

(1) no later than 6 months after the date of enactment of this Act [Oct. 28, 2009], on the initial steps being taken to reclassify positions from the NSPS and the initial conversion plan to begin converting employees from the NSPS, ~~which information shall be supplemented by reports describing the progress of the conversion process which shall be submitted to the same committees on a semiannual basis;~~

(2) no later than 12 months after date of enactment, a plan for the personnel management system as authorized by section 9902(a) of title 5, United States Code, as amended by this section, which plan shall not take effect until 90 days after the submission of the plan to Congress; and

(3) no later than 12 months after date of enactment, a plan for the appointment procedures as authorized by section 9902(b) of title 5, United States Code, as amended by this section.

(f) CLERICAL AMENDMENTS.—***

(g) OTHER PERSONNEL FLEXIBILITIES.—

(1) IN GENERAL.—***

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(6) DEFINITIONS.—For purposes of this subsection, the term ''covered committees'' means—

(A) the Committees on Armed Services of the Senate and the House of Representatives;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Oversight and Government Reform of the House of Representatives.

(h) MODIFICATION OF IMPLEMENTATION AUTHORITIES AND LIMITATIONS.—***

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SEC. 1232. ~~REPORT ON PROGRESS TOWARD SECURITY AND STABILITY IN PAKISTAN~~.

~~(a) REPORT REQUIRED.—The President shall submit to Congress a report on the progress toward long-term security and stability in Pakistan. The report required under this subsection shall be submitted concurrent with the submission of each report under section 1232 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 392), as amended by section 1217 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4634), on or after the date of the enactment of this Act.~~

~~(b) ELEMENTS.—The report required under subsection (a) shall address, at a minimum, the following elements:~~

~~(1) The effectiveness of efforts to achieve the following strategic goals:~~

~~(A) To disrupt, dismantle, and defeat al Qa'ida, its affiliated networks, and other extremist forces in Pakistan.~~

~~(B) To eliminate the safe havens for such forces in Pakistan.~~

~~(C) To prevent the return of such forces to Pakistan or Afghanistan.~~

~~(2) The effectiveness of United States security assistance to Pakistan to achieve the strategic goals described in paragraph (1).~~

~~(3) For any strategic goal addressed under this subsection, a description of any additional goals and objectives, and the timelines for meeting such goals and objectives.~~

~~(4) A description of the metrics used to assess progress toward each goal and objective and along each timeline described in paragraph (3).~~

~~(c) FORM.—The report required under subsection (a) shall be transmitted in unclassified form, but may contain a classified annex if necessary.~~

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SEC. 1245. ~~ANNUAL REPORT ON MILITARY POWER OF IRAN~~.

~~(a) ANNUAL REPORT.—Not later than January 30 of each year, the Secretary of Defense shall submit to Congress a report, inboth classified and unclassified form, on the current and future military strategy of Iran.~~

~~(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include a description of the security posture of Iran, including at least the following:~~

~~(1) A description and assessment of Iranian grand strategy, security strategy, and military strategy, including—~~

~~(A) the goals of Iran's grand strategy, security strategy, and military strategy.~~

~~(B) trends in Iran's strategy that would be designed to establish Iran as the leading power in the Middle East and to enhance the influence of Iran in other regions of the world; and~~

~~(C) Iranian strategy regarding other countries in the region, including other specified countries.~~

~~(2) An assessment of the capabilities of Iran's conventional forces, including—~~

~~(A) the size and capabilities of Iran's conventional forces;~~

~~(B) an analysis of the effectiveness of Iran's conventional forces when facing United States forces in the region and other specified countries;~~

~~(C) a description of Iranian military doctrine; and~~

~~(D) an estimate of the funding provided for each branch of Iran's conventional forces.~~

~~(3) An assessment of Iran's unconventional forces and related activities, including—~~

~~(A) the size and capability of Iranian special operations units, including the Iranian Revolutionary Guard Corps–Quds Force;~~

~~(B) the types and amount of support, including funding, lethal and non-lethal supplies, and training, provided to groups designated by the United States as foreign terrorist organizations and regional militant groups, including Hezbollah, Hamas, and the Special Groups in Iraq, in particular those forces as having been assessed as to be willing to carry out terrorist operations on behalf of Iran or in response to a military attack by another country on Iran;~~

~~(C) an analysis of the effectiveness of Iran's unconventional forces when facing United States forces in the region and other specified countries in the region; and~~

~~(D) an estimate of the amount of funds spent by Iran to develop and support special operations forces and terrorist groups.~~

~~(4) An assessment of Iranian capabilities related to nuclear and missile forces, including—~~

~~(A) a summary of nuclear weapons capabilities and developments in the preceding year;~~

~~(B) a summary of the capabilities of Iran's ballistic missile forces, including developments in the preceding year, the size of Iran's ballistic missile forces and Iran's cruise missile forces, and the locations of missile launch sites;~~

~~(C) a detailed analysis of the effectiveness of Iran's ballistic missile forces and Iran's cruise missile forces when facing United States forces in the region and other specified countries; and~~

~~(D) an estimate of the amount of funding expended by Iran since 2004 on programs to develop a capability to build nuclear weapons or to enhance Iran's ballistic missile forces.~~

~~(c) DEFINITIONS.—In this section:~~

~~(1) IRAN'S CONVENTIONAL FORCES.—The term ''Iran's conventional forces''—~~

~~(A) means military forces of the Islamic Republic of Iran designed to conduct operations on sea, air, or land, other than Iran's unconventional forces and Iran's ballistic missile forces and Iran's cruise missile forces; and~~

~~(B) includes Iran's Army, Iran's Air Force, Iran's Navy, and elements of the Iranian Revolutionary Guard Corps, other than the Iranian Revolutionary Guard Corps–Quds Force.~~

~~(2) IRAN'S UNCONVENTIONAL FORCES.—The term ''Iran's unconventional forces''—~~

~~(A) means forces of the Islamic Republic of Iran that carry out missions typically associated with special operations forces; and~~

~~(B) includes—~~

~~(i) the Iranian Revolutionary Guard Corps–Quds Force; and~~

~~(ii) any organization that—~~

~~(I) has been designated a terrorist organization by the United States;~~

~~(II) receives assistance from Iran; and~~

~~(III)(aa) is assessed as being willing in some or all cases of carrying out attacks on behalf of Iran; or~~

~~(bb) is assessed as likely to carry out attacks in response to a military attack by another country on Iran.~~

~~(3) IRAN'S BALLISTIC MISSILE FORCES.—The term ''Iran's ballistic missile forces'' means those elements of the military forces of Iran that employ ballistic missiles.~~

~~(4) IRAN'S CRUISE MISSILE FORCES.—The term ''Iran's cruise missile forces'' means those elements of the military forces of Iran that employ cruise missiles capable of flights less than 500 kilometers.~~

~~(5) SPECIFIED COUNTRIES.—The term ''specified countries'' means the countries in the same geographic region as Iran, including Israel, Lebanon, Syria, Jordan, Iraq, Afghanistan, Saudi Arabia, Turkey, Bahrain, Kuwait, the United Arab Emirates, Armenia, and Azerbaijan.~~

~~(d) TERMINATION.—The requirement to submit the report required under subsection (a) shall terminate on December 31, 2014.~~

Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417)

SEC. 354. [10 U.S.C. 221 note] ~~DISPLAY OF ANNUAL BUDGET REQUIREMENTS FOR AIR SOVEREIGNTY ALERT MISSION.~~

~~(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—For fiscal year 2010 and each subsequent fiscal year, the Secretary of Defense shall submit to the President, for consideration by the President for inclusion with the budget materials submitted to Congress under section 1105(a) of title 31, United States Code, a consolidated budget justification display that covers all programs and activities of the Air Sovereignty Alert mission of the Air Force.~~

~~(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) for a fiscal year shall include for such fiscal year the following:~~

~~(1) The funding requirements for the Air Sovereignty Alert mission, and the associated Command and Control mission, including such requirements for—~~

~~(A) military personnel costs;~~

~~(B) flying hours; and~~

~~(C) any other associated mission costs.~~

~~(2) The amount in the budget for the Air Force for each of the items referred to in paragraph (1).~~

~~(3) The amount in the budget for the Air National Guard for each such item~~.

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SEC. 1504. [10 U.S.C. 2358 note] SCIENCE AND TECHNOLOGY INVESTMENT STRATEGY TO DEFEAT OR COUNTER IMPROVISED EXPLOSIVE DEVICES.

(a) STRATEGY REQUIRED.—The Director of the Joint Improvised Explosive Device Defeat Organization (JIEDDO), jointly with the Director of Defense Research and Engineering, shall develop a comprehensive science and technology investment strategy for countering the threat of improvised explosive devices (IEDs).

(b) ELEMENTS.—The strategy developed under subsection (a) shall include the following:

(1) Identification of counter-IED capability gaps.

(2) A taxonomy describing the major technical areas for the Department of Defense to address the counter-IED capability gaps and in which science and technology funding investments should be made.

(3) Identification of funded programs to develop or mature technologies from or to the level of system or subsystem model or prototype demonstration in a relevant environment, and investment levels for those initiatives.

(4) Identification of JIEDDO's mechanisms for coordinating Department of Defense and Federal Government science and technology activities in areas covered by the strategy.

(5) Identification of technology transition mechanisms developed or utilized to efficiently transition technologies to acquisition programs of the Department of Defense or into operational use, including a summary of counter-IED technologies transitioned from JIEDDO, the military departments, and other Defense Agencies to the acquisition programs or into operational use.

(6) Identification of high priority basic research efforts that should be addressed through JIEDDO or other Department of Defense activities to support development of next generation IED defeat capabilities.

(7) Identification of barriers or issues, such as industrial base, workforce, or statutory or regulatory barriers, that could hinder the efficient and effective development and operational use of advanced IED defeat capabilities, and discussion of activities undertaken to address them.

(8) Identification of the measures of effectiveness for the overall Department of Defense science and technology counter-IED effort.

(9) Such other matters as the Director of the JIEDDO and the Director of Defense Research and Engineering consider appropriate.

~~(c) REPORT.—Not later than March 1, 2009, and each March 1 thereafter through March 1, 2013, the Director of the JIEDDO and the Director of Defense Research and Engineering shall jointly submit to the congressional defense committees a report describing the implementation of the strategy developed under subsection (a). The report may be in unclassified and classified format, as necessary.~~

National Defense Authorization Act for Fiscal Year 2008
(Public Law 110-181)

SEC. 885. [10 U.S.C. 2304 note] TELEPHONE SERVICES FOR MILITARY PERSONNEL SERVING IN COMBAT ZONES.

(a) COMPETITIVE PROCEDURES REQUIRED.—

(1) REQUIREMENT.—When the Secretary of Defense considers it necessary to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones, the Secretary shall use competitive procedures when entering into a contract to provide those services.

(2) REVIEW AND DETERMINATION.—Before soliciting bids or proposals for new contracts, or considering extensions to existing contracts, to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones, the Secretary shall review and determine whether it is in the best interest of the Department to require bids or proposals, or adjustments for the purpose of extending a contract, to include options that minimize the cost of the telephone services to individual users while providing individual users the flexibility of using phone cards from other than the prospective contractor. ~~The Secretary shall submit the results of this review and determination to the Committees on Armed Services of the Senate and the House of Representatives.~~

(b) EFFECTIVE DATE.—

(1) REQUIREMENT.—Subsection (a)(1) shall apply to any new contract to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones that is entered into after ~~the date of the enactment of this Act~~ January 28, 2008.

(2) REVIEW AND DETERMINATION.—Subsection (a)(2) shall apply to any new contract or extension to an existing contract to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones that is entered into or agreed upon after ~~the date of the enactment of this Act~~ January 28, 2008.

(c) MORALE, WELFARE, AND RECREATION TELEPHONE SERVICES DEFINED.—***

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SEC. 911. [10 U.S.C. 2271 note] SPACE PROTECTION STRATEGY.

(a) SENSE OF CONGRESS.—It is the Sense of Congress that the United States should place greater priority on the protection of national security space systems.

(b) STRATEGY.—The Secretary of Defense, in conjunction with the Director of National Intelligence, shall develop a strategy, to be known as the Space Protection Strategy, for the development and fielding by the United States of the capabilities that are necessary to ensure freedom of action in space for the United States.

(c) MATTERS INCLUDED.—The strategy required by subsection (b) shall include each of the following:

(1) An identification of the threats to, and the vulnerabilities of, the national security space systems of the United States.

(2) A description of the capabilities currently contained in the program of record of the Department of Defense and the intelligence community that ensure freedom of action in space.

(3) For each period covered by the strategy, a description of the capabilities that are needed for the period, including—

(A) the hardware, software, and other materials or services to be developed or procured;

(B) the management and organizational changes to be achieved; and

(C) concepts of operations, tactics, techniques, and procedures to be employed.

(4) For each period covered by the strategy, an assessment of the gaps and shortfalls between the capabilities that are needed for the period and the capabilities currently contained in the program of record.

(5) For each period covered by the strategy, a comprehensive plan for investment in capabilities that identifies specific program and technology investments to be made in that period.

(6) A description of the current processes by which the systems protection requirements of the Department of Defense and the intelligence community are addressed in space acquisition programs and during key milestone decisions, an assessment of the adequacy of those processes, and an identification of the actions of the Department and the intelligence community for addressing any inadequacies in those processes.

(7) A description of the current processes by which the Department of Defense and the intelligence community program and budget for capabilities (including capabilities that are incorporated into single programs and capabilities that span multiple programs), an assessment of the adequacy of those processes, and an identification of the actions of the Department and the intelligence community for addressing any inadequacies in those processes.

(8) A description of the organizational and management structure of the Department of Defense and the intelligence community for addressing policy, planning, acquisition, and operations with respect to capabilities, a description of the roles and responsibilities of each organization, and an identification of the actions of the Department and the intelligence community for addressing any inadequacies in that structure.

(d) PERIODS COVERED.—The strategy required by subsection (b) shall cover the following periods:

(1) Fiscal years 2008 through 2013.

(2) Fiscal years 2014 through 2019.

(3) Fiscal years 2020 through 2025.

(e) DEFINITIONS.—In this section—

(1) the term ''capabilities'' means space, airborne, and ground systems and capabilities for space situational awareness and for space systems protection; and

(2) the term ''intelligence community'' has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(f) REPORT; BIENNIAL UPDATE.—

(1) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense, in conjunction with the Director of National Intelligence, shall submit to Congress a report on the strategy required by subsection (b), including each of the matters required by subsection (c).

~~(2) BIENNIAL UPDATE.—Not later than March 15 of each even-numbered year after 2008, the Secretary of Defense, in conjunction with the Director of National Intelligence, shall submit to Congress an update to the report required by paragraph (1).~~

(3) CLASSIFICATION.—The report required by paragraph (1), and each update required by paragraph (2), shall be in unclassified form, but may include a classified annex.

(g) CONFORMING REPEAL.—Section 911 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3405; 10 U.S.C. 2271 note) is repealed.

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SEC. 958. REPORT ON FOREIGN LANGUAGE PROFICIENCY.

(a) IN GENERAL.—Not later than ~~240 days after the date of the enactment of this Act~~ June 30, 2012, and annually thereafter until the date referred to in subsection (d), the Secretary of Defense, in conjunction with the Secretary of each military department, shall submit to the congressional defense committees a report on the foreign language proficiency of the personnel of the Department of Defense.

(b) CONTENTS.—Each report submitted under subsection (a) shall include—

(1) ***

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(c) NON-MILITARY PERSONNEL.—***

(d) TERMINATION OF REQUIREMENT.—The duty to submit a report under subsection (a) shall terminate on ~~December 31, 2013~~ June 30, 2014.

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SEC. 1074. [10 U.S.C. 113 note] PROTECTION OF CERTAIN INDIVIDUALS.

(a) PROTECTION FOR DEPARTMENT LEADERSHIP.—The Secretary of Defense, under regulations prescribed by the Secretary and in accordance with guidelines approved by the Secretary and the Attorney General, may authorize qualified members of the Armed Forces and qualified civilian employees of the Department of Defense to provide physical protection and personal security within the United States to the following persons who, by nature of their positions, require continuous security and protection:

(1) Secretary of Defense.

(2) Deputy Secretary of Defense.

(3) Chairman of the Joint Chiefs of Staff.

(4) Vice Chairman of the Joint Chiefs of Staff.

(5) Secretaries of the military departments.

(6) Chiefs of the Services.

(7) Commanders of combatant commands.

(b) PROTECTION FOR ADDITIONAL PERSONNEL.—

(1) AUTHORITY TO PROVIDE.—The Secretary of Defense, under regulations prescribed by the Secretary and in accordance with guidelines approved by the Secretary and the Attorney General, may authorize qualified members of the Armed Forces and qualified civilian employees of the Department of Defense to provide physical protection and personal security within the United States to individuals other than individuals the Secretary determines that such protection and security are necessary because—

(A) there is an imminent and credible threat to the safety of the individual for whom protection is to be provided; or

(B) compelling operational considerations make such protection essential to the conduct of official Department of Defense business.

(2) PERSONNEL.—Individuals authorized to receive physical protection and personal security under this subsection include the following:

(A) Any official, military member, or employee of the Department of Defense.

(B) A former or retired official who faces serious and credible threats arising from duties performed while employed by the Department for a period of up to two years beginning on the date on which the official separates from the Department.

(C) A head of a foreign state, an official representative of a foreign government, or any other distinguished foreign visitor to the United States who is primarily conducting official business with the Department of Defense.

(D) Any member of the immediate family of a person authorized to receive physical protection and personal security under this section.

(E) An individual who has been designated by the President, and who has received the advice and consent of the Senate, to serve as Secretary of Defense, but who has not yet been appointed as Secretary of Defense.

(3) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense to authorize the provision of physical protection and personal security under this subsection may be delegated only to the Deputy Secretary of Defense.

(4) REQUIREMENT FOR WRITTEN DETERMINATION.—A determination of the Secretary of Defense to provide physical protection and personal security under this subsection shall be in writing, shall be based on a threat assessment by an appropriate law enforcement, security, or intelligence organization, and shall include the name and title of the officer, employee, or other individual affected, the reason for such determination, the duration of the authorized protection and security for such officer, employee, or individual, and the nature of the arrangements for the protection and security.

(5) DURATION OF PROTECTION.—

(A) INITIAL PERIOD OF PROTECTION.—After making a written determination under paragraph (4), the Secretary of Defense may provide protection and security to an individual under this subsection for an initial period of not more than 90 calendar days.

(B) SUBSEQUENT PERIOD.—If, at the end of the period that protection and security is provided to an individual under subsection (A), the Secretary determines that a condition described in subparagraph (A) or (B) of paragraph (1) continues to exist with respect to the

individual, the Secretary may extend the period that such protection and security is provided for additional 60-day periods. The Secretary shall review such a determination at the end of each 60-day period to determine whether to continue to provide such protection and security.

(C) REQUIREMENT FOR COMPLIANCE WITH REGULATIONS.— Protection and personal security provided under subparagraph (B) shall be provided in accordance with the regulations and guidelines referred to in paragraph (1).

(6) SUBMISSION TO CONGRESS.—

(A) IN GENERAL.— ~~The~~ Except as provided in subparagraph (D), the Secretary of Defense shall submit to the congressional defense committees each determination made under paragraph (4) to provide protection and security to an individual and of each determination under paragraph (5)(B) to extend such protection and security, together with the justification for such determination, not later than 15 days after the date on which the determination is made.

(B) FORM OF REPORT.—A report submitted under subparagraph (A) may be made in classified form.

(C) REGULATIONS AND GUIDELINES.—The Secretary of Defense shall submit to the congressional defense committees the regulations and guidelines prescribed pursuant to paragraph (1) not less than 20 days before the date on which such regulations take effect.

(D) EXCEPTIONS.—Subparagraph (A) does not apply in the case of—

(i) an individual described in paragraph (2)(C) who is otherwise sponsored by the Secretary of Defense, the Deputy Secretary of Defense, the Chairman of the Joint Chiefs of Staff, or the Vice Chairman of the Joint Chiefs of Staff; or

(ii) an individual described in paragraph (2)(E).

(c) DEFINITIONS.—In this section:

(1) CONGRESSIONAL DEFENSE COMMITTEES.—The term ‘‘congressional defense committees’’ means the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives.

(2) QUALIFIED MEMBERS OF THE ARMED FORCES AND QUALIFIED CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.— The terms ‘‘qualified members of the Armed Forces’’ and ‘‘qualified civilian employees of the Department of Defense’’ refer collectively to members or employees who are assigned to investigative, law enforcement, or security duties of any of the following:

(A) The Army Criminal Investigation Command.

(B) The Naval Criminal Investigative Service.

(C) The Air Force Office of Special Investigations.

(D) The Defense Criminal Investigative Service.

(E) The Pentagon Force Protection Agency.

(d) CONSTRUCTION.—

(1) NO ADDITIONAL LAW ENFORCEMENT OR ARREST AUTHORITY.—Other than the authority to provide protection and security under this section, nothing in this section may be construed to bestow any additional law enforcement or arrest authority upon the qualified members of the Armed Forces and qualified civilian employees of the Department of Defense.

(2) POSSE COMITATUS.—Nothing in this section shall be construed to abridge section 1385 of title 18, United States Code.

(3) AUTHORITIES OF OTHER DEPARTMENTS.—Nothing in this section may be construed to preclude or limit, in any way, the express or implied powers of the Secretary of Defense or other Department of Defense officials, or the duties and authorities of the Secretary of State, the Director of the United States Secret Service, the Director of the United States Marshals Service, or any other Federal law enforcement agency.

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SEC. 1107. [10 U.S.C. 2358 note] REQUIREMENT FOR FULL IMPLEMENTATION OF PERSONNEL DEMONSTRATION PROJECT.

(a) REQUIREMENT.—The Secretary of Defense shall take all necessary actions to fully implement and use the authorities provided to the Secretary under section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2721), as amended by section 1114 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–315), to carry out personnel management demonstration projects at Department of Defense laboratories designated by section 1105(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2486; 10 U.S.C. 2358 note) as Department of Defense science and technology reinvention laboratories.

(b) PROCESS FOR FULL IMPLEMENTATION.—The Secretary of Defense shall also implement a process and implementation plan to fully utilize the authorities described in subsection (a) to enhance the performance of the missions of the laboratories.

(c) OTHER LABORATORIES.—Any flexibility available to any demonstration laboratory shall be available for use at any other laboratory designated by section 1105(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2486) as a Department of Defense science and technology reinvention laboratory.

(d) SUBMISSION OF LIST AND DESCRIPTION.—Not later than March 1 of each year, ~~beginning with March 1, 2008,~~ the Secretary of Defense shall submit to Congress a report containing a list and description of the demonstration project notices, amendments, and changes requested by the laboratories during the preceding calendar year. The list shall include all approved and disapproved notices, amendments, and changes, and the reasons for disapproval or delay in approval.

(e) STATUS REPORTS.—

(1) IN GENERAL.— ~~Not later than November 29, 2008, and not later than March 1 of each year thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing, with respect to the year before the year in which such report is submitted,~~ The Secretary shall include in each report under subsection (d) the information described in paragraph (2).

(2) INFORMATION REQUIRED.—Each report under ~~this~~ subsection (d) shall describe the following:

(A) The actions taken by the Secretary of Defense under subsection (a) during the year covered by the report.

(B) The progress made by the Secretary of Defense during such year in developing and implementing the plan required by subsection (b), including the anticipated date for completion of such plan and a list and description of any issues relating to the development or implementation of such plan.

(C) With respect to any applications by any Department of Defense laboratories seeking to be designated as a demonstration laboratory or to otherwise obtain any of the personnel flexibilities available to a demonstration laboratory—

(i) the number of applications that were received, pending, or acted on during such year;

(ii) the status or disposition of any applications under clause (i), including, in the case of any application on which a final decision was rendered, the laboratory involved, what the laboratory had requested, the decision reached, and the reasons for the decision; and

(iii) in the case of any applications under clause (i) on which a final decision was not rendered, the date by which a final decision is anticipated.

(3) DEFINITION.—For purposes of this subsection, the term 'demonstration laboratory' means a laboratory designated by the Secretary of Defense under the provisions of section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (as cited in subsection (a)).

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SEC. 1674. GUARANTEED FUNDING FOR WALTER REED ARMY MEDICAL CENTER, DISTRICT OF COLUMBIA.

(a) MINIMUM FUNDING.—The amount of funds available for the commander of Walter Reed Army Medical Center, District of Columbia, for a fiscal year shall be not less than the amount expended by the commander of

Walter Reed Army Medical Center in fiscal year 2006 until the first fiscal year beginning after the date on which the Secretary of Defense submits to the congressional defense committees a plan for the provision of health care for military beneficiaries and their dependents in the National Capital Region.

(b) MATTERS COVERED.—The plan under subsection (a) shall at a minimum include—

(1) the manner in which patients, staff, bed capacity, and functions will move from the Walter Reed Army Medical Center to expanded facilities;

(2) a timeline, including milestones, for such moves;

(3) projected budgets, including planned budget transfers, for military treatment facilities within the region;

(4) the management or disposition of real property of military treatment facilities within the region; and

(5) staffing projections for the region.

(c) CERTIFICATION.—~~After submission of the plan under subsection (a) to the congressional defense committees, the Secretary shall certify to such committees on a quarterly basis that patients~~ Patients, staff, bed capacity, functions, or parts of functions at Walter Reed Army Medical Center ~~have not been~~ may not be moved or disestablished until the Secretary of Defense has certified to the congressional defense committees that the expanded facilities at the National Naval Medical Center, Bethesda, Maryland, and DeWitt Army Community Hospital, Fort Belvoir, Virginia, are completed, equipped, and staffed with sufficient capacity to accept and provide, at a minimum, the same level of and access to care as patients received at Walter Reed Army Medical Center during fiscal year 2006.

(d) DEFINITIONS.—In this section:

(1) The term ''expanded facilities'' means the other two military hospitals/medical centers within the National Capital Region, namely—

(A) the National Naval Medical Center, Bethesda, Maryland (or its successor resulting from implementation of the recommendations of the 2005 Defense Base Closure and Realignment Commission); and

(B) the DeWitt Army Community Hospital, Fort Belvoir, Virginia.

(2) The term ''National Capital Region'' has the meaning given that term in section 2674(f) of title 10, United States Code.

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SEC. 2864. [10 U.S.C. 2911 note]~~ REPORTING REQUIREMENTS RELATING TO RENEWABLE ENERGY USE BY DEPARTMENT OF DEFENSE TO MEET DEPARTMENT ELECTRICITY NEEDS.~~

~~(a) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act [Jan. 28, 2008], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report containing the following information:~~

~~(1) The extent to which energy from renewable energy sources is used to meet the electricity needs of the Department of Defense, to be stated as a percentage of total facility electricity use for the previous fiscal year.~~

~~(2) The extent to which energy from renewable energy sources was procured through alternative financing methods, to be stated as a percentage of total renewable energy procurement and as a dollar amount for the previous fiscal year.~~

~~(3) The extent to which energy from renewable energy sources was procured through the use of appropriated funds, to be stated as a percentage of total renewable energy procurement and as a dollar amount for the previous fiscal year.~~

~~(4) A graphical illustration of energy use from renewable energy sources by the Department as a percentage of total facility electricity use over time, starting no later than fiscal year 2000 and running through fiscal year 2025, including projected future trends in renewable energy consumption through fiscal year 2025 in order to meet the goals for renewable energy set forth in section 2911(e) of title 10, United States Code, or other goals, as appropriate.~~

~~(b) SUBSEQUENT REPORTS.—For fiscal year 2008 and each fiscal year thereafter, the information required by paragraphs (1) through (4) of subsection (a) shall be included in the Annual Energy Management Report prepared by the Under Secretary of Defense for Acquisition, Technology, and Logistics.~~

~~(c) RENEWABLE ENERGY SOURCES DEFINED.—In this section, the term ''renewable energy sources'' has the meaning given that term in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)).~~

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John Warner National Defense Authorization Act for Fiscal Year 2007
(Public Law 109-364)

SEC. 347. [10 U.S.C. 221 note] ~~ANNUAL REPORT ON PERSONNEL SECURITY INVESTIGATIONS FOR INDUSTRY AND NATIONAL INDUSTRIAL SECURITY PROGRAM.~~

~~(a) ANNUAL REPORT REQUIRED.—The Secretary of Defense shall include in the budget justification documents submitted to Congress in support of the President's budget for the Department of Defense for each fiscal year, a report on the future requirements of the Department of Defense with respect to the Personnel Security Investigations for Industry and the National Industrial Security Program of the Defense Security Service.~~

~~(b) CONTENTS OF REPORT.—Each report required to be submitted under subsection (a) shall include the following:~~

~~(1) The funding requirements of the personnel security clearance investigation program and ability of the Secretary of Defense to fund the program.~~

~~(2) The size of the personnel security clearance investigation process backlog.~~

~~(3) The length of the average delay for an individual case pending in the personnel security clearance investigation process.~~

~~(4) Any progress made by the Secretary of Defense during the 12 months preceding the date on which the report is submitted toward implementing planned changes in the personnel security clearance investigation process.~~

~~(5) A determination certified by the Secretary of Defense of whether the personnel security clearance investigation process has improved during the 12 months preceding the date on which the report is submitted.~~

~~(c) COMPTROLLER GENERAL REPORT.—Not later than 180 days after the Secretary of Defense submits the first report required under subsection (a), the Comptroller General shall submit to Congress a report that contains a review of such report. The Comptroller General's report shall include the following:~~

~~(1) The number of personnel security clearance investigations conducted during the period beginning on October 1, 1999, and ending on September 30, 2006.~~

~~(2) The number of each type of security clearance granted during that period.~~

~~(3) The unit cost to the Department of Defense of each security clearance granted during that period.~~

~~(4) The amount of any fee or surcharge paid to the Office of Personnel Management as a result of conducting a personnel security clearance investigation.~~

~~(5) A description of the procedures used by the Secretary of Defense to estimate the number of personnel security clearance investigations to be conducted during a fiscal year.~~

~~(6) A description of any plan developed by the Secretary of Defense to reduce delays and backlogs in the personnel security clearance investigation process.~~

~~(7) A description of any plan developed by the Secretary of Defense to adequately fund the personnel security clearance investigation process.~~

~~(8) A description of any plan developed by the Secretary of Defense to establish a more stable and effective Personnel Security Investigations Program.~~

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SEC. 731. [10 U.S.C. 1095c note] STANDARDIZATION OF CLAIMS PROCESSING UNDER TRICARE PROGRAM AND MEDICARE PROGRAM.

(a) IN GENERAL.—Effective beginning with the next contract option period for managed care support contracts under the TRICARE program, the claims processing requirements under the TRICARE program on the matters described in subsection (b) shall be identical to the claims processing requirements under the Medicare program on such matters.

(b) COVERED MATTERS.—The matters described in this subsection are as follows:

(1) The utilization of single or multiple provider identification numbers for purposes of the payment of health care claims by Department of Defense contractors.

(2) The documentation required to substantiate medical necessity for items and services that are covered under both the TRICARE program and the Medicare program.

(c) REPORT ON COLLECTION OF AMOUNTS OWED.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a detailed description of the following:

(1) ***

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~~(d) ANNUAL REPORTS ON CLAIMS PROCESSING STANDARDIZATION.—~~

~~(1) IN GENERAL.—Not later than October 1, 2007, and annually thereafter, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a complete list of the claims processing requirements under the TRICARE program that differ from claims processing requirements under the Medicare program.~~

~~(2) ELEMENTS.—Each report under paragraph (1) shall include, for each claims processing requirement listed in such report, a business case that justifies maintaining such requirement under the TRICARE program as a different claims processing requirement than that required under the Medicare program.~~

(e) DEFINITIONS.—In this section:

(1) The term ''Medicare program'' means the program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) The term ''TRICARE program'' has the meaning given that term in section 1072(7) of title 10, United States Code.

SEC. 732. [10 U.S.C. 1073 note] REQUIREMENTS FOR SUPPORT OF MILITARY TREATMENT FACILITIES BY CIVILIAN CONTRACTORS UNDER TRICARE.

(a) ANNUAL INTEGRATED REGIONAL REQUIREMENTS ON SUPPORT.— The Regional Director of each region under the TRICARE program shall develop each year integrated, comprehensive requirements for the support of military treatment facilities in such region that is provided by contract civilian health care and administrative personnel under the TRICARE program.

(b) PURPOSES.—The purposes of the requirements established under subsection (a) shall be as follows:

(1) To ensure consistent standards of quality in the support of military treatment facilities by contract civilian health care personnel under the TRICARE program.

(2) To identify targeted, actionable opportunities throughout each region of the TRICARE program for the most efficient and cost effective delivery of health care and support of military treatment facilities.

(3) To ensure the most effective use of various available contracting methods in securing support of military treatment facilities by civilian health care personnel under the TRICARE program, including resource-sharing and clinical support agreements, direct contracting, and venture capital investments.

(c) FACILITATION AND ENHANCEMENT OF CONTRACTOR SUPPORT.—

(1) IN GENERAL.—The Secretary of Defense shall take appropriate actions to facilitate and enhance the support of military treatment facilities under the TRICARE program in order to assure maximum quality and productivity.

(2) ACTIONS.—In taking actions under paragraph (1), the Secretary shall—

(A) require consistent standards of quality for contract civilian health care personnel providing support of military treatment facilities under the TRICARE program, including—

(i) consistent credentialing requirements among military treatment facilities;

(ii) consistent performance standards for private sector companies providing health care staffing services to military treatment facilities and clinics, including, at a minimum, those standards established for accreditation of health care staffing firms by the Joint Commission on the Accreditation of Health Care Organizations Health Care Staffing Standards; and

(iii) additional standards covering—

(I) financial stability;

(II) medical management;

(III) continuity of operations;

(IV) training;

(V) employee retention;
(VI) access to contractor data; and
(VII) fraud prevention;

(B) ensure the availability of adequate and sustainable funding support for projects which produce a return on investment to the military treatment facilities;

(C) ensure that a portion of any return on investment is returned to the military treatment facility to which such savings are attributable;

(D) remove financial disincentives for military treatment facilities and civilian contractors to initiate and sustain agreements for the support of military treatment facilities by such contractors under the TRICARE program;

(E) provide for a consistent methodology across all regions of the TRICARE program for developing cost benefit analyses of agreements for the support of military treatment facilities by civilian contractors under the TRICARE program based on actual cost and utilization data within each region of the TRICARE program; and

(F) provide for a system for monitoring the performance of significant projects for support of military treatment facilities by a civilian contractor under the TRICARE program.

~~(d) REPORTS TO CONGRESS.—~~

~~(1) ANNUAL REPORTS REQUIRED.—Not later than February 1, 2008, and each year thereafter, the Secretary, in coordination with the military departments, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the support of military treatment facilities by civilian contractors under the TRICARE program during the preceding fiscal year.~~

~~(2) ELEMENTS.—Each report shall set forth, for the fiscal year covered by such report, the following:~~

~~(A) The level of support of military health treatment facilities that is provided by contract civilian health care personnel under the TRICARE program in each region of the TRICARE program.~~

~~(B) An assessment of the compliance of such support with regional requirements under subsection (a).~~

~~(C) The number and type of agreements for the support of military treatment facilities by contract civilian health care personnel.~~

~~(D) The standards of quality in effect under the requirements under subsection (a).~~

~~(E) The savings anticipated, and any savings achieved, as a result of the implementation of the requirements under subsection (a).~~

~~(F) An assessment of the compliance of contracts for health care staffing services for Department of Defense facilities with the requirements of subsection (c)(2)(A).~~

(e) EFFECTIVE DATE.—This section shall take effect on October 1, 2006.

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SEC. 1104. [10 U.S.C. note prec. 711] REPORTS ON MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE SERVING IN THE LEGISLATIVE BRANCH.

~~(a) QUARTERLY REPORTS ON DETAILS AND FELLOWSHIPS OF LONG DURATION.--Not later than 120 days after the date of the enactment of this Act, and quarterly thereafter, the Secretary of Defense shall submit to the congressional defense committees a report on the members of the Armed Forces and civilian employees of the Department of Defense who, as of the date of such report, have served continuously in the Legislative Branch for more than 12 consecutive months in one or a combination of covered legislative details or fellowships.~~

(b) REPORTS ON CERTAIN MILITARY DETAILS AND FELLOWSHIPS.--If a member of the Armed Forces is assigned to a covered legislative detail or fellowship as the last tour of duty of such member before retirement or separation from the Armed Forces in contravention of the regulations of the Department of Defense, the Secretary shall submit to the congressional defense committees a report on the assignment of such member to such covered

legislative detail or fellowship. The report shall include a rationale for the waiver of the regulations of the Department in order to permit the detail or fellowship.

(c) REPORT ELEMENTS.--Each report under subsection ~~(a) or~~ (b) shall set forth, for each member of the Armed Forces or civilian employee of the Department of Defense covered by such report, the following:

(1) The name of such member or employee.

(2) In the case of a member, the Armed Force of such member.

(3) The committee or member of Congress to which such member or employee is detailed or assigned.

(4) A general description of the projects or tasks undertaken or to be undertaken, as applicable, by such member or employee as a detailee, fellow, or both.

(5) The anticipated termination date of the current detail or fellowship of such member or employee.

(d) COVERED LEGISLATIVE DETAIL OR FELLOWSHIP DEFINED.--In this section, the term ``covered legislative detail or fellowship'' means the following:

(1) A detail under the provisions of Department of Defense Directive 1000.17.

(2) A legislative fellowship (including a legislative fellowship under the provisions of Department of Defense Directive 1322.6).

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SEC. 1231. [22 U.S.C. 2776a] ~~ANNUAL REPORT ON FOREIGN SALES OF SIGNIFICANT MILITARY EQUIPMENT MANUFACTURED IN THE UNITED STATES.~~

~~(a) REPORT REQUIRED.—Not later than March 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on foreign military sales and direct sales to foreign entities of significant military equipment manufactured in the United States during the preceding calendar year.~~

~~(b) CONTENTS.—Each report required by subsection (a) shall indicate, for each sale of significant military equipment in excess of $2,000,000—~~

~~(1) the nature of the equipment and the dollar value of the sale;~~

~~(2) the country to which the equipment was sold; and~~

~~(3) the manufacturer of the equipment and the State in which the equipment was manufactured.~~

~~(c) PUBLIC AVAILABILITY.—The Secretary of Defense shall make each report required by subsection (a) publicly available to the maximum extent practicable.~~

~~(d) SIGNIFICANT MILITARY EQUIPMENT DEFINED.—In this section, the term ''significant military equipment'' has the meaning given the term in section 47(9) of the Arms Export Control Act (22 U.S.C. 2794(9)).~~

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SEC. 1402. [10 U.S.C. 113 note] ~~QUARTERLY REPORTS ON DEPARTMENT OF DEFENSE RESPONSE TO THREAT POSED BY IMPROVISED EXPLOSIVE DEVICES.~~

~~(a) REPORTS REQUIRED.—~~

~~(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall submit to Congress a report—~~

~~(A) regarding the status of the threat posed to United States and allied forces in Iraq and Afghanistan by improvised explosive devices; and~~

~~(B) describing efforts being undertaken by the Department of Defense to defeat that threat.~~

~~(2) SUPPLEMENTAL QUARTERLY REPORTS.—After the submission of the report under paragraph (1), the Secretary shall submit to Congress a supplemental report, not later than 30 days after the end of each calendar-year quarter, to account for every reported incident involving the detonation or discovery of an improvised explosive device during the preceding quarter that involved United States or allied forces in Iraq and Afghanistan.~~

~~(3) CLASSIFICATION OF REPORTS.—Reports under this section shall be transmitted in an unclassified manner with a classified annex, if necessary.~~

~~(b) JOINT IED DEFEAT ORGANIZATION AND RELATED OFFICES.—Each report under subsection (a) shall provide the following information regarding the joint entity in the Office of the Secretary of Defense known as the ''Joint IED Defeat Organization'' and those portions of all other organizational elements within the Department of Defense that are focused on countering improvised explosive devices:~~

~~(1) The number of Department of Defense personnel assigned to the Joint IED Defeat Organization and each other organizational element.~~

~~(2) The major locations to which such personnel are assigned and the organizational structure of those elements.~~

~~(3) The projected budget of the Joint IED Defeat Organization and those other elements relating to the counter-IED mission.~~

~~(4) The level of funding required for administrative costs relating to the counter-IED mission.~~

~~(c) EXISTING THREAT AND COUNTER MEASURES.—Each report under subsection (a) shall include the following information regarding the threat posed by improvised explosive devices and the countermeasures employed to defeat those threats:~~

~~(1) The number of improvised explosive devices being encountered by United States and allied military personnel, including general trends in tactics and technology used by the enemy.~~

~~(2) Passive countermeasures employed and the success rate of each such countermeasure.~~

~~(3) Active countermeasures employed and the success rate of each such countermeasure.~~

~~(4) Any evidence of assistance to the enemy by foreign countries or other entities not directly involved in fighting United States and allied forces in Iraq and Afghanistan.~~

~~(5) A summary of data collected and reports generated by the Department of Defense on efforts to counter improvised explosive devices in Iraq and Afghanistan and other fronts in the Global War on Terrorism.~~

~~(d) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION OF NEW COUNTERMEASURES.—Each report under subsection (a) shall include the following information regarding research, development, test, and evaluation activities relating to new active and passive countermeasures and any impediments to those activities:~~

~~(1) The status of any effort within the Department of Defense to conduct research, development, test, and evaluation of passive and active countermeasures and to accelerate the introduction of those countermeasures into deployed units.~~

~~(2) Impediments to introduction of new passive and active countermeasures.~~

~~(e) INTERDICTION EFFORTS.—~~

~~(1) DESCRIPTION OF INTERDICTION EFFORTS.—Each report under subsection (a) shall identify those portions of any office within the Department of Defense (in addition to those discussed pursuant to subsection (b)) that are focused on interdiction of improvised explosive devices, together with the personnel and funding requirements for that office (as specified in subsection (b)) and the success of the interdiction efforts of that office.~~

~~(2) INTERDICTION DEFINED.—For purposes of this subsection, the term ''interdiction'' includes—~~

~~(A) the development of intelligence regarding persons and locations involved in the manufacture or deployment of improvised explosive devices; and~~

~~(B) subsequent action against those persons or locations, including efforts to prevent emplacement of improvised explosive devices.~~

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SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, 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 $7,163,431,000, as follows:

(1) ***

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(8) For base closure and realignment activities authorized by section 2404 of this Act and funded through the Department of Defense Base Closure Account 2005 established by section 2906A 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), $5,236,223,000.

(9) ***

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(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—***

(c) LIMITATION ON TOTAL COST OF BASE CLOSURE AND REALIGNMENT ACTIVITIES.—***

~~(d) CONGRESSIONAL NOTIFICATION REGARDING BASE CLOSURE AND REALIGNMENT ACTIVITIES.—Not later than 14 days after the date on which funds appropriated pursuant to the authorization of appropriations in subsection (a)(8) are first obligated for a particular program, project, or activity, the Secretary of Defense shall submit to the congressional defense committees a report describing the program, project, or activity~~.

National Defense Authorization Act for Fiscal Year 2006
(Public Law 109-163)

SEC. 716. [10 U.S.C. 1073 note] TRICARE STANDARD IN TRICARE REGIONAL OFFICES.

(a) RESPONSIBILITIES OF TRICARE REGIONAL OFFICE.—The responsibilities of each TRICARE Regional Office shall include the monitoring, oversight, and improvement of the TRICARE Standard option in the TRICARE region concerned, including—

(1) identifying health care providers who will participate in the TRICARE program and provide the TRICARE Standard option under that program;

(2) communicating with beneficiaries who receive the TRICARE Standard option;

(3) outreach to community health care providers to encourage their participation in the TRICARE program; and

(4) publication of information that identifies health care providers in the TRICARE region concerned who provide the TRICARE Standard option.

~~(b) ANNUAL REPORT.—The Secretary of Defense shall submit an annual report to the Committees on Armed Services of the Senate and the House of Representatives on the monitoring, oversight, and improvement of TRICARE Standard activities of each TRICARE Regional Office. The report shall include—~~

~~(1) a description of the activities of the TRICARE Regional Office to monitor, oversee, and improve the TRICARE Standard option;~~

~~(2) an assessment of the participation of eligible health care providers in TRICARE Standard in each TRICARE region; and~~

~~(3) a description of any problems or challenges that have been identified by both providers and beneficiaries with respect to use of the TRICARE Standard option and the actions undertaken to address such problems or challenges.~~

(c) DEFINITION.—In this section, the term ''TRICARE Standard'' or ''TRICARE standard option'' means the Civilian Health and Medical Program of the Uniformed Services option under the TRICARE program.

Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005
(Public Law 108-375)

SEC. 731. [10 U.S.C. 1074 note] MEDICAL READINESS PLAN AND JOINT MEDICAL READINESS OVERSIGHT COMMITTEE.

(a) REQUIREMENT FOR PLAN.—The Secretary of Defense shall develop a comprehensive plan to improve medical readiness, and Department of Defense tracking of the health status, of members of the Armed Forces throughout their service in the Armed Forces, and to strengthen medical readiness and tracking before, during, and after deployment of members of the Armed Forces overseas. The matters covered by the comprehensive plan shall include all elements that are described in this title and the amendments made by this title and shall comply with requirements in law.

(b) JOINT MEDICAL READINESS OVERSIGHT COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary of Defense shall establish a Joint Medical Readiness Oversight Committee.

(2) COMPOSITION.—The members of the Committee are as follows:

(A) The Under Secretary of Defense for Personnel and Readiness, who shall chair the Committee.

(B) ***

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(3) DUTIES.—The duties of the Committee are as follows:

(A) To advise the Secretary of Defense on the medical readiness and health status of the members of the active and reserve components of the Armed Forces.

(B) To advise the Secretary of Defense on the compliance of the Armed Forces with the medical readiness tracking and health surveillance policies of the Department of Defense.

(C) To oversee the development and implementation of the comprehensive plan required by subsection (a) and the actions required by this subtitle and the amendments made by this subtitle, including with respect to matters relating to—

(i) the health status of the members of the reserve components of the Armed Forces;

(ii) accountability for medical readiness;

(iii) medical tracking and health surveillance;

(iv) declassification of information on environmental hazards;

(v) postdeployment health care for members of the Armed Forces; and

(vi) compliance with Department of Defense and other applicable policies on blood serum repositories.

(D) To ensure unity and integration of efforts across functional and organizational lines within the Department of Defense with regard to medical readiness tracking and health surveillance of members of the Armed Forces.

(E) To establish and monitor compliance with the medical readiness standards that are applicable to members and those that are applicable to units.

(F) To improve continuity of care in coordination with the Secretary of Veterans Affairs, for members of the Armed Forces separating from active service with service connected medical conditions.

(4) FIRST MEETING.—***

~~(c) ANNUAL REPORT.—~~

~~(1) IN GENERAL.—In addition to the duties described in subsection (b)(3), the Committee shall prepare and submit to the Secretary of Defense and to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 1 of each year, a report on—~~

~~(A) the health status and medical readiness of the members of the Armed Forces, including the members of reserve components, based on the comprehensive plan required under subsection (a) and the actions required by this subtitle and the amendments made by this subtitle; and~~

~~(B) compliance with Department of Defense policies on medical readiness tracking and health surveillance.~~

~~(2) OPPORTUNITY FOR COMMENT.—Each year, before the Committee submits to Congress the report required under paragraph (1), the Secretary of Defense shall provide an opportunity for representatives of veterans and military health advocacy organizations, and others the Secretary of Defense considers appropriate, to comment on the report. The report submitted to Congress shall include a summary of the comments received and the Secretary's response to them.~~

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SEC. 1041. [10 U.S.C. 229 note] ~~QUARTERLY DETAILED ACCOUNTING FOR OPERATIONS CONDUCTED AS PART OF THE GLOBAL WAR ON TERRORISM.~~

~~(a) QUARTERLY ACCOUNTING.—Not later than 45 days after the end of each quarter of a year, the Secretary of Defense shall submit to the congressional defense committees, for each operation specified in subsection (b)—~~

~~(1) a full accounting of all costs incurred for such operation during such quarter and all amounts expended during such quarter for such operation; and~~

~~(2) a description of the purposes for which those costs were incurred and those amounts were expended.~~

~~(b) OPERATIONS COVERED.—The operations referred to in subsection (a) are the following:~~

~~(1) Operation Iraqi Freedom.~~

~~(2) Operation Enduring Freedom.~~

~~(3) Operation Noble Eagle.~~

~~(4) Any other operation that the President designates as being an operation of the Global War on Terrorism.~~

~~(c) REQUIREMENT FOR COMPREHENSIVENESS.—For the purpose of providing a full and complete accounting of the costs and expenditures under subsection (a) for an operation specified in subsection (b), the Secretary shall account in the quarterly submission under subsection (a) for all costs and expenditures that are reasonably attributable to that operation, including personnel costs.~~

National Defense Authorization Act for Fiscal Year 2004
(Public Law 108-136)

SEC. 812. ASSESSMENT OF UNITED STATES DEFENSE INDUSTRIAL BASE CAPABILITIES.

(a) ASSESSMENT PROGRAM.—(1) The Secretary of Defense shall establish a program to assess—

(A) the degree to which the United States is dependent on foreign sources of supply; and

(B) the capabilities of the United States defense industrial base to produce military systems necessary to support the national security objectives set forth in section 2501 of title 10, United States Code.

(2) For purposes of the assessment program, the Secretary shall use existing data, as required under subsection (b), and submit an annual report, as required under subsection (c).

(b) USE OF EXISTING DATA.—(1) At a minimum, with respect to each prime contract with a value greater than $25,000 for the procurement of defense items and components, the following information from existing sources shall be used for purposes of the assessment program:

(A) Whether the contractor is a United States or foreign contractor.

(B) The principal place of business of the contractor and the principal place of performance of the contract.

(C) Whether the contract was awarded on a sole source basis or after receipt of competitive offers.

(D) The dollar value of the contract.

(2) The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)), or any successor system, shall collect from contracts described in paragraph (1) the information specified in that paragraph.

(3) Information obtained in the implementation of this section is subject to the same limitations on disclosure, and penalties for violation of such limitations, as is provided under section 2507 of title 10, United States Code. Such information also shall be exempt from release under section 552 of title 5, United States Code.

(4) For purposes of meeting the requirements set forth in this section, the Secretary of Defense may not require the provision of information beyond the information that is currently provided to the Department of Defense through existing data collection systems by non-Federal entities with respect to contracts and subcontracts with the Department of Defense or any military department.

~~(c) ANNUAL REPORT.—(1) Not later than February 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the assessment program covering the preceding fiscal year. The first report under this subsection shall cover fiscal year 2004 and shall be submitted to the Committees no later than February 1, 2005.~~

~~(2)(A) The report shall include the following with respect to contracts described in subsection (b):~~

~~(i) The total number and value of such contracts awarded by the Department of Defense.~~

~~(ii) The total number and value of such contracts awarded on a sole source basis.~~

~~(iii) The total number and value of contracts described in clause (ii) awarded to foreign contractors, summarized by country.~~

~~(iv) The total number and value of contracts awarded to foreign contractors through competitive procedures, summarized by country.~~

~~(B) The report also shall include—~~

~~(i) the status of the matters described in subparagraphs (A) and (B) of subsection (a)(1);~~

~~(ii) the status of implementation of successor procurement data management systems; and~~

~~(iii) such other matters as the Secretary considers appropriate.~~

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SEC. 1601. [10 U.S.C. 2358 note] RESEARCH AND DEVELOPMENT OF DEFENSE BIOMEDICAL COUNTERMEASURES.

(a) IN GENERAL.—The Secretary of Defense (in this section referred to as the ''Secretary'') shall carry out a program to accelerate the research, development and procurement of biomedical countermeasures, including but not limited to therapeutics and vaccines, for the protection of the Armed Forces from attack by one or more biological, chemical, radiological, or nuclear agents.

(b) INTERAGENCY COOPERATION.—(1) In carrying out the program under subsection (a), the Secretary may enter into interagency agreements and other collaborative undertakings with other Federal agencies.

(2) The Secretary, through regular, structured, and close consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall ensure that the activities of the Department of Defense in carrying out the program are coordinated with, complement, and do not unnecessarily duplicate activities of the Department of Health and Human Services or the Department of Homeland Security.

(c) EXPEDITED PROCUREMENT AUTHORITY.—(1) For any procurement of property or services for use (as determined by the Secretary) in performing, administering, or supporting biomedical countermeasures research and development, the Secretary may, when appropriate, use streamlined acquisition procedures and other expedited procurement procedures authorized in—

(A) section 32A of the Office of Federal Procurement Policy Act, as added by section 1443 of this Act; and

(B) section 2371 of title 10, United States Code, and section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).

(2) Notwithstanding paragraph (1) and the provisions of law referred to in such paragraph, each of the following provisions shall apply to the procurements described in this subsection to the same extent that such provisions would apply to such procurements in the absence of paragraph (1):

(A) Chapter 37 of title 40, United States Code (relating to contract work hours and safety standards).

(B) Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57(a) and (b)).

(C) Section 2313 of title 10, United States Code (relating to the examination of contractor records).

(3) The Secretary shall institute appropriate internal controls for use of the authority under paragraph (1), including requirements for documenting the justification for each use of such authority.

(d) DEPARTMENT OF DEFENSE FACILITIES AUTHORITY.—(1) If the Secretary determines that it is necessary to acquire, lease, construct, or improve laboratories, research facilities, and other real property of the Department of Defense in order to carry out the program under this section, the Secretary may do so using the procedures set forth in paragraphs (2), (3), (4), and (5).

(2) The Secretary shall use existing construction authorities provided by subchapter I of chapter 169 of title 10, United States Code, to the maximum extent possible.

(3)(A) If the Secretary determines that use of authorities in paragraph (2) would prevent the Department from meeting a specific facility requirement for the program, the Secretary shall submit to the congressional defense committees advance notification, which shall include the following:

(i) Certification by the Secretary that use of existing construction authorities would prevent the Department from meeting the specific facility requirement.

(ii) A detailed explanation of the reasons why existing authorities cannot be used.

(iii) A justification of the facility requirement.

(iv) Construction project data and estimated cost.

(v) Identification of the source or sources of the funds proposed to be expended.

(B) The facility project may be carried out only after the end of the 21-day period beginning on the date the notification is received by the congressional defense committees.

(4) If the Secretary determines: (A) that the facility is vital to national security or to the protection of health, safety, or the quality of the environment; and

(B) the requirement for the facility is so urgent that the advance notification in paragraph (3) and the subsequent 21-day deferral of the facility project would threaten the life, health, or safety of personnel, or would otherwise jeopardize national security, the Secretary may obligate funds for the facility and notify the congressional defense committees within seven days after the date on which appropriated funds are obligated with the information required in paragraph (3).

~~(5) The Secretary shall submit to the congressional defense committees a quarterly report detailing any use of the authority provided by paragraph (4), including costs incurred or to be incurred by the United States as a result of the use of the authority~~.

(6) Nothing in this section shall be construed to authorize the Secretary to acquire, construct, lease, or improve a facility having general utility beyond the specific purposes of the program.

(7) In this subsection, the term ''facility'' has the meaning given the term in section 2801(c) of title 10, United States Code.

(e) AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—***

(f) STREAMLINED PERSONNEL AUTHORITY.—***

Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314)

SEC. 221. [10 U.S.C. 2431 note] ~~REPORT REQUIREMENTS RELATING TO BALLISTIC MISSILE DEFENSE PROGRAMS.~~

~~(a) ANNUAL SUBMISSION OF CURRENT PERFORMANCE GOALS AND DEVELOPMENT BASELINES.—(1) The Secretary of Defense shall submit to the congressional defense committees each year the performance goals and development baselines—~~

~~(A) for those ballistic missile defense systems under development by the Missile Defense Agency that could be fielded; and~~

~~(B) for any other ballistic missile defense program or project that has been designated by Congress as a special interest item.~~

~~(2) Such performance goals and development baselines shall be provided for each block of each such system.~~

~~(3) The performance goals and development baselines under paragraph (1) shall be included annually with the defense budget justification materials submitted in support of the President's budget submitted to Congress under section 1105 of title 31, United States Code.~~

~~(b) RDT&E BUDGET JUSTIFICATION MATERIALS.—The budget justification materials submitted to Congress for any fiscal year in support of a request for the authorization and appropriation of funds for research, development, test, and evaluation for ballistic missile defense systems shall include a funding profile for each block of each such system that could be fielded that reflects the development baseline submitted pursuant to subsection (a) for that fiscal year.~~

~~(c) REVIEW OF MDA CRITERIA IN RELATION TO MILITARY REQUIREMENTS.—(1) The Joint Requirements Oversight Council established under section 181 of title 10, United States Code, shall review cost, schedule, and performance criteria for missile defense programs of the Missile Defense Agency in order to assess the validity of those criteria in relation to military requirements.~~

~~(2) The Secretary shall include the results of such review with the first annual statement of program goals submitted to the congressional defense committees under section 232(c) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2431 note) after the date of the enactment of this Act.~~

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SEC. 817. [10 U.S.C. 2306a note] GRANTS OF EXCEPTIONS TO COST OR PRICING DATA CERTIFICATION REQUIREMENTS AND WAIVERS OF COST ACCOUNTING STANDARDS.

(a) GUIDANCE FOR EXCEPTIONS IN EXCEPTIONAL CIRCUMSTANCES.— Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance on the circumstances under which it is appropriate to grant an exceptional case exception or waiver with respect to certified cost and pricing data and cost accounting standards.

(b) DETERMINATION REQUIRED FOR EXCEPTIONAL CASE EXCEPTION OR WAIVER.—The guidance shall, at a minimum, include a limitation that a grant of an exceptional case exception or waiver is appropriate with respect to a contract, subcontract, or (in the case of submission of certified cost and pricing data) modification only upon a determination that—

(1) the property or services cannot reasonably be obtained under the contract, subcontract, or modification, as the case may be, without the grant of the exception or waiver;

(2) the price can be determined to be fair and reasonable without the submission of certified cost and pricing data or the application of cost accounting standards, as the case may be; and

(3) there are demonstrated benefits to granting the exception or waiver.

(c) APPLICABILITY OF NEW GUIDANCE.—The guidance issued under subsection (a) shall apply to each exceptional case exception or waiver that is granted on or after the date on which the guidance is issued.

~~(d) ANNUAL REPORT ON BOTH COMMERCIAL ITEM AND EXCEPTIONAL CASE EXCEPTIONS AND WAIVERS WITH PRICE OR VALUE GREATER THAN $15,000,000.—~~

~~(1) The Secretary of Defense shall transmit to the congressional defense committees promptly after the end of each fiscal year a report on commercial item exceptions, and exceptional case exceptions and waivers, described in paragraph (2) that were granted during that fiscal year.~~

~~(2) The report for a fiscal year shall include—~~

~~(A) with respect to any commercial item exception granted in the case of a contract, subcontract, or contract or subcontract modification that is expected to have a price of $15,000,000 or more, an explanation of the basis for the determination that the products or services to be purchased are commercial items, including an identification of the specific steps taken to ensure price reasonableness; and~~

~~(B) with respect to any exceptional case exception or waiver granted in the case of a contract or subcontract that is expected to have a value of $15,000,000 or more, an explanation of the basis for the determination described in subsection (b), including an identification of the specific steps taken to ensure that the price was fair and reasonable.~~

(e) DEFINITIONS.—In this section:

(1) The term ''exceptional case exception or waiver'' means either of the following:

(A) An exception pursuant to section 2306a(b)(1)(C) of title 10, United States Code, relating to submission of certified cost and pricing data.

(B) A waiver pursuant to section 26(f)(5)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(5)(B)), relating to the applicability of cost accounting standards to contracts and subcontracts.

~~(2) The term ''commercial item exception'' means an exception pursuant to section 2306a(b)(1)(B) of title 10, United States Code, relating to submission of certified cost and pricing data~~.

National Defense Authorization Act for Fiscal Year 2002
(Public Law 107-107)

SEC. 232. [10 U.S.C. 2431 note] MISSILE DEFENSE AGENCY TEST PROGRAM.

(a) REVISION IN PROGRAM ELEMENTS.—[omitted]

(b) ADDITIONAL REQUIREMENTS.—[omitted]

~~(c) REQUIREMENT FOR ANNUAL PROGRAM GOALS.—(1) The Secretary of Defense shall each year establish cost, schedule, testing, and performance goals for the ballistic missile defense programs of the Department of Defense for the period covered by the future-years defense program that is submitted to Congress that year under section 221 of title 10, United States Code. Not later than February 1 each year, the Secretary shall submit to the congressional defense committees a statement of the goals so established~~.

~~(2) The statement of goals submitted under paragraph (1) for any year after 2002 shall be an update of the statement submitted under that paragraph for the preceding year.~~

~~(3) Each statement of goals submitted under paragraph (1) shall set forth cost, schedule, testing, and performance goals that pertain to each then-current program element for ballistic missile defense systems in effect pursuant to subsection (a) or (b) of section 223 of title 10, United States Code~~.

~~(d) ANNUAL PROGRAM PLAN.—(1) With the submission of the statement of goals under subsection (c) for any year, the Secretary of Defense shall submit to the congressional defense committees a program of activities planned to be carried out for each missile defense program that enters engineering and manufacturing development (as defined in section 223(b)(2) of title 10, United States Code, as added by subsection (b)).~~

~~(2) Each program plan under paragraph (1) shall include the following:~~

~~(A) A funding profile that includes an estimate of—~~

~~(i) the total expenditures to be made in the fiscal year in which the plan is submitted and the following fiscal year, together with the estimated total life-cycle costs of the program; and~~

~~(ii) a display of such expenditures (shown for significant procurement, construction, and research and development) for the fiscal year in which the plan is submitted and the following fiscal year.~~

~~(B) A program schedule for the fiscal year in which the plan is submitted and the following fiscal year for each of the following:~~

~~(i) Significant procurement.~~

~~(ii) Construction.~~

~~(iii) Research and development.~~

~~(iv) Flight tests.~~

~~(v) Other significant testing activities.~~

~~(3) Information specified in paragraph (2) need not be included in the plan for any year under paragraph (1) to the extent such information has already been provided, or will be provided in the current fiscal year, in annual budget justification documents of the Department of Defense submitted to Congress or in other required reports to Congress.~~

(e) INTERNAL DOD REVIEWS.—(1) The officials and elements of the Department of Defense specified in paragraph (2) shall on an ongoing basis—

(A) review the development of goals under subsection (c) and the annual program plan under subsection (d); and

(B) provide to the Secretary of Defense and the Director of the Missile Defense Agency any comments on such matters as considered appropriate.

(2) Paragraph (1) applies with respect to the following:

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

(B) The Director of Operational Test and Evaluation.

(C) The Director of Program Analysis and Evaluation.

(D) The Joint Requirements Oversight Council.

(E) The Cost Analysis and Improvement Group.

(f) DEMONSTRATION OF CRITICAL TECHNOLOGIES.—(1) The Director of the Missile Defense Agency shall develop a plan for ensuring that each critical technology for a missile defense program is successfully demonstrated in an appropriate environment before that technology enters into operational service as part of a missile defense program.

(2) The Director of Operational Test and Evaluation of the Department of Defense shall monitor the development of the plan under paragraph (1) and shall submit to the Director of the Missile Defense Agency any comments regarding that plan that the Director of Operational Test and Evaluation considers appropriate.

(g) COMPTROLLER GENERAL ASSESSMENT.—(1) At the conclusion of each of fiscal years 2002 and 2013, the Comptroller General of the United States shall carry out an assessment of the extent to which the Missile Defense Agency achieved the goals established under subsection (c) for that fiscal year for each ballistic missile defense program of the Department of Defense.

(2) Not later than March 15 of each of 2003 through 2014, the Comptroller General shall submit to the congressional defense committees a report on the Comptroller General's assessment under paragraph (1) with respect to the preceding fiscal year.

(h) ANNUAL OT&E ASSESSMENT AND CHARACTERIZATION OF CERTAIN BALLISTIC MISSILE DEFENSE MATTERS.—(1) The Director of Operational Test and Evaluation shall each year assess the adequacy and sufficiency of the Missile Defense Agency test program during the preceding fiscal year.

(2) The Director of Operational Test and Evaluation shall also each year characterize the operational effectiveness, suitability, and survivability of the ballistic missile defense system, and its elements, that have been fielded or tested before the end of the preceding fiscal year.

~~(3) Not later than February 15 each year the Director shall submit to the congressional defense committees a report on the assessment under paragraph (1) and the characterization under paragraph (2)with respect to the preceding fiscal year.~~

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SEC. 1008. [10 U.S.C. 113 note] RELIABILITY OF DEPARTMENT OF DEFENSE FINANCIAL STATEMENTS.

~~(a) ANNUAL REPORT ON RELIABILITY.—(1) Not later than September 30 of each year but subject to subsection (f), the Secretary of Defense shall submit to the recipients specified in paragraph (3) a report on the reliability of the Department of Defense financial statements, including the financial statements of each component~~

~~of the Department that is required to prepare a financial statement under section 3515(c) of title 31, United States Code.~~

~~(2) The annual report shall contain the following:~~

~~(A) A conclusion regarding whether the policies and procedures of the Department of Defense, and the systems used within the Department of Defense, for the preparation of financial statements allow the achievement of reliability in those financial statements.~~

~~(B) For each of the financial statements prepared for the Department of Defense for the fiscal year in which the report is submitted, a conclusion regarding the expected reliability of the financial statement (evaluated on the basis of Office of Management and Budget guidance on financial statements), together with a discussion of the major deficiencies to be expected in the statement.~~

~~(C) A summary of the specific sections of the annual Financial Management Improvement Plan of the Department of Defense, current as of the date of the report, that—~~

~~(i) detail the priorities, milestones, and measures of success that apply to the preparation of the financial statements;~~

~~(ii) detail the planned improvements in the process for the preparation of financial statements that are to be implemented within 12 months after the date on which the plan is issued; and~~

~~(iii) provide an estimate of when each financial statement will convey reliable information.~~

~~(3) The annual report shall be submitted to the following:~~

~~(A) The Committee on Armed Services and the Committee on Governmental Affairs of the Senate.~~

~~(B) The Committee on Armed Services and the Committee on Government Reform of the House of Representatives.~~

~~(C) The Director of the Office of Management and Budget.~~

~~(D) The Secretary of the Treasury.~~

~~(E) The Comptroller General of the United States.~~

~~(4) The Secretary of Defense shall make a copy of the annual report available to the Inspector General of the Department of Defense.~~

(~~b~~a) MINIMIZATION OF USE OF RESOURCES FOR UNRELIABLE FINANCIAL STATEMENTS.—(1) With respect to each financial statement for a fiscal year that the Secretary of Defense assesses as being expected to be unreliable in the annual report under subsection (a), the Under Secretary of Defense (Comptroller) shall take appropriate actions to minimize, consistent with the benefits to be derived, the resources (including contractor support) that are used to develop, compile, and report the financial statement.

(2) With the annual budget justifications for the Department of Defense submitted to Congress each year, the Under Secretary of Defense (Comptroller) shall submit, with respect to the fiscal year in which submitted, the preceding fiscal year, and the following fiscal year, the following information:

(A) An estimate of the resources that the Department of Defense is saving or expects to save as a result of actions taken and to be taken under paragraph (1) with respect to the preparation of financial statements.

(B) A discussion of how the resources saved as estimated under subparagraph (A) have been redirected or are to be redirected from the preparation of financial statements to the improvement of systems underlying financial management within the Department of Defense and to the improvement of financial management policies, procedures, and internal controls within the Department of Defense.

(~~c~~b) INFORMATION TO AUDITORS.—Not later than October 31 of each year, the Under Secretary of Defense (Comptroller) and the Assistant Secretary of each military department with responsibility for financial management and comptroller functions shall each provide to the auditors of the financial statement of that official's department for the fiscal year ending during the preceding month that official's preliminary management representation, in writing, regarding the expected reliability of the financial statement. The representation shall be consistent with guidance issued by the Director of the Office of Management and Budget and shall include the basis for the reliability assessment stated in the representation.

(~~d~~c) LIMITATION ON INSPECTOR GENERAL AUDITS.—(1) On each financial statement that an official asserts is unreliable under subsection ~~(b) or (c)~~ (a) or (b), the Inspector General of the Department of Defense shall only perform the audit procedures required by generally accepted government auditing standards consistent with any representation made by management.

(2) With the annual budget justifications for the Department of Defense submitted to Congress each year, the Under Secretary of Defense (Comptroller) shall submit, with respect to the fiscal year in which submitted, the preceding fiscal year, and the following fiscal year, information which the Inspector General shall report to the Under Secretary, as follows:

(A) An estimate of the resources that the Inspector General is saving or expects to save as a result of actions taken and to be taken under paragraph (1) with respect to the auditing of financial statements.

(B) A discussion of how the resources saved as estimated under subparagraph (A) have been redirected or are to be redirected from the auditing of financial statements to the oversight and improvement of systems underlying financial management within the Department of Defense and to the oversight and improvement of financial management policies, procedures, and internal controls within the Department of Defense.

(~~e~~d) EFFECTIVE DATE.—The requirements of this section shall apply with respect to financial statements for fiscal years after fiscal year 2001 and to the auditing of those financial statements.

(~~f~~e) TERMINATION OF APPLICABILITY.—If the Secretary of Defense certifies to the Inspector General of the Department of Defense that the financial statement for the Department of Defense, or a financial statement for a component of the Department of Defense, for a fiscal year is reliable, this section shall not apply with respect to that financial statement or to any successive financial statement for the Department of Defense, or for that component, as the case may be, for any later fiscal year.

Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398)

SEC. 374. [10 U.S.C. 2851 note] ~~IDENTIFICATION OF REQUIREMENTS TO REDUCE BACKLOG IN MAINTENANCE AND REPAIR OF DEFENSE FACILITIES.~~

~~(a) REPORT TO ADDRESS MAINTENANCE AND REPAIR BACKLOG.—Not later than March 15, 2001, the Secretary of Defense shall submit to Congress a report identifying a list of requirements to reduce the backlog in maintenance and repair needs of facilities and infrastructure under the jurisdiction of the Department of Defense or a military department.~~

~~(b) ELEMENTS OF REPORT.—At a minimum, the report shall include or address the following:~~

~~(1) The extent of the work necessary to repair and revitalize facilities and infrastructure, or to demolish and replace unusable facilities, carried as backlog by the Secretary of Defense or the Secretary of a military department.~~

~~(2) Measurable goals, over specified time frames, for addressing all of the identified requirements.~~

~~(3) Expected funding for each military department and Defense Agency to address the identified requirements during the period covered by the most recent future-years defense program submitted to Congress pursuant to section 221 of title 10, United States Code.~~

~~(4) The cost of the current backlog in maintenance and repair for each military department and Defense Agency, which shall be determined using the standard costs to standard facility categories in the Department of Defense Facilities Cost Factors Handbook, shown both in the aggregate and individually for each major military installation.~~

~~(5) The total number of square feet of building space of each military department and Defense Agency to be demolished or proposed for demolition, shown both in the aggregate and individually for each major military installation.~~

~~(6) The initiatives underway to identify facility and infrastructure requirements at military installations to accommodate new and developing weapons systems and to prepare installations to accommodate these systems.~~

~~(c) ANNUAL UPDATES.—The Secretary of Defense shall update the report required under subsection (a) annually. The annual updates shall be submitted to Congress at or about the time that the budget is submitted to Congress for a fiscal year under section 1105(a) of title 31, United States Code.~~

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SEC. 1212. SITUATION IN THE BALKANS.

(a) ESTABLISHMENT OF NATO BENCHMARKS FOR WITHDRAWAL OF FORCES FROM KOSOVO.—The President shall develop, not later than May 31, 2001, militarily significant benchmarks for conditions that would achieve a sustainable peace in Kosovo and ultimately allow for the withdrawal of the United States military presence in Kosovo. Congress urges the President to seek concurrence among member nations of the North Atlantic Treaty Organization in the development of those benchmarks.

(b) COMPREHENSIVE POLITICAL-MILITARY STRATEGY.—

(1) The President—

(A) shall develop a comprehensive political-military strategy for addressing the political, economic, humanitarian, and military issues in the Balkans; and

(B) shall establish near-term, mid-term, and long-term objectives in the region.

(2) In developing that strategy and those objectives, the President shall take into consideration—

(A) the benchmarks relating to Kosovo developed as described in subsection (a); and

(B) the benchmarks relating to Bosnia that were detailed in the report accompanying the certification by the President to Congress on March 3, 1998 (printed as House Document 105–223), with respect to the continued presence of United States Armed Forces, after June 30, 1998, in Bosnia and Herzegovina, submitted to Congress pursuant to section 7 of title I of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 63).

(3) That strategy and those objectives shall be developed in consultation with appropriate regional and international entities.

~~(c) SEMIANNUAL REPORT ON BENCHMARKS.—Not later than June 30, 2001, and every six months thereafter, the President shall submit to Congress a report on the progress made in achieving the benchmarks developed pursuant to subsection (a). The President may submit a single report covering these benchmarks and the benchmarks relating to Bosnia referred to in subsection (b)(2)(B).~~

~~(d) SEMIANNUAL REPORT ON COMPREHENSIVE STRATEGY.—Not later than June 30, 2001, and every six months thereafter so long as United States forces are in the Balkans, the President shall submit to Congress a report on the progress being made in developing and implementing a comprehensive political-military strategy as described in subsection (b)(1)(A).~~

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SEC. 1213. ~~SEMIANNUAL REPORT ON KOSOVO PEACEKEEPING.~~

~~(a) REQUIREMENT FOR PERIODIC REPORT.—The President shall submit to the specified congressional committees a semiannual report on the contributions of European nations and organizations to the peacekeeping operations in Kosovo. The first such report shall be submitted not later than December 1, 2000.~~

~~(b) CONTENT OF REPORT.—Each report shall contain detailed information on the following:~~

~~(1) The commitments and pledges made by the European Commission, the member nations of the European Union, and the European member nations of the North Atlantic Treaty Organization for—~~

~~(A) reconstruction assistance in Kosovo;~~

~~(B) humanitarian assistance in Kosovo;~~

~~(C) the Kosovo Consolidated Budget;~~

~~(D) police (including special police) for the United Nations international police force for Kosovo; and~~

~~(E) military personnel for peacekeeping operations in Kosovo.~~

~~(2) The amount of the assistance that has been provided in each category, and the number of police and military personnel that have been deployed to Kosovo, by each organization or nation referred to in paragraph (1).~~

~~(3) The full range of commitments and responsibilities that have been undertaken for Kosovo by the United Nations, the European Union, and the Organization for Security and Cooperation in Europe (OSCE), the progress made by those organizations in fulfilling those commitments and responsibilities, an assessment of the tasks that remain to be accomplished, and an anticipated schedule for completing those tasks.~~

~~(d) SPECIFIED CONGRESSIONAL COMMITTEES.—In the section, the term ''specified congressional committees'' means—~~

~~(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and~~

~~(2) the Committee on Armed Services, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.~~

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SEC. 1308. [22 U.S.C. 5959] REPORTS ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) Annual report. In any year in which the budget of the President under section 1105 of title 31, United States Code, for the fiscal year beginning in such year requests funds for the Department of Defense for assistance or activities under Cooperative Threat Reduction programs with the states of the former Soviet Union, the Secretary of Defense shall submit to Congress a report on activities and assistance during the preceding fiscal year under Cooperative Threat Reduction programs setting forth the matters in subsection (c).

(b) Deadline for report. The report under subsection (a) shall be submitted not later than the first Monday in February of a year.

(c) MATTERS TO BE INCLUDED.—The report under subsection (a) in a year shall set forth the following:

(1) An estimate of the total amount that will be required to be expended by the United States in order to achieve the objectives of the Cooperative Threat Reduction programs.

(2) ***

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(6) A description of the amount of the financial commitment from the international community, and from Russia, for the chemical weapons destruction facility located at Shchuch'ye, Russia, for the fiscal year beginning in the year in which the report is submitted.

~~(7) To the maximum extent practicable, a description of how revenue generated by activities carried out under Cooperative Threat Reduction programs in recipient States is being utilized, monitored, and accounted for.~~

(8) A description of the defense and military activities carried out under Cooperative Threat Reduction programs, including under the Defense and Military Contacts program, during the fiscal year ending in the year preceding the year of the report, including--

(A) the amounts obligated or expended for such activities;

(B) the strategy, goals, and objectives for which such amounts were obligated and expended;

(C) a description of the activities carried out, including the forms of assistance provided, and the justification for each form of assistance provided;

(D) the success of each activity, including the goals and objectives achieved for each;

(E) a description of participation by private sector entities in the United States in carrying out such activities, and the participation of any other Federal department or agency in such activities; and

(F) any other information that the Secretary considers relevant to provide a complete description of the operation and success of activities carried out under Cooperative Threat Reduction programs.

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National Defense Authorization Act for Fiscal Year 2000
(Public Law 106-65)

SEC. 1025. [10 U.S.C. 113 note] ~~ANNUAL REPORT ON UNITED STATES MILITARY ACTIVITIES IN COLOMBIA.~~

~~Not later than January 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report detailing the number of members of~~

~~the United States Armed Forces deployed or otherwise assigned to duty in Colombia at any time during the preceding year, the length and purpose of the deployment or assignment, and the costs and force protection risks associated with such deployments and assignments.~~

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SEC. 1035. ~~REPORT ON ASSESSMENTS OF READINESS TO EXECUTE THE NATIONAL MILITARY STRATEGY.~~

~~(a) REPORT.—Not later than April 1 of each year (but subject to subsection (e)), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report in unclassified form assessing the effect of continued operations in the Balkans region on—~~

~~(1) the ability of the Armed Forces to successfully meet other regional contingencies; and~~

~~(2) the readiness of the Armed Forces to execute the National Military Strategy.~~

~~(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall include the following:~~

~~(1) All models used by the Chairman of the Joint Chiefs of Staff to assess the capability of the United States to execute the full range of missions under the National Military Strategy and all other models used by the Armed Forces to assess that capability.~~

~~(2) Separate assessments that would result from the use of those models if it were necessary to execute the full range of missions called for under the National Military Strategy under each of the scenarios set forth in subsection (c), including the levels of casualties the United States would be projected to incur.~~

~~(3) Assumptions made about the readiness levels of major units included in each such assessment, including equipment, personnel, and training readiness and sustainment ability.~~

~~(4) The increasing levels of casualties that would be projected under each such scenario over a range of risks of prosecuting two Major Theater Wars that proceeds from low-moderate risk to moderate-high risk.~~

~~(5) An estimate of—~~

~~(A) the total resources needed to attain a moderatehigh risk under those scenarios;~~

~~(B) the total resources needed to attain a low-moderate risk under those scenarios; and~~

~~(C) the incremental resources needed to decrease the level of risk from moderate-high to low-moderate.~~

~~(c) SCENARIOS TO BE USED.—The scenarios to be used for purposes of paragraphs (1), (2), and (3) of subsection (b) are the following:~~

~~(1) That while the Armed Forces are engaged in operations at the level of the operations ongoing as of the date of the enactment of this Act, international armed conflict begins—~~

~~(A) on the Korean peninsula; and~~

~~(B) first on the Korean peninsula and then 45 days later in Southwest Asia.~~

~~(2) That while the Armed Forces are engaged in operations at the peak level reached during Operation Allied Force against the Federal Republic of Yugoslavia, international armed conflict begins—~~

~~(A) on the Korean peninsula; and~~

~~(B) first on the Korean peninsula and then 45 days later in Southwest Asia.~~

~~(d) CONSULTATION.—In preparing a report under this section, the Secretary of Defense shall consult with the Chairman of the Joint Chiefs of Staff, the commanders of the unified commands, the Secretaries of the military departments, and the heads of the combat support agencies and other such entities within the Department of Defense as the Secretary considers necessary.~~

~~(e) TERMINATION WHEN UNITED STATES MILITARY OPERATIONS END.—(1) No report is required under this section after United States military operations in the Balkans region have ended.~~

~~(2) After the requirement for an annual report under this section is terminated by operation of paragraph (1), but not later than the latest date on which the next annual report under this section would, except for paragraph (1), otherwise be due, the Secretary of Defense shall transmit to Congress a notification of the termination of the reporting requirement.~~

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SEC. 1201. [10 U.S.C. 168 note] LIMITATION ON MILITARY-TO-MILITARY EXCHANGES AND CONTACTS WITH CHINESE PEOPLE'S LIBERATION ARMY.

(a) LIMITATION.—The Secretary of Defense may not authorize any military-to-military exchange or contact described in subsection (b) to be conducted by the armed forces with representatives of the People's Liberation

Army of the People's Republic of China if that exchange or contact would create a national security risk due to an inappropriate exposure specified in subsection (b).

(b) COVERED EXCHANGES AND CONTACTS.—Subsection (a) applies to any military-to-military exchange or contact that includes inappropriate exposure to any of the following:

(1) Force projection operations.
(2) Nuclear operations.
(3) Advanced combined-arms and joint combat operations.
(4) Advanced logistical operations.
(5) Chemical and biological defense and other capabilities related to weapons of mass destruction.
(6) Surveillance and reconnaissance operations.
(7) Joint warfighting experiments and other activities related to a transformation in warfare.
(8) Military space operations.
(9) Other advanced capabilities of the Armed Forces.
(10) Arms sales or military-related technology transfers.
(11) Release of classified or restricted information.
(12) Access to a Department of Defense laboratory.

(c) EXCEPTIONS.—Subsection (a) does not apply to any search-and-rescue or humanitarian operation or exercise.

~~(d) ANNUAL CERTIFICATION BY SECRETARY.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than December 31 each year, a certification in writing as to whether or not any military-to-military exchange or contact during that calendar year was conducted in violation of subsection (a).~~

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Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261)

SEC. 1101. [5 U.S.C. 3104 note] DEFENSE ADVANCED RESEARCH PROJECTS AGENCY EXPERIMENTAL PERSONNEL MANAGEMENT PROGRAM FOR TECHNICAL PERSONNEL.

(a) PROGRAM AUTHORIZED.—During the program period specified in subsection (e)(1), the Secretary of Defense may carry out a program of experimental use of the special personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for research and development projects administered by the Defense Advanced Research Projects Agency and research and development projects administered by laboratories designated for the program by the Secretary from among the laboratories of each of the military departments.

(b) SPECIAL PERSONNEL MANAGEMENT AUTHORITY.—Under the program, the Secretary may—

(1) without regard to any provision of title 5, United States Code, governing the appointment of employees in the civil service, appoint scientists and engineers from outside the civil service and uniformed services (as such terms are defined in section 2101 of such title) to—

(A) not more than 40 scientific and engineering positions in the Defense Advanced Research Projects Agency;

(B) not more than 40 scientific and engineering positions in the designated laboratories of each of the military services;

(C) not more than a total of 10 scientific and engineering positions in the National Imagery and Mapping Agency [National Geospatial-Intelligence Agency] and the National Security Agency; and

(D) not more than a total of 10 scientific and engineering positions in the Office of the Director of Defense Research and Engineering;

(2) prescribe the rates of basic pay for positions to which employees are appointed under paragraph (1) at rates not in excess of the maximum rate of basic pay authorized for senior-level positions under section 5376 of title 5, United States Code, as increased by locality-based comparability payments under section 5304 of such title, notwithstanding any provision of such title governing the rates of pay or classification of employees in the executive branch; and

(3) pay any employee appointed under paragraph (1) payments in addition to basic pay within the limit applicable to the employee under subsection (d).

(c) LIMITATION ON TERM OF APPOINTMENT.—

(1) Except as provided in paragraph (2), the service of an employee under an appointment under subsection (b)(1) may not exceed 4 years.

(2) The Secretary may, in the case of a particular employee, extend the period to which service is limited under paragraph (1) by up to 2 years if the Secretary determines that such action is necessary to promote the efficiency of the Defense Advanced Research Projects Agency.

(d) LIMITATIONS ON ADDITIONAL PAYMENTS.—

(1) Subject to paragraph (3), the total amount of additional payments paid to an employee under subsection (b)(3) for any 12-month period may not exceed the lesser of the following amounts:

(A) $ 50,000 in fiscal year 2010, which may be adjusted annually thereafter by the Secretary, with a percentage increase equal to one-half of 1 percentage point less than the percentage by which the Employment Cost Index, published quarterly by the Bureau of Labor Statistics, for the base quarter of the year before the preceding calendar year exceeds the Employment Cost Index for the base quarter of the second year before the preceding calendar year.

(B) The amount equal to 50 percent of the employee's annual rate of basic pay.

(2) In paragraph (1), the term 'base quarter' has the meaning given that term in section 5302(3) of title 5, United States Code.

(3) Notwithstanding any other provision of this section or section 5307 of title 5, United States Code, no additional payments may be paid to an employee under subsection (b)(3) in any calendar year if, or to the extent that, the employee's total annual compensation in such calendar year will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3, United States Code.

(4) An employee appointed under the program is not eligible for any bonus, monetary award, or other monetary incentive for service under the appointment other than payments authorized by this section.

(e) PERIOD OF PROGRAM.—(1) The period for carrying out the program authorized under this section begins on October 17, 1998, and ends on September 30, 2014.

(2) After the termination of the program—

(A) no appointment may be made under paragraph (1) of subsection (b);

(B) a rate of basic pay prescribed under paragraph (2) of that subsection may not take effect for a position; and

(C) no period of service may be extended under subsection (c)(2).

(f) SAVINGS PROVISIONS.—***

~~(g) ANNUAL REPORT.—(1)(A) Not later than December 31 of each year in which the authority under this section is in effect, the Secretary of Defense shall submit to the committees of Congress specified in subparagraph (B) a report on the operation of this section. Each report shall cover the fiscal year that most recently ended before such December 31.~~

~~(B) The committees of Congress specified in this subparagraph are—~~

~~(i) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and~~

~~(ii) the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.~~

~~(2) The annual report shall contain, for the period covered by the report, the following:~~

~~(A) A detailed discussion of the exercise of authority under this section.~~

~~(B) The sources from which individuals appointed under subsection (b)(1) were recruited.~~

~~(C) The methodology used for identifying and selecting such individuals.~~

~~(D) Any additional information that the Secretary considers helpful for assessing the utility of the authority under this section.~~

National Defense Authorization Act for Fiscal Year 1998
(Public Law 105-85)

SEC. 234. [50 U.S.C. 2367] ~~**ANNUAL REPORT ON THREAT POSED TO THE UNITED STATES BY WEAPONS OF MASS DESTRUCTION, BALLISTIC MISSILES, AND CRUISE MISSILES.**~~

~~(a) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress by January 30 of each year a report on the threats posed to the United States and allies of the United States—~~

~~(1) by weapons of mass destruction, ballistic missiles, and cruise missiles; and~~

~~(2) by the proliferation of weapons of mass destruction, ballistic missiles, and cruise missiles.~~

~~(b) CONSULTATION.—Each report submitted under subsection (a) shall be prepared in consultation with the Director of Central Intelligence.~~

~~(c) MATTERS TO BE INCLUDED.—Each report submitted under subsection (a) shall include the following:~~

~~(1) Identification of each foreign country and non-State organization that possesses weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.~~

~~(2) A description of the means by which any foreign country and non-State organization that has achieved capability with respect to weapons of mass destruction, ballistic missiles, or cruise missiles has achieved that capability, including a description of the international network of foreign countries and private entities that provide assistance to foreign countries and non-State organizations in achieving that capability.~~

~~(3) An examination of the doctrines that guide the use of weapons of mass destruction in each foreign country that possesses such weapons.~~

~~(4) An examination of the existence and implementation of the control mechanisms that exist with respect to nuclear weapons in each foreign country that possesses such weapons.~~

~~(5) Identification of each foreign country and non-State organization that seeks to acquire or develop (indigenously or with foreign assistance) weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.~~

~~(6) An assessment of various possible timelines for the achievement by foreign countries and non-State organizations of capability with respect to weapons of mass destruction, ballistic missiles, and cruise missiles, taking into account the probability of whether the Russian Federation and the People's Republic of China will comply with the Missile Technology Control Regime, the potential availability of assistance from foreign technical specialists, and the potential for independent sales by foreign private entities without authorization from their national governments.~~

~~(7) For each foreign country or non-State organization that has not achieved the capability to target the United States or its territories with weapons of mass destruction, ballistic missiles, or cruise missiles as of the date of the enactment of this Act, an estimate of how far in advance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.~~

~~(8) For each foreign country or non-State organization that has not achieved the capability to target members of the United States Armed Forces deployed abroad with weapons of mass destruction, ballistic missiles, or cruise missiles as of the date of the enactment of this Act, an estimate of how far in advance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.~~

~~(d) CLASSIFICATION.—Each report under subsection (a) shall be submitted in classified and unclassified form.~~

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SEC. 349. [10 U.S.C. 2702 note] PARTNERSHIPS FOR INVESTMENT IN INNOVATIVE ENVIRONMENTAL TECHNOLOGIES.

(a) AUTHORITY.—Subject to subsection (b), the Secretary of Defense may enter into a partnership with one or more private entities to demonstrate and validate innovative environmental technologies.

(b) LIMITATIONS.—The Secretary of Defense may enter into a partnership with respect to an environmental technology under subsection (a) only if—

(1) any private entities participating in the partnership are selected through the use of competitive procedures;

(2) the partnership provides for parties other than the Department of Defense to provide at least 50 percent of the funding required (not including in-kind contributions or preexisting investments); and

(3) the Secretary determines that—

(A) the technology has clear potential to be of significant value to the Department of Defense in its environmental remediation activities at a substantial number of Department of Defense sites; and

(B) the technology would not be developed without the commitment of Department of Defense funds.

(c) EVALUATION GUIDELINES.—Before entering into a partnership with respect to an environmental technology under subsection (a), the Secretary of Defense shall give consideration to the following:

(1) The potential for the technology to be used by the Department of Defense for environmental remediation.

(2) The technical feasibility and maturity of the technology.

(3) The adequacy of financial and management plans to demonstrate and validate the technology.

(4) The costs and benefits to the Department of Defense of developing and using the technology.

(5) The potential for commercialization of the technology.

(6) The proposed arrangements for sharing the costs of the partnership through the use of resources outside the Department of Defense.

(d) FUNDING.—Under a partnership entered into under subsection (a), the Secretary of Defense may provide funds to the partner or partners from appropriations available to the Department of Defense for environmental activities, for a period of up to five years.

~~(e) REPORT.—In the annual report required under section 2706(a) of title 10, United States Code, the Secretary of Defense shall include the following information with respect to partnerships entered into under this section:~~

~~(1) The number of such partnerships.~~

~~(2) A description of the nature of the technology involved in each such partnership.~~

~~(3) A list of all partners in such partnerships.~~

(f) COORDINATION.—The Secretary of Defense shall ensure that the Department of Defense coordinates with the Administrator of the Environmental Protection Agency in any verification sponsored by the Department of technologies demonstrated and validated by a partnership entered into under this section.

(g) PROCEDURES.—The Secretary of Defense shall develop appropriate procedures to ensure that all Department of Defense funds committed to a partnership entered into under this section are expended for the purpose authorized in the partnership agreement. The Secretary may not enter into a partnership under this section until 30 days after the date on which a copy of such procedures is provided to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(h) TERMINATION OF AUTHORITY.—The authority to enter into agreements under subsection (a) shall terminate three years after the date of the enactment of this Act [Nov. 18, 1997].

National Defense Authorization Act for Fiscal Years 1992 and 1993
(Public Law 102-190)

SEC. 2868~~.~~ [10 U.S.C. 2302 note] ~~REPORTS RELATING TO MILITARY CONSTRUCTION FOR FACILITIES SUPPORTING NEW WEAPON SYSTEMS.~~

~~(a) REQUIREMENT.—Not later than 30 days after the date on which a decision is made selecting the site or sites for the permanent basing of a new weapon system, the Secretary of Defense shall submit to Congress a report describing—~~

~~(1) the site or sites selected or planned for permanent basing of the planned force of that weapon system;~~

~~(2) the rationale for selecting such site or sites; and~~

~~(3) the military construction activities proposed for each such site.~~

~~(b) NEW WEAPON SYSTEM DEFINED.—For purposes of this section, the term 'new weapon system' means any military aircraft or major naval combatant vessel for which a complete permanent basing plan has not been publicly announced before the date of the enactment of this Act [Dec. 5, 1991].~~

National Defense Authorization Act for Fiscal Year 1991
(Public Law 101-510)

SEC. 831. [10 U.S.C. 2302 note] MENTOR-PROTEGE PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM- The Secretary of Defense shall establish a pilot program to be known as the `Mentor-Protege Program'.

(b) PURPOSE- The purpose of the program is to provide incentives for major Department of Defense contractors to furnish disadvantaged small business concerns with assistance designed to enhance the capabilities of disadvantaged small business concerns to perform as subcontractors and suppliers under Department of Defense contracts and other contracts and subcontracts in order to increase the participation of such business concerns as subcontractors and suppliers under Department of Defense contracts, other Federal Government contracts, and commercial contracts.

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(k) REGULATIONS.—***

~~(l) REPORTS AND REVIEWS.—(1) The mentor-firm and protege-firm under a mentor-protege agreement shall submit to the Secretary of Defense an annual report on the progress made by the protege firm in employment, revenues, and participation in Department of Defense contracts during the fiscal year covered by the report. The requirement for submission of an annual report applies with respect to each fiscal year covered by the program participation term under the agreement and each of the two fiscal years following the expiration of the program participation term. The Secretary shall prescribe the timing and form of the annual report.~~

~~(2)(A) The Secretary shall conduct an annual performance review of each mentor-protege agreement that provides for reimbursement of costs. The Secretary shall determine on the basis of the review whether—~~

~~(i) all costs reimbursed to the mentor firm under the agreement were reasonably incurred to furnish assistance to the protege firm in accordance with the requirements of this section and applicable regulations; and~~

~~(ii) the mentor firm and protege firm accurately reported progress made by the protege firm in employment, revenues, and participation in Department of Defense contracts during the program participation term covered by the mentor-protege agreement and the two fiscal years following the expiration of the program participation term.~~

~~(B) The Secretary shall act through the Commander of the Defense Contract Management Command in carrying out the reviews and making the determinations under subparagraph (A).~~

~~(3) Not later than 6 months after the end of each of fiscal years 2000 through 2010, the Secretary of Defense shall submit to Congress an annual report on the Mentor-Protege Program for that fiscal year.~~

~~(4) The annual report for a fiscal year shall include, at a minimum, the following:~~

~~(A) The number of mentor-protege agreements that were entered into during the fiscal year.~~

~~(B) The number of mentor-protege agreements that were in effect during the fiscal year.~~

~~(C) The total amount reimbursed to mentor firms pursuant to subsection (g) during the fiscal year.~~

~~(D) Each mentor-protege agreement, if any, that was approved during the fiscal year in accordance with subsection (e)(2) to provide a program participation term in excess of 3 years, together with the justification for the approval.~~

~~(E) Each reimbursement of a mentor firm in excess of the limitation in subsection (g)(2)(C) that was made during the fiscal year pursuant to an approval granted in accordance with that subsection, together with the justification for the approval.~~

~~(F) Trends in the progress made in employment, revenues, and participation in Department of Defense contracts by the protege firms participating in the program during the fiscal year and the protege firms that completed or otherwise terminated participation in the program during the preceding two fiscal years.~~

(m) DEFINITIONS- ***

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SEC. 2901. [10 U.S.C. 2687 note] SHORT TITLE AND PURPOSE.

(a) SHORT TITLE. - This part may be cited as the 'Defense Base Closure and Realignment Act of 1990.

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SEC. 2906. [10 U.S.C. 2687 note] ACCOUNT.

(a) IN GENERAL- (1) There is hereby established on the books of the Treasury an account to be known as the `Department of Defense Base Closure Account 1990' which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account--

(A) funds authorized for and appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional defense committees; and

(C) proceeds received from the transfer or disposal of any property at a military installation closed or realigned under this part.

(b) USE OF FUNDS-

(1) The Secretary may use the funds in the Account only for the purposes described in section 2905(a).

(2) When a decision is made to use funds in the Account to carry out a construction project under section 2905(a) and the cost of the project will exceed the maximum amount authorized by law for a minor military construction project, the Secretary shall notify in writing the congressional defense committees of the nature of, and justification for, the project and the amount of expenditures for such project. Any such construction project may be carried out without regard to section 2802(a) of title 10, United States Code.

(c) REPORTS- ~~(1) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this part, the Secretary shall transmit a report to the congressional defense committees of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to section 2905(a) during such fiscal year.~~

(2) Unobligated funds which remain in the Account after the termination of the Commission shall be held in the Account until transferred by law after the congressional defense committees receive the report transmitted under paragraph (3).

(3) No later than 60 days after the termination of the Commission, the Secretary shall transmit to the congressional defense committees a report containing an accounting of--

(A) all the funds deposited into and expended from the Account or otherwise expended under this part; and

(B) any amount remaining in the Account.

SEC. 2907. [10 U.S.C. 2687 note] REPORTS.

(a) REPORTING REQUIREMENT.—As part of the budget request for fiscal year 2007 and for each fiscal year thereafter ~~fiscal year 2016~~ fiscal year 2012 for the Department of Defense, the Secretary shall transmit to the congressional defense committees of Congress--

(1) a schedule of the closure and realignment actions to be carried out under this part in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and realignment and of the time period in which these savings are to be achieved in each case, together with the Secretary's assessment of the environmental effects of such actions;

(2) a description of the military installations, including those under construction and those planned for construction, to which functions are to be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental effects of such transfers;

(3) a description of the closure actions already carried out at each military installation since the date of the installation's approval for closure under this part and the current status of the closure of the installation, including whether—

(A) a redevelopment authority has been recognized by the Secretary for the installation;

(B) the screening of property at the installation for other Federal use has been completed; and

(C) a redevelopment plan has been agreed to by the redevelopment authority for the installation;

(4) a description of redevelopment plans for military installations approved for closure under this part, the quantity of property remaining to be disposed of at each installation as part of its closure, and the quantity of property already disposed of at each installation;

(5) a list of the Federal agencies that have requested property during the screening process for each military installation approved for closure under this part, including the date of transfer or anticipated transfer of the property to such agencies, the acreage involved in such transfers, and an explanation for any delays in such transfers;

(6) a list of known environmental remediation issues at each military installation approved for closure under this part, including the acreage affected by these issues, an estimate of the cost to complete such environmental remediation, and the plans (and timelines) to address such environmental remediation; and

(7) an estimate of the date for the completion of all closure actions at each military installation approved for closure or realignment under this part.

(b) TERMINATION OF REPORTING REQUIREMENTS RELATED TO REALIGNMENT ACTIONS.—The reporting requirements under subsection (a) shall terminate with respect to realignment actions after the report submitted with the budget for ~~fiscal year~~ ~~2014~~ fiscal year 2012.

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SEC. 2921. [10 U.S.C. 2687 note] CLOSURE OF FOREIGN MILITARY INSTALLATIONS.

(a) SENSE OF CONGRESS- It is the sense of the Congress that--

(1) the termination of military operations by the United States at military installations outside the United States should be accomplished at the discretion of the Secretary of Defense at the earliest opportunity;

(2) in providing for such termination, the Secretary of Defense should take steps to ensure that the United States receives, through direct payment or otherwise, consideration equal to the fair market value of the improvements made by the United States at facilities that will be released to host countries;

(3) the Secretary of Defense, acting through the military component commands or the sub-unified commands to the combatant commands, should be the lead official in negotiations relating to determining and receiving such consideration; and

(4) the determination of the fair market value of such improvements released to host countries in whole or in part by the United States should be handled on a facility-by-facility basis.

(b) RESIDUAL VALUE—.

(1) For each installation outside the United States at which military operations were being carried out by the United States on October 1, 1990, the Secretary of Defense shall transmit, by no later than June 1, 1991, an estimate of the fair market value, as of January 1, 1991, of the improvements made by the United States at facilities at each such installation.

(2) For purposes of this section:

(A) The term 'fair market value of the improvements' means the value of improvements determined by the Secretary on the basis of their highest use.

(B) The term 'improvements' includes new construction of facilities and all additions, improvements, modifications, or renovations made to existing facilities or to real property, without regard to whether they were carried out with appropriated or nonappropriated funds.

(c) ESTABLISHMENT OF SPECIAL ACCOUNT.—

(1) There is established on the books of the Treasury a special account to be known as the 'Department of Defense Overseas Military Facility Investment Recovery Account'. Except as provided in subsection (d), amounts paid to the United States, pursuant to any treaty, status of forces agreement, or other international agreement to which the United States is a party, for the residual value of real property or improvements to real property used by civilian or military personnel of the Department of Defense shall be deposited into such account.

(2) Money deposited in the Department of Defense Overseas Military Facility Investment Recovery Account shall be available to the Secretary of Defense for payment, as provided in appropriation Acts, of costs incurred by the Department of Defense in connection with--

(A) facility maintenance and repair and environmental restoration at military installations in the United States; and

(B) facility maintenance and repair and compliance with applicable environmental laws at military installations outside the United States that the Secretary anticipates will be occupied by the Armed Forces for a long period.

(3) Funds in the Department of Defense Overseas Facility Investment Recovery Account shall remain available until expended.

(d) AMOUNTS CORRESPONDING TO THE VALUE OF PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.—

(1) In the case of a payment referred to in subsection (c)(1) for the residual value of real property or improvements at an overseas military facility, the portion of the payment that is equal to the depreciated value of the investment made with nonappropriated funds shall be deposited in the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act [note to this section]. The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance by appropriation Acts) for the purpose of acquiring, constructing, or improving commissary stores and nonappropriated fund instrumentalities.

(2) As used in this subsection:

(A) The term 'nonappropriated funds' means funds received from--

(i) the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code; or

(ii) a nonappropriated fund instrumentality.

(B) The term 'nonappropriated fund instrumentality' means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

~~(e) Negotiations for payments-in-kind.~~

~~(1) Before the Secretary of Defense enters into negotiations with a host country regarding the acceptance by the United States of any payment-in-kind in connection with the release to the host country of improvements made by the United States at military installations in the host country, the Secretary shall submit to the appropriate congressional committees a written notice regarding the intended negotiations.~~

~~(2) The notice shall contain the following:~~

~~(A) A justification for entering into negotiations for payments-in-kind with the host country.~~

~~(B) The types of benefit options to be pursued by the Secretary in the negotiations.~~

~~(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.~~

~~(3) For purposes of this subsection, the appropriate congressional committees are—~~

~~(A) the Committee on Armed Services, [the Committee on Armed Services,] the Committee on Appropriations, and the National Security Subcommittee of the Committee on Appropriations of the House of Representatives; and~~

~~(B) the Committee on Armed Services, the Committee on Appropriations, and the Subcommittee on Defense of the Committee on Appropriations of the Senate.~~

~~(f) OMB review of proposed settlements.~~

~~(1) The Secretary of Defense may not enter into an agreement of settlement with a host country regarding the release to the host country of improvements made by the United States to facilities at an installation located in the host country until 30 days after the date on which the Secretary submits the~~

~~proposed settlement to the Director of the Office of Management and Budget. The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of $ 10,000,000. The Director shall evaluate the overall equity of the proposed settlement. In evaluating the proposed settlement, the Director shall consider such factors as the extent of the United States capital investment in the improvements being released to the host country, the depreciation of the improvements, the condition of the improvements, and any applicable requirements for environmental remediation or restoration at the installation.~~

~~(2) Each year, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the value of the improvements to be released pursuant to the proposed agreement did not exceed $ 10,000,000.~~

(g) Congressional oversight of payments-in-kind.

(1) Before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of the military construction project or facility improvement project, as the case may be.

(B) A certification that the project is needed by United States forces.

(C) An explanation of how the project will aid in the achievement of the mission of those forces.

(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

~~(2) Before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:~~

~~(A) A description of each activity to be covered by the payment-in-kind.~~

~~(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.~~

~~(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.~~

(3) When the Secretary submits a notification of a proposed agreement under paragraph (1) ~~or (2)~~, the Secretary may then enter into the agreement described in the notification only after the end of the 30-day period beginning on the date on which the notification is submitted or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of title 10, United States Code.

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SEC. 4004. [10 U.S.C. 2391 note] CONTINUATION OF ECONOMIC ADJUSTMENT COMMITTEE.

(a) TERMINATION OR ALTERATION PROHIBITED- The Economic Adjustment Committee established in Executive Order 12049 (10 U.S.C. 111 note) may not be terminated and the duties of the Committee may not be significantly altered unless specifically authorized by a law.

(b) CHAIRMAN- ***

(c) EXECUTIVE COUNCIL.***

(d) DUTIES OF COMMITTEE- The Economic Adjustment Committee shall--

(1) coordinate and facilitate cooperative efforts among Federal agencies represented on the Committee to implement defense economic adjustment programs; <u>and</u>

(2) serve as an information clearinghouse for and between Federal, State, and local entities regarding their defense economic adjustment efforts~~; and~~.

~~(3) submit to the President and Congress, not later than December 1, 1991, and each December 1 thereafter, a report that--~~

~~(A) describes Federal economic adjustment programs available to communities, businesses, and groups of workers;~~

~~(B) describes the implementation of defense economic adjustment assistance during the preceding fiscal year; and~~

~~(C) specifies the number of communities, businesses, and workers affected by defense budget reductions during the preceding fiscal year and such number assisted by Federal economic adjustment programs during that fiscal year.~~

Defense Acquisition Improvement Act of 1986
(as contained in section 101(c) of Public Law 99-500 and identically enacted in section 101(c) of Public Law 99-591 and title IX of Public Law 99-661)

SEC. 908. [10 U.S.C. 2326 note] REQUIREMENTS RELATING TO UNDEFINITIZED CONTRACTUAL ACTIONS

(a) LIMITATION ON USE OF FUNDS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—***

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~~(b) OVERSIGHT BY INSPECTOR GENERAL.—The Inspector General of the Department of Defense shall—~~

~~(1) periodically conduct an audit of contractual actions under the jurisdiction of the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretaries of the military departments; and~~

~~(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each Secretary, including the amount of contractual actions under the jurisdiction of each Secretary that is represented by undefinitized contractual actions.~~

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of subsections (a) and (b) for urgent and compelling considerations relating to national security or public safety if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of such waiver before the end of the 30-day period beginning on the date that the waiver is made.

(d) [Omitted--Subsec. (d) added section 2326 of title 10, United States Code]

(e) DEFINITION.—For purposes of this section, the term 'undefinitized contractual action' has the meaning given such term in section 2326(g) of title 10, United States Code (as added by subsection (d)(1)).

ARMED FORCES RETIREMENT HOME ACT OF 1991

SEC. 1511. [24 U.S.C. 411] ESTABLISHMENT OF THE ARMED FORCES RETIREMENT HOME.

(a) INDEPENDENT ESTABLISHMENT.—The Armed Forces Retirement Home is an independent establishment in the executive branch.

(b) PURPOSE.—***

(c) FACILITIES.—***

(d) OPERATION.—***

(e) PROPERTY AND FACILITIES.—***

(f) DEPARTMENT OF DEFENSE SUPPORT.—***

(g) ACCREDITATION.—***

~~(h) ANNUAL REPORT.—The Secretary of Defense shall transmit to Congress an annual report on the financial and other affairs of the Retirement Home for each fiscal year. The annual report shall include an assessment of all aspects of each facility of the Retirement Home, including the quality of care at the facility.~~

(i) AUTHORITY TO LEASE NON-EXCESS PROPERTY.—***

TITLE 32, UNITED STATES CODE

§ 908. Annual report

(a) REQUIREMENT FOR REPORT.— After the end of ~~each fiscal year~~ any fiscal year during which any assistance was provided or activities were carried out under this chapter, the Secretary of Defense shall submit to the congressional defense committees a report regarding any assistance provided and activities carried out under this chapter during that fiscal year. The report for a fiscal year shall be submitted not later than March 31 of the year following the year in which such fiscal year ended.

(b) CONTENT.—The report for a fiscal year shall include the following matters:

(1) The numbers of members of the National Guard excluded under subsection (i)(13) of section 115 of title 10 from being counted for the purpose of end-strengths authorized pursuant to subsection (a)(1) of such section.

(2) A description of the homeland defense activities conducted with funds provided under this chapter.

(3) An accounting of the amount of the funds provided to each State.

(4) A description of the effect on military training and readiness of using units and personnel of the National Guard to perform homeland defense activities under this chapter.

TITLE 37, UNITED STATES CODE

§ 316a. Special pay: incentive pay for members of precommissioning programs pursuing foreign language proficiency

(a) INCENTIVE PAY.—The Secretary of Defense may pay incentive pay under this section to an individual who—

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(f) REPORTS.—Not later than ~~January 1, 2010~~ April 1, 2012, and annually thereafter through 2014, the Secretary of Defense shall submit to the Director of the Office of Management and Budget, and to Congress, a report on the payment of incentive pay under this section during the preceding fiscal year. Each report shall include, for the fiscal year covered by such report, the following:

* * * * * * *

§ 402a. Supplemental subsistence allowance for low-income members with dependents

(a) SUPPLEMENTAL ALLOWANCE REQUIRED. - ***

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~~(f) REPORTING REQUIREMENT.—Not later than March 1 of each year after 2001, the Secretary of Defense shall submit to Congress a report specifying the number of members of the armed forces who received, at any time during the preceding year, the supplemental subsistence allowance. In preparing the report, the Secretary of Defense shall consult with the Secretary of Homeland Security, with respect to the Coast Guard.~~

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(h) DEFINITIONS. ***

TITLE 38, UNITED STATES CODE

§ 3020. Authority to transfer unused education benefits to family members for career service members

(a) IN GENERAL. - ***

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~~(l) ANNUAL REPORT.—(1) Not later than January 31 each year (beginning in 2003), the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the transfers of entitlement to basic educational assistance under this section that were approved by each Secretary concerned during the preceding fiscal year.~~

~~(2) Each report shall set forth—~~

~~(A) the number of transfers of entitlement under this section that were approved by such Secretary during the preceding fiscal year; or~~

~~(B) if no transfers of entitlement under this section were approved by such Secretary during that fiscal year, a justification for such Secretary's decision not to approve any such transfers of entitlement during that fiscal year.~~

(m) SECRETARY CONCERNED DEFINED. - ***

Intelligence Reform and Terrorism Prevention Act of 2004
(Public Law 108-458)

SEC. 3002. [50 U.S.C. 435c] SECURITY CLEARANCES; LIMITATIONS.

(a) DEFINITIONS.-In this section:

(1) CONTROLLED SUBSTANCE.-The term `controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) COVERED PERSON.-The term `covered person' means-

(A) an officer or employee of a Federal agency;

(B) a member of the Army, Navy, Air Force, or Marine Corps who is on active duty or is in an active status; and

(C) an officer or employee of a contractor of a Federal agency.

(3) RESTRICTED DATA.-The term 'Restricted Data' has the meaning given that term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

(4) SPECIAL ACCESS PROGRAM.-The term `special access program' has the meaning given that term in section 4.1 of Executive Order No. 12958 (60 Fed. Reg. 19825).

(b) PROHIBITION.-After January 1, 2008, the head of a Federal agency may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict (as defined in section 102(1) of the Controlled Substances Act (21 U.S.C. 802)).

(c) DISQUALIFICATION.-

(1) IN GENERAL.-After January 1, 2008, absent an express written waiver granted in accordance with paragraph (2), the head of a Federal agency may not grant or renew a security clearance described in paragraph (3) for a covered person who-

(A) has been convicted in any court of the United States of a crime, was sentenced to imprisonment for a term exceeding 1 year, and was incarcerated as a result of that sentence for not less than 1 year;

(B) has been discharged or dismissed from the Armed Forces under dishonorable conditions; or

(C) is mentally incompetent, as determined by an adjudicating authority, based on an evaluation by a duly qualified mental health professional employed by, or acceptable to and approved by, the United States Government and in accordance with the adjudicative guidelines required by subsection (d).

(2) WAIVER AUTHORITY.-In a meritorious case, an exception to the disqualification in this subsection may be authorized if there are mitigating factors. Any such waiver may be authorized only in accordance with-

(A) standards and procedures prescribed by, or under the authority of, an Executive order or other guidance issued by the President; or

(B) the adjudicative guidelines required by subsection (d).

(3) COVERED SECURITY CLEARANCES.-This subsection applies to security clearances that provide for access to-

(A) special access programs;

(B) Restricted Data; or

(C) any other information commonly referred to as "sensitive compartmented information".

~~(4) ANNUAL REPORT.-~~

~~(A) REQUIREMENT FOR REPORT. Not later than February 1 of each year, the head of a Federal agency shall submit a report to the appropriate committees of Congress if such agency employs or employed a person for whom a waiver was granted in accordance with paragraph (2) during the preceding year. Such annual report shall not reveal the identity of such person, but shall include for each waiver issued the disqualifying factor under paragraph (1) and the reasons for the waiver of the disqualifying factor.~~

~~(B) DEFINITIONS. In this paragraph:~~

~~(i) APPROPRIATE COMMITTEES OF CONGRESS. The term `appropriate committees of Congress' means, with respect to a report submitted under subparagraph (A) by the head of a Federal agency-~~

~~(I) the congressional defense committees;~~

~~(II) the congressional intelligence committees; Page 174~~

~~(III) the Committee on Homeland Security and Governmental Affairs of the Senate;~~

~~(IV) the Committee on Oversight and Government Reform of the House of Representatives; and~~

~~(V) each Committee of the Senate or the House of Representatives with oversight authority over such Federal agency.~~

~~(ii) CONGRESSIONAL DEFENSE COMMITTEES. The term `congressional defense committees' has the meaning given that term in section 101(a)(16) of title 10, United States Code.~~

~~(iii) CONGRESSIONAL INTELLIGENCE COMMITTEES. The term `congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).~~

(d) ADJUDICATIVE GUIDELINES.-***

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Implementing Recommendations of the 9/11 Commission Act of 2007
(Public Law 110-53)

SEC. 804 . [42 U.S.C. 2000ee-3] ~~**FEDERAL AGENCY DATA MINING REPORTING ACT OF 2007.**~~

~~(a) SHORT TITLE.—This section may be cited as the "Federal Agency Data Mining Reporting Act of 2007".~~

~~(b) DEFINITIONS.—In this section:~~

~~(1) DATA MINING.—The term "data mining" means a program involving pattern-based queries, searches, or other analyses of 1 or more electronic databases, where—~~

~~(A) a department or agency of the Federal Government, or a non-Federal entity acting on behalf of the Federal Government, is conducting the queries, searches, or other analyses to discover or locate a predictive pattern or anomaly indicative of terrorist or criminal activity on the part of any individual or individuals;~~

~~(B) the queries, searches, or other analyses are not subject-based and do not use personal identifiers of a specific individual, or inputs associated with a specific individual or group of individuals, to retrieve information from the database or databases; and~~

~~(C) the purpose of the queries, searches, or other analyses is not solely—~~

~~(i) the detection of fraud, waste, or abuse in a Government agency or program; or~~

~~(ii) the security of a Government computer system.~~

~~(2) DATABASE. The term "database" does not include telephone directories, news reporting, information publicly available to any member of the public without payment of a fee, or databases of judicial and administrative opinions or other legal research sources.~~

~~(c) REPORTS ON DATA MINING ACTIVITIES BY FEDERAL AGENCIES.—~~

~~(1) REQUIREMENT FOR REPORT. The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data mining shall submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be produced in coordination with the privacy officer of that department or agency, if applicable, and shall be made available to the public, except for an annex described in subparagraph (C).~~

~~(2) CONTENT OF REPORT. Each report submitted under subparagraph (A) shall include, for each activity to use or develop data mining, the following information:~~

~~(A) A thorough description of the data mining activity, its goals, and, where appropriate, the target dates for the deployment of the data mining activity.~~

~~(B) A thorough description of the data mining technology that is being used or will be used, including the basis for determining whether a particular pattern or anomaly is indicative of terrorist or criminal activity.~~

~~(C) A thorough description of the data sources that are being or will be used.~~

~~(D) An assessment of the efficacy or likely efficacy of the data mining activity in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the data mining activity.~~

~~(E) An assessment of the impact or likely impact of the implementation of the data mining activity on the privacy and civil liberties of individuals, including a thorough description of the actions that are being taken or will be taken with regard to the property, privacy, or other rights or privileges of any individual or individuals as a result of the implementation of the data mining activity.~~

~~(F) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used in conjunction with the data mining activity, to the extent applicable in the context of the data mining activity.~~

~~(G) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such data mining activity in order to—~~

~~(i) protect the privacy and due process rights of individuals, such as redress procedures; and~~

~~(ii) ensure that only accurate and complete information is collected, reviewed,~~

~~gathered, analyzed, or used, and guard against any harmful consequences of potential inaccuracies.~~

~~(3) ANNEX.—~~

~~(A) IN GENERAL.—A report under subparagraph (A) shall include in an annex any necessary—~~

~~(i) classified information;~~

~~(ii) law enforcement sensitive information;~~

~~(iii) proprietary business information; or~~

~~(iv) trade secrets (as that term is defined in section 1839 of title 18, United States Code).~~

~~(B) Availability.—Any annex described in clause (i)—~~

~~(i) shall be available, as appropriate, and consistent with the National Security Act of 1947 (50 U.S.C. 401 et seq.), to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives; and~~

~~(ii) shall not be made available to the public.~~

~~(4) TIME FOR REPORT.—Each report required under subparagraph (A) shall be—~~

~~(A) submitted not later than 180 days after the date of enactment of this Act [Aug. 3, 2007]; and~~

~~(B) updated not less frequently than annually thereafter, to include any activity to use or develop data mining engaged in after the date of the prior report submitted under subparagraph (A).~~

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SEC. 1821. [50 U.S.C. 2911] PROLIFERATION SECURITY INITIATIVE IMPROVEMENTS AND AUTHORITIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress, consistent with the 9/11 Commission's recommendations, that the President should strive to expand and strengthen the Proliferation Security Initiative (in this subtitle referred to as ''PSI'') announced by the President on May 31, 2003, with a particular emphasis on the following:

(1) Issuing a presidential directive to the relevant United States Government agencies and departments that directs such agencies and departments to—

(A) establish clear PSI authorities, responsibilities, and structures;

(B) include in the budget request for each such agency or department for each fiscal year, a request for funds necessary for United States PSI-related activities; and

(C) provide other necessary resources to achieve more efficient and effective performance of United States PSI related activities.

(2) Increasing PSI cooperation with all countries.

(3) Implementing the recommendations of the Government Accountability Office (GAO) in the September 2006 report titled ''Better Controls Needed to Plan and Manage Proliferation Security Initiative Activities'' (GAO–06–937C) regarding the following:

(A) The Department of Defense and the Department of State should establish clear PSI roles and responsibilities, policies and procedures, interagency communication mechanisms, documentation requirements, and indicators to measure program results.

(B) The Department of Defense and the Department of State should develop a strategy to work with PSI-participating countries to resolve issues that are impediments to conducting successful PSI interdictions.

(4) Establishing a multilateral mechanism to increase coordination, cooperation, and compliance among PSI-participating countries.

(b) BUDGET SUBMISSION.—

(1) IN GENERAL.—Each fiscal year in which activities are planned to be carried out under the PSI, the President shall include in the budget request for each participating United States Government agency or

department for that fiscal year, a description of the funding and the activities for which the funding is requested for each such agency or department.

~~(2) REPORT.—Not later than the first Monday in February of each year in which the President submits a budget request described in paragraph (1), the Secretary of Defense and the Secretary of State shall submit to Congress a comprehensive joint report setting forth the following:~~

~~(A) A 3-year plan, beginning with the fiscal year for the budget request, that specifies the amount of funding and other resources to be provided by the United States for PSI-related activities over the term of the plan, including the purposes for which such funding and resources will be used.~~

~~(B) For the report submitted in 2008, a description of the PSI-related activities carried out during the 3 fiscal years preceding the year of the report, and for the report submitted in 2009 and each year thereafter, a description of the PSI-related activities carried out during the fiscal year preceding the year of the report. The description shall include, for each fiscal year covered by the report—~~

~~(i) the amounts obligated and expended for such activities and the purposes for which such amounts were obligated and expended;~~

~~(ii) a description of the participation of each department or agency of the United States Government in such activities;~~

~~(iii) a description of the participation of each foreign country or entity in such activities;~~

~~(iv) a description of any assistance provided to a foreign country or entity participating in such activities in order to secure such participation, in response to such participation, or in order to improve the quality of such participation; and~~

~~(v) such other information as the Secretary of Defense and the Secretary of State determine should be included to keep Congress fully informed of the operation and activities of the PSI.~~

~~(3) CLASSIFICATION.—The report required by paragraph (2) shall be in an unclassified form but may include a classified annex as necessary.~~

(c) IMPLEMENTATION REPORT.—***

(d) GAO REPORTS.—The Government Accountability Office shall submit to Congress, for each of fiscal years 2007, 2009, and 2011, a report with its assessment of the progress and effectiveness of the PSI, which shall include an assessment of the measures referred to in subsection (a).

Small Business Act
(15 U.S.C. 631 et seq.)

SEC. 9. [15 U.S.C. 638] (a) ***

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(y) COMMERCIALIZATION PILOT PROGRAM.—

(1) IN GENERAL- The Secretary of Defense and the Secretary of each military department is authorized to create and administer a "Commercialization Pilot Program" to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program to Phase III, including the acquisition process.

(2) IDENTIFICATION OF RESEARCH PROGRAMS FOR ACCELERATED TRANSITION TO ACQUISITION PROCESS.—In carrying out the Commercialization Pilot Program, the Secretary of Defense and the Secretary of each military department shall identify research programs of the Small Business Innovation Research Program that have the potential for rapid transitioning to Phase III and into the acquisition process.

(3) LIMITATION.— No research program may be identified under paragraph (2) unless the Secretary of the military department concerned certifies in writing that the successful transition of the program to Phase III and into the acquisition process is expected to meet high priority military requirements of such military department.

(4) FUNDING- For payment of expenses incurred to administer the Commercialization Pilot Program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program. Such funds –

(A) shall not be subject to the limitations on the use of funds in subsection (f)(2) of this section; and

(B) shall not be used to make Phase III awards.

~~(5) EVALUATIVE REPORT- At the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives an evaluative report regarding activities under the Commercialization Pilot Program. The report shall include –~~

~~(A) an accounting of the funds used in the Commercialization Pilot Program;~~

~~(B) a detailed description of the Commercialization Pilot Program, including incentives and activities undertaken by acquisition program managers, program executive officers, and prime contractors; and~~

~~(C) a detailed compilation of results achieved by the Commercialization Pilot Program, including the number of small business concerns assisted and the number of projects commercialized.~~

(6) SUNSET- The pilot program under this subsection shall terminate at the end of fiscal year 2010.

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Foreign Assistance Act of 1961
(22 U.S.C. 2151 et seq.)

SEC. 516. [22 U.S.C. 2321J] AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES

(a) AUTHORIZATION-The President is authorized to transfer excess defense articles under this section to countries for which receipt of such articles was justified pursuant to the annual congressional presentation documents for military assistance programs, or for programs under chapter 8 of part I of this Act, submitted under section 634 of this Act, or for which receipt of such articles was separately justified to the Congress, for the fiscal year in which the transfer is authorized.

(b) LIMITATIONS ON TRANSFERS- ***

(c) TERMS OF TRANSFERS—***

(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DEPARTMENT OF DEFENSE EXPENSES-***

(e) TRANSPORTATION AND RELATED COSTS—***

(f) ADVANCE NOTIFICATION TO CONGRESS FOR TRANSFER OF CERTAIN EXCESS DEFENSE ARTICLES.—

(1) IN GENERAL- The President may not transfer ~~excess defense articles that are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or~~ excess defense articles valued (in terms of original acquisition cost) at $7,000,000 or more, under this section or under the Arms Export Control Act (22 U.S.C. 2751 et seq.) until 30 days after the date on which the President has provided notice

of the proposed transfer to the congressional committees specified in section 634A(a) in accordance with procedures applicable to reprogramming notifications under that section.

(2) CONTENTS- Such notification shall include—

(A) a statement outlining the purposes for which the article is being provided to the country, including whether such article has been previously provided to such country;

(B) an assessment of the impact of the transfer on the military readiness of the United States;

(C) an assessment of the impact of the transfer on the national technology and industrial base and, particularly, the impact on opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are to be transferred; and

(D) a statement describing the current value of such article and the value of such article at acquisition.

(g) AGGREGATE ANNUAL LIMITATION.—***

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Sec. 656. [22 U.S.C. 2416] ~~**Annual foreign military training report.**~~

~~(a) ANNUAL REPORT.~~

~~(1) IN GENERAL- Not later than January 31 of each year, the Secretary of Defense and the Secretary of State shall jointly prepare and submit to the appropriate congressional committees a report on all military training provided to foreign military personnel by the Department of Defense and the Department of State during the previous fiscal year and all such training proposed for the current fiscal year.~~

~~(2) EXCEPTION FOR CERTAIN COUNTRIES- Paragraph (1) does not apply to any NATO member, Australia, Japan, or New Zealand, unless one of the appropriate congressional committees has specifically requested, in writing, inclusion of such country in the report. Such request shall be made not later than 90 calendar days prior to the date on which the report is required to be transmitted.~~

~~(b) CONTENTS- The report described in subsection (a) shall include the following:~~

~~(1) For each military training activity, the foreign policy justification and purpose for the activity, the number of foreign military personnel provided training and their units of operation, and the location of the training.~~

~~(2) For each country, the aggregate number of students trained and the aggregate cost of the military training activities.~~

~~(3) With respect to United States personnel, the operational benefits to United States forces derived from each military training activity and the United States military units involved in each activity.~~

~~(c) FORM- The report described in subsection (a) shall be in unclassified form but may include a classified annex.~~

~~(d) AVAILABILITY ON INTERNET- All unclassified portions of the report described in subsection (a) shall be made available to the public on the Internet through the Department of State.~~

~~(e) DEFINITION- In this section, the term ''appropriate congressional committees'' means—~~

~~(1) the Committee on Appropriations and the Committee on International Relations of the House of Representatives; and~~

~~(2) the Committee on Appropriations and the Committee on Foreign Relations of the Senate.~~

Arms Export Control Act

Sec. 36. [22 U.S.C. 2776] Reports on Commercial and Governmental Military Exports; Congressional Action.—(a) The President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate not more than sixty days after the end of each ~~quarter~~ **fiscal year** an unclassified report (except that any material which was transmitted in classified form under subsection (b)(1) or (c)(1) of this section may be contained in a classified addendum to such report, and any letter of offer referred to in paragraph (1) of this subsection may be listed in such addendum unless such letter of offer has been the subject of an

unclassified certification pursuant to subsection (b)(1) of this section, and any information provided under paragraph (11) of this subsection may also be provided in a classified addendum) containing –

(1) a listing of all letters of offer to sell any major defense equipment for $1,000,000 or more under this Act to each foreign country and international organization, by category, if such letters of offer have not been accepted or canceled;

(2) a listing of all such letters of offer that have been accepted during the fiscal year ~~in~~ **for** which such report is submitted, together with the total value of all defense articles and defense services sold to each foreign country and international organization during such fiscal year;

(3) the cumulative dollar amounts, by foreign country and international organization, of sales credit agreements under section 23 and guaranty agreements under section 24 made during the fiscal year ~~in~~ **for** which such report is submitted;

(4) a numbered listing of all licenses and approvals for the export to each foreign country and international organization during such fiscal year of commercially sold major defense equipment, by category, sold for $1,000,000 or more, together with the total value of all defense articles and defense services so licensed for each foreign country and international organization, setting forth with respect to the listed major defense equipment -

(A) the items to be exported under the license,

(B) the quantity and contract price of each such item to be furnished, and

(C) the name and address of the ultimate user of each such item;

(5) projections of the dollar amounts, by foreign country and international organization, of sales expected to be made under sections 21 and 22 in the ~~quarter of the fiscal year immediately following the quarter~~ **fiscal year** for which such report is submitted;

~~(6) a projection with respect to all sales expected to be made to each country and organization for the remainder of the fiscal year in which such report is transmitted;~~

(7) a description of each payment, contribution, gift, commission, or fee reported to the Secretary of State under section 2779 of this title, including (A) the name of the person who made such payment, contribution, gift, commission, or fee; (B) the name of any sales agent or other person to whom such payment, contribution, gift, commission, or fee was paid; (C) the date and amount of such payment, contribution, gift, commission, or fee; (D) a description of the sale in connection with which such payment, contribution, gift, commission, or fee was paid; and (E) the identification of any business information considered confidential by the person submitting it which is included in the report;

(8) a listing of each sale under section 29 during the ~~quarter~~ **fiscal year** for which such report is made, specifying (A) the purchaser, (B) the United States Government department or agency responsible for implementing the sale, (C) an estimate of the dollar amount of the sale, and (D) a general description of the real property facilities to be constructed pursuant to such sale;

(9) a listing of the consents to third-party transfers of defense articles or defense services which were granted, during the ~~quarter~~ **fiscal year** for which such report is submitted, for purposes of section 3(a)(2) of this Act, the regulations issued under section 38 of this Act, or section 505(a)(1)(B) of Foreign Assistance Act of 1961, if the value (in terms of original acquisition cost) of the defense articles or defense services to be transferred is $1,000,000 or more;

(10) a listing of all munitions items (as defined in section 40(l)(1)) which were sold, leased, or otherwise transferred by the Department of Defense to any other department, agency, or other entity of the United States Government during the ~~quarter~~ **fiscal year** for which such report is submitted (including the name of the recipient Government entity and a discussion of what that entity will do with those munitions items) if -

(A) the value of the munitions items was $250,000 or more; or

(B) the value of all munitions items transferred to that Government department, agency, or other entity during that quarter was $250,000 or more;

excluding munitions items transferred (i) for disposition or use solely within the United States, or (ii) for use in connection with intelligence activities subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities);

(11) a report on all concluded government-to-government agreements regarding foreign coproduction of defense articles of United States origin and all other concluded agreements involving coproduction or licensed production outside of the United States of defense articles of United States origin (including coproduction memoranda of understanding or agreement) that have not been previously reported under this subsection, which shall include -

(A) the identity of the foreign countries, international organizations, or foreign firms involved;

(B) a description and the estimated value of the articles authorized to be produced, and an estimate of the quantity of the articles authorized to be produced;

(C) a description of any restrictions on third-party transfers of the foreign-manufactured articles; and

(D) if any such agreement does not provide for United States access to and verification of quantities of articles produced overseas and their disposition in the foreign country, a description of alternative measures and controls incorporated in the coproduction or licensing program to ensure compliance with restrictions in the agreement on production quantities and third-party transfers; and

(12) a report on all exports of significant military equipment for which information has been provided pursuant to section 38(i).

For each letter of offer to sell under paragraphs (1) and (2), the report shall specify (i) the foreign country or international organization to which the defense article or service is offered or was sold, as the case may be; (ii) the dollar amount of the offer to sell or the sale and the number of defense articles offered or sold, as the case may be; (iii) a description of the defense article or service offered or sold, as the case may be; and (iv) the United States Armed Force or other agency of the United States which is making the offer to sell or the sale, as the case may be.

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UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT

SEC. 102. [42 U.S.C. 1973ff-1] STATE RESPONSIBILITIES.

(a) IN GENERAL.— Each State shall—

(1) ***

* * * * * * *

(b) DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOT PROCEDURES FOR ALL VOTERS IN STATE.—

(1) ***

* * * * * * *

(c) REPORT ON NUMBER OF ABSENTEE BALLOTS TRANSMITTED AND RECEIVED.—Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the ~~Election Assistance Commission (established under the Help America Vote Act of 2002)~~ Presidential designee on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such report available to the general public.

* * * * * * *

SEC. 105A. [42 U.S.C. 1973ff-4a] REPORTING REQUIREMENTS.

(a) ***

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(b) ~~ANNUAL~~ BIENNIAL REPORT ON EFFECTIVENESS OF ACTIVITIES AND UTILIZATION OF CERTAIN PROCEDURES.—Not later than ~~March 31 of each year~~ September 30 of each odd-numbered year, the Presidential

designee shall transmit to the President and to the relevant committees of Congress a report containing the following information with respect to the Federal election held during the preceding calendar year:

(1) An assessment of the effectiveness of activities carried out under section 103B, including the activities and actions of the Federal Voting Assistance Program of the Department of Defense, a separate assessment of voter registration and participation by absent uniformed services voters, a separate assessment of voter registration and participation by overseas voters who are not members of the uniformed services, and a description of the cooperation between States and the Federal Government in carrying out such section.

(2) A description of the utilization of voter registration assistance under 1566a of title 10, United States Code, which shall include the following:

(A) A description of the specific programs implemented by each military department of the Armed Forces pursuant to such section.

(B) The number of absent uniformed services voters who utilized voter registration assistance provided under such section.

(3) ~~In the case of a report submitted under this subsection in the year following a year in which a regularly scheduled general election for Federal office is held, a~~ A description of the utilization of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A, which shall include the number of marked absentee ballots collected and delivered under such procedures and the number of such ballots which were not delivered by the time of the closing of the polls on the date of the election (and the reasons such ballots were not so delivered).

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HELP AMERICA VOTE ACT

(42 U.S.C. 15301 et seq.)

SEC. 241. [42 U.S.C. 1538] PERIODIC STUDIES OF ELECTION ADMINISTRATION ISSUES.

(a) IN GENERAL.—On such periodic basis as the Commission may determine, the Commission shall conduct and make available to the public studies regarding the election administration issues described in subsection (b) of this section, with the goal of promoting methods of voting and administering elections which –

(1) will be the most convenient, accessible, and easy to use for voters, including ~~members of the uniformed services and overseas voters,~~ individuals with disabilities, including the blind and visually impaired, and voters with limited proficiency in the English language;

(2) will yield the most accurate, secure, and expeditious system for voting and tabulating election results;

(3) will be nondiscriminatory and afford each registered and eligible voter an equal opportunity to vote and to have that vote counted; and

(4) will be efficient and cost-effective for use.

(b) ELECTION ADMINISTRATION ISSUES DESCRIBED.—For purposes of subsection (a) of this section, the election administration issues described in this subsection are as follows:

(1) Methods and mechanisms of election technology and voting systems used in voting and counting votes in elections for Federal office, including the over-vote and under-vote notification capabilities of such technology and systems.

(2) Ballot designs for elections for Federal office.

(3) Methods of voter registration, maintaining secure and accurate lists of registered voters (including the establishment of a centralized, interactive, statewide voter registration list linked to relevant agencies and all polling sites), and ensuring that registered voters appear on the voter registration list at the appropriate polling site.

(4) Methods of conducting provisional voting.

(5) Methods of ensuring the accessibility of voting, registration, polling places, and voting equipment to all voters, including individuals with disabilities (including the blind and visually impaired), Native American or Alaska Native citizens, and voters with limited proficiency in the English language.

(6) Nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office.

(7) Identifying, deterring, and investigating methods of voter intimidation.

(8) Methods of recruiting, training, and improving the performance of poll workers.

(9) Methods of educating voters about the process of registering to vote and voting, the operation of voting mechanisms, the location of polling places, and all other aspects of participating in elections.

(10) The feasibility and advisability of conducting elections for Federal office on different days, at different places, and during different hours, including the advisability of establishing a uniform poll closing time and establishing -

(A) a legal public holiday under section 6103 of title 5 as the date on which general elections for Federal office are held;

(B) the Tuesday next after the 1st Monday in November, in every even numbered year, as a legal public holiday under such section;

(C) a date other than the Tuesday next after the 1st Monday in November, in every even numbered year as the date on which general elections for Federal office are held; and

(D) any date described in subparagraph (C) as a legal public holiday under such section.

(11) Federal and State laws governing the eligibility of persons to vote.

(12) Ways that the Federal Government can best assist State and local authorities to improve the administration of elections for Federal office and what levels of funding would be necessary to provide such assistance.

(13)(A) The laws and procedures used by each State that govern -

(i) recounts of ballots cast in elections for Federal office;

(ii) contests of determinations regarding whether votes are counted in such elections; and

(iii) standards that define what will constitute a vote on each type of voting equipment used in the State to conduct elections for Federal office.

(B) The best practices (as identified by the Commission) that are used by States with respect to the recounts and contests described in clause (i).

(C) Whether or not there is a need for more consistency among State recount and contest procedures used with respect to elections for Federal office.

(14) The technical feasibility of providing voting materials in eight or more languages for voters who speak those languages and who have limited English proficiency.

(15) Matters particularly relevant to voting and administering elections in rural and urban areas.

~~(16) Methods of voter registration for members of the uniformed services and overseas voters, and methods of ensuring that such voters receive timely ballots that will be properly and expeditiously handled and counted.~~

(~~17~~16) The best methods for establishing voting system performance benchmarks, expressed as a percentage of residual vote in the Federal contest at the top of the ballot.

(~~18~~17) Broadcasting practices that may result in the broadcast of false information concerning the location or time of operation of a polling place.

(~~19~~18) Such other matters as the Commission determines are appropriate but not to include matters specifically focused on uniformed services and overseas voters.

(c) REPORTS .—The Commission shall submit to the President and to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate a report on each study conducted under subsection (a) of this section together with such recommendations for administrative and legislative action as the Commission determines is appropriate.

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SEC. 703 [42 U.S.C. 1973ff-1 note] DEVELOPMENT OF STANDARDIZED FORMAT FOR REPORTS.

(a) ***

~~(b) The Election Assistance Commission, working with the Election Assistance Commission Board of Advisors and the Election Assistance Commission Standards Board, shall develop a standardized format for the reports submitted by States and units of local government under section 102(c) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by subsection (a)), and shall make the format available to the States and units of local government submitting such reports.~~

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002
(Division A of Public Law 107-117)

SEC. 8159. [10 U.S.C. 2401a note] MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM. (a) The Secretary of the Air Force may, from funds provided in this Act or any future appropriations Act, establish and make payments on a multi-year pilot program for leasing general purpose Boeing 767 aircraft and Boeing 737 aircraft in commercial configuration.

(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

(c) Under the aircraft lease Pilot Program authorized by this section:

(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee, but only those that are not inconsistent with any of the terms and conditions mandated herein. Notwithstanding the provisions of Section 3324 of Title 31, United States Code, payment for the acquisition of leasehold interests under this section may be made for each annual term up to one year in advance.

(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years, inclusive of any options to renew or extend the initial lease term.

(3) The Secretary may provide for special payments in a lessor if the Secretary terminates or cancels the lease prior to the expiration of its term. Such special payments shall not exceed an amount equal to the value of 1 year's lease payment under the lease.

(4) Subchapter IV of chapter 15 of title 31, United States Code shall apply to the lease transactions under this section, except that the limitation in section 1553(b)(2) shall not apply.

(5) The Secretary shall lease aircraft under terms and conditions consistent with this section and consistent with the criteria for an operating lease as defined in OMB Circular A-11, as in effect at the time of the lease.

(6) Lease arrangements authorized by this section may not commence until:

(A) The Secretary submits a report to the congressional defense committees outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and describe the expected savings, if any, comparing total costs, including operation, support, acquisition, and financing, of the lease, including modification, with the outright purchase of the aircraft as modified.

(B) A period of not less than 30 calendar days has elapsed after submitting the report.

~~(7) Not later than 1 year after the date on which the first aircraft is delivered under this Pilot Program, and yearly thereafter on the anniversary of the first delivery, the Secretary shall submit a report to the congressional defense committees describing the status of the Pilot Program. The Report will be based on at least 6 months of experience in operating the Pilot Program.~~

(8) The Air Force shall accept delivery of the aircraft in a general purpose configuration.

(9) At the conclusion of the lease term, each aircraft obtained under that lease may be returned to the contractor in the same configuration in which the aircraft was delivered.

(10) The present value of the total payments over the duration of each lease entered into under this authority shall not exceed 90 percent of the fair market value of the aircraft obtained under that lease.

(d) No lease entered into under this authority shall provide for—

(1) the modification of the general purpose aircraft from the commercial configuration, unless and until separate authority for such conversion is enacted and only to the extent budget authority is provided in advance in appropriations Acts for that purpose; or

(2) the purchase of the aircraft by, or the transfer of ownership to, the Air Force.

(e) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

(f) The authority provided under this section may be used to lease not more than a total of 100 Boeing 767 aircraft and 4 Boeing 737 aircraft for the purposes specified herein.

(g) Notwithstanding any other provision of law, any payments required for a lease entered into under this Section, or any payments made pursuant to subsection (c)(3) above, may be made from appropriations available for operation and maintenance or for lease or procurement of aircraft at the time that the lease takes effect;

appropriations available for operation and maintenance or for lease or procurement of aircraft at the time that the payment is due; or funds appropriated for those payments.

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