

1 **DIVISION A—DEPARTMENT OF**
2 **DEFENSE AUTHORIZATIONS**
3 **TITLE I—PROCUREMENT**

Subtitle A—Authorization of Appropriations

- Sec. 101. Army.
- Sec. 102. Navy and Marine Corps.
- Sec. 103. Air Force.
- Sec. 104. Defense-wide activities.
- Sec. 105. National Guard and Reserve equipment.

Subtitle B—Army Programs

- Sec. 111. Multiyear procurement authority for M1A2 Abrams System Enhancement Package upgrades.
- Sec. 112. Multiyear procurement authority for M2A3/M3A3 Bradley fighting vehicle upgrades.
- Sec. 113. Multiyear procurement authority for conversion of CH-47D helicopters to CH-47F configuration.
- Sec. 114. Multiyear procurement authority for CH-47F helicopters.
- Sec. 115. Limitation on use of funds for Increment 1 of the Warfighter Information Network-Tactical program pending certification to Congress.
- Sec. 116. Prohibition on closure of Army Tactical Missile System production line pending report.
- Sec. 117. Stryker Mobile Gun System.

Subtitle C—Navy Programs

- Sec. 121. Multiyear procurement authority for Virginia-class submarine program.
- Sec. 122. Report on shipbuilding investment strategy.
- Sec. 123. Sense of Congress on the preservation of a skilled United States shipyard workforce.
- Sec. 124. Assessments required prior to start of construction on first ship of a shipbuilding program.
- Sec. 125. Littoral Combat Ship (LCS) program.

Subtitle D—Air Force Programs

- Sec. 131. Limitation on Joint Cargo Aircraft.
- Sec. 132. Clarification of limitation on retirement of U-2 aircraft.
- Sec. 133. Repeal of requirement to maintain retired C-130E tactical aircraft.
- Sec. 134. Limitation on retirement of C-130E/H tactical airlift aircraft.
- Sec. 135. Limitation on retirement of KC-135E aerial refueling aircraft.
- Sec. 136. Transfer to Government of Iraq of three C-130E tactical airlift aircraft.
- Sec. 137. Modification of limitations on retirement of B-52 bomber aircraft.

1 **Subtitle A—Authorization of**
2 **Appropriations**

3 **SEC. 101. ARMY.**

4 Funds are hereby authorized to be appropriated for
5 fiscal year 2008 for procurement for the Army as follows:

6 (1) For aircraft, \$4,168,798,000.

7 (2) For missiles, \$1,911,979,000.

8 (3) For weapons and tracked combat vehicles,
9 \$3,007,489,000.

10 (4) For ammunition, \$2,214,576,000.

11 (5) For other procurement, \$12,451,312,000.

12 (6) For the Joint Improvised Explosive Device
13 Defeat Fund, \$228,000,000.

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

15 (a) NAVY.—Funds are hereby authorized to be appro-
16 priated for fiscal year 2008 for procurement for the Navy
17 as follows:

18 (1) For aircraft, \$12,432,644,000.

19 (2) For weapons, including missiles and tor-
20 pedoes, \$3,068,187,000.

21 (3) For shipbuilding and conversion,
22 \$13,596,120,000.

23 (4) For other procurement, \$5,209,330,000.

1 (b) MARINE CORPS.—Funds are hereby authorized to
2 be appropriated for fiscal year 2008 for procurement for
3 the Marine Corps in the amount of \$2,299,419,000.

4 (c) NAVY AND MARINE CORPS AMMUNITION.—Funds
5 are hereby authorized to be appropriated for fiscal year
6 2008 for procurement of ammunition for the Navy and
7 the Marine Corps in the amount of \$1,058,832,000.

8 **SEC. 103. AIR FORCE.**

9 Funds are hereby authorized to be appropriated for
10 fiscal year 2008 for procurement for the Air Force as fol-
11 lows:

12 (1) For aircraft, \$12,117,800,000.

13 (2) For ammunition, \$854,167,000.

14 (3) For missiles, \$4,984,102,000.

15 (4) For other procurement, \$15,405,832,000.

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

17 Funds are hereby authorized to be appropriated for
18 fiscal year 2008 for Defense-wide procurement in the
19 amount of \$3,280,435,000.

20 **SEC. 105. NATIONAL GUARD AND RESERVE EQUIPMENT.**

21 Funds are hereby authorized to be appropriated for
22 fiscal year 2008 for the procurement of aircraft, missiles,
23 wheeled and tracked combat vehicles, tactical wheeled ve-
24 hicles, ammunition, other weapons, and other procurement

1 for the reserve components of the Armed Forces in the
2 amount of \$980,000,000.

3 **Subtitle B—Army Programs**

4 **SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR** 5 **M1A2 ABRAMS SYSTEM ENHANCEMENT PACK-** 6 **AGE UPGRADES.**

7 The Secretary of the Army, in accordance with sec-
8 tion 2306b of title 10, United States Code, may enter into
9 a multiyear contract, beginning with the fiscal year 2008
10 program year, for procurement of M1A2 Abrams System
11 Enhancement Package upgrades.

12 **SEC. 112. MULTIYEAR PROCUREMENT AUTHORITY FOR** 13 **M2A3/M3A3 BRADLEY FIGHTING VEHICLE UP-** 14 **GRADES.**

15 The Secretary of the Army, in accordance with sec-
16 tion 2306b of title 10, United States Code, may enter into
17 a multiyear contract, beginning with the fiscal year 2008
18 program year, for procurement of M2A3/M3A3 Bradley
19 fighting vehicle upgrades.

20 **SEC. 113. MULTIYEAR PROCUREMENT AUTHORITY FOR** 21 **CONVERSION OF CH-47D HELICOPTERS TO** 22 **CH-47F CONFIGURATION.**

23 The Secretary of the Army may, in accordance with
24 section 2306b of title 10, United States Code, enter into
25 a multiyear contract, beginning with the fiscal year 2008

1 program year, for conversion of CH-47D helicopters to the
2 CH-47F configuration.

3 **SEC. 114. MULTIYEAR PROCUREMENT AUTHORITY FOR CH-**
4 **47F HELICOPTERS.**

5 The Secretary of the Army may, in accordance with
6 section 2306b of title 10, United States Code, enter into
7 a multiyear contract, beginning with the fiscal year 2008
8 program year, for procurement of CH-47F helicopters.

9 **SEC. 115. LIMITATION ON USE OF FUNDS FOR INCREMENT**
10 **1 OF THE WARFIGHTER INFORMATION NET-**
11 **WORK-TACTICAL PROGRAM PENDING CER-**
12 **TIFICATION TO CONGRESS.**

13 (a) FUNDING RESTRICTED.—Of the amounts appro-
14 priated pursuant to an authorization of appropriations for
15 fiscal year 2008 or otherwise made available for Other
16 Procurement, Army, that are available for Increment 1 of
17 the Warfighter Information Network-Tactical program,
18 not more than 50 percent may be obligated or expended
19 until the Director of Operational Test and Evaluation sub-
20 mits to the congressional defense committees a certifi-
21 cation, in writing, that the Director of Operational Test
22 and Evaluation has approved a Test and Evaluation Mas-
23 ter Plan and Initial Operational Test Plan for Increment
24 1 of the Warfighter Information Network-Tactical pro-
25 gram.

1 (b) INCREMENT 1 DEFINED.—For the purposes of
2 this section, Increment 1 of the Warfighter Information
3 Network-Tactical program includes all program elements
4 described as constituting “Increment 1” in the memo-
5 randum titled “Warfighter Information Network–Tactical
6 (WIN-T) Program Acquisition Decision Memorandum”,
7 dated June 5, 2007, and signed by the Under Secretary
8 of Defense for Acquisition, Technology, and Logistics.

9 **SEC. 116. PROHIBITION ON CLOSURE OF ARMY TACTICAL**
10 **MISSILE SYSTEM PRODUCTION LINE PEND-**
11 **ING REPORT.**

12 (a) PROHIBITION.—Amounts appropriated pursuant
13 to the authorization of appropriations in section 101(2)
14 for missiles, Army, and in section 1502(4) for missile pro-
15 curement, Army, and any other appropriated funds avail-
16 able to the Secretary of the Army may not be used to close
17 the production line for the Army Tactical Missile System
18 program until after the date on which the Secretary of
19 the Army submits to the congressional defense committees
20 a report that contains—

21 (1) the certification of the Secretary that the
22 long range surface-to-surface strike and counter bat-
23 tery mission of the Army can be adequately per-
24 formed by other Army weapons systems or by other
25 elements of the Armed Forces; and

1 (2) a plan to mitigate any shortfalls in the in-
2 dustrial base that would be created by the closure of
3 the production line.

4 (b) SUBMISSION OF REPORT.—The report referred to
5 in subsection (a) is required not later than April 1, 2008.

6 **SEC. 117. STRYKER MOBILE GUN SYSTEM.**

7 (a) LIMITATION ON AVAILABILITY OF FUNDS.—None
8 of the amounts authorized to be appropriated by sections
9 101(3) and 1501(3) for procurement of weapons and
10 tracked combat vehicles for the Army may be obligated
11 or expended for purposes of the procurement of the
12 Stryker Mobile Gun System until 30 days after the date
13 on which the Secretary of the Army certifies to Congress
14 that the Stryker Mobile Gun System is operationally effec-
15 tive, suitable, and survivable for its anticipated deploy-
16 ment missions.

17 (b) WAIVER.—The Secretary of Defense may waive
18 the limitation in subsection (a) if the Secretary—

19 (1) determines that further procurement of the
20 Stryker Mobile Gun System utilizing amounts re-
21 ferred to in subsection (a) is in the national security
22 interest of the United States notwithstanding the in-
23 ability of the Secretary of the Army to make the cer-
24 tification required by that subsection; and

1 (2) submits to the Congress, in writing, a noti-
2 fication of the waiver together with a discussion of—

3 (A) the reasons for the determination de-
4 scribed in paragraph (1); and

5 (B) the actions that will be taken to miti-
6 gate any deficiencies that cause the Stryker
7 Mobile Gun System not to be operationally ef-
8 fective, suitable, or survivable, as that case may
9 be, as described in subsection (a).

10 **Subtitle C—Navy Programs**

11 **SEC. 121. MULTIYEAR PROCUREMENT AUTHORITY FOR VIR-** 12 **GINIA-CLASS SUBMARINE PROGRAM.**

13 (a) **AUTHORITY.**—The Secretary of the Navy may, in
14 accordance with section 2306b of title 10, United States
15 Code, enter into multiyear contracts, beginning with the
16 fiscal year 2009 program year, for the procurement of Vir-
17 ginia-class submarines and Government-furnished equip-
18 ment associated with the Virginia-class submarine pro-
19 gram.

20 (b) **LIMITATION.**—The Secretary may not enter into
21 a contract authorized by subsection (a) until—

22 (1) the Secretary submits to the congressional
23 defense committees a certification that the Secretary
24 has made, with respect to that contract, each of the

1 findings required by subsection (a) of section 2306b
2 of title 10, United States Code; and

3 (2) a period of 30 days has elapsed after the
4 date of the transmission of such certification.

5 **SEC. 122. REPORT ON SHIPBUILDING INVESTMENT STRAT-**
6 **EGY.**

7 (a) **STUDY REQUIRED.**—The Secretary of the Navy
8 shall provide for a study to determine the effectiveness of
9 current financing mechanisms for providing incentives for
10 contractors to make shipbuilding capital expenditures, and
11 to assess potential capital expenditure incentives that
12 would lead to ship construction or life-cycle cost savings
13 to the Federal Government. The study shall examine—

14 (1) potential improvements in design tools and
15 techniques, material management, technology inser-
16 tion, systems integration and testing, and other key
17 processes and functions that would lead to reduced
18 construction costs;

19 (2) construction process improvements that
20 would reduce procurement and life-cycle costs of the
21 vessels under construction at the contractor's facili-
22 ties; and

23 (3) incentives for investment in shipyard infra-
24 structure that support construction process improve-
25 ments.

1 (b) REPORT.—Not later than October 1, 2008, the
2 Secretary of the Navy shall submit to the congressional
3 defense committees a report providing the results of the
4 study under subsection (a). The report shall include each
5 of the following:

6 (1) An assessment of the shipbuilding industrial
7 base, as measured by a ten-year history for major
8 shipbuilders with respect to—

9 (A) estimated value of shipbuilding facili-
10 ties;

11 (B) critical shipbuilding capabilities;

12 (C) capital expenditures;

13 (D) major investments in process improve-
14 ments; and

15 (E) costs for related Navy shipbuilding
16 projects.

17 (2) A description of mechanisms available to
18 the government and industry to finance facilities and
19 process improvements, including—

20 (A) contract incentive and award fees;

21 (B) facilities capital cost of money;

22 (C) facilities depreciation;

23 (D) progress payment provisions;

24 (E) other contract terms and conditions;

1 (F) State and Federal tax provisions and
2 tax incentives;

3 (G) the National Shipbuilding Research
4 Program; and

5 (H) any other mechanisms available.

6 (3) A summary of potential shipbuilding invest-
7 ments that offer greatest reduction to shipbuilding
8 costs, including, for each such investment—

9 (A) a project description;

10 (B) an estimate of required investment;

11 (C) the estimated return on investment;

12 and

13 (D) alternatives for financing the invest-
14 ment.

15 (4) The Navy's strategy for providing incentives
16 for contractors' capital expenditures that would lead
17 to ship construction or life-cycle savings to the Fed-
18 eral Government, including identification of any spe-
19 cific changes in legislative authority that would be
20 required for the Secretary to execute this strategy.

21 (c) UTILIZATION OF OTHER STUDIES AND OUTSIDE
22 EXPERTS.—The study shall build upon the results of the
23 2005 and 2006 Global Shipbuilding Industrial Base
24 Benchmarking studies. Financial analysis associated with

1 the report shall be conducted in consultation with financial
2 experts independent of the Department of Defense.

3 **SEC. 123. SENSE OF CONGRESS ON THE PRESERVATION OF**
4 **A SKILLED UNITED STATES SHIPYARD WORK-**
5 **FORCE.**

6 (a) SENSE OF CONGRESS.—It is the sense of Con-
7 gress that the preservation of a robust domestic skilled
8 workforce is required for the national shipbuilding infra-
9 structure and particularly essential to the construction of
10 ships for the United States Navy.

11 (b) STUDY REQUIRED.—

12 (1) IN GENERAL.—The Secretary of the Navy
13 shall determine, on a one-time, non-recurring basis,
14 and in consultation with the Department of Labor,
15 the average number of H2B visa workers employed
16 by the major shipbuilders in the construction of
17 United States Navy ships during the calendar year
18 ending December 31, 2007. The study shall also
19 identify the number of workers petitioned by the
20 major shipbuilders for use in calendar year 2008, as
21 of the first quarter of calendar year 2008.

22 (2) REPORT.—Not later than April 1, 2008, the
23 Secretary of the Navy shall submit to the congres-
24 sional defense committees a report containing the re-
25 sults of the study required by subsection (b).

1 (3) DEFINITIONS.—In this paragraph—

2 (A) the term “major shipbuilder” means a
3 prime contractor or a first-tier subcontractor
4 responsible for delivery of combatant and sup-
5 port vessels required for the naval vessel force,
6 as reported within the annual naval vessel con-
7 struction plan required by section 231 of title
8 10, United States Code; and

9 (B) the term “H2B visa” means a non-im-
10 migrant visa program that permits employers to
11 hire foreign workers to come temporarily to the
12 United States and perform temporary non-agri-
13 cultural services or labor on a one-time, sea-
14 sonal, peakload, or intermittent basis.

15 **SEC. 124. ASSESSMENTS REQUIRED PRIOR TO START OF**
16 **CONSTRUCTION ON FIRST SHIP OF A SHIP-**
17 **BUILDING PROGRAM.**

18 (a) IN GENERAL.—Concurrent with approving the
19 start of construction of the first ship for any major ship-
20 building program, the Secretary of the Navy shall—

21 (1) submit a report to the congressional defense
22 committees on the results of any production readi-
23 ness review; and

1 (2) certify to the congressional defense commit-
2 tees that the findings of any such review support
3 commencement of construction.

4 (b) REPORT.—The report required by subsection
5 (a)(1) shall include, at a minimum, an assessment of each
6 of the following:

7 (1) The maturity of the ship's design, as meas-
8 ured by stability of the ship contract specifications
9 and the degree of completion of detail design and
10 production design drawings.

11 (2) The maturity of developmental command
12 and control systems, weapon and sensor systems,
13 and hull, mechanical and electrical systems.

14 (3) The readiness of the shipyard facilities and
15 workforce to begin construction.

16 (4) The Navy's estimated cost at completion
17 and the adequacy of the budget to support the esti-
18 mate.

19 (5) The Navy's estimated delivery date and de-
20 scription of any variance to the contract delivery
21 date.

22 (6) The extent to which adequate processes and
23 metrics are in place to measure and manage pro-
24 gram risks.

1 (c) APPLICABILITY.—This section applies to each
2 major shipbuilding program beginning after the date of
3 the enactment of this Act.

4 (d) DEFINITIONS.—For the purposes of subsection
5 (a):

6 (1) START OF CONSTRUCTION.—The term
7 “start of construction” means the beginning of fab-
8 rication of the hull and superstructure of the ship.

9 (2) FIRST SHIP.—The term “first ship” applies
10 to a ship if—

11 (A) the ship is the first ship to be con-
12 structed under that shipbuilding program; or

13 (B) the shipyard at which the ship is to be
14 constructed has not previously started construc-
15 tion on a ship under that shipbuilding program.

16 (3) MAJOR SHIPBUILDING PROGRAM.—The
17 term “major shipbuilding program” means a pro-
18 gram for the construction of combatant and support
19 vessels required for the naval vessel force, as re-
20 ported within the annual naval vessel construction
21 plan required by section 231 of title 10, United
22 States Code.

23 (4) PRODUCTION READINESS REVIEW.—The
24 term “production readiness review” means a formal
25 examination of a program prior to the start of con-

1 instruction to determine if the design is ready for pro-
2 duction, production engineering problems have been
3 resolved, and the producer has accomplished ade-
4 quate planning for the production phase.

5 **SEC. 125. LITTORAL COMBAT SHIP (LCS) PROGRAM.**

6 Section 124 of the National Defense Authorization
7 Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat.
8 3157) is amended by striking subsections (a), (b), (c), and
9 (d) and inserting the following:

10 “(a) LIMITATION OF COSTS.—

11 “(1) IN GENERAL.—The total amount obligated
12 or expended for the procurement costs of post-2007
13 LCS vessels shall not exceed \$460,000,000 per ves-
14 sel.

15 “(2) PROCUREMENT COSTS.—For purposes of
16 this section, procurement costs shall include all costs
17 for plans, basic construction, change orders, elec-
18 tronics, ordnance, contractor support, and other
19 costs associated with completion of production draw-
20 ings, ship construction, test, and delivery, including
21 work performed post-delivery that is required to
22 meet original contract requirements.

23 “(3) POST-2007 LCS VESSELS.—For purposes
24 of this section, the term ‘post-2007 LCS vessel’
25 means a vessel in the Littoral Combat Ship (LCS)

1 class of vessels, the procurement of which is funded
2 from amounts appropriated pursuant to an author-
3 ization of appropriations or otherwise made available
4 for fiscal year 2008 or any fiscal year thereafter.

5 “(b) CONTRACT TYPE.—The Secretary of the Navy
6 shall employ a fixed-price type contract for construction
7 of post-2007 LCS vessels.

8 “(c) LIMITATION OF GOVERNMENT LIABILITY.—The
9 Secretary of the Navy shall not enter into a contract, or
10 modify a contract, for construction or final delivery of
11 post-2007 LCS vessels if the limitation of the Govern-
12 ment’s cost liability, when added to the sum of other budg-
13 eted procurement costs, would exceed \$460,000,000 per
14 vessel.

15 “(d) ADJUSTMENT OF LIMITATION AMOUNT.—The
16 Secretary of the Navy may adjust the amount set forth
17 in subsections (a)(1) and (c) for vessels referred to in such
18 subsections by the following:

19 “(1) The amounts of increases or decreases in
20 costs attributable to compliance with changes in
21 Federal, State, or local laws enacted after Sep-
22 tember 30, 2007.

23 “(2) The amounts of outfitting costs and costs
24 required to complete post-delivery test and trials.”.

1 **Subtitle D—Air Force Programs**

2 **SEC. 131. LIMITATION ON JOINT CARGO AIRCRAFT.**

3 No funds appropriated pursuant to an authorization
4 of appropriations or otherwise made available for procure-
5 ment, or for research, development, test, and evaluation,
6 may be obligated or expended for the Joint Cargo Aircraft
7 until 30 days after the Secretary of Defense submits to
8 the congressional defense committees each of the fol-
9 lowing:

10 (1) The Air Force Air Mobility Command's Air-
11 lift Mobility Roadmap.

12 (2) The Department of Defense Intra-Theater
13 Airlift Capabilities Study.

14 (3) The Department of Defense Joint Intra-
15 Theater Distribution Assessment.

16 (4) The Joint Cargo Aircraft Functional Area
17 Series Analysis.

18 (5) The Joint Cargo Aircraft Analysis of Alter-
19 natives.

20 (6) The Joint Intra-theater Airlift Fleet Mix
21 Analysis.

22 (7) The Secretary's certification that—

23 (A) there is, within the Department of the
24 Army, Department of the Air Force, Army Na-
25 tional Guard, or Air National Guard, a capa-

1 bility gap or shortfall with respect to intra-the-
2 ater airlift; and

3 (B) validated requirements exist to fill that
4 gap or shortfall through procurement of the
5 Joint Cargo Aircraft.

6 **SEC. 132. CLARIFICATION OF LIMITATION ON RETIREMENT**
7 **OF U-2 AIRCRAFT.**

8 Section 133(b) of the John Warner National Defense
9 Authorization Act for Fiscal Year 2007 (Public Law 109-
10 364; 120 Stat. 2112) is amended—

11 (1) in paragraph (1)—

12 (A) by striking “After fiscal year 2007”
13 and inserting “For each fiscal year after fiscal
14 year 2007”; and

15 (B) by inserting after “Secretary of De-
16 fense” the following: “, in that fiscal year,”;
17 and

18 (2) in paragraph (2)—

19 (A) by inserting after “Department of De-
20 fense” the following: “in a fiscal year”; and

21 (B) by inserting after “Congress” the fol-
22 lowing: “in that fiscal year”.

1 **SEC. 133. REPEAL OF REQUIREMENT TO MAINTAIN RE-**
2 **TIRED C-130E TACTICAL AIRCRAFT.**

3 (a) IN GENERAL.—Effective as of the date specified
4 in subsection (b), section 137(b) of the John Warner Na-
5 tional Defense Authorization Act for Fiscal Year 2007
6 (Public Law 109-364; 120 Stat. 2114) is repealed.

7 (b) SPECIFIED DATE.—The date specified in this
8 subsection is the date that is 30 days after the date on
9 which the Secretary of the Air Force submits to the con-
10 gressional defense committees the Fleet Mix Analysis
11 Study.

12 **SEC. 134. LIMITATION ON RETIREMENT OF C-130E/H TAC-**
13 **TICAL AIRLIFT AIRCRAFT.**

14 (a) GENERAL PROHIBITION.—The Secretary of the
15 Air Force may not retire C-130E/H tactical airlift aircraft
16 during fiscal year 2008, except as provided in subsection
17 (b).

18 (b) CONTINGENT AUTHORITY TO RETIRE CERTAIN
19 C-130E AIRCRAFT.—Effective as of the date specified in
20 subsection (d), subsection (a) shall not apply to C-130E
21 tactical airlift aircraft, and the number of such aircraft
22 retired by the Secretary of the Air Force during fiscal year
23 2008 may not exceed 24.

24 (c) TREATMENT OF RETIRED AIRCRAFT.—The Sec-
25 retary of the Air Force shall maintain each C-130E tac-
26 tical airlift aircraft that is retired during fiscal year 2008

1 in a condition that would allow recall of that aircraft to
2 future service.

3 (d) SPECIFIED DATE.—The date specified in this
4 subsection is the date that is 30 days after the date on
5 which the Secretary of the Air Force submits to the con-
6 gressional defense committees the Fleet Mix Analysis
7 Study.

8 **SEC. 135. LIMITATION ON RETIREMENT OF KC-135E AERIAL**
9 **REFUELING AIRCRAFT.**

10 (a) LIMITATION ON RETIREMENT OF MORE THAN 48
11 AIRCRAFT.—The Secretary of the Air Force may not re-
12 tire more than 48 KC-135E aerial refueling aircraft of the
13 Air Force during fiscal year 2008, except as provided in
14 subsection (b).

15 (b) CONTINGENT AUTHORITY TO RETIRE 37 ADDI-
16 TIONAL AIRCRAFT.—Effective as of the date specified in
17 subsection (c), the number of such aircraft retired by the
18 Secretary of the Air Force during fiscal year 2008 may
19 not exceed 85.

20 (c) SPECIFIED DATE.—The date specified in this
21 subsection is the date that is 15 days after the date on
22 which the Secretary of the Air Force submits to the con-
23 gressional defense committees the Secretary's certification
24 that—

1 (1) the system design and development contract
2 for the KC-X program has been awarded; and

3 (2) if a protest is submitted pursuant to sub-
4 chapter 5 of title 31, United States Code—

5 (A) the protest has been resolved in favor
6 of the Federal agency; or

7 (B) the Secretary has authorized perform-
8 ance of the contract (notwithstanding the pro-
9 test).

10 **SEC. 136. TRANSFER TO GOVERNMENT OF IRAQ OF THREE**
11 **C-130E TACTICAL AIRLIFT AIRCRAFT.**

12 The Secretary of the Air Force may transfer not
13 more than three C-130E tactical airlift aircraft, allowed
14 to be retired under the John Warner National Defense
15 Authorization Act for Fiscal Year 2007 (Public Law 109-
16 364), to the Government of Iraq.

17 **SEC. 137. MODIFICATION OF LIMITATIONS ON RETIREMENT**
18 **OF B-52 BOMBER AIRCRAFT.**

19 (a) MAINTENANCE OF PRIMARY, BACKUP, AND AT-
20 TRITION RESERVE INVENTORY OF AIRCRAFT.—Sub-
21 section (a) of section 131 of the John Warner National
22 Defense Authorization Act for Fiscal Year 2007 (Public
23 Law 109-364; 120 Stat. 2111) is amended—

24 (1) in paragraph (1)—

1 (A) in subparagraph (A), by striking
2 “and” at the end;

3 (B) in subparagraph (B), by striking the
4 period at the end and inserting a semicolon;
5 and

6 (C) by adding at the end the following:

7 “(C) shall maintain in a common capability
8 configuration a primary aircraft inventory of
9 not less than 63 such aircraft, a backup aircraft
10 inventory of not less than 11 such aircraft, and
11 an attrition reserve aircraft inventory of not
12 less than 2 such aircraft; and

13 “(D) shall not keep any such aircraft re-
14 ferred to in subparagraph (C) in a status con-
15 sidered excess to the requirements of the pos-
16 sessing command and awaiting disposition in-
17 structions.”; and

18 (2) by adding at the end the following:

19 “(3) DEFINITIONS.—For purposes of paragraph
20 (1):

21 “(A) The term ‘primary aircraft inventory’
22 means aircraft assigned to meet the primary
23 aircraft authorization to—

24 “(i) a unit for the performance of its
25 wartime mission;

1 “(ii) a training unit primarily for
2 technical and specialized training for crew
3 personnel or leading to aircrew qualifica-
4 tion;

5 “(iii) a test unit for testing of the air-
6 craft or its components for purposes of re-
7 search, development, test and evaluation,
8 operational test and evaluation, or to sup-
9 port testing programs; or

10 “(iv) meet requirements for special
11 missions not elsewhere classified.

12 “(B) The term ‘backup aircraft inventory’
13 means aircraft above the primary aircraft in-
14 ventory to permit scheduled and unscheduled
15 depot level maintenance, modifications, inspec-
16 tions, and repairs, and certain other mitigating
17 circumstances without reduction of aircraft
18 available for the assigned mission.

19 “(C) The term ‘attrition reserve aircraft
20 inventory’ means aircraft required to replace
21 anticipated losses of primary aircraft inventory
22 due to peacetime accidents or wartime attrition.

23 “(4) TREATMENT OF RETIRED AIRCRAFT.—Of
24 the aircraft retired in accordance with paragraph
25 (1)(A), the Secretary of the Air Force may use not

1 more than 2 such aircraft for maintenance ground
2 training.”.

3 (b) NOTICE OF RETIREMENT.—Subsection (b)(1) of
4 such section is amended by striking “45 days” and insert-
5 ing “60 days”.

6 **TITLE II—RESEARCH, DEVELOP-**
7 **MENT, TEST, AND EVALUA-**
8 **TION**

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.

Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Operational test and evaluation of Future Combat Systems network.

Sec. 212. Limitation on use of funds for systems development and demonstra-
tion of Joint Light Tactical Vehicle program.

Sec. 213. Requirement to obligate and expend funds for development and pro-
curement of a competitive propulsion system for the Joint
Strike Fighter.

Sec. 214. Limitation on use of funds for defense-wide manufacturing science
and technology program.

Sec. 215. Advanced Sensor Applications Program.

Sec. 216. Active protection systems.

Subtitle C—Ballistic Missile Defense

Sec. 221. Participation of Director, Operational Test and Evaluation, in missile
defense test and evaluation activities.

Sec. 222. Study on future roles and missions of the Missile Defense Agency.

Sec. 223. Budget and acquisition requirements for Missile Defense Agency ac-
tivities.

Sec. 224. Limitation on use of funds for replacing warhead on SM-3 Block IIA
missile.

Sec. 225. Extension of Comptroller General assessments of ballistic missile de-
fense programs.

Sec. 226. Limitation on availability of funds for procurement, construction, and
deployment of missile defenses in Europe.

Sec. 227. Sense of Congress on missile defense cooperation with Israel.

Sec. 228. Limitation on availability of funds for deployment of missile defense
interceptors in Alaska.

Sec. 229. Policy of the United States on protection of the United States and
its allies against Iranian ballistic missiles.

Subtitle D—Other Matters

- Sec. 231. Coordination of human systems integration activities related to acquisition programs.
- Sec. 232. Expansion of authority for provision of laboratory facilities, services, and equipment.
- Sec. 233. Modification of cost sharing requirement for Technology Transition Initiative.
- Sec. 234. Report on implementation of Manufacturing Technology Program.
- Sec. 235. Assessment of sufficiency of test and evaluation personnel.
- Sec. 236. Repeal of requirement for separate reports on technology area review and assessment summaries.
- Sec. 237. Modification of notice and wait requirement for obligation of funds for foreign comparative test program.
- Sec. 238. Strategic Plan for the Manufacturing Technology Program.
- Sec. 239. Modification of authorities on coordination of Defense Experimental Program to Stimulate Competitive Research with similar Federal programs.
- Sec. 240. Enhancement of defense nanotechnology research and development program.
- Sec. 241. Federally funded research and development center assessment of the Defense Experimental Program to Stimulate Competitive Research.
- Sec. 242. Cost-benefit analysis of proposed funding reduction for High Energy Laser Systems Test Facility.
- Sec. 243. Prompt global strike.

1 **Subtitle A—Authorization of**
2 **Appropriations**

3 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

4 Funds are hereby authorized to be appropriated for
5 fiscal year 2008 for the use of the Department of Defense
6 for research, development, test, and evaluation as follows:

7 (1) For the Army, \$10,840,392,000.

8 (2) For the Navy, \$16,980,732,000.

9 (3) For the Air Force, \$25,692,521,000.

10 (4) For Defense-wide activities,
11 \$20,213,900,000, of which \$180,264,000 is author-
12 ized for the Director of Operational Test and Eval-
13 uation.

1 **SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECH-**
2 **NOLOGY.**

3 (a) FISCAL YEAR 2008.—Of the amounts authorized
4 to be appropriated by section 201, \$10,913,944,000 shall
5 be available for the Defense Science and Technology Pro-
6 gram, including basic research, applied research, and ad-
7 vanced technology development projects.

8 (b) BASIC RESEARCH, APPLIED RESEARCH, AND AD-
9 VANCED TECHNOLOGY DEVELOPMENT DEFINED.—For
10 purposes of this section, the term “basic research, applied
11 research, and advanced technology development” means
12 work funded in program elements for defense research and
13 development under Department of Defense budget activity
14 1, 2, or 3.

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

18 **SEC. 211. OPERATIONAL TEST AND EVALUATION OF FU-**
19 **TURE COMBAT SYSTEMS NETWORK.**

20 (a) OPERATIONAL TEST AND EVALUATION RE-
21 QUIRED.—The Secretary of the Army, in cooperation with
22 the Director, Operational Test and Evaluation, shall com-
23 plete an operational test and evaluation (as defined in sec-
24 tion 139(a)(2)(A) of title 10, United States Code), of the
25 FCS network in a realistic environment simulating oper-

1 ational conditions. The operational test and evaluation
2 shall—

3 (1) be conducted in accordance with a Future
4 Combat Systems Test and Evaluation Master Plan
5 approved by the Director, Operational Test and
6 Evaluation;

7 (2) be conducted using prototype equipment,
8 sensors, and software for the FCS network;

9 (3) be conducted in a manner that simulates a
10 full Future Combat Systems brigade;

11 (4) be conducted, to the maximum extent pos-
12 sible, using actual communications equipment in-
13 stead of computer simulations;

14 (5) be conducted in a realistic operational elec-
15 tronic warfare environment, including enemy elec-
16 tronic warfare and network attacks; and

17 (6) include, to the maximum extent possible, all
18 sensor information feeds the FCS network is de-
19 signed to incorporate.

20 (b) FCS NETWORK DEFINED.—In this section, the
21 term “FCS network” includes all sensors, information sys-
22 tems, computers, and communications systems necessary
23 to support Future Combat Systems brigade operations.

24 (c) REPORT.—Not later than 120 days after com-
25 pleting the operational test and evaluation required by

1 subsection (a), the Director, Operational Test and Evalua-
2 tion shall submit to the congressional defense committees
3 a report on the outcome of the operational test and evalua-
4 tion. The report shall include, at a minimum—

5 (1) an evaluation of the overall operational ef-
6 fectiveness of the FCS network, including—

7 (A) an evaluation of the FCS network's ca-
8 pability to transmit the volume and classes of
9 data required by Future Combat Systems ap-
10 proved requirements; and

11 (B) an evaluation of the FCS network's
12 performance in a degraded condition due to
13 enemy network attack, sophisticated enemy
14 electronic warfare, adverse weather conditions,
15 and terrain variability;

16 (2) an evaluation of the FCS network's ability
17 to improve friendly force knowledge of the location
18 and capability of enemy forces and combat systems;
19 and

20 (3) an evaluation of the overall operational suit-
21 ability of the FCS network.

22 (d) LIMITATION PENDING SUBMISSION OF RE-
23 PORT.—

24 (1) IN GENERAL.—No funds, with the exception
25 of funds for advanced procurement, appropriated

1 pursuant to an authorization of appropriations or
2 otherwise made available to the Department of the
3 Army for any fiscal year may be obligated for low-
4 rate initial production or full-rate production of Fu-
5 ture Combat Systems manned ground vehicles until
6 60 days after the date on which the report is sub-
7 mitted under subsection (c).

8 (2) WAIVER AUTHORITY.—The Secretary of De-
9 fense may waive the limitation in paragraph (1) if
10 the Secretary determines that such a waiver is crit-
11 ical for national security. Such a waiver shall not be-
12 come effective until 45 days after the date on which
13 the Secretary submits to the congressional defense
14 committees a written notice of the waiver.

15 (3) INAPPLICABILITY TO THE NON LINE OF
16 SIGHT CANNON VEHICLE.—The limitation in para-
17 graph (1) does not apply to the Non Line of Sight
18 Cannon vehicle.

19 **SEC. 212. LIMITATION ON USE OF FUNDS FOR SYSTEMS DE-**
20 **VELOPMENT AND DEMONSTRATION OF JOINT**
21 **LIGHT TACTICAL VEHICLE PROGRAM.**

22 Of the amounts appropriated pursuant to an author-
23 ization of appropriations or otherwise made available for
24 the Joint Light Tactical Vehicle program for the acquisi-
25 tion program phase of systems development and dem-

1 onstration for fiscal year 2008 or any fiscal year there-
2 after, no more than 50 percent of those amounts may be
3 obligated or expended until after—

4 (1) the Under Secretary of Defense for Acquisi-
5 tion, Technology, and Logistics, or the appropriate
6 milestone decision authority, makes the certification
7 required by section 2366a of title 10, United States
8 Code, with respect to the Joint Light Tactical Vehi-
9 cle program; and

10 (2) the certification has been received by the
11 congressional defense committees.

12 **SEC. 213. REQUIREMENT TO OBLIGATE AND EXPEND**
13 **FUNDS FOR DEVELOPMENT AND PROCURE-**
14 **MENT OF A COMPETITIVE PROPULSION SYS-**
15 **TEM FOR THE JOINT STRIKE FIGHTER.**

16 Of the funds appropriated pursuant to an authoriza-
17 tion of appropriations or otherwise made available for fis-
18 cal year 2008 or any year thereafter, for research, develop-
19 ment, test, and evaluation and procurement for the Joint
20 Strike Fighter program, the Secretary of Defense shall en-
21 sure the obligation and expenditure in each such fiscal
22 year of sufficient annual amounts for the continued devel-
23 opment and procurement of two options for the propulsion
24 system for the Joint Strike Fighter in order to ensure the

1 development and competitive production for the propulsion
2 system for the Joint Strike Fighter.

3 **SEC. 214. LIMITATION ON USE OF FUNDS FOR DEFENSE-**
4 **WIDE MANUFACTURING SCIENCE AND TECH-**
5 **NOLOGY PROGRAM.**

6 No funds available to the Office of the Secretary of
7 Defense for any fiscal year may be obligated or expended
8 for the defense-wide manufacturing science and technology
9 program unless the Director, Defense Research and Engi-
10 neering, ensures each of the following:

11 (1) A component of the Department of Defense
12 has requested and evaluated—

13 (A) competitive proposals, for each project
14 under the program that is not a project covered
15 by subparagraph (B); and

16 (B) proposals from as many sources as is
17 practicable under the circumstances, for a
18 project under the program if the disclosure of
19 the needs of the Department of Defense with
20 respect to that project would compromise the
21 national security.

22 (2) Each project under the program is carried
23 out—

24 (A) in accordance with the statutory re-
25 quirements of the Manufacturing Technology

1 Program established by section 2521 of title 10,
2 United States Code; and

3 (B) in compliance with all requirements of
4 any directive that applies to manufacturing
5 technology.

6 (3) An implementation plan has been developed.

7 **SEC. 215. ADVANCED SENSOR APPLICATIONS PROGRAM.**

8 (a) TRANSFER OF FUNDS.—(1) Of the amount au-
9 thorized to be appropriated by section 201(3) for research,
10 development, test, and evaluation, Air Force activities, and
11 made available for the activities of the Intelligence Sys-
12 tems Support Office, an aggregate of \$13,000,000 shall
13 be transferred to the Advanced Sensor Applications Pro-
14 gram not later than 60 days after the date of the enact-
15 ment of this Act.

16 (2) Of the amount authorized to be appropriated by
17 section 301(2) for operation and maintenance, Navy ac-
18 tivities, and made available for the activities of the Office
19 of Naval Intelligence, an aggregate of \$5,000,000 shall be
20 transferred to the Advanced Sensor Applications Program
21 not later than 60 days after the date of the enactment
22 of this Act.

23 (b) ASSIGNMENT OF PROGRAM.—Management of the
24 program shall reside within the office of the Under Sec-
25 retary of Defense for Intelligence until certain conditions

1 specified in the classified annex to the statement of man-
2 agers accompanying this Act are met. The program shall
3 be executed by the Commander, Naval Air Systems Com-
4 mand in consultation with the Program Executive Officer
5 for Aviation for the Navy.

6 **SEC. 216. ACTIVE PROTECTION SYSTEMS.**

7 (a) LIVE-FIRE TESTS REQUIRED.—

8 (1) IN GENERAL.—The Secretary of Defense
9 shall undertake live-fire tests, of appropriate foreign
10 and domestic active protection systems with size,
11 weight, and power characteristics suitable for pro-
12 tecting wheeled tactical vehicles, especially light
13 wheeled tactical vehicles, in order—

14 (A) to determine the effectiveness of such
15 systems for protecting wheeled tactical vehicles;
16 and

17 (B) to develop information useful in the
18 consideration of the adoption of such systems in
19 defense acquisition programs.

20 (2) REPORTS.—Not later than March 1 of each
21 of 2008 and 2009, the Secretary shall submit to the
22 congressional defense committees a report on the re-
23 sults of the tests undertaken under paragraph (1) as
24 of the date of such report.

1 (3) FUNDING.—The live-fire tests required by
2 paragraph (1) shall be conducted using funds au-
3 thorized and appropriated for the Joint Improvised
4 Explosive Device Defeat Fund.

5 (b) COMPREHENSIVE ASSESSMENT REQUIRED.—

6 (1) IN GENERAL.—The Secretary shall under-
7 take a comprehensive assessment of active protection
8 systems in order to develop information useful in the
9 development of joint active protection systems and
10 other defense programs.

11 (2) ELEMENTS.—The assessment under para-
12 graph (1) shall include—

13 (A) an identification of the potential merits
14 and operational costs of the use of active pro-
15 tection systems by United States military
16 forces;

17 (B) a characterization of the threats that
18 use of active protection systems by potential ad-
19 versaries would pose to United States military
20 forces and weapons;

21 (C) an identification and assessment of
22 countermeasures to active protection systems;

23 (D) an analysis of collateral damage poten-
24 tial of active protection systems;

1 (E) an identification and assessment of
2 emerging direct-fire and top-attack threats to
3 defense systems that could potentially deploy
4 active protection systems; and

5 (F) an identification and assessment of
6 critical technology elements of active protection
7 systems.

8 (3) REPORT.—Not later than December 31,
9 2008, the Secretary shall submit to the congress-
10 sional defense committees a report on the assess-
11 ment under paragraph (1).

12 **Subtitle C—Ballistic Missile** 13 **Defense**

14 **SEC. 221. PARTICIPATION OF DIRECTOR, OPERATIONAL** 15 **TEST AND EVALUATION, IN MISSILE DEFENSE** 16 **TEST AND EVALUATION ACTIVITIES.**

17 Section 139 of title 10, United States Code, is
18 amended—

19 (1) by redesignating subsections (f) through (j)
20 as subsections (g) through (k), respectively; and

21 (2) by inserting after subsection (e) the fol-
22 lowing new subsection (f):

23 “(f)(1) The Director of the Missile Defense Agency
24 shall make available to the Director of Operational Test
25 and Evaluation the results of all tests and evaluations con-

1 ducted by the Missile Defense Agency and of all studies
2 conducted by the Missile Defense Agency in connection
3 with tests and evaluations in the Missile Defense Agency.

4 “(2) The Director of Operational Test and Evalua-
5 tion may require that such observers as the Director des-
6 ignates be present during the preparation for and the con-
7 duct of any test and evaluation conducted by the Missile
8 Defense Agency.

9 “(3) The Director of Operational Test and Evalua-
10 tion shall have access to all records and data in the De-
11 partment of Defense (including the records and data of
12 the Missile Defense Agency) that the Director considers
13 necessary to review in order to carry out his duties under
14 this subsection.”.

15 **SEC. 222. STUDY ON FUTURE ROLES AND MISSIONS OF THE**
16 **MISSILE DEFENSE AGENCY.**

17 (a) IN GENERAL.—The Secretary of Defense shall
18 enter into an agreement with one of the Federally Funded
19 Research and Development Centers under which the Cen-
20 ter shall carry out an independent study to examine, and
21 make recommendations with respect to, the long-term
22 structure, roles, and missions of the Missile Defense Agen-
23 cy.

24 (b) MATTERS INCLUDED.—

1 (1) REVIEW.—The study shall include a full re-
2 view of the structure, roles, and missions of the Mis-
3 sile Defense Agency.

4 (2) ASSESSMENTS.—The study shall include an
5 examination and assessment of the current and fu-
6 ture—

7 (A) structure, roles, and missions of the
8 Missile Defense Agency;

9 (B) relationship of the Missile Defense
10 Agency with—

11 (i) the Office of the Under Secretary
12 of Defense for Acquisition, Technology,
13 and Logistics;

14 (ii) the Office of the Under Secretary
15 of Defense for Policy;

16 (iii) the Director of Operational Test
17 and Evaluation;

18 (iv) the Commander of the United
19 States Strategic Command and other com-
20 batant commanders;

21 (v) the Joint Requirements Oversight
22 Council; and

23 (vi) the military departments;

24 (C) operations and sustainment of missile
25 defenses;

1 (D) acquisition process for missile defense;

2 (E) requirements process for missile de-

3 fense; and

4 (F) transition and transfer of missile de-

5 fense capabilities to the military departments.

6 (3) RECOMMENDATIONS.—The study shall in-
7 clude recommendations as to how the Missile De-
8 fense Agency can be made more effective to support
9 the needs of the warfighter, especially with regard to
10 near-term missile defense capabilities. The study
11 shall also examine the full range of options for the
12 future of the Missile Defense Agency and shall in-
13 clude, but not be limited to, specific recommenda-
14 tions as to whether—

15 (A) the Missile Defense Agency should be
16 maintained in its current configuration;

17 (B) the scope and nature of the Missile
18 Defense Agency should be changed from an or-
19 ganization focused on research and development
20 to an organization focused on combat support;

21 (C) any functions and responsibilities
22 should be added to the Missile Defense Agency,
23 in part or in whole, from other entities such as
24 the United States Strategic Command and the
25 military departments; and

1 (D) any functions and responsibilities of
2 the Missile Defense Agency should be trans-
3 ferred, in part or in whole, to other entities
4 such as the United States Strategic Command
5 and the military departments.

6 (c) COOPERATION FROM GOVERNMENT.—In carrying
7 out the study, the Federally Funded Research and Devel-
8 opment Center shall receive the full and timely cooperation
9 of the Secretary of Defense and any other United States
10 Government official in providing the Center with analyses,
11 briefings, and other information necessary for the fulfill-
12 ment of its responsibilities.

13 (d) REPORT.—Not later than September 1, 2008, the
14 Federally Funded Research and Development Center shall
15 submit to the Committee on Armed Services of the Senate
16 and the Committee on Armed Services of the House of
17 Representatives a report on its findings, conclusions, and
18 recommendations.

19 (e) FUNDING.—Funds for the study shall be provided
20 from amounts appropriated for the Department of De-
21 fense.

22 **SEC. 223. BUDGET AND ACQUISITION REQUIREMENTS FOR**
23 **MISSILE DEFENSE AGENCY ACTIVITIES.**

24 (a) REVISED BUDGET STRUCTURE.—The budget jus-
25 tification materials submitted to Congress in support of

1 the Department of Defense budget for any fiscal year after
2 fiscal year 2009 (as submitted with the budget of the
3 President under section 1105(a) of title 31, United States
4 Code) shall set forth separately amounts requested for the
5 Missile Defense Agency for each of the following:

6 (1) Research, development, test, and evaluation.

7 (2) Procurement.

8 (3) Operation and maintenance.

9 (4) Military construction.

10 (b) REVISED BUDGET STRUCTURE FOR FISCAL
11 YEAR 2009.—The budget justification materials sub-
12 mitted to Congress in support of the Department of De-
13 fense budget for fiscal year 2009 (as submitted with the
14 budget of the President under section 1105(a) of title 31,
15 United States Code) shall—

16 (1) identify all known and estimated operation
17 and support costs; and

18 (2) set forth separately amounts requested for
19 the Missile Defense Agency for each of the following:

20 (A) Research, development, test, and eval-
21 uation.

22 (B) Procurement or advance procurement
23 of long lead items, including for Terminal High
24 Altitude Area Defense firing units 3 and 4, and
25 for Standard Missile-3 Block 1A interceptors.

1 (C) Military construction.

2 (c) AVAILABILITY OF RDT&E FUNDS FOR FISCAL
3 YEAR 2009.—Upon approval by the Secretary of Defense,
4 and consistent with the plan submitted under subsection
5 (f), funds appropriated pursuant to an authorization of
6 appropriations or otherwise made available for fiscal year
7 2009 for research, development, test, and evaluation for
8 the Missile Defense Agency—

9 (1) may be used for the fielding of ballistic mis-
10 sile defense capabilities approved previously by Con-
11 gress; and

12 (2) may not be used for—

13 (A) military construction activities; or

14 (B) procurement or advance procurement
15 of long lead items, including for Terminal High
16 Altitude Area Defense firing units 3 and 4, and
17 for Standard Missile-3 Block 1A interceptors.

18 (d) FULL FUNDING REQUIREMENT NOT APPLICA-
19 BLE TO USE OF PROCUREMENT FUNDS FOR FISCAL
20 YEARS 2009 AND 2010.—In any case in which funds ap-
21 propriated pursuant to an authorization of appropriations
22 or otherwise made available for procurement for the Mis-
23 sile Defense Agency for fiscal years 2009 and 2010 are
24 used for the fielding of ballistic missile defense capabili-
25 ties, the funds may be used for the fielding of those capa-

1 bilities on an “incremental” basis, notwithstanding any
2 law or policy of the Department of Defense that would
3 otherwise require a “full funding” basis.

4 (e) RELATIONSHIP TO OTHER LAW.—Nothing in this
5 provision shall be construed to alter or otherwise affect
6 in any way the applicability of the requirements and other
7 provisions of section 234(a) through (d) of the Ronald W.
8 Reagan National Defense Authorization Act for Fiscal
9 Year 2005 (Public Law 108-375; 118 Stat. 1837; 10 U.S.
10 C. 2431 note).

11 (f) PLAN REQUIRED.—Not later than March 1, 2008,
12 the Director of the Missile Defense Agency shall submit
13 to the Committee on Armed Services of the Senate and
14 the Committee on Armed Services of the House of Rep-
15 resentatives a plan for transitioning the Missile Defense
16 Agency from using exclusively research, development, test,
17 and evaluation funds to using procurement, military con-
18 struction, operations and maintenance, and research, de-
19 velopment, test, and evaluation funds for the appropriate
20 budget activities, and for transitioning from incremental
21 funding to full funding for fiscal years after fiscal year
22 2010.

23 (g) OBJECTIVES FOR ACQUISITION ACTIVITIES.—

24 (1) IN GENERAL.—Commencing as soon as
25 practicable, but not later than the submittal to Con-

1 gress of the budget for the President for fiscal year
2 2009 under section 1105(a) of title 31, United
3 States Code, the Missile Defense Agency shall take
4 appropriate actions to achieve the following objec-
5 tives in its acquisition activities:

6 (A) Improved transparency.

7 (B) Improved accountability.

8 (C) Enhanced oversight.

9 (2) REQUIRED ACTIONS.—In order to achieve
10 the objectives specified in paragraph (1), the Missile
11 Defense Agency shall, at a minimum, take actions as
12 follows:

13 (A) Establish acquisition cost, schedule,
14 and performance baselines for each ballistic
15 missile defense system element that—

16 (i) has entered the equivalent of the
17 systems development and demonstration
18 phase of acquisition; or

19 (ii) is being produced and acquired for
20 operational fielding.

21 (B) Provide unit cost reporting data for
22 each ballistic missile defense system element
23 covered by subparagraph (A), and secure inde-
24 pendent estimation and verification of such cost
25 reporting data.

1 (C) Include, in the budget justification ma-
2 terials described in subsection (a), a description
3 of actions being taken in the fiscal year in
4 which such materials are submitted, and the ac-
5 tions to be taken in the fiscal year covered by
6 such materials, to achieve such objectives.

7 (3) SPECIFICATION OF BALLISTIC MISSILE DE-
8 FENSE SYSTEM ELEMENTS.—The ballistic missile
9 defense system elements that, as of October 2007,
10 are ballistic missile defense system elements covered
11 by paragraph (2)(A) are the following elements:

12 (A) Ground-based Midcourse Defense.

13 (B) Aegis Ballistic Missile Defense.

14 (C) Terminal High Altitude Area Defense.

15 (D) Forward-Based X-band radar-Trans-
16 portable (AN/TPY-2).

17 (E) Command, Control, Battle Manage-
18 ment, and Communications.

19 (F) Sea-Based X-band radar.

20 (G) Upgraded Early Warning radars.

21 **SEC. 224. LIMITATION ON USE OF FUNDS FOR REPLACING**
22 **WARHEAD ON SM-3 BLOCK IIA MISSILE.**

23 None of the funds appropriated or otherwise made
24 available pursuant to an authorization of appropriations
25 in this Act may be obligated or expended to replace the

1 unitary warhead on the SM–3 Block IIA missile with the
2 Multiple Kill Vehicle until after the Secretary of Defense
3 certifies to Congress that—

4 (1) the United States and Japan have reached
5 an agreement to replace the unitary warhead on the
6 SM–3 Block IIA missile; and

7 (2) replacing the unitary warhead on the SM–
8 3 Block IIA missile with the Multiple Kill Vehicle
9 will not delay the expected deployment date of
10 2014–2015 for that missile.

11 **SEC. 225. EXTENSION OF COMPTROLLER GENERAL ASSESS-**
12 **MENTS OF BALLISTIC MISSILE DEFENSE PRO-**
13 **GRAMS.**

14 Section 232(g) of the National Defense Authorization
15 Act for Fiscal Year 2002 (10 U.S.C. 2431 note) is amend-
16 ed—

17 (1) in paragraph (1), by striking “through
18 2008” and inserting “through 2013”; and

19 (2) in paragraph (2), by striking “through
20 2009” and inserting “through 2014”.

1 **SEC. 226. LIMITATION ON AVAILABILITY OF FUNDS FOR**
2 **PROCUREMENT, CONSTRUCTION, AND DE-**
3 **PLOYMENT OF MISSILE DEFENSES IN EU-**
4 **ROPE.**

5 (a) GENERAL LIMITATION.—No funds authorized to
6 be appropriated by this Act may be obligated or expended
7 for procurement, site activation, construction, preparation
8 of equipment for, or deployment of a long-range missile
9 defense system in Europe until the following conditions
10 have been met:

11 (1) The governments of the countries in which
12 major components of such missile defense system
13 (including interceptors and associated radars) are
14 proposed to be deployed have each given final ap-
15 proval to any missile defense agreements negotiated
16 between such governments and the United States
17 Government concerning the proposed deployment of
18 such components in their countries.

19 (2) 45 days have elapsed following the receipt
20 by Congress of the report required under subsection
21 (c)(6).

22 (b) ADDITIONAL LIMITATION.—In addition to the
23 limitation in subsection (a), no funds authorized to be ap-
24 propriated by this Act may be obligated or expended for
25 the acquisition or deployment of operational missiles of a
26 long-range missile defense system in Europe until the Sec-

1 retary of Defense, after receiving the views of the Director
2 of Operational Test and Evaluation, submits to Congress
3 a report certifying that the proposed interceptor to be de-
4 ployed as part of such missile defense system has dem-
5 onstrated, through successful, operationally realistic flight
6 testing, a high probability of working in an operationally
7 effective manner.

8 (c) REPORT ON INDEPENDENT ASSESSMENT FOR
9 BALLISTIC MISSILE DEFENSE IN EUROPE.—

10 (1) INDEPENDENT ASSESSMENT.—Not later
11 than 30 days after the date of the enactment of this
12 Act, the Secretary of Defense shall select a federally
13 funded research and development center to conduct
14 an independent assessment of options for ballistic
15 missile defense for forward deployed forces of the
16 United States and its allies in Europe and for the
17 United States homeland.

18 (2) ANALYSIS OF ADMINISTRATION PRO-
19 POSAL.—The study shall provide a full analysis of
20 the Administration's proposal to protect forward-de-
21 ployed forces of the United States and its allies in
22 Europe, forward-deployed radars in Europe, and the
23 United States by deploying, in Europe, interceptors
24 and radars of the Ground-Based Midcourse Defense

1 (GMD) system. In providing the analysis, the study
2 shall examine each of the following matters:

3 (A) The threat to Europe and the United
4 States of ballistic missiles (including short-
5 range, medium-range, intermediate-range, and
6 long-range ballistic missiles) from Iran, includ-
7 ing the likelihood and timing of such threats.

8 (B) The technical capabilities of the sys-
9 tem, as so deployed, to effectively protect for-
10 ward-deployed forces of the United States and
11 its allies in Europe, forward-deployed radars in
12 Europe, and the United States against the
13 threat specified in subparagraph (A).

14 (C) The degree of coverage of the Euro-
15 pean territory of members of the North Atlantic
16 Treaty Organization.

17 (D) The political implications of such a de-
18 ployment on the United States, the North At-
19 lantic Treaty Organization, and other interested
20 parties.

21 (E) Integration and interoperability with
22 North Atlantic Treaty Organization missile de-
23 fenses.

1 (F) The operational issues associated with
2 such a deployment, including operational effec-
3 tiveness.

4 (G) The force structure implications of
5 such a deployment, including a comparative
6 analysis of alternative deployment options.

7 (H) The budgetary implications of such a
8 deployment, including possible allied cost shar-
9 ing, and the cost-effectiveness of such a deploy-
10 ment.

11 (I) Command and control arrangements,
12 including any command and control roles for
13 the United States European Command and the
14 North Atlantic Treaty Organization.

15 (J) Potential opportunities for participa-
16 tion by the Government of Russia.

17 (3) ANALYSIS OF ALTERNATIVES.—The study
18 shall also provide a full analysis of alternative sys-
19 tems that could be deployed to fulfill, in whole or in
20 part, the protective purposes of the Administration's
21 proposal. The alternative systems shall include a
22 range of feasible combinations of other missile de-
23 fense systems that are available or are expected to
24 be available as of 2015 and 2020. These should in-
25 clude, but not be limited to, the following:

1 (A) The Patriot PAC-3 system.

2 (B) The Medium Extended Air Defense
3 System.

4 (C) The Aegis Ballistic Missile Defense
5 system, with all variants of the Standard Mis-
6 sile-3 interceptor.

7 (D) The Terminal High Altitude Area De-
8 fense (THAAD) system.

9 (E) Forward-Based X-band Transportable
10 (FBX-T) radars.

11 (F) The Kinetic Energy Interceptor (KEI).

12 (G) Other non-United States, North Atlan-
13 tic Treaty Organization missile defense systems
14 or components.

15 (4) MATTERS EXAMINED.—In providing the
16 analysis, the study shall examine, for each alter-
17 native system included, each of the matters specified
18 in paragraph (2).

19 (5) COOPERATION OF OTHER AGENCIES.—The
20 Secretary of Defense shall provide the federally
21 funded research and development center selected
22 under paragraph (1) data, analyses, briefings, and
23 other information as the center considers necessary
24 to carry out the assessment described in that para-
25 graph. Furthermore, the Director of National Intel-

1 ligence and the heads of other departments and
2 agencies of the United States Government shall also
3 provide the center the appropriate data, analyses,
4 briefings, and other information necessary for the
5 purpose of carrying out the assessment described in
6 that paragraph.

7 (6) REPORT.—Not later than 180 days after
8 the date of the enactment of this Act, the federally
9 funded research and development center shall submit
10 to the congressional defense committees and the Sec-
11 retary of Defense a report on the results of the
12 study. The report shall be in unclassified form, but
13 may include a classified annex.

14 (7) FUNDING.—Of the amounts appropriated or
15 otherwise made available pursuant to the authoriza-
16 tion of appropriations in section 201(4), \$1,000,000
17 is available to carry out the study required by this
18 subsection.

19 (d) CONSTRUCTION.—Nothing in this section shall be
20 construed to limit continuing obligation and expenditure
21 of funds for missile defense, including for research and
22 development and for other activities not otherwise limited
23 by subsection (a) or (b), including, but not limited to, site
24 surveys, studies, analysis, and planning and design for the
25 proposed missile defense deployment in Europe.

1 **SEC. 227. SENSE OF CONGRESS ON MISSILE DEFENSE CO-**
2 **OPERATION WITH ISRAEL.**

3 (a) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that the United States should have an active pro-
5 gram of ballistic missile defense cooperation with Israel,
6 and should take steps to improve the coordination, inter-
7 operability, and integration of United States and Israeli
8 missile defense capabilities, and to enhance the capability
9 of both nations to defend against ballistic missile threats
10 present in the Middle East region.

11 (b) REPORT.—

12 (1) IN GENERAL.—Not later than 180 days
13 after the date of the enactment of this Act, the Sec-
14 retary of Defense shall submit to the congressional
15 defense committees a report on the status of missile
16 defense cooperation between the United States and
17 Israel.

18 (2) CONTENT.—The report submitted under
19 this subsection shall include each of the following:

20 (A) A description of the current program
21 of ballistic missile defense cooperation between
22 the United States and Israel, including its ob-
23 jectives and results to date.

24 (B) A description of steps taken within the
25 previous five years to improve the interoper-

1 ability and coordination of the missile defense
2 capabilities of the United States and Israel.

3 (C) A description of steps planned to be
4 taken by the governments of the United States
5 and Israel in the future to improve the coordi-
6 nation, interoperability, and integration of their
7 missile defense capabilities.

8 (D) A description of joint efforts of the
9 United States and Israel to develop ballistic
10 missile defense technologies.

11 (E) A description of joint missile defense
12 exercises and training that have been conducted
13 by the United States and Israel, and the lessons
14 learned from those exercises.

15 (F) A description of the joint missile de-
16 fense testing activities of the United States and
17 Israel, past and planned, and the benefits of
18 such joint testing activities.

19 (G) A description of how the United States
20 and Israel share threat assessments regarding
21 the ballistic missile threat.

22 (H) Any other matters that the Secretary
23 considers appropriate.

1 **SEC. 228. LIMITATION ON AVAILABILITY OF FUNDS FOR DE-**
2 **PLOYMENT OF MISSILE DEFENSE INTERCEP-**
3 **TORS IN ALASKA.**

4 None of the funds authorized to be appropriated by
5 this Act may be obligated or expended to deploy more than
6 40 Ground-Based Interceptors at Fort Greely, Alaska,
7 until the Secretary of Defense, after receiving the views
8 of the Director of Operational Test and Evaluation, sub-
9 mits to Congress a certification that the Block 2006
10 Ground-based Midcourse Defense element of the Ballistic
11 Missile Defense System has demonstrated, through oper-
12 ationally realistic end-to-end flight testing, that it has a
13 high probability of working in an operationally effective
14 manner.

15 **SEC. 229. POLICY OF THE UNITED STATES ON PROTECTION**
16 **OF THE UNITED STATES AND ITS ALLIES**
17 **AGAINST IRANIAN BALLISTIC MISSILES.**

18 (a) FINDING.—Congress finds that Iran maintains a
19 nuclear program in continued defiance of the international
20 community while developing ballistic missiles of increasing
21 sophistication and range that—

22 (1) pose a threat to—

23 (A) the forward-deployed forces of the
24 United States;

25 (B) North Atlantic Treaty Organization
26 (NATO) allies in Europe; and

1 (C) other allies and friendly foreign coun-
2 tries in the region; and

3 (2) eventually could pose a threat to the United
4 States homeland.

5 (b) POLICY OF THE UNITED STATES.—It is the pol-
6 icy of the United States—

7 (1) to develop, test, and deploy, as soon as tech-
8 nologically feasible, in conjunction with allies and
9 friendly foreign countries whenever possible, an ef-
10 fective defense against the threat from Iran de-
11 scribed in subsection (a) that will provide protec-
12 tion—

13 (A) for the forward-deployed forces of the
14 United States, NATO allies, and other allies
15 and friendly foreign countries in the region; and

16 (B) for the United States homeland;

17 (2) to encourage the NATO alliance to accel-
18 erate its efforts to—

19 (A) protect NATO territory in Europe
20 against the existing threat of Iranian short- and
21 medium-range ballistic missiles; and

22 (B) facilitate the ability of NATO allies to
23 acquire the missile defense systems needed to
24 provide a wide-area defense capability against
25 short- and medium-range ballistic missiles; and

1 (3) to proceed with the activities specified in
2 paragraphs (1) and (2) in a manner such that any
3 missile defense systems fielded by the United States
4 in Europe are integrated with or complementary to
5 missile defense systems fielded by NATO in Europe.

6 **Subtitle D—Other Matters**

7 **SEC. 231. COORDINATION OF HUMAN SYSTEMS INTEGRA-** 8 **TION ACTIVITIES RELATED TO ACQUISITION** 9 **PROGRAMS.**

10 (a) **IN GENERAL.**—The Secretary of Defense, acting
11 through the Under Secretary of Defense for Acquisition,
12 Technology, and Logistics, shall coordinate and manage
13 human systems integration activities throughout the ac-
14 quisition programs of the Department of Defense.

15 (b) **ADMINISTRATION.**—In carrying out subsection
16 (a), the Secretary shall designate a senior official to be
17 responsible for the effort.

18 (c) **RESPONSIBILITIES.**—In carrying out this section,
19 the senior official designated in subsection (b) shall—

20 (1) coordinate the planning, management, and
21 execution of such activities; and

22 (2) identify and recommend, as appropriate, re-
23 source requirements for human systems integration
24 activities.

1 (d) DESIGNATION.—The designation required by sub-
2 section (b) shall be made not later than 60 days after the
3 date of the enactment of this Act.

4 **SEC. 232. EXPANSION OF AUTHORITY FOR PROVISION OF**
5 **LABORATORY FACILITIES, SERVICES, AND**
6 **EQUIPMENT.**

7 Section 2539b of title 10, United States Code, is
8 amended—

9 (1) in subsection (a)—

10 (A) in paragraph (2) by striking “and” at
11 the end;

12 (B) in paragraph (3) by striking the period
13 at the end and inserting “; and”; and

14 (C) by adding at the end the following:

15 “(4) make available to any person or entity,
16 through leases, contracts, or other appropriate ar-
17 rangements, facilities, services, and equipment of
18 any government laboratory, research center, or
19 range, if the facilities, services, and equipment pro-
20 vided will not be in direct competition with the do-
21 mestic private sector.”;

22 (2) in subsection (c)—

23 (A) by striking “for services”; and

24 (B) by striking “subsection (a)(3)” and in-
25 serting “subsections (a)(3) and (a)(4)”; and

1 (3) in subsection (d)—

2 (A) by striking “for services made avail-
3 able”; and

4 (B) by striking “subsection (a)(3)” and in-
5 serting “subsections (a)(3) and (a)(4)”.

6 **SEC. 233. MODIFICATION OF COST SHARING REQUIREMENT**
7 **FOR TECHNOLOGY TRANSITION INITIATIVE.**

8 Paragraph (2) of section 2359a(f) of title 10, United
9 States Code, is amended to read as follows:

10 “(2) The amount of funds provided to a project under
11 paragraph (1) by the military department or Defense
12 Agency concerned shall be the appropriate share of the
13 military department or Defense Agency, as the case may
14 be, of the cost of the project, as determined by the Man-
15 ager.”.

16 **SEC. 234. REPORT ON IMPLEMENTATION OF MANUFAC-**
17 **TURING TECHNOLOGY PROGRAM.**

18 (a) REPORT REQUIRED.—Not later than September
19 1, 2008, the Secretary of Defense shall submit to the
20 Committee on Armed Services of the Senate and the Com-
21 mittee on Armed Services of the House of Representatives
22 a report on the implementation of the technologies and
23 processes developed under the Manufacturing Technology
24 Program required by section 2521 of title 10, United
25 States Code.

1 (b) ELEMENTS.—The report shall identify each tech-
2 nology or process implemented and, for each such tech-
3 nology or process, shall identify—

4 (1) the project of the Manufacturing Tech-
5 nology Program through which the technology or
6 process was developed, the Federal and non-Federal
7 participants in that project, and the duration of the
8 project;

9 (2) the organization or program implementing
10 the technology or process, and a description of the
11 implementation;

12 (3) the funding required to implement the tech-
13 nology or process, including—

14 (A) funds provided by military depart-
15 ments and Defense Agencies under the Manu-
16 facturing Technology Program;

17 (B) funds provided by the Department of
18 Defense, or any element of the Department, to
19 co-develop the technology or process;

20 (C) to the maximum extent practicable,
21 funds provided by the Department of Defense,
22 or any element of the Department, to—

23 (i) mature the technology or process
24 prior to transition to the Manufacturing
25 Technology Program; and

1 (ii) provide for the implementation of
2 the technology or process;

3 (4) the total value of industry cost share, if ap-
4 plicable;

5 (5) if applicable, the total value of cost avoid-
6 ance or cost savings directly attributable to the im-
7 plementation of the technology or process; and

8 (6) a description of any system performance en-
9 hancements, technology performance enhancements,
10 or improvements in a manufacturing readiness level
11 of a system or a technology.

12 (c) DEFINITION.—For purposes of this section, the
13 term “implementation” refers to—

14 (1) the use of a technology or process in the
15 manufacture of defense materiel;

16 (2) the inclusion of a technology or process in
17 the systems engineering plan for a program of
18 record; or

19 (3) the use of a technology or process for the
20 manufacture of commercial items.

21 (d) SCOPE.—The report shall include technologies or
22 processes developed with funds appropriated or otherwise
23 made available for the Manufacturing Technology pro-
24 grams of the military departments and Defense Agencies
25 for fiscal years 2003 through 2005.

1 **SEC. 235. ASSESSMENT OF SUFFICIENCY OF TEST AND**
2 **EVALUATION PERSONNEL.**

3 (a) **ASSESSMENT REQUIRED.**—The Director of Oper-
4 ational Test and Evaluation shall assess whether the Di-
5 rector’s professional staff meets the requirement of section
6 139(j) of title 10, United States Code, that the staff be
7 sufficient to carry out the Director’s duties and respon-
8 sibilities.

9 (b) **INCLUSION IN REPORT.**—The Director shall in-
10 clude the results of the assessment in the report, required
11 by section 139(g) of title 10, United States Code, summa-
12 rizing the operational test and evaluation activities during
13 fiscal year 2007.

14 **SEC. 236. REPEAL OF REQUIREMENT FOR SEPARATE RE-**
15 **PORTS ON TECHNOLOGY AREA REVIEW AND**
16 **ASSESSMENT SUMMARIES.**

17 Subsection (c) of section 253 of the National Defense
18 Authorization Act for Fiscal Year 2006 (Public Law 109–
19 163; 119 Stat. 3179; 10 U.S.C. 2501 note) is repealed.

20 **SEC. 237. MODIFICATION OF NOTICE AND WAIT REQUIRE-**
21 **MENT FOR OBLIGATION OF FUNDS FOR FOR-**
22 **EIGN COMPARATIVE TEST PROGRAM.**

23 Paragraph (3) of section 2350a(g) of title 10, United
24 States Code, is amended to read as follows:

25 “(3) The Director of Defense Research and Engi-
26 neering shall notify the congressional defense committees

1 of the intent to obligate funds made available to carry out
2 this subsection not less than 7 days before such funds are
3 obligated.”.

4 **SEC. 238. STRATEGIC PLAN FOR THE MANUFACTURING**
5 **TECHNOLOGY PROGRAM.**

6 (a) IN GENERAL.—Section 2521 of title 10, United
7 States Code, is amended by adding at the end the fol-
8 lowing new subsection:

9 “(e) FIVE-YEAR STRATEGIC PLAN.—(1) The Sec-
10 retary shall develop a plan for the program that includes
11 the following:

12 “(A) The overall manufacturing technology
13 goals, milestones, priorities, and investment strategy
14 for the program.

15 “(B) The objectives of, and funding for, the
16 program for each military department and each De-
17 fense Agency that shall participate in the program
18 during the period of the plan.

19 “(2) The Secretary shall include in the plan mecha-
20 nisms for assessing the effectiveness of the program under
21 the plan.

22 “(3) The Secretary shall update the plan on a bien-
23 nial basis.

24 “(4) Each plan, and each update to the plan, shall
25 cover a period of five fiscal years.”.

1 (b) INITIAL DEVELOPMENT AND SUBMISSION OF
2 PLAN.—

3 (1) DEVELOPMENT.—The Secretary of Defense
4 shall develop the strategic plan required by sub-
5 section (e) of section 2521 of title 10, United States
6 Code (as added by subsection (a) of this section), so
7 that the plan goes into effect at the beginning of fis-
8 cal year 2009.

9 (2) SUBMISSION.—Not later than the date on
10 which the budget of the President for fiscal year
11 2010 is submitted to Congress under section 1105
12 of title 31, United States Code, the Secretary shall
13 submit to the Committee on Armed Services of the
14 Senate and the Committee on Armed Services of the
15 House of Representatives the plan specified in para-
16 graph (1).

17 **SEC. 239. MODIFICATION OF AUTHORITIES ON COORDINA-**
18 **TION OF DEFENSE EXPERIMENTAL PROGRAM**
19 **TO STIMULATE COMPETITIVE RESEARCH**
20 **WITH SIMILAR FEDERAL PROGRAMS.**

21 Section 257(e)(2) of the National Defense Authoriza-
22 tion Act for Fiscal Year 1995 (10 U.S.C. 2358 note) is
23 amended by striking “shall” each place it appears and in-
24 serting “may”.

1 **SEC. 240. ENHANCEMENT OF DEFENSE NANOTECHNOLOGY**
2 **RESEARCH AND DEVELOPMENT PROGRAM.**

3 (a) PROGRAM PURPOSES.—Subsection (b) of section
4 246 of the Bob Stump National Defense Authorization
5 Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat.
6 2500; 10 U.S.C. 2358 note) is amended—

7 (1) in paragraph (2), by striking “in nanoscale
8 research and development” and inserting “in the
9 National Nanotechnology Initiative and with the Na-
10 tional Nanotechnology Coordination Office under
11 section 3 of the 21st Century Nanotechnology Re-
12 search and Development Act (15 U.S.C. 7502)”; and

13 (2) in paragraph (3), by striking “portfolio of
14 fundamental and applied nanoscience and engineer-
15 ing research initiatives” and inserting “portfolio of
16 nanotechnology research and development initia-
17 tives”.

18 (b) PROGRAM ADMINISTRATION.—

19 (1) ADMINISTRATION THROUGH UNDER SEC-
20 RETARY OF DEFENSE FOR ACQUISITION, TECH-
21 NOLOGY, AND LOGISTICS.—Subsection (c) of such
22 section is amended—

23 (A) by striking “the Director of Defense
24 Research and Engineering” and inserting “the
25 Under Secretary of Defense for Acquisition,
26 Technology, and Logistics”; and

1 (B) by striking “The Director” and insert-
2 ing “The Under Secretary”.

3 (2) OTHER ADMINISTRATIVE MATTERS.—Such
4 subsection is further amended—

5 (A) in paragraph (2), by striking “the De-
6 partment’s increased investment in
7 nanotechnology research and development and
8 the National Nanotechnology Initiative; and”
9 and inserting “investments by the Department
10 and other departments and agencies partici-
11 pating in the National Nanotechnology Initia-
12 tive in nanotechnology research and develop-
13 ment;”;

14 (B) in paragraph (3), by striking the pe-
15 riod at the end and inserting “; and”; and

16 (C) by adding at the end the following new
17 paragraph:

18 “(4) oversee Department of Defense participa-
19 tion in interagency coordination of the program with
20 other departments and agencies participating in the
21 National Nanotechnology Initiative.”.

22 (c) PROGRAM ACTIVITIES.—Such section is further
23 amended—

24 (1) by striking subsection (d); and

1 (2) by adding at the end the following new sub-
2 section (d):

3 “(d) STRATEGIC PLAN.—The Under Secretary shall
4 develop and maintain a strategic plan for defense
5 nanotechnology research and development that—

6 “(1) is integrated with the strategic plan for
7 the National Nanotechnology Initiative and the stra-
8 tegic plans of the Director of Defense Research and
9 Engineering, the military departments, and the De-
10 fense Agencies; and

11 “(2) includes a clear strategy for transitioning
12 the research into products needed by the Depart-
13 ment.”.

14 (d) REPORTS.—Such section is further amended by
15 adding at the end the following new subsection:

16 “(e) REPORTS.—

17 “(1) IN GENERAL.—Not later than March 1 of
18 each of 2009, 2011, and 2013, the Under Secretary
19 of Defense for Acquisition, Technology, and Logis-
20 tics shall submit to the congressional defense com-
21 mittees a report on the program.

22 “(2) MATTERS INCLUDED.— Each report under
23 paragraph (1) shall include the following:

24 “(A) A review of—

1 “(i) the long-term challenges and spe-
2 cific technical goals of the program; and

3 “(ii) the progress made toward meet-
4 ing such challenges and achieving such
5 goals.

6 “(B) An assessment of current and pro-
7 posed funding levels for the program, including
8 an assessment of the adequacy of such funding
9 levels to support program activities.

10 “(C) A review of the coordination of activi-
11 ties under the program within the Department
12 of Defense, with other departments and agen-
13 cies of the United States, and with the National
14 Nanotechnology Initiative.

15 “(D) A review and analysis of the findings
16 and recommendations relating to the Depart-
17 ment of Defense of the most recent triennial ex-
18 ternal review of the National Nanotechnology
19 Program under section 5 of the 21st Century
20 Nanotechnology Research and Development Act
21 (15 U.S.C. 1704), and a description of initia-
22 tives of the Department to implement such rec-
23 ommendations.

24 “(E) An assessment of technology transi-
25 tion from nanotechnology research and develop-

1 ment to enhanced warfighting capabilities, in-
2 cluding contributions from the Department of
3 Defense Small Business Innovative Research
4 and Small Business Technology Transfer Re-
5 search programs, and the Department of De-
6 fense Manufacturing Technology program, and
7 an identification of acquisition programs and
8 deployed defense systems that are incorporating
9 nanotechnologies.

10 “(F) An assessment of global
11 nanotechnology research and development in
12 areas of interest to the Department, including
13 an identification of the use of nanotechnologies
14 in any foreign defense systems.

15 “(G) An assessment of the defense
16 nanotechnology manufacturing and industrial
17 base and its capability to meet the near and far
18 term requirements of the Department.

19 “(H) Such recommendations for additional
20 activities under the program to meet emerging
21 national security requirements as the Under
22 Secretary considers appropriate.

23 “(3) CLASSIFICATION.—Each report under
24 paragraph (1) shall be submitted in unclassified
25 form, but may include a classified annex.”.

1 **SEC. 241. FEDERALLY FUNDED RESEARCH AND DEVELOP-**
2 **MENT CENTER ASSESSMENT OF THE DE-**
3 **FENSE EXPERIMENTAL PROGRAM TO STIMU-**
4 **LATE COMPETITIVE RESEARCH.**

5 (a) **ASSESSMENT REQUIRED.**—The Secretary of De-
6 fense shall—

7 (1) utilize a defense federally funded research
8 and development center to carry out an assessment
9 of the effectiveness of the Defense Experimental
10 Program to Stimulate Competitive Research; and

11 (2) not later than nine months after the date
12 of the enactment of this Act, submit to the Commit-
13 tees on Armed Services of the Senate and the House
14 of Representatives a report on that assessment.

15 (b) **MATTERS ASSESSED.**—The report under sub-
16 section (a) shall include the following:

17 (1) A description and assessment of the tan-
18 gible results and progress toward the objectives of
19 the program, including—

20 (A) an identification of any past program
21 activities that led to, or were fundamental to,
22 applications used by, or supportive of, oper-
23 ational users; and

24 (B) an assessment of whether the program
25 has expanded the national research infrastruc-
26 ture.

1 (2) An assessment whether the activities under-
2 taken under the program are consistent with the
3 statute authorizing the program.

4 (3) An assessment whether the various elements
5 of the program, such as structure, funding, staffing,
6 project solicitation and selection, and administration,
7 are working effectively and efficiently to support the
8 effective execution of the program.

9 (4) A description and assessment of past and
10 ongoing activities of State planning committees
11 under the program in supporting the achievement of
12 the objectives of the program.

13 (5) An analysis of the advantages and disadvan-
14 tages of having an institution-based formula for
15 qualification to participate in the program when
16 compared with the advantages and disadvantages of
17 having a State-based formula for qualification to
18 participate in supporting defense missions and the
19 objective of expanding the Nation's defense research
20 infrastructure.

21 (6) An identification of mechanisms for improv-
22 ing the management and implementation of the pro-
23 gram, including modification of the statute author-
24 izing the program, Department regulations, program

1 structure, funding levels, funding strategy, or the ac-
2 tivities of the State committees.

3 (7) Any other matters the Secretary considers
4 appropriate.

5 **SEC. 242. COST-BENEFIT ANALYSIS OF PROPOSED FUNDING**
6 **REDUCTION FOR HIGH ENERGY LASER SYS-**
7 **TEMS TEST FACILITY.**

8 (a) REPORT REQUIRED.—Not later than 90 days
9 after the date of the enactment of this Act, the Secretary
10 of Defense shall submit to the congressional defense com-
11 mittees a report containing a cost-benefit analysis of the
12 proposed reduction in Army research, development, test,
13 and evaluation funding for the High Energy Laser Sys-
14 tems Test Facility.

15 (b) EVALUATION OF IMPACT ON OTHER MILITARY
16 DEPARTMENTS.—The report required under subsection
17 (a) shall include an evaluation of the impact of the pro-
18 posed reduction in funding on each Department of De-
19 fense organization or activity that utilizes the High En-
20 ergy Laser Systems Test Facility.

21 **SEC. 243. PROMPT GLOBAL STRIKE.**

22 (a) RESEARCH, DEVELOPMENT, AND TESTING
23 PLAN.—The Secretary of Defense shall submit to the con-
24 gressional defense committees a research, development,

1 and testing plan for prompt global strike program objec-
2 tives for fiscal years 2008 through 2013.

3 (b) PLAN FOR OBLIGATION AND EXPENDITURE OF
4 FUNDS.—

5 (1) IN GENERAL.—The Under Secretary of De-
6 fense for Acquisition, Technology, and Logistics
7 shall submit to the congressional defense committees
8 a plan for obligation and expenditure of funds avail-
9 able for prompt global strike for fiscal year 2008.
10 The plan shall include correlations between each
11 technology application being developed in fiscal year
12 2008 and the prompt global strike alternative or al-
13 ternatives toward which the technology application
14 applies.

15 (2) LIMITATION.—The Under Secretary shall
16 not implement the plan required by paragraph (1)
17 until at least 10 days after the plan is submitted as
18 required by that paragraph.

19 **TITLE III—OPERATION AND** 20 **MAINTENANCE**

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.

Subtitle B—Environmental Provisions

Sec. 311. Reimbursement of Environmental Protection Agency for certain costs
in connection with Moses Lake Wellfield Superfund Site, Moses
Lake, Washington.

Sec. 312. Reimbursement of Environmental Protection Agency for certain costs
in connection with the Arctic Surplus Superfund Site, Fair-
banks, Alaska.

74

- Sec. 313. Payment to Environmental Protection Agency of stipulated penalties in connection with Jackson Park Housing Complex, Washington.
- Sec. 314. Report on control of the brown tree snake.
- Sec. 315. Notification of certain residents and civilian employees at Camp Lejeune, North Carolina, of exposure to drinking water contamination.

Subtitle C—Workplace and Depot Issues

- Sec. 321. Availability of funds in Defense Information Systems Agency Working Capital Fund for technology upgrades to Defense Information Systems Network.
- Sec. 322. Modification to public-private competition requirements before conversion to contractor performance.
- Sec. 323. Public-private competition at end of period specified in performance agreement not required.
- Sec. 324. Guidelines on insourcing new and contracted out functions.
- Sec. 325. Restriction on Office of Management and Budget influence over Department of Defense public-private competitions.
- Sec. 326. Bid protests by Federal employees in actions under Office of Management and Budget Circular A-76.
- Sec. 327. Public-private competition required before conversion to contractor performance.
- Sec. 328. Extension of authority for Army industrial facilities to engage in cooperative activities with non-Army entities.
- Sec. 329. Reauthorization and modification of multi-trades demonstration project.
- Sec. 330. Pilot program for availability of working-capital funds to Army for certain product improvements.

Subtitle D—Extension of Program Authorities

- Sec. 341. Extension of Arsenal Support Program Initiative.
- Sec. 342. Extension of period for reimbursement for helmet pads purchased by members of the Armed Forces deployed in contingency operations.
- Sec. 343. Extension of temporary authority for contract performance of security guard functions.

Subtitle E—Reports

- Sec. 351. Reports on National Guard readiness for emergencies and major disasters.
- Sec. 352. Annual report on prepositioned materiel and equipment.
- Sec. 353. Report on incremental cost of early 2007 enhanced deployment.
- Sec. 354. Modification of requirements of Comptroller General report on the readiness of Army and Marine Corps ground forces.
- Sec. 355. Plan to improve readiness of ground forces of active and reserve components.
- Sec. 356. Independent assessment of Civil Reserve Air Fleet viability.
- Sec. 357. Department of Defense Inspector General report on physical security of Department of Defense installations.
- Sec. 358. Review of high-altitude aviation training.
- Sec. 359. Reports on safety measures and encroachment issues and master plan for Warren Grove Gunnery Range, New Jersey.

Sec. 360. Report on search and rescue capabilities of the Air Force in the northwestern United States.

Sec. 361. Report and master infrastructure recapitalization plan for Cheyenne Mountain Air Station, Colorado.

Subtitle F—Other Matters

Sec. 371. Enhancement of corrosion control and prevention functions within Department of Defense.

Sec. 372. Authority for Department of Defense to provide support for certain sporting events.

Sec. 373. Authority to impose reasonable restrictions on payment of full replacement value for lost or damaged personal property transported at Government expense.

Sec. 374. Priority transportation on Department of Defense aircraft of retired members residing in Commonwealths and possessions of the United States for certain health care services.

Sec. 375. Recovery of missing military property.

Sec. 376. Retention of combat uniforms by members of the Armed Forces deployed in support of contingency operations.

Sec. 377. Issue of serviceable material of the Navy other than to Armed Forces.

Sec. 378. Reauthorization of Aviation Insurance Program.

1 **Subtitle A—Authorization of**
2 **Appropriations**

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

4 Funds are hereby authorized to be appropriated for
5 fiscal year 2008 for the use of the Armed Forces and other
6 activities and agencies of the Department of Defense for
7 expenses, not otherwise provided for, for operation and
8 maintenance, in amounts as follows:

9 (1) For the Army, \$28,787,219,000.

10 (2) For the Navy, \$33,355,683,000.

11 (3) For the Marine Corps, \$4,967,193,000.

12 (4) For the Air Force, \$33,118,462,000.

13 (5) For Defense-wide activities,
14 \$22,500,253,000.

15 (6) For the Army Reserve, \$2,509,862,000.

- 1 (7) For the Navy Reserve, \$1,186,883,000.
- 2 (8) For the Marine Corps Reserve,
3 \$208,637,000.
- 4 (9) For the Air Force Reserve, \$2,821,817,000.
- 5 (10) For the Army National Guard,
6 \$5,857,409,000.
- 7 (11) For the Air National Guard,
8 \$5,456,668,000.
- 9 (12) For the United States Court of Appeals
10 for the Armed Forces, \$11,971,000.
- 11 (13) For Environmental Restoration, Army,
12 \$434,879,000.
- 13 (14) For Environmental Restoration, Navy,
14 \$300,591,000.
- 15 (15) For Environmental Restoration, Air Force,
16 \$458,428,000.
- 17 (16) For Environmental Restoration, Defense-
18 wide, \$12,751,000.
- 19 (17) For Environmental Restoration, Formerly
20 Used Defense Sites, \$270,249,000.
- 21 (18) For Overseas Humanitarian, Disaster, and
22 Civic Aid programs, \$103,300,000.
- 23 (19) For Former Soviet Union Threat Reduc-
24 tion programs, \$428,048,000.

1 (20) For the Overseas Contingency Operations
2 Transfer Fund, \$5,000,000.

3 **Subtitle B—Environmental**
4 **Provisions**

5 **SEC. 311. REIMBURSEMENT OF ENVIRONMENTAL PROTEC-**
6 **TION AGENCY FOR CERTAIN COSTS IN CON-**
7 **NECTION WITH MOSES LAKE WELLFIELD**
8 **SUPERFUND SITE, MOSES LAKE, WASH-**
9 **INGTON.**

10 (a) AUTHORITY TO REIMBURSE.—

11 (1) TRANSFER AMOUNT.—Using funds de-
12 scribed in subsection (b), the Secretary of Defense
13 may, notwithstanding section 2215 of title 10,
14 United States Code, transfer not more than
15 \$91,588.51 to the Moses Lake Wellfield Superfund
16 Site 10–6J Special Account.

17 (2) PURPOSE OF REIMBURSEMENT.—The pay-
18 ment under paragraph (1) is to reimburse the Envi-
19 ronmental Protection Agency for its costs incurred
20 in overseeing a remedial investigation/feasibility
21 study performed by the Department of the Army
22 under the Defense Environmental Restoration Pro-
23 gram at the former Larson Air Force Base, Moses
24 Lake Superfund Site, Moses Lake, Washington.

1 (1) The brown tree snake (*Boiga irregularis*),
2 an invasive species, is found in significant numbers
3 on military installations and in other areas on
4 Guam, and constitutes a serious threat to the ecol-
5 ogy of Guam.

6 (2) If introduced into Hawaii, the Common-
7 wealth of the Northern Mariana Islands, or the con-
8 tinental United States, the brown tree snake would
9 pose an immediate and serious economic and ecologi-
10 cal threat.

11 (3) The most probable vector for the introduc-
12 tion of the brown tree snake into Hawaii, the Com-
13 monwealth of the Northern Mariana Islands, or the
14 continental United States is the movement from
15 Guam of military aircraft, personnel, and cargo, in-
16 cluding the household goods of military personnel
17 and other military assets.

18 (4) It is probable that the movement of military
19 aircraft, personnel, and cargo, including the house-
20 hold goods of military personnel, from Guam to Ha-
21 waii, the Commonwealth of the Northern Mariana
22 Islands, or the continental United States will in-
23 crease significantly coincident with the increase in
24 the number of military units and personnel stationed
25 on Guam.

1 (5) Current policies, programs, procedures, and
2 dedicated resources of the Department of Defense
3 and of other departments and agencies of the United
4 States may not be sufficient to adequately address
5 the management, control, and eradication of the
6 brown tree snake on Guam and the increasing threat
7 of the introduction of the brown tree snake from
8 Guam into Hawaii, the Commonwealth of the North-
9 ern Mariana Islands, the continental United States,
10 or other non-native environments.

11 (b) REPORT.—Not later than 180 days after the date
12 of the enactment of this Act, the Secretary of Defense
13 shall submit to the congressional defense committees a re-
14 port on the following:

15 (1) The actions currently being taken (including
16 the resources being made available) by the Depart-
17 ment of Defense to control, and to develop new or
18 existing techniques to control, the brown tree snake
19 on Guam and to prevent the introduction of the
20 brown tree snake into Hawaii, the Commonwealth of
21 the Northern Mariana Island, the continental United
22 States, or any other non-native environment as a re-
23 sult of the movement from Guam of military air-
24 craft, personnel, and cargo, including the household
25 goods of military personnel and other military as-

1 sets. Such actions shall include any actions taken by
2 the Department of Defense to implement the rec-
3 ommendations of the Brown Treesnake Review
4 Panel commissioned by the Department of the Inte-
5 rior, as contained in the Review Panel's final report
6 entitled "Review of Brown Treesnake Problems and
7 Control Programs" published in March 2005.

8 (2) Current plans for enhanced future actions,
9 policies, and procedures and increased levels of re-
10 sources in order to ensure that the projected in-
11 crease of military personnel stationed on Guam does
12 not increase the threat of introduction of the brown
13 tree snake from Guam into Hawaii, the Common-
14 wealth of the Northern Mariana Islands, the conti-
15 nental United States, or other non-native environ-
16 ments.

17 (3) The results of management, control, and
18 eradication carried out by the Secretary of Defense,
19 in consultation with the Secretary of the Interior,
20 before the date on which the report is submitted
21 with respect to brown tree snakes through the inte-
22 grated natural resource management plans prepared
23 for military installations in Guam under the pilot
24 program authorized by section 101(g) of the Sikes
25 Act (16 U.S.C. 670a(g)).

1 **SEC. 315. NOTIFICATION OF CERTAIN RESIDENTS AND CI-**
2 **VILIAN EMPLOYEES AT CAMP LEJEUNE,**
3 **NORTH CAROLINA, OF EXPOSURE TO DRINK-**
4 **ING WATER CONTAMINATION.**

5 (a) NOTIFICATION OF INDIVIDUALS SERVED BY
6 TARAWA TERRACE WATER DISTRIBUTION SYSTEM, IN-
7 CLUDING KNOX TRAILER PARK.—Not later than one year
8 after the date of the enactment of this Act, the Secretary
9 of the Navy shall make reasonable efforts to identify and
10 notify directly individuals who were served by the Tarawa
11 Terrace Water Distribution System, including Knox Trail-
12 er Park, at Camp Lejeune, North Carolina, during the
13 years 1958 through 1987 that they may have been ex-
14 posed to drinking water contaminated with
15 tetrachloroethylene (PCE).

16 (b) NOTIFICATION OF INDIVIDUALS SERVED BY
17 HADNOT POINT WATER DISTRIBUTION SYSTEM.—Not
18 later than one year after the Agency for Toxic Substances
19 and Disease Registry (ATSDR) completes its water mod-
20 eling study of the Hadnot Point water distribution system,
21 the Secretary of the Navy shall make reasonable efforts
22 to identify and notify directly individuals who were served
23 by the system during the period identified in the study
24 of the drinking water contamination to which they may
25 have been exposed.

1 (c) NOTIFICATION OF FORMER CIVILIAN EMPLOYEES
2 AT CAMP LEJEUNE.—Not later than one year after the
3 date of the enactment of this Act, the Secretary of the
4 Navy shall make reasonable efforts to identify and notify
5 directly civilian employees who worked at Camp Lejeune
6 during the period identified in the ATSDR drinking water
7 study of the drinking water contamination to which they
8 may have been exposed.

9 (d) CIRCULATION OF HEALTH SURVEY.—

10 (1) FINDINGS.—Congress makes the following
11 findings:

12 (A) Notification and survey efforts related
13 to the drinking water contamination described
14 in this section are necessary due to the poten-
15 tial negative health impacts of these contami-
16 nants.

17 (B) The Secretary of the Navy will not be
18 able to identify or contact all former residents
19 and former employees due to the condition,
20 non-existence, or accessibility of records.

21 (C) It is the intent of Congress that the
22 Secretary of the Navy contact as many former
23 residents and former employees as quickly as
24 possible.

25 (2) ATSDR HEALTH SURVEY.—

1 (A) DEVELOPMENT.—

2 (i) IN GENERAL.—Not later than 120
3 days after the date of the enactment of
4 this Act, the ATSDR, in consultation with
5 a well-qualified contractor selected by the
6 ATSDR, shall develop a health survey that
7 would voluntarily request of individuals de-
8 scribed in subsections (a), (b), and (c) per-
9 sonal health information that may lead to
10 scientifically useful health information as-
11 sociated with exposure to trichloroethylene
12 (TCE), PCE, vinyl chloride, and the other
13 contaminants identified in the ATSDR
14 studies that may provide a basis for fur-
15 ther reliable scientific studies of potentially
16 adverse health impacts of exposure to con-
17 taminated water at Camp Lejeune.

18 (ii) FUNDING.—The Secretary of the
19 Navy is authorized to provide from avail-
20 able funds the necessary funding for the
21 ATSDR to develop the health survey.

22 (B) INCLUSION WITH NOTIFICATION.—The
23 survey developed under subparagraph (A) shall
24 be distributed by the Secretary of the Navy

1 concurrently with the direct notification re-
2 quired under subsections (a), (b), and (c).

3 (e) USE OF MEDIA TO SUPPLEMENT NOTIFICA-
4 TION.—The Secretary of the Navy may use media notifica-
5 tion as a supplement to direct notification of individuals
6 described under subsections (a), (b), and (c). Media notifi-
7 cation may reach those individuals not identifiable via re-
8 maining records. Once individuals respond to media notifi-
9 cations, the Secretary will add them to the contact list
10 to be included in future information updates.

11 **Subtitle C—Workplace and Depot** 12 **Issues**

13 **SEC. 321. AVAILABILITY OF FUNDS IN DEFENSE INFORMA-** 14 **TION SYSTEMS AGENCY WORKING CAPITAL** 15 **FUND FOR TECHNOLOGY UPGRADES TO DE-** 16 **FENSE INFORMATION SYSTEMS NETWORK.**

17 (a) IN GENERAL.—Notwithstanding section 2208 of
18 title 10, United States Code, funds in the Defense Infor-
19 mation Systems Agency Working Capital Fund may be
20 used for expenses directly related to technology upgrades
21 to the Defense Information Systems Network.

22 (b) LIMITATION ON CERTAIN PROJECTS.—Funds
23 may not be used under subsection (a) for—

1 (1) any technology insertion to the Defense In-
2 formation Systems Network that significantly
3 changes the performance envelope of an end item; or

4 (2) any component with an estimated total cost
5 in excess of \$500,000.

6 (c) LIMITATION IN FISCAL YEAR PENDING TIMELY
7 REPORT.—If in any fiscal year the report required by
8 paragraph (1) of subsection (d) is not submitted by the
9 date specified in paragraph (2) of subsection (d), funds
10 may not be used under subsection (a) in such fiscal year
11 during the period—

12 (1) beginning on the date specified in para-
13 graph (2) of subsection (d); and

14 (2) ending on the date of the submittal of the
15 report under paragraph (1) of subsection (d).

16 (d) ANNUAL REPORT.—

17 (1) IN GENERAL.—The Director of the Defense
18 Information Systems Agency shall submit to the
19 congressional defense committees each fiscal year a
20 report on the use of the authority in subsection (a)
21 during the preceding fiscal year.

22 (2) DEADLINE FOR SUBMITTAL.—The report
23 required by paragraph (1) in a fiscal year shall be
24 submitted not later than 60 days after the date of
25 the submittal to Congress of the budget of the Presi-

1 dent for the succeeding fiscal year pursuant to sec-
2 tion 1105 of title 31, United States Code.

3 (e) SUNSET.—The authority in subsection (a) shall
4 expire on October 1, 2011.

5 **SEC. 322. MODIFICATION TO PUBLIC-PRIVATE COMPETI-**
6 **TION REQUIREMENTS BEFORE CONVERSION**
7 **TO CONTRACTOR PERFORMANCE.**

8 (a) COMPARISON OF RETIREMENT SYSTEM COSTS.—
9 Section 2461(a)(1) of title 10, United States Code, is
10 amended—

11 (1) in subparagraph (F), by striking “and” at
12 the end;

13 (2) by redesignating subparagraph (G) as sub-
14 paragraph (H); and

15 (3) by inserting after subparagraph (F) the fol-
16 lowing new subparagraph (G):

17 “(G) requires that the contractor shall not re-
18 ceive an advantage for a proposal that would reduce
19 costs for the Department of Defense by—

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

1 “(ii) offering to such workers an employer-
2 sponsored health benefits plan that requires the
3 employer to contribute less towards the pre-
4 mium or subscription share than the amount
5 that is paid by the Department of Defense for
6 health benefits for civilian employees of the De-
7 partment under chapter 89 of title 5; or

8 “(iii) offering to such workers a retirement
9 benefit that, in any year, costs less than the an-
10 nual retirement cost factor applicable to civilian
11 employees of the Department of Defense under
12 chapter 84 of title 5; and”.

13 (b) CONFORMING AMENDMENTS.—Such title is fur-
14 ther amended—

15 (1) by striking section 2467; and

16 (2) in section 2461—

17 (A) by redesignating subsections (b)
18 through (d) as subsections (c) through (e), re-
19 spectively; and

20 (B) by inserting after subsection (a) the
21 following new subsection (b):

22 “(b) REQUIREMENT TO CONSULT DOD EMPLOY-
23 EES.—(1) Each officer or employee of the Department of
24 Defense responsible for determining under Office of Man-
25 agement and Budget Circular A-76 whether to convert to

1 contractor performance any function of the Department
2 of Defense—

3 “(A) shall, at least monthly during the develop-
4 ment and preparation of the performance work
5 statement and the management efficiency study used
6 in making that determination, consult with civilian
7 employees who will be affected by that determination
8 and consider the views of such employees on the de-
9 velopment and preparation of that statement and
10 that study; and

11 “(B) may consult with such employees on other
12 matters relating to that determination.

13 “(2)(A) In the case of employees represented by a
14 labor organization accorded exclusive recognition under
15 section 7111 of title 5, consultation with representatives
16 of that labor organization shall satisfy the consultation re-
17 quirement in paragraph (1).

18 “(B) In the case of employees other than employees
19 referred to in subparagraph (A), consultation with appro-
20 priate representatives of those employees shall satisfy the
21 consultation requirement in paragraph (1).

22 “(C) The Secretary of Defense shall prescribe regula-
23 tions to carry out this subsection. The regulations shall
24 include provisions for the selection or designation of ap-
25 propriate representatives of employees referred to in sub-

1 paragraph (B) for purposes of the consultation required
2 by paragraph (1).”.

3 (c) TECHNICAL AMENDMENTS.—Section 2461 of
4 such title, as amended by this section, is further amend-
5 ed—

6 (1) in subsection (a)(1)—

7 (A) in subparagraph (B), by inserting after
8 “2003” the following: “, or any successor cir-
9 cular”; and

10 (B) in subparagraph (D), by striking “and
11 reliability” and inserting “, reliability, and
12 timeliness”; and

13 (2) in subsection (c)(2), as redesignated by sub-
14 section (b)(2), by inserting “of” after “examina-
15 tion”.

16 (d) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of chapter 146 of such title is amended
18 by striking the item relating to section 2467.

19 **SEC. 323. PUBLIC-PRIVATE COMPETITION AT END OF PE-**
20 **RIOD SPECIFIED IN PERFORMANCE AGREE-**
21 **MENT NOT REQUIRED.**

22 Section 2461(a) of title 10, United States Code, is
23 amended by adding at the end the following new para-
24 graph:

1 “(4) A military department or Defense Agency may
2 not be required to conduct a public-private competition
3 under Office of Management and Budget Circular A-76
4 or any other provision of law at the end of the perform-
5 ance period specified in a letter of obligation or other
6 agreement entered into with Department of Defense civil-
7 ian employees pursuant to a public-private competition for
8 any function of the Department of Defense performed by
9 Department of Defense civilian employees.”.

10 **SEC. 324. GUIDELINES ON INSOURCING NEW AND CON-**
11 **TRACTED OUT FUNCTIONS.**

12 (a) CODIFICATION AND REVISION OF REQUIREMENT
13 FOR GUIDELINES.—

14 (1) IN GENERAL.—Chapter 146 of title 10,
15 United States Code, is amended by inserting after
16 section 2462 the following new section:

17 **“§ 2463. Guidelines and procedures for use of civilian**
18 **employees to perform Department of De-**
19 **fense functions**

20 “(a) GUIDELINES REQUIRED.—(1) The Under Sec-
21 retary of Defense for Personnel and Readiness shall devise
22 and implement guidelines and procedures to ensure that
23 consideration is given to using, on a regular basis, Depart-
24 ment of Defense civilian employees to perform new func-
25 tions and functions that are performed by contractors and

1 could be performed by Department of Defense civilian em-
2 ployees. The Secretary of a military department may pre-
3 scribe supplemental regulations, if the Secretary deter-
4 mines such regulations are necessary for implementing
5 such guidelines within that military department.

6 “(2) The guidelines and procedures required under
7 paragraph (1) may not include any specific limitation or
8 restriction on the number of functions or activities that
9 may be converted to performance by Department of De-
10 fense civilian employees.

11 “(b) SPECIAL CONSIDERATION FOR CERTAIN FUNC-
12 TIONS.—The guidelines and procedures required under
13 subsection (a) shall provide for special consideration to be
14 given to using Department of Defense civilian employees
15 to perform any function that—

16 “(1) is performed by a contractor and—

17 “(A) has been performed by Department of
18 Defense civilian employees at any time during
19 the previous 10 years;

20 “(B) is a function closely associated with
21 the performance of an inherently governmental
22 function;

23 “(C) has been performed pursuant to a
24 contract awarded on a non-competitive basis; or

1 “(D) has been performed poorly, as deter-
2 mined by a contracting officer during the five-
3 year period preceding the date of such deter-
4 mination, because of excessive costs or inferior
5 quality; or

6 “(2) is a new requirement, with particular em-
7 phasis given to a new requirement that is similar to
8 a function previously performed by Department of
9 Defense civilian employees or is a function closely
10 associated with the performance of an inherently
11 governmental function.

12 “(c) EXCLUSION OF CERTAIN FUNCTIONS FROM
13 COMPETITIONS.—The Secretary of Defense may not con-
14 duct a public-private competition under this chapter, Of-
15 fice of Management and Budget Circular A-76, or any
16 other provision of law or regulation before—

17 “(1) in the case of a new Department of De-
18 fense function, assigning the performance of the
19 function to Department of Defense civilian employ-
20 ees;

21 “(2) in the case of any Department of Defense
22 function described in subsection (b), converting the
23 function to performance by Department of Defense
24 civilian employees; or

1 “(3) in the case of a Department of Defense
2 function performed by Department of Defense civil-
3 ian employees, expanding the scope of the function.

4 “(d) USE OF FLEXIBLE HIRING AUTHORITY.—(1)
5 The Secretary of Defense may use the flexible hiring au-
6 thority available to the Secretary under the National Secu-
7 rity Personnel System, as established pursuant to section
8 9902 of title 5, to facilitate the performance by Depart-
9 ment of Defense civilian employees of functions described
10 in subsection (b).

11 “(2) The Secretary shall make use of the inventory
12 required by section 2330a(c) of this title for the purpose
13 of identifying functions that should be considered for per-
14 formance by Department of Defense civilian employees
15 pursuant to subsection (b).

16 “(e) DEFINITIONS.—In this section the term ‘func-
17 tions closely associated with inherently governmental func-
18 tions’ has the meaning given that term in section
19 2383(b)(3) of this title.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions at the beginning of such chapter is amended
22 by inserting after the item relating to section 2462
23 the following new item:

 “2463. Guidelines and procedures for use of civilian employees to perform De-
 partment of Defense functions.”.

1 and Budget Circular A-76, or any other successor regula-
2 tion, directive, or policy.

3 (b) RESTRICTION ON SECRETARY OF DEFENSE.—

4 The Secretary of Defense or the Secretary of a military
5 department may not prepare for, undertake, continue, or
6 complete a public-private competition or direct conversion
7 of a Department of Defense function to performance by
8 a contractor under Office of Management and Budget Cir-
9 cular A-76, or any other successor regulation, directive,
10 or policy by reason of any direction or requirement pro-
11 vided by the Office of Management and Budget.

12 (c) INSPECTOR GENERAL REVIEW.—

13 (1) COMPREHENSIVE REVIEW REQUIRED.—The
14 Inspector General of the Department of Defense
15 shall conduct a comprehensive review of the compli-
16 ance of the Secretary of Defense and the Secretaries
17 of the military departments with the requirements of
18 this section during calendar year 2008. The Inspec-
19 tor General shall submit to the congressional defense
20 committees the following reports on the comprehen-
21 sive review:

22 (A) An interim report, to be submitted by
23 not later than 90 days after the date of the en-
24 actment of this Act.

1 (B) A final report, to be submitted by not
2 later than December 31, 2008.

3 (2) INSPECTOR GENERAL ACCESS.—For the
4 purpose of determining compliance with the require-
5 ments of this section, the Secretary of Defense shall
6 ensure that the Inspector General has access to all
7 Department records of relevant communications be-
8 tween Department officials and officials of other de-
9 partments and agencies of the Federal Government,
10 whether such communications occurred inside or
11 outside of the Department.

12 **SEC. 326. BID PROTESTS BY FEDERAL EMPLOYEES IN AC-**
13 **TIONS UNDER OFFICE OF MANAGEMENT AND**
14 **BUDGET CIRCULAR A-76.**

15 (a) ELIGIBILITY TO PROTEST PUBLIC-PRIVATE COM-
16 PETITIONS.—Section 3551(2) of title 31, United States
17 Code, is amended to read as follows:

18 “(2) The term ‘interested party’—

19 “(A) with respect to a contract or a solici-
20 tation or other request for offers described in
21 paragraph (1), means an actual or prospective
22 bidder or offeror whose direct economic interest
23 would be affected by the award of the contract
24 or by failure to award the contract; and

1 “(B) with respect to a public-private com-
2 petition conducted under Office of Management
3 and Budget Circular A-76 with respect to the
4 performance of an activity or function of a Fed-
5 eral agency, or a decision to convert a function
6 performed by Federal employees to private sec-
7 tor performance without a competition under
8 Office of Management and Budget Circular A-
9 76, includes—

10 “(i) any official who submitted the
11 agency tender in such competition; and

12 “(ii) any one individual who, for the
13 purpose of representing the Federal em-
14 ployees engaged in the performance of the
15 activity or function for which the public-
16 private competition is conducted in a pro-
17 test under this subchapter that relates to
18 such public-private competition, has been
19 designated as the agent of the Federal em-
20 ployees by a majority of such employees.”.

21 (b) EXPEDITED ACTION.—

22 (1) IN GENERAL.—Subchapter V of chapter 35
23 of such title is amended by adding at the end the
24 following new section:

1 **“§ 3557. Expedited action in protests of Public-Pri-**
2 **vate competitions**

3 “For any protest of a public-private competition con-
4 ducted under Office of Management and Budget Circular
5 A-76 with respect to the performance of an activity or
6 function of a Federal agency, the Comptroller General
7 shall administer the provisions of this subchapter in the
8 manner best suited for expediting the final resolution of
9 the protest and the final action in the public-private com-
10 petition.”.

11 (2) CLERICAL AMENDMENT.—The chapter anal-
12 ysis at the beginning of such chapter is amended by
13 inserting after the item relating to section 3556 the
14 following new item:

“3557. Expedited action in protests of public-private competitions.”.

15 (c) RIGHT TO INTERVENE IN CIVIL ACTION.—Sec-
16 tion 1491(b) of title 28, United States Code, is amended
17 by adding at the end the following new paragraph:

18 “(5) If an interested party who is a member of the
19 private sector commences an action described in para-
20 graph (1) with respect to a public-private competition con-
21 ducted under Office of Management and Budget Circular
22 A-76 regarding the performance of an activity or function
23 of a Federal agency, or a decision to convert a function
24 performed by Federal employees to private sector perform-
25 ance without a competition under Office of Management

1 and Budget Circular A-76, then an interested party de-
2 scribed in section 3551(2)(B) of title 31 shall be entitled
3 to intervene in that action.”.

4 (d) APPLICABILITY.—Subparagraph (B) of section
5 3551(2) of title 31, United States Code (as added by sub-
6 section (a)), and paragraph (5) of section 1491(b) of title
7 28, United States Code (as added by subsection (c)), shall
8 apply to—

9 (1) a protest or civil action that challenges final
10 selection of the source of performance of an activity
11 or function of a Federal agency that is made pursu-
12 ant to a study initiated under Office of Management
13 and Budget Circular A-76 on or after January 1,
14 2004; and

15 (2) any other protest or civil action that relates
16 to a public-private competition initiated under Office
17 of Management and Budget Circular A-76, or to a
18 decision to convert a function performed by Federal
19 employees to private sector performance without a
20 competition under Office of Management and Budg-
21 et Circular A-76, on or after the date of the enact-
22 ment of this Act.

1 **SEC. 327. PUBLIC-PRIVATE COMPETITION REQUIRED BE-**
2 **FORE CONVERSION TO CONTRACTOR PER-**
3 **FORMANCE.**

4 (a) IN GENERAL.—The Office of Federal Procure-
5 ment Policy Act (41 U.S.C. 403 et seq.) is amended by
6 adding at the end the following new section:

7 **“SEC. 43. PUBLIC-PRIVATE COMPETITION REQUIRED BE-**
8 **FORE CONVERSION TO CONTRACTOR PER-**
9 **FORMANCE.**

10 “(a) PUBLIC-PRIVATE COMPETITION.—(1) A func-
11 tion of an executive agency performed by 10 or more agen-
12 cy civilian employees may not be converted, in whole or
13 in part, to performance by a contractor unless the conver-
14 sion is based on the results of a public-private competition
15 that—

16 “(A) formally compares the cost of performance
17 of the function by agency civilian employees with the
18 cost of performance by a contractor;

19 “(B) creates an agency tender, including a most
20 efficient organization plan, in accordance with Office
21 of Management and Budget Circular A-76, as im-
22 plemented on May 29, 2003, or any successor cir-
23 cular;

24 “(C) includes the issuance of a solicitation;

25 “(D) determines whether the submitted offers
26 meet the needs of the executive agency with respect

1 to factors other than cost, including quality, reli-
2 ability, and timeliness;

3 “(E) examines the cost of performance of the
4 function by agency civilian employees and the cost of
5 performance of the function by one or more contrac-
6 tors to demonstrate whether converting to perform-
7 ance by a contractor will result in savings to the
8 Government over the life of the contract, including—

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

12 “(ii) the estimated cost to the Government
13 for performance of the function by agency civil-
14 ian employees; and

15 “(iii) an estimate of all other costs and ex-
16 penditures that the Government would incur be-
17 cause of the award of such a contract;

18 “(F) requires continued performance of the
19 function by agency civilian employees unless the dif-
20 ference in the cost of performance of the function by
21 a contractor compared to the cost of performance of
22 the function by agency civilian employees would,
23 over all performance periods required by the sollicita-
24 tion, be equal to or exceed the lesser of—

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

4 “(ii) \$10,000,000; and

5 “(G) examines the effect of performance of the
6 function by a contractor on the agency mission asso-
7 ciated with the performance of the function.

8 “(2) A function that is performed by the executive
9 agency and is reengineered, reorganized, modernized, up-
10 graded, expanded, or changed to become more efficient,
11 but still essentially provides the same service, shall not be
12 considered a new requirement.

13 “(3) In no case may a function being performed by
14 executive agency personnel be—

15 “(A) modified, reorganized, divided, or in any
16 way changed for the purpose of exempting the con-
17 version of the function from the requirements of this
18 section; or

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

21 “(b) REQUIREMENT TO CONSULT EMPLOYEES.—(1)
22 Each civilian employee of an executive agency responsible
23 for determining under Office of Management and Budget
24 Circular A-76 whether to convert to contractor perform-
25 ance any function of the executive agency—

1 “(A) shall, at least monthly during the develop-
2 ment and preparation of the performance work
3 statement and the management efficiency study used
4 in making that determination, consult with civilian
5 employees who will be affected by that determination
6 and consider the views of such employees on the de-
7 velopment and preparation of that statement and
8 that study; and

9 “(B) may consult with such employees on other
10 matters relating to that determination.

11 “(2)(A) In the case of employees represented by a
12 labor organization accorded exclusive recognition under
13 section 7111 of title 5, United States Code, consultation
14 with representatives of that labor organization shall sat-
15 isfy the consultation requirement in paragraph (1).

16 “(B) In the case of employees other than employees
17 referred to in subparagraph (A), consultation with appro-
18 priate representatives of those employees shall satisfy the
19 consultation requirement in paragraph (1).

20 “(C) The head of each executive agency shall pre-
21 scribe regulations to carry out this subsection. The regula-
22 tions shall include provisions for the selection or designa-
23 tion of appropriate representatives of employees referred
24 to in paragraph (2)(B) for purposes of consultation re-
25 quired by paragraph (1).

1 “(c) CONGRESSIONAL NOTIFICATION.—(1) Before
2 commencing a public-private competition under subsection
3 (a), the head of an executive agency shall submit to Con-
4 gress a report containing the following:

5 “(A) The function for which such public-private
6 competition is to be conducted.

7 “(B) The location at which the function is per-
8 formed by agency civilian employees.

9 “(C) The number of agency civilian employee
10 positions potentially affected.

11 “(D) The anticipated length and cost of the
12 public-private competition, and a specific identifica-
13 tion of the budgetary line item from which funds will
14 be used to cover the cost of the public-private com-
15 petition.

16 “(E) A certification that a proposed perform-
17 ance of the function by a contractor is not a result
18 of a decision by an official of an executive agency to
19 impose predetermined constraints or limitations on
20 such employees in terms of man years, end
21 strengths, full-time equivalent positions, or max-
22 imum number of employees.

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

1 “(A) agency civilian employees who would be af-
2 fected by such a conversion in performance; and

3 “(B) the local community and the Government,
4 if more than 50 agency civilian employees perform
5 the function.

6 “(3)(A) A representative individual or entity at a fa-
7 cility where a public-private competition is conducted may
8 submit to the head of the executive agency an objection
9 to the public private competition on the grounds that the
10 report required by paragraph (1) has not been submitted
11 or that the certification required by paragraph (1)(E) is
12 not included in the report submitted as a condition for
13 the public private competition. The objection shall be in
14 writing and shall be submitted within 90 days after the
15 following date:

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

21 “(ii) In the case of a failure to include the cer-
22 tification in a submitted report, the date on which
23 the report was submitted to Congress.

24 “(B) If the head of the executive agency determines
25 that the report required by paragraph (1) was not sub-

1 mitted or that the required certification was not included
2 in the submitted report, the function for which the public-
3 private competition was conducted for which the objection
4 was submitted may not be the subject of a solicitation of
5 offers for, or award of, a contract until, respectively, the
6 report is submitted or a report containing the certification
7 in full compliance with the certification requirement is
8 submitted.

9 “(d) EXEMPTION FOR THE PURCHASE OF PRODUCTS
10 AND SERVICES OF THE BLIND AND OTHER SEVERELY
11 HANDICAPPED PERSONS.—This section shall not apply to
12 a commercial or industrial type function of an executive
13 agency that—

14 “(1) is included on the procurement list estab-
15 lished pursuant to section 2 of the Javits-Wagner-
16 O’Day Act (41 U.S.C. 47); or

17 “(2) is planned to be changed to performance
18 by a qualified nonprofit agency for the blind or by
19 a qualified nonprofit agency for other severely handi-
20 capped persons in accordance with that Act.

21 “(e) INAPPLICABILITY DURING WAR OR EMER-
22 GENCY.—The provisions of this section shall not apply
23 during war or during a period of national emergency de-
24 clared by the President or Congress.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 in section 1(b) of such Act is amended by adding at the
3 end the following new item:

“Sec. 43. Public-private competition required before conversion to contractor
performance.”.

4 **SEC. 328. EXTENSION OF AUTHORITY FOR ARMY INDUS-**
5 **TRIAL FACILITIES TO ENGAGE IN COOPERA-**
6 **TIVE ACTIVITIES WITH NON-ARMY ENTITIES.**

7 (a) EXTENSION OF AUTHORITY.—Section 4544 of
8 title 10, United States Code, is amended—

9 (1) in subsection (a), by adding at the end the
10 following: “This authority may be used to enter into
11 not more than eight contracts or cooperative agree-
12 ments.”; and

13 (2) in subsection (k), by striking “2009” and
14 inserting “2014”.

15 (b) REPORTS.—

16 (1) ANNUAL REPORT ON USE OF AUTHORITY.—
17 The Secretary of the Army shall submit to Congress
18 at the same time the budget of the President is sub-
19 mitted to Congress for fiscal years 2009 through
20 2016 under section 1105 of title 31, United States
21 Code, a report on the use of the authority provided
22 under section 4544 of title 10, United States Code.

23 (2) ANALYSIS OF USE OF AUTHORITY.—Not
24 later than September 30, 2012, the Secretary of the

1 Army shall submit to the congressional defense com-
2 mittees a report assessing the advisability of making
3 such authority permanent and eliminating the limi-
4 tation on the number of contracts or cooperative ar-
5 rangements that may be entered into pursuant to
6 such authority.

7 **SEC. 329. REAUTHORIZATION AND MODIFICATION OF**
8 **MULTI-TRADES DEMONSTRATION PROJECT.**

9 (a) REAUTHORIZATION AND EXPANSION.—Section
10 338 of the National Defense Authorization Act for Fiscal
11 Year 2004 (Public Law 108–136; 10 U.S.C. 5013 note)
12 is amended—

13 (1) by striking subsection (a) and inserting the
14 following new subsection (a):

15 “(a) DEMONSTRATION PROJECT AUTHORIZED.—In
16 accordance with section 4703 of title 5, United States
17 Code, the Secretary of a military department may carry
18 out a demonstration project under which workers who are
19 certified at the journey level as able to perform multiple
20 trades may be promoted by one grade level. A demonstra-
21 tion project under this subsection may be carried out as
22 follows:

23 “(1) In the case of the Secretary of the Army,
24 at one Army depot.

1 “(2) In the case of the Secretary of the Navy,
2 at one Navy Fleet Readiness Center.

3 “(3) In the case of the Secretary of the Air
4 Force, at one Air Force Logistics Center.”;

5 (2) in subsection (b)—

6 (A) by striking “a Naval Aviation Depot”
7 and inserting “an Air Force Air Logistics Cen-
8 ter, Navy Fleet Readiness Center, or Army
9 depot”; and

10 (B) by striking “Secretary” and inserting
11 “Secretary of the military department con-
12 cerned”;

13 (3) by striking subsection (d) and redesignating
14 subsections (e) through (g) as subsections (d)
15 through (f), respectively;

16 (4) in subsection (d), as so redesignated, by
17 striking “2004 through 2006” and inserting “2008
18 through 2013”;

19 (5) in subsection (e), as so redesignated—

20 (A) by striking “2007” and inserting
21 “2014”;

22 (B) by inserting after “Secretary” the fol-
23 lowing “of each military department that car-
24 ried out a demonstration project under this sec-
25 tion”; and

1 (C) by adding at the end the following new
2 sentence: “Each such report shall include the
3 Secretary’s recommendation on whether perma-
4 nent multi-trade authority should be author-
5 ized.”; and

6 (6) in subsection (f), as so redesignated—

7 (A) in the first sentence, by striking “The
8 Secretary” and inserting “Each Secretary who
9 submits a report under subsection (e)”; and

10 (B) in the second sentence—

11 (i) by striking “receiving the report”
12 and inserting “receiving a report”; and

13 (ii) by striking “evaluation of the re-
14 port” and inserting “evaluation of that re-
15 port”.

16 (b) CLERICAL AMENDMENT.—The heading for such
17 section is amended to read as follows:

18 **“SEC. 338. MULTI-TRADES DEMONSTRATION PROJECT.”.**

19 **SEC. 330. PILOT PROGRAM FOR AVAILABILITY OF WORK-**
20 **ING-CAPITAL FUNDS TO ARMY FOR CERTAIN**
21 **PRODUCT IMPROVEMENTS.**

22 (a) IN GENERAL.—Notwithstanding section 2208 of
23 title 10, United States Code, the Secretary of the Army
24 may use a working-capital fund established pursuant to
25 that section for expenses directly related to conducting a

1 pilot program for a product improvement described in sub-
2 section (b).

3 (b) PRODUCT IMPROVEMENT.—A product improve-
4 ment covered by the pilot program is the procurement and
5 installation of a component or subsystem of a weapon sys-
6 tem platform or major end item that would improve the
7 reliability and maintainability, extend the useful life, en-
8 hance safety, lower maintenance costs, or provide perform-
9 ance enhancement of the weapon system platform or
10 major end item.

11 (c) LIMITATION ON CERTAIN PROJECTS.—Funds
12 may not be used under subsection (a) for—

13 (1) any product improvement that significantly
14 changes the performance envelope of an end item; or

15 (2) any component with an estimated total cost
16 in excess of \$1,000,000.

17 (d) LIMITATION IN FISCAL YEAR PENDING TIMELY
18 REPORT.—If during any fiscal year the report required
19 by paragraph (1) of subsection (e) is not submitted by
20 the date specified in paragraph (3) of that subsection,
21 funds may not be used under subsection (a) in such fiscal
22 year during the period—

23 (1) beginning on the date specified in para-
24 graph (3) of subsection (e); and

1 (2) ending on the date of the submittal of the
2 report under paragraph (1) of subsection (e).

3 (e) ANNUAL REPORT.—

4 (1) IN GENERAL.—Each fiscal year, the Assist-
5 ant Secretary of the Army for Acquisition, Logistics,
6 and Technology, in consultation with the Assistant
7 Secretary of the Army for Financial Management
8 and Comptroller, shall submit to the congressional
9 defense committees a report on the use of the au-
10 thority in subsection (a) during the preceding fiscal
11 year.

12 (2) RECOMMENDATION.—In the case of the re-
13 port required to be submitted under paragraph (1)
14 during fiscal year 2012, the report shall include the
15 recommendation of the Assistant Secretary of the
16 Army for Acquisition, Logistics, and Technology re-
17 garding whether the authority under subsection (a)
18 should be made permanent.

19 (3) DEADLINE FOR SUBMITTAL.—The report
20 required by paragraph (1) in a fiscal year shall be
21 submitted not later than 60 days after the date of
22 the submittal to Congress of the budget of the Presi-
23 dent for the succeeding fiscal year pursuant to sec-
24 tion 1105 of title 31, United States Code.

1 (f) SUNSET.—The authority under subsection (a)
2 shall expire on October 1, 2013.

3 **Subtitle D—Extension of Program**
4 **Authorities**

5 **SEC. 341. EXTENSION OF ARSENAL SUPPORT PROGRAM INI-**
6 **TIATIVE.**

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

10 (1) in subsection (a), by striking “2008” and
11 inserting “2010”; and

12 (2) in subsection (g)(1), by striking “2008”
13 and inserting “2010”.

14 **SEC. 342. EXTENSION OF PERIOD FOR REIMBURSEMENT**
15 **FOR HELMET PADS PURCHASED BY MEM-**
16 **BERS OF THE ARMED FORCES DEPLOYED IN**
17 **CONTINGENCY OPERATIONS.**

18 (a) EXTENSION.—Section 351 of the Ronald W.
19 Reagan National Defense Authorization Act for Fiscal
20 Year 2005 (Public Law 108–375; 118 Stat. 1857) is
21 amended—

22 (1) in subsection (a)(3), by inserting before the
23 period at the end the following: “, or in the case of
24 protective helmet pads purchased by a member from

1 a qualified vendor for that member's personal use,
2 ending on September 30, 2007”;

3 (2) in subsection (c)—

4 (A) by inserting after “Armed Forces” the
5 following: “shall comply with regular Depart-
6 ment of Defense procedures for the submission
7 of claims and”; and

8 (B) by inserting before the period at the
9 end the following: “or one year after the date
10 on which the purchase of the protective, safety,
11 or health equipment was made, whichever oc-
12 curs last”; and

13 (3) in subsection (d), by adding at the end the
14 following new sentence: “Subsection (a)(1) shall not
15 apply in the case of the purchase of protective hel-
16 met pads on behalf of a member.”.

17 (b) FUNDING.—Amounts for reimbursements made
18 under section 351 of the Ronald W. Reagan National De-
19 fense Authorization Act for Fiscal Year 2005 after the
20 date of the enactment of this Act shall be derived from
21 supplemental appropriations for the Department of De-
22 fense for fiscal year 2008, contingent upon such appro-
23 priations being enacted.

1 **SEC. 343. EXTENSION OF TEMPORARY AUTHORITY FOR**
2 **CONTRACT PERFORMANCE OF SECURITY**
3 **GUARD FUNCTIONS.**

4 (a) EXTENSION.—Subsection (c) of section 332 of
5 the Bob Stump National Defense Authorization Act for
6 Fiscal Year 2003 (Public Law 107–314) is amended by
7 striking “September 30, 2009” both places it appears and
8 inserting “September 30, 2012”.

9 (b) LIMITATION FOR FISCAL YEARS 2010 THROUGH
10 2012.—Subsection (d) of such section is amended—

11 (1) in paragraph (2), by striking “and” at the
12 end;

13 (2) in paragraph (3), by striking the period and
14 inserting a semicolon; and

15 (3) by adding at the end the following new
16 paragraphs:

17 “(4) for fiscal year 2010, the number equal to
18 70 percent of the total number of such personnel
19 employed under such contracts on October 1, 2006;

20 “(5) for fiscal year 2011, the number equal to
21 60 percent of the total number of such personnel
22 employed under such contracts on October 1, 2006;
23 and

24 “(6) for fiscal year 2012, the number equal to
25 50 percent of the total number of such personnel

1 employed under such contracts on October 1,
2 2006.”.

3 **Subtitle E—Reports**

4 **SEC. 351. REPORTS ON NATIONAL GUARD READINESS FOR** 5 **EMERGENCIES AND MAJOR DISASTERS.**

6 (a) ANNUAL REPORTS ON EQUIPMENT.—Section
7 10541(b) of title 10, United States Code, is amended by
8 adding at the end the following new paragraph:

9 “(9) An assessment of the extent to which the
10 National Guard possesses the equipment required to
11 perform the responsibilities of the National Guard
12 pursuant to sections 331, 332, 333, 12304(b), and
13 12406 of this title in response to an emergency or
14 major disaster (as such terms are defined in section
15 102 of the Robert T. Stafford Disaster Relief and
16 Emergency Assistance Act (42 U.S.C. 5122)). Such
17 assessment shall—

18 “(A) identify any shortfall in equipment
19 provided to the National Guard by the Depart-
20 ment of Defense throughout the United States
21 and the territories and possessions of the
22 United States that is likely to affect the ability
23 of the National Guard to perform such respon-
24 sibilities;

1 “(B) evaluate the effect of any such short-
2 fall on the capacity of the National Guard to
3 perform such responsibilities in response an
4 emergency or major disaster that occurs in the
5 United States or a territory or possession of the
6 United States; and

7 “(C) identify the requirements and invest-
8 ment strategies for equipment provided to the
9 National Guard by the Department of Defense
10 that are necessary to plan for a reduction or
11 elimination of any such shortfall.”.

12 (b) INCLUSION OF ASSESSMENT OF NATIONAL
13 GUARD READINESS IN QUARTERLY PERSONNEL AND
14 UNIT READINESS REPORT.—Section 482 of such title is
15 amended—

16 (1) in subsection (a), by striking “and (e)” and
17 inserting “(e), and (f)”;

18 (2) by redesignating subsection (f) as sub-
19 section (g); and

20 (3) by inserting after subsection (e) the fol-
21 lowing new subsection (f):

22 “(f) READINESS OF NATIONAL GUARD TO PERFORM
23 CIVIL SUPPORT MISSIONS.—(1) Each report shall also in-
24 clude an assessment of the readiness of the National

1 Guard to perform tasks required to support the National
2 Response Plan for support to civil authorities.

3 “(2) Any information in an assessment under this
4 subsection that is relevant to the National Guard of a par-
5 ticular State shall also be made available to the Governor
6 of that State.

7 “(3) The Secretary shall ensure that each State Gov-
8 ernor has an opportunity to provide to the Secretary an
9 independent evaluation of that State’s National Guard,
10 which the Secretary shall include with each assessment
11 submitted under this subsection.”.

12 (c) EFFECTIVE DATE.—

13 (1) ANNUAL REPORT ON NATIONAL GUARD AND
14 RESERVE COMPONENT EQUIPMENT.—The amend-
15 ment made by subsection (a) shall apply with respect
16 to reports submitted after the date of the enactment
17 of this Act.

18 (2) QUARTERLY REPORTS ON PERSONNEL AND
19 UNIT READINESS.—The amendment made by sub-
20 section (b) shall apply with respect to the quarterly
21 report required under section 482 of title 10, United
22 States Code, for the second quarter of fiscal year
23 2009 and each subsequent report required under
24 that section.

25 (d) REPORT ON IMPLEMENTATION.—

1 (1) IN GENERAL.—As part of the budget jus-
2 tification materials submitted to Congress in support
3 of the budget of the President for each of fiscal
4 years 2009 and 2010 (as submitted under section
5 1105 of title 31, United States Code), the Secretary
6 of Defense shall submit to the congressional defense
7 committees a report on actions taken by the Sec-
8 retary to implement the amendments made by this
9 section.

10 (2) ELEMENTS.—Each report required under
11 paragraph (1) shall include a description of the
12 mechanisms to be utilized by the Secretary for as-
13 sessing the personnel, equipment, and training readi-
14 ness of the National Guard, including the standards
15 and measures that will be applied and mechanisms
16 for sharing information on such matters with the
17 Governors of the States.

18 **SEC. 352. ANNUAL REPORT ON PREPOSITIONED MATERIEL**

19 **AND EQUIPMENT.**

20 (a) ANNUAL REPORT REQUIRED.—Chapter 131 of
21 title 10, United States Code, is amended by adding at the
22 end the following new section:

1 **“§ 2229a. Annual report on prepositioned materiel**
2 **and equipment**

3 “(a) ANNUAL REPORT REQUIRED.—Not later than
4 the date of the submission of the President’s budget re-
5 quest for a fiscal year under section 1105 of title 31, the
6 Secretary of Defense shall submit to the congressional de-
7 fense committees a report on the status of the materiel
8 in the prepositioned stocks as of the end of the fiscal year
9 preceding the fiscal year during which the report is sub-
10 mitted. Each report shall be unclassified and may contain
11 a classified annex. Each report shall include the following
12 information:

13 “(1) The level of fill for major end items of
14 equipment and spare parts in each prepositioned set
15 as of the end of the fiscal year covered by the report.

16 “(2) The material condition of equipment in the
17 prepositioned stocks as of the end of such fiscal
18 year, grouped by category or major end item.

19 “(3) A list of major end items of equipment
20 drawn from the prepositioned stocks during such fis-
21 cal year and a description of how that equipment
22 was used and whether it was returned to the stocks
23 after being used.

24 “(4) A timeline for completely reconstituting
25 any shortfall in the prepositioned stocks.

1 “(5) An estimate of the amount of funds re-
2 quired to completely reconstitute any shortfall in the
3 prepositioned stocks and a description of the Sec-
4 retary’s plan for carrying out such complete recon-
5 stitution.

6 “(6) A list of any operations plan affected by
7 any shortfall in the prepositioned stocks and a de-
8 scription of any action taken to mitigate any risk
9 that such a shortfall may create.

10 “(b) COMPTROLLER GENERAL REVIEW.—(1) By not
11 later than 120 days after the date on which a report is
12 submitted under subsection (a), the Comptroller General
13 shall review the report and, as the Comptroller General
14 determines appropriate, submit to the congressional de-
15 fense committees any additional information that the
16 Comptroller General determines will further inform such
17 committees on issues relating to the status of the materiel
18 in the prepositioned stocks.

19 “(2) The Secretary of Defense shall ensure the full
20 cooperation of the Department of Defense with the Comp-
21 troller General for purposes of the conduct of the review
22 required by this subsection, both before and after each re-
23 port is submitted under subsection (a). The Secretary
24 shall conduct periodic briefings for the Comptroller Gen-
25 eral on the information covered by each report required

1 under subsection (a) and provide to the Comptroller Gen-
2 eral access to the data and preliminary results to be used
3 by the Secretary in preparing each such report before the
4 Secretary submits the report to enable the Comptroller
5 General to conduct each review required under paragraph
6 (1) in a timely manner.

7 “(3) The requirement to conduct a review under this
8 subsection shall terminate on September 30, 2015.”.

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

“2229a. Annual report on repositioned materiel and equipment.”.

12 **SEC. 353. REPORT ON INCREMENTAL COST OF EARLY 2007**
13 **ENHANCED DEPLOYMENT.**

14 Section 323(b)(2) of the John Warner National De-
15 fense Authorization Act for Fiscal Year 2007 (Public Law
16 109–364; 120 Stat. 2146; 10 U.S.C. 229 note) is amend-
17 ed—

18 (1) in subparagraph (A), by striking “; and”
19 and inserting a semicolon;

20 (2) in subparagraph (B), by striking the period
21 at the end and inserting “; and”; and

22 (3) by adding at the end the following new sub-
23 paragraph:

24 “(C) each of the military departments for
25 the incremental changes in reset costs resulting

1 from the deployment and redeployment of
2 forces to Iraq and Afghanistan above the levels
3 deployed to such countries on January 1,
4 2007.”.

5 **SEC. 354. MODIFICATION OF REQUIREMENTS OF COMP-**
6 **TROLLER GENERAL REPORT ON THE READI-**
7 **NESS OF ARMY AND MARINE CORPS GROUND**
8 **FORCES.**

9 (a) SUBMITTAL DATE.—Subsection (a)(1) of section
10 345 of the John Warner National Defense Authorization
11 Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat.
12 2156) is amended by striking “June 1, 2007” and insert-
13 ing “June 1, 2008”.

14 (b) ELEMENTS.—Subsection (b) of such section is
15 amended—

16 (1) by striking paragraph (2);

17 (2) by redesignating paragraphs (3) through
18 (7) as paragraphs (4) through (8), respectively; and

19 (3) by inserting after paragraph (1) the fol-
20 lowing new paragraphs:

21 “(2) An assessment of the ability of the Army
22 and Marine Corps to provide trained and ready
23 forces to meet the requirements of increased force
24 levels in support of Operation Iraqi Freedom and
25 Operation Enduring Freedom above such force levels

1 in effect on January 1, 2007, and to meet the re-
2 quirements of other ongoing operations simulta-
3 neously with such increased force levels.

4 “(3) An assessment of the strategic depth of
5 the Army and Marine Corps and their ability to pro-
6 vide trained and ready forces to meet the require-
7 ments of the high-priority contingency war plans of
8 the regional combatant commands, including an
9 identification and evaluation for each such plan of—

10 “(A) the strategic and operational risks as-
11 sociated with current and projected forces of
12 current and projected readiness;

13 “(B) the time required to make forces
14 available and prepare them for deployment; and

15 “(C) likely strategic tradeoffs necessary to
16 meet the requirements of each such plan.”.

17 (c) DEPARTMENT OF DEFENSE COOPERATION.—

18 Such section is further amended—

19 (1) by redesignating subsection (c) as sub-
20 section (d); and

21 (2) by inserting after subsection (b) the fol-
22 lowing new subsection (c):

23 “(c) DEPARTMENT OF DEFENSE COOPERATION.—

24 The Secretary of Defense shall ensure the full cooperation
25 of the Department of Defense with the Comptroller Gen-

1 eral for purposes of the preparation of the report required
2 by this section.”.

3 **SEC. 355. PLAN TO IMPROVE READINESS OF GROUND**
4 **FORCES OF ACTIVE AND RESERVE COMPO-**
5 **NENTS.**

6 (a) REPORT REQUIRED.—At the same time that the
7 budget is submitted under section 1105(a) of title 31,
8 United States Code, for a fiscal year, the Secretary of De-
9 fense shall submit to the congressional defense committees
10 a report on improving the readiness of the ground forces
11 of active and reserve components of the Armed Forces.
12 Each such report shall include—

13 (1) a summary of the readiness of each report-
14 ing unit of the ground forces of the active and re-
15 serve components and a summary of the readiness of
16 each major combat unit of each Armed Force by
17 readiness level;

18 (2) an identification of the extent to which the
19 actual readiness ratings of the active and reserve
20 components of the Armed Forces have been up-
21 graded based on the judgment of commanders and
22 any efforts of the Secretary of Defense to analyze
23 the trends and implications of such upgrades;

24 (3) the goals of the Secretary of Defense for
25 managing the readiness of the ground forces of the

1 active and reserve components, expressed in terms of
2 the number of units or percentage of the force that
3 the Secretary plans to maintain at each level of
4 readiness, and the Secretary's projected timeframe
5 for achieving each such goal;

6 (4) a prioritized list of items and actions to be
7 accomplished during the fiscal year during which the
8 report is submitted, and during the fiscal years cov-
9 ered by the future-years defense program, that the
10 Secretary of Defense believes are necessary to sig-
11 nificantly improve the readiness of the ground forces
12 of the active and reserve components and achieve the
13 goals and timeframes described in paragraph (3);
14 and

15 (5) a detailed investment strategy and plan for
16 each fiscal year covered by the future-years defense
17 program under section 221 of title 10, United States
18 Code, that is submitted during the fiscal year in
19 which the report is submitted, that outlines the re-
20 sources required to improve the readiness of the
21 ground forces of the active and reserve components,
22 including a description of how each resource identi-
23 fied in such plan relates to funding requested by the
24 Secretary in the Secretary's annual budget, and how
25 each such resource will specifically enable the Sec-

1 retary to achieve the readiness goals described in
2 paragraph (3) within the projected timeframes.

3 (b) **COMPTROLLER GENERAL REVIEW.**—By not later
4 than 60 days after the date on which a report is submitted
5 under subsection (a), the Comptroller General shall review
6 the report and, as the Comptroller General determines ap-
7 propriate, submit to the congressional defense committees
8 any additional information that the Comptroller General
9 determines will further inform the congressional defense
10 committees on issues relating to the readiness of the
11 ground forces of the active and reserve components of the
12 Armed Forces.

13 (c) **TERMINATION.**—The requirement to submit a re-
14 port under subsection (a) shall terminate on the date the
15 Secretary of Defense submits the fifth report required
16 under that subsection.

17 **SEC. 356. INDEPENDENT ASSESSMENT OF CIVIL RESERVE**
18 **AIR FLEET VIABILITY.**

19 (a) **INDEPENDENT ASSESSMENT REQUIRED.**—The
20 Secretary of Defense shall provide for an independent as-
21 sessment of the viability of the Civil Reserve Air Fleet to
22 be conducted by a federally-funded research and develop-
23 ment center selected by the Secretary.

1 (b) CONTENTS OF ASSESSMENT.—The assessment
2 required by subsection (a) shall include each of the fol-
3 lowing:

4 (1) An assessment of the Civil Reserve Air
5 Fleet as of the date of the enactment of this Act,
6 including an assessment of—

7 (A) the level of increased use of commer-
8 cial assets to fulfill Department of Defense
9 transportation requirements as a result of the
10 increased global mobility requirements in re-
11 sponse to the terrorist attacks of September 11,
12 2001;

13 (B) the extent of charter air carrier par-
14 ticipation in fulfilling increased Department of
15 Defense transportation requirements as a result
16 of the increased global mobility requirements in
17 response to the terrorist attacks of September
18 11, 2001;

19 (C) any policy of the Secretary of Defense
20 to limit the percentage of income a single air
21 carrier participating in the Civil Reserve Air
22 Fleet may earn under contracts with the Sec-
23 retary during any calendar year and the effects
24 of such policy on the air carrier industry in
25 peacetime and during periods during which the

1 Armed Forces are deployed in support of a con-
2 tingency operation for which the Civil Reserve
3 Air Fleet is not activated; and

4 (D) any risks to the charter air carrier in-
5 dustry as a result of the expansion of the indus-
6 try in response to contingency operations result-
7 ing in increased demand by the Department of
8 Defense.

9 (2) A strategic assessment of the viability of the
10 Civil Reserve Air Fleet that compares such viability
11 as of the date of the enactment of this Act with the
12 projected viability of the Civil Reserve Air Fleet five,
13 ten, and 15 years after the date of the enactment of
14 this Act, including for activations at each of stages
15 1, 2, and 3—

16 (A) an examination of the requirements of
17 the Department of Defense for the Civil Re-
18 serve Air Fleet for the support of operational
19 and contingency plans, including any antici-
20 pated changes in the Department's organic air-
21 lift capacity, logistics concepts, and personnel
22 and training requirements;

23 (B) an assessment of air carrier participa-
24 tion in the Civil Reserve Air Fleet; and

1 (C) a comparison between the require-
2 ments of the Department described in subpara-
3 graph (A) and air carrier participation de-
4 scribed in subparagraph (B).

5 (3) An examination of any perceived barriers to
6 Civil Reserve Air Fleet viability, including—

7 (A) the operational planning system of the
8 Civil Reserve Air Fleet;

9 (B) the reward system of the Civil Reserve
10 Air Fleet;

11 (C) the long-term affordability of the Avia-
12 tion War Risk Insurance Program;

13 (D) the effect on United States air carriers
14 operating overseas routes during periods of
15 Civil Reserve Air Fleet activation;

16 (E) increased foreign ownership of United
17 States air carriers;

18 (F) increased operational costs during acti-
19 vation as a result of hazardous duty pay, rout-
20 ing delays, and inefficiencies in cargo handling
21 by the Department of Defense;

22 (G) the effect of policy initiatives by the
23 Secretary of Transportation to encourage inter-
24 national code sharing and alliances; and

1 (H) the effect of limitations imposed by
2 the Secretary of Defense to limit commercial
3 shipping options for certain routes and package
4 sizes.

5 (4) Recommendations for improving the Civil
6 Reserve Air Fleet program, including an assessment
7 of potential incentives for increasing participation in
8 the Civil Reserve Air Fleet program, including estab-
9 lishing a minimum annual purchase amount during
10 peacetime.

11 (c) SUBMISSION TO CONGRESS.—Upon the comple-
12 tion of the assessment required under subsection (a) and
13 by not later than April 1, 2008, the Secretary shall submit
14 to the congressional defense committees a report on the
15 assessment.

16 (d) COMPTROLLER GENERAL REPORT.—Not later
17 than 90 days after the report is submitted under sub-
18 section (c), the Comptroller General shall conduct a review
19 of the assessment required under subsection (a).

20 **SEC. 357. DEPARTMENT OF DEFENSE INSPECTOR GENERAL**
21 **REPORT ON PHYSICAL SECURITY OF DE-**
22 **PARTMENT OF DEFENSE INSTALLATIONS.**

23 (a) REPORT.—Not later than one year after the date
24 of the enactment of this Act, the Inspector General of the
25 Department of Defense shall submit to Congress a report

1 on the physical security of Department of Defense instal-
2 lations and resources.

3 (b) ELEMENTS.—The report required by subsection
4 (a) shall include the following:

5 (1) An analysis of the progress in implementing
6 requirements under the Physical Security Program
7 as set forth in the Department of Defense Instruc-
8 tion 5200.08–R, Chapter 2 (C.2) and Chapter 3,
9 Section 3: Installation Access (C3.3), which man-
10 dates the policies and minimum standards for the
11 physical security of Department of Defense installa-
12 tions and resources.

13 (2) Recommendations based on the findings of
14 the Comptroller General of the United States in the
15 report required by section 344 of the John Warner
16 National Defense Authorization Act for Fiscal Year
17 2007 (Public Law 109–366; 120 Stat. 2155).

18 (3) Recommendations based on the lessons
19 learned from the thwarted plot to attack Fort Dix,
20 New Jersey, in 2007.

21 **SEC. 358. REVIEW OF HIGH-ALTITUDE AVIATION TRAINING.**

22 (a) REVIEW REQUIRED.—The Secretary of the De-
23 fense shall conduct a review of the training requirements
24 of the Department of Defense for helicopter operations in
25 high-altitude or power-limited conditions.

1 (b) CONTENT.—The review required under sub-
2 section (a) shall include an examination of—

3 (1) power-management and high-altitude train-
4 ing requirements by military department, helicopter,
5 and crew position;

6 (2) training methods and locations currently
7 used by each of the military departments to fulfill
8 those training requirements;

9 (3) department or service regulations that pro-
10 hibit or inhibit joint-service or inter-service high-alti-
11 tude aviation training;

12 (4) costs for each of the previous five years as-
13 sociated with transporting aircraft to and from the
14 High-Altitude Aviation Training Site, Gypsum, Colo-
15 rado, for training purposes;

16 (5) potential risk avoidance and reductions in
17 accident rates due to power management if training
18 of the type offered at the High-Altitude Aviation
19 Training Site was required training, rather than op-
20 tional training; and

21 (6) potential cost savings and operational bene-
22 fits, if any, of permanently stationing no less than
23 4 UH-60, 2 CH-47, and 2 LUH-72 aircraft at the
24 High-Altitude Aviation Training Site, Gypsum, Colo-
25 rado.

1 (c) REPORT.—Not later than 180 days after the date
2 of the enactment of this Act, the Secretary shall submit
3 to the congressional defense committees a report on the
4 conduct and findings of the review required under sub-
5 section (a) along with a summary of changes to policy,
6 regulation, or asset allocation necessary to ensure that De-
7 partment of Defense helicopter aircrews are adequately
8 trained in high-altitude or power-limited flying conditions
9 prior to being exposed to such conditions operationally.

10 **SEC. 359. REPORTS ON SAFETY MEASURES AND ENCROACH-**
11 **MENT ISSUES AND MASTER PLAN FOR WAR-**
12 **REN GROVE GUNNERY RANGE, NEW JERSEY.**

13 (a) ANNUAL REPORT ON SAFETY MEASURES.—Not
14 later than March 1, 2008, and annually thereafter for two
15 additional years, the Secretary of the Air Force shall sub-
16 mit to the congressional defense committees a report on
17 efforts made by all of the military departments utilizing
18 the Warren Grove Gunnery Range, New Jersey, to provide
19 the highest level of safety.

20 (b) MASTER PLAN FOR WARREN GROVE GUNNERY
21 RANGE.—

22 (1) IN GENERAL.—Not later than 180 days
23 after the date of the enactment of this Act, the Sec-
24 retary of the Air Force shall submit to the congres-

1 sional defense committees a master plan for Warren
2 Grove Gunnery Range.

3 (2) CONTENT.—The master plan required
4 under paragraph (1) shall include measures to miti-
5 gate encroachment of the Warren Grove Gunnery
6 Range, taking into consideration military mission re-
7 quirements, land use plans, the surrounding commu-
8 nity, the economy of the region, and protection of
9 the environment and public health, safety, and wel-
10 fare.

11 (3) INPUT.—In establishing the master plan re-
12 quired under paragraph (1), the Secretary shall seek
13 input from relevant stakeholders at the Federal,
14 State, and local level.

15 **SEC. 360. REPORT ON SEARCH AND RESCUE CAPABILITIES**
16 **OF THE AIR FORCE IN THE NORTHWESTERN**
17 **UNITED STATES.**

18 (a) REPORT.—Not later than April 1, 2008, the Sec-
19 retary of the Air Force shall submit to the appropriate
20 congressional committees a report on the search and res-
21 cue capabilities of the Air Force in the northwestern
22 United States.

23 (b) CONTENT.—The report required under subsection
24 (a) shall include the following:

1 (1) An assessment of the search and rescue ca-
2 pabilities required to support Air Force operations
3 and training.

4 (2) A description of the compliance of the Air
5 Force with the 1999 United States National Search
6 and Rescue Plan (referred to hereinafter in this sec-
7 tion as the “NSRP”) for Washington, Oregon,
8 Idaho, and Montana.

9 (3) An inventory and description of the search
10 and rescue assets of the Air Force that are available
11 to meet the requirements of the NSRP.

12 (4) A description of the use of such search and
13 rescue assets during the three-year period preceding
14 the date when the report is submitted.

15 (5) The plans of the Air Force to meet current
16 and future search and rescue requirements in the
17 northwestern United States, including plans that
18 take into consideration requirements related to sup-
19 port for both Air Force operations and training and
20 compliance with the NSRP.

21 (6) An inventory of other search and rescue ca-
22 pabilities equivalent to such capabilities provided by
23 the Air Force that may be provided by other Fed-
24 eral, State, or local agencies in the northwestern
25 United States.

1 (c) USE OF REPORT FOR PURPOSES OF CERTIFI-
2 CATION REGARDING SEARCH AND RESCUE CAPABILI-
3 TIES.—Section 1085 of the Ronald W. Reagan National
4 Defense Authorization Act for Fiscal Year 2005 (Public
5 Law 108–375; 118 Stat. 2065; 10 U.S.C. 113 note) is
6 amended by striking “unless the Secretary first certifies”
7 and inserting “unless the Secretary, after reviewing the
8 search and rescue capabilities report prepared by the Sec-
9 retary of the Air Force under subsection (a), first cer-
10 tifies”.

11 (d) APPROPRIATE CONGRESSIONAL COMMITTEES
12 DEFINED.—In this section, the term “appropriate con-
13 gressional committees” means—

14 (1) the Committee on Armed Services, the
15 Committee on Homeland Security and Governmental
16 Affairs, the Committee on Commerce, Science, and
17 Transportation, the Committee on Energy and Nat-
18 ural Resources, and the Committee on Appropria-
19 tions of the Senate; and

20 (2) the Committee on Armed Services, the
21 Committee on Homeland Security, the Committee on
22 Energy and Commerce, the Committee on Natural
23 Resources, and the Committee on Appropriations of
24 the House of Representatives.

1 **SEC. 361. REPORT AND MASTER INFRASTRUCTURE RECAPI-**
2 **TALIZATION PLAN FOR CHEYENNE MOUN-**
3 **TAIN AIR STATION, COLORADO.**

4 (a) REPORT ON RELOCATION OF NORTH AMERICAN
5 AEROSPACE DEFENSE COMMAND CENTER.—

6 (1) IN GENERAL.—Not later than March 1,
7 2008, the Secretary of Defense shall submit to Con-
8 gress a report on the relocation of the North Amer-
9 ican Aerospace Defense Command center and re-
10 lated functions from Cheyenne Mountain Air Sta-
11 tion, Colorado, to Peterson Air Force Base, Colo-
12 rado.

13 (2) CONTENT.—The report required under
14 paragraph (1) shall include—

15 (A) an analysis comparing the total costs
16 associated with the relocation, including costs
17 determined as part of ongoing security-related
18 studies of the relocation, to anticipated oper-
19 ational benefits from the relocation;

20 (B) a detailed explanation of the backup
21 functions that will remain located at Cheyenne
22 Mountain Air Station, and how such functions
23 planned to be transferred out of Cheyenne
24 Mountain Air Station, including the Space Op-
25 erations Center, will maintain operational

1 connectivity with their related commands and
2 relevant communications centers;

3 (C) the final plans for the relocation of the
4 North American Aerospace Defense Command
5 center and related functions; and

6 (D) the findings and recommendations of
7 an independent security and vulnerability as-
8 sessment of Peterson Air Force Base carried
9 out by Sandia National Laboratory for the
10 United States Air Force Space Command and
11 the Secretary's plans for mitigating any secu-
12 rity and vulnerability risks identified as part of
13 that assessment and associated cost and sched-
14 ule estimates.

15 (b) LIMITATION ON AVAILABILITY OF FUNDS PEND-
16 ING RECEIPT OF REPORT.—Of the funds appropriated
17 pursuant to an authorization of appropriations or other-
18 wise made available for fiscal year 2008 for operation and
19 maintenance for the Air Force that are available for the
20 Cheyenne Mountain Transformation project, \$5,000,000
21 may not be obligated or expended until Congress receives
22 the report required under subsection (a).

23 (c) COMPTROLLER GENERAL REVIEW.—Not later
24 than 120 days after the date on which the Secretary of
25 Defense submits the report required under subsection (a),

1 the Comptroller General shall submit to Congress a review
2 of the report and the final plans of the Secretary for the
3 relocation of the North American Aerospace Defense Com-
4 mand center and related functions.

5 (d) MASTER INFRASTRUCTURE RECAPITALIZATION
6 PLAN.—

7 (1) IN GENERAL.—Not later than March 16,
8 2008, the Secretary of the Air Force shall submit to
9 Congress a master infrastructure recapitalization
10 plan for Cheyenne Mountain Air Station.

11 (2) CONTENT.—The plan required under para-
12 graph (1) shall include—

13 (A) a description of the projects that are
14 needed to improve the infrastructure required
15 for supporting missions associated with Chey-
16 enne Mountain Air Station; and

17 (B) a funding plan explaining the expected
18 timetable for the Air Force to support such
19 projects.

20 **Subtitle F—Other Matters**

21 **SEC. 371. ENHANCEMENT OF CORROSION CONTROL AND**
22 **PREVENTION FUNCTIONS WITHIN DEPART-**
23 **MENT OF DEFENSE.**

24 (a) OFFICE OF CORROSION POLICY AND OVER-
25 SIGHT.—

1 (1) IN GENERAL.—Section 2228 of title 10,
2 United States Code, is amended by striking the sec-
3 tion heading and subsection (a) and inserting the
4 following:

5 **“§ 2228. Office of Corrosion Policy and Oversight**

6 “(a) OFFICE AND DIRECTOR.—(1) There is an Office
7 of Corrosion Policy and Oversight within the Office of the
8 Under Secretary of Defense for Acquisition, Technology,
9 and Logistics.

10 “(2) The Office shall be headed by a Director of Cor-
11 rosion Policy and Oversight, who shall be assigned to such
12 position by the Under Secretary from among civilian em-
13 ployees of the Department of Defense with the qualifica-
14 tions described in paragraph (3). The Director is respon-
15 sible in the Department of Defense to the Secretary of
16 Defense (after the Under Secretary of Defense for Acqui-
17 sition, Technology, and Logistics) for the prevention and
18 mitigation of corrosion of the military equipment and in-
19 frastructure of the Department of Defense. The Director
20 shall report directly to the Under Secretary.

21 “(3) In order to qualify to be assigned to the position
22 of Director, an individual shall—

23 “(A) have management expertise in, and profes-
24 sional experience with, corrosion project and policy
25 implementation, including an understanding of the

1 effects of corrosion policies on infrastructure; re-
2 search, development, test, and evaluation; and main-
3 tenance; and

4 “(B) have an understanding of Department of
5 Defense budget formulation and execution, policy
6 formulation, and planning and program require-
7 ments.

8 “(4) The Secretary of Defense shall designate the po-
9 sition of Director as a critical acquisition position under
10 section 1733(b)(1)(C) of this title.”.

11 (2) CONFORMING AMENDMENTS.—Section
12 2228(b) of such title is amended—

13 (A) in paragraph (1), by striking “official
14 or organization designated under subsection
15 (a)” and inserting “Director of Corrosion Policy
16 and Oversight (in this section referred to as the
17 ‘Director’)”; and

18 (B) in paragraphs (2), (3), (4), and (5), by
19 striking “designated official or organization”
20 and inserting “Director”.

21 (b) ADDITIONAL AUTHORITY FOR DIRECTOR OF OF-
22 FICE.—Section 2228 of such title is further amended—

23 (1) by redesignating subsections (c) and (d) as
24 subsections (d) and (f), respectively; and

1 (2) by inserting after subsection (b) the fol-
2 lowing new subsection:

3 “(c) ADDITIONAL AUTHORITIES FOR DIRECTOR.—

4 The Director is authorized to—

5 “(1) develop, update, and coordinate corrosion
6 training with the Defense Acquisition University;

7 “(2) participate in the process within the De-
8 partment of Defense for the development of relevant
9 directives and instructions; and

10 “(3) interact directly with the corrosion preven-
11 tion industry, trade associations, other government
12 corrosion prevention agencies, academic research
13 and educational institutions, and scientific organiza-
14 tions engaged in corrosion prevention, including the
15 National Academy of Sciences.”.

16 (c) INCLUSION OF COOPERATIVE RESEARCH AGREE-
17 MENTS AS PART OF CORROSION REDUCTION STRAT-
18 EGY.—Subsection (d)(2)(D) of section 2228 of such title,
19 as redesignated by subsection (b), is amended by inserting
20 after “operational strategies” the following: “, including
21 through the establishment of memoranda of agreement,
22 joint funding agreements, public-private partnerships, uni-
23 versity research and education centers, and other coopera-
24 tive research agreements”.

1 (d) REPORT REQUIREMENT.—Section 2228 of such
2 title is further amended by inserting after subsection (d)
3 (as redesignated by subsection (b)) the following new sub-
4 section:

5 “(e) REPORT.—(1) For each budget for a fiscal year,
6 beginning with the budget for fiscal year 2009, the Sec-
7 retary of Defense shall submit, with the defense budget
8 materials, a report on the following:

9 “(A) Funding requirements for the long-term
10 strategy developed under subsection (d).

11 “(B) The return on investment that would be
12 achieved by implementing the strategy.

13 “(C) The funds requested in the budget com-
14 pared to the funding requirements.

15 “(D) An explanation if the funding require-
16 ments are not fully funded in the budget.

17 “(2) Within 60 days after submission of the budget
18 for a fiscal year, the Comptroller General shall provide to
19 the congressional defense committees—

20 “(A) an analysis of the budget submission for
21 corrosion control and prevention by the Department
22 of Defense; and

23 “(B) an analysis of the report required under
24 paragraph (1).”.

1 (e) DEFINITIONS.—Subsection (f) of section 2228 of
2 such title, as redesignated by subsection (b), is amended
3 by adding at the end the following new paragraphs:

4 “(4) The term ‘budget’, with respect to a fiscal
5 year, means the budget for that fiscal year that is
6 submitted to Congress by the President under sec-
7 tion 1105(a) of title 31.

8 “(5) The term ‘defense budget materials’, with
9 respect to a fiscal year, means the materials sub-
10 mitted to Congress by the Secretary of Defense in
11 support of the budget for that fiscal year.”.

12 (f) CLERICAL AMENDMENT.—The table of sections at
13 the beginning of chapter 131 of such title is amended by
14 striking the item relating to section 2228 and inserting
15 the following new item:

“2228. Office of Corrosion Policy and Oversight.”.

16 **SEC. 372. AUTHORITY FOR DEPARTMENT OF DEFENSE TO**
17 **PROVIDE SUPPORT FOR CERTAIN SPORTING**
18 **EVENTS.**

19 (a) PROVISION OF SUPPORT.—Section 2564 of title
20 10, United States Code, is amended—

21 (1) in subsection (c), by adding at the end the
22 following new paragraphs:

23 “(4) A sporting event sanctioned by the United
24 States Olympic Committee through the Paralympic
25 Military Program.

1 “(5) Any national or international paralympic
2 sporting event (other than a sporting event described
3 in paragraphs (1) through (4))—

4 “(A) that—

5 “(i) is held in the United States or
6 any of its territories or commonwealths;

7 “(ii) is governed by the International
8 Paralympic Committee; and

9 “(iii) is sanctioned by the United
10 States Olympic Committee;

11 “(B) for which participation exceeds 100
12 amateur athletes; and

13 “(C) in which at least 10 percent of the
14 athletes participating in the sporting event are
15 members or former members of the armed
16 forces who are participating in the sporting
17 event based upon an injury or wound incurred
18 in the line of duty in the armed force and vet-
19 erans who are participating in the sporting
20 event based upon a service-connected dis-
21 ability.”; and

22 (2) by adding at the end the following new sub-
23 section:

24 “(g) FUNDING FOR SUPPORT OF CERTAIN
25 EVENTS.—(1) Amounts for the provision of support for

1 a sporting event described in paragraph (4) or (5) of sub-
2 section (c) may be derived from the Support for Inter-
3 national Sporting Competitions, Defense account estab-
4 lished by section 5802 of the Omnibus Consolidated Ap-
5 propriations Act, 1997 (Public Law 104-208; 10 U.S.C.
6 2564 note), notwithstanding any limitation under that sec-
7 tion relating to the availability of funds in such account
8 for the provision of support for international sporting com-
9 petitions.

10 “(2) The total amount expended for any fiscal year
11 to provide support for sporting events described in sub-
12 section (c)(5) may not exceed \$1,000,000.”.

13 (b) SOURCE OF FUNDS.—Section 5802 of the Omni-
14 bus Consolidated Appropriations Act, 1997 (Public Law
15 104-208; 10 U.S.C. 2564 note) is amended—

16 (1) by inserting after “international sporting
17 competitions” the following: “and for support of
18 sporting competitions authorized under section
19 2564(c)(4) and (5), of title 10, United States
20 Code,”; and

21 (2) by striking “45 days” and inserting “15
22 days”.

1 **SEC. 373. AUTHORITY TO IMPOSE REASONABLE RESTRIC-**
2 **TIONS ON PAYMENT OF FULL REPLACEMENT**
3 **VALUE FOR LOST OR DAMAGED PERSONAL**
4 **PROPERTY TRANSPORTED AT GOVERNMENT**
5 **EXPENSE.**

6 Section 2636a(d) of title 10, United States Code, is
7 amended by adding at the end the following new sentence:
8 “The regulations may include a requirement that a mem-
9 ber of the armed forces or civilian employee of the Depart-
10 ment of Defense comply with reasonable restrictions or
11 conditions prescribed by the Secretary in order to receive
12 the full amount deducted under subsection (b).”.

13 **SEC. 374. PRIORITY TRANSPORTATION ON DEPARTMENT**
14 **OF DEFENSE AIRCRAFT OF RETIRED MEM-**
15 **BERS RESIDING IN COMMONWEALTHS AND**
16 **POSSESSIONS OF THE UNITED STATES FOR**
17 **CERTAIN HEALTH CARE SERVICES.**

18 (a) AVAILABILITY OF TRANSPORTATION.—Chapter
19 157 of title 10, United States Code, is amended by insert-
20 ing after section 2641a the following new section:

1 **“§ 2641b. Space-available travel on Department of De-**
2 **fense aircraft: retired members residing**
3 **in Commonwealths and possessions of**
4 **the United States for certain health care**
5 **services**

6 “(a) PRIORITY TRANSPORTATION.—The Secretary of
7 Defense shall provide transportation on Department of
8 Defense aircraft on a space-available basis for any member
9 or former member of the uniformed services described in
10 subsection (b), and a single dependent of the member if
11 needed to accompany the member, at a priority level in
12 the same category as the priority level for an unaccom-
13 panied dependent over the age of 18 traveling on environ-
14 mental and morale leave.

15 “(b) ELIGIBLE MEMBERS AND FORMER MEM-
16 BERS.—A member or former member eligible for priority
17 transport under subsection (a) is a covered beneficiary
18 under chapter 55 of this title who—

19 “(1) is entitled to retired or retainer pay;

20 “(2) resides in or is located in a Commonwealth
21 or possession of the United States; and

22 “(3) is referred by a military or civilian primary
23 care provider located in that Commonwealth or pos-
24 session to a specialty care provider for services to be
25 provided outside of that Commonwealth or posses-
26 sion.

1 “(c) SCOPE OF PRIORITY.—The increased priority for
2 space-available transportation required by subsection (a)
3 applies with respect to both—

4 “(1) the travel from the Commonwealth or pos-
5 session of the United States to receive the specialty
6 care services; and

7 “(2) the return travel.

8 “(d) DEFINITIONS.—In this section, the terms ‘pri-
9 mary care provider’ and ‘specialty care provider’ refer to
10 a medical or dental professional who provides health care
11 services under chapter 55 of this title.

12 “(e) REGULATIONS.—The Secretary of Defense shall
13 prescribe regulations to implement this section.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 at the beginning of such chapter is amended by inserting
16 after the item relating to section 2641a the following new
17 item:

“2641b. Space-available travel on Department of Defense aircraft: retired mem-
bers residing in Commonwealths and possessions of the United
States for certain health care services.”.

18 **SEC. 375. RECOVERY OF MISSING MILITARY PROPERTY.**

19 (a) IN GENERAL.—Chapter 165 of title 10, United
20 States Code, is amended by adding at the end the fol-
21 lowing new sections:

22 **“§ 2788. Property accountability: regulations**

23 “The Secretary of a military department may pre-
24 scribe regulations for the accounting for the property of

1 that department and the fixing of responsibility for that
2 property.

3 **“§ 2789. Individual equipment: unauthorized disposi-**
4 **tion**

5 “(a) PROHIBITION.—No member of the armed forces
6 may sell, lend, pledge, barter, or give any clothing, arms,
7 or equipment furnished to such member by the United
8 States to any person other than a member of the armed
9 forces or an officer of the United States who is authorized
10 to receive it.

11 “(b) SEIZURE OF IMPROPERLY DISPOSED PROP-
12 erty.—If a member of the armed forces has disposed of
13 property in violation of subsection (a) and the property
14 is in the possession of a person who is neither a member
15 of the armed forces nor an officer of the United States
16 who is authorized to receive it, that person has no right
17 to or interest in the property, and any civil or military
18 officer of the United States may seize the property, wher-
19 ever found, subject to applicable regulations. Possession
20 of such property furnished by the United States to a mem-
21 ber of the armed forces by a person who is neither a mem-
22 ber of the armed forces, nor an officer of the United
23 States, is prima facie evidence that the property has been
24 disposed of in violation of subsection (a).

1 “(c) DELIVERY OF SEIZED PROPERTY.—If an officer
2 who seizes property under subsection (b) is not authorized
3 to retain it for the United States, the officer shall deliver
4 the property to a person who is authorized to retain it.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 at the beginning of such chapter is amended by adding
7 at the end the following new items:

“2788. Property accountability: regulations.

“2789. Individual equipment: unauthorized disposition.”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) IN GENERAL.—Such title is further amend-
10 ed by striking the following sections:

11 (A) Section 4832.

12 (B) Section 4836.

13 (C) Section 9832.

14 (D) Section 9836.

15 (2) CLERICAL AMENDMENTS.—

16 (A) CHAPTER 453.—The table of sections
17 at the beginning of chapter 453 of such title is
18 amended by striking the items relating to sec-
19 tions 4832 and 4836.

20 (B) CHAPTER 953.—The table of sections
21 at the beginning of chapter 953 of such title is
22 amended by striking the items relating to sec-
23 tions 9832 and 9836.

1 **SEC. 376. RETENTION OF COMBAT UNIFORMS BY MEMBERS**
2 **OF THE ARMED FORCES DEPLOYED IN SUP-**
3 **PORT OF CONTINGENCY OPERATIONS.**

4 (a) **RETENTION OF COMBAT UNIFORMS.**—Chapter
5 152 of title 10, United States Code, is amended by adding
6 at the end the following new section:

7 **“§ 2568. Retention of combat uniforms by members**
8 **deployed in support of contingency oper-**
9 **ations**

10 “The Secretary of a military department may author-
11 ize a member of the armed forces under the jurisdiction
12 of the Secretary who has been deployed in support of a
13 contingency operation for at least 30 days to retain, after
14 that member is no longer so deployed, the combat uniform
15 issued to that member as organizational clothing and indi-
16 vidual equipment.”.

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

“2568. Retention of combat uniforms by members deployed in support of contin-
gency operations.”.

20 **SEC. 377. ISSUE OF SERVICEABLE MATERIAL OF THE NAVY**
21 **OTHER THAN TO ARMED FORCES.**

22 (a) **IN GENERAL.**—Part IV of subtitle C of title 10,
23 United States Code, is amended by adding at the end the
24 following new chapter:

1 **“CHAPTER 667—ISSUE OF SERVICEABLE**
2 **MATERIAL OTHER THAN TO ARMED**
3 **FORCES**

“Sec.

“7911. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.

“7912. Rifles and ammunition for target practice: educational institutions having corps of midshipmen.

“7913. Supplies: military instruction camps.

4 **“§ 7911. Arms, tentage, and equipment: educational**
5 **institutions not maintaining units of**
6 **R.O.T.C.**

7 “Under such conditions as he may prescribe, the Sec-
8 retary of the Navy may issue arms, tentage, and equip-
9 ment that the Secretary considers necessary for proper
10 military training, to any educational institution at which
11 no unit of the Reserve Officers’ Training Corps is main-
12 tained, but which has a course in military training pre-
13 scribed by the Secretary and which has at least 50 phys-
14 ically fit students over 14 years of age.

15 **“§ 7912. Rifles and ammunition for target practice:**
16 **educational institutions having corps of**
17 **midshipmen**

18 “(a) AUTHORITY TO LEND.—The Secretary of the
19 Navy may lend, without expense to the United States,
20 magazine rifles and appendages that are not of the exist-
21 ing service models in use at the time and that are not
22 necessary for a proper reserve supply, to any educational

1 institution having a uniformed corps of midshipmen of
2 sufficient number for target practice. The Secretary may
3 also issue 40 rounds of ball cartridges for each mid-
4 shipman for each range at which target practice is held,
5 but not more than 120 rounds each year for each mid-
6 shipman participating in target practice.

7 “(b) RESPONSIBILITIES OF INSTITUTIONS.—The in-
8 stitutions to which property is lent under subsection (a)
9 shall—

10 “(1) use the property for target practice;

11 “(2) take proper care of the property; and

12 “(3) return the property when required.

13 “(c) REGULATIONS.—The Secretary of the Navy
14 shall prescribe regulations to carry out this section, con-
15 taining such other requirements as he considers necessary
16 to safeguard the interests of the United States.

17 **“§ 7913. Supplies: military instruction camps**

18 “Under such conditions as he may prescribe, the Sec-
19 retary of the Navy may issue, to any educational institu-
20 tion at which an officer of the naval service is detailed
21 as professor of naval science, such supplies as are nec-
22 essary to establish and maintain a camp for the military
23 instruction of its students. The Secretary shall require a
24 bond in the value of the property issued under this section,
25 for the care and safekeeping of that property and except

1 for property properly expended, for its return when re-
2 quired.”.

3 (b) CLERICAL AMENDMENT.—The table of chapters
4 at the beginning of subtitle C of such title, and the table
5 of chapters at the beginning of part IV of such subtitle,
6 are each amended by inserting after the item relating to
7 chapter 665 the following new item:

“667. Issue of serviceable material other than to Armed Forces 7911.”.

8 **SEC. 378. REAUTHORIZATION OF AVIATION INSURANCE**
9 **PROGRAM.**

10 Section 44310 of title 49, United States Code, is
11 amended by striking “March 30, 2008” and inserting
12 “December 31, 2013”.

13 **TITLE IV—MILITARY**
14 **PERSONNEL AUTHORIZATIONS**

Subtitle A—Active Forces

- Sec. 401. End strengths for active forces.
- Sec. 402. Revision in permanent active duty end strength minimum levels.
- Sec. 403. Additional authority for increases of Army and Marine Corps active duty end strengths for fiscal years 2009 and 2010.
- Sec. 404. Increase in authorized strengths for Army officers on active duty in the grade of major.
- Sec. 405. Increase in authorized strengths for Navy officers on active duty in the grades of lieutenant commander, commander, and captain.
- Sec. 406. Increase in authorized daily average of number of members in pay grade E-9.

Subtitle B—Reserve Forces

- Sec. 411. End strengths for Selected Reserve.
- Sec. 412. End strengths for Reserves on active duty in support of the Reserves.
- Sec. 413. End strengths for military technicians (dual status).
- Sec. 414. Fiscal year 2008 limitation on number of non-dual status technicians.
- Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

Sec. 416. Future authorizations and accounting for certain reserve component personnel authorized to be on active duty or full-time National Guard duty to provide operational support.

Sec. 417. Revision of variances authorized for Selected Reserve end strengths.

Subtitle C—Authorization of Appropriations

Sec. 421. Military personnel.

1 **Subtitle A—Active Forces**

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

3 (a) IN GENERAL.—The Armed Forces are authorized
4 strengths for active duty personnel as of September 30,
5 2008, as follows:

6 (1) The Army, 525,400.

7 (2) The Navy, 329,098.

8 (3) The Marine Corps, 189,000.

9 (4) The Air Force, 329,563.

10 (b) LIMITATION.—

11 (1) ARMY.—The authorized strength for the
12 Army provided in paragraph (1) of subsection (a)
13 for active duty personnel for fiscal year 2008 is sub-
14 ject to the condition that costs of active duty per-
15 sonnel of the Army for that fiscal year in excess of
16 489,400 shall be paid out of funds authorized to be
17 appropriated for that fiscal year by section 1514.

18 (2) MARINE CORPS.—The authorized strength
19 for the Marine Corps provided in paragraph (3) of
20 subsection (a) for active duty personnel for fiscal
21 year 2008 is subject to the condition that costs of
22 active duty personnel of the Marine Corps for that

1 fiscal year in excess of 180,000 shall be paid out of
2 funds authorized to be appropriated for that fiscal
3 year by section 1514.

4 **SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END**
5 **STRENGTH MINIMUM LEVELS.**

6 Section 691(b) of title 10, United States Code, is
7 amended by striking paragraphs (1) through (4) and in-
8 serting the following new paragraphs:

9 “(1) For the Army, 525,400.

10 “(2) For the Navy, 328,400.

11 “(3) For the Marine Corps, 189,000.

12 “(4) For the Air Force, 328,600.”.

13 **SEC. 403. ADDITIONAL AUTHORITY FOR INCREASES OF**
14 **ARMY AND MARINE CORPS ACTIVE DUTY END**
15 **STRENGTHS FOR FISCAL YEARS 2009 AND**
16 **2010.**

17 (a) **AUTHORITY TO INCREASE ARMY ACTIVE DUTY**
18 **END STRENGTHS.**—For each of fiscal years 2009 and
19 2010, the Secretary of Defense may, as the Secretary de-
20 termines necessary for the purposes described in sub-
21 section (c), establish the active-duty end strength for the
22 Army at a number greater than the number otherwise au-
23 thorized by law up to the number equal to the fiscal-year
24 2008 baseline plus 22,000.

1 (b) MARINE CORPS.—For each of fiscal years 2009
2 and 2010, the Secretary of Defense may, as the Secretary
3 determines necessary for the purposes described in sub-
4 section (c), establish the active-duty end strength for the
5 Marine Corps at a number greater than the number other-
6 wise authorized by law up to the number equal to the fis-
7 cal-year 2008 baseline plus 13,000.

8 (c) PURPOSE OF INCREASES.—The purposes for
9 which increases may be made in Army and Marine Corps
10 active duty end strengths under this section are—

- 11 (1) to support operational missions; and
12 (2) to achieve transformational reorganization
13 objectives, including objectives for increased num-
14 bers of combat brigades and battalions, increased
15 unit manning, force stabilization and shaping, and
16 rebalancing of the active and reserve component
17 forces.

18 (d) RELATIONSHIP TO PRESIDENTIAL WAIVER AU-
19 THORITY.—Nothing in this section shall be construed to
20 limit the President's authority under section 123a of title
21 10, United States Code, to waive any statutory end
22 strength in a time of war or national emergency.

23 (e) RELATIONSHIP TO OTHER VARIANCE AUTHOR-
24 ITY.—The authority under this section is in addition to
25 the authority to vary authorized end strengths that is pro-

1 vided in subsections (e) and (f) of section 115 of title 10,
2 United States Code.

3 (f) BUDGET TREATMENT.—

4 (1) FISCAL YEARS 2009 AND 2010 BUDGETS.—

5 The budget for the Department of Defense for fiscal
6 years 2009 and 2010 as submitted to Congress shall
7 comply, with respect to funding, with subsections (c)
8 and (d) of section 691 of title 10, United States
9 Code.

10 (2) OTHER INCREASES.—If the Secretary of
11 Defense plans to increase the Army or Marine Corps
12 active duty end strength for a fiscal year under this
13 section, then the budget for the Department of De-
14 fense for that fiscal year as submitted to Congress
15 shall include the amounts necessary for funding that
16 active duty end strength in excess of the fiscal year
17 2008 active duty end strength authorized for that
18 service under section 401.

19 (g) DEFINITIONS.—In this section:

20 (1) FISCAL-YEAR 2008 BASELINE.—The term
21 “fiscal-year 2008 baseline”, with respect to the
22 Army and Marine Corps, means the active-duty end
23 strength authorized for those services in section 401.

24 (2) ACTIVE-DUTY END STRENGTH.—In this
25 subsection, the term “active-duty end strength”

1 means the strength for active-duty personnel of one
 2 of the Armed Forces as of the last day of a fiscal
 3 year.

4 (h) REPEAL OF OTHER DISCRETIONARY AUTHORITY
 5 TO TEMPORARILY INCREASE ARMY AND MARINE CORPS
 6 ACTIVE DUTY END STRENGTHS.—Section 403 of the
 7 Ronald W. Reagan National Defense Authorization Act
 8 for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C.
 9 115 note), as amended by section 403 of the John Warner
 10 National Defense Authorization Act for Fiscal Year 2007
 11 (Public Law 109–364; 120 Stat. 2169), is repealed.

12 **SEC. 404. INCREASE IN AUTHORIZED STRENGTHS FOR**
 13 **ARMY OFFICERS ON ACTIVE DUTY IN THE**
 14 **GRADE OF MAJOR.**

15 The portion of the table in section 523(a)(1) of title
 16 10, United States Code, relating to the Army is amended
 17 to read as follows:

“Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in grade of:		
	Major	Lieutenant Colonel	Colonel
Army:			
20,000	7,768	5,253	1,613
25,000	8,689	5,642	1,796
30,000	9,611	6,030	1,980
35,000	10,532	6,419	2,163
40,000	11,454	6,807	2,347
45,000	12,375	7,196	2,530
50,000	13,297	7,584	2,713
55,000	14,218	7,973	2,897
60,000	15,140	8,361	3,080
65,000	16,061	8,750	3,264
70,000	16,983	9,138	3,447

“Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in grade of:		
	Major	Lieutenant Colonel	Colonel
75,000	17,903	9,527	3,631
80,000	18,825	9,915	3,814
85,000	19,746	10,304	3,997
90,000	20,668	10,692	4,181
95,000	21,589	11,081	4,364
100,000	22,511	11,469	4,548
110,000	24,354	12,246	4,915
120,000	26,197	13,023	5,281
130,000	28,040	13,800	5,648
170,000	35,412	16,908	7,116”.

1 **SEC. 405. INCREASE IN AUTHORIZED STRENGTHS FOR**
2 **NAVY OFFICERS ON ACTIVE DUTY IN THE**
3 **GRADES OF LIEUTENANT COMMANDER, COM-**
4 **MANDER, AND CAPTAIN.**

5 The table in section 523(a)(2) of title 10, United
6 States Code, is amended to read as follows:

“Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in grade of:		
	Lieutenant Commander	Commander	Captain
Navy:			
30,000	7,698	5,269	2,222
33,000	8,189	5,501	2,334
36,000	8,680	5,733	2,447
39,000	9,172	5,965	2,559
42,000	9,663	6,197	2,671
45,000	10,155	6,429	2,784
48,000	10,646	6,660	2,896
51,000	11,136	6,889	3,007
54,000	11,628	7,121	3,120
57,000	12,118	7,352	3,232
60,000	12,609	7,583	3,344
63,000	13,100	7,813	3,457
66,000	13,591	8,044	3,568
70,000	14,245	8,352	3,718
90,000	17,517	9,890	4,467”.

1 **SEC. 406. INCREASE IN AUTHORIZED DAILY AVERAGE OF**
2 **NUMBER OF MEMBERS IN PAY GRADE E-9.**

3 Section 517(a) of title 10, United States Code, is
4 amended by striking “1 percent” and inserting “1.25 per-
5 cent”.

6 **Subtitle B—Reserve Forces**

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

8 (a) IN GENERAL.—The Armed Forces are authorized
9 strengths for Selected Reserve personnel of the reserve
10 components as of September 30, 2008, as follows:

11 (1) The Army National Guard of the United
12 States, 351,300.

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

14 (3) The Navy Reserve, 67,800.

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

16 (5) The Air National Guard of the United
17 States, 106,700.

18 (6) The Air Force Reserve, 67,500.

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

20 (b) END STRENGTH REDUCTIONS.—The end
21 strengths prescribed by subsection (a) for the Selected Re-
22 serve of any reserve component shall be proportionately
23 reduced by—

24 (1) the total authorized strength of units orga-
25 nized to serve as units of the Selected Reserve of

1 such component which are on active duty (other
2 than for training) at the end of the fiscal year; and

3 (2) the total number of individual members not
4 in units organized to serve as units of the Selected
5 Reserve of such component who are on active duty
6 (other than for training or for unsatisfactory partici-
7 pation in training) without their consent at the end
8 of the fiscal year.

9 (c) **END STRENGTH INCREASES.**—Whenever units or
10 individual members of the Selected Reserve of any reserve
11 component are released from active duty during any fiscal
12 year, the end strength prescribed for such fiscal year for
13 the Selected Reserve of such reserve component shall be
14 increased proportionately by the total authorized strengths
15 of such units and by the total number of such individual
16 members.

17 **SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE**
18 **DUTY IN SUPPORT OF THE RESERVES.**

19 Within the end strengths prescribed in section
20 411(a), the reserve components of the Armed Forces are
21 authorized, as of September 30, 2008, the following num-
22 ber of Reserves to be serving on full-time active duty or
23 full-time duty, in the case of members of the National
24 Guard, for the purpose of organizing, administering, re-
25 cruiting, instructing, or training the reserve components:

1 (1) The Army National Guard of the United
2 States, 29,204.

3 (2) The Army Reserve, 15,870.

4 (3) The Navy Reserve, 11,579.

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

6 (5) The Air National Guard of the United
7 States, 13,936.

8 (6) The Air Force Reserve, 2,721.

9 **SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS**

10 **(DUAL STATUS).**

11 The minimum number of military technicians (dual
12 status) as of the last day of fiscal year 2008 for the re-
13 serve components of the Army and the Air Force (notwith-
14 standing section 129 of title 10, United States Code) shall
15 be the following:

16 (1) For the Army Reserve, 8,249.

17 (2) For the Army National Guard of the United
18 States, 26,502.

19 (3) For the Air Force Reserve, 9,909.

20 (4) For the Air National Guard of the United
21 States, 22,553.

22 **SEC. 414. FISCAL YEAR 2008 LIMITATION ON NUMBER OF**
23 **NON-DUAL STATUS TECHNICIANS.**

24 (a) LIMITATIONS.—

1 (1) NATIONAL GUARD.—Within the limitation
2 provided in section 10217(c)(2) of title 10, United
3 States Code, the number of non-dual status techni-
4 cians employed by the National Guard as of Sep-
5 tember 30, 2008, may not exceed the following:

6 (A) For the Army National Guard of the
7 United States, 1,600.

8 (B) For the Air National Guard of the
9 United States, 350.

10 (2) ARMY RESERVE.—The number of non-dual
11 status technicians employed by the Army Reserve as
12 of September 30, 2008, may not exceed 595.

13 (3) AIR FORCE RESERVE.—The number of non-
14 dual status technicians employed by the Air Force
15 Reserve as of September 30, 2008, may not exceed
16 90.

17 (b) NON-DUAL STATUS TECHNICIANS DEFINED.—In
18 this section, the term “non-dual status technician” has the
19 meaning given that term in section 10217(a) of title 10,
20 United States Code.

21 **SEC. 415. MAXIMUM NUMBER OF RESERVE PERSONNEL AU-**
22 **THORIZED TO BE ON ACTIVE DUTY FOR**
23 **OPERATIONAL SUPPORT.**

24 During fiscal year 2008, the maximum number of
25 members of the reserve components of the Armed Forces

1 who may be serving at any time on full-time operational
2 support duty under section 115(b) of title 10, United
3 States Code, is the following:

4 (1) The Army National Guard of the United
5 States, 17,000.

6 (2) The Army Reserve, 13,000.

7 (3) The Navy Reserve, 6,200.

8 (4) The Marine Corps Reserve, 3,000.

9 (5) The Air National Guard of the United
10 States, 16,000.

11 (6) The Air Force Reserve, 14,000.

12 **SEC. 416. FUTURE AUTHORIZATIONS AND ACCOUNTING**
13 **FOR CERTAIN RESERVE COMPONENT PER-**
14 **SONNEL AUTHORIZED TO BE ON ACTIVE**
15 **DUTY OR FULL-TIME NATIONAL GUARD DUTY**
16 **TO PROVIDE OPERATIONAL SUPPORT.**

17 (a) REVIEW OF OPERATIONAL SUPPORT MISSIONS
18 PERFORMED BY CERTAIN RESERVE COMPONENT PER-
19 SONNEL.—

20 (1) REVIEW REQUIRED.—The Secretary of De-
21 fense shall conduct a review of the long-term oper-
22 ational support missions performed by members of
23 the reserve components authorized under section
24 115(b) of title 10, United States Code, to be on ac-
25 tive duty or full-time National Guard duty for the

1 purpose of providing operational support, with the
2 objectives of such review being—

3 (A) minimizing the number of reserve com-
4 ponent members who perform such service for
5 a period greater than 1,095 consecutive days,
6 or cumulatively for 1,095 days out of the pre-
7 vious 1,460 days; and

8 (B) determining which long-term oper-
9 ational support missions being performed by
10 such members would more appropriately be per-
11 formed by members of the Armed Forces on ac-
12 tive duty under other provisions of title 10,
13 United States Code, or by full-time support per-
14 sonnel of reserve components.

15 (2) SUBMISSION OF RESULTS.—Not later than
16 March 1, 2008, the Secretary shall submit to Con-
17 gress the results of the review, including a descrip-
18 tion of the adjustments in Department of Defense
19 policy to be implemented as a result of the review
20 and such recommendations for changes in statute, as
21 the Secretary considers to be appropriate.

22 (b) IMPROVED ACCOUNTING FOR RESERVE COMPO-
23 NENT PERSONNEL PROVIDING OPERATIONAL SUP-
24 PORT.—Section 115(b) of title 10, United States Code, is

1 amended by adding at the end the following new para-
2 graph:

3 “(4) As part of the budget justification materials sub-
4 mitted by the Secretary of Defense to Congress in support
5 of the end strength authorizations required under sub-
6 paragraphs (A) and (B) of subsection (a)(1) for fiscal year
7 2009 and each fiscal year thereafter, the Secretary shall
8 provide the following:

9 “(A) The number of members, specified by re-
10 serve component, authorized under subparagraphs
11 (A) and (B) of paragraph (1) who were serving on
12 active duty or full-time National Guard duty for
13 operational support beyond each of the limits speci-
14 fied under subparagraphs (A) and (B) of paragraph
15 (2) at the end of the fiscal year preceding the fiscal
16 year for which the budget justification materials are
17 submitted.

18 “(B) The number of members, specified by re-
19 serve component, on active duty for operational sup-
20 port who, at the end of the fiscal year for which the
21 budget justification materials are submitted, are
22 projected to be serving on active duty or full-time
23 National Guard duty for operational support beyond
24 such limits.

1 “(C) The number of members, specified by re-
2 serve component, on active duty or full-time Na-
3 tional Guard duty for operational support who are
4 included in, and counted against, the end strength
5 authorizations requested under subparagraphs (A)
6 and (B) of subsection (a)(1).

7 “(D) A summary of the missions being per-
8 formed by members identified under subparagraphs
9 (A) and (B).”.

10 **SEC. 417. REVISION OF VARIANCES AUTHORIZED FOR SE-**
11 **LECTED RESERVE END STRENGTHS.**

12 Section 115(f)(3) of title 10, United States Code, is
13 amended by striking “2 percent” and inserting “3 per-
14 cent”.

15 **Subtitle C—Authorization of**
16 **Appropriations**

17 **SEC. 421. MILITARY PERSONNEL.**

18 There is hereby authorized to be appropriated to the
19 Department of Defense for military personnel for fiscal
20 year 2008 a total of \$117,091,420,000. The authorization
21 in the preceding sentence supersedes any other authoriza-
22 tion of appropriations (definite or indefinite) for such pur-
23 pose for fiscal year 2008.

1 **TITLE V—MILITARY PERSONNEL**
2 **POLICY**

Subtitle A—Officer Personnel Policy

- Sec. 501. Assignment of officers to designated positions of importance and responsibility.
- Sec. 502. Enhanced authority for Reserve general and flag officers to serve on active duty.
- Sec. 503. Increase in years of commissioned service threshold for discharge of probationary officers and for use of force shaping authority.
- Sec. 504. Mandatory retirement age for active-duty general and flag officers continued on active duty.
- Sec. 505. Authority for reduced mandatory service obligation for initial appointments of officers in critically short health professional specialties.
- Sec. 506. Expansion of authority for reenlistment of officers in their former enlisted grade.
- Sec. 507. Increase in authorized number of permanent professors at the United States Military Academy.
- Sec. 508. Promotion of career military professors of the Navy.

Subtitle B—Reserve Component Management

- Sec. 511. Retention of military technicians who lose dual status in the Selected Reserve due to combat-related disability.
- Sec. 512. Constructive service credit upon original appointment of Reserve officers in certain health care professions.
- Sec. 513. Mandatory separation of Reserve officers in the grade of lieutenant general or vice admiral after completion of 38 years of commissioned service.
- Sec. 514. Maximum period of temporary Federal recognition of person as Army National Guard officer or Air National Guard officer.
- Sec. 515. Advance notice to members of reserve components of deployment in support of contingency operations.
- Sec. 516. Report on relief from professional licensure and certification requirements for reserve component members on long-term active duty.

Subtitle C—Education and Training

- Sec. 521. Revisions to authority to pay tuition for off-duty training or education.
- Sec. 522. Reduction or elimination of service obligation in an Army Reserve or Army National Guard troop program unit for certain persons selected as medical students at Uniformed Services University of the Health Sciences.
- Sec. 523. Repeal of annual limit on number of ROTC scholarships under Army Reserve and Army National Guard financial assistance program.
- Sec. 524. Treatment of prior active service of members in uniformed medical accession programs.

- Sec. 525. Repeal of post-2007–2008 academic year prohibition on phased increase in cadet strength limit at the United States Military Academy.
- Sec. 526. National Defense University master's degree programs.
- Sec. 527. Authority of the Air University to confer degree of master of science in flight test engineering.
- Sec. 528. Enhancement of education benefits for certain members of reserve components.
- Sec. 529. Extension of period of entitlement to educational assistance for certain members of the Selected Reserve affected by force shaping initiatives.
- Sec. 530. Time limit for use of educational assistance benefit for certain members of reserve components and resumption of benefit.
- Sec. 531. Secretary of Defense evaluation of the adequacy of the degree-granting authorities of certain military universities and educational institutions.
- Sec. 532. Report on success of Army National Guard and Reserve Senior Reserve Officers' Training Corps financial assistance program.
- Sec. 533. Report on utilization of tuition assistance by members of the Armed Forces.
- Sec. 534. Navy Junior Reserve Officers' Training Corps unit for Southold, Mattituck, and Greenport High Schools.
- Sec. 535. Report on transfer of administration of certain educational assistance programs for members of the reserve components.

Subtitle D—Military Justice and Legal Assistance Matters

- Sec. 541. Authority to designate civilian employees of the Federal Government and dependents of deceased members as eligible for legal assistance from Department of Defense legal staff resources.
- Sec. 542. Authority of judges of the United States Court of Appeals for the Armed Forces to administer oaths.
- Sec. 543. Modification of authorities on senior members of the Judge Advocate Generals' Corps.
- Sec. 544. Prohibition against members of the Armed Forces participating in criminal street gangs.

Subtitle E—Military Leave

- Sec. 551. Temporary enhancement of carryover of accumulated leave for members of the Armed Forces.
- Sec. 552. Enhancement of rest and recuperation leave.

Subtitle F—Decorations and Awards

- Sec. 561. Authorization and request for award of Medal of Honor to Leslie H. Sabo, Jr., for acts of valor during the Vietnam War.
- Sec. 562. Authorization and request for award of Medal of Honor to Henry Svehla for acts of valor during the Korean War.
- Sec. 563. Authorization and request for award of Medal of Honor to Woodrow W. Keeble for acts of valor during the Korean War.
- Sec. 564. Authorization and request for award of Medal of Honor to Private Philip G. Shadraeh for acts of valor as one of Andrews' Raiders during the Civil War.

176

- Sec. 565. Authorization and request for award of Medal of Honor to Private George D. Wilson for acts of valor as one of Andrews' Raiders during the Civil War.

Subtitle G—Impact Aid and Defense Dependents Education System

- Sec. 571. Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 572. Impact aid for children with severe disabilities.
- Sec. 573. Inclusion of dependents of non-department of Defense employees employed on Federal property in plan relating to force structure changes, relocation of military units, or base closures and realignments.
- Sec. 574. Payment of private boarding school tuition for military dependents in overseas areas not served by defense dependents' education system schools.

Subtitle H—Military Families

- Sec. 581. Department of Defense Military Family Readiness Council and policy and plans for military family readiness.
- Sec. 582. Yellow Ribbon Reintegration Program.
- Sec. 583. Study to enhance and improve support services and programs for families of members of regular and reserve components undergoing deployment.
- Sec. 584. Protection of child custody arrangements for parents who are members of the Armed Forces deployed in support of a contingency operation.
- Sec. 585. Family leave in connection with injured members of the Armed Forces.
- Sec. 586. Family care plans and deferment of deployment of single parent or dual military couples with minor dependents.
- Sec. 587. Education and treatment services for military dependent children with autism.
- Sec. 588. Commendation of efforts of Project Compassion in paying tribute to members of the Armed Forces who have fallen in the service of the United States.

Subtitle I—Other Matters

- Sec. 590. Uniform performance policies for military bands and other musical units.
- Sec. 591. Transportation of remains of deceased members of the Armed Forces and certain other persons.
- Sec. 592. Expansion of number of academies supportable in any State under STARBASE program.
- Sec. 593. Gift acceptance authority.
- Sec. 594. Conduct by members of the Armed Forces and veterans out of uniform during hoisting, lowering, or passing of United States flag.
- Sec. 595. Annual report on cases reviewed by National Committee for Employer Support of the Guard and Reserve.
- Sec. 596. Modification of Certificate of Release or Discharge from Active Duty (DD Form 214).

1 by law to carry one of those grades, in which case
2 paragraph (2) will also apply to the officer; and”.

3 (b) CONFORMING AMENDMENT REGARDING GEN-
4 ERAL AND FLAG OFFICER CEILINGS.—Section 525(e) of
5 such title is amended by striking paragraph (2) and insert-
6 ing the following new paragraph:

7 “(2) At the discretion of the Secretary of De-
8 fense, an officer of that armed force who has been
9 relieved from a position designated under section
10 601(a) of this title or by law to carry one of the
11 grades specified in such section, but only during the
12 60-day period beginning on the date on which the
13 assignment of the officer to the first position is ter-
14 minated or until the officer is assigned to a second
15 such position, whichever occurs first.”.

16 **SEC. 502. ENHANCED AUTHORITY FOR RESERVE GENERAL**
17 **AND FLAG OFFICERS TO SERVE ON ACTIVE**
18 **DUTY.**

19 Section 526(d) of title 10, United States Code, is
20 amended—

21 (1) by inserting “(1)” before “The limitations”;

22 and

23 (2) by adding at the end the following new
24 paragraph:

1 “(2) The limitations of this section also do not apply
2 to a number, as specified by the Secretary of the military
3 department concerned, of reserve component general or
4 flag officers authorized to serve on active duty for a period
5 of not more than 365 days. The number so specified for
6 an armed force may not exceed the number equal to ten
7 percent of the authorized number of general or flag offi-
8 cers, as the case may be, of that armed force under section
9 12004 of this title. In determining such number, any frac-
10 tion shall be rounded down to the next whole number, ex-
11 cept that such number shall be at least one.”.

12 **SEC. 503. INCREASE IN YEARS OF COMMISSIONED SERVICE**
13 **THRESHOLD FOR DISCHARGE OF PROBA-**
14 **TIONARY OFFICERS AND FOR USE OF FORCE**
15 **SHAPING AUTHORITY.**

16 (a) ACTIVE-DUTY LIST OFFICERS.—

17 (1) EXTENDED PROBATIONARY PERIOD.—Para-
18 graph (1)(A) of section 630 of title 10, United
19 States Code, is amended by striking “five years”
20 and inserting “six years”.

21 (2) SECTION HEADING.—The heading of such
22 section is amended by striking “**five years**” and
23 inserting “**six years**”.

24 (3) TABLE OF SECTIONS.—The item relating to
25 such section in the table of sections at the beginning

1 of subchapter III of chapter 36 of such title is
2 amended to read as follows:

“630. Discharge of commissioned officers with less than six years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade).”.

3 (b) OFFICER FORCE SHAPING AUTHORITY.—Section
4 647(b)(1) of such title is amended by striking “5 years”
5 both places it appears and inserting “six years”.

6 (c) RESERVE OFFICERS.—

7 (1) EXTENDED PROBATIONARY PERIOD.—Sub-
8 section (a)(1) of section 14503 of such title is
9 amended by striking “five years” and inserting “six
10 years”.

11 (2) SECTION HEADING.—The heading of such
12 section is amended by striking “**five years**” and
13 inserting “**six years**”.

14 (3) TABLE OF SECTIONS.—The item relating to
15 such section in the table of sections at the beginning
16 of chapter 1407 of such title is amended to read as
17 follows:

“14503. Discharge of officers with less than six years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade).”.

18 **SEC. 504. MANDATORY RETIREMENT AGE FOR ACTIVE-**
19 **DUTY GENERAL AND FLAG OFFICERS CON-**
20 **TINUED ON ACTIVE DUTY.**

21 Section 637(b)(3) of title 10, United States Code, is
22 amended by striking “but such period may not (except as

1 provided under section 1251(b) of this title) extend beyond
2 the date of the officer's sixty-second birthday" and insert-
3 ing "except as provided under section 1251 or 1253 of
4 this title".

5 **SEC. 505. AUTHORITY FOR REDUCED MANDATORY SERVICE**
6 **OBLIGATION FOR INITIAL APPOINTMENTS OF**
7 **OFFICERS IN CRITICALLY SHORT HEALTH**
8 **PROFESSIONAL SPECIALTIES.**

9 Section 651 of title 10, United States Code, is
10 amended by adding at the end the following new sub-
11 section:

12 "(c)(1) For the armed forces under the jurisdiction
13 of the Secretary of Defense, the Secretary may waive the
14 initial period of required service otherwise established pur-
15 suant to subsection (a) in the case of the initial appoint-
16 ment of a commissioned officer in a critically short health
17 professional specialty specified by the Secretary for pur-
18 poses of this subsection.

19 "(2) The minimum period of obligated service for an
20 officer under a waiver under this subsection shall be the
21 greater of—

22 "(A) two years; or

23 "(B) in the case of an officer who has accepted
24 an accession bonus or executed a contract or agree-
25 ment for the multiyear receipt of special pay for

1 service in the armed forces, the period of obligated
2 service specified in such contract or agreement.”.

3 **SEC. 506. EXPANSION OF AUTHORITY FOR REENLISTMENT**
4 **OF OFFICERS IN THEIR FORMER ENLISTED**
5 **GRADE.**

6 (a) REGULAR ARMY.—Section 3258 of title 10,
7 United States Code, is amended—

8 (1) in subsection (a)—

9 (A) by striking “a Reserve officer” and in-
10 sserting “an officer”; and

11 (B) by striking “a temporary appoint-
12 ment” and inserting “an appointment”; and

13 (2) in subsection (b)—

14 (A) in paragraph (1), by striking “a Re-
15 serve officer” and inserting “an officer”; and

16 (B) in paragraph (2), by striking “the Re-
17 serve commission” and inserting “the commis-
18 sion”.

19 (b) REGULAR AIR FORCE.—Section 8258 of such
20 title is amended—

21 (1) in subsection (a)—

22 (A) by striking “a reserve officer” and in-
23 sserting “an officer”; and

24 (B) by striking “a temporary appoint-
25 ment” and inserting “an appointment”; and

1 (2) in subsection (b)—

2 (A) in paragraph (1), by striking “a Re-
3 serve officer” and inserting “an officer”; and

4 (B) in paragraph (2), by striking “the Re-
5 serve commission” and inserting “the commis-
6 sion”.

7 **SEC. 507. INCREASE IN AUTHORIZED NUMBER OF PERMA-
8 NENT PROFESSORS AT THE UNITED STATES
9 MILITARY ACADEMY.**

10 Paragraph (4) of section 4331(b) of title 10, United
11 States Code, is amended to read as follows:

12 “(4) Twenty-eight permanent professors.”.

13 **SEC. 508. PROMOTION OF CAREER MILITARY PROFESSORS
14 OF THE NAVY.**

15 (a) PROMOTION.—

16 (1) IN GENERAL.—Chapter 603 of title 10,
17 United States Code, is amended—

18 (A) by redesignating section 6970 as sec-
19 tion 6970a; and

20 (B) by inserting after section 6969 the fol-
21 lowing new section 6970:

22 **“§ 6970. Permanent professors: promotion**

23 “(a) PROMOTION.—An officer serving as a perma-
24 nent professor may be recommended for promotion to the
25 grade of captain or colonel, as the case may be, under reg-

1 ulations prescribed by the Secretary of the Navy. The reg-
2 ulations shall include a competitive selection board process
3 to identify those permanent professors best qualified for
4 promotion. An officer so recommended shall be promoted
5 by appointment to the higher grade by the President, by
6 and with the advice and consent of the Senate.

7 “(b) EFFECTIVE DATE OF PROMOTION.—If made,
8 the promotion of an officer under subsection (a) shall be
9 effective not earlier than three years after the selection
10 of the officer as a permanent professor as described in
11 that subsection.”.

12 (2) CLERICAL AMENDMENT.—The table of sec-
13 tions at the beginning of such chapter is amended
14 by striking the item relating to section 6970 and in-
15 serting the following new items:

“6970. Permanent professors: promotion.

“6970a. Permanent professors: retirement for years of service; authority for de-
ferral.”.

16 (b) CONFORMING AMENDMENTS.—Section 641(2) of
17 such title is amended—

18 (1) by striking “and the registrar” and insert-
19 ing “, the registrar”; and

20 (2) by inserting before the period at the end the
21 following: “, and permanent professors of the Navy
22 (as defined in regulations prescribed by the Sec-
23 retary of the Navy)”.

1 (c) COMPETITIVE SELECTION ASSESSMENT.—The
2 Secretary of Defense shall conduct an assessment of the
3 effectiveness of the promotion system established under
4 section 6970 of title 10, United States Code, as added by
5 subsection (a), for permanent professors of the United
6 States Naval Academy, including an evaluation of the ex-
7 tent to which the implementation of the promotion system
8 has resulted in a competitive environment for the selection
9 of permanent professors and an evaluation of whether the
10 goals of the permanent professor program have been
11 achieved, including adequate career progression and pro-
12 motion opportunities for participating officers. Not later
13 than December 31, 2009, the Secretary shall submit to
14 the congressional defense committees a report containing
15 the results of the assessment.

16 (d) USE OF EXCLUSIONS FROM AUTHORIZED OFFI-
17 CER STRENGTHS.—Not later than March 31, 2008, the
18 Secretary of the Navy shall submit to the congressional
19 defense committees a report describing the plans of the
20 Secretary for utilization of authorized exemptions under
21 section 523(b)(8) of title 10, United States Code, and a
22 discussion of the Navy's requirement, if any, and projec-
23 tions for use of additional exemptions by grade.

1 **Subtitle B—Reserve Component**
2 **Management**

3 **SEC. 511. RETENTION OF MILITARY TECHNICIANS WHO**
4 **LOSE DUAL STATUS IN THE SELECTED RE-**
5 **SERVE DUE TO COMBAT-RELATED DIS-**
6 **ABILITY.**

7 Section 10216 of title 10, United States Code, is
8 amended by inserting after subsection (f) the following
9 new subsection:

10 “(g) RETENTION OF MILITARY TECHNICIANS WHO
11 LOSE DUAL STATUS DUE TO COMBAT-RELATED DIS-
12 ABILITY.—(1) Notwithstanding subsection (d) of this sec-
13 tion or subsections (a)(3) and (b) of section 10218 of this
14 title, if a military technician (dual status) loses such dual
15 status as the result of a combat-related disability (as de-
16 fined in section 1413a of this title), the person may be
17 retained as a non-dual status technician so long as—

18 “(A) the combat-related disability does not pre-
19 vent the person from performing the non-dual status
20 functions or position; and

21 “(B) the person, while a non-dual status techni-
22 cian, is not disqualified from performing the non-
23 dual status functions or position because of perform-
24 ance, medical, or other reasons.

1 “(2) A person so retained shall be removed not later
2 than 30 days after becoming eligible for an unreduced an-
3 nuity and becoming 60 years of age.

4 “(3) Persons retained under the authority of this sub-
5 section do not count against the limitations of section
6 10217(c) of this title.”.

7 **SEC. 512. CONSTRUCTIVE SERVICE CREDIT UPON ORIGI-**
8 **NAL APPOINTMENT OF RESERVE OFFICERS**
9 **IN CERTAIN HEALTH CARE PROFESSIONS.**

10 (a) INCLUSION OF ADDITIONAL HEALTH CARE PRO-
11 FESSIONS.—Paragraph (2) of section 12207(b) of title 10,
12 United States Code, is amended to read as follows:

13 “(2)(A) If the Secretary of Defense determines that
14 the number of officers in a health profession described in
15 subparagraph (B) who are serving in an active status in
16 a reserve component of the Army, Navy, or Air Force in
17 grades below major or lieutenant commander is critically
18 below the number needed in such health profession by
19 such reserve component in such grades, the Secretary of
20 Defense may authorize the Secretary of the military de-
21 partment concerned to credit any person who is receiving
22 an original appointment as an officer for service in such
23 health profession with a period of constructive credit in
24 such amount (in addition to any amount credited such
25 person under paragraph (1)) as will result in the grade

1 of such person being that of captain or, in the case of
2 the Navy Reserve, lieutenant.

3 “(B) The types of health professions referred to in
4 subparagraph (A) include the following:

5 “(i) Any health profession performed by officers
6 in the Medical Corps of the Army or the Navy or by
7 officers of the Air Force designated as a medical of-
8 ficer.

9 “(ii) Any health profession performed by offi-
10 cers in the Dental Corps of the Army or the Navy
11 or by officers of the Air Force designated as a den-
12 tal officer.

13 “(iii) Any health profession performed by offi-
14 cers in the Medical Service Corps of the Army or the
15 Navy or by officers of the Air Force designated as
16 a medical service officer or biomedical sciences offi-
17 cer.

18 “(iv) Any health profession performed by offi-
19 cers in the Army Medical Specialist Corps.

20 “(v) Any health profession performed by offi-
21 cers of the Nurse Corps of the Army or the Navy
22 or by officers of the Air Force designated as a
23 nurse.

1 “(1) 30 days after completion of 38 years of
2 commissioned service.

3 “(2) The fifth anniversary of the date of the of-
4 ficer’s appointment in the grade of lieutenant gen-
5 eral or vice admiral.”.

6 (b) CLERICAL AMENDMENTS.—Such section is fur-
7 ther amended—

8 (1) in subsection (a), by inserting “FOR BRIGA-
9 DIER GENERALS AND REAR ADMIRALS (LOWER
10 HALF)” after “GRADE” in the subsection heading;
11 and

12 (2) in subsection (b), by inserting “FOR MAJOR
13 GENERALS AND REAR ADMIRALS” after “GRADE”
14 in the subsection heading.

15 **SEC. 514. MAXIMUM PERIOD OF TEMPORARY FEDERAL**
16 **RECOGNITION OF PERSON AS ARMY NA-**
17 **TIONAL GUARD OFFICER OR AIR NATIONAL**
18 **GUARD OFFICER.**

19 Section 308(a) of title 32, United States Code, is
20 amended in the last sentence by striking “six months” and
21 inserting “one year”.

1 **SEC. 515. ADVANCE NOTICE TO MEMBERS OF RESERVE**
2 **COMPONENTS OF DEPLOYMENT IN SUPPORT**
3 **OF CONTINGENCY OPERATIONS.**

4 (a) **ADVANCE NOTICE REQUIRED.**—The Secretary of
5 a military department shall ensure that a member of a
6 reserve component under the jurisdiction of that Secretary
7 who will be called or ordered to active duty for a period
8 of more than 30 days in support of a contingency oper-
9 ation (as defined in section 101(a)(13) of title 10, United
10 States Code) receives notice in advance of the mobilization
11 date. In so far as is practicable, the notice shall be pro-
12 vided not less than 30 days before the mobilization date,
13 but with a goal of 90 days before the mobilization date.

14 (b) **REDUCTION OR WAIVER OF NOTICE REQUIRE-**
15 **MENT.**—The Secretary of Defense may waive the require-
16 ment of subsection (a), or authorize shorter notice than
17 the minimum specified in such subsection, during a war
18 or national emergency declared by the President or Con-
19 gress or to meet mission requirements. If the waiver or
20 reduction is made on account of mission requirements, the
21 Secretary shall submit to Congress a report detailing the
22 reasons for the waiver or reduction and the mission re-
23 quirements at issue.

1 **SEC. 516. REPORT ON RELIEF FROM PROFESSIONAL LICEN-**
2 **SURE AND CERTIFICATION REQUIREMENTS**
3 **FOR RESERVE COMPONENT MEMBERS ON**
4 **LONG-TERM ACTIVE DUTY.**

5 (a) STUDY.—The Comptroller General of the United
6 States shall conduct a study of the requirements to main-
7 tain licensure or certification by members of the National
8 Guard or other reserve components of the Armed Forces
9 while on active duty for an extended period of time.

10 (b) ELEMENTS OF STUDY.—In the study, the Comp-
11 troller General shall—

12 (1) identify the number and type of professional
13 or other licensure or certification requirements that
14 may be adversely impacted by extended periods of
15 active duty; and

16 (2) determine mechanisms that would provide
17 relief from professional or other licensure or certifi-
18 cation requirements for members of the reserve com-
19 ponents while on active duty for an extended period
20 of time.

21 (c) REPORT.—Not later than 120 days after the date
22 of the enactment of this Act, the Comptroller General shall
23 submit to the Committees on Armed Services of the Sen-
24 ate and House of Representative a report containing the
25 results of the study and such recommendations as the
26 Comptroller General considers appropriate to provide fur-

1 ther relief for members of the reserve components from
2 professional or other licensure or certification require-
3 ments while on active duty for an extended period of time.

4 **Subtitle C—Education and**
5 **Training**

6 **SEC. 521. REVISIONS TO AUTHORITY TO PAY TUITION FOR**
7 **OFF-DUTY TRAINING OR EDUCATION.**

8 (a) INCLUSION OF COAST GUARD.—Subsection (a) of
9 section 2007 of title 10, United States Code, is amended
10 by striking “Subject to subsection (b), the Secretary of
11 a military department” and inserting “Subject to sub-
12 sections (b) and (c), the Secretary concerned”.

13 (b) COMMISSIONED OFFICERS ON ACTIVE DUTY.—
14 Subsection (b) of such section is amended—

15 (1) in paragraph (1)—

16 (A) by inserting after “commissioned offi-
17 cer on active duty” the following: “(other than
18 a member of the Ready Reserve)”;

19 (B) by striking “the Secretary of the mili-
20 tary department concerned” and inserting “the
21 Secretary concerned”; and

22 (C) by striking “or full-time National
23 Guard duty” both places it appears; and

24 (2) in paragraph (2)—

1 (A) in the matter preceding subparagraph
2 (A), by striking “the Secretary of the military
3 department” and inserting “the Secretary con-
4 cerned”;

5 (B) in subparagraph (B), by inserting
6 after “active duty service” the following: “for
7 which the officer was ordered to active duty”;
8 and

9 (C) in subparagraph (C), by striking “Sec-
10 retary” and inserting “Secretary concerned”.

11 (c) AUTHORITY TO PAY TUITION ASSISTANCE TO
12 MEMBERS OF THE READY RESERVE.—

13 (1) AVAILABILITY OF ASSISTANCE.—Subsection
14 (c) of such section is amended to read as follows:

15 “(c)(1) Subject to paragraphs (3) and (5), the Sec-
16 retary concerned may pay the charges of an educational
17 institution for the tuition or expenses described in sub-
18 section (a) of a member of the Selected Reserve.

19 “(2) Subject to paragraphs (4) and (5), the Secretary
20 concerned may pay the charges of an educational institu-
21 tion for the tuition or expenses described in subsection (a)
22 of a member of the Individual Ready Reserve who has a
23 military occupational specialty designated by the Secretary
24 concerned for purposes of this subsection.

1 “(3) The Secretary concerned may not pay charges
2 under paragraph (1) for tuition or expenses of an officer
3 of the Selected Reserve unless the officer enters into an
4 agreement to remain a member of the Selected Reserve
5 for at least four years after completion of the education
6 or training for which the charges are paid.

7 “(4) The Secretary concerned may not pay charges
8 under paragraph (2) for tuition or expenses of an officer
9 of the Individual Ready Reserve unless the officer enters
10 into an agreement to remain in the Selected Reserve or
11 Individual Ready Reserve for at least four years after com-
12 pletion of the education or training for which the charges
13 are paid.

14 “(5) The Secretary of a military department may re-
15 quire an enlisted member of the Selected Reserve or Indi-
16 vidual Ready Reserve to enter into an agreement to serve
17 for up to four years in the Selected Reserve or Individual
18 Ready Reserve, as the case may be, after completion of
19 the education or training for which tuition or expenses are
20 paid under paragraph (1) or (2), as applicable.”.

21 (2) REPEAL OF SUPERSEDED PROVISION.—

22 Such section is further amended—

23 (A) by striking subsection (d); and

24 (B) by redesignating subsections (e) and

25 (f) as subsections (d) and (e), respectively.

1 (3) REPAYMENT OF UNEARNED BENEFIT.—
2 Subsection (e) of such section, as redesignated by
3 paragraph (2) of this subsection, is amended—

4 (A) by inserting “(1)” after “(e)”; and

5 (B) by adding at the end the following new
6 paragraph:

7 “(2) If a member of the Ready Reserve who enters
8 into an agreement under subsection (e) does not complete
9 the period of service specified in the agreement, the mem-
10 ber shall be subject to the repayment provisions of section
11 303a(e) of title 37.”.

12 (d) REGULATIONS.—Such section is further amended
13 by adding at the end the following new subsection:

14 “(f) This section shall be administered under regula-
15 tions prescribed by the Secretary of Defense or, with re-
16 spect to the Coast Guard when it is not operating as a
17 service in the Navy, the Secretary of Homeland Security.”.

18 (e) STUDY.—

19 (1) STUDY REQUIRED.—The Secretary of De-
20 fense shall carry out a study on the tuition assist-
21 ance program carried out under section 2007 of title
22 10, United States Code. The study shall—

23 (A) identify the number of members of the
24 Armed Forces eligible for assistance under the

1 program, and the number who actually receive
2 the assistance;

3 (B) assess the extent to which the program
4 affects retention rates; and

5 (C) assess the extent to which State tuition
6 assistance programs affect retention rates in
7 those States.

8 (2) REPORT.—Not later than nine months after
9 the date of the enactment of this Act, the Secretary
10 shall submit to the Committee on Armed Services of
11 the Senate and the Committee on Armed Services of
12 the House of Representatives a report containing the
13 results of the study.

14 **SEC. 522. REDUCTION OR ELIMINATION OF SERVICE OBLI-**
15 **GATION IN AN ARMY RESERVE OR ARMY NA-**
16 **TIONAL GUARD TROOP PROGRAM UNIT FOR**
17 **CERTAIN PERSONS SELECTED AS MEDICAL**
18 **STUDENTS AT UNIFORMED SERVICES UNI-**
19 **VERSITY OF THE HEALTH SCIENCES.**

20 Paragraph (3) of section 2107a(b) of title 10, United
21 States Code, is amended to read as follows:

22 “(3)(A) Subject to subparagraph (C), in the case of
23 a person described in subparagraph (B), the Secretary
24 may, at any time and with the consent of the person, mod-
25 ify an agreement described in paragraph (1)(F) submitted

1 by the person for the purpose of reducing or eliminating
2 the troop program unit service obligation specified in the
3 agreement and to establish, in lieu of that obligation, an
4 active duty service obligation.

5 “(B) Subparagraph (A) applies with respect to the
6 following persons:

7 “(i) A cadet under this section at a military
8 junior college.

9 “(ii) A cadet or former cadet under this section
10 who is selected under section 2114 of this title to be
11 a medical student at the Uniformed Services Univer-
12 sity of the Health Sciences.

13 “(iii) A cadet or former cadet under this section
14 who signs an agreement under section 2122 of this
15 title for participation in the Armed Forces Health
16 Professions Scholarship and Financial Assistance
17 program.

18 “(C) The modification of an agreement described in
19 paragraph (1)(F) may be made only if the Secretary deter-
20 mines that it is in the best interests of the United States
21 to do so.”.

1 **SEC. 523. REPEAL OF ANNUAL LIMIT ON NUMBER OF ROTC**
2 **SCHOLARSHIPS UNDER ARMY RESERVE AND**
3 **ARMY NATIONAL GUARD FINANCIAL ASSIST-**
4 **ANCE PROGRAM.**

5 Section 2107a(h) of title 10, United States Code, is
6 amended by striking “not more than 416 cadets each year
7 under this section, to include” and inserting “each year
8 under this section”.

9 **SEC. 524. TREATMENT OF PRIOR ACTIVE SERVICE OF MEM-**
10 **BERS IN UNIFORMED MEDICAL ACCESSION**
11 **PROGRAMS.**

12 (a) MEDICAL STUDENTS OF USUHS.—

13 (1) TREATMENT OF STUDENTS WITH PRIOR AC-
14 TIVE SERVICE.—Section 2114 of title 10, United
15 States Code, is amended—

16 (A) by redesignating subsections (e)
17 through (h) as subsections (d) through (i), re-
18 spectively; and

19 (B) in subsection (b)—

20 (i) by inserting “(1)” after “(b)”; and

21 (ii) by inserting after the second sen-
22 tence the following new paragraph:

23 “(2) If a member of the uniformed services selected
24 to be a student has prior active service in a pay grade
25 and with years of service credited for pay that would enti-
26 tle the member, if the member remained in the former

1 grade, to a rate of basic pay in excess of the rate of basic
2 pay for regular officers in the grade of second lieutenant
3 or ensign, the member shall be paid basic pay based on
4 the former grade and years of service credited for pay.
5 The amount of such basic pay for the member shall be
6 increased on January 1 of each year by the percentage
7 by which basic pay is increased on average on that date
8 for that year, and the member shall continue to receive
9 basic pay based on the former grade and years of service
10 until the date, whether occurring before or after gradua-
11 tion, on which the basic pay for the member in the mem-
12 ber's actual grade and years of service credited for pay
13 exceeds the amount of basic pay to which the member is
14 entitled based on the member's former grade and years
15 of service.”.

16 (2) CONFORMING AMENDMENTS.—Such section
17 is further amended—

18 (A) in subsection (b), by striking “Upon
19 graduation they” and inserting the following:

20 “(c) Medical students who graduate”; and

21 (B) in subsection (i), as redesignated by
22 paragraph (1), by striking “subsection (b)” and
23 inserting “subsection (c)”.

1 (b) PARTICIPANTS IN HEALTH PROFESSIONS SCHOL-
2 ARSHIP AND FINANCIAL ASSISTANCE PROGRAM.—Section
3 2121(c) of such title is amended—

4 (1) by inserting “(1)” after “(c)”; and

5 (2) by adding at the end the following new
6 paragraph:

7 “(2) If a member of the uniformed services selected
8 to participate in the program as a medical student has
9 prior active service in a pay grade and with years of serv-
10 ice credited for pay that would entitle the member, if the
11 member remained in the former grade, to a rate of basic
12 pay in excess of the rate of basic pay for regular officers
13 in the grade of second lieutenant or ensign, the member
14 shall be paid basic pay based on the former grade and
15 years of service credited for pay. The amount of such basic
16 pay for the member shall be increased on January 1 of
17 each year by the percentage by which basic pay is in-
18 creased on average on that date for that year, and the
19 member shall continue to receive basic pay based on the
20 former grade and years of service until the date, whether
21 occurring before or after the conclusion of such participa-
22 tion, on which the basic pay for the member in the mem-
23 ber’s actual grade and years of service credited for pay
24 exceeds the amount of basic pay to which the member is

1 entitled based on the member's former grade and years
2 of service.”.

3 (c) OFFICERS DETAILED AS STUDENTS AT MEDICAL
4 SCHOOLS.—

5 (1) APPOINTMENT AND TREATMENT OF PRIOR
6 ACTIVE SERVICE.—Section 2004a of such title is
7 amended—

8 (A) by redesignating subsections (e)
9 through (h) as subsections (f) through (i), re-
10 spectively; and

11 (B) by inserting after subsection (d) the
12 following new subsection:

13 “(e) APPOINTMENT AND TREATMENT OF PRIOR AC-
14 TIVE SERVICE.—(1) A commissioned officer detailed as a
15 student at a medical school under subsection (a) shall be
16 appointed as a regular officer in the grade of second lieu-
17 tenant or ensign and shall serve on active duty in that
18 grade with full pay and allowances of that grade.

19 “(2) If an officer detailed to be a medical student
20 has prior active service in a pay grade and with years of
21 service credited for pay that would entitle the officer, if
22 the officer remained in the former grade, to a rate of basic
23 pay in excess of the rate of basic pay for regular officers
24 in the grade of second lieutenant or ensign, the officer
25 shall be paid basic pay based on the former grade and

1 years of service credited for pay. The amount of such basic
2 pay for the officer shall be increased on January 1 of each
3 year by the percentage by which basic pay is increased
4 on average on that date for that year, and the officer shall
5 continue to receive basic pay based on the former grade
6 and years of service until the date, whether occurring be-
7 fore or after graduation, on which the basic pay for the
8 officer in the officer's actual grade and years of service
9 credited for pay exceeds the amount of basic pay to which
10 the officer is entitled based on the officer's former grade
11 and years of service.”.

12 (2) TECHNICAL AMENDMENT.—Subsection (c)
13 of such section is amended by striking “subsection
14 (c)” and inserting “subsection (b)”.

15 **SEC. 525. REPEAL OF POST-2007-2008 ACADEMIC YEAR PRO-**
16 **HIBITION ON PHASED INCREASE IN CADET**
17 **STRENGTH LIMIT AT THE UNITED STATES**
18 **MILITARY ACADEMY.**

19 Section 4342(j)(1) of title 10, United States Code,
20 is amended by striking the last sentence.

21 **SEC. 526. NATIONAL DEFENSE UNIVERSITY MASTER'S DE-**
22 **GREE PROGRAMS.**

23 (a) MASTER OF ARTS PROGRAM AUTHORIZED.—Sec-
24 tion 2163 of title 10, United States Code, is amended—

1 (1) in subsection (a), by inserting “or master of
2 arts” after “master of science”; and

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

5 “(4) MASTER OF ARTS IN STRATEGIC SECURITY
6 STUDIES.—The degree of master of arts in strategic
7 security studies, to graduates of the University who
8 fulfill the requirements of the program at the School
9 for National Security Executive Education.”.

10 (b) CLERICAL AMENDMENTS.—

11 (1) SECTION HEADING.—The heading of such
12 section is amended to read as follows:

13 **“§ 2163. National Defense University: master’s degree
14 programs”.**

15 (2) TABLE OF CONTENTS.—The table of sec-
16 tions at the beginning of chapter 108 of such title
17 is amended by striking the item relating to section
18 2163 and inserting the following new item:

“2163. National Defense University: master’s degree programs.”.

19 (c) APPLICABILITY TO 2006-2007 GRADUATES.—
20 Paragraph (4) of section 2163(b) of title 10, United
21 States Code, as added by subsection (a) of this section,
22 applies with respect to any person who becomes a graduate
23 of the National Defense University on or after September
24 6, 2006, and fulfills the requirements of the program re-
25 ferred to in such paragraph (4).

1 **SEC. 527. AUTHORITY OF THE AIR UNIVERSITY TO CONFER**
2 **DEGREE OF MASTER OF SCIENCE IN FLIGHT**
3 **TEST ENGINEERING.**

4 Section 9317(a) of title 10, United States Code, is
5 amended—

6 (1) by redesignating paragraph (4) as para-
7 graph (5); and

8 (2) by inserting after paragraph (3) the fol-
9 lowing new paragraph:

10 “(4) The degree of master of science in flight
11 test engineering upon graduates of the Air Force
12 Test Pilot School who fulfill the requirements for
13 that degree in a manner consistent with the rec-
14 ommendations of the Department of Education and
15 the principles of the regional accrediting body for
16 the Air University.”.

17 **SEC. 528. ENHANCEMENT OF EDUCATION BENEFITS FOR**
18 **CERTAIN MEMBERS OF RESERVE COMPO-**
19 **NENTS.**

20 (a) **ACCELERATED PAYMENT OF EDUCATIONAL AS-**
21 **SISTANCE FOR MEMBERS OF THE SELECTED RESERVE.—**

22 (1) **IN GENERAL.—**Chapter 1606 of title 10,
23 United States Code, is amended by inserting after
24 section 16131 the following new section:

1 **“§ 16131a. Accelerated payment of educational assist-**
2 **ance**

3 “(a) The educational assistance allowance payable
4 under section 16131 of this title with respect to an eligible
5 person described in subsection (b) may, upon the election
6 of such eligible person, be paid on an accelerated basis
7 in accordance with this section.

8 “(b) An eligible person described in this subsection
9 is a person entitled to educational assistance under this
10 chapter who is—

11 “(1) enrolled in an approved program of edu-
12 cation not exceeding two years in duration and not
13 leading to an associate, bachelors, masters, or other
14 degree, subject to subsection (g); and

15 “(2) charged tuition and fees for the program
16 of education that, when divided by the number of
17 months (and fractions thereof) in the enrollment pe-
18 riod, exceeds the amount equal to 200 percent of the
19 monthly rate of educational assistance allowance
20 otherwise payable with respect to the person under
21 section 16131 of this title.

22 “(c)(1) The amount of the accelerated payment of
23 educational assistance payable with respect to an eligible
24 person making an election under subsection (a) for a pro-
25 gram of education shall be the lesser of—

1 “(A) the amount equal to 60 percent of the es-
2 tablished charges for the program of education; or

3 “(B) the aggregate amount of educational as-
4 sistance allowance to which the person remains enti-
5 tled under this chapter at the time of the payment.

6 “(2)(A) In this subsection, except as provided in sub-
7 paragraph (B), the term ‘established charges’, in the case
8 of a program of education, means the actual charges (as
9 determined pursuant to regulations prescribed by the Sec-
10 retary of Veterans Affairs) for tuition and fees which simi-
11 larly circumstanced individuals who are not eligible for
12 benefits under this chapter and who are enrolled in the
13 program of education would be required to pay. Estab-
14 lished charges shall be determined on the following basis:

15 “(i) In the case of an individual enrolled in a
16 program of education offered on a term, quarter, or
17 semester basis, the tuition and fees charged the indi-
18 vidual for the term, quarter, or semester.

19 “(ii) In the case of an individual enrolled in a
20 program of education not offered on a term, quarter,
21 or semester basis, the tuition and fees charged the
22 individual for the entire program of education.

23 “(B) In this subsection, the term ‘established
24 charges’ does not include any fees or payments attrib-
25 utable to the purchase of a vehicle.

1 “(3) The educational institution providing the pro-
2 gram of education for which an accelerated payment of
3 educational assistance allowance is elected by an eligible
4 person under subsection (a) shall certify to the Secretary
5 of Veterans Affairs the amount of the established charges
6 for the program of education.

7 “(d) An accelerated payment of educational assist-
8 ance allowance made with respect to an eligible person
9 under this section for a program of education shall be
10 made not later than the last day of the month immediately
11 following the month in which the Secretary of Veterans
12 Affairs receives a certification from the educational insti-
13 tution regarding—

14 “(1) the person’s enrollment in and pursuit of
15 the program of education; and

16 “(2) the amount of the established charges for
17 the program of education.

18 “(e)(1) Except as provided in paragraph (2), for each
19 accelerated payment of educational assistance allowance
20 made with respect to an eligible person under this section,
21 the person’s entitlement to educational assistance under
22 this chapter shall be charged the number of months (and
23 any fraction thereof) determined by dividing the amount
24 of the accelerated payment by the full-time monthly rate
25 of educational assistance allowance otherwise payable with

1 respect to the person under section 16131 of this title as
2 of the beginning date of the enrollment period for the pro-
3 gram of education for which the accelerated payment is
4 made.

5 “(2) If the monthly rate of educational assistance al-
6 lowance otherwise payable with respect to an eligible per-
7 son under section 16131 of this title increases during the
8 enrollment period of a program of education for which an
9 accelerated payment of educational assistance allowance is
10 made under this section, the charge to the person’s entitle-
11 ment to educational assistance under this chapter shall be
12 determined by prorating the entitlement chargeable, in the
13 manner provided for under paragraph (1), for the periods
14 covered by the initial rate and increased rate, respectively,
15 in accordance with regulations prescribed by the Secretary
16 of Veterans Affairs.

17 “(f) The Secretary of Veterans Affairs shall prescribe
18 regulations to carry out this section. The regulations shall
19 include requirements, conditions, and methods for the re-
20 quest, issuance, delivery, certification of receipt and use,
21 and recovery of overpayment of an accelerated payment
22 of educational assistance allowance under this section. The
23 regulations may include such elements of the regulations
24 prescribed under section 3014A of title 38 as the Sec-

1 retary of Veterans Affairs considers appropriate for pur-
2 poses of this section.

3 “(g) The aggregate amount of educational assistance
4 payable under this section in any fiscal year for enroll-
5 ments covered by subsection (b)(1) may not exceed
6 \$4,000,000.”.

7 (2) CLERICAL AMENDMENT.—The table of sec-
8 tions at the beginning of chapter 1606 of such title
9 is amended by inserting after the item relating to
10 section 16131 the following new item:

“16131a. Accelerated payment of educational assistance.”.

11 (3) EFFECTIVE DATE.—The amendments made
12 by this subsection shall take effect on October 1,
13 2008, and shall only apply to initial enrollments in
14 approved programs of education after such date.

15 (b) ACCELERATED PAYMENT OF EDUCATIONAL AS-
16 SISTANCE FOR RESERVE COMPONENT MEMBERS SUP-
17 PORTING CONTINGENCY OPERATIONS AND OTHER OPER-
18 ATIONS.—

19 (1) IN GENERAL.—Chapter 1607 of title 10,
20 United States Code, is amended by inserting after
21 section 16162 the following new section:

22 **“§ 16162a. Accelerated payment of educational assist-**
23 **ance**

24 “(a) PAYMENT ON ACCELERATED BASIS.—The edu-
25 cational assistance allowance payable under section 16162

1 of this title with respect to an eligible member described
2 in subsection (b) may, upon the election of such eligible
3 member, be paid on an accelerated basis in accordance
4 with this section.

5 “(b) ELIGIBLE MEMBERS.—An eligible member de-
6 scribed in this subsection is a member of a reserve compo-
7 nent entitled to educational assistance under this chapter
8 who is—

9 “(1) enrolled in an approved program of edu-
10 cation not exceeding two years in duration and not
11 leading to an associate, bachelors, masters, or other
12 degree, subject to subsection (g); and

13 “(2) charged tuition and fees for the program
14 of education that, when divided by the number of
15 months (and fractions thereof) in the enrollment pe-
16 riod, exceeds the amount equal to 200 percent of the
17 monthly rate of educational assistance allowance
18 otherwise payable with respect to the member under
19 section 16162 of this title.

20 “(c) AMOUNT OF ACCELERATED PAYMENT.—(1) The
21 amount of the accelerated payment of educational assist-
22 ance payable with respect to an eligible member making
23 an election under subsection (a) for a program of edu-
24 cation shall be the lesser of—

1 “(A) the amount equal to 60 percent of the es-
2 tablished charges for the program of education; or

3 “(B) the aggregate amount of educational as-
4 sistance allowance to which the member remains en-
5 titled under this chapter at the time of the payment.

6 “(2)(A) In this subsection, except as provided in sub-
7 paragraph (B), the term ‘established charges’, in the case
8 of a program of education, means the actual charges (as
9 determined pursuant to regulations prescribed by the Sec-
10 retary of Veterans Affairs) for tuition and fees which simi-
11 larly circumstanced individuals who are not eligible for
12 benefits under this chapter and who are enrolled in the
13 program of education would be required to pay. Estab-
14 lished charges shall be determined on the following basis:

15 “(i) In the case of an individual enrolled in a
16 program of education offered on a term, quarter, or
17 semester basis, the tuition and fees charged the indi-
18 vidual for the term, quarter, or semester.

19 “(ii) In the case of an individual enrolled in a
20 program of education not offered on a term, quarter,
21 or semester basis, the tuition and fees charged the
22 individual for the entire program of education.

23 “(B) In this subsection, the term ‘established
24 charges’ does not include any fees or payments attrib-
25 utable to the purchase of a vehicle.

1 “(3) The educational institution providing the pro-
2 gram of education for which an accelerated payment of
3 educational assistance allowance is elected by an eligible
4 member under subsection (a) shall certify to the Secretary
5 of Veterans Affairs the amount of the established charges
6 for the program of education.

7 “(d) TIME OF PAYMENT.—An accelerated payment
8 of educational assistance allowance made with respect to
9 an eligible member under this section for a program of
10 education shall be made not later than the last day of the
11 month immediately following the month in which the Sec-
12 retary of Veterans Affairs receives a certification from the
13 educational institution regarding—

14 “(1) the member’s enrollment in and pursuit of
15 the program of education; and

16 “(2) the amount of the established charges for
17 the program of education.

18 “(e) CHARGE AGAINST ENTITLEMENT.—(1) Except
19 as provided in paragraph (2), for each accelerated pay-
20 ment of educational assistance allowance made with re-
21 spect to an eligible member under this section, the mem-
22 ber’s entitlement to educational assistance under this
23 chapter shall be charged the number of months (and any
24 fraction thereof) determined by dividing the amount of the
25 accelerated payment by the full-time monthly rate of edu-

1 cational assistance allowance otherwise payable with re-
2 spect to the member under section 16162 of this title as
3 of the beginning date of the enrollment period for the pro-
4 gram of education for which the accelerated payment is
5 made.

6 “(2) If the monthly rate of educational assistance al-
7 lowance otherwise payable with respect to an eligible mem-
8 ber under section 16162 of this title increases during the
9 enrollment period of a program of education for which an
10 accelerated payment of educational assistance allowance is
11 made under this section, the charge to the member’s enti-
12 tlement to educational assistance under this chapter shall
13 be determined by prorating the entitlement chargeable, in
14 the manner provided for under paragraph (1), for the peri-
15 ods covered by the initial rate and increased rate, respec-
16 tively, in accordance with regulations prescribed by the
17 Secretary of Veterans Affairs.

18 “(f) REGULATIONS.—The Secretary of Veterans Af-
19 fairs shall prescribe regulations to carry out this section.
20 The regulations shall include requirements, conditions,
21 and methods for the request, issuance, delivery, certifi-
22 cation of receipt and use, and recovery of overpayment of
23 an accelerated payment of educational assistance allow-
24 ance under this section. The regulations may include such
25 elements of the regulations prescribed under section

1 3014A of title 38 as the Secretary of Veterans Affairs con-
2 siders appropriate for purposes of this section.

3 “(g) LIMITATION.—The aggregate amount of edu-
4 cational assistance payable under this section in any fiscal
5 year for enrollments covered by subsection (b)(1) may not
6 exceed \$3,000,000.”.

7 (2) CLERICAL AMENDMENT.—The table of sec-
8 tions at the beginning of chapter 1607 of such title
9 is amended by inserting after the item relating to
10 section 16162 the following new item:

“16162a. Accelerated payment of educational assistance.”.

11 (3) EFFECTIVE DATE.—The amendments made
12 by this subsection shall take effect on October 1,
13 2008, and shall only apply to initial enrollments in
14 approved programs of education after such date.

15 (c) ENHANCEMENT OF EDUCATIONAL ASSISTANCE
16 FOR RESERVE COMPONENT MEMBERS SUPPORTING CON-
17 TINGENCY OPERATIONS AND OTHER OPERATIONS.—

18 (1) ASSISTANCE FOR THREE YEARS CUMU-
19 LATIVE SERVICE.—Subsection (c)(4)(C) of section
20 16162 of title 10, United States Code, is amended
21 by striking “for two continuous years or more.” and
22 inserting “for—

23 “(i) two continuous years or more; or

24 “(ii) an aggregate of three years or
25 more.”.

1 (2) CONTRIBUTIONS FOR INCREASED AMOUNT
2 OF EDUCATIONAL ASSISTANCE.—Such section is fur-
3 ther amended by adding at the end the following
4 new subsection:

5 “(f) CONTRIBUTIONS FOR INCREASED AMOUNT OF
6 EDUCATIONAL ASSISTANCE.—(1)(A) Any individual eligi-
7 ble for educational assistance under this section may con-
8 tribute amounts for purposes of receiving an increased
9 amount of educational assistance as provided for in para-
10 graph (2).

11 “(B) An individual covered by subparagraph (A) may
12 make the contributions authorized by that subparagraph
13 at any time while a member of a reserve component, but
14 not more frequently than monthly.

15 “(C) The total amount of the contributions made by
16 an individual under subparagraph (A) may not exceed
17 \$600. Such contributions shall be made in multiples of
18 \$20.

19 “(D) Contributions under this subsection shall be
20 made to the Secretary concerned. Such Secretary shall de-
21 posit any amounts received as contributions under this
22 subsection into the Treasury as miscellaneous receipts.

23 “(2) Effective as of the first day of the enrollment
24 period following the enrollment period in which an indi-
25 vidual makes contributions under paragraph (1), the

1 monthly amount of educational assistance allowance appli-
2 cable to such individual under this section shall be the
3 monthly rate otherwise provided for under subsection (c)
4 increased by—

5 “(A) an amount equal to \$5 for each \$20 con-
6 tributed by such individual under paragraph (1) for
7 an approved program of education pursued on a full-
8 time basis; or

9 “(B) an appropriately reduced amount based on
10 the amount so contributed as determined under reg-
11 ulations that the Secretary of Veterans Affairs shall
12 prescribe, for an approved program of education
13 pursued on less than a full-time basis.”.

14 **SEC. 529. EXTENSION OF PERIOD OF ENTITLEMENT TO**
15 **EDUCATIONAL ASSISTANCE FOR CERTAIN**
16 **MEMBERS OF THE SELECTED RESERVE AF-**
17 **FECTED BY FORCE SHAPING INITIATIVES.**

18 Section 16133(b)(1)(B) of title 10, United States
19 Code, is amended by inserting “or the period beginning
20 on October 1, 2007, and ending on September 30, 2014,”
21 after “December 31, 2001,”.

1 **SEC. 530. TIME LIMIT FOR USE OF EDUCATIONAL ASSIST-**
2 **ANCE BENEFIT FOR CERTAIN MEMBERS OF**
3 **RESERVE COMPONENTS AND RESUMPTION**
4 **OF BENEFIT.**

5 (a) MODIFICATION OF TIME LIMIT FOR USE OF BEN-
6 EFIT.—

7 (1) MODIFICATION.—Section 16164(a) of title
8 10, United States Code, is amended by striking
9 “this chapter while serving—” and all that follows
10 and inserting “this chapter—

11 “(1) while the member is serving—

12 “(A) in the Selected Reserve of the Ready
13 Reserve, in the case of a member called or or-
14 dered to active service while serving in the Se-
15 lected Reserve; or

16 “(B) in the Ready Reserve, in the case of
17 a member ordered to active duty while serving
18 in the Ready Reserve (other than the Selected
19 Reserve); and

20 “(2) in the case of a person who separates from
21 the Selected Reserve of the Ready Reserve after
22 completion of a period of active service described in
23 section 16163 of this title and completion of a serv-
24 ice contract under other than dishonorable condi-
25 tions, during the 10-year period beginning on the

1 date on which the person separates from the Se-
2 lected Reserve.”.

3 (2) CONFORMING AMENDMENT.—Paragraph (2)
4 of section 16165(a) of such title is amended to read
5 as follows:

6 “(2) when the member separates from the
7 Ready Reserve as provided in section 16164(a)(1) of
8 this title, or upon completion of the period provided
9 for in section 16164(a)(2) of this title, as applica-
10 ble.”.

11 (b) RECLAIMING BENEFIT FOR MEMBERS REEN-
12 TERING SERVICE.—Section 16165(b) of such title is
13 amended by striking “of not more than 90 days” after
14 “who incurs a break in service in the Selected Reserve”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect as of October 28, 2004, as
17 if included in the enactment of the Ronald W. Reagan Na-
18 tional Defense Authorization Act for Fiscal Year 2005
19 (Public Law 108–375), to which such amendments relate.

20 **SEC. 531. SECRETARY OF DEFENSE EVALUATION OF THE**
21 **ADEQUACY OF THE DEGREE-GRANTING AU-**
22 **THORITIES OF CERTAIN MILITARY UNIVER-**
23 **SITIES AND EDUCATIONAL INSTITUTIONS.**

24 (a) EVALUATION REQUIRED.—The Secretary of De-
25 fense shall carry out an evaluation of the degree-granting

1 authorities provided by title 10, United States Code, to
2 the academic institutions specified in subsection (b). The
3 evaluation shall assess whether the current process, under
4 which each degree conferred by each institution must have
5 a statutory authorization, remains adequate, appropriate,
6 and responsive enough to meet emerging military service
7 education requirements.

8 (b) SPECIFIED INSTITUTIONS.—The academic insti-
9 tutions covered by subsection (a) are the following:

10 (1) The National Defense University.

11 (2) The Army War College and the United
12 States Army Command and General Staff College.

13 (3) The United States Naval War College.

14 (4) The United States Naval Postgraduate
15 School.

16 (5) Air University and the United States Air
17 Force Institute of Technology.

18 (6) The Marine Corps University.

19 (c) REPORT.—Not later than April 1, 2008, the Sec-
20 retary shall submit to the Committee on Armed Services
21 of the Senate and the Committee on Armed Services of
22 the House of Representatives a report on the evaluation.
23 The report shall include the results of the evaluation and
24 any recommendations for changes to policy or law that
25 the Secretary considers appropriate.

1 **SEC. 532. REPORT ON SUCCESS OF ARMY NATIONAL GUARD**
2 **AND RESERVE SENIOR RESERVE OFFICERS'**
3 **TRAINING CORPS FINANCIAL ASSISTANCE**
4 **PROGRAM.**

5 (a) REPORT REQUIRED.—Not later than 150 days
6 after the date of the enactment of this Act, the Secretary
7 of the Army shall submit to the Committees on Armed
8 Services of the Senate and the House of Representatives
9 a report on the success of the financial assistance program
10 of the Senior Reserve Officers' Training Corps under sec-
11 tion 2107a of title 10, United States Code, in securing
12 the appointment of second lieutenants in the Army Re-
13 serve and Army National Guard. The report shall include
14 detailed information on the appointment of cadets under
15 the financial assistance program who are enrolled in an
16 educational institution described in subsection (b) and ad-
17 dress the efforts of the Secretary to increase awareness
18 of the availability and advantages of appointment in the
19 Senior Reserve Officers' Training Corps at these institu-
20 tions and to increase the number of cadets at these institu-
21 tions.

22 (b) COVERED EDUCATIONAL INSTITUTIONS.—The
23 educational institutions referred to in subsection (a) are
24 the following:

25 (1) An historically Black college or university
26 that is a part B institution, as defined in section

1 322(2) of the Higher Education Act of 1965 (20
2 U.S.C. 1061(2)).

3 (2) A minority institution, as defined in section
4 365(3) of that Act (20 U.S.C. 1067k(3)).

5 (3) An Hispanic-serving institution, as defined
6 in section 502(a)(5) of that Act (20 U.S.C.
7 1101a(a)(5)).

8 **SEC. 533. REPORT ON UTILIZATION OF TUITION ASSIST-**
9 **ANCE BY MEMBERS OF THE ARMED FORCES.**

10 (a) **REPORTS REQUIRED.**—Not later than April 1,
11 2008, the Secretary of each military department shall sub-
12 mit to the congressional defense committees a report on
13 the utilization of tuition assistance by members of the
14 Armed Forces, whether in the regular components of the
15 Armed Forces or the reserve components of the Armed
16 Forces, under the jurisdiction of such military department
17 during fiscal year 2007.

18 (b) **ELEMENTS.**—The report with respect to a mili-
19 tary department under subsection (a) shall include the fol-
20 lowing:

21 (1) Information on the policies of such military
22 department for fiscal year 2007 regarding utilization
23 of, and limits on, tuition assistance by members of
24 the Armed Forces under the jurisdiction of such
25 military department, including an estimate of the

1 number of members of the reserve components of
2 the Armed Forces under the jurisdiction of such
3 military department whose requests for tuition as-
4 sistance during that fiscal year were unfunded.

5 (2) Information on the policies of such military
6 department for fiscal year 2007 regarding funding
7 of tuition assistance for each of the regular compo-
8 nents of the Armed Forces and each of the reserve
9 components of the Armed Forces under the jurisdic-
10 tion of such military department.

11 **SEC. 534. NAVY JUNIOR RESERVE OFFICERS' TRAINING**
12 **CORPS UNIT FOR SOUTHOLD, MATTITUCK,**
13 **AND GREENPORT HIGH SCHOOLS.**

14 For purposes of meeting the requirements of section
15 2031(b) of title 10, United States Code, the Secretary of
16 the Navy may and, to the extent the schools request, shall
17 treat any two or more of the following schools (all in
18 Southold, Suffolk County, New York) as a single institu-
19 tion:

20 (1) Southold High School.

21 (2) Mattituck High School.

22 (3) Greenport High School.

1 **SEC. 535. REPORT ON TRANSFER OF ADMINISTRATION OF**
2 **CERTAIN EDUCATIONAL ASSISTANCE PRO-**
3 **GRAMS FOR MEMBERS OF THE RESERVE**
4 **COMPONENTS.**

5 (a) REPORT REQUIRED.—Not later than September
6 1, 2008, the Secretary of Defense, in cooperation with the
7 Secretary of Veterans Affairs, shall submit to the congres-
8 sional defense committees and the Committees on Vet-
9 erans Affairs of the Senate and House of Representatives
10 a report on the feasibility and merits of transferring the
11 administration of the educational assistance programs for
12 members of the reserve components contained in chapters
13 1606 and 1607 of title 10, United States Code, from the
14 Department of Defense to the Department of Veterans Af-
15 fairs.

16 (b) ELEMENTS OF REPORT.—The report shall spe-
17 cifically address the following:

18 (1) A discussion of the history and purpose of
19 the educational assistance benefits under chapters
20 1606 and 1607 of title 10, United States Code, and
21 the data most recently available, as of the date of
22 the enactment of this Act, relating to the cost of
23 providing such benefits and the projected costs of
24 providing such benefits over the ten-year period be-
25 ginning on the such date.

1 (2) The effect of a transfer of administrative
2 jurisdiction on the delivery of educational assistance
3 benefits to members of the reserve components.

4 (3) The effect of a transfer of administrative
5 jurisdiction on Department of Defense efforts relat-
6 ing to recruiting, retention, and compensation, in-
7 cluding bonuses, special pays, and incentive pays.

8 (4) The extent to which educational assistance
9 benefits influence the decision of a person to join a
10 reserve component.

11 (5) The extent to which the educational assist-
12 ance benefits available under chapter 1606 of title
13 10, United States Code, affect retention rates, in-
14 cluding statistics showing how many members re-
15 main in the reserve components in order to continue
16 to receive education benefits under such chapter.

17 (6) The extent to which the educational assist-
18 ance benefits available under chapter 1607 of title
19 10, United States Code, affect retention rates, in-
20 cluding statistics showing how many members re-
21 main in the reserve components in order to continue
22 to receive education benefits under such chapter.

23 (7) The practical and budgetary issues involved
24 in a transfer of administrative jurisdiction, including
25 a discussion of the cost of equating the educational

1 assistance benefits for members of the active and re-
2 serve components.

3 (8) Any recommendations of the Secretary for
4 legislation to enhance or improve the delivery of edu-
5 cational assistance benefits for members of the re-
6 serve components.

7 (9) The feasibility and likely effects of transfer-
8 ring the administration of the educational assistance
9 programs for members of the reserve components
10 contained in chapters 1606 and 1607 of title 10,
11 United States Code, from the Department of De-
12 fense to the Department of Veterans Affairs through
13 the recodification of such chapters in title 38,
14 United States Code, as proposed in section 525 of
15 HR 1585 of the 110th Congress, as passed by the
16 House of Representatives, together with any rec-
17 ommendations of the Secretary for improving that
18 section.

19 (10) A discussion of the effects and impact of
20 the amendments to chapter 1607 of title 10, United
21 States Code, made by section 530 of this Act, relat-
22 ing to the extension of the time limit for the use of
23 educational assistance benefits under that chapter.

24 (c) **REVIEWS OF REPORT.**—Before submission of the
25 report to Congress, the Secretary of Defense shall secure

1 the review of the report by the Defense Business Board,
2 in cooperation with the Reserve Forces Policy Board. The
3 Secretary of Veterans Affairs shall secure the review of
4 the report by the Veterans Affairs Advisory Committee on
5 Education. The results of such reviews shall be included
6 as an appendix to the report.

7 (d) COMPTROLLER GENERAL REVIEW.—Not later
8 than November 1, 2008, the Comptroller General shall
9 submit to the congressional committees referred to in sub-
10 section (a) an assessment of the report, including a review
11 of the costs inherent in the transfer of administrative ju-
12 risdiction and the recruiting and retention data and other
13 assumptions used by the Secretary of Defense in pre-
14 paring the report. As part of the assessment, the Comp-
15 troller General shall solicit responses from the Secretary
16 of Defense and the Secretary of Veterans Affairs.

1 **Subtitle D—Military Justice and**
2 **Legal Assistance Matters**

3 **SEC. 541. AUTHORITY TO DESIGNATE CIVILIAN EMPLOYEES**
4 **OF THE FEDERAL GOVERNMENT AND DE-**
5 **PENDENTS OF DECEASED MEMBERS AS ELI-**
6 **GIBLE FOR LEGAL ASSISTANCE FROM DE-**
7 **PARTMENT OF DEFENSE LEGAL STAFF RE-**
8 **SOURCES.**

9 Section 1044(a) of title 10, United States Code, is
10 amended by adding at the end the following new para-
11 graphs:

12 “(6) Survivors of a deceased member or former
13 member described in paragraphs (1), (2), (3), and
14 (4) who were dependents of the member or former
15 member at the time of the death of the member or
16 former member, except that the eligibility of such
17 survivors shall be determined pursuant to regula-
18 tions prescribed by the Secretary concerned.

19 “(7) Civilian employees of the Federal Govern-
20 ment serving in locations where legal assistance from
21 non-military legal assistance providers is not reason-
22 ably available, except that the eligibility of civilian
23 employees shall be determined pursuant to regula-
24 tions prescribed by the Secretary concerned.”.

1 **SEC. 542. AUTHORITY OF JUDGES OF THE UNITED STATES**
2 **COURT OF APPEALS FOR THE ARMED**
3 **FORCES TO ADMINISTER OATHS.**

4 Section 936 of title 10, United States Code (article
5 136 of the Uniform Code of Military Justice), is amended
6 by adding at the end the following new subsection:

7 “(c) The judges of the United States Court of Ap-
8 peals for the Armed Forces may administer the oaths au-
9 thorized by subsections (a) and (b).”.

10 **SEC. 543. MODIFICATION OF AUTHORITIES ON SENIOR**
11 **MEMBERS OF THE JUDGE ADVOCATE GEN-**
12 **ERALS’ CORPS.**

13 (a) DEPARTMENT OF THE ARMY.—

14 (1) GRADE OF JUDGE ADVOCATE GENERAL.—

15 Subsection (a) of section 3037 of title 10, United
16 States Code, is amended by striking the third sen-
17 tence and inserting the following new sentence: “The
18 Judge Advocate General, while so serving, has the
19 grade of lieutenant general.”.

20 (2) REDESIGNATION OF ASSISTANT JUDGE AD-
21 VOCATE GENERAL AS DEPUTY JUDGE ADVOCATE
22 GENERAL.—Such section is further amended—

23 (A) in subsection (a), by striking “Assist-
24 ant Judge Advocate General” each place it ap-
25 pears and inserting “Deputy Judge Advocate
26 General”; and

1 (B) in subsection (d), by striking “Assist-
2 ant Judge Advocate General” and inserting
3 “Deputy Judge Advocate General”.

4 (3) CLERICAL AMENDMENTS.—(A) The heading
5 of such section is amended to read as follows:

6 **“§ 3037. Judge Advocate General, Deputy Judge Ad-
7 vocate General, and general officers of
8 Judge Advocate General’s Corps: appoint-
9 ment; duties”.**

10 (B) The table of sections at the beginning of
11 chapter 305 of such title is amended by striking the
12 item relating to section 3037 and inserting the fol-
13 lowing new item:

“3037. Judge Advocate General, Deputy Judge Advocate General, and general
officers of Judge Advocate General’s Corps: appointment; du-
ties.”.

14 (b) GRADE OF JUDGE ADVOCATE GENERAL OF THE
15 NAVY.—Section 5148(b) of such title is amended by strik-
16 ing the last sentence and inserting the following new sen-
17 tence: “The Judge Advocate General, while so serving, has
18 the grade of vice admiral or lieutenant general, as appro-
19 priate.”.

20 (c) GRADE OF JUDGE ADVOCATE GENERAL OF THE
21 AIR FORCE.—Section 8037(a) of such title is amended by
22 striking the last sentence and inserting the following new
23 sentence: “The Judge Advocate General, while so serving,
24 has the grade of lieutenant general.”.

1 (d) INCREASE IN NUMBER OF OFFICERS SERVING IN
2 GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.—
3 Section 525(b) of such title is amended in paragraphs (1)
4 and (2)(A) by striking “15.7 percent” each place it ap-
5 pears and inserting “16.3 percent”.

6 (e) LEGAL COUNSEL TO CHAIRMAN OF THE JOINT
7 CHIEFS OF STAFF.—

8 (1) IN GENERAL.—Chapter 5 of title 10, United
9 States Code, is amended by adding at the end the
10 following new section:

11 **“§ 156. Legal Counsel to the Chairman of the Joint**
12 **Chiefs of Staff**

13 “(a) IN GENERAL.—There is a Legal Counsel to the
14 Chairman of the Joint Chiefs of Staff.

15 “(b) SELECTION FOR APPOINTMENT.—Under regula-
16 tions prescribed by the Secretary of Defense, the officer
17 selected for appointment to serve as Legal Counsel to the
18 Chairman of the Joint Chiefs of Staff shall be rec-
19 ommended by a board of officers convened by the Sec-
20 retary of Defense that, insofar as practicable, is subject
21 to the procedures applicable to selection boards convened
22 under chapter 36 of this title.

23 “(c) GRADE.—An officer appointed to serve as Legal
24 Counsel to the Chairman of the Joint Chiefs of Staff shall,

1 while so serving, hold the grade of brigadier general or
2 rear admiral (lower half).

3 “(d) DUTIES.—The Legal Counsel of the Chairman
4 of the Joint Chiefs of Staff shall perform such legal duties
5 in support of the responsibilities of the Chairman of the
6 Joint Chiefs of Staff as the Chairman may prescribe.”.

7 (2) CLERICAL AMENDMENT.—The table of sec-
8 tions at the beginning of chapter 5 of such title is
9 amended by adding at the end the following new
10 item:

“156. Legal Counsel to the Chairman of the Joint Chiefs of Staff”.

11 (f) STRATEGIC PLAN TO LINK GENERAL AND FLAG
12 OFFICER NUMBERS, ASSIGNMENTS, AND DEVELOPMENT
13 TO THE MISSIONS AND REQUIREMENTS OF THE DEPART-
14 MENT OF DEFENSE.—

15 (1) STRATEGIC PLAN REQUIRED.—The Sec-
16 retary of Defense shall develop a strategic plan link-
17 ing the missions and requirements of the Depart-
18 ment of Defense for general and flag officers to the
19 statutory limits on the numbers of general and flag
20 officers, and current assignment, promotion, and
21 joint officer development policies for general and
22 flag officers.

23 (2) ADVICE OF CHAIRMAN OF JOINT CHIEFS OF
24 STAFF.—The Secretary shall develop the strategic

1 plan required under paragraph (1) with the advice
2 of the Chairman of the Joint Chiefs of Staff.

3 (3) MATTERS TO BE INCLUDED.—The strategic
4 plan required under paragraph (1) shall include the
5 following:

6 (A) A description of the process for identi-
7 fication of the present and emerging require-
8 ments for general and flag officers and rec-
9 ommendations for meeting these requirements.

10 (B) Identification of the numbers of gen-
11 eral and flag officers by service, grade, and
12 qualifications currently available compared with
13 the numbers needed to meet existing statutory
14 requirements in support of the overall missions
15 of the Department of Defense.

16 (C) An assessment of the problems or
17 issues (and proposed solutions for any such
18 problems or issues) arising from existing nu-
19 merical limitations on the number and grade
20 distribution of active and reserve component
21 general and flag officers under sections 525,
22 526, and 12004 of title 10, United States Code;

23 (D) A discussion of how wartime require-
24 ments for additional general or flag officers
25 have been addressed in support of Operation

1 Enduring Freedom and Operation Iraqi Free-
2 dom, including the usage of wartime or national
3 emergency authorities.

4 (E) An assessment of any problems or
5 issues (and proposed solutions for any such
6 problems or issues) arising from existing statu-
7 tory provisions regarding general and flag offi-
8 cer assignments and grade requirements and
9 the need, if any, for revision of provisions in
10 title 10, United States Code, specific to indi-
11 vidual general and flag officer positions along
12 with recommendations to mitigate the need for
13 routine legislative intervention as positions
14 change to support organizational demands.

15 (F) An assessment of the use currently
16 being made of reserve component flag and gen-
17 eral officers and discussion of barriers to the
18 qualification, selection, and assignment of Na-
19 tional Guard and Reserve officers for the broad-
20 est possible range of positions of importance
21 and responsibility.

22 (4) DEADLINE FOR SUBMISSION.—The Sec-
23 retary shall submit the plan required under para-
24 graph (1) to the Committees on Armed Services of

1 the Senate and the House of Representatives not
2 later than March 1, 2009.

3 **SEC. 544. PROHIBITION AGAINST MEMBERS OF THE ARMED**
4 **FORCES PARTICIPATING IN CRIMINAL**
5 **STREET GANGS.**

6 The Secretary of Defense shall prescribe regulations
7 to prohibit the active participation by members of the
8 Armed Forces in a criminal street gang.

9 **Subtitle E—Military Leave**

10 **SEC. 551. TEMPORARY ENHANCEMENT OF CARRYOVER OF**
11 **ACCUMULATED LEAVE FOR MEMBERS OF**
12 **THE ARMED FORCES.**

13 (a) TEMPORARY INCREASE IN ACCUMULATED LEAVE
14 CARRYOVER AMOUNT.—Section 701 of title 10, United
15 States Code, is amended—

16 (1) in subsection (b), by striking “subsection (f)
17 and subsection (g)” and inserting “subsections (d),
18 (f), and (g)”; and

19 (2) by inserting after subsection (c) the fol-
20 lowing new subsection:

21 “(d) Notwithstanding subsection (b), during the pe-
22 riod beginning on October 1, 2008, through December 31,
23 2010, a member may accumulate up to 75 days of leave.”.

1 (b) CONFORMING AMENDMENTS RELATED TO HIGH
2 DEPLOYMENT MEMBERS.—Subsection (f) of such section
3 is amended—

4 (1) in paragraph (1)(A), by striking “any accu-
5 mulated leave in excess of 60 days at the end of the
6 fiscal year” and inserting “at the end of the fiscal
7 year any accumulated leave in excess of the number
8 of days of leave authorized to be accumulated under
9 subsection (b) or (d)”;

10 (2) in paragraph (1)(C)—

11 (A) by striking “60 days” and inserting
12 “the days of leave authorized to be accumulated
13 under subsection (b) or (d) that are”; and

14 (B) by inserting “(or fourth fiscal year, if
15 accumulated while subsection (d) is in effect)”
16 after “third fiscal year”; and

17 (3) in paragraph (2), by striking “except for
18 this paragraph—” and all that follows through the
19 end of the paragraph and inserting “except for this
20 paragraph, would lose at the end of that fiscal year
21 any accumulated leave in excess of the number of
22 days of leave authorized to be accumulated under
23 subsection (b) or (d), shall be permitted to retain
24 such leave until the end of the second fiscal year

1 after the fiscal year in which such service on active
2 duty is terminated.”.

3 (c) CONFORMING AMENDMENT RELATED TO MEM-
4 BERS IN MISSING STATUS.—Subsection (g) of such sec-
5 tion is amended by striking “60-day limitation in sub-
6 section (b) and the 90-day limitation in subsection (f)”
7 and inserting “limitations in subsections (b), (d), and (f)”.

8 (d) PAY.—Section 501(b) of title 37, United States
9 Code, is amended by adding at the end the following new
10 paragraph:

11 “(6) An enlisted member of the armed forces who
12 would lose accumulated leave in excess of 120 days of
13 leave under section 701(f)(1) of title 10 may elect to be
14 paid in cash or by a check on the Treasurer of the United
15 States for any leave in excess so accumulated for up to
16 30 days of such leave. A member may make an election
17 under this paragraph only once.”.

18 **SEC. 552. ENHANCEMENT OF REST AND RECUPERATION**

19 **LEAVE.**

20 Section 705(b)(2) of title 10, United States Code, is
21 amended by inserting “for members whose qualifying tour
22 of duty is 12 months or less, or for not more than 20
23 days for members whose qualifying tour of duty is longer
24 than 12 months,” after “for not more than 15 days”.

1 **Subtitle F—Decorations and**
2 **Awards**

3 **SEC. 561. AUTHORIZATION AND REQUEST FOR AWARD OF**
4 **MEDAL OF HONOR TO LESLIE H. SABO, JR.,**
5 **FOR ACTS OF VALOR DURING THE VIETNAM**
6 **WAR.**

7 (a) **AUTHORIZATION.**—Notwithstanding the time lim-
8 itations specified in section 3744 of title 10, United States
9 Code, or any other time limitation with respect to the
10 awarding of certain medals to persons who served in the
11 Armed Forces, the President is authorized and requested
12 to award the Medal of Honor under section 3741 of such
13 title to Leslie H. Sabo, Jr., for the acts of valor during
14 the Vietnam War described in subsection (b).

15 (b) **ACTS OF VALOR DESCRIBED.**—The acts of valor
16 referred to in subsection (a) are the actions of Leslie H.
17 Sabo, Jr., on May 10, 1970, as a member of the United
18 States Army serving in the grade of Specialist Four in
19 the Republic of Vietnam with Company B of the 3d Bat-
20 talion, 506th Infantry Regiment, 101st Airborne Division.

21 **SEC. 562. AUTHORIZATION AND REQUEST FOR AWARD OF**
22 **MEDAL OF HONOR TO HENRY SVEHLA FOR**
23 **ACTS OF VALOR DURING THE KOREAN WAR.**

24 (a) **AUTHORIZATION.**—Notwithstanding the time lim-
25 itations specified in section 3744 of title 10, United States

1 Code, or any other time limitation with respect to the
2 awarding of certain medals to persons who served in the
3 Armed Forces, the President is authorized and requested
4 to award the Medal of Honor under section 3741 of such
5 title to Henry Svehla for the acts of valor described in
6 subsection (b).

7 (b) ACTS OF VALOR DESCRIBED.—The acts of valor
8 referred to in subsection (a) are the actions of Henry
9 Svehla on June 12, 1952, as a member of the United
10 States Army serving in the grade of Private First Class
11 in Korea with Company F of the 32d Infantry Regiment,
12 7th Infantry Division.

13 **SEC. 563. AUTHORIZATION AND REQUEST FOR AWARD OF**
14 **MEDAL OF HONOR TO WOODROW W. KEEBLE**
15 **FOR ACTS OF VALOR DURING THE KOREAN**
16 **WAR.**

17 (a) WAIVER OF TIME LIMITATIONS.—Notwith-
18 standing the time limitations specified in section 3744 of
19 title 10, United States Code, or any other time limitation
20 with respect to the awarding of certain medals to persons
21 who served in the Armed Forces, the President is author-
22 ized and requested to award the Medal of Honor under
23 section 3741 of such title to Woodrow W. Keeble for the
24 acts of valor described in subsection (b).

1 (b) ACTS OF VALOR DESCRIBED.—The acts of valor
2 referred to in subsection (a) are the actions of Woodrow
3 W. Keeble of the United States Army as an acting platoon
4 leader on October 20, 1950, during the Korean War.

5 **SEC. 564. AUTHORIZATION AND REQUEST FOR AWARD OF**
6 **MEDAL OF HONOR TO PRIVATE PHILIP G.**
7 **SHADRACH FOR ACTS OF VALOR AS ONE OF**
8 **ANDREWS' RAIDERS DURING THE CIVIL WAR.**

9 (a) AUTHORIZATION.—Notwithstanding the time lim-
10 itations specified in section 3744 of title 10, United States
11 Code, or any other time limitation with respect to the
12 awarding of certain medals to persons who served in the
13 Armed Forces, the President is authorized and requested
14 to award the Medal of Honor under section 3741 of such
15 title posthumously to Private Philip G. Shadrach of Com-
16 pany K, 2nd Ohio Volunteer Infantry Regiment for the
17 acts of valor described in subsection (b).

18 (b) ACTS OF VALOR DESCRIBED.—The acts of valor
19 referred to in subsection (a) are the actions of Philip G.
20 Shadrach as one of Andrews' Raiders during the Civil War
21 on April 12, 1862.

1 **SEC. 565. AUTHORIZATION AND REQUEST FOR AWARD OF**
2 **MEDAL OF HONOR TO PRIVATE GEORGE D.**
3 **WILSON FOR ACTS OF VALOR AS ONE OF AN-**
4 **DREWS' RAIDERS DURING THE CIVIL WAR.**

5 (a) AUTHORIZATION.—The President is authorized
6 and requested to award the Medal of Honor under section
7 3741 of title 10, United States Code, posthumously to Pri-
8 vate George D. Wilson of Company B, 2nd Ohio Volunteer
9 Infantry Regiment for the acts of valor described in sub-
10 section (b).

11 (b) ACTS OF VALOR DESCRIBED.—The acts of valor
12 referred to in subsection (a) are the actions of George D.
13 Wilson as one of Andrews' Raiders during the Civil War
14 on April 12, 1862.

15 **Subtitle G—Impact Aid and De-**
16 **fense Dependents Education**
17 **System**

18 **SEC. 571. CONTINUATION OF AUTHORITY TO ASSIST LOCAL**
19 **EDUCATIONAL AGENCIES THAT BENEFIT DE-**
20 **PENDENTS OF MEMBERS OF THE ARMED**
21 **FORCES AND DEPARTMENT OF DEFENSE CI-**
22 **VILIAN EMPLOYEES.**

23 (a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT
24 NUMBERS OF MILITARY DEPENDENT STUDENTS.—Of the
25 amount authorized to be appropriated pursuant to section
26 301(5) for operation and maintenance for Defense-wide

1 activities, \$30,000,000 shall be available only for the pur-
2 pose of providing assistance to local educational agencies
3 under subsection (a) of section 572 of the National De-
4 fense Authorization Act for Fiscal Year 2006 (Public Law
5 109–163; 119 Stat. 3271; 20 U.S.C. 7703b).

6 (b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT
7 CHANGES DUE TO BASE CLOSURES, FORCE STRUCTURE
8 CHANGES, OR FORCE RELOCATIONS.—Of the amount au-
9 thorized to be appropriated pursuant to section 301(5) for
10 operation and maintenance for Defense-wide activities,
11 \$10,000,000 shall be available only for the purpose of pro-
12 viding assistance to local educational agencies under sub-
13 section (b) of such section 572.

14 (c) LOCAL EDUCATIONAL AGENCY DEFINED.—In
15 this section, the term “local educational agency” has the
16 meaning given that term in section 8013(9) of the Ele-
17 mentary and Secondary Education Act of 1965 (20 U.S.C.
18 7713(9)).

19 **SEC. 572. IMPACT AID FOR CHILDREN WITH SEVERE DIS-**
20 **ABILITIES.**

21 Of the amount authorized to be appropriated pursu-
22 ant to section 301(5) for operation and maintenance for
23 Defense-wide activities, \$5,000,000 shall be available for
24 payments under section 363 of the Floyd D. Spence Na-
25 tional Defense Authorization Act for Fiscal Year 2001 (as

1 enacted into law by Public Law 106–398; 114 Stat.
2 1654A–77; 20 U.S.C. 7703a).

3 **SEC. 573. INCLUSION OF DEPENDENTS OF NON-DEPART-**
4 **MENT OF DEFENSE EMPLOYEES EMPLOYED**
5 **ON FEDERAL PROPERTY IN PLAN RELATING**
6 **TO FORCE STRUCTURE CHANGES, RELOCA-**
7 **TION OF MILITARY UNITS, OR BASE CLO-**
8 **SURES AND REALIGNMENTS.**

9 Section 574(e)(3) of the John Warner National De-
10 fense Authorization Act for Fiscal Year 2007 (Public Law
11 109–364; 120 Stat. 2227; 20 U.S.C. 7703b note) is
12 amended—

13 (1) in subparagraph (A), by striking “and” at
14 the end;

15 (2) in subparagraph (B), by striking the period
16 at the end and inserting “; and”; and

17 (3) by adding at the end the following new sub-
18 paragraph:

19 “(C) elementary and secondary school stu-
20 dents who are dependents of personnel who are
21 not members of the Armed Forces or civilian
22 employees of the Department of Defense but
23 who are employed on Federal property.”.

1 **SEC. 574. PAYMENT OF PRIVATE BOARDING SCHOOL TUI-**
2 **TION FOR MILITARY DEPENDENTS IN OVER-**
3 **SEAS AREAS NOT SERVED BY DEFENSE DE-**
4 **PENDENTS' EDUCATION SYSTEM SCHOOLS.**

5 Section 1407(b)(1) of the Defense Dependents' Edu-
6 cation Act of 1978 (20 U.S.C. 926(b)(1)) is amended by
7 inserting after the first sentence the following new sen-
8 tence: "Schools to which tuition may be paid under this
9 subsection may include private boarding schools in the
10 United States."

11 **Subtitle H—Military Families**

12 **SEC. 581. DEPARTMENT OF DEFENSE MILITARY FAMILY**
13 **READINESS COUNCIL AND POLICY AND**
14 **PLANS FOR MILITARY FAMILY READINESS.**

15 (a) IN GENERAL.—Subchapter I of chapter 88 of title
16 10, United States Code, is amended by inserting after sec-
17 tion 1781 the following new sections:

18 **“§ 1781a. Department of Defense Military Family**
19 **Readiness Council**

20 “(a) IN GENERAL.—There is in the Department of
21 Defense the Department of Defense Military Family
22 Readiness Council (in this section referred to as the
23 ‘Council’).

24 “(b) MEMBERS.—(1) The Council shall consist of the
25 following members:

1 “(A) The Under Secretary of Defense for Per-
2 sonnel and Readiness, who shall serve as chair of the
3 Council.

4 “(B) One representative of each of the Army,
5 Navy, Marine Corps, and Air Force, who shall be
6 appointed by the Secretary of Defense.

7 “(C) Three individuals appointed by the Sec-
8 retary of Defense from among representatives of
9 military family organizations, including military
10 family organizations of families of members of the
11 regular components and of families of members of
12 the reserve components.

13 “(D) In addition to the representatives ap-
14 pointed under subparagraph (B), the senior enlisted
15 advisors of the Army, Navy, Marine Corps, and Air
16 Force, or the spouse of a senior enlisted member
17 from each of the Army, Navy, Marine Corps, and
18 Air Force.

19 “(2) The term on the Council of the members ap-
20 pointed under paragraph (1)(C) shall be three years.

21 “(c) MEETINGS.—The Council shall meet not less
22 often than twice each year.

23 “(d) DUTIES.—The duties of the Council shall in-
24 clude the following:

1 “(1) To review and make recommendations to
2 the Secretary of Defense regarding the policy and
3 plans required under section 1781b of this title.

4 “(2) To monitor requirements for the support
5 of military family readiness by the Department of
6 Defense.

7 “(3) To evaluate and assess the effectiveness of
8 the military family readiness programs and activities
9 of the Department of Defense.

10 “(e) ANNUAL REPORTS.—(1) Not later than Feb-
11 ruary 1 each year, the Council shall submit to the Sec-
12 retary of Defense and the congressional defense commit-
13 tees a report on military family readiness.

14 “(2) Each report under this subsection shall include
15 the following:

16 “(A) An assessment of the adequacy and effec-
17 tiveness of the military family readiness programs
18 and activities of the Department of Defense during
19 the preceding fiscal year in meeting the needs and
20 requirements of military families.

21 “(B) Recommendations on actions to be taken
22 to improve the capability of the military family read-
23 iness programs and activities of the Department of
24 Defense to meet the needs and requirements of mili-
25 tary families, including actions relating to the alloca-

1 tion of funding and other resources to and among
2 such programs and activities.

3 **“§ 1781b. Department of Defense policy and plans for**
4 **military family readiness**

5 “(a) POLICY AND PLANS REQUIRED.—The Secretary
6 of Defense shall develop a policy and plans for the Depart-
7 ment of Defense for the support of military family readi-
8 ness.

9 “(b) PURPOSES.—The purposes of the policy and
10 plans required under subsection (a) are as follows:

11 “(1) To ensure that the military family readi-
12 ness programs and activities of the Department of
13 Defense are comprehensive, effective, and properly
14 supported.

15 “(2) To ensure that support is continuously
16 available to military families in peacetime and in
17 war, as well as during periods of force structure
18 change and relocation of military units.

19 “(3) To ensure that the military family readi-
20 ness programs and activities of the Department of
21 Defense are available to all military families, includ-
22 ing military families of members of the regular com-
23 ponents and military families of members of the re-
24 serve components.

1 “(4) To make military family readiness an ex-
2 plicit element of applicable Department of Defense
3 plans, programs, and budgeting activities, and that
4 achievement of military family readiness is expressed
5 through Department-wide goals that are identifiable
6 and measurable.

7 “(5) To ensure that the military family readi-
8 ness programs and activities of the Department of
9 Defense undergo continuous evaluation in order to
10 ensure that resources are allocated and expended for
11 such programs and activities to achieve Department-
12 wide family readiness goals.

13 “(c) ELEMENTS OF POLICY.—The policy required
14 under subsection (a) shall include the following elements:

15 “(1) A list of military family readiness pro-
16 grams and activities.

17 “(2) Department of Defense-wide goals for mili-
18 tary family support, including joint programs, both
19 for military families of members of the regular com-
20 ponents and military families of members of the re-
21 serve components.

22 “(3) Policies on access to military family sup-
23 port programs and activities based on military fam-
24 ily populations served and geographical location.

1 “(4) Metrics to measure the performance and
2 effectiveness of the military family readiness pro-
3 grams and activities of the Department of Defense.

4 “(5) A summary, by fiscal year, of the alloca-
5 tion of funds (including appropriated funds and non-
6 appropriated funds) for major categories of military
7 family readiness programs and activities of the De-
8 partment of Defense, set forth for each of the mili-
9 tary departments and for the Office of the Secretary
10 of Defense.

11 “(d) ANNUAL REPORT.—Not later than March 1,
12 2008, and each year thereafter, the Secretary of Defense
13 shall submit to the congressional defense committees a re-
14 port on the plans required under subsection (a) for the
15 five-fiscal year period beginning with the fiscal year in
16 which the report is submitted. Each report shall include
17 the plans covered by the report and an assessment of the
18 discharge by the Department of Defense of the previous
19 plans submitted under this section.”.

20 (b) REPORT ON MILITARY FAMILY READINESS POL-
21 ICY.—Not later than February 1, 2009, the Secretary of
22 Defense shall submit to the congressional defense commit-
23 tees a report setting forth the policy developed under sec-
24 tion 1781b of title 10, United States Code, as added by
25 subsection (a).

1 (c) SURVEYS OF MILITARY FAMILIES.—Section 1782
2 of title 10, United States Code, is amended by adding at
3 the end the following new subsection:

4 “(d) SURVEY REQUIRED FOR FISCAL YEAR 2010.—
5 Notwithstanding subsection (a), during fiscal year 2010,
6 the Secretary of Defense shall conduct a survey otherwise
7 authorized under such subsection. Thereafter, additional
8 surveys may be conducted not less often than once every
9 three fiscal years.”.

10 (d) CLERICAL AMENDMENT.—The table of sections
11 at the beginning of subchapter I of chapter 88 of such
12 title is amended by inserting after the item relating to sec-
13 tion 1781 the following new items:

“1781a. Department of Defense Military Family Readiness Council.

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

14 **SEC. 582. YELLOW RIBBON REINTEGRATION PROGRAM.**

15 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
16 of Defense shall establish a national combat veteran re-
17 integration program to provide National Guard and Re-
18 serve members and their families with sufficient informa-
19 tion, services, referral, and proactive outreach opportuni-
20 ties throughout the entire deployment cycle. This program
21 shall be known as the Yellow Ribbon Reintegration Pro-
22 gram.

23 (b) PURPOSE OF PROGRAM; DEPLOYMENT CYCLE.—
24 The Yellow Ribbon Reintegration Program shall consist

1 of informational events and activities for members of the
2 reserve components of the Armed Forces, their families,
3 and community members to facilitate access to services
4 supporting their health and well-being through the four
5 phases of the deployment cycle:

6 (1) Pre-Deployment.

7 (2) Deployment.

8 (3) Demobilization.

9 (4) Post-Deployment-Reconstitution.

10 (c) EXECUTIVE AGENT.—The Secretary shall des-
11 ignate the Under Secretary of Defense for Personnel and
12 Readiness as the Department of Defense executive agent
13 for the Yellow Ribbon Reintegration Program.

14 (d) OFFICE FOR REINTEGRATION PROGRAMS.—

15 (1) ESTABLISHMENT.—The Under Secretary of
16 Defense for Personnel and Readiness shall establish
17 the Office for Reintegration Programs within the Of-
18 fice of the Secretary of Defense. The office shall ad-
19 minister all reintegration programs in coordination
20 with State National Guard organizations. The office
21 shall be responsible for coordination with existing
22 National Guard and Reserve family and support pro-
23 grams. The Directors of the Army National Guard
24 and Air National Guard and the Chiefs of the Army
25 Reserve, Marine Corps Reserve, Navy Reserve, and

1 Air Force Reserve may appoint liaison officers to co-
2 ordinate with the permanent office staff. The office
3 may also enter into partnerships with other public
4 entities, including the Department of Health and
5 Human Services, Substance Abuse and the Mental
6 Health Services Administration, for access to nec-
7 essary substance abuse and mental health treatment
8 services from local State-licensed service providers.

9 (2) CENTER FOR EXCELLENCE IN REINTEGRA-
10 TION.—The Office for Reintegration Programs shall
11 establish a Center for Excellence in Reintegration
12 within the office. The Center shall collect and ana-
13 lyze “lessons learned” and suggestions from State
14 National Guard and Reserve organizations with ex-
15 isting or developing reintegration programs. The
16 Center shall also assist in developing training aids
17 and briefing materials and training representatives
18 from State National Guard and Reserve organiza-
19 tions.

20 (e) ADVISORY BOARD.—

21 (1) APPOINTMENT.—The Secretary of Defense
22 shall appoint an advisory board to analyze the Yel-
23 low Ribbon Reintegration Program and report on
24 areas of success and areas for necessary improve-
25 ments. The advisory board shall include the Director

1 of the Army National Guard, the Director of the Air
2 National Guard, Chiefs of the Army Reserve, Marine
3 Corps Reserve, Navy Reserve, and Air Force Re-
4 serve, the Assistant Secretary of Defense for Reserve
5 Affairs, an Adjutant General on a rotational basis as
6 determined by the Chief of the National Guard Bu-
7 reau, and any other Department of Defense, Federal
8 Government agency, or outside organization as de-
9 termined by the Secretary of Defense. The members
10 of the advisory board may designate representatives
11 in their stead.

12 (2) SCHEDULE.—The advisory board shall meet
13 on a schedule determined by the Secretary of De-
14 fense.

15 (3) INITIAL REPORTING REQUIREMENT.—The
16 advisory board shall issue internal reports as nec-
17 essary and shall submit an initial report to the Com-
18 mittees on Armed Services of the Senate and House
19 of Representatives not later than 180 days after the
20 end of the one-year period beginning on the date of
21 the establishment of the Office for Reintegration
22 Programs. The report shall contain—

23 (A) an evaluation of the implementation of
24 the Yellow Ribbon Reintegration Program by

1 State National Guard and Reserve organiza-
2 tions;

3 (B) an assessment of any unmet resource
4 requirements; and

5 (C) recommendations regarding closer co-
6 ordination between the Office of Reintegration
7 Programs and State National Guard and Re-
8 serve organizations.

9 (4) ANNUAL REPORTS.—The advisory board
10 shall submit annual reports to the Committees on
11 Armed Services of the Senate and the House of Rep-
12 resentatives following the initial report by the first
13 week in March of subsequent years following the ini-
14 tial report.

15 (f) STATE DEPLOYMENT CYCLE SUPPORT TEAMS.—
16 The Office for Reintegration Programs may employ per-
17 sonnel to administer the Yellow Ribbon Reintegration Pro-
18 gram at the State level. The primary function of team
19 members shall be—

20 (1) to implement the reintegration curriculum
21 through the deployment cycle described in subsection
22 (g);

23 (2) to obtain necessary service providers; and

24 (3) to educate service providers regarding the
25 unique military nature of the reintegration program.

1 (g) OPERATION OF PROGRAM THROUGH DEPLOY-
2 MENT CYCLE.—

3 (1) IN GENERAL.—The Office for Reintegration
4 Programs shall analyze the demographics, placement
5 of State Family Assistance Centers and their re-
6 sources before a mobilization alert is issued to af-
7 fected State National Guard and Reserve organiza-
8 tions. The Office of Reintegration Programs shall
9 consult with affected State National Guard and Re-
10 serve organizations following the issuance of a mobi-
11 lization alert and implement the reintegration events
12 in accordance with the Reintegration Program phase
13 model.

14 (2) PRE-DEPLOYMENT PHASE.—The Pre-De-
15 ployment Phase shall constitute the time from first
16 notification of mobilization until deployment of the
17 mobilized National Guard or Reserve unit. Events
18 and activities shall focus on providing education and
19 ensuring the readiness of members of the unit, their
20 families, and affected communities for the rigors of
21 a combat deployment.

22 (3) DEPLOYMENT PHASE.—The Deployment
23 Phase shall constitute the period from deployment of
24 the mobilized National Guard or Reserve unit until
25 the unit arrives at a demobilization station inside

1 the continental United States. Events and services
2 provided shall focus on the challenges and stress as-
3 sociated with separation and having a member in a
4 combat zone. Information sessions shall utilize State
5 National Guard and Reserve resources in coordina-
6 tion with the Employer Support of Guard and Re-
7 serve Office, Transition Assistance Advisors, and the
8 State Family Programs Director.

9 (4) DEMOBILIZATION PHASE.—

10 (A) IN GENERAL.—The Demobilization
11 Phase shall constitute the period from arrival of
12 the National Guard or Reserve unit at the de-
13 mobilization station until its departure for home
14 station.

15 (B) INITIAL REINTEGRATION ACTIVITY.—
16 The purpose of this reintegration program is to
17 educate members about the resources that are
18 available to them and to connect members to
19 service providers who can assist them in over-
20 coming the challenges of reintegration.

21 (5) POST-DEPLOYMENT-RECONSTITUTION
22 PHASE.—

23 (A) IN GENERAL.—The Post-Deployment-
24 Reconstitution Phase shall constitute the period
25 from arrival at home station until 180 days fol-

1 lowing demobilization. Activities and services
2 provided shall focus on reconnecting members
3 with their families and communities and pro-
4 viding resources and information necessary for
5 successful reintegration. Reintegration events
6 shall begin with elements of the Initial Re-
7 integration Activity program that were not com-
8 pleted during the Demobilization Phase.

9 (B) 30-DAY, 60-DAY, AND 90-DAY RE-
10 INTEGRATION ACTIVITIES.—The State National
11 Guard and Reserve organizations shall hold re-
12 integration activities at the 30-day, 60-day, and
13 90-day interval following demobilization. These
14 activities shall focus on reconnecting members
15 and their families with the service providers
16 from the Initial Reintegration Activity to ensure
17 that members and their families understand
18 what benefits they are entitled to and what re-
19 sources are available to help them overcome the
20 challenges of reintegration. The Reintegration
21 Activities shall also provide a forum for mem-
22 bers and their families to address negative be-
23 haviors related to combat stress and transition.

24 (C) MEMBER PAY.—Members shall receive
25 appropriate pay for days spent attending the

1 Reintegration Activities at the 30-day, 60-day,
2 and 90-day intervals.

3 (h) OUTREACH SERVICES.—As part of the Yellow
4 Ribbon Reintegration Program, the Office for Reintegra-
5 tion Programs may develop programs of outreach to mem-
6 bers of the Armed Forces and their family members to
7 educate such members and their family members about
8 the assistance and services available to them under the
9 Yellow Ribbon Reintegration Program. Such assistance
10 and services may include the following:

- 11 (1) Marriage counseling.
- 12 (2) Services for children.
- 13 (3) Suicide prevention.
- 14 (4) Substance abuse awareness and treatment.
- 15 (5) Mental health awareness and treatment.
- 16 (6) Financial counseling.
- 17 (7) Anger management counseling.
- 18 (8) Domestic violence awareness and preven-
19 tion.
- 20 (9) Employment assistance.
- 21 (10) Preparing and updating family care plans.
- 22 (11) Development of strategies for living with a
23 member of the Armed Forces with post traumatic
24 stress disorder or traumatic brain injury.

1 (12) Other services that may be appropriate to
2 address the unique needs of members of the Armed
3 Forces and their families who live in rural or remote
4 areas with respect to family readiness and
5 servicemember reintegration.

6 (13) Assisting members of the Armed Forces
7 and their families find and receive assistance with
8 military family readiness and servicemember re-
9 integration, including referral services.

10 (14) Development of strategies and programs
11 that recognize the need for long-term follow-up serv-
12 ices for reintegrating members of the Armed Forces
13 and their families for extended periods following de-
14 ployments, including between deployments.

15 (15) Assisting members of the Armed Forces
16 and their families in receiving services and assist-
17 ance from the Department of Veterans Affairs, in-
18 cluding referral services.

19 **SEC. 583. STUDY TO ENHANCE AND IMPROVE SUPPORT**
20 **SERVICES AND PROGRAMS FOR FAMILIES OF**
21 **MEMBERS OF REGULAR AND RESERVE COM-**
22 **ONENTS UNDERGOING DEPLOYMENT.**

23 (a) **STUDY REQUIRED.**—The Secretary of Defense
24 shall conduct a study to determine the most effective
25 means to enhance and improve family support programs

1 for families of deployed members of the regular and re-
2 serve components of the Armed Forces before, during, and
3 after deployment. The study shall also take into account
4 the potential to utilize non-governmental and local private
5 sector entities and other Federal agencies having expertise
6 in health and well-being of families, including family mem-
7 bers who are children, infants, or toddlers.

8 (b) ELEMENTS.—The study shall include at a min-
9 imum the following:

10 (1) The assessment of the types of information
11 on health care and mental health benefits and serv-
12 ices and other community resources that should be
13 made available to members of the regular and re-
14 serve components and their families, including—

15 (A) crisis services;

16 (B) marriage and family counseling; and

17 (C) financial counseling.

18 (2) An assessment of means to improve support
19 to the parents and caretakers of military dependent
20 children in order to mitigate any adverse effects of
21 the deployment of members on such children, includ-
22 ing consideration of the following:

23 (A) The need to develop materials for par-
24 ents and other caretakers of children to assist
25 in responding to the effects of such deployment

1 on children, including extended and multiple de-
2 ployments and reunion (and the death or injury
3 of members during such deployment), and the
4 role that parents and caretakers can play in ad-
5 dressing or mitigating such effects.

6 (B) The potential best practices that are
7 identified which build psychological and emo-
8 tional resiliency in children in coping with de-
9 ployment.

10 (C) The potential to improve dissemination
11 throughout the Armed Forces of the most effec-
12 tive practices for outreach, training, and build-
13 ing psychological and emotional resiliency in
14 children.

15 (D) The effectiveness of training materials
16 for education, mental health, health, and family
17 support professionals who provide services to
18 parents and caretakers of military dependent
19 children.

20 (E) The requirement to develop programs
21 and activities to increase awareness throughout
22 the military and civilian communities of the ef-
23 fects of deployment of a military spouse or
24 guardians for such children and their families

1 and to increase collaboration within such com-
2 munities to address and mitigate such effects.

3 (F) The development of training for early
4 child care and education, mental health, health
5 care, and family support professionals to en-
6 hance the awareness of such professionals of
7 their role in assisting families in addressing and
8 mitigating the adverse implications of such de-
9 ployment.

10 (G) The conduct of research on best prac-
11 tices for building psychological and emotional
12 resiliency in such children in coping with the
13 deployment of such members.

14 (3) An assessment of the effectiveness of fam-
15 ily-to-family support programs—

16 (A) in providing peer support for families
17 of deployed members of the regular and reserve
18 components;

19 (B) in identifying and preventing family
20 problems in such families;

21 (C) in reducing adverse outcomes for chil-
22 dren of such families, including poor academic
23 performance, behavioral problems, stress, and
24 anxiety;

1 (D) in improving family readiness and post
2 deployment transition for such families; and

3 (E) in utilizing spouses of members of the
4 Armed Forces as counselors for families of de-
5 ployed members, in order to assist such families
6 in coping before, during, and after the deploy-
7 ment, and the best practices for training
8 spouses of members of the Armed Forces to act
9 as counselors for families of deployed members.

10 (4) An assessment of the effectiveness of transi-
11 tion assistance programs and policies for families of
12 members during post-deployment transition from a
13 combat zone back to civilian or military commu-
14 nities—

15 (A) in identifying signs and symptoms of
16 mental health conditions for both service mem-
17 ber and their families; and

18 (B) in receiving information and resources
19 available within the local communities to ease
20 transition.

21 (5) An assessment of the impact of multiple
22 overseas deployments of members on their families,
23 particularly in the case of members serving in Oper-
24 ation Iraqi Freedom and Operation Enduring Free-

1 dom, including financial impacts and emotional im-
2 pacts.

3 (6) An assessment of the most effective timing
4 of providing information and support to the families
5 of deployed members before, during, and after de-
6 ployment, including at least six months after the
7 date of return of deployed members.

8 (7) An assessment of the need for additional
9 long-term research on the effects of multiple war-
10 time deployments on families, including children,
11 and critical areas of focus that should be addressed
12 by such research.

13 (c) REPORT ON RESULTS OF STUDY.—Not later than
14 180 days after the date of enactment of this Act, the Sec-
15 retary of Defense shall submit to the congressional defense
16 committees a report containing the results of the study
17 conducted under subsection (a).

18 **SEC. 584. PROTECTION OF CHILD CUSTODY ARRANGE-**
19 **MENTS FOR PARENTS WHO ARE MEMBERS OF**
20 **THE ARMED FORCES DEPLOYED IN SUPPORT**
21 **OF A CONTINGENCY OPERATION.**

22 (a) PROTECTION OF SERVICEMEMBERS AGAINST DE-
23 FAULT JUDGMENTS.—Section 201(a) of the
24 Servicemembers Civil Relief Act (50 U.S.C. App. 521(a))

1 is amended by inserting “, including any child custody
2 proceeding,” after “proceeding”.

3 (b) STAY OF PROCEEDINGS WHEN SERVICEMEMBER
4 HAS NOTICE.—Section 202(a) of the Servicemembers
5 Civil Relief Act (50 U.S.C. App. 522(a)) is amended by
6 inserting “, including any child custody proceeding,” after
7 “civil action or proceeding”.

8 **SEC. 585. FAMILY LEAVE IN CONNECTION WITH INJURED**
9 **MEMBERS OF THE ARMED FORCES.**

10 (a) SERVICEMEMBER FAMILY LEAVE.—

11 (1) DEFINITIONS.—Section 101 of the Family
12 and Medical Leave Act of 1993 (29 U.S.C. 2611) is
13 amended by adding at the end the following new
14 paragraphs:

15 “(14) ACTIVE DUTY.—The term ‘active duty’
16 means duty under a call or order to active duty
17 under a provision of law referred to in section
18 101(a)(13)(B) of title 10, United States Code.

19 “(15) CONTINGENCY OPERATION.—The term
20 ‘contingency operation’ has the same meaning given
21 such term in section 101(a)(13) of title 10, United
22 States Code.

23 “(16) COVERED SERVICEMEMBER.—The term
24 ‘covered servicemember’ means a member of the
25 Armed Forces, including a member of the National

1 Guard or Reserves, who is undergoing medical treat-
2 ment, recuperation, or therapy, is otherwise in out-
3 patient status, or is otherwise on the temporary dis-
4 ability retired list, for a serious injury or illness.

5 “(17) OUTPATIENT STATUS.—The term ‘out-
6 patient status’, with respect to a covered
7 servicemember, means the status of a member of the
8 Armed Forces assigned to—

9 “(A) a military medical treatment facility
10 as an outpatient; or

11 “(B) a unit established for the purpose of
12 providing command and control of members of
13 the Armed Forces receiving medical care as
14 outpatients.

15 “(18) NEXT OF KIN.—The term ‘next of kin’,
16 used with respect to an individual, means the near-
17 est blood relative of that individual.

18 “(19) SERIOUS INJURY OR ILLNESS.—The term
19 ‘serious injury or illness’, in the case of a member
20 of the Armed Forces, including a member of the Na-
21 tional Guard or Reserves, means an injury or illness
22 incurred by the member in line of duty on active
23 duty in the Armed Forces that may render the mem-
24 ber medically unfit to perform the duties of the
25 member’s office, grade, rank, or rating.”.

1 (2) ENTITLEMENT TO LEAVE.—Section 102(a)
2 of such Act (29 U.S.C. 2612(a)) is amended—

3 (A) in paragraph (1), by adding at the end
4 the following new subparagraph:

5 “(E) Because of any qualifying exigency
6 (as the Secretary shall, by regulation, deter-
7 mine) arising out of the fact that the spouse, or
8 a son, daughter, or parent of the employee is on
9 active duty (or has been notified of an impend-
10 ing call or order to active duty) in the Armed
11 Forces in support of a contingency operation.”;
12 and

13 (B) by adding at the end the following new
14 paragraphs:

15 “(3) SERVICEMEMBER FAMILY LEAVE.—Subject
16 to section 103, an eligible employee who is the
17 spouse, son, daughter, parent, or next of kin of a
18 covered servicemember shall be entitled to a total of
19 26 workweeks of leave during a 12-month period to
20 care for the servicemember. The leave described in
21 this paragraph shall only be available during a single
22 12-month period.

23 “(4) COMBINED LEAVE TOTAL.—During the
24 single 12-month period described in paragraph (3),
25 an eligible employee shall be entitled to a combined

1 total of 26 workweeks of leave under paragraphs (1)
2 and (3). Nothing in this paragraph shall be con-
3 strued to limit the availability of leave under para-
4 graph (1) during any other 12-month period.”.

5 (3) REQUIREMENTS RELATING TO LEAVE.—

6 (A) SCHEDULE.—Section 102(b) of such
7 Act (29 U.S.C. 2612(b)) is amended—

8 (i) in paragraph (1), in the second
9 sentence—

10 (I) by striking “section
11 103(b)(5)” and inserting “subsection
12 (b)(5) or (f) (as appropriate) of sec-
13 tion 103”; and

14 (II) by inserting “or under sub-
15 section (a)(3)” after “subsection
16 (a)(1)”;

17 (ii) in paragraph (1), by inserting
18 after the second sentence the following new
19 sentence: “Subject to subsection (e)(3) and
20 section 103(f), leave under subsection
21 (a)(1)(E) may be taken intermittently or
22 on a reduced leave schedule.”; and

23 (iii) in paragraph (2), by inserting “or
24 under subsection (a)(3)” after “subsection
25 (a)(1)”.

1 (B) SUBSTITUTION OF PAID LEAVE.—Sec-
2 tion 102(d) of such Act (29 U.S.C. 2612(d)) is
3 amended—

4 (i) in paragraph (1)—

5 (I) by inserting “(or 26 work-
6 weeks in the case of leave provided
7 under subsection (a)(3))” after “12
8 workweeks” the first place it appears;
9 and

10 (II) by inserting “(or 26 work-
11 weeks, as appropriate)” after “12
12 workweeks” the second place it ap-
13 pears;

14 (ii) in paragraph (2)(A), by striking
15 “or (C)” and inserting “(C), or (E)”; and

16 (iii) in paragraph (2)(B), by adding at
17 the end the following: “An eligible em-
18 ployee may elect, or an employer may re-
19 quire the employee, to substitute any of
20 the accrued paid vacation leave, personal
21 leave, family leave, or medical or sick leave
22 of the employee for leave provided under
23 subsection (a)(3) for any part of the 26-
24 week period of such leave under such sub-
25 section, except that nothing in this title re-

1 quires an employer to provide paid sick
2 leave or paid medical leave in any situation
3 in which the employer would not normally
4 provide any such paid leave.”.

5 (C) NOTICE.—Section 102(e) of such Act
6 (29 U.S.C. 2612(e)) is amended—

7 (i) in paragraph (2), by inserting “or
8 under subsection (a)(3)” after “subsection
9 (a)(1)”; and

10 (ii) by adding at the end the following
11 new paragraph:

12 “(3) NOTICE FOR LEAVE DUE TO ACTIVE DUTY
13 OF FAMILY MEMBER.—In any case in which the ne-
14 cessity for leave under subsection (a)(1)(E) is fore-
15 seeable, whether because the spouse, or a son,
16 daughter, or parent, of the employee is on active
17 duty, or because of notification of an impending call
18 or order to active duty in support of a contingency
19 operation, the employee shall provide such notice to
20 the employer as is reasonable and practicable.”.

21 (D) SPOUSES EMPLOYED BY SAME EM-
22 PLOYER.—Section 102(f) of such Act (29
23 U.S.C. 2612(f)) is amended—

24 (i) by redesignating paragraphs (1)
25 and (2) as subparagraphs (A) and (B),

1 and aligning the margins of the subpara-
2 graphs with the margins of section
3 102(e)(2)(A);

4 (ii) by striking “In any” and inserting
5 the following:

6 “(1) IN GENERAL.—In any”; and

7 (iii) by adding at the end the fol-
8 lowing:

9 “(2) SERVICEMEMBER FAMILY LEAVE.—

10 “(A) IN GENERAL.—The aggregate num-
11 ber of workweeks of leave to which both that
12 husband and wife may be entitled under sub-
13 section (a) may be limited to 26 workweeks
14 during the single 12-month period described in
15 subsection (a)(3) if the leave is—

16 “(i) leave under subsection (a)(3); or

17 “(ii) a combination of leave under
18 subsection (a)(3) and leave described in
19 paragraph (1).

20 “(B) BOTH LIMITATIONS APPLICABLE.—If
21 the leave taken by the husband and wife in-
22 cludes leave described in paragraph (1), the
23 limitation in paragraph (1) shall apply to the
24 leave described in paragraph (1).”.

1 (E) CERTIFICATION REQUIREMENTS.—
2 Section 103 of such Act (29 U.S.C. 2613) is
3 amended—

4 (i) in subsection (a)—

5 (I) by striking “section
6 102(a)(1)” and inserting “paragraph
7 (1) or paragraph (3) of section
8 102(a)”;

9 (II) by inserting “or of the next
10 of kin of an individual in the case of
11 leave taken under such paragraph
12 (3),” after “parent of the employee,”;
13 and

14 (ii) by adding at the end the fol-
15 lowing:

16 “(f) CERTIFICATION RELATED TO ACTIVE DUTY OR
17 CALL TO ACTIVE DUTY.—An employer may require that
18 a request for leave under section 102(a)(1)(E) be sup-
19 ported by a certification issued at such time and in such
20 manner as the Secretary may by regulation prescribe. If
21 the Secretary issues a regulation requiring such certifi-
22 cation, the employee shall provide, in a timely manner, a
23 copy of such certification to the employer.”.

24 (F) FAILURE TO RETURN.—Section 104(c)
25 of such Act (29 U.S.C. 2614(c)) is amended—

1 (i) in paragraph (2)(B)(i), by insert-
2 ing “or under section 102(a)(3)” before
3 the semicolon; and

4 (ii) in paragraph (3)(A)—

5 (I) in clause (i), by striking “or”
6 at the end;

7 (II) in clause (ii), by striking the
8 period and inserting “; or”; and

9 (III) by adding at the end the
10 following:

11 “(iii) a certification issued by the
12 health care provider of the servicemember
13 being cared for by the employee, in the
14 case of an employee unable to return to
15 work because of a condition specified in
16 section 102(a)(3).”.

17 (G) ENFORCEMENT.—Section 107 of such
18 Act (29 U.S.C. 2617) is amended, in subsection
19 (a)(1)(A)(i)(II), by inserting “(or 26 weeks, in
20 a case involving leave under section 102(a)(3))”
21 after “12 weeks”.

22 (H) INSTRUCTIONAL EMPLOYEES.—Sec-
23 tion 108 of such Act (29 U.S.C. 2618) is
24 amended, in subsections (c)(1), (d)(2), and

1 (d)(3), by inserting “or under section
2 102(a)(3)” after “section 102(a)(1)”.

3 (b) SERVICEMEMBER FAMILY LEAVE FOR CIVIL
4 SERVICE EMPLOYEES.—

5 (1) DEFINITIONS.—Section 6381 of title 5,
6 United States Code, is amended—

7 (A) in paragraph (5), by striking “and” at
8 the end;

9 (B) in paragraph (6), by striking the pe-
10 riod and inserting a semicolon; and

11 (C) by adding at the end the following:

12 “(7) the term ‘active duty’ means duty under a
13 call or order to active duty under a provision of law
14 referred to in section 101(a)(13)(B) of title 10;

15 “(8) the term ‘covered servicemember’ means a
16 member of the Armed Forces, including a member
17 of the National Guard or Reserves, who is under-
18 going medical treatment, recuperation, or therapy, is
19 otherwise in an outpatient status, or is otherwise on
20 the temporary disability retired list, for a serious in-
21 jury or illness;

22 “(9) the term ‘outpatient status’, with respect
23 to a covered servicemember, means the status of a
24 member of the Armed Forces assigned to—

1 “(A) a military medical treatment facility
2 as an outpatient; or

3 “(B) a unit established for the purpose of
4 providing command and control of members of
5 the Armed Forces receiving medical care as
6 outpatients;

7 “(10) the term ‘next of kin’, used with respect
8 to an individual, means the nearest blood relative of
9 that individual; and

10 “(11) the term ‘serious injury or illness’, in the
11 case of a member of the Armed Forces, means an
12 injury or illness incurred by the member in line of
13 duty on active duty in the Armed Forces that may
14 render the member medically unfit to perform the
15 duties of the member’s office, grade, rank, or rat-
16 ing.”.

17 (2) ENTITLEMENT TO LEAVE.—Section 6382(a)
18 of such title is amended by adding at the end the
19 following:

20 “(3) Subject to section 6383, an employee who is the
21 spouse, son, daughter, parent, or next of kin of a covered
22 servicemember shall be entitled to a total of 26 adminis-
23 trative workweeks of leave during a 12-month period to
24 care for the servicemember. The leave described in this

1 paragraph shall only be available during a single 12-month
2 period.

3 “(4) During the single 12-month period described in
4 paragraph (3), an employee shall be entitled to a combined
5 total of 26 administrative workweeks of leave under para-
6 graphs (1) and (3). Nothing in this paragraph shall be
7 construed to limit the availability of leave under paragraph
8 (1) during any other 12-month period.”.

9 (3) REQUIREMENTS RELATING TO LEAVE.—

10 (A) SCHEDULE.—Section 6382(b) of such
11 title is amended—

12 (i) in paragraph (1), in the second
13 sentence—

14 (I) by striking “section
15 6383(b)(5)” and inserting “subsection
16 (b)(5) or (f) (as appropriate) of sec-
17 tion 6383”; and

18 (II) by inserting “or under sub-
19 section (a)(3)” after “subsection
20 (a)(1)”; and

21 (ii) in paragraph (2), by inserting “or
22 under subsection (a)(3)” after “subsection
23 (a)(1)”.

24 (B) SUBSTITUTION OF PAID LEAVE.—Sec-
25 tion 6382(d) of such title is amended by adding

1 at the end the following: “An employee may
2 elect to substitute for leave under subsection
3 (a)(3) any of the employee’s accrued or accu-
4 mulated annual or sick leave under subchapter
5 I for any part of the 26-week period of leave
6 under such subsection.”.

7 (C) NOTICE.—Section 6382(e) of such title
8 is amended by inserting “or under subsection
9 (a)(3)” after “subsection (a)(1)”.

10 (D) CERTIFICATION.—Section 6383 of
11 such title is amended by adding at the end the
12 following:

13 “(f) An employing agency may require that a request
14 for leave under section 6382(a)(3) be supported by a cer-
15 tification issued at such time and in such manner as the
16 Office of Personnel Management may by regulation pre-
17 scribe.”.

18 **SEC. 586. FAMILY CARE PLANS AND DEFERMENT OF DE-**
19 **PLOYMENT OF SINGLE PARENT OR DUAL**
20 **MILITARY COUPLES WITH MINOR DEPEND-**
21 **ENTS.**

22 The Secretary of Defense shall establish appropriate
23 procedures to ensure that an adequate family care plan
24 is in place for a member of the Armed Forces with minor
25 dependents who is a single parent or whose spouse is also

1 a member of the Armed Forces when the member may
2 be deployed in an area for which imminent danger pay
3 is authorized under section 310 of title 37, United States
4 Code. Such procedures should allow the member to request
5 a deferment of deployment due to unforeseen cir-
6 cumstances, and the request for such a deferment should
7 be considered and responded to promptly.

8 **SEC. 587. EDUCATION AND TREATMENT SERVICES FOR**
9 **MILITARY DEPENDENT CHILDREN WITH AU-**
10 **TISM.**

11 (a) ASSESSMENT OF AVAILABILITY OF SERVICES.—
12 The Secretary of Defense shall conduct a comprehensive
13 assessment of the availability of Federal, State, and local
14 education and treatment services on and in the vicinity
15 of a covered military installation for children of members
16 of the Armed Forces who are diagnosed with autism. This
17 assessment shall include the following:

18 (1) The local availability of adequate edu-
19 cational services for children with autism.

20 (2) The local availability of adequate medical
21 services for children with autism.

22 (3) The local availability of supplemental serv-
23 ices for children with autism.

1 (4) The ease of access of children with autism
2 to adequate educational services, such as the length
3 of time on waiting lists.

4 (b) REVIEW OF BEST PRACTICES.—In preparing the
5 assessment under subsection (a), the Secretary of Defense
6 shall conduct a review of best practices in the United
7 States in the provision of covered educational services and
8 treatment services for children with autism, including an
9 assessment of Federal and State education and treatment
10 services for children with autism in each State, with an
11 emphasis on locations where eligible members and eligible
12 dependents reside. The Secretary of Defense shall conduct
13 the review in coordination with the Secretary of Edu-
14 cation.

15 (c) PERSONNEL MANAGEMENT REQUIREMENTS.—

16 (1) LIMITED STATIONING OPTIONS.—The Sec-
17 retary of the military department concerned shall
18 ensure that, whenever practicable, eligible members
19 are only assigned to military installations that are
20 identified in the report required by subsection
21 (g)(1).

22 (2) STABILIZATION POLICY.—The Secretary of
23 the military department concerned shall ensure that,
24 whenever practicable, the families of eligible mem-
25 bers residing at a military installation that is identi-

1 fied in such report are permitted to remain at that
2 installation for a period of not less than four years.

3 (d) CASE MANAGERS AND SERVICES.—

4 (1) CASE MANAGERS.—The Secretary of the
5 military department concerned shall ensure that eli-
6 gible members are assigned case managers for both
7 medical services and covered educational services for
8 eligible dependents, which shall be required under
9 the Exceptional Family Member Program pursuant
10 to the policy established by the Secretary.

11 (2) INDIVIDUALIZED SERVICES PLAN.—The
12 Secretary of the military department concerned shall
13 provide for the voluntary development for eligible de-
14 pendents of individualized autism services plans for
15 use by case managers, caregivers, and families to en-
16 sure continuity of services throughout the active
17 military service of eligible members.

18 (3) AUTISM SUPPORT CENTERS.—Secretary of
19 the military department concerned may establish
20 local centers on military installations for the purpose
21 of providing and coordinating autism services for eli-
22 gible dependents.

23 (4) PARTNERSHIPS AND CONTRACTS.—The Sec-
24 retary of the military department concerned is en-
25 couraged to enter into partnerships or contracts with

1 other appropriate public and private entities to carry
2 out the responsibilities of this section.

3 (e) DEMONSTRATION PROJECTS.—

4 (1) PROJECTS AUTHORIZED.—The Secretary of
5 Defense may conduct one or more demonstration
6 projects to evaluate improved approaches to the pro-
7 vision of covered educational services and treatment
8 services to eligible dependents for the purpose of
9 evaluating strategies for integrated treatment and
10 case manager services, including early intervention
11 and diagnosis, medical care, parent involvement, spe-
12 cial education services, intensive behavioral interven-
13 tion, and language, communications, and other inter-
14 ventions considered appropriate by the Secretary.

15 (2) CASE MANAGERS AND SERVICES PLAN.—
16 Each demonstration project shall include the assign-
17 ment of case managers under paragraph (1) of sub-
18 section (d) and utilize the services plans prepared
19 for eligible dependents under paragraph (2) of such
20 subsection.

21 (3) SUPERVISORY LEVEL PROVIDERS.—The
22 Secretary of Defense may utilize for purposes of the
23 demonstration projects personnel who are profes-
24 sionals with a level (as determined by the Secretary)
25 of post-secondary education that is appropriate for

1 the provision of safe and effective services for autism
2 and who are from an accredited educational facility
3 in the mental health, human development, social
4 work, or education field to act as supervisory level
5 providers of behavioral intervention services for au-
6 tism. In so acting, such personnel may be author-
7 ized—

8 (A) to develop and monitor intensive be-
9 havior intervention plans for eligible dependents
10 who are participating in the demonstration
11 projects; and

12 (B) to provide appropriate training in the
13 provision of approved services to participating
14 eligible dependents.

15 (4) SERVICES UNDER CORPORATE SERVICES
16 PROVIDER MODEL.—In carrying out the demonstra-
17 tion projects, the Secretary of Defense may utilize a
18 corporate services provider model. Employees of a
19 provider under such a model shall include personnel
20 who implement special educational and behavioral
21 intervention plans for eligible dependents that are
22 developed, reviewed, and maintained by supervisory
23 level providers approved by the Secretary. In author-
24 izing such a model, the Secretary shall establish—

1 (A) minimum education, training, and ex-
2 perience criteria required to be met by employ-
3 ees who provide services to eligible dependents;

4 (B) requirements for supervisory personnel
5 and supervision, including requirements for su-
6 pervisor credentials and for the frequency and
7 intensity of supervision; and

8 (C) such other requirements as the Sec-
9 retary considers appropriate to ensure safety
10 and the protection of the eligible dependents
11 who receive services from such employees under
12 the demonstration projects.

13 (5) PERIOD.—If the Secretary of Defense de-
14 termines to conduct demonstration projects under
15 this subsection, the Secretary shall commence such
16 demonstration projects not later than 180 days after
17 the date of the enactment of this Act. The dem-
18 onstration projects shall be conducted for not less
19 than two years.

20 (6) EVALUATION.—The Secretary of Defense
21 shall conduct an evaluation of each demonstration
22 project conducted under this section. The evaluation
23 shall include the following:

24 (A) An assessment of the extent to which
25 the activities under the demonstration project

1 contributed to positive outcomes for eligible de-
2 pendents.

3 (B) An assessment of the extent to which
4 the activities under the demonstration project
5 led to improvements in services and continuity
6 of care for eligible dependents.

7 (C) An assessment of the extent to which
8 the activities under the demonstration project
9 improved military family readiness and en-
10 hanced military retention.

11 (f) RELATIONSHIP TO OTHER BENEFITS.—Nothing
12 is this section precludes the eligibility of members of the
13 Armed Forces and their dependents for extended benefits
14 under section 1079 of title 10, United States Code.

15 (g) REPORTS.—

16 (1) REPORT IDENTIFYING COVERED MILITARY
17 INSTALLATIONS.—As a result of the assessment re-
18 quired by subsection (a), the Secretary of Defense
19 shall submit to the congressional defense commit-
20 tees, not later than December 31, 2008, a report
21 identifying those covered military installations that
22 have covered educational services and facilities avail-
23 able (on the installation or in the vicinity of the in-
24 stallation) for eligible dependents that provide spe-
25 cial education and related services consistent with

1 the Individuals with Disabilities Education Act (20
2 U.S.C. 1400 et seq.).

3 (2) REPORTS ON DEMONSTRATION PROJECTS.—

4 Not later than 30 months after the commencement
5 of any demonstration project under subsection (e),
6 the Secretary of Defense shall submit to the Com-
7 mittees on Armed Services of the Senate and the
8 House of Representatives a report on the demonstra-
9 tion project. The report shall include a description of
10 the project, the results of the evaluation under sub-
11 section (e)(6) with respect to the project, and a de-
12 scription of plans for the further provision of serv-
13 ices for eligible dependents under the project.

14 (h) COVERED EDUCATIONAL SERVICES PLAN.—

15 After completing the assessment required by subsection
16 (a) and the report required by subsection (g)(1), the Sec-
17 retary of Defense shall develop a plan that would ensure
18 that all eligible dependents are able to obtain covered edu-
19 cational services. In the event that eligible members are
20 assigned to military installations that are not identified
21 in the report required by subsection (g)(1), the plan
22 should ensure that such eligible dependents are still able
23 to obtain covered educational services, including by the use
24 of authority granted to the Secretary under section 2164
25 of title 10, United States Code. The plan shall also include

1 any legislative actions that the Secretary recommends to
2 implement the plan and describe what funding or funding
3 mechanisms may be needed to ensure eligible dependents
4 obtain covered educational services. The Secretary shall
5 submit the plan to the congressional defense committees
6 not later than July 1, 2009.

7 (i) DEFINITIONS.—In this section:

8 (1) The term “autism” refers to the Autism
9 Spectrum Disorders, which are developmental dis-
10 abilities that cause substantial impairments in the
11 areas of social interaction, emotional regulation,
12 communication, and the integration of higher-order
13 cognitive processes and are often characterized by
14 the presence of unusual behaviors and interests. The
15 term includes autistic disorder, pervasive develop-
16 mental disorder (not otherwise specified), and
17 Asperger’s syndrome.

18 (2) The term “child” has the meaning given
19 that term in section 1072 of title 10, United States
20 Code.

21 (3) The term “covered military installation”
22 means a military installation at which at least 1,000
23 members of the Armed Forces are assigned who are
24 eligible for an assignment accompanied by depend-
25 ents.

1 (4) The term “eligible member” means a mem-
2 ber of the Armed Forces who—

3 (A) has a dependent child who is diagnosed
4 with autism; and

5 (B) is enrolled in an Exceptional Family
6 Member Program of the Department of De-
7 fense.

8 (5) The term “eligible dependent” means a
9 child of an eligible member who is diagnosed with
10 autism.

11 (6) The term “local educational agency” has
12 the meaning given that term in section 8013(9) of
13 the Elementary and Secondary Education Act of
14 1965 (20 U.S.C. 7713(9)), except that the term in-
15 cludes publicly financed schools in communities, De-
16 partment of Defense domestic dependent elementary
17 and secondary schools, and schools of the defense
18 dependents’ education system.

19 (7) The term “covered educational services” in-
20 cludes behavioral intervention services for autism,
21 such as Applied Behavioral Analysis.

1 **SEC. 588. COMMENDATION OF EFFORTS OF PROJECT COM-**
2 **PASSION IN PAYING TRIBUTE TO MEMBERS**
3 **OF THE ARMED FORCES WHO HAVE FALLEN**
4 **IN THE SERVICE OF THE UNITED STATES.**

5 (a) COMMENDATION.—Congress, on the behalf of the
6 people of the United States, commends Kaziah M. Han-
7 cock and the four other volunteer professional portrait art-
8 ists of the nonprofit organization known as Project Com-
9 passion, as well as the entire Project Compassion organi-
10 zation, for their ongoing efforts to provide, without charge,
11 to the family of each member of the Armed Forces who
12 has died on active duty since September 11, 2001, a mu-
13 seum-quality original oil portrait of the member.

14 (b) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that the people of the United States owe the deepest
16 gratitude to Kaziah M. Hancock and the members of
17 Project Compassion.

18 **Subtitle I—Other Matters**

19 **SEC. 590. UNIFORM PERFORMANCE POLICIES FOR MILI-**
20 **TARY BANDS AND OTHER MUSICAL UNITS.**

21 (a) IN GENERAL.—

22 (1) CONSOLIDATION OF SEPARATE AUTHORI-
23 TIES.—Chapter 49 of title 10, United States Code,
24 is amended by inserting after section 973 the fol-
25 lowing new section:

1 **“§ 974. Uniform performance policies for military**
2 **bands and other musical units**

3 “(a) RESTRICTIONS ON COMPETITION AND REMU-
4 NERATION.—Bands, ensembles, choruses, or similar musi-
5 cal units of the armed forces, including individual mem-
6 bers of such a unit performing in an official capacity, may
7 not—

8 “(1) engage in the performance of music in
9 competition with local civilian musicians; or

10 “(2) receive remuneration for official perform-
11 ances.

12 “(b) MEMBERS PERFORMING IN PERSONAL CAPAC-
13 ITY.—A member of a band, ensemble, chorus, or similar
14 musical unit of the armed forces may engage in the per-
15 formance of music in the member’s personal capacity, as
16 an individual or part of a group, for remuneration or oth-
17 erwise, if the member—

18 “(1) does not wear a military uniform for the
19 performance;

20 “(2) does not identify himself or herself as a
21 member of the armed forces in connection with the
22 performance; and

23 “(3) complies with all other applicable regula-
24 tions and standards of conduct.

25 “(c) RECORDINGS.—(1) When authorized pursuant
26 to regulations prescribed by the Secretary of Defense for

1 purposes of this section, bands, ensembles, choruses, or
2 similar musical units of the armed forces may produce re-
3 cordings for distribution to the public, at a cost not to
4 exceed production and distribution expenses.

5 “(2) Amounts received in payment for recordings dis-
6 tributed to the public under this subsection shall be cred-
7 ited to the appropriation or account providing the funds
8 for the production of such recordings. Any amounts so
9 credited shall be merged with amounts in the appropria-
10 tion or account to which credited, and shall be available
11 for the same purposes, and subject to the same conditions
12 and limitations, as amounts in such appropriation or ac-
13 count.

14 “(d) PERFORMANCE OF MUSIC IN COMPETITION
15 WITH LOCAL CIVILIAN MUSICIANS DEFINED.—(1) In this
16 section, the term ‘performance of music in competition
17 with local civilian musicians’ includes performances—

18 “(A) that are more than incidental to events
19 that are not supported solely by appropriated funds
20 and are not free to the public; and

21 “(B) of background, dinner, dance, or other so-
22 cial music at events, regardless of location, that are
23 not supported solely by appropriated funds.

24 “(2) The term does not include performances—

1 “(A) at official Federal Government events that
2 are supported solely by appropriated funds;

3 “(B) at concerts, parades, and other events that
4 are patriotic events or celebrations of national holi-
5 days and are free to the public; or

6 “(C) that are incidental, such as short perform-
7 ances of military or patriotic music to open or close
8 events, to events that are not supported solely by ap-
9 propriated funds, in compliance with applicable rules
10 and regulations.”.

11 (2) CLERICAL AMENDMENT.—The table of sec-
12 tions at the beginning of such chapter is amended
13 by inserting after the item relating to section 973
14 the following new item:

 “974. Uniform performance policies for military bands and other musical
 units.”.

15 (b) REPEAL OF SEPARATE SERVICE AUTHORITIES.—

16 (1) REPEAL.—Sections 3634, 6223, and 8634
17 of such title are repealed.

18 (2) TABLE OF SECTIONS.—(A) The table of
19 sections at the beginning of chapter 349 of such title
20 is amended by striking the item relating to section
21 3634.

22 (B) The table of sections at the beginning of
23 chapter 565 of such title is amended by striking the
24 item relating to section 6223.

1 (C) The table of sections at the beginning of
2 chapter 849 of such title is amended by striking the
3 item relating to section 8634.

4 **SEC. 591. TRANSPORTATION OF REMAINS OF DECEASED**
5 **MEMBERS OF THE ARMED FORCES AND CER-**
6 **TAIN OTHER PERSONS.**

7 Section 1482(a)(8) of title 10, United States Code,
8 is amended by adding at the end the following new sen-
9 tence: “When transportation of the remains includes
10 transportation by aircraft under section 562 of the John
11 Warner National Defense Authorization Act for Fiscal
12 Year 2007 (Public Law 109–364; 10 U.S.C. 1482 note),
13 the Secretary concerned shall provide, to the maximum ex-
14 tent practicable, for delivery of the remains by air to the
15 commercial, general aviation, or military airport nearest
16 to the place selected by the designee.”.

17 **SEC. 592. EXPANSION OF NUMBER OF ACADEMIES SUP-**
18 **PORTABLE IN ANY STATE UNDER STARBASE**
19 **PROGRAM.**

20 Section 2193b(e)(3) of title 10, United States Code,
21 is amended—

22 (1) in subparagraph (A), by striking “more
23 than two academies” and inserting “more than four
24 academies”; and

1 (2) in subparagraph (B), by striking “in excess
2 of two” both places it appears and inserting “in ex-
3 cess of four”.

4 **SEC. 593. GIFT ACCEPTANCE AUTHORITY.**

5 (a) PERMANENT AUTHORITY TO ACCEPT GIFTS ON
6 BEHALF OF THE WOUNDED.—Section 2601(b) of title 10,
7 United States Code, is amended by striking paragraph (4).

8 (b) LIMITATION ON SOLICITATION OF GIFTS.—The
9 Secretary of Defense shall prescribe regulations imple-
10 menting sections 2601 and 2608 of title 10, United States
11 Code, that prohibit the solicitation of any gift under such
12 sections by any employee of the Department of Defense
13 if the nature or circumstances of such solicitation would
14 compromise the integrity or the appearance of integrity
15 of any program of the Department of Defense or of any
16 individual involved in such program.

17 **SEC. 594. CONDUCT BY MEMBERS OF THE ARMED FORCES**
18 **AND VETERANS OUT OF UNIFORM DURING**
19 **HOISTING, LOWERING, OR PASSING OF**
20 **UNITED STATES FLAG.**

21 Section 9 of title 4, United States Code, is amended
22 by striking “all persons present” and all that follows
23 through the end of the section and inserting the following:
24 “all persons present in uniform should render the military
25 salute. Members of the Armed Forces and veterans who

1 are present but not in uniform may render the military
2 salute. All other persons present should face the flag and
3 stand at attention with their right hand over the heart,
4 or if applicable, remove their headdress with their right
5 hand and hold it at the left shoulder, the hand being over
6 the heart. Citizens of other countries present should stand
7 at attention. All such conduct toward the flag in a moving
8 column should be rendered at the moment the flag
9 passes.”.

10 **SEC. 595. ANNUAL REPORT ON CASES REVIEWED BY NA-**
11 **TIONAL COMMITTEE FOR EMPLOYER SUP-**
12 **PORT OF THE GUARD AND RESERVE.**

13 Section 4332 of title 38, United States Code, is
14 amended—

15 (1) by redesignating paragraphs (2), (3), (4),
16 (5), and (6) as paragraphs (3), (4), (5), (6), and (7)
17 respectively;

18 (2) by inserting after paragraph (1) the fol-
19 lowing new paragraph (2):

20 “(2) The number of cases reviewed by the Sec-
21 retary of Defense under the National Committee for
22 Employer Support of the Guard and Reserve of the
23 Department of Defense during the fiscal year for
24 which the report is made.”; and

1 (3) in paragraph (5), as so redesignated, by
2 striking “(2), or (3)” and inserting “(2), (3), or
3 (4)”.

4 **SEC. 596. MODIFICATION OF CERTIFICATE OF RELEASE OR**
5 **DISCHARGE FROM ACTIVE DUTY (DD FORM**
6 **214).**

7 The Secretary of Defense, in consultation with the
8 Secretary of Veterans Affairs, shall modify the Certificate
9 of Release or Discharge from Active Duty (DD Form 214)
10 in order to permit a member of the Armed Forces, upon
11 discharge or release from active duty in the Armed Forces,
12 to elect that the DD-214 issued with regard to the mem-
13 ber be forwarded to the following:

14 (1) The Central Office of the Department of
15 Veterans Affairs in the District of Columbia.

16 (2) The appropriate office of the Department of
17 Veterans Affairs for the State or other locality in
18 which the member will first reside after such dis-
19 charge or release.

20 **SEC. 597. REPORTS ON ADMINISTRATIVE SEPARATIONS OF**
21 **MEMBERS OF THE ARMED FORCES FOR PER-**
22 **SONALITY DISORDER.**

23 (a) SECRETARY OF DEFENSE REPORT ON ADMINIS-
24 TRATIVE SEPARATIONS BASED ON PERSONALITY DIS-
25 ORDER.—

1 (1) REPORT REQUIRED.—Not later than April
2 1, 2008, the Secretary of Defense shall submit to
3 the Committees on Armed Services of the Senate
4 and the House of Representatives a report on all
5 cases of administrative separation from the Armed
6 Forces of covered members of the Armed Forces on
7 the basis of a personality disorder.

8 (2) ELEMENTS.—The report required by para-
9 graph (1) shall include the following:

10 (A) A statement of the total number of
11 cases, by Armed Force, in which covered mem-
12 bers of the Armed Forces have been separated
13 from the Armed Forces on the basis of a per-
14 sonality disorder, and an identification of the
15 various forms of personality disorder forming
16 the basis for such separations.

17 (B) A statement of the total number of
18 cases, by Armed Force, in which covered mem-
19 bers of the Armed Forces who have served in
20 Iraq and Afghanistan since October 2001 have
21 been separated from the Armed Forces on the
22 basis of a personality disorder, and the identi-
23 fication of the various forms of personality dis-
24 order forming the basis for such separations.

1 (C) A summary of the policies, by Armed
2 Force, controlling administrative separations of
3 members of the Armed Forces based on person-
4 ality disorder, and an evaluation of the ade-
5 quacy of such policies for ensuring that covered
6 members of the Armed Forces who may be eli-
7 gible for disability evaluation due to mental
8 health conditions are not separated from the
9 Armed Forces on the basis of a personality
10 order.

11 (D) A discussion of measures being imple-
12 mented to ensure that members of the Armed
13 Forces who should be evaluated for disability
14 separation or retirement due to mental health
15 conditions are not processed for separation
16 from the Armed Forces on the basis of a per-
17 sonality disorder, and recommendations regard-
18 ing how members of the Armed Forces who
19 may have been so separated from the Armed
20 Forces should be provided with expedited review
21 by the applicable board for the correction of
22 military records.

23 (b) COMPTROLLER GENERAL REPORT ON POLICIES
24 ON ADMINISTRATIVE SEPARATION BASED ON PERSON-
25 ALITY DISORDER.—

1 (1) REPORT REQUIRED.—Not later than June
2 1, 2008, the Comptroller General shall submit to
3 Congress a report evaluating the policies and proce-
4 dures of the Department of Defense and of the mili-
5 tary departments relating to the separation of mem-
6 bers of the Armed Forces based on a personality dis-
7 order.

8 (2) ELEMENTS.—The report required by para-
9 graph (1) shall—

10 (A) include an audit of a sampling of cases
11 to determine the validity and clinical efficacy of
12 the policies and procedures referred to in para-
13 graph (1) and the extent, if any, of the diver-
14 gence between the terms of such policies and
15 procedures and the implementation of such poli-
16 cies and procedures; and

17 (B) include a determination by the Comp-
18 troller General of whether, and to what extent,
19 the policies and procedures referred to in para-
20 graph (1)—

21 (i) deviate from standard clinical diag-
22 nostic practices and current clinical stand-
23 ards; and

24 (ii) provide adequate safeguards
25 aimed at ensuring that members of the

1 Armed Forces who suffer from mental
2 health conditions (including depression,
3 post-traumatic stress disorder, or trau-
4 matic brain injury) resulting from service
5 in a combat zone are not separated from
6 the Armed Forces on the basis of a person-
7 ality disorder.

8 (3) ALTERNATIVE SUBMISSION METHOD.—In
9 lieu of submitting a separate report under this sub-
10 section, the Comptroller may include the evaluation,
11 audit and determination required by this subsection
12 as part of the study of mental health services re-
13 quired by section 723 of the Ronald W. Reagan Na-
14 tional Defense Authorization Act of 2005 (Public
15 Law 108–375; 118 Stat. 1989).

16 (c) COVERED MEMBER OF THE ARMED FORCES DE-
17 FINED.—In this section, the term “covered member of the
18 Armed Forces” includes the following:

19 (1) Any member of a regular component of the
20 Armed Forces who has served in Iraq or Afghani-
21 stan since October 2001.

22 (2) Any member of the Selected Reserve of the
23 Ready Reserve of the Armed Forces who served on
24 active duty in Iraq or Afghanistan since October
25 2001.

1 **SEC. 598. PROGRAM TO COMMEMORATE 50TH ANNIVER-**
2 **SARY OF THE VIETNAM WAR.**

3 (a) **COMMEMORATIVE PROGRAM AUTHORIZED.**—The
4 Secretary of Defense may conduct a program to com-
5 memorate the 50th anniversary of the Vietnam War. In
6 conducting the commemorative program, the Secretary
7 shall coordinate, support, and facilitate other programs
8 and activities of the Federal Government, State and local
9 governments, and other persons and organizations in com-
10 memoration of the Vietnam War.

11 (b) **SCHEDULE.**—The Secretary of Defense shall de-
12 termine the schedule of major events and priority of ef-
13 forts for the commemorative program in order to ensure
14 achievement of the objectives specified in subsection (c).

15 (c) **COMMEMORATIVE ACTIVITIES AND OBJEC-**
16 **TIVES.**—The commemorative program may include activi-
17 ties and ceremonies to achieve the following objectives:

18 (1) To thank and honor veterans of the Viet-
19 nam War, including personnel who were held as pris-
20 oners of war or listed as missing in action, for their
21 service and sacrifice on behalf of the United States
22 and to thank and honor the families of these vet-
23 erans.

24 (2) To highlight the service of the Armed
25 Forces during the Vietnam War and the contribu-
26 tions of Federal agencies and governmental and non-

1 governmental organizations that served with, or in
2 support of, the Armed Forces.

3 (3) To pay tribute to the contributions made on
4 the home front by the people of the United States
5 during the Vietnam War.

6 (4) To highlight the advances in technology,
7 science, and medicine related to military research
8 conducted during the Vietnam War.

9 (5) To recognize the contributions and sac-
10 rifices made by the allies of the United States dur-
11 ing the Vietnam War.

12 (d) NAMES AND SYMBOLS.—The Secretary of De-
13 fense shall have the sole and exclusive right to use the
14 name “The United States of America Vietnam War Com-
15 memoration”, and such seal, emblems, and badges incor-
16 porating such name as the Secretary may lawfully adopt.
17 Nothing in this section may be construed to supersede
18 rights that are established or vested before the date of the
19 enactment of this Act.

20 (e) COMMEMORATIVE FUND.—

21 (1) ESTABLISHMENT AND ADMINISTRATION.—
22 If the Secretary establishes the commemorative pro-
23 gram under subsection (a), the Secretary the Treas-
24 ury shall establish in the Treasury of the United
25 States an account to be known as the “Department

1 of Defense Vietnam War Commemoration Fund” (in
2 this section referred to as the “Fund”). The Fund
3 shall be administered by the Secretary of Defense.

4 (2) USE OF FUND.—The Secretary shall use
5 the assets of the Fund only for the purpose of con-
6 ducting the commemorative program and shall pre-
7 scribe such regulations regarding the use of the
8 Fund as the Secretary considers to be necessary.

9 (3) DEPOSITS.—There shall be deposited into
10 the Fund—

11 (A) amounts appropriated to the Fund;

12 (B) proceeds derived from the Secretary’s
13 use of the exclusive rights described in sub-
14 section (d);

15 (C) donations made in support of the com-
16 memorative program by private and corporate
17 donors; and

18 (D) funds transferred to the Fund by the
19 Secretary from funds appropriated for fiscal
20 year 2008 and subsequent years for the Depart-
21 ment of Defense.

22 (4) AVAILABILITY.—Subject to subsection
23 (g)(2), amounts deposited under paragraph (3) shall
24 constitute the assets of the Fund and remain avail-
25 able until expended.

1 (5) BUDGET REQUEST.—The Secretary of De-
2 fense may establish a separate budget line for the
3 commemorative program. In the budget justification
4 materials submitted by the Secretary in support of
5 the budget of the President for any fiscal year for
6 which the Secretary establishes the separate budget
7 line, the Secretary shall—

8 (A) identify and explain any amounts ex-
9 pended for the commemorative program in the
10 fiscal year preceding the budget request;

11 (B) identify and explain the amounts being
12 requested to support the commemorative pro-
13 gram for the fiscal year of the budget request;
14 and

15 (C) present a summary of the fiscal status
16 of the Fund.

17 (f) ACCEPTANCE OF VOLUNTARY SERVICES.—

18 (1) AUTHORITY TO ACCEPT SERVICES.—Not-
19 withstanding section 1342 of title 31, United States
20 Code, the Secretary of Defense may accept from any
21 person voluntary services to be provided in further-
22 ance of the commemorative program. The Secretary
23 of Defense shall prohibit the solicitation of any vol-
24 untary services if the nature or circumstances of
25 such solicitation would compromise the integrity or

1 the appearance of integrity of any program of the
2 Department of Defense or of any individual involved
3 in the program.

4 (2) REIMBURSEMENT OF INCIDENTAL EX-
5 PENSES.—The Secretary may provide for reimburse-
6 ment of incidental expenses incurred by a person
7 providing voluntary services under this subsection.
8 The Secretary shall determine which expenses are el-
9 igible for reimbursement under this paragraph.

10 (g) FINAL REPORT.—

11 (1) REPORT REQUIRED.—Not later than 60
12 days after the end of the commemorative program,
13 if established by the Secretary of Defense under sub-
14 section (a), the Secretary shall submit to Congress
15 a report containing an accounting of—

16 (A) all of the funds deposited into and ex-
17 pended from the Fund;

18 (B) any other funds expended under this
19 section; and

20 (C) any unobligated funds remaining in
21 the Fund.

22 (2) TREATMENT OF UNOBLIGATED FUNDS.—
23 Unobligated amounts remaining in the Fund as of
24 the end of the commemorative period specified in

1 subsection (b) shall be held in the Fund until trans-
2 ferred by law.

3 (h) LIMITATION ON EXPENDITURES.—Total expendi-
4 tures from the Fund, using amounts appropriated to the
5 Department of Defense, may not exceed \$5,000,000 for
6 fiscal year 2008 or for any subsequent fiscal year to carry
7 out the commemorative program.

8 (i) FUNDING.—Of the amount authorized to be ap-
9 propriated pursuant to section 301(5) for Defense-wide
10 activities, \$1,000,000 shall be available for deposit in the
11 Fund for fiscal year 2008 if the Fund is established under
12 subsection (e).

13 **SEC. 599. RECOGNITION OF MEMBERS OF THE MONU-**
14 **MENTS, FINE ARTS, AND ARCHIVES PROGRAM**
15 **OF THE CIVIL AFFAIRS AND MILITARY GOV-**
16 **ERNMENT SECTIONS OF THE ARMED FORCES**
17 **DURING AND FOLLOWING WORLD WAR II.**

18 Congress hereby—

19 (1) recognizes the men and women who served
20 in the Monuments, Fine Arts, and Archives program
21 (MFAA) under the Civil Affairs and Military Gov-
22 ernment Sections of the United States Armed
23 Forces for their heroic role in the preservation, pro-
24 tection, and restitution of monuments, works of art,
25 and other artifacts of inestimable cultural impor-

1 tance in Europe and Asia during and following
2 World War II;

3 (2) recognizes that without their dedication and
4 service, many more of the world's artistic and his-
5 toric treasures would have been destroyed or lost
6 forever amidst the chaos and destruction of World
7 War II;

8 (3) acknowledges that the detailed catalogues,
9 documentation, inventories, and photographs devel-
10 oped and compiled by MFAA personnel during and
11 following World War II, have made, and continue to
12 make, possible the restitution of stolen works of art
13 to their rightful owners; and

14 (4) commends and extols the members of the
15 MFAA for establishing a precedent for action to pro-
16 tect cultural property in the event of armed conflict,
17 and by their action setting a standard not just for
18 one country, but for people of all nations to acknowl-
19 edge and uphold.

20 **TITLE VI—COMPENSATION AND** 21 **OTHER PERSONNEL BENEFITS**

Subtitle A—Pay and Allowances

Sec. 601. Fiscal year 2008 increase in military basic pay.

Sec. 602. Basic allowance for housing for reserve component members without dependents who attend accession training while maintaining a primary residence.

- Sec. 603. Extension and enhancement of authority for temporary lodging expenses for members of the Armed Forces in areas subject to major disaster declaration or for installations experiencing sudden increase in personnel levels.
- Sec. 604. Income replacement payments for reserve component members experiencing extended and frequent mobilization for active duty service.
- Sec. 605. Midmonth payment of basic pay for contributions of members of the uniformed services participating in Thrift Savings Plan.

Subtitle B—Bonuses and Special and Incentive Pays

- Sec. 611. Extension of certain bonus and special pay authorities for Reserve forces.
- Sec. 612. Extension of certain bonus and special pay authorities for health care professionals.
- Sec. 613. Extension of special pay and bonus authorities for nuclear officers.
- Sec. 614. Extension of authorities relating to payment of other bonuses and special pays.
- Sec. 615. Increase in incentive special pay and multiyear retention bonus for medical officers.
- Sec. 616. Increase in dental officer additional special pay.
- Sec. 617. Increase in maximum monthly rate of hardship duty pay and authority to provide hardship duty pay in a lump sum.
- Sec. 618. Definition of sea duty for career sea pay to include service as off-cycle crewmembers of multi-crew ships.
- Sec. 619. Reenlistment bonus for members of the Selected Reserve.
- Sec. 620. Availability of Selected Reserve accession bonus for persons who previously served in the Armed Forces for a short period.
- Sec. 621. Availability of nuclear officer continuation pay for officers with more than 26 years of commissioned service.
- Sec. 622. Waiver of years-of-service limitation on receipt of critical skills retention bonus.
- Sec. 623. Accession bonus for participants in the Armed Forces Health Professions Scholarship and Financial Assistance Program.
- Sec. 624. Payment of assignment incentive pay for Reserve members serving in combat zone for more than 22 months.

Subtitle C—Travel and Transportation Allowances

- Sec. 631. Payment of inactive duty training travel costs for certain Selected Reserve members.
- Sec. 632. Survivors of deceased members eligible for transportation to attend burial ceremonies.
- Sec. 633. Allowance for participation of Reserves in electronic screening.
- Sec. 634. Allowance for civilian clothing for members of the Armed Forces traveling in connection with medical evacuation.
- Sec. 635. Payment of moving expenses for Junior Reserve Officers' Training Corps instructors in hard-to-fill positions.

Subtitle D—Retired Pay and Survivor Benefits

- Sec. 641. Expansion of combat-related special compensation eligibility.

308

- Sec. 642. Inclusion of veterans with service-connected disabilities rated as total by reason of unemployability under termination of phase-in of concurrent receipt of retired pay and veterans' disability compensation.
- Sec. 643. Recoupment of annuity amounts previously paid, but subject to offset for dependency and indemnity compensation.
- Sec. 644. Special survivor indemnity allowance for persons affected by required Survivor Benefit Plan annuity offset for dependency and indemnity compensation.
- Sec. 645. Modification of authority of members of the Armed Forces to designate recipients for payment of death gratuity.
- Sec. 646. Clarification of application of retired pay multiplier percentage to members of the uniformed services with over 30 years of service.
- Sec. 647. Commencement of receipt of non-regular service retired pay by members of the Ready Reserve on active Federal status or active duty for significant periods.
- Sec. 648. Computation of years of service for purposes of retired pay for non-regular service.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

- Sec. 651. Authority to continue commissary and exchange benefits for certain involuntarily separated members of the Armed Forces.
- Sec. 652. Authorization of installment deductions from pay of employees of nonappropriated fund instrumentalities to collect indebtedness to the United States.

Subtitle F—Consolidation of Special Pay, Incentive Pay, and Bonus Authorities

- Sec. 661. Consolidation of special pay, incentive pay, and bonus authorities of the uniformed services.
- Sec. 662. Transitional provisions.

Subtitle G—Other Matters

- Sec. 671. Referral bonus authorities.
- Sec. 672. Expansion of education loan repayment program for members of the Selected Reserve.
- Sec. 673. Ensuring entry into United States after time abroad for permanent resident alien military spouses and children.
- Sec. 674. Overseas naturalization for military spouses and children.
- Sec. 675. Modification of amount of back pay for members of Navy and Marine Corps selected for promotion while interned as prisoners of war during World War II to take into account changes in Consumer Price Index.

1 **Subtitle A—Pay and Allowances**

2 **SEC. 601. FISCAL YEAR 2008 INCREASE IN MILITARY BASIC**
3 **PAY.**

4 (a) **WAIVER OF SECTION 1009 ADJUSTMENT.**—The
5 adjustment to become effective during fiscal year 2008 re-
6 quired by section 1009 of title 37, United States Code,
7 in the rates of monthly basic pay authorized members of
8 the uniformed services shall not be made.

9 (b) **INCREASE IN BASIC PAY.**—Effective on January
10 1, 2008, the rates of monthly basic pay for members of
11 the uniformed services are increased by 3.5 percent.

12 **SEC. 602. BASIC ALLOWANCE FOR HOUSING FOR RESERVE**
13 **COMPONENT MEMBERS WITHOUT DEPEND-**
14 **ENTS WHO ATTEND ACCESSION TRAINING**
15 **WHILE MAINTAINING A PRIMARY RESIDENCE.**

16 (a) **AVAILABILITY OF ALLOWANCE.**—Section
17 403(g)(1) of title 37, United States Code, is amended—

18 (1) by inserting “to attend accession training,”
19 after “active duty” the first place it appears; and

20 (2) by inserting a comma after “contingency
21 operation” the first place it appears.

22 (b) **EFFECTIVE DATE.**—The amendments made by
23 subsection (a) shall apply with respect to months begin-
24 ning on or after the date of the enactment of this Act.

1 **SEC. 603. EXTENSION AND ENHANCEMENT OF AUTHORITY**
2 **FOR TEMPORARY LODGING EXPENSES FOR**
3 **MEMBERS OF THE ARMED FORCES IN AREAS**
4 **SUBJECT TO MAJOR DISASTER DECLARA-**
5 **TION OR FOR INSTALLATIONS EXPERI-**
6 **ENCING SUDDEN INCREASE IN PERSONNEL**
7 **LEVELS.**

8 (a) MAXIMUM PERIOD OF RECEIPT OF EXPENSES.—
9 Section 404a(c)(3) of title 37, United States Code, is
10 amended by striking “20 days” and inserting “60 days”.

11 (b) EXTENSION OF AUTHORITY FOR INCREASE IN
12 CERTAIN BAH.—Section 403(b)(7)(E) of such title is
13 amended by striking “December 31, 2008” and inserting
14 “December 31, 2009”.

15 **SEC. 604. INCOME REPLACEMENT PAYMENTS FOR RE-**
16 **SERVE COMPONENT MEMBERS EXPERI-**
17 **ENCING EXTENDED AND FREQUENT MOBILI-**
18 **ZATION FOR ACTIVE DUTY SERVICE.**

19 (a) CLARIFICATION REGARDING WHEN PAYMENTS
20 REQUIRED.—Subsection (a) of section 910 of title 37,
21 United States Code, is amended by inserting before the
22 period at the end of the first sentence the following: “,
23 when the total monthly military compensation of the mem-
24 ber is less than the average monthly civilian income of the
25 member”.

1 (b) ELIGIBILITY.—Subsection (b) of such section is
2 amended to read as follows:

3 “(b) ELIGIBILITY.—(1) A member of a reserve com-
4 ponent is entitled to a payment under this section for any
5 full month of active duty of the member, when the total
6 monthly military compensation of the member is less than
7 the average monthly civilian income of the member, while
8 the member is on active duty under an involuntary mobili-
9 zation order, following the date on which the member—

10 “(A) completes 547 continuous days of service
11 on active duty under an involuntary mobilization
12 order;

13 “(B) completes 730 cumulative days on active
14 duty under an involuntary mobilization order during
15 the previous 1,826 days; or

16 “(C) is involuntarily mobilized for service on ac-
17 tive duty for a period of 180 days or more within
18 180 days after the date of the member’s separation
19 from a previous period of active duty for a period of
20 180 days or more.

21 “(2) The entitlement of a member of a reserve com-
22 ponent to a payment under this section also shall com-
23 mence or, if previously commenced under paragraph (1),
24 shall continue if the member—

1 ed by striking “December 31, 2007” and inserting “De-
2 cember 31, 2008”.

3 (b) SELECTED RESERVE AFFILIATION OR ENLIST-
4 MENT BONUS.—Section 308c(i) of such title is amended
5 by striking “December 31, 2007” and inserting “Decem-
6 ber 31, 2008”.

7 (c) SPECIAL PAY FOR ENLISTED MEMBERS AS-
8 SIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section
9 308d(e) of such title is amended by striking “December
10 31, 2007” and inserting “December 31, 2008”.

11 (d) READY RESERVE ENLISTMENT BONUS FOR PER-
12 SONS WITHOUT PRIOR SERVICE.—Section 308g(f)(2) of
13 such title is amended by striking “December 31, 2007”
14 and inserting “December 31, 2008”.

15 (e) READY RESERVE ENLISTMENT AND REENLIST-
16 MENT BONUS FOR PERSONS WITH PRIOR SERVICE.—Sec-
17 tion 308h(e) of such title is amended by striking “Decem-
18 ber 31, 2007” and inserting “December 31, 2008”.

19 (f) SELECTED RESERVE ENLISTMENT BONUS FOR
20 PERSONS WITH PRIOR SERVICE.—Section 308i(f) of such
21 title is amended by striking “December 31, 2007” and in-
22 serting “December 31, 2008”.

1 **SEC. 612. EXTENSION OF CERTAIN BONUS AND SPECIAL**
2 **PAY AUTHORITIES FOR HEALTH CARE PRO-**
3 **FESSIONALS.**

4 (a) NURSE OFFICER CANDIDATE ACCESSION PRO-
5 GRAM.—Section 2130a(a)(1) of title 10, United States
6 Code, is amended by striking “December 31, 2007” and
7 inserting “December 31, 2008”.

8 (b) REPAYMENT OF EDUCATION LOANS FOR CER-
9 TAIN HEALTH PROFESSIONALS WHO SERVE IN THE SE-
10 LECTED RESERVE.—Section 16302(d) of such title is
11 amended by striking “January 1, 2008” and inserting
12 “January 1, 2009”.

13 (c) ACCESSION BONUS FOR REGISTERED NURSES.—
14 Section 302d(a)(1) of title 37, United States Code, is
15 amended by striking “December 31, 2007” and inserting
16 “December 31, 2008”.

17 (d) INCENTIVE SPECIAL PAY FOR NURSE ANES-
18 THETISTS.—Section 302e(a)(1) of such title is amended
19 by striking “December 31, 2007” and inserting “Decem-
20 ber 31, 2008”.

21 (e) SPECIAL PAY FOR SELECTED RESERVE HEALTH
22 PROFESSIONALS IN CRITICALLY SHORT WARTIME SPE-
23 CIALTIES.—Section 302g(e) of such title is amended by
24 striking “December 31, 2007” and inserting “December
25 31, 2008”.

1 (f) ACCESSION BONUS FOR DENTAL OFFICERS.—
2 Section 302h(a)(1) of such title is amended by striking
3 “December 31, 2007” and inserting “December 31,
4 2008”.

5 (g) ACCESSION BONUS FOR PHARMACY OFFICERS.—
6 Section 302j(a) of such title is amended by striking “De-
7 cember 31, 2007” and inserting “December 31, 2008”.

8 (h) ACCESSION BONUS FOR MEDICAL OFFICERS IN
9 CRITICALLY SHORT WARTIME SPECIALTIES.—Section
10 302k(f) of such title is amended by striking “December
11 31, 2007” and inserting “December 31, 2008”.

12 (i) ACCESSION BONUS FOR DENTAL SPECIALIST OF-
13 FICERS IN CRITICALLY SHORT WARTIME SPECIALTIES.—
14 Section 302l(g) of such title is amended by striking “De-
15 cember 31, 2007” and inserting “December 31, 2008”.

16 **SEC. 613. EXTENSION OF SPECIAL PAY AND BONUS AU-**
17 **THORITIES FOR NUCLEAR OFFICERS.**

18 (a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFI-
19 CERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section
20 312(f) of title 37, United States Code, is amended by
21 striking “December 31, 2007” and inserting “December
22 31, 2008”.

23 (b) NUCLEAR CAREER ACCESSION BONUS.—Section
24 312b(e) of such title is amended by striking “December
25 31, 2007” and inserting “December 31, 2008”.

1 (c) NUCLEAR CAREER ANNUAL INCENTIVE
2 BONUS.—Section 312c(d) of such title is amended by
3 striking “December 31, 2007” and inserting “December
4 31, 2008”.

5 **SEC. 614. EXTENSION OF AUTHORITIES RELATING TO PAY-**
6 **MENT OF OTHER BONUSES AND SPECIAL**
7 **PAYS.**

8 (a) AVIATION OFFICER RETENTION BONUS.—Sec-
9 tion 301b(a) of title 37, United States Code, is amended
10 by striking “December 31, 2007” and inserting “Decem-
11 ber 31, 2008”.

12 (b) REENLISTMENT BONUS FOR ACTIVE MEM-
13 BERS.—Section 308(g) of such title is amended by strik-
14 ing “December 31, 2007” and inserting “December 31,
15 2008”.

16 (c) ENLISTMENT BONUS.—Section 309(e) of such
17 title is amended by striking “December 31, 2007” and in-
18 serting “December 31, 2008”.

19 (d) RETENTION BONUS FOR MEMBERS WITH CRIT-
20 ICAL MILITARY SKILLS OR ASSIGNED TO HIGH PRIORITY
21 UNITS.—Section 323(i) of such title is amended by strik-
22 ing “December 31, 2007” and inserting “December 31,
23 2008”.

24 (e) ACCESSION BONUS FOR NEW OFFICERS IN CRIT-
25 ICAL SKILLS.—Section 324(g) of such title is amended by

1 striking “December 31, 2007” and inserting “December
2 31, 2008”.

3 (f) INCENTIVE BONUS FOR CONVERSION TO MILI-
4 TARY OCCUPATIONAL SPECIALTY TO EASE PERSONNEL
5 SHORTAGE.—Section 326(g) of such title is amended by
6 striking “December 31, 2007” and inserting “December
7 31, 2008”.

8 (g) ACCESSION BONUS FOR OFFICER CAN-
9 DIDATES.—Section 330(f) of such title is amended by
10 striking “December 31, 2007” and inserting “December
11 31, 2008”.

12 (h) PROHIBITION ON CHARGES FOR MEALS RE-
13 CEIVED AT MILITARY TREATMENT FACILITIES BY MEM-
14 BERS RECEIVING CONTINUOUS CARE.—Section 402(h)(3)
15 of such title is amended by striking “December 31, 2007”
16 and inserting “December 31, 2008”.

17 **SEC. 615. INCREASE IN INCENTIVE SPECIAL PAY AND**
18 **MULTIYEAR RETENTION BONUS FOR MED-**
19 **ICAL OFFICERS.**

20 (a) INCENTIVE SPECIAL PAY.—Section 302(b)(1) of
21 title 37, United States Code, is amended by striking
22 “\$50,000” and inserting “\$75,000”.

23 (b) MULTIYEAR RETENTION BONUS.—Section
24 301d(a)(2) of title 37, United States Code, is amended
25 by striking “\$50,000” and inserting “\$75,000”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to agreements entered
3 into under section 301d(a) or 302b(c) of title 37, United
4 States Code, on or after the date of the enactment of this
5 Act.

6 **SEC. 616. INCREASE IN DENTAL OFFICER ADDITIONAL SPE-**
7 **CIAL PAY.**

8 (a) INCREASE.—Section 302b(a)(4) of title 37,
9 United States Code, is amended—

10 (1) in the matter preceding subparagraph (A),
11 by striking “at the following rates” and inserting
12 “at a rate determined by the Secretary concerned,
13 which rate may not exceed the following”;

14 (2) in subparagraph (A), by striking “\$4,000”
15 and inserting “\$10,000”; and

16 (3) in subparagraph (B), by striking “\$6,000”
17 and inserting “\$12,000”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to agreements entered
20 into under section 302b(b) of title 37, United States Code,
21 on or after the date of the enactment of this Act.

1 **SEC. 617. INCREASE IN MAXIMUM MONTHLY RATE OF**
2 **HARDSHIP DUTY PAY AND AUTHORITY TO**
3 **PROVIDE HARDSHIP DUTY PAY IN A LUMP**
4 **SUM.**

5 Section 305 of title 37, United States Code, is
6 amended to read as follows:

7 **“§ 305. Special pay: hardship duty pay**

8 “(a) SPECIAL PAY AUTHORIZED.—A member of a
9 uniformed service who is entitled to basic pay may be paid
10 special pay under this section while the member is per-
11 forming duty that is designated by the Secretary of De-
12 fense as hardship duty.

13 “(b) PAYMENT ON MONTHLY OR LUMP SUM
14 BASIS.—Special pay payable under this section may be
15 paid on a monthly basis or in a lump sum.

16 “(c) MAXIMUM RATE OR AMOUNT.—(1) The monthly
17 rate of special pay payable to a member under this section
18 may not exceed \$1,500.

19 “(2) The amount of the lump sum payment of special
20 pay payable to a member under this section may not ex-
21 ceed the product of—

22 “(A) the maximum monthly rate in effect under
23 paragraph (1) at the time the member qualifies for
24 payment of special pay under this section; and

1 “(B) the number of months during which the
2 member will be performing the designated hardship
3 duty.

4 “(d) RELATIONSHIP TO OTHER PAY AND ALLOW-
5 ANCES.—Special pay paid to a member under this section
6 is in addition to any other pay and allowances to which
7 the member is entitled.

8 “(e) REPAYMENT.—A member who is paid special
9 pay in a lump sum under this section, but who fails to
10 perform the designated hardship duty during the months
11 included in the calculation of the amount of the lump sum
12 under subsection (c)(2), shall be subject to the repayment
13 provisions of section 303a(e) of this title.

14 “(f) REGULATIONS.—The Secretary of Defense shall
15 prescribe regulations for the payment of hardship duty
16 pay under this section, including the specific monthly rates
17 at which the special pay will be available.”.

18 **SEC. 618. DEFINITION OF SEA DUTY FOR CAREER SEA PAY**
19 **TO INCLUDE SERVICE AS OFF-CYCLE CREW-**
20 **MEMBERS OF MULTI-CREW SHIPS.**

21 Section 305a(e)(1)(A) of title 37, United States
22 Code, is amended—

23 (1) by striking “or” at the end of clause (ii);
24 and

1 (2) by adding at the end the following new
2 clause:

3 “(iv) while serving as an off-cycle crew-
4 member of a multi-crewed ship; or”.

5 **SEC. 619. REENLISTMENT BONUS FOR MEMBERS OF THE**
6 **SELECTED RESERVE.**

7 (a) **MINIMUM TERM OF REENLISTMENT OR ENLIST-**
8 **MENT EXTENSION.**—Subsection (a)(2) of 308b of title 37,
9 United States Code, is amended by striking “his enlist-
10 ment for a period of three years or for a period of six
11 years” and inserting “an enlistment for a period of at
12 least three years”.

13 (b) **MAXIMUM BONUS AMOUNT.**—Subsection (b)(1)
14 of such section is amended by striking “may not exceed”
15 and all that follows through the end of the paragraph and
16 inserting “may not exceed \$15,000.”.

17 (c) **CONFORMING AMENDMENTS REGARDING ELIGI-**
18 **BILITY REQUIREMENTS.**—Subsection (c) of such section
19 is amended—

20 (1) by striking the subsection heading and all
21 that follows through “(2) In the case” and inserting
22 “**WAIVER OF CONDITION ON ELIGIBILITY.**—In the
23 case”; and

24 (2) by striking “paragraph (1)(B) or”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to reenlistments or
3 extensions of enlistment that occur on or after the date
4 of the enactment of this Act.

5 **SEC. 620. AVAILABILITY OF SELECTED RESERVE ACCES-**
6 **SION BONUS FOR PERSONS WHO PRE-**
7 **VIOUSLY SERVED IN THE ARMED FORCES**
8 **FOR A SHORT PERIOD.**

9 Section 308c(c)(1) of title 37, United States Code,
10 is amended by inserting before the semicolon the following:
11 “or has served in the armed forces, but was released from
12 such service before completing the basic training require-
13 ments of the armed force of which the person was a mem-
14 ber and the service was characterized as either honorable
15 or uncharacterized”.

16 **SEC. 621. AVAILABILITY OF NUCLEAR OFFICER CONTINU-**
17 **ATION PAY FOR OFFICERS WITH MORE THAN**
18 **26 YEARS OF COMMISSIONED SERVICE.**

19 (a) INCREASE.—Section 312 of title 37, United
20 States Code, is amended—

21 (1) in subsection (a)(3), by striking “26 years”
22 and inserting “30 years”; and

23 (2) in subsection (e)(1), by striking “the end of
24 26 years of commissioned service” and inserting

1 “the maximum number of years of commissioned
2 service authorized by subsection (a)(3)”.

3 (b) EFFECT ON EXISTING AGREEMENTS.—The Sec-
4 retary of the Navy and an officer of the naval service who
5 is a party to an agreement under section 312 of title 37,
6 United States Code, that was entered into before the date
7 of the enactment of this Act may revise the agreement
8 to reflect the new limitation on the number of years of
9 commissioned service that the officer may serve while re-
10 maining eligible for special pay under such section.

11 **SEC. 622. WAIVER OF YEARS-OF-SERVICE LIMITATION ON**
12 **RECEIPT OF CRITICAL SKILLS RETENTION**
13 **BONUS.**

14 Section 323(e) of title 37, United States Code, is
15 amended by adding at the end the following new para-
16 graph:

17 “(4) The Secretary of Defense, or the Secretary of
18 Homeland Security with respect to the Coast Guard when
19 it is not operating as a service in the Navy, may waive
20 the limitations in paragraph (1) with respect to a member
21 who, during the period of active duty or service in an ac-
22 tive status in a reserve component for which the bonus
23 is being offered, is assigned duties in a skill designated
24 as critical under subsection (b)(1). The authority to grant
25 a waiver under this paragraph may not be delegated below

1 the Under Secretary of Defense for Personnel and Readiness or the Deputy Secretary of the Department of Homeland Security.”.

4 **SEC. 623. ACCESSION BONUS FOR PARTICIPANTS IN THE**
5 **ARMED FORCES HEALTH PROFESSIONS**
6 **SCHOLARSHIP AND FINANCIAL ASSISTANCE**
7 **PROGRAM.**

8 (a) ACCESSION BONUS AUTHORIZED.—Subchapter I
9 of chapter 105 of title 10, United States Code, is amended
10 by adding at the end the following new section:

11 **“§ 2128. Accession bonus for members of the program**

12 “(a) AVAILABILITY OF BONUS.—The Secretary of
13 Defense may offer a person who enters into an agreement
14 under section 2122(a)(2) of this title an accession bonus
15 of not more than \$20,000 as part of the agreement.

16 “(b) RELATION TO OTHER PAYMENTS.—An accession bonus paid a person under this section is in addition
17 to any other amounts payable to the person under this
18 subchapter.

20 “(c) REPAYMENT.—A person who receives an accession bonus under this section, but fails to comply with the
21 agreement under section 2122(a)(2) of this title or to commence or complete the active duty obligation imposed by
22 section 2123 of this title, shall be subject to the repayment
23 provisions of section 303a(e) of title 37.”.

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

“2128. Accession bonus for members of the program.”.

4 (c) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply with respect to agreements en-
6 tered into under section 2122(a)(2) of title 10, United
7 States Code, on or after the date of the enactment of this
8 Act.

9 **SEC. 624. PAYMENT OF ASSIGNMENT INCENTIVE PAY FOR**
10 **RESERVE MEMBERS SERVING IN COMBAT**
11 **ZONE FOR MORE THAN 22 MONTHS.**

12 (a) PAYMENT.—The Secretary of a military depart-
13 ment may pay assignment incentive pay under section
14 307a of title 37, United States Code, to a member of a
15 reserve component under the jurisdiction of the Secretary
16 for each month during the eligibility period of the member
17 determined under subsection (b) during which the member
18 served for any portion of the month in a combat zone asso-
19 ciated with Operating Enduring Freedom or Operation
20 Iraqi Freedom in excess of 22 months of qualifying serv-
21 ice.

22 (b) ELIGIBILITY PERIOD.—The eligibility period for
23 a member extends from January 1, 2005, through the end
24 of the active duty service of the member in a combat zone
25 associated with Operating Enduring Freedom or Oper-

1 ation Iraqi Freedom if the service on active duty during
2 the member's most recent period of mobilization to active
3 duty began before January 19, 2007.

4 (c) AMOUNT OF PAYMENT.—The monthly rate of in-
5 centive pay payable to a member under this section is
6 \$1,000.

7 (d) QUALIFYING SERVICE.—For purposes of this sec-
8 tion, qualifying service includes cumulative mobilized serv-
9 ice on active duty under sections 12301(d), 12302, and
10 12304 of title 10, United States Code, during the period
11 beginning on January 1, 2003, through the end of the
12 member's active duty service during the member's most
13 recent period of mobilization to active duty beginning be-
14 fore January 19, 2007.

15 **Subtitle C—Travel and** 16 **Transportation Allowances**

17 **SEC. 631. PAYMENT OF INACTIVE DUTY TRAINING TRAVEL** 18 **COSTS FOR CERTAIN SELECTED RESERVE** 19 **MEMBERS.**

20 (a) PAYMENT OF TRAVEL COSTS AUTHORIZED.—

21 (1) IN GENERAL.—Chapter 7 of title 37, United
22 States Code, is amended by inserting after section
23 408 the following new section:

1 **“§ 408a. Travel and transportation allowances: inac-**
2 **tive duty training outside of normal com-**
3 **muting distances**

4 “(a) ALLOWANCE AUTHORIZED.—The Secretary con-
5 cerned may reimburse an eligible member of the Selected
6 Reserve of the Ready Reserve for travel expenses for travel
7 to an inactive duty training location to perform inactive
8 duty training when the member is required to commute
9 a distance from the member’s permanent residence to the
10 inactive duty training location that is outside the normal
11 commuting distance (as determined under the regulations
12 prescribed under subsection (d)) for that commute.

13 “(b) ELIGIBLE MEMBERS.—To be eligible for reim-
14 bursement under subsection (a), a member of the Selected
15 Reserve of the Ready Reserve must be—

16 “(1) qualified in a skill designated as critically
17 short by the Secretary concerned;

18 “(2) assigned to a unit of the Selected Reserve
19 with a critical manpower shortage or in a pay grade
20 in the member’s reserve component with a critical
21 manpower shortage; or

22 “(3) assigned to a unit or position that is dis-
23 established or relocated as a result of defense base
24 closure or realignment or another force structure re-
25 allocation.

1 “(c) MAXIMUM REIMBURSEMENT AMOUNT.—The
2 amount of reimbursement provided a member under sub-
3 section (a) for each round trip to a training location may
4 not exceed \$300.

5 “(d) REGULATIONS.—The Secretary concerned shall
6 prescribe regulations to carry out this section. Regulations
7 prescribed by the Secretary of a military department shall
8 be subject to the approval of the Secretary of Defense.

9 “(e) TERMINATION.—No reimbursement may be pro-
10 vided under this section for travel that occurs after De-
11 cember 31, 2010.”.

12 (2) CLERICAL AMENDMENT.—The table of sec-
13 tions at the beginning of chapter 7 of such title is
14 amended by inserting after the item relating to sec-
15 tion 408 the following new item:

“408a. Travel and transportation allowances: inactive duty training outside of
normal commuting distances.”.

16 (b) APPLICATION OF AMENDMENT.—No reimburse-
17 ment may be provided under section 408a of title 37,
18 United States Code, as added by subsection (a), for travel
19 costs incurred before the date of the enactment of this
20 Act.

1 **SEC. 632. SURVIVORS OF DECEASED MEMBERS ELIGIBLE**
2 **FOR TRANSPORTATION TO ATTEND BURIAL**
3 **CEREMONIES.**

4 (a) **ELIGIBLE RELATIVES.**—Paragraph (1) of section
5 411f(c) of title 37, United States Code, is amended—

6 (1) by striking subparagraph (B) and inserting
7 the following new subparagraph:

8 “(B) The child or children of the deceased
9 member (including stepchildren, adopted children,
10 and illegitimate children).”; and

11 (2) by adding at the end the following new sub-
12 paragraphs:

13 “(D) The sibling or siblings of the deceased
14 member.

15 “(E) The person who directs the disposition of
16 the remains of the deceased member under section
17 1482(c) of title 10 or, in the case of a deceased
18 member whose remains are commingled and buried
19 in a common grave in a national cemetery, the per-
20 son who would have been designated under such sec-
21 tion to direct the disposition of the remains if indi-
22 vidual identification had been made.”.

23 (b) **OTHER PERSONS.**—Paragraph (2) of such section
24 is amended to read as follows:

25 “(2) If no person described in subparagraphs (A)
26 through (D) of paragraph (1) is provided travel and trans-

1 portation allowances under subsection (a)(1), the travel
2 and transportation allowances may be provided to one or
3 two other persons who are closely related to the deceased
4 member and are selected by the person referred to in para-
5 graph (1)(E). A person provided travel and transportation
6 allowances under this paragraph is in addition to the per-
7 son referred to in paragraph (1)(E).”.

8 **SEC. 633. ALLOWANCE FOR PARTICIPATION OF RESERVES**
9 **IN ELECTRONIC SCREENING.**

10 (a) ALLOWANCE FOR PARTICIPATION IN ELEC-
11 TRONIC SCREENING.—

12 (1) IN GENERAL.—Chapter 7 of title 37, United
13 States Code, is amended by inserting after section
14 433 the following new section:

15 **“§ 433a. Allowance for participation in Ready Re-**
16 **serve screening**

17 “(a) ALLOWANCE AUTHORIZED.—(1) Under regula-
18 tions prescribed by the Secretaries concerned, a member
19 of the Individual Ready Reserve may be paid a stipend
20 for participation in the screening performed pursuant to
21 section 10149 of title 10, in lieu of muster duty performed
22 under section 12319 of title 10, if such participation is
23 conducted through electronic means.

24 “(2) The stipend paid a member under this section
25 shall constitute the sole monetary allowance authorized for

1 participation in the screening described in paragraph (1),
2 and shall constitute payment in full to the member for
3 participation in such screening, regardless of the grade or
4 rank in which the member is serving.

5 “(b) MAXIMUM PAYMENT.—The aggregate amount
6 of the stipend paid a member of the Individual Ready Re-
7 serve under this section in any calendar year may not ex-
8 ceed \$50.

9 “(c) PAYMENT REQUIREMENTS.—(1) The stipend
10 authorized by this section may not be disbursed in kind.

11 “(2) Payment of a stipend to a member of the Indi-
12 vidual Ready Reserve under this section for participation
13 in screening shall be made on or after the date of partici-
14 pation in such screening, but not later than 30 days after
15 such date.”.

16 (2) CLERICAL AMENDMENT.—The table of sec-
17 tions at the beginning of chapter 7 of such title is
18 amended by inserting after the item relating to sec-
19 tion 433 the following new item:

“433a. Allowance for participation in Ready Reserve screening.”.

20 (b) BAR TO DUAL COMPENSATION.—Section 206 of
21 such title is amended by adding at the end the following
22 new subsection:

23 “(f) A member of the Individual Ready Reserve is
24 not entitled to compensation under this section for partici-

1 pation in screening for which the member is paid a stipend
2 under section 433a of this title.”.

3 (c) BAR TO RETIREMENT CREDIT.—Section
4 12732(b) of title 10, United States Code, is amended by
5 adding at the end the following new paragraph:

6 “(8) Service in the screening performed pursu-
7 ant to section 10149 of this title through electronic
8 means, regardless of whether or not a stipend is
9 paid the member concerned for such service under
10 section 433a of title 37.”.

11 **SEC. 634. ALLOWANCE FOR CIVILIAN CLOTHING FOR MEM-**
12 **BERS OF THE ARMED FORCES TRAVELING IN**
13 **CONNECTION WITH MEDICAL EVACUATION.**

14 Section 1047(a) of title 10, United States Code, is
15 amended by inserting “and luggage” after “civilian cloth-
16 ing” both places it appears.

17 **SEC. 635. PAYMENT OF MOVING EXPENSES FOR JUNIOR RE-**
18 **SERVE OFFICERS’ TRAINING CORPS IN-**
19 **STRUCTORS IN HARD-TO-FILL POSITIONS.**

20 Section 2031 of title 10, United States Code, is
21 amended by adding at the end the following new sub-
22 section:

23 “(f)(1) When determined by the Secretary of the mili-
24 tary department concerned to be in the national interest
25 and agreed upon by the institution concerned, the institu-

1 tion may reimburse a Junior Reserve Officers' Training
2 Corps instructor for moving expenses incurred by the in-
3 structor to accept employment at the institution in a posi-
4 tion that the Secretary concerned determines is hard-to-
5 fill for geographic or economic reasons.

6 “(2) As a condition on providing reimbursement
7 under paragraph (1), the institution shall require the in-
8 structor to execute a written agreement to serve a min-
9 imum of two years of employment at the institution in the
10 hard-to-fill position.

11 “(3) Any reimbursement provided to an instructor
12 under paragraph (1) is in addition to the minimum in-
13 structor pay otherwise payable to the instructor.

14 “(4) The Secretary concerned shall reimburse an in-
15 stitution providing reimbursement to an instructor under
16 paragraph (1) in an amount equal to the amount of the
17 reimbursement paid by the institution under that para-
18 graph. Any reimbursement provided by the Secretary con-
19 cerned shall be provided from funds appropriated for that
20 purpose.

21 “(5) The provision of reimbursement under para-
22 graph (1) or (4) shall be subject to regulations prescribed
23 by the Secretary of Defense for purposes of this sub-
24 section.”.

1 **Subtitle D—Retired Pay and**
2 **Survivor Benefits**

3 **SEC. 641. EXPANSION OF COMBAT-RELATED SPECIAL COM-**
4 **PENSATION ELIGIBILITY.**

5 (a) EXPANDED ELIGIBILITY FOR CHAPTER 61 MILI-
6 TARY RETIREES.—Subsection (c) of section 1413a of title
7 10, United States Code, is amended by striking “entitled
8 to retired pay who—” and all that follows and inserting
9 “who—

10 “(1) is entitled to retired pay (other than by
11 reason of section 12731b of this title); and

12 “(2) has a combat-related disability.”.

13 (b) COMPUTATION.—Paragraph (3) of subsection (b)
14 of such section is amended—

15 (1) by striking “In the case of” and inserting
16 the following:

17 “(A) GENERAL RULE.—In the case of”;
18 and

19 (2) by adding at the end the following new sub-
20 paragraph:

21 “(B) SPECIAL RULE FOR RETIREES WITH
22 FEWER THAN 20 YEARS OF SERVICE.—In the
23 case of an eligible combat-related disabled uni-
24 formed services retiree who is retired under
25 chapter 61 of this title with fewer than 20

1 years of creditable service, the amount of the
2 payment under paragraph (1) for any month
3 shall be reduced by the amount (if any) by
4 which the amount of the member's retired pay
5 under chapter 61 of this title exceeds the
6 amount equal to 2½ percent of the member's
7 years of creditable service multiplied by the
8 member's retired pay base under section
9 1406(b)(1) or 1407 of this title, whichever is
10 applicable to the member.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on January 1, 2008, and shall
13 apply to payments for months beginning on or after that
14 date.

15 **SEC. 642. INCLUSION OF VETERANS WITH SERVICE-CON-**
16 **NECTED DISABILITIES RATED AS TOTAL BY**
17 **REASON OF UNEMPLOYABILITY UNDER TER-**
18 **MINATION OF PHASE-IN OF CONCURRENT RE-**
19 **CEIPT OF RETIRED PAY AND VETERANS' DIS-**
20 **ABILITY COMPENSATION.**

21 (a) INCLUSION OF VETERANS.—Section 1414(a)(1)
22 of title 10, United States Code, is amended by striking
23 “except that” and all that follows and inserting “except
24 that payment of retired pay is subject to subsection (c)

1 only during the period beginning on January 1, 2004, and
2 ending on December 31, 2004, in the case of the following:

3 “(A) A qualified retiree receiving veterans’
4 disability compensation for a disability rated as
5 100 percent.

6 “(B) A qualified retiree receiving veterans’
7 disability compensation at the rate payable for
8 a 100 percent disability by reason of a deter-
9 mination of individual unemployability.”.

10 (b) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Subject to paragraph (2),
12 the amendment made by subsection (a) shall take ef-
13 fect as of December 31, 2004.

14 (2) TIMING OF PAYMENT OF RETROACTIVE
15 BENEFITS.—Any amount payable for a period before
16 October 1, 2008, by reason of the amendment made
17 by subsection (a) shall not be paid until after that
18 date.

19 **SEC. 643. RECOUPMENT OF ANNUITY AMOUNTS PRE-**
20 **VIOUSLY PAID, BUT SUBJECT TO OFFSET FOR**
21 **DEPENDENCY AND INDEMNITY COMPENSA-**
22 **TION.**

23 (a) LIMITATION ON RECOUPMENT; NOTIFICATION
24 REQUIREMENTS.—Section 1450(c) of title 10, United

1 States Code, is amended by adding at the end the fol-
2 lowing new paragraph:

3 “(3) LIMITATION ON RECOUPMENT OF OFFSET
4 AMOUNT.—Any amount subject to offset under this
5 subsection that was previously paid to the surviving
6 spouse or former spouse shall be recouped only to
7 the extent that the amount paid exceeds any amount
8 to be refunded under subsection (e). In notifying a
9 surviving spouse or former spouse of the recoupment
10 requirement, the Secretary shall provide the spouse
11 or former spouse—

12 “(A) a single notice of the net amount to
13 be recouped or the net amount to be refunded,
14 as applicable, under this subsection or sub-
15 section (e);

16 “(B) a written explanation of the statutory
17 requirements for recoupment of the offset
18 amount and for refund of any applicable
19 amount deducted from retired pay;

20 “(C) a detailed accounting of how the off-
21 set amount being recouped and retired pay de-
22 duction amount being refunded were calculated;
23 and

24 “(D) contact information for a person who
25 can provide information about the offset

1 recoupment and retired pay deduction refund
2 processes and answer questions the surviving
3 spouse or former spouse may have about the re-
4 quirements, processes, or amounts.”.

5 (b) APPLICATION.—Paragraph (3) of subsection (c)
6 of section 1450 of title 10, United States Code, as added
7 by subsection (a), shall apply with respect to the
8 recoupment on or after April 1, 2008, of amounts subject
9 to offset under such subsection.

10 **SEC. 644. SPECIAL SURVIVOR INDEMNITY ALLOWANCE FOR**
11 **PERSONS AFFECTED BY REQUIRED SUR-**
12 **VIVOR BENEFIT PLAN ANNUITY OFFSET FOR**
13 **DEPENDENCY AND INDEMNITY COMPENSA-**
14 **TION.**

15 Section 1450 of title 10, United States Code, is
16 amended by adding at the end the following new sub-
17 section:

18 “(m) SPECIAL SURVIVOR INDEMNITY ALLOWANCE.—

19 “(1) PROVISION OF ALLOWANCE.—The Sec-
20 retary concerned shall pay a monthly special sur-
21 vivor indemnity allowance under this subsection to
22 the surviving spouse or former spouse of a member
23 of the uniformed services to whom section 1448 of
24 this title applies if—

1 “(A) the surviving spouse or former spouse
2 is entitled to dependency and indemnity com-
3 pensation under section 1311(a) of title 38;

4 “(B) except for subsection (c) of this sec-
5 tion, the surviving spouse or former spouse is
6 eligible for an annuity by reason of a partici-
7 pant in the Plan under section 1448(a)(1) of
8 this title; and

9 “(C) the eligibility of the surviving spouse
10 or former spouse for an annuity as described in
11 subparagraph (B) is affected by subsection (c)
12 of this section.

13 “(2) AMOUNT OF PAYMENT.—Subject to para-
14 graph (3), the amount of the allowance paid to an
15 eligible survivor under paragraph (1) for a month
16 shall be equal to—

17 “(A) for months during fiscal year 2009,
18 \$50;

19 “(B) for months during fiscal year 2010,
20 \$60;

21 “(C) for months during fiscal year 2011,
22 \$70;

23 “(D) for months during fiscal year 2012,
24 \$80;

1 “(E) for months during fiscal year 2013,
2 \$90; and

3 “(F) for months after fiscal year 2013,
4 \$100.

5 “(3) LIMITATION.—The amount of the allow-
6 ance paid to an eligible survivor under paragraph
7 (1) for any month may not exceed the amount of the
8 annuity for that month that is subject to offset
9 under subsection (c).

10 “(4) STATUS OF PAYMENTS.—An allowance
11 paid under this subsection does not constitute an an-
12 nuity, and amounts so paid are not subject to ad-
13 justment under any other provision of law.

14 “(5) SOURCE OF FUNDS.—The special survivor
15 indemnity allowance shall be paid from amounts in
16 the Department of Defense Military Retirement
17 Fund established under section 1461 of this title.

18 “(6) EFFECTIVE DATE AND DURATION.—This
19 subsection shall only apply with respect to the
20 month beginning on October 1, 2008, and subse-
21 quent months through the month ending on Feb-
22 ruary 28, 2016. Effective on March 1, 2016, the au-
23 thority provided by this subsection shall terminate.
24 No special survivor indemnity allowance may be paid
25 to any person by reason of this subsection for any

1 period before October 1, 2008, or beginning on or
2 after March 1, 2016.”.

3 **SEC. 645. MODIFICATION OF AUTHORITY OF MEMBERS OF**
4 **THE ARMED FORCES TO DESIGNATE RECIPI-**
5 **ENTS FOR PAYMENT OF DEATH GRATUITY.**

6 (a) AUTHORITY TO DESIGNATE RECIPIENTS.—Sec-
7 tion 1477 of title 10, United States Code, is amended—

8 (1) by striking subsections (c) and (d);

9 (2) by redesignating subsection (b) as sub-
10 section (d) and, in such subsection, by striking
11 “Subsection (a)(2)” and inserting “TREATMENT OF
12 CHILDREN.—Subsection (b)(2)”; and

13 (3) by striking subsection (a) and inserting the
14 following new subsections:

15 “(a) DESIGNATION OF RECIPIENTS.—(1) On and
16 after July 1, 2008, or such earlier date as the Secretary
17 of Defense may prescribe, a person covered by section
18 1475 or 1476 of this title may designate one or more per-
19 sons to receive all or a portion of the amount payable
20 under section 1478 of this title. The designation of a per-
21 son to receive a portion of the amount shall indicate the
22 percentage of the amount, to be specified only in 10 per-
23 cent increments, that the designated person may receive.
24 The balance of the amount of the death gratuity, if any,
25 shall be paid in accordance with subsection (b).

1 “(2) If a person covered by section 1475 or 1476 of
2 this title has a spouse, but designates a person other than
3 the spouse to receive all or a portion of the amount pay-
4 able under section 1478 of this title, the Secretary con-
5 cerned shall provide notice of the designation to the
6 spouse.

7 “(b) DISTRIBUTION OF REMAINDER; DISTRIBUTION
8 IN ABSENCE OF DESIGNATED RECIPIENT.—If a person
9 covered by section 1475 or 1476 of this title does not
10 make a designation under subsection (a) or designates
11 only a portion of the amount payable under section 1478
12 of this title, the amount of the death gratuity not covered
13 by a designation shall be paid as follows:

14 “(1) To the surviving spouse of the person, if
15 any.

16 “(2) If there is no surviving spouse, to any sur-
17 viving children (as prescribed by subsection (d)) of
18 the person and the descendants of any deceased chil-
19 dren by representation.

20 “(3) If there is none of the above, to the sur-
21 viving parents (as prescribed by subsection (e)) of
22 the person or the survivor of them.

23 “(4) If there is none of the above, to the duly
24 appointed executor or administrator of the estate of
25 the person.

1 “(5) If there is none of the above, to other next
2 of kin of the person entitled under the laws of domi-
3 cile of the person at the time of the person’s death.

4 “(c) TREATMENT OF PARENTS.—For purposes of
5 subsection (b)(3), parents include fathers and mothers
6 through adoption. However, only one father and one moth-
7 er may be recognized in any case, and preference shall
8 be given to those who exercised a parental relationship on
9 the date, or most nearly before the date, on which the de-
10 cedent entered a status described in section 1475 or 1476
11 of this title.”.

12 (b) CLERICAL AND CONFORMING AMENDMENTS.—
13 Subsection (e) of such section is amended—

14 (1) by inserting “EFFECT OF DEATH BEFORE
15 RECEIPT OF GRATUITY.—” after “(e)”;

16 (2) by striking “subsection (a) or (d)” and in-
17 serting “subsection (a) or (b)”;

18 (3) by striking “subsection (a).” and inserting
19 “subsection (b)”.

20 (c) EXISTING DESIGNATION AUTHORITY.—The au-
21 thority provided by subsection (d) of section 1477 of title
22 10, United States Code, as in effect on the day before
23 the date of the enactment of this Act, shall remain avail-
24 able to persons covered by section 1475 or 1476 of such
25 title until July 1, 2008, or such earlier date as the Sec-

1 retary of Defense may prescribe, and any designation
2 under such subsection made before July 1, 2008, or the
3 earlier date prescribed by the Secretary, shall continue in
4 effect until such time as the person who made the designa-
5 tion makes a new designation under such section 1477,
6 as amended by subsection (a) of this section.

7 (d) REGULATIONS.—

8 (1) IN GENERAL.—Not later than April 1,
9 2008, the Secretary of Defense shall prescribe regu-
10 lations to implement the amendments to section
11 1477 of title 10, United States Code, made by sub-
12 section (a).

13 (2) ELEMENTS.—The regulations required by
14 paragraph (1) shall include forms for the making of
15 the designation contemplated by subsection (a) of
16 section 1477 of title 10, United States Code, as
17 amended by subsection (a) of this section, and in-
18 structions for members of the Armed Forces in the
19 filling out of such forms.

20 **SEC. 646. CLARIFICATION OF APPLICATION OF RETIRED**
21 **PAY MULTIPLIER PERCENTAGE TO MEMBERS**
22 **OF THE UNIFORMED SERVICES WITH OVER 30**
23 **YEARS OF SERVICE.**

24 (a) COMPUTATION OF RETIRED AND RETAINER PAY
25 FOR MEMBERS OF NAVAL SERVICE.—The table in section

1 6333(a) of title 10, United States Code, is amended in
2 Column 2 of Formula A by striking “75 percent.” and
3 inserting “Retired pay multiplier prescribed under section
4 1409 for the years of service that may be credited to the
5 member under section 1405.”.

6 (b) RETIRED PAY FOR CERTAIN MEMBERS RE-
7 CALLED TO ACTIVE DUTY.—The table in section 1402(a)
8 of such title is amended by striking Column 3.

9 (c) EFFECTIVE DATE.—The amendments made by
10 subsections (a) and (b) shall take effect as of January 1,
11 2007, and shall apply with respect to retired pay and re-
12 tainer pay payable on or after that date.

13 **SEC. 647. COMMENCEMENT OF RECEIPT OF NON-REGULAR**
14 **SERVICE RETIRED PAY BY MEMBERS OF THE**
15 **READY RESERVE ON ACTIVE FEDERAL STA-**
16 **TUS OR ACTIVE DUTY FOR SIGNIFICANT PE-**
17 **RIODS.**

18 (a) REDUCED ELIGIBILITY AGE.—Section 12731 of
19 title 10, United States Code, is amended—

20 (1) in subsection (a), by striking paragraph (1)
21 and inserting the following:

22 “(1) has attained the eligibility age applicable
23 under subsection (f) to that person;”; and

24 (2) by adding at the end the following new sub-
25 section:

1 “(f)(1) Subject to paragraph (2), the eligibility age
2 for purposes of subsection (a)(1) is 60 years of age.

3 “(2)(A) In the case of a person who as a member
4 of the Ready Reserve serves on active duty or performs
5 active service described in subparagraph (B) after the date
6 of the enactment of the National Defense Authorization
7 Act for Fiscal Year 2008, the eligibility age for purposes
8 of subsection (a)(1) shall be reduced below 60 years of
9 age by three months for each aggregate of 90 days on
10 which such person so performs in any fiscal year after
11 such date, subject to subparagraph (C). A day of duty may
12 be included in only one aggregate of 90 days for purposes
13 of this subparagraph.

14 “(B)(i) Service on active duty described in this sub-
15 paragraph is service on active duty pursuant to a call or
16 order to active duty under a provision of law referred to
17 in section 101(a)(13)(B) or under section 12301(d) of this
18 title. Such service does not include service on active duty
19 pursuant to a call or order to active duty under section
20 12310 of this title.

21 “(ii) Active service described in this subparagraph is
22 also service under a call to active service authorized by
23 the President or the Secretary of Defense under section
24 502(f) of title 32 for purposes of responding to a national

1 emergency declared by the President or supported by Fed-
2 eral funds.

3 “(C) The eligibility age for purposes of subsection
4 (a)(1) may not be reduced below 50 years of age for any
5 person under subparagraph (A).”.

6 (b) CONTINUATION OF AGE 60 AS MINIMUM AGE
7 FOR ELIGIBILITY OF NON-REGULAR SERVICE RETIREES
8 FOR HEALTH CARE.—Section 1074(b) of such title is
9 amended—

10 (1) by inserting “(1)” after “(b)”; and

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

13 “(2) Paragraph (1) does not apply to a member or
14 former member entitled to retired pay for non-regular
15 service under chapter 1223 of this title who is under 60
16 years of age.”.

17 (c) ADMINISTRATION OF RELATED PROVISIONS OF
18 LAW OR POLICY.—With respect to any provision of law,
19 or of any policy, regulation, or directive of the executive
20 branch that refers to a member or former member of the
21 uniformed services as being eligible for, or entitled to, re-
22 tired pay under chapter 1223 of title 10, United States
23 Code, but for the fact that the member or former member
24 is under 60 years of age, such provision shall be carried
25 out with respect to that member or former member by

1 substituting for the reference to being 60 years of age a
2 reference to having attained the eligibility age applicable
3 under subsection (f) of section 12731 of title 10, United
4 States Code (as added by subsection (a)), to such member
5 or former member for qualification for such retired pay
6 under subsection (a) of such section.

7 **SEC. 648. COMPUTATION OF YEARS OF SERVICE FOR PUR-**
8 **POSES OF RETIRED PAY FOR NON-REGULAR**
9 **SERVICE.**

10 Section 12733(3) of title 10, United States Code, is
11 amended—

12 (1) in subparagraph (B), by striking “and” at
13 the end;

14 (2) in subparagraph (C), by striking the period
15 and inserting “before the year of service that in-
16 cludes October 30, 2007; and”; and

17 (3) by adding at the end the following new sub-
18 paragraph:

19 “(D) 130 days in the year of service that
20 includes October 30, 2007, and in any subse-
21 quent year of service.”.

1 **Subtitle E—Commissary and Non-**
2 **appropriated Fund Instrumen-**
3 **tality Benefits**

4 **SEC. 651. AUTHORITY TO CONTINUE COMMISSARY AND EX-**
5 **CHANGE BENEFITS FOR CERTAIN INVOLUN-**
6 **TARILY SEPARATED MEMBERS OF THE**
7 **ARMED FORCES.**

8 (a) RESUMPTION FOR MEMBERS INVOLUNTARILY
9 SEPARATED FROM ACTIVE DUTY.—Section 1146 of title
10 10, United States Code, is amended—

11 (1) by inserting “(a) MEMBERS INVOLUN-

12 TARILY SEPARATED FROM ACTIVE DUTY.—” before

13 “The Secretary of Defense”;

14 (2) in the first sentence, by striking “October

15 1, 1990, and ending on December 31, 2001” and in-

16 serting “October 1, 2007, and ending on December

17 31, 2012”; and

18 (3) in the second sentence, by striking “the pe-

19 riod beginning on October 1, 1994, and ending on

20 December 31, 2001” and inserting “the same pe-

21 riod”.

22 (b) EXTENSION TO MEMBERS INVOLUNTARILY SEPA-

23 RATED FROM SELECTED RESERVE.—Such section is fur-

24 ther amended by adding at the end the following new sub-

25 section:

1 “(b) MEMBERS INVOLUNTARILY SEPARATED FROM
2 SELECTED RESERVE.—The Secretary of Defense shall
3 prescribe regulations to allow a member of the Selected
4 Reserve of the Ready Reserve who is involuntarily sepa-
5 rated from the Selected Reserve as a result of the exercise
6 of the force shaping authority of the Secretary concerned
7 under section 647 of this title or other force shaping au-
8 thority during the period beginning on October 1, 2007,
9 and ending on December 31, 2012, to continue to use
10 commissary and exchange stores during the two-year pe-
11 riod beginning on the date of the involuntary separation
12 of the member in the same manner as a member on active
13 duty. The Secretary of Homeland Security shall imple-
14 ment this provision for Coast Guard members involun-
15 tarily separated during the same period.”.

16 **SEC. 652. AUTHORIZATION OF INSTALLMENT DEDUCTIONS**
17 **FROM PAY OF EMPLOYEES OF NON-**
18 **APPROPRIATED FUND INSTRUMENTALITIES**
19 **TO COLLECT INDEBTEDNESS TO THE UNITED**
20 **STATES.**

21 Section 5514 of title 5, United States Code, is
22 amended—

23 (1) in subsection (a)(5), by inserting “any non-
24 appropriated fund instrumentality described in sec-
25 tion 2105(c) of this title,” after “Commission,”; and

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

3 “(e) An employee of a nonappropriated fund instru-
4 mentality described in section 2105(c) of this title is
5 deemed an employee covered by this section.”.

6 **Subtitle F—Consolidation of Spe-**
7 **cial Pay, Incentive Pay, and**
8 **Bonus Authorities**

9 **SEC. 661. CONSOLIDATION OF SPECIAL PAY, INCENTIVE**
10 **PAY, AND BONUS AUTHORITIES OF THE UNI-**
11 **FORMED SERVICES.**

12 (a) CONSOLIDATION.—Chapter 5 of title 37, United
13 States Code, is amended—

14 (1) by inserting before section 301 the following
15 subchapter heading:

16 “SUBCHAPTER I—EXISTING SPECIAL PAY,
17 INCENTIVE PAY, AND BONUS AUTHORITIES”;

18 and

19 (2) by adding at the end the following new sub-
20 chapters:

1 “SUBCHAPTER II—CONSOLIDATION OF SPE-
2 CIAL PAY, INCENTIVE PAY, AND BONUS AU-
3 THORITIES

4 “§ 331. **General bonus authority for enlisted members**

5 “(a) AUTHORITY TO PROVIDE BONUS.—The Sec-
6 retary concerned may pay a bonus under this section to
7 a person, including a member of the armed forces, who—

8 “(1) enlists in an armed force;

9 “(2) enlists in or affiliates with a reserve com-
10 ponent of an armed force;

11 “(3) reenlists, voluntarily extends an enlist-
12 ment, or otherwise agrees to serve—

13 “(A) for a specified period in a designated
14 career field, skill, or unit of an armed force; or

15 “(B) under other conditions of service in
16 an armed force;

17 “(4) transfers from a regular component of an
18 armed force to a reserve component of that same
19 armed force or from a reserve component of an
20 armed force to the regular component of that same
21 armed force; or

22 “(5) transfers from a regular component or re-
23 serve component of an armed force to a regular com-
24 ponent or reserve component of another armed force,
25 subject to the approval of the Secretary with juris-

1 diction over the armed force to which the member is
2 transferring.

3 “(b) SERVICE ELIGIBILITY.—A bonus authorized by
4 subsection (a) may be paid to a person or member only
5 if the person or member agrees under subsection (d)—

6 “(1) to serve for a specified period in a des-
7 ignated career field, skill, unit, or grade; or

8 “(2) to meet some other condition or conditions
9 of service imposed by the Secretary concerned.

10 “(c) MAXIMUM AMOUNT AND METHOD OF PAY-
11 MENT.—

12 “(1) MAXIMUM AMOUNT.—The Secretary con-
13 cerned shall determine the amount of a bonus to be
14 paid under this section, except that—

15 “(A) a bonus paid under paragraph (1) or
16 (2) of subsection (a) may not exceed \$50,000
17 for a minimum two-year period of obligated
18 service agreed to under subsection (d);

19 “(B) a bonus paid under paragraph (3) of
20 subsection (a) may not exceed \$30,000 for each
21 year of obligated service in a regular component
22 agreed to under subsection (d);

23 “(C) a bonus paid under paragraph (3) of
24 subsection (a) may not exceed \$15,000 for each

1 year of obligated service in a reserve component
2 agreed to under subsection (d); and

3 “(D) a bonus paid under paragraph (4) or
4 (5) of subsection (a) may not exceed \$10,000.

5 “(2) LUMP SUM OR INSTALLMENTS.—A bonus
6 under this section may be paid in a lump sum or in
7 periodic installments, as determined by the Secretary
8 concerned.

9 “(3) FIXING BONUS AMOUNT.—Upon accept-
10 ance by the Secretary concerned of the written
11 agreement required by subsection (d), the total
12 amount of the bonus to be paid under the agreement
13 shall be fixed.

14 “(d) WRITTEN AGREEMENT.—To receive a bonus
15 under this section, a person or member determined to be
16 eligible for the bonus shall enter into a written agreement
17 with the Secretary concerned that specifies—

18 “(1) the amount of the bonus;

19 “(2) the method of payment of the bonus under
20 subsection (c)(2);

21 “(3) the period of obligated service; and

22 “(4) the type or conditions of the service.

23 “(e) RELATIONSHIP TO OTHER PAY AND ALLOW-
24 ANCES.—A bonus paid to a person or member under this

1 section is in addition to any other pay and allowance to
2 which the person or member is entitled.

3 “(f) RELATIONSHIP TO PROHIBITION ON BOUN-
4 TIES.—A bonus authorized under this section is not a
5 bounty for purposes of section 514(a) of title 10.

6 “(g) REPAYMENT.—A person or member who re-
7 ceives a bonus under this section and who fails to complete
8 the period of service, or meet the conditions of service,
9 for which the bonus is paid, as specified in the written
10 agreement under subsection (d), shall be subject to the
11 repayment provisions of section 373 of this title.

12 “(h) TERMINATION OF AUTHORITY.—No agreement
13 may be entered into under this section after December 31,
14 2009.

15 **“§ 332. General bonus authority for officers**

16 “(a) AUTHORITY TO PROVIDE BONUS.—The Sec-
17 retary concerned may pay a bonus under this section to
18 a person, including an officer in the uniformed services,
19 who—

20 “(1) accepts a commission or appointment as
21 an officer in a uniformed service;

22 “(2) affiliates with a reserve component of a
23 uniformed service;

1 “(3) agrees to remain on active duty or to serve
2 in an active status for a specific period as an officer
3 in a uniformed service;

4 “(4) transfers from a regular component of a
5 uniformed service to a reserve component of that
6 same uniformed service or from a reserve component
7 of a uniformed service to the regular component of
8 that same uniformed service; or

9 “(5) transfers from a regular component or re-
10 serve component of a uniformed service to a regular
11 component or reserve component of another uni-
12 formed service, subject to the approval of the Sec-
13 retary with jurisdiction over the uniformed service to
14 which the member is transferring.

15 “(b) SERVICE ELIGIBILITY.—A bonus authorized by
16 subsection (a) may be paid to a person or officer only if
17 the person or officer agrees under subsection (d)—

18 “(1) to serve for a specified period in a des-
19 ignated career field, skill, unit, or grade; or

20 “(2) to meet some other condition or conditions
21 of service imposed by the Secretary concerned.

22 “(c) MAXIMUM AMOUNT AND METHOD OF PAY-
23 MENT.—

1 “(1) MAXIMUM AMOUNT.—The Secretary con-
2 cerned shall determine the amount of a bonus to be
3 paid under this section, except that—

4 “(A) a bonus paid under paragraph (1) of
5 subsection (a) may not exceed \$60,000 for a
6 minimum three-year period of obligated service
7 agreed to under subsection (d);

8 “(B) a bonus paid under paragraph (2) of
9 subsection (a) may not exceed \$12,000 for a
10 minimum three-year period of obligated service
11 agreed to under subsection (d);

12 “(C) a bonus paid under paragraph (3) of
13 subsection (a) may not exceed \$50,000 for each
14 year of obligated service in a regular component
15 agreed to under subsection (d);

16 “(D) a bonus paid under paragraph (3) of
17 subsection (a) may not exceed \$12,000 for each
18 year of obligated service in a reserve component
19 agreed to under subsection (d); and

20 “(E) a bonus paid under paragraph (4) or
21 (5) of subsection (a) may not exceed \$10,000.

22 “(2) LUMP SUM OR INSTALLMENTS.—A bonus
23 under this section may be paid in a lump sum or in
24 periodic installments, as determined by the Secretary
25 concerned.

1 “(3) FIXING BONUS AMOUNT.—Upon accept-
2 ance by the Secretary concerned of the written
3 agreement required by subsection (d), the total
4 amount of the bonus to be paid under the agreement
5 shall be fixed.

6 “(d) WRITTEN AGREEMENT.—To receive a bonus
7 under this section, a person or officer determined to be
8 eligible for the bonus shall enter into a written agreement
9 with the Secretary concerned that specifies—

10 “(1) the amount of the bonus;

11 “(2) the method of payment of the bonus under
12 subsection (c)(2);

13 “(3) the period of obligated service; and

14 “(4) the type or conditions of the service.

15 “(e) RELATIONSHIP TO OTHER PAY AND ALLOW-
16 ANCES.—The bonus paid to a person or officer under this
17 section is in addition to any other pay and allowance to
18 which the person or officer is entitled.

19 “(f) REPAYMENT.—A person or officer who receives
20 a bonus under this section and who fails to complete the
21 period of service, or meet the conditions of service, for
22 which the bonus is paid, as specified in the written agree-
23 ment under subsection (d), shall be subject to the repay-
24 ment provisions of section 373 of this title.

1 “(g) TERMINATION OF AUTHORITY.—No agreement
2 may be entered into under this section after December 31,
3 2009.

4 **“§ 333. Special bonus and incentive pay authorities**
5 **for nuclear officers**

6 “(a) NUCLEAR OFFICER BONUS.—The Secretary of
7 the Navy may pay a nuclear officer bonus under this sec-
8 tion to a person, including an officer in the Navy, who—

9 “(1) is selected for the officer naval nuclear
10 power training program in connection with the su-
11 pervision, operation, and maintenance of naval nu-
12 clear propulsion plants and agrees to serve, upon
13 completion of such training, on active duty in con-
14 nection with the supervision, operation, and mainte-
15 nance of naval nuclear propulsion plants; or

16 “(2) has the current technical and operational
17 qualification for duty in connection with the super-
18 vision, operation, and maintenance of naval nuclear
19 propulsion plants and agrees to remain on active
20 duty in connection with the supervision, operation,
21 and maintenance of naval nuclear propulsion plants.

22 “(b) NUCLEAR OFFICER INCENTIVE PAY.—The Sec-
23 retary of the Navy may pay nuclear officer incentive pay
24 under this section to an officer in the Navy who—

1 “(1) is entitled to basic pay under section 204
2 of this title; and

3 “(2) remains on active duty for a specified pe-
4 riod while maintaining current technical and oper-
5 ational qualifications, as approved by the Secretary,
6 for duty in connection with the supervision, oper-
7 ation, and maintenance of naval nuclear propulsion
8 plants.

9 “(c) ADDITIONAL ELIGIBILITY CRITERIA.—The Sec-
10 retary of the Navy may impose such additional criteria
11 for the receipt of a nuclear officer bonus or nuclear officer
12 incentive pay under this section as the Secretary deter-
13 mines to be appropriate.

14 “(d) MAXIMUM AMOUNT AND METHOD OF PAY-
15 MENT.—

16 “(1) MAXIMUM AMOUNT.—The Secretary of the
17 Navy shall determine the amounts of a nuclear offi-
18 cer bonus or nuclear officer incentive pay to be paid
19 under this section, except that—

20 “(A) a nuclear officer bonus paid under
21 subsection (a) may not exceed \$35,000 for each
22 12-month period of the agreement under sub-
23 section (e); and

24 “(B) the amount of nuclear officer incen-
25 tive paid under subsection (b) may not exceed

1 \$25,000 for each 12-month period of qualifying
2 service.

3 “(2) LUMP SUM OR INSTALLMENTS.—A nuclear
4 officer bonus or nuclear officer incentive pay under
5 this section may be paid in a lump sum or in peri-
6 odic installments.

7 “(3) FIXING BONUS AMOUNT.—Upon accept-
8 ance by the Secretary concerned of the written
9 agreement required by subsection (e), the total
10 amount of the nuclear officer bonus to be paid under
11 the agreement shall be fixed.

12 “(e) WRITTEN AGREEMENT FOR BONUS.—

13 “(1) AGREEMENT REQUIRED.—To receive a nu-
14 clear officer bonus under subsection (a), a person or
15 officer determined to be eligible for the bonus shall
16 enter into a written agreement with the Secretary of
17 the Navy that specifies—

18 “(A) the amount of the bonus;

19 “(B) the method of payment of the bonus
20 under subsection (d)(2);

21 “(C) the period of obligated service; and

22 “(D) the type or conditions of the service.

23 “(2) REPLACEMENT AGREEMENT.—An officer
24 who is performing obligated service under an agree-
25 ment for a nuclear officer bonus may execute a new

1 agreement to replace the existing agreement if the
2 amount to be paid under the new agreement will be
3 higher than the amount to be paid under the exist-
4 ing agreement. The period of the new agreement
5 shall be equal to or exceed the remaining term of the
6 period of the officer's existing agreement. If a new
7 agreement is executed under this paragraph, the ex-
8 isting agreement shall be cancelled, effective on the
9 day before an anniversary date of the existing agree-
10 ment occurring after the date on which the amount
11 to be paid under this paragraph is increased.

12 “(f) RELATIONSHIP TO OTHER PAY AND ALLOW-
13 ANCES.—A nuclear officer bonus or nuclear officer incen-
14 tive pay paid to a person or officer under this section is
15 in addition to any other pay and allowance to which the
16 person or officer is entitled, except that a person or officer
17 may not receive a payment under this section and section
18 332 or 353 of this title for the same skill and period of
19 service.

20 “(g) REPAYMENT.—A person or officer who receives
21 a nuclear officer bonus or nuclear officer incentive pay
22 under this section and who fails to complete the officer
23 naval nuclear power training program, maintain required
24 technical and operational qualifications, complete the pe-
25 riod of service, or meet the types or conditions of service

1 for which the bonus or incentive pay is paid, as specified
2 in the written agreement under subsection (e) in the case
3 of a nuclear officer bonus, shall be subject to the repay-
4 ment provisions of section 373 of this title.

5 “(h) REGULATIONS.—This section shall be adminis-
6 tered under regulations prescribed by the Secretary of the
7 Navy.

8 “(i) TERMINATION OF AUTHORITY.—No agreement
9 may be entered into under this section after December 31,
10 2009.

11 **“§ 334. Special aviation incentive pay and bonus au-**
12 **thorities for officers**

13 “(a) AVIATION INCENTIVE PAY.—The Secretary con-
14 cerned may pay aviation incentive pay under this section
15 to an officer in a regular or reserve component of a uni-
16 formed service who—

17 “(1) is entitled to basic pay under section 204
18 of this title or compensation under section 206 of
19 this title;

20 “(2) maintains, or is in training leading to, an
21 aeronautical rating or designation that qualifies the
22 officer to engage in operational flying duty or pro-
23 ficiency flying duty;

1 “(3) engages in, or is in training leading to, fre-
2 quent and regular performance of operational flying
3 duty or proficiency flying duty;

4 “(4) engages in or remains in aviation service
5 for a specified period; and

6 “(5) meets such other criteria as the Secretary
7 concerned determines appropriate.

8 “(b) AVIATION BONUS.—The Secretary concerned
9 may pay an aviation bonus under this section to an officer
10 in a regular or reserve component of a uniformed service
11 who—

12 “(1) is entitled to aviation incentive pay under
13 subsection (a);

14 “(2) has completed any active duty service com-
15 mitment incurred for undergraduate aviator training
16 or is within one year of completing such commit-
17 ment;

18 “(3) executes a written agreement to remain on
19 active duty in a regular component or to serve in an
20 active status in a reserve component in aviation
21 service for at least one year; and

22 “(4) meets such other criteria as the Secretary
23 concerned determines appropriate.

24 “(c) MAXIMUM AMOUNT AND METHOD OF PAY-
25 MENT.—

1 “(1) MAXIMUM AMOUNT.—The Secretary con-
2 cerned shall determine the amount of a bonus or in-
3 centive pay to be paid under this section, except
4 that—

5 “(A) aviation incentive pay under sub-
6 section (a) shall be paid at a monthly rate, not
7 to exceed \$850 per month; and

8 “(B) an aviation bonus under subsection
9 (b) may not exceed \$25,000 for each 12-month
10 period of obligated service agreed to under sub-
11 section (d).

12 “(2) LUMP SUM OR INSTALLMENTS.—A bonus
13 under this section may be paid in a lump sum or in
14 periodic installments, as determined by the Secretary
15 concerned.

16 “(3) FIXING BONUS AMOUNT.—Upon accept-
17 ance by the Secretary concerned of the written
18 agreement required by subsection (d), the total
19 amount of the bonus to be paid under the agreement
20 shall be fixed.

21 “(d) WRITTEN AGREEMENT FOR BONUS.—To receive
22 an aviation officer bonus under this section, an officer de-
23 termined to be eligible for the bonus shall enter into a
24 written agreement with the Secretary concerned that
25 specifies—

1 “(1) the amount of the bonus;

2 “(2) the method of payment of the bonus under
3 subsection (c)(2);

4 “(3) the period of obligated service; and

5 “(4) the type or conditions of the service.

6 “(e) RESERVE COMPONENT OFFICERS PERFORMING
7 INACTIVE DUTY TRAINING.—A reserve component officer
8 who is entitled to compensation under section 206 of this
9 title and who is authorized aviation incentive pay under
10 this section may be paid an amount of incentive pay that
11 is proportionate to the compensation received under sec-
12 tion 206 for inactive-duty training.

13 “(f) RELATIONSHIP TO OTHER PAY AND ALLOW-
14 ANCES.—

15 “(1) AVIATION INCENTIVE PAY.—Aviation in-
16 centive pay paid to an officer under subsection (a)
17 shall be in addition to any other pay and allowance
18 to which the officer is entitled, except that an officer
19 may not receive a payment under such subsection
20 and section 351 or 353 of this title for the same
21 skill and period of service.

22 “(2) AVIATION BONUS.—An aviation bonus
23 paid to an officer under subsection (b) shall be in
24 addition to any other pay and allowance to which the
25 officer is entitled, except that an officer may not re-

1 ceive a payment under such subsection and section
2 332 or 353 of this title for the same skill and period
3 of service.

4 “(g) REPAYMENT.—An officer who receives aviation
5 incentive pay or an aviation bonus under this section and
6 who fails to fulfill the eligibility requirements for the re-
7 ceipt of the incentive pay or bonus or complete the period
8 of service for which the incentive pay or bonus is paid,
9 as specified in the written agreement under subsection (d)
10 in the case of a bonus, shall be subject to the repayment
11 provisions of section 373 of this title.

12 “(h) DEFINITIONS.—In this section:

13 “(1) The term ‘aviation service’ means service
14 performed by an officer in a regular or reserve com-
15 ponent (except a flight surgeon or other medical offi-
16 cer) while holding an aeronautical rating or designa-
17 tion or while in training to receive an aeronautical
18 rating or designation.

19 “(2) The term ‘operational flying duty’ means
20 flying performed under competent orders by rated or
21 designated regular or reserve component officers
22 while serving in assignments in which basic flying
23 skills normally are maintained in the performance of
24 assigned duties as determined by the Secretary con-
25 cerned, and flying performed by members in training

1 that leads to the award of an aeronautical rating or
2 designation.

3 “(3) The term ‘proficiency flying duty’ means
4 flying performed under competent orders by rated or
5 designated regular or reserve component officers
6 while serving in assignments in which such skills
7 would normally not be maintained in the perform-
8 ance of assigned duties.

9 “(4) The term ‘officer’ includes an individual
10 enlisted and designated as an aviation cadet under
11 section 6911 of title 10.

12 “(i) TERMINATION OF AUTHORITY.—No agreement
13 may be entered into under this section after December 31,
14 2009.

15 **“§ 335. Special bonus and incentive pay authorities**
16 **for officers in health professions**

17 “(a) HEALTH PROFESSIONS BONUS.—The Secretary
18 concerned may pay a health professions bonus under this
19 section to a person, including an officer in the uniformed
20 services, who is a graduate of an accredited school in a
21 health profession and who—

22 “(1) accepts a commission or appointment as
23 an officer in a regular or reserve component of a
24 uniformed service, or affiliates with a reserve compo-
25 nent of a uniformed service, and agrees to serve on

1 active duty in a regular component or in an active
2 status in a reserve component in a health profession;

3 “(2) accepts a commission or appointment as
4 an officer and whose health profession specialty is
5 designated by the Secretary of Defense as a criti-
6 cally short wartime specialty; or

7 “(3) agrees to remain on active duty or con-
8 tinue serving in an active status in a reserve compo-
9 nent in a health profession.

10 “(b) HEALTH PROFESSIONS INCENTIVE PAY.—The
11 Secretary concerned may pay incentive pay under this sec-
12 tion to an officer in a regular or reserve component of
13 a uniformed service who—

14 “(1) is entitled to basic pay under section 204
15 of this title or compensation under section 206 of
16 this title; and

17 “(2) is serving on active duty or in an active
18 status in a designated health profession specialty or
19 skill.

20 “(c) BOARD CERTIFICATION INCENTIVE PAY.—The
21 Secretary concerned may pay board certification incentive
22 pay under this section to an officer in a regular or reserve
23 component of a uniformed service who—

1 “(1) is entitled to basic pay under section 204
2 of this title or compensation under section 206 of
3 this title;

4 “(2) is board certified in a designated health
5 profession specialty or skill; and

6 “(3) is serving on active duty or in an active
7 status in such designated health profession specialty
8 or skill.

9 “(d) ADDITIONAL ELIGIBILITY CRITERIA.—The Sec-
10 retary concerned may impose such additional criteria for
11 the receipt of a bonus or incentive pay under this section
12 as the Secretary determines to be appropriate.

13 “(e) MAXIMUM AMOUNT AND METHOD OF PAY-
14 MENT.—

15 “(1) MAXIMUM AMOUNT.—The Secretary con-
16 cerned shall determine the amounts of a bonus or in-
17 centive pay to be paid under this section, except
18 that—

19 “(A) a health professions bonus paid under
20 paragraph (1) of subsection (a) may not exceed
21 \$30,000 for each 12-month period of obligated
22 service agreed to under subsection (f);

23 “(B) a health professions bonus paid under
24 paragraph (2) of subsection (a) may not exceed

1 \$100,000 for each 12-month period of obligated
2 service agreed to under subsection (f);

3 “(C) a health professions bonus paid under
4 paragraph (3) of subsection (a) may not exceed
5 \$75,000 for each 12-month period of obligated
6 service agreed to under subsection (f);

7 “(D) health professions incentive pay
8 under subsection (b) may be paid monthly and
9 may not exceed, in any 12-month period—

10 “(i) \$100,000 for medical officers and
11 dental surgeons; and

12 “(ii) \$15,000 for officers in other
13 health professions; and

14 “(E) board certification incentive pay
15 under subsection (c) may not exceed \$6,000 for
16 each 12-month period an officer remains cer-
17 tified in the designated health profession spe-
18 cialty or skill.

19 “(2) LUMP SUM OR INSTALLMENTS.—A health
20 professions bonus under subsection (a) may be paid
21 in a lump sum or in periodic installments, as deter-
22 mined by the Secretary concerned. Board certifi-
23 cation incentive pay under subsection (c) may be
24 paid monthly, in a lump sum at the beginning of the
25 certification period, or in periodic installments dur-

1 ing the certification period, as determined by the
2 Secretary concerned.

3 “(3) **FIXING BONUS AMOUNT.**—Upon accept-
4 ance by the Secretary concerned of the written
5 agreement required by subsection (f), the total
6 amount of the health professions bonus to be paid
7 under the agreement shall be fixed.

8 “(f) **WRITTEN AGREEMENT FOR BONUS.**—To receive
9 a bonus under this section, an officer determined to be
10 eligible for the bonus shall enter into a written agreement
11 with the Secretary concerned that specifies—

12 “(1) the amount of the bonus;

13 “(2) the method of payment of the bonus under
14 subsection (e)(2);

15 “(3) the period of obligated service;

16 “(4) whether the service will be performed on
17 active duty or in an active status in a reserve com-
18 ponent; and

19 “(5) the type or conditions of the service.

20 “(g) **RESERVE COMPONENT OFFICERS.**—An officer
21 in a reserve component authorized incentive pay under
22 subsection (b) or (c) who is not serving on continuous ac-
23 tive duty and is entitled to compensation under section
24 204 of this title or compensation under section 206 of this
25 title may be paid a monthly amount of incentive pay that

1 is proportionate to the basic pay or compensation received
2 under this title.

3 “(h) RELATIONSHIP TO OTHER PAY AND ALLOW-
4 ANCES.—

5 “(1) HEALTH PROFESSIONS BONUS.—A bonus
6 paid to a person or officer under subsection (a) shall
7 be in addition to any other pay and allowance to
8 which the person or officer is entitled, except that a
9 person or officer may not receive a payment under
10 such subsection and section 332 of this title for the
11 same period of obligated service.

12 “(2) HEALTH PROFESSIONS INCENTIVE PAY.—
13 Incentive pay paid to an officer under subsection (b)
14 shall be in addition to any other pay and allowance
15 to which an officer is entitled, except that an officer
16 may not receive a payment under such subsection
17 and section 353 of this title for the same skill and
18 period of service.

19 “(3) BOARD CERTIFICATION INCENTIVE PAY.—
20 Incentive pay paid to an officer under subsection (c)
21 shall be in addition to any other pay and allowance
22 to which an officer is entitled, except that an officer
23 may not receive a payment under such subsection
24 and section 353(b) of this title for the same skill
25 and period of service covered by the certification.

1 “(i) REPAYMENT.—An officer who receives a bonus
2 or incentive pay under this section and who fails to fulfill
3 the eligibility requirements for the receipt of the bonus
4 or incentive pay or complete the period of service for which
5 the bonus or incentive pay is paid, as specified in the writ-
6 ten agreement under subsection (f) in the case of a bonus,
7 shall be subject to the repayment provisions of section 373
8 of this title.

9 “(j) HEALTH PROFESSION DEFINED.—In this sec-
10 tion, the term ‘health profession’ means the following:

11 “(1) Any health profession performed by offi-
12 cers in the Medical Corps of a uniformed service or
13 by officers designated as a medical officer.

14 “(2) Any health profession performed by offi-
15 cers in the Dental Corps of a uniformed service or
16 by officers designated as a dental officer.

17 “(3) Any health profession performed by offi-
18 cers in the Medical Service Corps of a uniformed
19 service or by officers designated as a medical service
20 officer or biomedical sciences officer.

21 “(4) Any health profession performed by offi-
22 cers in the Medical Specialist Corps of a uniformed
23 service or by officers designated as a medical spe-
24 cialist.

1 “(5) Any health profession performed by offi-
2 cers of the Nurse Corps of a uniformed service or
3 by officers designated as a nurse.

4 “(6) Any health profession performed by offi-
5 cers in the Veterinary Corps of a uniformed service
6 or by officers designated as a veterinary officer.

7 “(7) Any health profession performed by offi-
8 cers designated as a physician assistant.

9 “(8) Any health profession performed by offi-
10 cers in the regular or reserve corps of the Public
11 Health Service.

12 “(k) TERMINATION OF AUTHORITY.—No agreement
13 may be entered into under this section after December 31,
14 2009.

15 **“§ 351. Hazardous duty pay**

16 “(a) HAZARDOUS DUTY PAY.—The Secretary con-
17 cerned may pay hazardous duty pay under this section to
18 a member of a regular or reserve component of the uni-
19 formed services entitled to basic pay under section 204
20 of this title or compensation under section 206 of this title
21 who—

22 “(1) performs duty in a hostile fire area des-
23 ignated by the Secretary concerned, is exposed to a
24 hostile fire event, explosion of a hostile explosive de-
25 vice, or any other hostile action, or is on duty during

1 a month in an area in which a hostile event occurred
2 which placed the member in grave danger of physical
3 injury;

4 “(2) performs duty designated by the Secretary
5 concerned as hazardous duty based upon the inher-
6 ent dangers of that duty and risks of physical injury;
7 or

8 “(3) performs duty in a foreign area designated
9 by the Secretary concerned as an area in which the
10 member is subject to imminent danger of physical
11 injury due to threat conditions.

12 “(b) MAXIMUM AMOUNT.—The amount of hazardous
13 duty pay paid to a member under subsection (a) shall be
14 based on the type of duty and the area in which the duty
15 is performed, as follows:

16 “(1) In the case of a member who performs
17 duty in a designated hostile fire area, as described
18 in subsection (a)(1), hazardous duty pay may not
19 exceed \$450 per month.

20 “(2) In the case of a member who performs a
21 designated hazardous duty, as described in sub-
22 section (a)(2), hazardous duty pay may not exceed
23 \$250 per month.

24 “(3) In the case of a member who performs
25 duty in a foreign area designated as an imminent

1 danger area, as described in subsection (a)(3), haz-
2 arduous duty pay may not exceed \$250 per month.

3 “(c) METHOD OF PAYMENT.—Hazardous duty pay
4 shall be paid on a monthly basis. A member who is eligible
5 for hazardous duty pay by reason of subsection (a) shall
6 receive the full monthly rate of hazardous duty pay au-
7 thorized by the Secretary concerned under such para-
8 graph, notwithstanding subsection (d).

9 “(d) RESERVE COMPONENT MEMBERS PERFORMING
10 INACTIVE DUTY TRAINING.—A member of a reserve com-
11 ponent entitled to compensation under section 206 of this
12 title who is authorized hazardous duty pay under this sec-
13 tion may be paid an amount of hazardous duty pay that
14 is proportionate to the compensation received by the mem-
15 ber under section 206 of this title for inactive-duty train-
16 ing.

17 “(e) ADMINISTRATION AND RETROACTIVE PAY-
18 MENTS.—The effective date for the designation of a hos-
19 tile fire area, as described in paragraph (1) of subsection
20 (a), and for the designation of a foreign area as an immi-
21 nent danger area, as described in paragraph (3) of such
22 subsection, may be a date that occurs before, on, or after
23 the actual date of the designation by the Secretary con-
24 cerned.

1 “(f) DETERMINATION OF FACT.—Any determination
2 of fact that is made in administering subsection (a) is con-
3 clusive. The determination may not be reviewed by any
4 other officer or agency of the United States unless there
5 has been fraud or gross negligence. However, the Sec-
6 retary concerned may change the determination on the
7 basis of new evidence or for other good cause. The regula-
8 tions prescribed to administer this section shall define the
9 activities that are considered hazardous for purposes of
10 subsection (a)(2).

11 “(g) RELATIONSHIP TO OTHER PAY AND ALLOW-
12 ANCES.—

13 “(1) IN ADDITION TO OTHER PAY AND ALLOW-
14 ANCES.—A member may be paid hazardous duty pay
15 under this section in addition to any other pay and
16 allowances to which the member is entitled. The reg-
17 ulations prescribed to administer this section shall
18 address dual compensation under this section for
19 multiple circumstances involving performance of a
20 designated hazardous duty, as described in para-
21 graph (2) of subsection (a), or for duty in certain
22 designated areas, as described in paragraph (1) or
23 (3) of such subsection, that is performed by a mem-
24 ber during a single month of service.

1 “(2) LIMITATION.—A member may not receive
2 hazardous duty pay under this section for a month
3 for more than three qualifying instances described in
4 subsection (a)(2).

5 “(h) PROHIBITION ON VARIABLE RATES.—The regu-
6 lations prescribed to administer this section may not in-
7 clude varied criteria or rates for payment of hazardous
8 duty for officers and enlisted members.

9 “(i) TERMINATION OF AUTHORITY.—No hazardous
10 duty pay under this section may be paid after December
11 31, 2009.

12 **“§ 352. Assignment pay or special duty pay**

13 “(a) ASSIGNMENT OR SPECIAL DUTY PAY AUTHOR-
14 IZED.—The Secretary concerned may pay assignment or
15 special duty pay under this section to a member of a reg-
16 ular or reserve component of the uniformed services who—

17 “(1) is entitled to basic pay under section 204
18 of this title or compensation under section 206 of
19 this title; and

20 “(2) performs duties in an assignment, location,
21 or unit designated by, and under the conditions of
22 service specified by, the Secretary concerned.

23 “(b) MAXIMUM AMOUNT AND METHOD OF PAY-
24 MENT.—

1 “(1) LUMP SUM OR INSTALLMENTS.—Assign-
2 ment or special duty pay under subsection (a) may
3 be paid monthly, in a lump sum, or in periodic in-
4 stallments other than monthly, as determined by the
5 Secretary concerned.

6 “(2) MAXIMUM MONTHLY AMOUNT.—The max-
7 imum monthly amount of assignment or special duty
8 pay may not exceed \$5,000.

9 “(3) MAXIMUM LUMP SUM AMOUNT.—The
10 amount of a lump sum payment of assignment or
11 special duty pay payable to a member may not ex-
12 ceed the amount equal to the product of—

13 “(A) the maximum monthly rate author-
14 ized under paragraph (2) at the time the mem-
15 ber enters into a written agreement under sub-
16 section (c); and

17 “(B) the number of continuous months in
18 the period for which assignment or special duty
19 pay will be paid pursuant to the agreement.

20 “(4) MAXIMUM INSTALLMENT AMOUNT.—The
21 amount of each installment payment of assignment
22 or special duty pay payable to a member on an in-
23 stallment basis may not exceed the amount equal
24 to—

25 “(A) the product of—

1 “(i) a monthly rate specified in the
2 written agreement entered into under sub-
3 section (c), which monthly rate may not
4 exceed the maximum monthly rate author-
5 ized under paragraph (2) at the time the
6 member enters into the agreement; and

7 “(ii) the number of continuous
8 months in the period for which the assign-
9 ment or special duty pay will be paid; di-
10 vided by

11 “(B) the number of installments over such
12 period.

13 “(5) EFFECT OF EXTENSION.—If a member ex-
14 tends an assignment or performance of duty speci-
15 fied in an agreement with the Secretary concerned
16 under subsection (c), assignment or special duty pay
17 for the period of the extension may be paid on a
18 monthly basis, in a lump sum, or in installments,
19 consistent with this subsection.

20 “(c) WRITTEN AGREEMENT.—

21 “(1) DISCRETIONARY FOR MONTHLY PAY-
22 MENTS.—The Secretary concerned may require a
23 member to enter into a written agreement with the
24 Secretary in order to qualify for the payment of as-
25 signment or special duty pay on a monthly basis.

1 The written agreement shall specify the period for
2 which the assignment or special duty pay will be
3 paid to the member and the monthly rate of the as-
4 signment or special duty pay.

5 “(2) REQUIRED FOR LUMP SUM OR INSTALL-
6 MENT PAYMENTS.—The Secretary concerned shall
7 require a member to enter into a written agreement
8 with the Secretary in order to qualify for payment
9 of assignment or special duty pay on a lump sum or
10 installment basis. The written agreement shall speci-
11 fy the period for which the assignment or special
12 duty pay will be paid to the member and the amount
13 of the lump sum or each periodic installment.

14 “(d) RESERVE COMPONENT MEMBERS PERFORMING
15 INACTIVE DUTY TRAINING.—A member of a reserve com-
16 ponent entitled to compensation under section 206 of this
17 title who is authorized assignment or special duty pay
18 under this section may be paid an amount of assignment
19 or special duty pay that is proportionate to the compensa-
20 tion received by the member under section 206 of this title
21 for inactive-duty training.

22 “(e) RELATIONSHIP TO OTHER PAY AND ALLOW-
23 ANCES.—Assignment or special duty pay paid to a mem-
24 ber under this section is in addition to any other pay and
25 allowances to which the member is entitled.

1 “(f) REPAYMENT.—A member who receives assign-
2 ment or special duty pay under this section and who fails
3 to fulfill the eligibility requirements under subsection (a)
4 for receipt of such pay shall be subject to the repayment
5 provisions of section 373 of this title.

6 “(g) TERMINATION OF AUTHORITY.—No agreement
7 may be entered into under this section after December 31,
8 2009.

9 **“§ 353. Skill incentive pay or proficiency bonus**

10 “(a) SKILL INCENTIVE PAY.—The Secretary con-
11 cerned may pay a monthly skill incentive pay to a member
12 of a regular or reserve component of the uniformed serv-
13 ices who—

14 “(1) is entitled to basic pay under section 204
15 of this title or compensation under section 206 of
16 this title; and

17 “(2) serves in a career field or skill designated
18 as critical by the Secretary concerned.

19 “(b) SKILL PROFICIENCY BONUS.—The Secretary
20 concerned may pay a proficiency bonus to a member of
21 a regular or reserve component of the uniformed services
22 who—

23 “(1) is entitled to basic pay under section 204
24 of this title or compensation under section 206 of
25 this title; and

1 “(2) is determined to have, and maintains, cer-
2 tified proficiency under subsection (d) in a skill des-
3 ignated as critical by the Secretary concerned.

4 “(c) MAXIMUM AMOUNTS AND METHODS OF PAY-
5 MENT.—

6 “(1) SKILL INCENTIVE PAY.—Skill incentive
7 pay under subsection (a) shall be in paid monthly in
8 an amount not exceed \$1,000 per month.

9 “(2) PROFICIENCY BONUS.—A proficiency
10 bonus under subsection (b) may be paid in a lump
11 sum at the beginning of the proficiency certification
12 period or in periodic installments during the pro-
13 ficiency certification period. The amount of the
14 bonus may not exceed \$12,000 for each 12-month
15 period of certification. The Secretary concerned may
16 not vary the criteria or rates for the proficiency
17 bonus paid for officers and enlisted members.

18 “(d) CERTIFIED PROFICIENCY FOR PROFICIENCY
19 BONUS.—

20 “(1) CERTIFICATION REQUIRED.—Proficiency
21 in a designated critical skill for purposes of sub-
22 section (b) shall be subject to annual certification by
23 the Secretary concerned.

24 “(2) DURATION OF CERTIFICATION.—A certifi-
25 cation period for purposes of subsection (c)(2) shall

1 expire at the end of the one-year period beginning
2 on the first day of the first month beginning on or
3 after the certification date.

4 “(3) WAIVER.—Notwithstanding paragraphs
5 (1) and (2), the regulations prescribed to administer
6 this section shall address the circumstances under
7 which the Secretary concerned may waive the certifi-
8 cation requirement under paragraph (1) or extend a
9 certification period under paragraph (2).

10 “(e) WRITTEN AGREEMENT.—

11 “(1) DISCRETIONARY FOR SKILL INCENTIVE
12 PAY.—The Secretary concerned may require a mem-
13 ber to enter into a written agreement with the Sec-
14 retary in order to qualify for the payment of skill in-
15 centive pay under subsection (a). The written agree-
16 ment shall specify the period for which the skill in-
17 centive pay will be paid to the member and the
18 monthly rate of the pay.

19 “(2) REQUIRED FOR PROFICIENCY BONUS.—
20 The Secretary concerned shall require a member to
21 enter into a written agreement with the Secretary in
22 order to qualify for payment of a proficiency bonus
23 under subsection (b). The written agreement shall
24 specify the amount of the proficiency bonus, the pe-
25 riod for which the bonus will be paid, and the initial

1 certification or recertification necessary for payment
2 of the proficiency bonus.

3 “(f) RESERVE COMPONENT MEMBERS PERFORMING
4 INACTIVE DUTY TRAINING.—

5 “(1) PRORATION.—A member of a reserve com-
6 ponent entitled to compensation under section 206
7 of this title who is authorized skill incentive pay
8 under subsection (a) or a skill proficiency bonus
9 under subsection (b) may be paid an amount of the
10 pay or bonus, as the case may be, that is propor-
11 tionate to the compensation received by the member
12 under section 206 of this title for inactive-duty
13 training.

14 “(2) EXCEPTION FOR FOREIGN LANGUAGE PRO-
15 FICIENCY.—No reduction in the amount of a skill
16 proficiency bonus may be made under paragraph (1)
17 in the case of a member of a reserve component who
18 is authorized the bonus because of the member’s
19 proficiency in a foreign language.

20 “(g) REPAYMENT.—A member who receives skill in-
21 centive pay or a proficiency bonus under this section and
22 who fails to fulfill the eligibility requirement for receipt
23 of the pay or bonus shall be subject to the repayment pro-
24 visions of section 373 of this title.

1 “(h) RELATIONSHIP TO OTHER PAYS AND ALLOW-
2 ANCES.—A member may not be paid more than one pay
3 under this section in any month for the same period of
4 service and skill. A member may be paid skill incentive
5 pay or the proficiency bonus under this section in addition
6 to any other pay and allowances to which the member is
7 entitled, except that a member may not be paid skill incen-
8 tive pay or a proficiency bonus under this section and haz-
9 ardous duty pay under section 351 of this title for the
10 same period of service in the same career field or skill.

11 “(i) TERMINATION OF AUTHORITY.—No agreement
12 may be entered into under this section after December 31,
13 2009.

14 “SUBCHAPTER III—GENERAL PROVISIONS

15 “§ 371. **Relationship to other incentives and pays**

16 “(a) TREATMENT.—A bonus or incentive pay paid to
17 a member of the uniformed services under subchapter II
18 is in addition to any other pay and allowance to which
19 a member is entitled, unless otherwise provided under this
20 chapter.

21 “(b) EXCEPTION.—A member may not receive a
22 bonus or incentive pay under both subchapter I and sub-
23 chapter II for the same activity, skill, or period of service.

24 “(c) RELATIONSHIP TO OTHER COMPUTATIONS.—
25 The amount of a bonus or incentive pay to which a mem-

1 ber is entitled under subchapter II may not be included
2 in computing the amount of—

3 “(1) any increase in pay authorized by any
4 other provision of this title; or

5 “(2) any retired pay, retainer pay, separation
6 pay, or disability severance pay.

7 **“§ 372. Continuation of pays during hospitalization**
8 **and rehabilitation resulting from**
9 **wounds, injury, or illness incurred while**
10 **on duty in a hostile fire area or exposed**
11 **to an event of hostile fire or other hostile**
12 **action**

13 “(a) CONTINUATION OF PAYS.—If a member of a
14 regular or reserve component of a uniformed service incurs
15 a wound, injury, or illness in the line of duty while serving
16 in a combat operation or a combat zone, while serving in
17 a hostile fire area, or while exposed to a hostile fire event,
18 as described under section 351 of this title, and is hos-
19 pitalized for treatment of the wound, injury, or illness, the
20 Secretary concerned may continue to pay to the member,
21 notwithstanding any provision of this chapter to the con-
22 trary, all pay and allowances (including any bonus, incen-
23 tive pay, or similar benefit) that were being paid to the
24 member at the time the member incurred the wound, in-
25 jury, or illness.

1 bonus, incentive pay, or similar benefit, the receipt of
2 which is contingent upon the member's satisfaction of cer-
3 tain service or eligibility requirements, shall repay to the
4 United States any unearned portion of the bonus, incen-
5 tive pay, or similar benefit if the member fails to satisfy
6 any such service or eligibility requirement.

7 “(b) EXCEPTIONS.—The regulations prescribed to
8 administer this section may specify procedures for deter-
9 mining the circumstances under which an exception to the
10 required repayment may be granted.

11 “(c) EFFECT OF BANKRUPTCY.—An obligation to
12 repay the United States under this section is, for all pur-
13 poses, a debt owed the United States. A discharge in bank-
14 ruptcy under title 11 does not discharge a person from
15 such debt if the discharge order is entered less than five
16 years after—

17 “(1) the date of the termination of the agree-
18 ment or contract on which the debt is based; or

19 “(2) in the absence of such an agreement or
20 contract, the date of the termination of the service
21 on which the debt is based.

22 “(d) DEFINITIONS.—In this section:

23 “(1) The term ‘bonus, incentive pay, or similar
24 benefit’ means a bonus, incentive pay, special pay, or
25 similar payment, or an educational benefit or sti-

1 pend, paid to a member of the uniformed services
2 under a provision of law that refers to the repay-
3 ment requirements of this section or section 303a(e)
4 of this title.

5 “(2) The term ‘service’, as used in subsection
6 (c)(2), refers to an obligation willingly undertaken
7 by a member of the uniformed services, in exchange
8 for a bonus, incentive pay, or similar benefit offered
9 by the Secretary concerned—

10 “(A) to a member in a regular or reserve
11 component who remains on active duty or in an
12 active status;

13 “(B) to perform duty in a specified skill,
14 with or without a specified qualification or cre-
15 dential;

16 “(C) to perform duty in a specified assign-
17 ment, location or unit; or

18 “(D) to perform duty for a specified period
19 of time.

20 **“§ 374. Regulations**

21 “‘This subchapter and subchapter II shall be adminis-
22 tered under regulations prescribed by—

23 “(1) the Secretary of Defense, with respect to
24 the armed forces under the jurisdiction of the Sec-
25 retary of Defense;

1 “(2) the Secretary of Homeland Security, with
2 respect to the Coast Guard when it is not operating
3 as a service in the Navy;

4 “(3) the Secretary of Health and Human Serv-
5 ices, with respect to the commissioned corps of the
6 Public Health Service; and

7 “(4) the Secretary of Commerce, with respect
8 to the National Oceanic and Atmospheric Adminis-
9 tration.”.

10 (b) TRANSFER OF 15-YEAR CAREER STATUS BONUS
11 TO SUBCHAPTER II.—

12 (1) TRANSFER.—Section 322 of title 37, United
13 States Code, is transferred to appear after section
14 353 of subchapter II of chapter 5 of such title, as
15 added by subsection (a), and is redesignated as sec-
16 tion 354.

17 (2) CONFORMING AMENDMENT.—Subsection (f)
18 of such section, as so transferred and redesignated,
19 is amended by striking “section 303a(e)” and insert-
20 ing “section 373”.

21 (3) CROSS REFERENCES.—Sections 1401a,
22 1409(b)(2), and 1410 of title 10, United States
23 Code, are amended by striking “section 322” each
24 place it appears and inserting “section 322 (as in ef-
25 fect before the enactment of the National Defense

1 Authorization Act for Fiscal Year 2008) or section
2 354”.

3 (c) TRANSFER OF RETENTION INCENTIVES FOR
4 MEMBERS QUALIFIED IN CRITICAL MILITARY SKILLS OR
5 ASSIGNED TO HIGH PRIORITY UNITS.—

6 (1) TRANSFER.—Section 323 of title 37, United
7 States Code, as amended by sections 614 and 622,
8 is transferred to appear after section 354 of sub-
9 chapter II of chapter 5 of such title, as transferred
10 and redesignated by subsection (b)(1), and is redesi-
11 gnated as section 355.

12 (2) CONFORMING AMENDMENT.—Subsection (g)
13 of such section, as so transferred and redesignated,
14 is amended by striking “section 303a(e)” and insert-
15 ing “section 373”.

16 (d) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of chapter 5 of title 37, United States
18 Code, is amended to read as follows:

“SUBCHAPTER I—EXISTING SPECIAL PAY, INCENTIVE PAY, AND BONUS
AUTHORITIES

“Sec.

“301. Incentive pay: hazardous duty.

“301a. Incentive pay: aviation career.

“301b. Special pay: aviation career officers extending period of active duty.

“301c. Incentive pay: submarine duty.

“301d. Multiyear retention bonus: medical officers of the armed forces.

“301e. Multiyear retention bonus: dental officers of the armed forces.

“302. Special pay: medical officers of the armed forces.

“302a. Special pay: optometrists.

“302b. Special pay: dental officers of the armed forces.

“302c. Special pay: psychologists and nonphysician health care providers.

“302d. Special pay: accession bonus for registered nurses.

“302e. Special pay: nurse anesthetists.

- “302f. Special pay: reserve, recalled, or retained health care officers.
- “302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties.
- “302h. Special pay: accession bonus for dental officers.
- “302i. Special pay: pharmacy officers.
- “302j. Special pay: accession bonus for pharmacy officers.
- “302k. Special pay: accession bonus for medical officers in critically short wartime specialties.
- “302l. Special pay: accession bonus for dental specialist officers in critically short wartime specialties.
- “303. Special pay: veterinarians.
- “303a. Special pay: general provisions.
- “303b. Waiver of board certification requirements.
- “304. Special pay: diving duty.
- “305. Special pay: hardship duty pay.
- “305a. Special pay: career sea pay.
- “305b. Special pay: service as member of Weapons of Mass Destruction Civil Support Team.
- “306. Special pay: officers holding positions of unusual responsibility and of critical nature.
- “306a. Special pay: members assigned to international military headquarters.
- “307. Special pay: special duty assignment pay for enlisted members.
- “307a. Special pay: assignment incentive pay.
- “308. Special pay: reenlistment bonus.
- “308b. Special pay: reenlistment bonus for members of the Selected Reserve.
- “308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve.
- “308d. Special pay: members of the Selected Reserve assigned to certain high priority units.
- “308g. Special pay: bonus for enlistment in elements of the Ready Reserve other than the Selected Reserve.
- “308h. Special pay: bonus for reenlistment, enlistment, or voluntary extension of enlistment in elements of the Ready Reserve other than the Selected Reserve.
- “308i. Special pay: prior service enlistment bonus.
- “308j. Special pay: affiliation bonus for officers in the Selected Reserve.
- “309. Special pay: enlistment bonus.
- “310. Special pay: duty subject to hostile fire or imminent danger.
- “312. Special pay: nuclear-qualified officers extending period of active duty.
- “312b. Special pay: nuclear career accession bonus.
- “312c. Special pay: nuclear career annual incentive bonus.
- “314. Special pay or bonus: qualified members extending duty at designated locations overseas.
- “315. Special pay: engineering and scientific career continuation pay.
- “316. Special pay: bonus for members with foreign language proficiency.
- “317. Special pay: officers in critical acquisition positions extending period of active duty.
- “318. Special pay: special warfare officers extending period of active duty.
- “319. Special pay: surface warfare officer continuation pay.
- “320. Incentive pay: career enlisted flyers.
- “321. Special pay: judge advocate continuation pay.
- “324. Special pay: accession bonus for new officers in critical skills.
- “325. Incentive bonus: savings plan for education expenses and other contingencies.
- “326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage.

- “327. Incentive bonus: transfer between armed forces.
- “328. Combat-related injury rehabilitation pay.
- “329. Incentive bonus: retired members and reserve component members volunteering for high-demand, low-density assignments.
- “330. Special pay: accession bonus for officer candidates.

“SUBCHAPTER II—CONSOLIDATION OF SPECIAL PAY, INCENTIVE PAY, AND
BONUS AUTHORITIES

- “331. General bonus authority for enlisted members.
- “332. General bonus authority for officers.
- “333. Special bonus and incentive pay authorities for nuclear officers.
- “334. Special aviation incentive pay and bonus authorities for officers.
- “335. Special bonus and incentive pay authorities for officers in health professions.
- “351. Hazardous duty pay.
- “352. Assignment pay or special duty pay.
- “353. Skill incentive pay or proficiency bonus.
- “354. Special pay: 15-year career status bonus for members entering service on or after August 1, 1986.
- “355. Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units.

“SUBCHAPTER III—GENERAL PROVISIONS

- “371. Relationship to other incentives and pays.
- “372. Continuation of pays during hospitalization and rehabilitation resulting from wounds, injury, or illness incurred while on duty in a hostile fire area or exposed to an event of hostile fire or other hostile action.
- “373. Repayment of unearned portion of bonus, incentive pay, or similar benefit when conditions of payment not met.
- “374. Regulations.”.

1 SEC. 662. TRANSITIONAL PROVISIONS.

2 (a) IMPLEMENTATION PLAN.—

3 (1) DEVELOPMENT.—The Secretary of Defense
4 shall develop a plan to implement subchapters II
5 and III of chapter 5 of title 37, United States Code,
6 as added by section 661(a), and to correspondingly
7 transition all of the special and incentive pay pro-
8 grams for members of the uniformed services solely
9 to provisions of such subchapters.

1 (2) SUBMISSION.—Not later than one year after
2 the date of the enactment of this Act, the Secretary
3 shall submit the implementation plan to the congress-
4 sional defense committees.

5 (b) TRANSITION PERIOD.—During a transition pe-
6 riod of not more than 10 years beginning on the date of
7 the enactment of this Act, the Secretary of Defense, the
8 Secretary of a military department, and the Secretaries
9 referred to in subsection (d) may continue to use the au-
10 thorities in provisions in subchapter I of chapter 5 of title
11 37, United States Code, as designated by section 661(a),
12 but subject to the terms of such provisions and such modi-
13 fications as the Secretary of Defense may include in the
14 implementation plan, to provide bonuses and special and
15 incentive pays for members of the uniformed services.

16 (c) NOTICE OF IMPLEMENTATION OF NEW AUTHORI-
17 TIES.—Not less than 30 days before the date on which
18 a special pay or bonus authority provided under sub-
19 chapter II of chapter 5 of title 37, United States Code,
20 as added by section 661(a), is first utilized, the Secretary
21 of Defense shall submit to the congressional defense com-
22 mittees a notice of the implementation of the authority,
23 including whether, as a result of implementation of the
24 authority, a corresponding authority in subchapter I of

1 such chapter, as designated by section 661(a), will no
2 longer be used.

3 (d) COORDINATION.—The Secretary of Defense shall
4 prepare the implementation plan in coordination with—

5 (1) the Secretary of Homeland Security, with
6 respect to the Coast Guard;

7 (2) the Secretary of Health and Human Serv-
8 ices, with respect to the commissioned corps of the
9 Public Health Service; and

10 (3) the Secretary of Commerce, with respect to
11 the National Oceanic and Atmospheric Administra-
12 tion.

13 (e) NO EFFECT ON FISCAL YEAR 2008 OBLIGA-
14 TIONS.—During fiscal year 2008, obligations incurred
15 under subchapters I, II, and III of chapter 5 of title 37,
16 United States Code, as amended by section 661, to provide
17 bonuses, incentive pays, special pays, and similar pay-
18 ments to members of the uniformed services under such
19 subchapters may not exceed the obligations that would be
20 incurred in the absence of the amendments made by such
21 section.

22 **Subtitle G—Other Matters**

23 **SEC. 671. REFERRAL BONUS AUTHORITIES.**

24 (a) CODIFICATION AND MODIFICATION OF ARMY RE-
25 FERRAL BONUS AUTHORITY.—

1 (1) ARMY REFERRAL BONUS.—Chapter 333 of
2 title 10, United States Code, is amended by insert-
3 ing after section 3251 the following new section:

4 **“§ 3252. Bonus to encourage Army personnel to refer**
5 **persons for enlistment in the Army**

6 “(a) AUTHORITY TO PAY BONUS.—

7 “(1) AUTHORITY.—The Secretary of the Army
8 may pay a bonus under this section to an individual
9 referred to in paragraph (2) who refers to an Army
10 recruiter a person who has not previously served in
11 an armed force and who, after such referral, enlists
12 in the regular component of the Army or in the
13 Army National Guard or Army Reserve.

14 “(2) INDIVIDUALS ELIGIBLE FOR BONUS.—Sub-
15 ject to subsection (c), the following individuals are
16 eligible for a referral bonus under this section:

17 “(A) A member in the regular component
18 of the Army.

19 “(B) A member of the Army National
20 Guard.

21 “(C) A member of the Army Reserve.

22 “(D) A member of the Army in a retired
23 status, including a member under 60 years of
24 age who, but for age, would be eligible for re-
25 tired pay.

1 “(E) A civilian employee of the Depart-
2 ment of the Army.

3 “(b) REFERRAL.—For purposes of this section, a re-
4 ferral for which a bonus may be paid under subsection
5 (a) occurs—

6 “(1) when the individual concerned contacts an
7 Army recruiter on behalf of a person interested in
8 enlisting in the Army; or

9 “(2) when a person interested in enlisting in
10 the Army contacts the Army recruiter and informs
11 the recruiter of the role of the individual concerned
12 in initially recruiting the person.

13 “(c) CERTAIN REFERRALS INELIGIBLE.—

14 “(1) REFERRAL OF IMMEDIATE FAMILY.—A
15 member of the Army or civilian employee of the De-
16 partment of the Army may not be paid a bonus
17 under subsection (a) for the referral of an immediate
18 family member.

19 “(2) MEMBERS IN RECRUITING ROLES.—A
20 member of the Army or civilian employee of the De-
21 partment of the Army serving in a recruiting or re-
22 tention assignment, or assigned to other duties re-
23 garding which eligibility for a bonus under sub-
24 section (a) could (as determined by the Secretary) be

1 perceived as creating a conflict of interest, may not
2 be paid a bonus under subsection (a).

3 “(3) JUNIOR RESERVE OFFICERS’ TRAINING
4 CORPS INSTRUCTORS.—A member of the Army de-
5 tailed under subsection (c)(1) of section 2031 of this
6 title to serve as an administrator or instructor in the
7 Junior Reserve Officers’ Training Corps program or
8 a retired member of the Army employed as an ad-
9 ministrator or instructor in the program under sub-
10 section (d) of such section may not be paid a bonus
11 under subsection (a).

12 “(d) AMOUNT OF BONUS.—The amount of the bonus
13 payable for a referral under subsection (a) may not exceed
14 \$2,000. The amount shall be payable as provided in sub-
15 section (e).

16 “(e) PAYMENT.—A bonus payable for a referral of
17 a person under subsection (a) shall be paid as follows:

18 “(1) Not more than \$1,000 shall be paid upon
19 the commencement of basic training by the person.

20 “(2) Not more than \$1,000 shall be paid upon
21 the completion of basic training and individual ad-
22 vanced training by the person.

23 “(f) RELATION TO PROHIBITION ON BOUNTIES.—
24 The referral bonus authorized by this section is not a
25 bounty for purposes of section 514(a) of this title.

1 “(g) COORDINATION WITH RECEIPT OF RETIRED
2 PAY.—A bonus paid under this section to a member of
3 the Army in a retired status is in addition to any com-
4 pensation to which the member is entitled under this title,
5 title 37 or 38, or any other provision of law.

6 “(h) DURATION OF AUTHORITY.—A bonus may not
7 be paid under subsection (a) with respect to any referral
8 that occurs after December 31, 2008.”.

9 (2) CLERICAL AMENDMENT.—The table of sec-
10 tions at the beginning of such chapter is amended
11 by inserting after the item relating to section 3251
12 the following new item:

“3252. Bonus to encourage Army personnel to refer persons for enlistment in
the Army.”.

13 (b) BONUS FOR REFERRAL OF PERSONS FOR AP-
14 POINTMENT AS OFFICERS TO SERVE IN HEALTH PROFES-
15 SIONS.—

16 (1) HEALTH PROFESSIONS REFERRAL BONUS
17 .—Chapter 53 of such title is amended by inserting
18 before section 1031 the following new section:

19 **“§ 1030. Bonus to encourage Department of Defense**
20 **personnel to refer persons for appoint-**
21 **ment as officers to serve in health profes-**
22 **sions**

23 “(a) AUTHORITY TO PAY BONUS.—

1 “(1) AUTHORITY.—The Secretary of Defense
2 may authorize the appropriate Secretary to pay a
3 bonus under this section to an individual referred to
4 in paragraph (2) who refers to a military recruiter
5 a person who has not previously served in an armed
6 force and, after such referral, takes an oath of en-
7 listment that leads to appointment as a commis-
8 sioned officer, or accepts an appointment as a com-
9 missioned officer, in an armed force in a health pro-
10 fession designated by the appropriate Secretary for
11 purposes of this section.

12 “(2) INDIVIDUALS ELIGIBLE FOR BONUS.—Sub-
13 ject to subsection (c), the following individuals are
14 eligible for a referral bonus under this section:

15 “(A) A member of the armed forces in a
16 regular component of the armed forces.

17 “(B) A member of the armed forces in a
18 reserve component of the armed forces.

19 “(C) A member of the armed forces in a
20 retired status, including a member under 60
21 years of age who, but for age, would be eligible
22 for retired or retainer pay.

23 “(D) A civilian employee of a military de-
24 partment or the Department of Defense.

1 “(b) REFERRAL.—For purposes of this section, a re-
2 ferral for which a bonus may be paid under subsection
3 (a) occurs—

4 “(1) when the individual concerned contacts a
5 military recruiter on behalf of a person interested in
6 taking an oath of enlistment that leads to appoint-
7 ment as a commissioned officer, or accepting an ap-
8 pointment as a commissioned officer, as applicable,
9 in an armed force in a health profession; or

10 “(2) when a person interested in taking an oath
11 of enlistment that leads to appointment as a com-
12 missioned officer, or accepting an appointment as a
13 commissioned officer, as applicable, in an armed
14 force in a health profession contacts a military re-
15 cruiter and informs the recruiter of the role of the
16 individual concerned in initially recruiting the per-
17 son.

18 “(c) CERTAIN REFERRALS INELIGIBLE.—

19 “(1) REFERRAL OF IMMEDIATE FAMILY.—A
20 member of the armed forces or civilian employee of
21 a military department or the Department of Defense
22 may not be paid a bonus under subsection (a) for
23 the referral of an immediate family member.

24 “(2) MEMBERS IN RECRUITING ROLES.—A
25 member of the armed forces or civilian employee of

1 a military department or the Department of Defense
2 serving in a recruiting or retention assignment, or
3 assigned to other duties regarding which eligibility
4 for a bonus under subsection (a) could (as deter-
5 mined by the appropriate Secretary) be perceived as
6 creating a conflict of interest, may not be paid a
7 bonus under subsection (a).

8 “(3) JUNIOR RESERVE OFFICERS’ TRAINING
9 CORPS INSTRUCTORS.—A member of the armed
10 forces detailed under subsection (c)(1) of section
11 2031 of this title to serve as an administrator or in-
12 structor in the Junior Reserve Officers’ Training
13 Corps program or a retired member of the armed
14 forces employed as an administrator or instructor in
15 the program under subsection (d) of such section
16 may not be paid a bonus under subsection (a).

17 “(d) AMOUNT OF BONUS.—The amount of the bonus
18 payable for a referral under subsection (a) may not exceed
19 \$2,000. The amount shall be payable as provided in sub-
20 section (e).

21 “(e) PAYMENT.—A bonus payable for a referral of
22 a person under subsection (a) shall be paid as follows:

23 “(1) Not more than \$1,000 shall be paid upon
24 the execution by the person of an agreement to serve

1 as an officer in a health profession in an armed
2 force for not less than 3 years,

3 “(2) Not more than \$1,000 shall be paid upon
4 the completion by the person of the initial period of
5 military training as an officer.

6 “(f) RELATION TO PROHIBITION ON BOUNTIES.—
7 The referral bonus authorized by this section is not a
8 bounty for purposes of section 514(a) of this title.

9 “(g) COORDINATION WITH RECEIPT OF RETIRED
10 PAY.—A bonus paid under this section to a member of
11 the armed forces in a retired status is in addition to any
12 compensation to which the member is entitled under this
13 title, title 37 or 38, or any other provision of law.

14 “(h) APPROPRIATE SECRETARY DEFINED.—In this
15 section, the term ‘appropriate Secretary’ means—

16 “(1) the Secretary of the Army, with respect to
17 matters concerning the Army;

18 “(2) the Secretary of the Navy, with respect to
19 matters concerning the Navy, the Marine Corps, and
20 the Coast Guard when it is operating as a service in
21 the Navy;

22 “(3) the Secretary of the Air Force, with re-
23 spect to matters concerning the Air Force; and

24 “(4) the Secretary of Defense, with respect to
25 personnel of the Department of Defense.

1 “(i) DURATION OF AUTHORITY.—A bonus may not
2 be paid under subsection (a) with respect to any referral
3 that occurs after December 31, 2008.”.

4 (2) CLERICAL AMENDMENTS.—The table of sec-
5 tions at the beginning of such chapter is amended
6 by inserting before the item relating to section 1031
7 the following new item:

“1030. Bonus to encourage Department of Defense personnel to refer persons
for appointment as officers to serve in health professions.”.

8 (c) REPEAL OF SUPERSEDED ARMY REFERRAL
9 BONUS AUTHORITY.—

10 (1) REPEAL.—Section 645 of the National De-
11 fense Authorization Act for Fiscal Year 2006 (Pub-
12 lic Law 109–163) is repealed.

13 (2) PAYMENT OF BONUSES UNDER SUPER-
14 SEDED AUTHORITY.—Any bonus payable under sec-
15 tion 645 of the National Defense Authorization Act
16 for Fiscal Year 2006, as in effect before its repeal
17 by paragraph (1), shall remain payable after that
18 date and shall be paid in accordance with the provi-
19 sions of such section, as in effect on the day before
20 the date of the enactment of this Act.

1 **SEC. 672. EXPANSION OF EDUCATION LOAN REPAYMENT**
2 **PROGRAM FOR MEMBERS OF THE SELECTED**
3 **RESERVE.**

4 (a) ADDITIONAL EDUCATIONAL LOANS ELIGIBLE
5 FOR REPAYMENT.—Paragraph (1) of subsection (a) of
6 section 16301 of title 10, United States Code, is amend-
7 ed—

8 (1) by striking “or” at the end of subparagraph
9 (B);

10 (2) by striking the period at the end of sub-
11 paragraph (C) and inserting “; or”; and

12 (3) by inserting after subparagraph (C) the fol-
13 lowing new subparagraph:

14 “(D) any loan incurred for educational purposes
15 made by a lender that is—

16 “(i) an agency or instrumentality of a
17 State;

18 “(ii) a financial or credit institution (in-
19 cluding an insurance company) that is subject
20 to examination and supervision by an agency of
21 the United States or any State;

22 “(iii) a pension fund approved by the Sec-
23 retary for purposes of this section; or

24 “(iv) a nonprofit private entity designated
25 by a State, regulated by that State, and ap-

1 **SEC. 673. ENSURING ENTRY INTO UNITED STATES AFTER**
2 **TIME ABROAD FOR PERMANENT RESIDENT**
3 **ALIEN MILITARY SPOUSES AND CHILDREN.**

4 Section 284 of the Immigration and Nationality Act
5 (8 U.S.C. 1354) is amended—

6 (1) by striking “Nothing” and inserting “(a)
7 Nothing”; and

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

10 “(b) If a person lawfully admitted for permanent resi-
11 dence is the spouse or child of a member of the Armed
12 Forces of the United States, is authorized to accompany
13 the member and reside abroad with the member pursuant
14 to the member’s official orders, and is so accompanying
15 and residing with the member (in marital union if a
16 spouse), then the residence and physical presence of the
17 person abroad shall not be treated as—

18 “(1) an abandonment or relinquishment of law-
19 ful permanent resident status for purposes of clause
20 (i) of section 101(a)(13)(C); or

21 “(2) an absence from the United States for
22 purposes of clause (ii) of such section.”.

1 **SEC. 674. OVERSEAS NATURALIZATION FOR MILITARY**
2 **SPOUSES AND CHILDREN.**

3 (a) SPOUSES.—Section 319 of the Immigration and
4 Nationality Act (8 U.S.C. 1430) is amended by adding
5 at the end the following new subsection:

6 “(e)(1) In the case of a person lawfully admitted for
7 permanent residence in the United States who is the
8 spouse of a member of the Armed Forces of the United
9 States, is authorized to accompany such member and re-
10 side abroad with the member pursuant to the member’s
11 official orders, and is so accompanying and residing with
12 the member in marital union, such residence and physical
13 presence abroad shall be treated, for purposes of sub-
14 section (a) and section 316(a), as residence and physical
15 presence in—

16 “(A) the United States; and

17 “(B) any State or district of the Department of
18 Homeland Security in the United States.

19 “(2) Notwithstanding any other provision of law, a
20 spouse described in paragraph (1) shall be eligible for nat-
21 uralization proceedings overseas pursuant to section
22 1701(d) of the National Defense Authorization Act for
23 Fiscal Year 2004 (Public Law 108–136; 8 U.S.C.
24 1443a).”.

1 (b) CHILDREN.—Section 322 of the Immigration and
2 Nationality Act (8 U.S.C. 1433) is amended by adding
3 at the end the following new subsection:

4 “(d) In the case of a child of a member of the Armed
5 Forces of the United States who is authorized to accom-
6 pany such member and reside abroad with the member
7 pursuant to the member’s official orders, and is so accom-
8 panying and residing with the member—

9 “(1) any period of time during which the mem-
10 ber of the Armed Forces is residing abroad pursuant
11 to official orders shall be treated, for purposes of
12 subsection (a)(2)(A), as physical presence in the
13 United States;

14 “(2) subsection (a)(5) shall not apply; and

15 “(3) the oath of allegiance described in sub-
16 section (b) may be subscribed to abroad pursuant to
17 section 1701(d) of the National Defense Authoriza-
18 tion Act for Fiscal Year 2004 (Public Law 108–136;
19 8 U.S.C. 1443a).”.

20 (c) OVERSEAS NATURALIZATION AUTHORITY.—Sec-
21 tion 1701(d) of the National Defense Authorization Act
22 for Fiscal Year 2004 (Public Law 108–136; 8 U.S.C.
23 1443a) is amended—

1 (1) in the subsection heading, by inserting
2 “AND THEIR SPOUSES AND CHILDREN” after
3 “FORCES”; and

4 (2) by inserting “, and persons made eligible
5 for naturalization by section 319(e) or 322(d) of
6 such Act,” after “Armed Forces”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on the date of enactment of
9 this Act and apply to any application for naturalization
10 or issuance of a certificate of citizenship pending on or
11 after such date.

12 **SEC. 675. MODIFICATION OF AMOUNT OF BACK PAY FOR**
13 **MEMBERS OF NAVY AND MARINE CORPS SE-**
14 **LECTED FOR PROMOTION WHILE INTERNED**
15 **AS PRISONERS OF WAR DURING WORLD WAR**
16 **II TO TAKE INTO ACCOUNT CHANGES IN CON-**
17 **SUMER PRICE INDEX.**

18 (a) MODIFICATION.—Section 667(c) of the Floyd D.
19 Spence National Defense Authorization Act for Fiscal
20 Year 2001 (as enacted into law by Public Law 106–398;
21 114 Stat. 1654A–170) is amended by adding at the end
22 the following new paragraph:

23 “(3) The amount determined for a person under
24 paragraph (1) shall be increased to reflect increases in
25 cost of living since the basic pay referred to in paragraph

1 (1)(B) was paid to or for that person, calculated on the
2 basis of the Consumer Price Index (all items—United
3 States city average) published monthly by the Bureau of
4 Labor Statistics.”.

5 (b) RECALCULATION OF PREVIOUS PAYMENTS.—In
6 the case of any payment of back pay made to or for a
7 person under section 667 of the Floyd D. Spence National
8 Defense Authorization Act for Fiscal Year 2001 before the
9 date of the enactment of this Act, the Secretary of the
10 Navy shall—

11 (1) recalculate the amount of back pay to which
12 the person is entitled by reason of the amendment
13 made by subsection (a); and

14 (2) if the amount of back pay, as so recal-
15 culated, exceeds the amount of back pay so paid, pay
16 the person, or the surviving spouse of the person, an
17 amount equal to the excess.

18 **TITLE VII—HEALTH CARE**

19 **PROVISIONS**

Subtitle A—Improvements to Military Health Benefits

- Sec. 701. One-year extension of prohibition on increases in certain health care costs for members of the uniformed services.
- Sec. 702. Temporary prohibition on increase in copayments under retail pharmacy system of pharmacy benefits program.
- Sec. 703. Inclusion of TRICARE retail pharmacy program in Federal procurement of pharmaceuticals.
- Sec. 704. Stipend for members of reserve components for health care for certain dependents.
- Sec. 705. Authority for expansion of persons eligible for continued health benefits coverage.
- Sec. 706. Continuation of eligibility for TRICARE Standard coverage for certain members of the Selected Reserve.

- Sec. 707. Extension of pilot program for health care delivery.
 Sec. 708. Inclusion of mental health care in definition of health care and report on mental health care services.

Subtitle B—Studies and Reports

- Sec. 711. Surveys on continued viability of TRICARE Standard and TRICARE Extra.
 Sec. 712. Report on training in preservation of remains under combat or combat-related conditions.
 Sec. 713. Report on patient satisfaction surveys.
 Sec. 714. Report on medical physical examinations of members of the Armed Forces before their deployment.
 Sec. 715. Report and study on multiple vaccinations of members of the Armed Forces.
 Sec. 716. Review of gender- and ethnic group-specific mental health services and treatment for members of the Armed Forces.
 Sec. 717. Licensed mental health counselors and the TRICARE program.
 Sec. 718. Report on funding of the Department of Defense for health care.

Subtitle C—Other Matters

- Sec. 721. Prohibition on conversion of military medical and dental positions to civilian medical and dental positions.
 Sec. 722. Establishment of Joint Pathology Center.

1 **Subtitle A—Improvements to**
 2 **Military Health Benefits**

3 **SEC. 701. ONE-YEAR EXTENSION OF PROHIBITION ON IN-**
 4 **CREASES IN CERTAIN HEALTH CARE COSTS**
 5 **FOR MEMBERS OF THE UNIFORMED SERV-**
 6 **ICES.**

7 (a) CHARGES UNDER CONTRACTS FOR MEDICAL
 8 CARE.—Section 1097(e) of title 10, United States Code,
 9 is amended by striking “September 30, 2007” and insert-
 10 ing “September 30, 2008”.

11 (b) CHARGES FOR INPATIENT CARE.—Section
 12 1086(b)(3) of such title is amended by striking “Sep-
 13 tember 30, 2007.” and inserting “September 30, 2008”.

1 (c) PREMIUMS UNDER TRICARE COVERAGE FOR
2 CERTAIN MEMBERS IN THE SELECTED RESERVE.—Sec-
3 tion 1076d(d)(3) of such title is amended by striking
4 “September 30, 2007” and inserting “September 30,
5 2008”.

6 **SEC. 702. TEMPORARY PROHIBITION ON INCREASE IN CO-**
7 **PAYMENTS UNDER RETAIL PHARMACY SYS-**
8 **TEM OF PHARMACY BENEFITS PROGRAM.**

9 During the period beginning on October 1, 2007, and
10 ending on September 30, 2008, the cost sharing require-
11 ments established under paragraph (6) of section
12 1074g(a) of title 10, United States Code, for pharma-
13 ceutical agents available through retail pharmacies cov-
14 ered by paragraph (2)(E)(ii) of such section may not ex-
15 ceed amounts as follows:

- 16 (1) In the case of generic agents, \$3.
17 (2) In the case of formulary agents, \$9.
18 (3) In the case of nonformulary agents, \$22.

19 **SEC. 703. INCLUSION OF TRICARE RETAIL PHARMACY PRO-**
20 **GRAM IN FEDERAL PROCUREMENT OF PHAR-**
21 **MACEUTICALS.**

22 (a) IN GENERAL.—Section 1074g of title 10, United
23 States Code, is amended—

- 24 (1) by redesignating subsections (f) and (g) as
25 subsections (g) and (h), respectively; and

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

3 “(f) PROCUREMENT OF PHARMACEUTICALS BY
4 TRICARE RETAIL PHARMACY PROGRAM.—With respect
5 to any prescription filled on or after the date of the enact-
6 ment of the National Defense Authorization Act for Fiscal
7 Year 2008, the TRICARE retail pharmacy program shall
8 be treated as an element of the Department of Defense
9 for purposes of the procurement of drugs by Federal agen-
10 cies under section 8126 of title 38 to the extent necessary
11 to ensure that pharmaceuticals paid for by the Depart-
12 ment of Defense that are provided by pharmacies under
13 the program to eligible covered beneficiaries under this
14 section are subject to the pricing standards in such section
15 8126.”.

16 (b) REGULATIONS.—The Secretary of Defense shall,
17 after consultation with the other administering Secretaries
18 under chapter 55 of title 10, United States Code, modify
19 the regulations under subsection (h) of section 1074g of
20 title 10, United States Code (as redesignated by sub-
21 section (a)(1) of this section), to implement the require-
22 ments of subsection (f) of section 1074g of title 10, United
23 States Code (as amended by subsection (a)(2) of this sec-
24 tion). The Secretary shall so modify such regulations not
25 later than December 31, 2007.

1 **SEC. 704. STIPEND FOR MEMBERS OF RESERVE COMPO-**
2 **NENTS FOR HEALTH CARE FOR CERTAIN DE-**
3 **PENDENTS.**

4 The Secretary of Defense may, pursuant to regula-
5 tions prescribed by the Secretary, pay a stipend to a mem-
6 ber of a reserve component of the Armed Forces who is
7 called or ordered to active duty for a period of more than
8 30 days for purposes of maintaining civilian health care
9 coverage for a dependant whom the Secretary determines
10 to possess a special health care need that would be best
11 met by remaining in the member's civilian health plan. In
12 making such determination, the Secretary shall consider
13 whether—

14 (1) the dependent of the member was receiving
15 treatment for the special health care need before the
16 call or order to active duty of the member; and

17 (2) the call or order to active duty would result
18 in an interruption in treatment or a change in
19 health care provider for such treatment.

20 **SEC. 705. AUTHORITY FOR EXPANSION OF PERSONS ELIGI-**
21 **BLE FOR CONTINUED HEALTH BENEFITS**
22 **COVERAGE.**

23 (a) **AUTHORITY TO SPECIFY ADDITIONAL ELIGIBLE**
24 **PERSONS.**—Subsection (b) of section 1078a of title 10,
25 United States Code, is amended by adding at the end the
26 following new paragraph:

1 “(4) Any other person specified in regulations
2 prescribed by the Secretary of Defense for purposes
3 of this paragraph who loses entitlement to health
4 care services under this chapter or section 1145 of
5 this title, subject to such terms and conditions as
6 the Secretary shall prescribe in the regulations.”.

7 (b) ELECTION OF COVERAGE.—Subsection (d) of
8 such section is amended by adding at the end the following
9 new paragraph:

10 “(4) In the case of a person described in sub-
11 section (b)(4), by such date as the Secretary shall
12 prescribe in the regulations required for purposes of
13 that subsection.”.

14 (c) PERIOD OF COVERAGE.—Subsection (g)(1) of
15 such section is amended—

16 (1) in subparagraph (B), by striking “and” at
17 the end;

18 (2) in subparagraph (C), by striking the period
19 at the end and inserting “; and”; and

20 (3) by adding at the end the following new sub-
21 paragraph:

22 “(D) in the case of a person described in sub-
23 section (b)(4), the date that is 36 months after the
24 date on which the person loses entitlement to health
25 care services as described in that subsection.”.

1 **SEC. 706. CONTINUATION OF ELIGIBILITY FOR TRICARE**
2 **STANDARD COVERAGE FOR CERTAIN MEM-**
3 **BERS OF THE SELECTED RESERVE.**

4 (a) IN GENERAL.—Section 706(f) of the John War-
5 ner National Defense Authorization Act for Fiscal Year
6 2007 (Public Law 109–364; 120 Stat. 2282; 10 U.S.C.
7 1076d note) is amended—

8 (1) by striking “Enrollments” and inserting
9 “(1) Except as provided in paragraph (2), enroll-
10 ments”; and

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

13 “(2) The enrollment of a member in TRICARE
14 Standard that is in effect on the day before health care
15 under TRICARE Standard is provided pursuant to the ef-
16 fective date in subsection (g) shall not be terminated by
17 operation of the exclusion of eligibility under subsection
18 (a)(2) of such section 1076d, as so amended, for the dura-
19 tion of the eligibility of the member under TRICARE
20 Standard as in effect on October 16, 2006.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 subsection (a) shall take effect on October 1, 2007.

23 **SEC. 707. EXTENSION OF PILOT PROGRAM FOR HEALTH**
24 **CARE DELIVERY.**

25 (a) EXTENSION OF DURATION OF PILOT PRO-
26 GRAM.—Section 721(e) of the Ronald W. Reagan National

1 Defense Authorization Act for Fiscal Year 2005 (Public
2 Law 108–375; 118 Stat. 1988; 10 U.S.C. 1092 note) is
3 amended by striking “and 2007” and inserting “, 2007,
4 2008, 2009, and 2010”.

5 (b) EXTENSION OF REPORT DEADLINE.—Section
6 721(f) of such Act is amended by striking “July 1, 2007”
7 and inserting “July 1, 2010”.

8 (c) REVISION IN SELECTION CRITERIA.—Section
9 721(d)(2) of such Act is amended by striking “expected
10 to increase over the next five years” and inserting “has
11 increased over the five years preceding 2008”.

12 (d) ADDITION TO REQUIREMENTS OF PILOT PRO-
13 GRAM.—Section 721(b) of such Act is amended—

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

15 (3);

16 (2) by striking the period and inserting “; and”
17 at the end of paragraph (4); and

18 (3) by adding at the end the following:

19 “(5) collaborate with State and local authorities
20 to create an arrangement to share and exchange, be-
21 tween the Department of Defense and non-military
22 health care systems, personal health information and
23 data of military personnel and their families.”.

1 **SEC. 708. INCLUSION OF MENTAL HEALTH CARE IN DEFINI-**
2 **TION OF HEALTH CARE AND REPORT ON**
3 **MENTAL HEALTH CARE SERVICES.**

4 (a) INCLUSION OF MENTAL HEALTH CARE IN DEFINI-
5 TION OF HEALTH CARE.—Section 1072 of title 10,
6 United States Code, is amended by adding at the end the
7 following new paragraph:

8 “(10) The term ‘health care’ includes mental
9 health care.”.

10 (b) REPORT ON ACCESS TO MENTAL HEALTH CARE
11 SERVICES.—Not later than one year after the date of the
12 enactment of this Act, the Secretary of Defense shall sub-
13 mit to the Committees on Armed Services of the Senate
14 and the House of Representatives a report on the ade-
15 quacy of access to mental health services under the
16 TRICARE program, including in the geographic areas
17 where surveys on the continued viability of TRICARE
18 Standard and TRICARE Extra are conducted under sec-
19 tion 711 of this Act.

20 **Subtitle B—Studies and Reports**

21 **SEC. 711. SURVEYS ON CONTINUED VIABILITY OF TRICARE**
22 **STANDARD AND TRICARE EXTRA.**

23 (a) REQUIREMENT FOR SURVEYS.—

24 (1) IN GENERAL.—The Secretary of Defense
25 shall conduct surveys of health care providers and
26 beneficiaries who use TRICARE in the United

1 States to determine, utilizing a reconciliation of the
2 responses of providers and beneficiaries to such sur-
3 veys, each of the following:

4 (A) How many health care providers in
5 TRICARE Prime service areas selected under
6 paragraph (3)(A) are accepting new patients
7 under each of TRICARE Standard and
8 TRICARE Extra.

9 (B) How many health care providers in ge-
10 ographic areas in which TRICARE Prime is not
11 offered are accepting patients under each of
12 TRICARE Standard and TRICARE Extra.

13 (C) The availability of mental health care
14 providers in TRICARE Prime service areas se-
15 lected under paragraph (3)(C) and in geo-
16 graphic areas in which TRICARE Prime is not
17 offered.

18 (2) BENCHMARKS.—The Secretary shall estab-
19 lish for purposes of the surveys required by para-
20 graph (1) benchmarks for primary care and specialty
21 care providers, including mental health care pro-
22 viders, to be utilized to determine the adequacy of
23 the availability of health care providers to bene-
24 ficiaries eligible for TRICARE.

1 (3) SCOPE OF SURVEYS.—The Secretary shall
2 carry out the surveys required by paragraph (1) as
3 follows:

4 (A) In the case of the surveys required by
5 subparagraph (A) of that paragraph, in at least
6 20 TRICARE Prime service areas in the
7 United States in each of fiscal years 2008
8 through 2011.

9 (B) In the case of the surveys required by
10 subparagraph (B) of that paragraph, in 20 geo-
11 graphic areas in which TRICARE Prime is not
12 offered and in which significant numbers of
13 beneficiaries who are members of the Selected
14 Reserve reside.

15 (C) In the case of the surveys required by
16 subparagraph (C) of that paragraph, in at least
17 40 geographic areas.

18 (4) PRIORITY FOR SURVEYS.—In prioritizing
19 the areas which are to be surveyed under paragraph
20 (1), the Secretary shall—

21 (A) consult with representatives of
22 TRICARE beneficiaries and health care and
23 mental health care providers to identify loca-
24 tions where TRICARE Standard beneficiaries
25 are experiencing significant levels of access-to-

1 care problems under TRICARE Standard or
2 TRICARE Extra;

3 (B) give a high priority to surveying health
4 care and mental health care providers in such
5 areas; and

6 (C) give a high priority to surveying bene-
7 ficiaries and providers located in geographic
8 areas with high concentrations of members of
9 the Selected Reserve.

10 (5) INFORMATION FROM PROVIDERS.—The sur-
11 veys required by paragraph (1) shall include ques-
12 tions seeking to determine from health care and
13 mental health care providers the following:

14 (A) Whether the provider is aware of the
15 TRICARE program.

16 (B) What percentage of the provider's cur-
17 rent patient population uses any form of
18 TRICARE.

19 (C) Whether the provider accepts patients
20 for whom payment is made under the medicare
21 program for health care and mental health care
22 services.

23 (D) If the provider accepts patients re-
24 ferred to in subparagraph (C), whether the pro-
25 vider would accept additional such patients who

1 are not in the provider's current patient popu-
2 lation.

3 (6) INFORMATION FROM BENEFICIARIES.—The
4 surveys required by paragraph (1) shall include
5 questions seeking information to determine from
6 TRICARE beneficiaries whether they have difficul-
7 ties in finding health care and mental health care
8 providers willing to provide services under
9 TRICARE Standard or TRICARE Extra.

10 (b) GAO REVIEW.—

11 (1) ONGOING REVIEW.—The Comptroller Gen-
12 eral shall, on an ongoing basis, review—

13 (A) the processes, procedures, and analysis
14 used by the Department of Defense to deter-
15 mine the adequacy of the number of health care
16 and mental health care providers—

17 (i) that currently accept TRICARE
18 Standard or TRICARE Extra beneficiaries
19 as patients under TRICARE Standard in
20 each TRICARE area as of the date of
21 completion of the review; and

22 (ii) that would accept TRICARE
23 Standard or TRICARE Extra beneficiaries
24 as new patients under TRICARE Standard
25 or TRICARE Extra, as applicable, within

1 a reasonable time after the date of comple-
2 tion of the review; and

3 (B) the actions taken by the Department
4 of Defense to ensure ready access of TRICARE
5 Standard beneficiaries to health care and men-
6 tal health care under TRICARE Standard in
7 each TRICARE area, including any pending or
8 resolved requests for waiver of payment limits
9 in order to improve access to health care or
10 mental health care in a specific geographic
11 area.

12 (2) REPORTS.—The Comptroller General shall
13 submit to the Committees on Armed Services of the
14 Senate and the House of Representatives on a bi-an-
15 nual basis a report on the results of the review
16 under paragraph (1). Each report shall include the
17 following:

18 (A) An analysis of the adequacy of the sur-
19 veys under subsection (a).

20 (B) An identification of any impediments
21 to achieving adequacy of availability of health
22 care and mental health care under TRICARE
23 Standard or TRICARE Extra.

24 (C) An assessment of the adequacy of De-
25 partment of Defense education programs to in-

1 form health care and mental health care pro-
2 viders about TRICARE Standard and
3 TRICARE Extra.

4 (D) An assessment of the adequacy of De-
5 partment of Defense initiatives to encourage
6 health care and mental health care providers to
7 accept patients under TRICARE Standard and
8 TRICARE Extra.

9 (E) An assessment of the adequacy of in-
10 formation available to TRICARE Standard
11 beneficiaries to facilitate access by such bene-
12 ficiaries to health care and mental health care
13 under TRICARE Standard and TRICARE
14 Extra.

15 (F) An assessment of any need for adjust-
16 ment of health care and mental health care pro-
17 vider payment rates to attract participation in
18 TRICARE Standard by appropriate numbers of
19 health care and mental health care providers.

20 (G) An assessment of the adequacy of De-
21 partment of Defense programs to inform mem-
22 bers of the Selected Reserve about the
23 TRICARE Reserve Select program.

1 (H) An assessment of the ability of
2 TRICARE Reserve Select beneficiaries to re-
3 ceive care in their geographic area.

4 (c) EFFECTIVE DATE.—This section shall take effect
5 on October 1, 2007.

6 (d) REPEAL OF SUPERSEDED REQUIREMENTS AND
7 AUTHORITY.—Section 723 of the National Defense Au-
8 thorization Act for Fiscal Year 2004 (10 U.S.C. 1073
9 note) is repealed, effective as of October 1, 2007.

10 (e) DEFINITIONS.—In this section:

11 (1) The term “TRICARE Extra” means the
12 option of the TRICARE program under which
13 TRICARE Standard beneficiaries may obtain dis-
14 counts on cost-sharing as a result of using
15 TRICARE network providers.

16 (2) The term “TRICARE Prime” means the
17 managed care option of the TRICARE program.

18 (3) The term “TRICARE Prime service area”
19 means a geographic area designated by the Depart-
20 ment of Defense in which managed care support
21 contractors develop a managed care network under
22 TRICARE Prime.

23 (4) The term “TRICARE Standard” means the
24 option of the TRICARE program that is also known
25 as the Civilian Health and Medical Program of the

1 Uniformed Services, as defined in section 1072(4) of
2 title 10, United States Code.

3 (5) The term “TRICARE Reserve Select”
4 means the option of the TRICARE program that al-
5 lows members of the Selected Reserve to enroll in
6 TRICARE Standard, pursuant to section 1076d of
7 title 10, United States Code.

8 (6) The term “member of the Selected Reserve”
9 means a member of the Selected Reserve of the
10 Ready Reserve of a reserve component of the Armed
11 Forces.

12 (7) The term “United States” means the
13 United States (as defined in section 101(a) of title
14 10, United States Code), its possessions (as defined
15 in such section), and the Commonwealth of Puerto
16 Rico.

17 **SEC. 712. REPORT ON TRAINING IN PRESERVATION OF RE-**
18 **MAINS UNDER COMBAT OR COMBAT-RE-**
19 **LATED CONDITIONS.**

20 (a) REPORT REQUIRED.—The Secretary of Defense
21 shall submit to the Committees on Armed Services of the
22 Senate and the House of Representatives a report on the
23 requirements of section 567 of the John Warner National
24 Defense Authorization Act for Fiscal Year 2007 (Public
25 Law 109–364; 120 Stat. 2224; 10 U.S.C. 1481 note).

1 (b) MATTERS COVERED.—The report shall include a
2 detailed description of the implementation of such section,
3 including—

4 (1) where the training program is taking place;

5 (2) who is providing the training;

6 (3) the number of each type of military health
7 care professional trained to date; and

8 (4) what the training covers.

9 (c) DEADLINE.—The report required by this section
10 shall be submitted not later than 180 days after the date
11 of the enactment of this Act.

12 **SEC. 713. REPORT ON PATIENT SATISFACTION SURVEYS.**

13 (a) REPORT REQUIRED.—Not later than March 1,
14 2008, the Secretary of Defense shall submit to the con-
15 gressional defense committees a report on the ongoing pa-
16 tient satisfaction surveys taking place in Department of
17 Defense inpatient and outpatient settings at military
18 treatment facilities.

19 (b) CONTENT.—The report required under subsection
20 (a) shall include the following:

21 (1) The types of survey questions asked.

22 (2) How frequently the surveying is conducted.

23 (3) How often the results are analyzed and re-
24 ported back to the treatment facilities.

25 (4) To whom survey feedback is made available.

1 in which a member (including a member of a reserve
2 component) may be required to undergo multiple
3 physical examinations, from the time of notification
4 of an upcoming deployment through the period of
5 preparation for deployment.

6 (2) An assessment of the current policies re-
7 lated to, as well as the feasibility of, each of the fol-
8 lowing:

9 (A) A single predeployment physical exam-
10 ination for members of the Armed Forces be-
11 fore their deployment.

12 (B) A single system for tracking electroni-
13 cally the results of examinations under subpara-
14 graph (A) that can be shared among the mili-
15 tary departments and thereby eliminate redun-
16 dancy of medical physical examinations for
17 members of the Armed Forces before their de-
18 ployment.

19 **SEC. 715. REPORT AND STUDY ON MULTIPLE VACCINA-**
20 **TIONS OF MEMBERS OF THE ARMED FORCES.**

21 (a) **REPORT REQUIRED.**—Not later than 90 days
22 after the date of the enactment of this Act, the Secretary
23 of Defense shall submit to the Committees on Armed Serv-
24 ices of the Senate and the House of Representatives a re-
25 port on the policies of the Department of Defense for ad-

1 ministering and evaluating the vaccination of members of
2 the Armed Forces.

3 (b) ELEMENTS.—The report required by subsection
4 (a) shall include the following:

5 (1) An assessment of the Department's policies
6 governing the administration of multiple vaccina-
7 tions in a 24-hour period, including the procedures
8 providing for a full review of an individual's medical
9 history prior to the administration of multiple vac-
10 cinations, and whether such policies and procedures
11 differ for members of the Armed Forces on active
12 duty and members of reserve components.

13 (2) An assessment of how the Department's
14 policies on multiple vaccinations in a 24-hour period
15 conform to current regulations of the Food and
16 Drug Administration and research performed or
17 being performed by the Centers for Disease Control,
18 other non-military Federal agencies, and non-federal
19 institutions on multiple vaccinations in a 24-hour pe-
20 riod.

21 (3) An assessment of the Department's proce-
22 dures for initiating investigations of deaths of mem-
23 bers of the Armed Forces in which vaccinations may
24 have played a role, including whether such investiga-

1 tions can be requested by family members of the de-
2 ceased individuals.

3 (4) The number of deaths of members of the
4 Armed Forces since May 18, 1998, that the Depart-
5 ment has investigated for the potential role of vac-
6 cine administration, including both the number of
7 deaths investigated that was alleged to have involved
8 more than one vaccine administered in a given 24-
9 hour period and the number of deaths investigated
10 that was determined to have involved more than one
11 vaccine administered in a given 24-hour period.

12 (5) An assessment of the procedures for pro-
13 viding the Adjutants General of the various States
14 and territories with up-to-date information on the ef-
15 fectiveness and potential allergic reactions and side
16 effects of vaccines required to be taken by National
17 Guard members.

18 (6) An assessment of whether procedures are in
19 place to provide that the Adjutants General of the
20 various States and territories retain updated medical
21 records of each National Guard member called up
22 for active duty.

1 **SEC. 716. REVIEW OF GENDER- AND ETHNIC GROUP-SPE-**
2 **CIFIC MENTAL HEALTH SERVICES AND**
3 **TREATMENT FOR MEMBERS OF THE ARMED**
4 **FORCES.**

5 (a) COMPREHENSIVE REVIEW.—The Secretary of
6 Defense shall conduct a comprehensive review of—

7 (1) the need for gender- and ethnic group-spe-
8 cific mental health treatment and services for mem-
9 bers of the Armed Force; and

10 (2) the efficacy and adequacy of existing
11 gender- and ethnic group-specific mental health
12 treatment programs and services for members of the
13 Armed Forces, to include availability of and access
14 to such programs.

15 (b) ELEMENTS.—The review required by subsection
16 (a) shall include, but not be limited to, an assessment of
17 the following:

18 (1) The need for gender- and ethnic group-spe-
19 cific mental health outreach, prevention, and treat-
20 ment services for members of the Armed Forces.

21 (2) The access to and efficacy of existing
22 gender- and ethnic group-specific mental health out-
23 reach, prevention, and treatment services and pro-
24 grams (including substance abuse programs).

25 (3) The availability of gender- and ethnic
26 group-specific services and treatment for members of

1 the Armed Forces who experienced sexual assault or
2 abuse.

3 (4) The access to and need for treatment facili-
4 ties focusing on the gender- and ethnic group-spe-
5 cific mental health care needs of members of the
6 Armed Forces.

7 (5) The need for further clinical research on the
8 gender- and ethnic group-specific needs of members
9 of the Armed Forces who served in a combat zone.

10 (c) REPORT.—Not later than 90 days after the date
11 of the enactment of this Act, the Secretary of Defense
12 shall submit to the congressional defense committees a re-
13 port on the review required by subsection (a).

14 **SEC. 717. LICENSED MENTAL HEALTH COUNSELORS AND**
15 **THE TRICARE PROGRAM.**

16 (a) REGULATIONS.—The Secretary of Defense shall
17 prescribe regulations to establish criteria that licensed or
18 certified mental health counselors shall meet in order to
19 be able to independently provide care to TRICARE bene-
20 ficiaries and receive payment under the TRICARE pro-
21 gram for such services. The criteria shall include require-
22 ments for education level, licensure, certification, and clin-
23 ical experience as considered appropriate by the Secretary.

24 (b) STUDY REQUIRED.—The Secretary of Defense
25 shall enter into a contract with the Institute of Medicine

1 of the National Academy of Sciences, or another similarly
2 qualified independent academic medical organization, for
3 the purpose of—

4 (1) conducting an independent study of the cre-
5 dentials, preparation, and training of individuals
6 practicing as licensed mental health counselors; and

7 (2) making recommendations for permitting li-
8 censed mental health counselors to practice inde-
9 pendently under the TRICARE program.

10 (c) ELEMENTS OF STUDY.—

11 (1) EDUCATIONAL REQUIREMENTS.—The study
12 required by subsection (b) shall provide for an as-
13 sessment of the educational requirements and cur-
14 ricula relevant to mental health practice for licensed
15 mental health counselors, including types of degrees
16 recognized, certification standards for graduate pro-
17 grams for such profession, and recognition of under-
18 graduate coursework for completion of graduate de-
19 gree requirements.

20 (2) LICENSING REQUIREMENTS.—The study re-
21 quired by subsection (b) shall provide for an assess-
22 ment of State licensing requirements for licensed
23 mental health counselors, including for each level of
24 licensure if a State issues more than one type of li-
25 cense for the profession. The assessment shall exam-

1 ine requirements in the areas of education, training,
2 examination, continuing education, and ethical
3 standards, and shall include an evaluation of the ex-
4 tent to which States authorize members of the li-
5 censed mental health counselor profession to diag-
6 nose and treat mental illnesses.

7 (3) CLINICAL EXPERIENCE REQUIREMENTS.—
8 The study required by subsection (b) shall provide
9 for an analysis of the requirements for clinical expe-
10 rience for a licensed mental health counselor to be
11 recognized under regulations for the TRICARE pro-
12 gram, and recommendations, if any, for standardiza-
13 tion or adjustment of such requirements.

14 (4) INDEPENDENT PRACTICE UNDER OTHER
15 FEDERAL PROGRAMS.—The study required by sub-
16 section (b) shall provide for an assessment of the ex-
17 tent to which licensed mental health counselors are
18 authorized to practice independently under other
19 Federal programs (such as the Medicare program,
20 the Department of Veterans Affairs, the Indian
21 Health Service, and Head Start), and a review of
22 the relationship, if any, between recognition of men-
23 tal health professions under the Medicare program
24 and independent practice authority for such profes-
25 sion under the TRICARE program.

1 (5) INDEPENDENT PRACTICE UNDER FEHBP.—

2 The study required by subsection (b) shall provide
3 for an assessment of the extent to which licensed
4 mental health counselors are authorized to practice
5 independently under the Federal Employee Health
6 Benefits Program and private insurance plans. The
7 assessment shall identify the States having laws re-
8 quiring private insurers to cover, or offer coverage
9 of, the services of members of licensed mental health
10 counselors and shall identify the conditions, if any,
11 that are placed on coverage of practitioners under
12 the profession by insurance plans and how fre-
13 quently these types of conditions are used by insur-
14 ers.

15 (6) HISTORICAL REVIEW OF REGULATIONS.—

16 The study required by subsection (b) shall provide
17 for a review of the history of regulations prescribed
18 by the Department of Defense regarding which
19 members of the mental health profession are recog-
20 nized as providers under the TRICARE program as
21 independent practitioners, and an examination of the
22 recognition by the Department of third-party certifi-
23 cation for members of such profession.

24 (7) CLINICAL CAPABILITIES STUDIES.—The

25 study required by subsection (b) shall include a re-

1 view of outcome studies and of the literature regard-
2 ing the comparative quality and effectiveness of care
3 provided by licensed mental health counselors and
4 provide an independent review of the findings.

5 (d) **RECOMMENDATIONS FOR TRICARE INDE-**
6 **PENDENT PRACTICE AUTHORITY.**—The recommendations
7 provided under subsection (b)(2) shall include rec-
8 ommendations regarding modifications of current policy
9 for the TRICARE program with respect to allowing li-
10 censed mental health counselors to practice independently
11 under the TRICARE program.

12 (e) **REPORT.**—Not later than March 1, 2009, the
13 Secretary of Defense shall submit to the Committees on
14 Armed Services of the Senate and the House of Represent-
15 atives a report on the review required by subsection (b).

16 **SEC. 718. REPORT ON FUNDING OF THE DEPARTMENT OF**
17 **DEFENSE FOR HEALTH CARE.**

18 (a) **REPORT.**—If the President submits to Congress
19 the budget for a fiscal year under section 1105 of title
20 31, United States Code, and the aggregate amount in-
21 cluded in that budget for the Department of Defense for
22 health care for such fiscal year is less than the aggregate
23 amount provided by Congress for the Department for
24 health care for the preceding fiscal year, and, in the case
25 of the Department, the total allocation from the Defense

1 Health Program to any military department is less than
2 the total such allocation in the preceding fiscal year, the
3 President shall submit to Congress a report on—

4 (1) the reasons for the determination that in-
5 clusion of a lesser aggregate amount or allocation to
6 any military department is in the national interest;
7 and

8 (2) the anticipated effects of the inclusion of
9 such lesser aggregate amount or allocation to any
10 military department on the access to and delivery of
11 medical and support services to members of the
12 Armed Forces and their family members.

13 (b) TERMINATION.—The section shall not be in effect
14 after December 31, 2017.

15 **Subtitle C—Other Matters**

16 **SEC. 721. PROHIBITION ON CONVERSION OF MILITARY** 17 **MEDICAL AND DENTAL POSITIONS TO CIVIL-** 18 **IAN MEDICAL AND DENTAL POSITIONS.**

19 (a) PROHIBITION.—The Secretary of a military de-
20 partment may not convert any military medical or dental
21 position to a civilian medical or dental position during the
22 period beginning on October 1, 2007, and ending on Sep-
23 tember 30, 2012.

24 (b) RESTORATION OF CERTAIN POSITIONS TO MILI-
25 TARY POSITIONS.—In the case of any military medical or

1 dental position that is converted to a civilian medical or
2 dental position during the period beginning on October 1,
3 2004, and ending on September 30, 2008, if the position
4 is not filled by a civilian by September 30, 2008, the Sec-
5 retary of the military department concerned shall restore
6 the position to a military medical or dental position that
7 can be filled only by a member of the Armed Forces who
8 is a health professional.

9 (c) REPORT.—

10 (1) REQUIREMENT.—The Secretary of Defense
11 shall submit to the congressional defense committees
12 a report on conversions made during fiscal year
13 2007 not later than 180 days after the enactment of
14 this Act.

15 (2) MATTERS COVERED.—The report shall in-
16 clude the following:

17 (A) The number of military medical or
18 dental positions, by grade or band and spe-
19 cialty, converted to civilian medical or dental
20 positions.

21 (B) The results of a market survey in each
22 affected area of the availability of civilian med-
23 ical and dental care providers in such area in
24 order to determine whether there were civilian
25 medical and dental care providers available in

1 such area adequate to fill the civilian positions
2 created by the conversion of military medical
3 and dental positions to civilian positions in such
4 area.

5 (C) An analysis, by affected area, showing
6 the extent to which access to health care and
7 cost of health care was affected in both the di-
8 rect care and purchased care systems, including
9 an assessment of the effect of any increased
10 shifts in patient load from the direct care to the
11 purchased care system, or any delays in receipt
12 of care in either the direct or purchased care
13 system because of the conversions.

14 (D) The extent to which military medical
15 and dental positions converted to civilian med-
16 ical or dental positions affected recruiting and
17 retention of uniformed medical and dental per-
18 sonnel.

19 (E) A comparison of the full costs for the
20 military medical and dental positions converted
21 with the full costs for civilian medical and den-
22 tal positions, including expenses such as re-
23 cruiting, salary, benefits, training, and any
24 other costs the Department identifies.

1 (F) An assessment showing that the mili-
2 itary medical or dental positions converted were
3 in excess of the military medical and dental po-
4 sitions needed to meet medical and dental read-
5 iness requirements of the uniformed services, as
6 determined jointly by all the uniformed services.

7 (d) DEFINITIONS.—In this section:

8 (1) The term “military medical or dental posi-
9 tion” means a position for the performance of health
10 care functions within the Armed Forces held by a
11 member of the Armed Forces.

12 (2) The term “civilian medical or dental posi-
13 tion” means a position for the performance of health
14 care functions within the Department of Defense
15 held by an employee of the Department or of a con-
16 tractor of the Department.

17 (3) The term “uniformed services” has the
18 meaning given that term in section 1072(1) of title
19 10, United States Code.

20 (4) The term “conversion”, with respect to a
21 military medical or dental position, means a change
22 of the position to a civilian medical or dental posi-
23 tion, effective as of the date of the manning author-
24 ization document of the military department making
25 the change (through a change in designation from

1 military to civilian in the document, the elimination
2 of the listing of the position as a military position
3 in the document, or through any other means indi-
4 cating the change in the document or otherwise).

5 (e) REPEAL.—Section 742 of the John Warner Na-
6 tional Defense Authorization Act for Fiscal Year 2007
7 (Public Law 109–364; 120 Stat. 2306) is repealed.

8 **SEC. 722. ESTABLISHMENT OF JOINT PATHOLOGY CENTER.**

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

11 (1) The Secretary of Defense proposed to dis-
12 establish all elements of the Armed Forces Institute
13 of Pathology, except the National Medical Museum
14 and the Tissue Repository, as part of the rec-
15 ommendations of the Secretary for the closure of
16 Walter Reed Army Medical Center in the 2005
17 round of defense base closure and realignment.

18 (2) The Defense Base Closure and Realignment
19 Commission altered, but did not reject, the proposal
20 of the Secretary of Defense to disestablish the
21 Armed Forces Institute of Pathology.

22 (3) The Commission’s recommendation that the
23 Armed Forces Institute of Pathology’s “capabilities
24 not specified in this recommendation will be ab-
25 sorbed into other DOD, Federal, or civilian facili-

1 ties” provides the flexibility to retain a Joint Pathol-
2 ogy Center as a Department of Defense or Federal
3 entity.

4 (b) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that the Armed Forces Institute of Pathology has
6 provided important medical benefits to the Armed Forces
7 and to the United States and that the Federal Govern-
8 ment should retain a Joint Pathology Center.

9 (c) ESTABLISHMENT.—

10 (1) ESTABLISHMENT REQUIRED.—The Presi-
11 dent shall establish and maintain a Joint Pathology
12 Center that shall function as the reference center in
13 pathology for the Federal Government.

14 (2) ESTABLISHMENT WITHIN DOD.—Except as
15 provided in paragraph (3), the Joint Pathology Cen-
16 ter shall be established in the Department of De-
17 fense, consistent with the final recommendations of
18 the 2005 Defense Base Closure and Realignment
19 Commission, as approved by the President.

20 (3) ESTABLISHMENT IN ANOTHER DEPART-
21 MENT.—If the President makes a determination,
22 within 180 days after the date of the enactment of
23 this Act, that the Joint Pathology Center cannot be
24 established in the Department of Defense, the Joint
25 Pathology Center shall be established as an element

1 of a Federal agency other than the Department of
2 Defense. The President shall incorporate the selec-
3 tion of such agency into the determination made
4 under this paragraph.

5 (d) SERVICES.—The Joint Pathology Center shall
6 provide, at a minimum, the following:

7 (1) Diagnostic pathology consultation services
8 in medicine, dentistry, and veterinary sciences.

9 (2) Pathology education, to include graduate
10 medical education, including residency and fellow-
11 ship programs, and continuing medical education.

12 (3) Diagnostic pathology research.

13 (4) Maintenance and continued modernization
14 of the Tissue Repository and, as appropriate, utiliza-
15 tion of the Repository in conducting the activities
16 described in paragraphs (1) through (3).

17 **TITLE VIII—ACQUISITION POL-**
18 **ICY, ACQUISITION MANAGE-**
19 **MENT, AND RELATED MAT-**
20 **TERS**

Sec. 800. Short title.

Subtitle A—Acquisition Policy and Management

Sec. 801. Internal controls for procurements on behalf of the Department of
Defense by certain non-Defense agencies.

Sec. 802. Lead systems integrators.

Sec. 803. Reinvestment in domestic sources of strategic materials.

Sec. 804. Clarification of the protection of strategic materials critical to na-
tional security.

Sec. 805. Procurement of commercial services.

- Sec. 806. Specification of amounts requested for procurement of contract services.
- Sec. 807. Inventories and reviews of contracts for services.
- Sec. 808. Independent management reviews of contracts for services.
- Sec. 809. Implementation and enforcement of requirements applicable to undefinitized contractual actions.
- Sec. 810. Clarification of limited acquisition authority for Special Operations Command.

Subtitle B—Provisions Relating to Major Defense Acquisition Programs

- Sec. 811. Requirements applicable to multiyear contracts for the procurement of major systems of the Department of Defense.
- Sec. 812. Changes to Milestone B certifications.
- Sec. 813. Comptroller General report on Department of Defense organization and structure for major defense acquisition programs.
- Sec. 814. Clarification of submission of cost or pricing data on noncommercial modifications of commercial items.
- Sec. 815. Clarification of rules regarding the procurement of commercial items.
- Sec. 816. Review of systemic deficiencies on major defense acquisition programs.
- Sec. 817. Investment strategy for major defense acquisition programs.
- Sec. 818. Report on implementation of recommendations on total ownership cost for major weapon systems.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

- Sec. 821. Plan for restricting Government-unique contract clauses on commercial contracts.
- Sec. 822. Extension of authority for use of simplified acquisition procedures for certain commercial items.
- Sec. 823. Five-year extension of authority to carry out certain prototype projects.
- Sec. 824. Exemption of Special Operations Command from certain requirements for certain contracts relating to vessels, aircraft, and combat vehicles.
- Sec. 825. Provision of authority to maintain equipment to unified combatant command for joint warfighting.
- Sec. 826. Market research.
- Sec. 827. Modification of competition requirements for purchases from Federal Prison Industries.
- Sec. 828. Multiyear contract authority for electricity from renewable energy sources.
- Sec. 829. Procurement of fire resistant rayon fiber for the production of uniforms from foreign sources.
- Sec. 830. Comptroller General review of noncompetitive awards of congressional and executive branch interest items.

Subtitle D—Accountability in Contracting

- Sec. 841. Commission on Wartime Contracting in Iraq and Afghanistan.
- Sec. 842. Investigation of waste, fraud, and abuse in wartime contracts and contracting processes in Iraq and Afghanistan.
- Sec. 843. Enhanced competition requirements for task and delivery order contracts.

450

- Sec. 844. Public disclosure of justification and approval documents for non-competitive contracts.
- Sec. 845. Disclosure of government contractor audit findings.
- Sec. 846. Protection for contractor employees from reprisal for disclosure of certain information.
- Sec. 847. Requirements for senior Department of Defense officials seeking employment with defense contractors.
- Sec. 848. Report on contractor ethics programs of Major Defense contractors.
- Sec. 849. Contingency contracting training for personnel outside the acquisition workforce and evaluations of Army Commission recommendations.

Subtitle E—Acquisition Workforce Provisions

- Sec. 851. Requirement for section on defense acquisition workforce in strategic human capital plan.
- Sec. 852. Department of Defense Acquisition Workforce Development Fund.
- Sec. 853. Extension of authority to fill shortage category positions for certain Federal acquisition positions.
- Sec. 854. Repeal of sunset of acquisition workforce training fund.
- Sec. 855. Federal acquisition workforce improvements.

Subtitle F—Contracts in Iraq and Afghanistan

- Sec. 861. Memorandum of understanding on matters relating to contracting.
- Sec. 862. Contractors performing private security functions in areas of combat operations.
- Sec. 863. Comptroller General reviews and reports on contracting in Iraq and Afghanistan.
- Sec. 864. Definitions and other general provisions.

Subtitle G—Defense Materiel Readiness Board

- Sec. 871. Establishment of Defense Materiel Readiness Board.
- Sec. 872. Critical materiel readiness shortfalls.

Subtitle H—Other Matters

- Sec. 881. Clearinghouse for rapid identification and dissemination of commercial information technologies.
- Sec. 882. Authority to license certain military designations and likenesses of weapons systems to toy and hobby manufacturers.
- Sec. 883. Modifications to limitation on contracts to acquire military flight simulator.
- Sec. 884. Requirements relating to waivers of certain domestic source limitations relating to specialty metals.
- Sec. 885. Telephone services for military personnel serving in combat zones.
- Sec. 886. Enhanced authority to acquire products and services produced in Iraq and Afghanistan.
- Sec. 887. Defense Science Board review of Department of Defense policies and procedures for the acquisition of information technology.
- Sec. 888. Green procurement policy.
- Sec. 889. Comptroller General review of use of authority under the Defense Production Act of 1950.
- Sec. 890. Prevention of export control violations.
- Sec. 891. Procurement goal for Native Hawaiian-serving institutions and Alaska Native-serving institutions.

Sec. 892. Competition for procurement of small arms supplied to Iraq and Afghanistan.

1 **SEC. 800. SHORT TITLE.**

2 This title may be cited as the “Acquisition Improve-
3 ment and Accountability Act of 2007”.

4 **Subtitle A—Acquisition Policy and**
5 **Management**

6 **SEC. 801. INTERNAL CONTROLS FOR PROCUREMENTS ON**
7 **BEHALF OF THE DEPARTMENT OF DEFENSE**
8 **BY CERTAIN NON-DEFENSE AGENCIES.**

9 (a) INSPECTORS GENERAL REVIEWS AND DETER-
10 MINATIONS.—

11 (1) IN GENERAL.—For each covered non-de-
12 fense agency, the Inspector General of the Depart-
13 ment of Defense and the Inspector General of such
14 covered non-defense agency shall, not later than the
15 date specified in paragraph (2), jointly—

16 (A) review—

17 (i) the procurement policies, proce-
18 dures, and internal controls of such cov-
19 ered non-defense agency that are applica-
20 ble to the procurement of property and
21 services on behalf of the Department by
22 such covered non-defense agency; and

23 (ii) the administration of such poli-
24 cies, procedures, and internal controls; and

1 (B) determine in writing whether such cov-
2 ered non-defense agency is or is not compliant
3 with defense procurement requirements.

4 (2) DEADLINE FOR REVIEWS AND DETERMINA-
5 TIONS.—The reviews and determinations required by
6 paragraph (1) shall take place as follows:

7 (A) In the case of the General Services Ad-
8 ministration, by not later than March 15, 2010.

9 (B) In the case of each of the Department
10 of the Treasury, the Department of the Inte-
11 rior, and the National Aeronautics and Space
12 Administration, by not later than March 15,
13 2011.

14 (C) In the case of each of the Department
15 of Veterans Affairs and the National Institutes
16 of Health, by not later than March 15, 2012.

17 (3) SEPARATE REVIEWS AND DETERMINA-
18 TIONS.—The Inspector General of the Department
19 of Defense and the Inspector General of a covered
20 non-defense agency may by joint agreement conduct
21 separate reviews of the procurement of property and
22 services on behalf of the Department of Defense that
23 are conducted by separate business units, or under
24 separate government-wide acquisition contracts, of
25 the covered non-defense agency. If such separate re-

1 views are conducted, the Inspectors General shall
2 make a separate determination under paragraph
3 (1)(B) with respect to each such separate review.

4 (4) MEMORANDA OF UNDERSTANDING FOR RE-
5 VIEWS AND DETERMINATIONS.—Not later than one
6 year before a review and determination is required
7 under this subsection with respect to a covered non-
8 defense agency, the Inspector General of the Depart-
9 ment of Defense and the Inspector General of the
10 covered non-defense agency shall enter into a memo-
11 randum of understanding with each other to carry
12 out such review and determination.

13 (5) TERMINATION OF NON-COMPLIANCE DETER-
14 MINATION.—If the Inspector General of the Depart-
15 ment of Defense and the Inspector General of a cov-
16 ered non-defense agency determine, pursuant to
17 paragraph (1)(B), that a covered non-defense agency
18 is not compliant with defense procurement require-
19 ments, the Inspectors General shall terminate such
20 a determination effective on the date on which the
21 Inspectors General jointly—

22 (A) determine that the non-defense agency
23 is compliant with defense procurement require-
24 ments; and

1 (B) notify the Secretary of Defense of that
2 determination.

3 (6) RESOLUTION OF DISAGREEMENTS.—If the
4 Inspector General of the Department of Defense and
5 the Inspector General of a covered non-defense agen-
6 cy are unable to agree on a joint determination
7 under this subsection, a determination by the In-
8 spector General of the Department of Defense under
9 this subsection shall be conclusive for the purposes
10 of this section.

11 (b) LIMITATION ON PROCUREMENTS ON BEHALF OF
12 DEPARTMENT OF DEFENSE.—

13 (1) Except as provided in paragraph (2), an ac-
14 quisition official of the Department of Defense may
15 place an order, make a purchase, or otherwise pro-
16 cure property or services for the Department of De-
17 fense in excess of the simplified acquisition threshold
18 through a non-defense agency only if—

19 (A) in the case of a procurement by any
20 non-defense agency in any fiscal year, the head
21 of the non-defense agency has certified that the
22 non-defense agency will comply with defense
23 procurement requirements for the fiscal year;

24 (B) in the case of—

1 (i) a procurement by a covered non-
2 defense agency in a fiscal year for which a
3 memorandum of understanding is required
4 by subsection (a)(4), the Inspector General
5 of the Department of Defense and the In-
6 spector General of the covered non-defense
7 agency have entered into such a memo-
8 randum of understanding; or

9 (ii) a procurement by a covered non-
10 defense agency in a fiscal year following
11 the Inspectors General review and deter-
12 mination required by subsection (a), the
13 Inspectors General have determined that a
14 covered non-defense agency is compliant
15 with defense procurement requirements or
16 have terminated a prior determination of
17 non-compliance in accordance with sub-
18 section (a)(5); and

19 (C) the procurement is not otherwise pro-
20 hibited by section 817 of the John Warner Na-
21 tional Defense Authorization Act for Fiscal
22 Year 2007 (Public Law 109–364) or section
23 811 of the National Defense Authorization Act
24 for Fiscal Year 2006 (Public Law 109–163).

1 (2) EXCEPTION FOR PROCUREMENTS OF NEC-
2 CESSARY PROPERTY AND SERVICES.—

3 (A) IN GENERAL.—The limitation in para-
4 graph (1) shall not apply to the procurement of
5 property and services on behalf of the Depart-
6 ment of Defense by a non-defense agency dur-
7 ing any fiscal year for which there is in effect
8 a written determination of the Under Secretary
9 of Defense for Acquisition, Technology, and Lo-
10 gistics that it is necessary in the interest of the
11 Department of Defense to procure property and
12 services through the non-defense agency during
13 such fiscal year.

14 (B) SCOPE OF PARTICULAR EXCEPTION.—
15 A written determination with respect to a non-
16 defense agency under subparagraph (A) shall
17 apply to any category of procurements through
18 the non-defense agency that is specified in the
19 determination.

20 (c) GUIDANCE ON INTERAGENCY CONTRACTING.—

21 (1) REQUIREMENT.—Not later than 180 days
22 after the date of enactment of this Act, the Sec-
23 retary of Defense shall issue guidance on the use of
24 interagency contracting by the Department of De-
25 fense.

1 (2) MATTERS COVERED.—The guidance re-
2 quired by paragraph (1) shall address the cir-
3 cumstances in which it is appropriate for Depart-
4 ment of Defense acquisition officials to procure
5 goods or services through a contract entered into by
6 an agency outside the Department of Defense. At a
7 minimum, the guidance shall address—

8 (A) the circumstances in which it is appro-
9 priate for such acquisition officials to use direct
10 acquisitions;

11 (B) the circumstances in which it is appro-
12 priate for such acquisition officials to use as-
13 sisted acquisitions;

14 (C) the circumstances in which it is appro-
15 priate for such acquisition officials to use inter-
16 agency contracting to acquire items unique to
17 the Department of Defense and the procedures
18 for approving such interagency contracting;

19 (D) the circumstances in which it is appro-
20 priate for such acquisition officials to use inter-
21 agency contracting to acquire items that are al-
22 ready being provided under a contract awarded
23 by the Department of Defense;

24 (E) tools that should be used by such ac-
25 quisition officials to determine whether items

1 are already being provided under a contract
2 awarded by the Department of Defense; and

3 (F) procedures for ensuring that defense
4 procurement requirements are identified and
5 communicated to outside agencies involved in
6 interagency contracting.

7 (d) COMPLIANCE WITH DEFENSE PROCUREMENT
8 REQUIREMENTS.—For the purposes of this section, a non-
9 defense agency is compliant with defense procurement re-
10 quirements if the procurement policies, procedures, and
11 internal controls of the non-defense agency applicable to
12 the procurement of products and services on behalf of the
13 Department of Defense, and the manner in which they are
14 administered, are adequate to ensure the compliance of
15 the non-defense agency with the requirements of laws and
16 regulations (including applicable Department of Defense
17 financial management regulations) that apply to procure-
18 ments of property and services made directly by the De-
19 partment of Defense.

20 (e) TREATMENT OF PROCUREMENTS FOR FISCAL
21 YEAR PURPOSES.—For the purposes of this section, a
22 procurement shall be treated as being made during a par-
23 ticular fiscal year to the extent that funds are obligated
24 by the Department of Defense for the procurement in that
25 fiscal year.

1 (f) DEFINITIONS.—In this section:

2 (1) NON-DEFENSE AGENCY.—The term “non-
3 defense agency” means any department or agency of
4 the Federal Government other than the Department
5 of Defense. Such term includes a covered non-de-
6 fense agency.

7 (2) COVERED NON-DEFENSE AGENCY.—The
8 term “covered non-defense agency” means each of
9 the following:

10 (A) The General Services Administration.

11 (B) The Department of the Treasury.

12 (C) The Department of the Interior.

13 (D) The National Aeronautics and Space
14 Administration.

15 (E) The Department of Veterans Affairs.

16 (F) The National Institutes of Health.

17 (3) GOVERNMENT-WIDE ACQUISITION CON-
18 TRACT.—The term “government-wide acquisition
19 contract” means a task or delivery order contract
20 that—

21 (A) is entered into by a non-defense agen-
22 cy; and

23 (B) may be used as the contract under
24 which property or services are procured for one

1 or more other departments or agencies of the
2 Federal Government.

3 (4) SIMPLIFIED ACQUISITION THRESHOLD.—

4 The term “simplified acquisition threshold” has the
5 meaning provided by section 2302(7) of title 10,
6 United States Code.

7 (5) INTERAGENCY CONTRACTING.—The term

8 “interagency contracting” means the exercise of the
9 authority under section 1535 of title 31, United
10 States Code, or other statutory authority, for Fed-
11 eral agencies to purchase goods and services under
12 contracts entered into or administered by other
13 agencies.

14 (6) ACQUISITION OFFICIAL.—The term “acqui-
15 sition official”, with respect to the Department of
16 Defense, means—

17 (A) a contracting officer of the Depart-
18 ment of Defense; or

19 (B) any other Department of Defense offi-
20 cial authorized to approve a direct acquisition
21 or an assisted acquisition on behalf of the De-
22 partment of Defense.

23 (7) DIRECT ACQUISITION.—The term “direct
24 acquisition”, with respect to the Department of De-
25 fense, means the type of interagency contracting

1 through which the Department of Defense orders an
2 item or service from a government-wide acquisition
3 contract maintained by a non-defense agency.

4 (8) ASSISTED ACQUISITION.—The term “as-
5 sisted acquisition”, with respect to the Department
6 of Defense, means the type of interagency con-
7 tracting through which acquisition officials of a non-
8 defense agency award a contract or task or delivery
9 order for the procurement of goods or services on
10 behalf of the Department of Defense.

11 **SEC. 802. LEAD SYSTEMS INTEGRATORS.**

12 (a) PROHIBITIONS ON THE USE OF LEAD SYSTEMS
13 INTEGRATORS.—

14 (1) PROHIBITION ON NEW LEAD SYSTEMS INTE-
15 GRATORS.—Effective October 1, 2010, the Depart-
16 ment of Defense may not award a new contract for
17 lead systems integrator functions in the acquisition
18 of a major system to any entity that was not per-
19 forming lead systems integrator functions in the ac-
20 quisition of the major system prior to the date of the
21 enactment of this Act.

22 (2) PROHIBITION ON LEAD SYSTEMS INTEGRA-
23 TORS BEYOND LOW-RATE INITIAL PRODUCTION.—
24 Effective on the date of the enactment of this Act,
25 the Department of Defense may award a new con-

1 tract for lead systems integrator functions in the ac-
2 quisition of a major system only if—

3 (A) the major system has not yet pro-
4 ceeded beyond low-rate initial production; or

5 (B) the Secretary of Defense determines in
6 writing that it would not be practicable to carry
7 out the acquisition without continuing to use a
8 contractor to perform lead systems integrator
9 functions and that doing so is in the best inter-
10 est of the Department.

11 (3) REQUIREMENTS RELATING TO DETERMINA-
12 TIONS.—A determination under paragraph (2)(B)—

13 (A) shall specify the reasons why it would
14 not be practicable to carry out the acquisition
15 without continuing to use a contractor to per-
16 form lead systems integrator functions (includ-
17 ing a discussion of alternatives, such as the use
18 of the Department of Defense workforce, or a
19 system engineering and technical assistance
20 contractor);

21 (B) shall include a plan for phasing out
22 the use of contracted lead systems integrator
23 functions over the shortest period of time con-
24 sistent with the interest of the national defense;

1 (C) may not be delegated below the level of
2 the Under Secretary of Defense for Acquisition,
3 Technology, and Logistics; and

4 (D) shall be provided to the Committees on
5 Armed Services of the Senate and the House of
6 Representatives at least 45 days before the
7 award of a contract pursuant to the determina-
8 tion.

9 (b) ACQUISITION WORKFORCE.—

10 (1) REQUIREMENT.—The Secretary of Defense
11 shall ensure that the acquisition workforce is of the
12 appropriate size and skill level necessary—

13 (A) to accomplish inherently governmental
14 functions related to acquisition of major sys-
15 tems; and

16 (B) to effectuate the purpose of subsection
17 (a) to minimize and eventually eliminate the use
18 of contractors to perform lead systems inte-
19 grator functions.

20 (2) REPORT.—The Secretary shall include an
21 update on the progress made in complying with
22 paragraph (1) in the annual report required by sec-
23 tion 820 of the John Warner National Defense Au-
24 thorization Act for Fiscal Year 2007 (Public Law
25 109–364; 120 Stat. 2330).

1 (c) EXCEPTION FOR CONTRACTS FOR OTHER MAN-
2 AGEMENT SERVICES.—The Department of Defense may
3 continue to award contracts for the procurement of serv-
4 ices the primary purpose of which is to perform acquisition
5 support functions with respect to the development or pro-
6 duction of a major system, if the following conditions are
7 met with respect to each such contract:

8 (1) The contract prohibits the contractor from
9 performing inherently governmental functions.

10 (2) The Department of Defense organization
11 responsible for the development or production of the
12 major system ensures that Federal employees are re-
13 sponsible for—

14 (A) determining courses of action to be
15 taken in the best interest of the government;
16 and

17 (B) determining best technical perform-
18 ance for the warfighter.

19 (3) The contract requires that the prime con-
20 tractor for the contract may not advise or rec-
21 ommend the award of a contract or subcontract for
22 the development or production of the major system
23 to an entity owned in whole or in part by the prime
24 contractor.

25 (d) DEFINITIONS.—In this section:

1 (1) LEAD SYSTEMS INTEGRATOR.—The term
2 “lead systems integrator” means—

3 (A) a prime contractor for the development
4 or production of a major system, if the prime
5 contractor is not expected at the time of award
6 to perform a substantial portion of the work on
7 the system and the major subsystems; or

8 (B) a prime contractor under a contract
9 for the procurement of services the primary
10 purpose of which is to perform acquisition func-
11 tions closely associated with inherently govern-
12 mental functions with respect to the develop-
13 ment or production of a major system.

14 (2) MAJOR SYSTEM.—The term “major system”
15 has the meaning given such term in section 2302d
16 of title 10, United States Code.

17 (3) LOW-RATE INITIAL PRODUCTION.—The
18 term “low-rate initial production” has the meaning
19 given such term in section 2400 of title 10, United
20 States Code.

21 **SEC. 803. REINVESTMENT IN DOMESTIC SOURCES OF STRA-**
22 **TEGIC MATERIALS.**

23 (a) ASSESSMENT REQUIRED.—Not later than 180
24 days after the date of the enactment of this Act, the Stra-
25 tegic Materials Protection Board established pursuant to

1 section 187 of title 10, United States Code, shall perform
2 an assessment of the extent to which domestic producers
3 of strategic materials are investing and planning to invest
4 on a sustained basis in the processes, infrastructure, work-
5 force training, and facilities required for the continued do-
6 mestic production of such materials to meet national de-
7 fense requirements.

8 (b) COOPERATION OF DOMESTIC PRODUCERS.—The
9 Department of Defense may take into consideration the
10 degree of cooperation of any domestic producer of stra-
11 tegic materials with the assessment conducted under sub-
12 section (a) when determining how much weight to accord
13 any comments provided by such domestic producer regard-
14 ing a proposed waiver of domestic source limitations pur-
15 suant to section 2533b of title 10, United States Code.

16 (c) REPORT TO CONGRESSIONAL DEFENSE COMMIT-
17 TEES.—The Board shall include the findings and rec-
18 ommendations of the assessment required by subsection
19 (a) in the first report submitted to Congress pursuant to
20 section 187(d) of title 10, United States Code, after the
21 completion of such assessment.

22 (d) DEFINITION.—The term “strategic material”
23 means—

24 (1) a material designated as critical to national
25 security by the Strategic Materials Protection Board

1 in accordance with section 187 of title 10, United
2 States Code; or

3 (2) a specialty metal as defined by section
4 2533b of title 10, United States Code.

5 **SEC. 804. CLARIFICATION OF THE PROTECTION OF STRA-**
6 **TEGIC MATERIALS CRITICAL TO NATIONAL**
7 **SECURITY.**

8 (a) PROHIBITION.—Subsection (a) of section 2533b
9 of title 10, United States Code, is amended—

10 (1) by striking “Except as provided in sub-
11 sections (b) through (j), funds appropriated or oth-
12 erwise available to the Department of Defense may
13 not be used for the procurement of—” and inserting
14 “Except as provided in subsections (b) through (m),
15 the acquisition by the Department of Defense of the
16 following items is prohibited:”;

17 (2) in paragraph (1)—

18 (A) by striking “the following” and insert-
19 ing “The following”; and

20 (B) by striking “; or” and inserting a pe-
21 riod; and

22 (3) in paragraph (2), by striking “a specialty”
23 and inserting “A specialty”.

1 (b) APPLICABILITY TO ACQUISITION OF COMMERCIAL
2 ITEMS.—Subsection (h) of such section is amended to
3 read as follows:

4 “(h) APPLICABILITY TO ACQUISITIONS OF COMMER-
5 CIAL ITEMS.—(1) Except as provided in paragraphs (2)
6 and (3), this section applies to acquisitions of commercial
7 items, notwithstanding sections 34 and 35 of the Office
8 of Federal Procurement Policy Act (41 U.S.C. 430 and
9 431).

10 “(2) This section does not apply to contracts or sub-
11 contracts for the acquisition of commercially available off-
12 the-shelf items, as defined in section 35(c) of the Office
13 of Federal Procurement Policy Act (41 U.S.C. 431(c)),
14 other than—

15 “(A) contracts or subcontracts for the acquisi-
16 tion of specialty metals, including mill products,
17 such as bar, billet, slab, wire, plate and sheet, that
18 have not been incorporated into end items, sub-
19 systems, assemblies, or components;

20 “(B) contracts or subcontracts for the acquisi-
21 tion of forgings or castings of specialty metals, un-
22 less such forgings or castings are incorporated into
23 commercially available off-the-shelf end items, sub-
24 systems, or assemblies;

1 “(C) contracts or subcontracts for commercially
2 available high performance magnets unless such high
3 performance magnets are incorporated into commer-
4 cially available off the shelf end items or subsystems;
5 and

6 “(D) contracts or subcontracts for commercially
7 available off-the-shelf fasteners, unless such fas-
8 teners are—

9 “(i) incorporated into commercially avail-
10 able off-the-shelf end items, subsystems, assem-
11 blies, or components; or

12 “(ii) purchased as provided in paragraph
13 (3).

14 “(3) This section does not apply to fasteners that are
15 commercial items that are purchased under a contract or
16 subcontract with a manufacturer of such fasteners, if the
17 manufacturer has certified that it will purchase, during
18 the relevant calendar year, an amount of domestically
19 melted specialty metal, in the required form, for use in
20 the production of such fasteners for sale to the Depart-
21 ment of Defense and other customers, that is not less than
22 50 percent of the total amount of the specialty metal that
23 it will purchase to carry out the production of such fas-
24 teners.”.

1 (c) ELECTRONIC COMPONENTS.—Subsection (g) of
2 such section is amended by striking “commercially avail-
3 able” and all that follows through the end of the sub-
4 section and inserting “electronic components, unless the
5 Secretary of Defense, upon the recommendation of the
6 Strategic Materials Protection Board pursuant to section
7 187 of this title, determines that the domestic availability
8 of a particular electronic component is critical to national
9 security.”.

10 (d) ADDITIONAL EXCEPTIONS.—Section 2533b of
11 title 10, United States Code, as amended by subsections
12 (a), (b), and (c), is further amended—

13 (1) by redesignating subsections (i) and (j) as
14 subsections (l) and (m), respectively; and

15 (2) by inserting after subsection (h) the fol-
16 lowing new subsections:

17 “(i) EXCEPTIONS FOR PURCHASES OF SPECIALTY
18 METALS BELOW MINIMUM THRESHOLD.—(1) Notwith-
19 standing subsection (a), the Secretary of Defense or the
20 Secretary of a military department may accept delivery of
21 an item containing specialty metals that were not melted
22 in the United States if the total amount of noncompliant
23 specialty metals in the item does not exceed 2 percent of
24 the total weight of specialty metals in the item.

1 “(2) This subsection does not apply to high perform-
2 ance magnets.

3 “(j) STREAMLINED COMPLIANCE FOR COMMERCIAL
4 DERIVATIVE MILITARY ARTICLES.—(1) Subsection (a)
5 shall not apply to an item acquired under a prime contract
6 if the Secretary of Defense or the Secretary of a military
7 department determines that—

8 “(A) the item is a commercial derivative mili-
9 tary article; and

10 “(B) the contractor certifies that the contractor
11 and its subcontractors have entered into a contrac-
12 tual agreement, or agreements, to purchase an
13 amount of domestically melted specialty metal in the
14 required form, for use during the period of contract
15 performance in the production of the commercial de-
16 rivative military article and the related commercial
17 article, that is not less than the greater of—

18 “(i) an amount equivalent to 120 percent
19 of the amount of specialty metal that is re-
20 quired to carry out the production of the com-
21 mercial derivative military article (including the
22 work performed under each subcontract); or

23 “(ii) an amount equivalent to 50 percent of
24 the amount of specialty metal that is purchased
25 by the contractor and its subcontractors for use

1 during such period in the production of the
2 commercial derivative military article and the
3 related commercial article.

4 “(2) For the purposes of this subsection, the amount
5 of specialty metal that is required to carry out the produc-
6 tion of the commercial derivative military article includes
7 specialty metal contained in any item, including commer-
8 cially available off-the-shelf items, incorporated into such
9 commercial derivative military article.

10 “(k) NATIONAL SECURITY WAIVER.—(1) Notwith-
11 standing subsection (a), the Secretary of Defense may ac-
12 cept the delivery of an end item containing noncompliant
13 materials if the Secretary determines in writing that ac-
14 ceptance of such end item is necessary to the national se-
15 curity interests of the United States.

16 “(2) A written determination under paragraph (1)—
17 “(A) may not be delegated below the level of
18 the Deputy Secretary of Defense or the Under Sec-
19 retary of Defense for Acquisition, Technology, and
20 Logistics;

21 “(B) shall specify the quantity of end items to
22 which the waiver applies and the time period over
23 which the waiver applies; and

24 “(C) shall be provided to the congressional de-
25 fense committees prior to making such a determina-

1 tion (except that in the case of an urgent national
2 security requirement, such certification may be pro-
3 vided to the defense committees up to 7 days after
4 it is made).

5 “(3)(A) In any case in which the Secretary makes
6 a determination under paragraph (1), the Secretary shall
7 determine whether or not the noncompliance was knowing
8 and willful.

9 “(B) If the Secretary determines that the noncompli-
10 ance was not knowing or willful, the Secretary shall ensure
11 that the contractor or subcontractor responsible for the
12 noncompliance develops and implements an effective plan
13 to ensure future compliance.

14 “(C) If the Secretary determines that the noncompli-
15 ance was knowing or willful, the Secretary shall—

16 “(i) require the development and implementa-
17 tion of a plan to ensure future compliance; and

18 “(ii) consider suspending or debarring the con-
19 tractor or subcontractor until such time as the con-
20 tractor or subcontractor has effectively addressed
21 the issues that lead to such noncompliance.”.

22 (e) **ADDITIONAL DEFINITIONS.**—Subsection (m) of
23 section 2533b of title 10, United States Code, as redesign-
24 nated by subsection (c), is further amended by adding at
25 the end the following:

1 “(3) The term ‘acquisition’ has the meaning
2 provided in section 4 of the Office of Federal Pro-
3 curement Policy Act (41 U.S.C. 403).

4 “(4) The term ‘required form’ shall not apply
5 to end items or to their components at any tier. The
6 term ‘required form’ means in the form of mill prod-
7 uct, such as bar, billet, wire, slab, plate or sheet,
8 and in the grade appropriate for the production of—

9 “(A) a finished end item delivered to the
10 Department of Defense; or

11 “(B) a finished component assembled into
12 an end item delivered to the Department of De-
13 fense.

14 “(5) The term ‘commercially available off-the-
15 shelf’, has the meaning provided in section 35(c) of
16 the Office of Federal Procurement Policy Act (41
17 U.S.C. 431(c)).

18 “(6) The term ‘assemblies’ means items form-
19 ing a portion of a system or subsystem that can be
20 provisioned and replaced as an entity and which in-
21 corporates multiple, replaceable parts.

22 “(7) The term ‘commercial derivative military
23 article’ means an item procured by the Department
24 of Defense that is or will be produced using the
25 same production facilities, a common supply chain,

1 and the same or similar production processes that
2 are used for the production of articles predominantly
3 used by the general public or by nongovernmental
4 entities for purposes other than governmental pur-
5 poses.

6 “(8) The term ‘subsystem’ means a functional
7 grouping of items that combine to perform a major
8 function within an end item, such as electrical
9 power, attitude control, and propulsion.

10 “(9) The term ‘end item’ means the final pro-
11 duction product when assembled or completed, and
12 ready for issue, delivery, or deployment.

13 “(10) The term ‘subcontract’ includes a sub-
14 contract at any tier.”.

15 (f) CONFORMING AMENDMENTS.—Section 2533b of
16 title 10, United States Code, is further amended—

17 (1) in subsection (c)—

18 (A) in the heading, by striking “PROCURE-
19 MENTS” and inserting “ACQUISITIONS”; and

20 (B) in paragraphs (1) and (2), by striking
21 “Procurements” and inserting “Acquisitions”;

22 (2) in subsection (d), by striking “procure-
23 ment” each place it appears and inserting “acquisi-
24 tion”; and

1 (3) in subsections (f) and (g), by striking “pro-
2 curements” each place it appears and inserting “ac-
3 quisitions”.

4 (g) IMPLEMENTATION.—Not later than 120 days
5 after the date of the enactment of this Act, the Secretary
6 of Defense shall prescribe regulations on the implementa-
7 tion of this section and the amendments made by this sec-
8 tion, including specific guidance on how thresholds estab-
9 lished in subsections (h)(3), (i) and (j) of section 2533b
10 of title 10, United States Code, as amended by this sec-
11 tion, should be implemented.

12 (h) REVISION OF DOMESTIC NONAVAILABILITY DE-
13 TERMINATIONS AND RULES.—No later than 180 days
14 after the date of the enactment of this Act, any domestic
15 nonavailability determination under section 2533b of title
16 10, United States Code, including a class deviation, or
17 rules made by the Department of Defense between Decem-
18 ber 6, 2006, and the date of the enactment of this Act,
19 shall be reviewed and amended, as necessary, to comply
20 with the amendments made by this section. This require-
21 ment shall not apply to a domestic nonavailability deter-
22 mination that applies to—

23 (1) an individual contract that was entered into
24 before the date of the enactment of this Act; or

1 (2) an individual Department of Defense pro-
2 gram, except to the extent that such domestic non-
3 availability determination applies to contracts en-
4 tered into after the date of the enactment of this
5 Act.

6 (i) **TRANSPARENCY REQUIREMENT FOR COMMER-**
7 **CIALLY AVAILABLE OFF-THE-SHELF ITEM EXCEPTION.**—
8 The Secretary of Defense shall submit to the Committees
9 on Armed Services of the Senate and House of Represent-
10 atives, not later than December 30, 2008, a report on the
11 use of authority provided under subsection (h) of section
12 2533b of title 10, United States Code, as amended by this
13 section. Such report shall include, at a minimum, a de-
14 scription of types of items being procured as commercially
15 available off-the-shelf items under such subsection and in-
16 corporated into noncommercial items. The Secretary shall
17 submit an update of such report to such committees not
18 later than December 30, 2009.

19 **SEC. 805. PROCUREMENT OF COMMERCIAL SERVICES.**

20 (a) **REGULATIONS REQUIRED.**—Not later than 180
21 days after the date of the enactment of this Act , the Sec-
22 retary of Defense shall modify the regulations of the De-
23 partment of Defense for the procurement of commercial
24 services for or on behalf of the Department of Defense.

1 (b) APPLICABILITY OF COMMERCIAL PROCE-
2 DURES.—

3 (1) SERVICES OF A TYPE SOLD IN MARKET-
4 PLACE.—The regulations modified pursuant to sub-
5 section (a) shall ensure that services that are not of-
6 fered and sold competitively in substantial quantities
7 in the commercial marketplace, but are of a type of-
8 fered and sold competitively in substantial quantities
9 in the commercial marketplace, may be treated as
10 commercial items for purposes of section 2306a of
11 title 10, United States Code (relating to truth in ne-
12 gotiations), only if the contracting officer determines
13 in writing that the offeror has submitted sufficient
14 information to evaluate, through price analysis, the
15 reasonableness of the price for such services.

16 (2) INFORMATION SUBMITTED.—To the extent
17 necessary to make a determination under paragraph
18 (1), the contracting officer may request the offeror
19 to submit—

20 (A) prices paid for the same or similar
21 commercial items under comparable terms and
22 conditions by both government and commercial
23 customers; and

24 (B) if the contracting officer determines
25 that the information described in subparagraph

1 (A) is not sufficient to determine the reason-
2 ableness of price, other relevant information re-
3 garding the basis for price or cost, including in-
4 formation on labor costs, material costs, and
5 overhead rates.

6 (c) TIME-AND-MATERIALS CONTRACTS.—

7 (1) COMMERCIAL ITEM ACQUISITIONS.—The
8 regulations modified pursuant to subsection (a) shall
9 ensure that procedures applicable to time-and-mate-
10 rials contracts and labor-hour contracts for commer-
11 cial item acquisitions may be used only for the fol-
12 lowing:

13 (A) Services procured for support of a
14 commercial item, as described in section
15 4(12)(E) of the Office of Federal Procurement
16 Policy Act (41 U.S.C. 403(12)(E)).

17 (B) Emergency repair services.

18 (C) Any other commercial services only to
19 the extent that the head of the agency con-
20 cerned approves a determination in writing by
21 the contracting officer that—

22 (i) the services to be acquired are
23 commercial services as defined in section
24 4(12)(F) of the Office of Federal Procure-
25 ment Policy Act (41 U.S.C. 403(12)(F));

1 (ii) if the services to be acquired are
2 subject to subsection (b), the offeror of the
3 services has submitted sufficient informa-
4 tion in accordance with that subsection;

5 (iii) such services are commonly sold
6 to the general public through use of time-
7 and-materials or labor-hour contracts; and

8 (iv) the use of a time-and-materials or
9 labor-hour contract type is in the best in-
10 terest of the Government.

11 (2) NON-COMMERCIAL ITEM ACQUISITIONS.—

12 Nothing in this subsection shall be construed to pre-
13 clude the use of procedures applicable to time-and-
14 materials contracts and labor-hour contracts for
15 non-commercial item acquisitions for the acquisition
16 of any category of services.

17 **SEC. 806. SPECIFICATION OF AMOUNTS REQUESTED FOR**
18 **PROCUREMENT OF CONTRACT SERVICES.**

19 (a) SPECIFICATION OF AMOUNTS REQUESTED.—The
20 budget justification materials submitted to Congress in
21 support of the budget of the Department of Defense for
22 any fiscal year after fiscal year 2009 shall identify clearly
23 and separately the amounts requested in each budget ac-
24 count for the procurement of contract services.

1 (b) INFORMATION PROVIDED.—For each budget ac-
2 count, the materials submitted shall clearly identify—

3 (1) the amount requested for each Department
4 of Defense component, installation, or activity; and

5 (2) the amount requested for each type of serv-
6 ice to be provided.

7 (c) CONTRACT SERVICES DEFINED.—In this section,
8 the term “contract services”—

9 (1) means services from contractors; but

10 (2) excludes services relating to research and
11 development and services relating to military con-
12 struction.

13 **SEC. 807. INVENTORIES AND REVIEWS OF CONTRACTS FOR**
14 **SERVICES.**

15 (a) INVENTORY REQUIREMENT.—Section 2330a of
16 title 10, United States Code, is amended—

17 (1) by redesignating subsection (d) as sub-
18 section (g);

19 (2) by striking subsection (e) and inserting the
20 following:

21 “(e) INVENTORY.—(1) Not later than the end of the
22 third quarter of each fiscal year, the Secretary of Defense
23 shall submit to Congress an annual inventory of the activi-
24 ties performed during the preceding fiscal year pursuant
25 to contracts for services for or on behalf of the Depart-

1 ment of Defense. The entry for an activity on an inventory
2 under this subsection shall include, for the fiscal year cov-
3 ered by such entry, the following:

4 “(A) The functions and missions performed by
5 the contractor.

6 “(B) The contracting organization, the compo-
7 nent of the Department of Defense administering
8 the contract, and the organization whose require-
9 ments are being met through contractor performance
10 of the function.

11 “(C) The funding source for the contract under
12 which the function is performed by appropriation
13 and operating agency.

14 “(D) The fiscal year for which the activity first
15 appeared on an inventory under this section.

16 “(E) The number of full-time contractor em-
17 ployees (or its equivalent) paid for the performance
18 of the activity.

19 “(F) A determination whether the contract pur-
20 suant to which the activity is performed is a per-
21 sonal services contract.

22 “(G) A summary of the data required to be col-
23 lected for the activity under subsection (a).

1 “(2) The inventory required under this subsection
2 shall be submitted in unclassified form, but may include
3 a classified annex.

4 “(d) PUBLIC AVAILABILITY OF INVENTORIES.—Not
5 later than 30 days after the date on which an inventory
6 under subsection (c) is required to be submitted to Con-
7 gress, the Secretary shall—

8 “(1) make the inventory available to the public;
9 and

10 “(2) publish in the Federal Register a notice
11 that the inventory is available to the public.

12 “(e) REVIEW AND PLANNING REQUIREMENTS.—
13 Within 90 days after the date on which an inventory is
14 submitted under subsection (c), the Secretary of the mili-
15 tary department or head of the Defense Agency respon-
16 sible for activities in the inventory shall—

17 “(1) review the contracts and activities in the
18 inventory for which such Secretary or agency head
19 is responsible;

20 “(2) ensure that—

21 “(A) each contract on the list that is a
22 personal services contract has been entered
23 into, and is being performed, in accordance with
24 applicable statutory and regulatory require-
25 ments;

1 “(B) the activities on the list do not in-
2 clude any inherently governmental functions;
3 and

4 “(C) to the maximum extent practicable,
5 the activities on the list do not include any
6 functions closely associated with inherently gov-
7 ernmental functions;

8 “(3) identify activities that should be considered
9 for conversion—

10 “(A) to performance by civilian employees
11 of the Department of Defense pursuant to sec-
12 tion 2463 of this title; or

13 “(B) to an acquisition approach that would
14 be more advantageous to the Department of
15 Defense; and

16 “(4) develop a plan to provide for appropriate
17 consideration of the conversion of activities identified
18 under paragraph (3) within a reasonable period of
19 time.

20 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
21 tion shall be construed to authorize the performance of
22 personal services by a contractor except where expressly
23 authorized by a provision of law other than this section.”;
24 and

1 (3) by adding at the end of subsection (g) (as
2 so redesignated) the following new paragraphs:

3 “(3) FUNCTION CLOSELY ASSOCIATED WITH IN-
4 HERENTLY GOVERNMENTAL FUNCTIONS.—The term
5 ‘function closely associated with inherently govern-
6 mental functions’ has the meaning given that term
7 in section 2383(b)(3) of this title.

8 “(4) INHERENTLY GOVERNMENTAL FUNC-
9 TIONS.—The term ‘inherently governmental func-
10 tions’ has the meaning given that term in section
11 2383(b)(2) of this title.

12 “(5) PERSONAL SERVICES CONTRACT.—The
13 term ‘personal services contract’ means a contract
14 under which, as a result of its terms or conditions
15 or the manner of its administration during perform-
16 ance, contractor personnel are subject to the rel-
17 atively continuous supervision and control of one or
18 more Government officers or employees, except that
19 the giving of an order for a specific article or serv-
20 ice, with the right to reject the finished product or
21 result, is not the type of supervision or control that
22 makes a contract a personal services contract.”.

23 (b) EFFECTIVE DATE.—

1 (1) The amendments made by subsection (a)
2 shall be effective upon the date of the enactment of
3 this Act.

4 (2) The first inventory required by section
5 2330a(c) of title 10, United States Code, as added
6 by subsection (a), shall be submitted not later than
7 the end of the third quarter of fiscal year 2008.

8 **SEC. 808. INDEPENDENT MANAGEMENT REVIEWS OF CON-**
9 **TRACTS FOR SERVICES.**

10 (a) **GUIDANCE AND INSTRUCTIONS.**—Not later than
11 180 days after the date of the enactment of this Act, the
12 Secretary of Defense shall issue guidance, with detailed
13 implementation instructions, for the Department of De-
14 fense to provide for periodic independent management re-
15 views of contracts for services. The independent manage-
16 ment review guidance and instructions issued pursuant to
17 this subsection shall be designed to evaluate, at a min-
18 imum—

19 (1) contract performance in terms of cost,
20 schedule, and requirements;

21 (2) the use of contracting mechanisms, includ-
22 ing the use of competition, the contract structure
23 and type, the definition of contract requirements,
24 cost or pricing methods, the award and negotiation

1 of task orders, and management and oversight
2 mechanisms;

3 (3) the contractor's use, management, and over-
4 sight of subcontractors;

5 (4) the staffing of contract management and
6 oversight functions; and

7 (5) the extent of any pass-throughs, and exces-
8 sive pass-through charges (as defined in section 852
9 of the John Warner National Defense Authorization
10 Act for Fiscal Year 2007), by the contractor.

11 (b) ADDITIONAL SUBJECT OF REVIEW.—In addition
12 to the matters required by subsection (a), the guidance
13 and instructions issued pursuant to subsection (a) shall
14 provide for procedures for the periodic review of contracts
15 under which one contractor provides oversight for services
16 performed by other contractors. In particular, the proce-
17 dures shall be designed to evaluate, at a minimum—

18 (1) the extent of the agency's reliance on the
19 contractor to perform acquisition functions closely
20 associated with inherently governmental functions as
21 defined in section 2383(b)(3) of title 10, United
22 States Code; and

23 (2) the financial interest of any prime con-
24 tractor performing acquisition functions described in
25 paragraph (1) in any contract or subcontract with

1 regard to which the contractor provided advice or
2 recommendations to the agency.

3 (c) ELEMENTS.—The guidance and instructions
4 issued pursuant to subsection (a) shall address, at a min-
5 imum—

6 (1) the contracts subject to independent man-
7 agement reviews, including any applicable thresholds
8 and exceptions;

9 (2) the frequency with which independent man-
10 agement reviews shall be conducted;

11 (3) the composition of teams designated to per-
12 form independent management reviews;

13 (4) any phase-in requirements needed to ensure
14 that qualified staff are available to perform inde-
15 pendent management reviews;

16 (5) procedures for tracking the implementation
17 of recommendations made by independent manage-
18 ment review teams; and

19 (6) procedures for developing and disseminating
20 lessons learned from independent management re-
21 views.

22 (c) REPORTS.—

23 (1) REPORT ON GUIDANCE AND INSTRUC-
24 TION.—Not later than 270 days after the date of the
25 enactment of this Act, the Secretary of Defense shall

1 submit to the congressional defense committees a re-
2 port setting forth the guidance and instructions
3 issued pursuant to subsection (a).

4 (2) GAO REPORT ON IMPLEMENTATION.—Not
5 later than two years after the date of the enactment
6 of this Act, the Comptroller General of the United
7 States shall submit to the congressional defense
8 committees a report on the implementation of the
9 guidance and instructions issued pursuant to sub-
10 section (a).

11 **SEC. 809. IMPLEMENTATION AND ENFORCEMENT OF RE-**
12 **QUIREMENTS APPLICABLE TO**
13 **UNDEFINITIZED CONTRACTUAL ACTIONS.**

14 (a) GUIDANCE AND INSTRUCTIONS.—Not later than
15 180 days after the date of the enactment of this Act, the
16 Secretary of Defense shall issue guidance, with detailed
17 implementation instructions, for the Department of De-
18 fense to ensure the implementation and enforcement of re-
19 quirements applicable to undefinitized contractual actions.

20 (b) ELEMENTS.—The guidance and instructions
21 issued pursuant to subsection (a) shall address, at a min-
22 imum—

23 (1) the circumstances in which it is, and is not,
24 appropriate for Department of Defense officials to
25 use undefinitized contractual actions;

1 (2) approval requirements (including thresh-
2 olds) for the use of undefinitized contractual actions;

3 (3) procedures for ensuring that timelines for
4 the definitization of undefinitized contractual actions
5 are met;

6 (4) procedures for ensuring compliance with
7 regulatory limitations on the obligation of funds pur-
8 suant to undefinitized contractual actions;

9 (5) procedures for ensuring compliance with
10 regulatory limitations on profit or fee with respect to
11 costs incurred before the definitization of an
12 undefinitized contractual action; and

13 (6) reporting requirements for undefinitized
14 contractual actions that fail to meet required
15 timelines for definitization or fail to comply with
16 regulatory limitations on the obligation of funds or
17 on profit or fee.

18 (c) REPORTS.—

19 (1) REPORT ON GUIDANCE AND INSTRU-
20 TIONS.—Not later than 210 days after the date of
21 the enactment of this Act, the Secretary of Defense
22 shall submit to the congressional defense committees
23 a report setting forth the guidance and instructions
24 issued pursuant to subsection (a).

1 (2) GAO REPORT.—Not later than two years
2 after the date of the enactment of this Act, the
3 Comptroller General of the United States shall sub-
4 mit to the congressional defense committees a report
5 on the extent to which the guidance and instructions
6 issued pursuant to subsection (a) have resulted in
7 improvements to—

8 (A) the level of insight that senior Depart-
9 ment of Defense officials have into the use of
10 undefinitized contractual actions;

11 (B) the appropriate use of undefinitized
12 contractual actions;

13 (C) the timely definitization of
14 undefinitized contractual actions; and

15 (D) the negotiation of appropriate profits
16 and fees for undefinitized contractual actions.

17 **SEC. 810. CLARIFICATION OF LIMITED ACQUISITION AU-**
18 **THORITY FOR SPECIAL OPERATIONS COM-**
19 **MAND.**

20 Section 167(e)(4) of title 10, United States Code, is
21 amended—

22 (1) by redesignating subparagraph (C) as sub-
23 paragraph (D); and

24 (2) by inserting after subparagraph (B) the fol-
25 lowing new subparagraph:

1 “(C)(i) The staff of the commander shall include a
2 command acquisition executive, who shall be responsible
3 for the overall supervision of acquisition matters for the
4 special operations command. The command acquisition ex-
5 ecutive shall have the authority to—

6 “(I) negotiate memoranda of agreement with
7 the military departments to carry out the acquisition
8 of equipment, material, supplies, and services de-
9 scribed in subparagraph (A) on behalf of the com-
10 mand;

11 “(II) supervise the acquisition of equipment,
12 material, supplies, and services described in subpara-
13 graph (A), regardless of whether such acquisition is
14 carried out by the command, or by a military de-
15 partment pursuant to a delegation of authority by
16 the command;

17 “(III) represent the command in discussions
18 with the military departments regarding acquisition
19 programs for which the command is a customer; and

20 “(IV) work with the military departments to en-
21 sure that the command is appropriately represented
22 in any joint working group or integrated product
23 team regarding acquisition programs for which the
24 command is a customer.

1 “(ii) The command acquisition executive of the spe-
2 cial operations command shall be included on the distribu-
3 tion list for acquisition directives and instructions of the
4 Department of Defense.”.

5 **Subtitle B—Provisions Relating to**
6 **Major Defense Acquisition Pro-**
7 **grams**

8 **SEC. 811. REQUIREMENTS APPLICABLE TO MULTIYEAR**
9 **CONTRACTS FOR THE PROCUREMENT OF**
10 **MAJOR SYSTEMS OF THE DEPARTMENT OF**
11 **DEFENSE.**

12 (a) ADDITIONAL REQUIREMENTS APPLICABLE TO
13 MULTIYEAR CONTRACTS.—Section 2306b of title 10,
14 United States Code, is amended as follows:

15 (1) Subsection (a) of such section is amended
16 by adding at the end the following new paragraph:

17 “(7) In the case of a contract in an amount
18 equal to or greater than \$500,000,000, that the con-
19 ditions required by subparagraphs (C) through (F)
20 of paragraph (1) of subsection (i) will be met, in ac-
21 cordance with the Secretary’s certification and deter-
22 mination under such subsection, by such contract.”.

23 (2) Subsection (i)(1) of such section is amended
24 by inserting after “unless” the following: “the Sec-
25 retary of Defense certifies in writing by no later

1 than March 1 of the year in which the Secretary re-
2 quests legislative authority to enter into such con-
3 tract that”.

4 (3) Subsection (i)(1) of such section is further
5 amended—

6 (A) by redesignating subparagraph (B) as
7 subparagraph (G); and

8 (B) by striking subparagraph (A) and in-
9 serting the following:

10 “(A) The Secretary has determined that each of
11 the requirements in paragraphs (1) through (6) of
12 subsection (a) will be met by such contract and has
13 provided the basis for such determination to the con-
14 gressional defense committees.

15 “(B) The Secretary’s determination under sub-
16 paragraph (A) was made after the completion of a
17 cost analysis performed by the Cost Analysis Im-
18 provement Group of the Department of Defense and
19 such analysis supports the findings.

20 “(C) The system being acquired pursuant to
21 such contract has not been determined to have expe-
22 rienced cost growth in excess of the critical cost
23 growth threshold pursuant to section 2433(d) of this
24 title within 5 years prior to the date the Secretary
25 anticipates such contract (or a contract for advance

1 procurement entered into consistent with the author-
2 ization for such contract) will be awarded.

3 “(D) A sufficient number of end items of the
4 system being acquired under such contract have
5 been delivered at or within the most current esti-
6 mates of the program acquisition unit cost or pro-
7 curement unit cost for such system to determine
8 that current estimates of such unit costs are real-
9 istic.

10 “(E) During the fiscal year in which such con-
11 tract is to be awarded, sufficient funds will be avail-
12 able to perform the contract in such fiscal year, and
13 the future-years defense program for such fiscal year
14 will include the funding required to execute the pro-
15 gram without cancellation.

16 “(F) The contract is a fixed price type con-
17 tract.”.

18 (4) Subsection (i) of such section is further
19 amended by adding at the end the following new
20 paragraphs:

21 “(5) The Secretary may make the certification under
22 paragraph (1) notwithstanding the fact that one or more
23 of the conditions of such certification are not met if the
24 Secretary determines that, due to exceptional cir-
25 cumstances, proceeding with a multiyear contract under

1 this section is in the best interest of the Department of
2 Defense and the Secretary provides the basis for such de-
3 termination with the certification.

4 “(6) The Secretary of Defense may not delegate the
5 authority to make the certification under paragraph (1)
6 or the determination under paragraph (5) to an official
7 below the level of Under Secretary of Defense for Acquisi-
8 tion, Technology, and Logistics.

9 “(7) The Secretary of Defense shall send a notifica-
10 tion containing the findings of the agency head under sub-
11 section (a), and the basis for such findings, 30 days prior
12 to the award of a multiyear contract for a defense acquisi-
13 tion program that has been specifically authorized by
14 law.”.

15 (5) Such section is further amended by adding
16 at the end the following new subsection:

17 “(m) INCREASED FUNDING AND REPROGRAMMING
18 REQUESTS.—Any request for increased funding for the
19 procurement of a major system under a multiyear contract
20 authorized under this section shall be accompanied by an
21 explanation of how the request for increased funding af-
22 fects the determinations made by the Secretary under sub-
23 section (i).”.

24 (b) APPLICABILITY.—The amendments made by this
25 section shall take effect on the date of the enactment of

1 this Act and shall apply with respect to multiyear con-
2 tracts for the purchase of major systems for which legisla-
3 tive authority is requested on or after that date.

4 **SEC. 812. CHANGES TO MILESTONE B CERTIFICATIONS.**

5 Section 2366a of title 10, United States Code, is
6 amended—

7 (1) by amending subsection (a) to read as fol-
8 lows:

9 “(a) CERTIFICATION.—A major defense acquisition
10 program may not receive Milestone B approval, or Key
11 Decision Point B approval in the case of a space program,
12 until the milestone decision authority—

13 “(1) has received a business case analysis and
14 certifies on the basis of the analysis that—

15 “(A) the program is affordable when con-
16 sidering the ability of the Department of De-
17 fense to accomplish the program’s mission
18 using alternative systems;

19 “(B) the program is affordable when con-
20 sidering the per unit cost and the total acquisi-
21 tion cost in the context of the total resources
22 available during the period covered by the fu-
23 ture-years defense program submitted during
24 the fiscal year in which the certification is
25 made;

1 “(C) reasonable cost and schedule esti-
2 mates have been developed to execute the prod-
3 uct development and production plan under the
4 program; and

5 “(D) funding is available to execute the
6 product development and production plan under
7 the program, through the period covered by the
8 future-years defense program submitted during
9 the fiscal year in which the certification is
10 made, consistent with the estimates described in
11 subparagraph (C) for the program; and

12 “(2) further certifies that—

13 “(A) appropriate market research has been
14 conducted prior to technology development to
15 reduce duplication of existing technology and
16 products;

17 “(B) the Department of Defense has com-
18 pleted an analysis of alternatives with respect to
19 the program;

20 “(C) the Joint Requirements Oversight
21 Council has accomplished its duties with respect
22 to the program pursuant to section 181(b) of
23 this title, including an analysis of the oper-
24 ational requirements for the program;

1 “(D) the technology in the program has
2 been demonstrated in a relevant environment;

3 “(E) the program demonstrates a high
4 likelihood of accomplishing its intended mission;

5 and

6 “(F) the program complies with all rel-
7 evant policies, regulations, and directives of the
8 Department of Defense.”;

9 (2) by redesignating subsections (b), (c), (d),
10 and (e) as subsections (c), (d), (e), and (f), respec-
11 tively;

12 (3) by inserting after subsection (a) the fol-
13 lowing new subsection (b):

14 “(b) CHANGES TO CERTIFICATION.—(1) The pro-
15 gram manager for a major defense acquisition program
16 that has received certification under subsection (a) shall
17 immediately notify the milestone decision authority of any
18 changes to the program that—

19 “(A) alter the substantive basis for the certifi-
20 cation of the milestone decision authority relating to
21 any component of such certification specified in
22 paragraph (1) or (2) of subsection (a); or

23 “(B) otherwise cause the program to deviate
24 significantly from the material provided to the mile-

1 stone decision authority in support of such certifi-
2 cation.

3 “(2) Upon receipt of information under paragraph
4 (1), the milestone decision authority may withdraw the
5 certification concerned or rescind Milestone B approval (or
6 Key Decision Point B approval in the case of a space pro-
7 gram) if the milestone decision authority determines that
8 such certification or approval is no longer valid.”;

9 (4) in subsection (c), as redesignated by para-
10 graph (1)—

11 (A) by inserting “(1)” before “The certifi-
12 cation”; and

13 (B) by adding at the end the following new
14 paragraph (2):

15 “(2) A summary of any information provided to the
16 milestone decision authority pursuant to subsection (b)
17 and a description of the actions taken as a result of such
18 information shall be submitted with the first Selected Ac-
19 quisition Report submitted under section 2432 of this title
20 after receipt of such information by the milestone decision
21 authority.”;

22 (5) in subsection (d), as so redesignated—

23 (A) by striking “authority may waive” and
24 inserting the following: “authority may, at the
25 time of Milestone B approval (or Key Decision

1 Point B approval in the case of a space pro-
2 gram) or at the time that such milestone deci-
3 sion authority withdraws a certification or re-
4 scinds Milestone B approval (or Key Decision
5 Point B approval in the case of a space pro-
6 gram) pursuant to subsection (b)(2), waive”;
7 and

8 (B) by striking “paragraph (1), (2), (3),
9 (4), (5), (6), (7), (8), or (9)” and inserting
10 “paragraph (1) or (2)”; and

11 (6) in subsection (e), as so redesignated, by
12 striking “subsection (c)” and inserting “subsection
13 (d)”.

14 **SEC. 813. COMPTROLLER GENERAL REPORT ON DEPART-**
15 **MENT OF DEFENSE ORGANIZATION AND**
16 **STRUCTURE FOR MAJOR DEFENSE ACQUISI-**
17 **TION PROGRAMS.**

18 (a) REPORT REQUIRED.—Not later than one year
19 after the date of the enactment of this Act, the Comp-
20 troller General of the United States shall submit to the
21 congressional defense committees a report on potential
22 modifications of the organization and structure of the De-
23 partment of Defense for major defense acquisition pro-
24 grams.

1 (b) ELEMENTS.—The report required by subsection
2 (a) shall include the results of a review, conducted by the
3 Comptroller General for purposes of the report, regarding
4 the feasibility and advisability of, at a minimum, the fol-
5 lowing:

6 (1) Revising the acquisition process for major
7 defense acquisition programs by establishing shorter,
8 more frequent acquisition program milestones.

9 (2) Requiring certifications of program status
10 to the defense acquisition executive and Congress
11 prior to milestone approval for major defense acqui-
12 sition programs.

13 (3) Establishing a new office (to be known as
14 the “Office of Independent Assessment”) to provide
15 independent cost estimates and performance esti-
16 mates for major defense acquisition programs.

17 (4) Requiring the milestone decision authority
18 for a major defense acquisition program to specify,
19 at the time of Milestone B approval, or Key Decision
20 Point B approval, as applicable, the period of time
21 that will be required to deliver an initial operational
22 capability to the relevant combatant commanders.

23 (5) Establishing a materiel solutions process for
24 addressing identified gaps in critical warfighting ca-
25 pabilities, under which process the Under Secretary

1 of Defense for Acquisition, Technology, and Logis-
2 tics circulates among the military departments and
3 appropriate Defense Agencies a request for pro-
4 posals for technologies and systems to address such
5 gaps.

6 (6) Modifying the role played by chiefs of staff
7 of the Armed Forces in the requirements, resource
8 allocation, and acquisition processes.

9 (7) Establishing a process in which the com-
10 manders of combatant commands assess, and pro-
11 vide input on, the capabilities needed to successfully
12 accomplish the missions in the operational and con-
13 tingency plans of their commands over a long-term
14 planning horizon of 15 years or more, taking into
15 account expected changes in threats, the geo-political
16 environment, and doctrine, training, and operational
17 concepts.

18 (c) CONSULTATION.—In conducting the review re-
19 quired under subsection (b) for the report required by sub-
20 section (a), the Comptroller General shall obtain the views
21 of the following:

22 (1) Senior acquisition officials currently serving
23 in the Department of Defense.

24 (2) Senior military officers involved in setting
25 requirements for the joint staff, the Armed Forces,

1 and the combatant commands currently serving in
2 the Department of Defense.

3 (3) Individuals who formerly served as senior
4 acquisition officials in the Department of Defense.

5 (4) Participants in previous reviews of the orga-
6 nization and structure of the Department of Defense
7 for the acquisition of major weapon systems, includ-
8 ing the President's Blue Ribbon Commission on De-
9 fense Management in 1986.

10 (5) Other experts on the acquisition of major
11 weapon systems.

12 (6) Appropriate experts in the Government Ac-
13 countability Office.

14 **SEC. 814. CLARIFICATION OF SUBMISSION OF COST OR**
15 **PRICING DATA ON NONCOMMERCIAL MODI-**
16 **FICATIONS OF COMMERCIAL ITEMS.**

17 (a) MEASUREMENT OF PERCENTAGE AT CONTRACT
18 AWARD.—Section 2306a(b)(3)(A) of title 10, United
19 States Code, is amended by inserting after “total price of
20 the contract” the following: “(at the time of contract
21 award)”.

22 (b) HARMONIZATION OF THRESHOLDS FOR COST OR
23 PRICING DATA.—Section 2306a(b)(3)(A) of title 10,
24 United States Code, is amended by striking “\$500,000”
25 and inserting “the amount specified in subsection

1 (a)(1)(A)(i), as adjusted from time to time under sub-
2 section (a)(7),”.

3 **SEC. 815. CLARIFICATION OF RULES REGARDING THE PRO-**
4 **CUREMENT OF COMMERCIAL ITEMS.**

5 (a) TREATMENT OF SUBSYSTEMS, COMPONENTS,
6 AND SPARE PARTS AS COMMERCIAL ITEMS.—

7 (1) IN GENERAL.—Section 2379 of title 10,
8 United States Code, is amended—

9 (A) in subsection (a)—

10 (i) by redesignating paragraph (2) as
11 paragraph (3);

12 (ii) in paragraph (1)(B), by striking
13 “and” at the end; and

14 (iii) by inserting after paragraph (1),
15 the following:

16 “(2) the offeror has submitted sufficient infor-
17 mation to evaluate, through price analysis, the rea-
18 sonableness of the price for such system; and”;

19 (B) by striking subsection (b) and insert-
20 ing the following new subsection (b):

21 “(b) TREATMENT OF SUBSYSTEMS AS COMMERCIAL
22 ITEMS.—A subsystem of a major weapon system (other
23 than a commercially available off-the-shelf item as defined
24 in section 35(c) of the Office of Federal Procurement Pol-
25 icy Act (41 U.S.C. 431(c))) shall be treated as a commer-

1 cial item and purchased under procedures established for
2 the procurement of commercial items only if—

3 “(1) the subsystem is intended for a major
4 weapon system that is being purchased, or has been
5 purchased, under procedures established for the pro-
6 curement of commercial items in accordance with
7 the requirements of subsection (a); or

8 “(2) the contracting officer determines in writ-
9 ing that—

10 “(A) the subsystem is a commercial item,
11 as defined in section 4(12) of the Office of Fed-
12 eral Procurement Policy Act (41 U.S.C.
13 403(12)); and

14 “(B) the offeror has submitted sufficient
15 information to evaluate, through price analysis,
16 the reasonableness of the price for such sub-
17 system.”;

18 (C) by redesignating subsections (c) and
19 (d) as subsections (e) and (f), respectively; and

20 (D) by inserting after subsection (b) the
21 following new subsections (c) and (d):

22 “(c) TREATMENT OF COMPONENTS AND SPARE
23 PARTS AS COMMERCIAL ITEMS.—(1) A component or
24 spare part for a major weapon system (other than a com-
25 mercially available off-the-shelf item as defined in section

1 35(c) of the Office of Federal Procurement Policy Act (41
2 U.S.C. 431(c)) may be treated as a commercial item for
3 the purposes of section 2306a of this title only if—

4 “(A) the component or spare part is intended
5 for—

6 “(i) a major weapon system that is being
7 purchased, or has been purchased, under proce-
8 dures established for the procurement of com-
9 mercial items in accordance with the require-
10 ments of subsection (a); or

11 “(ii) a subsystem of a major weapon sys-
12 tem that is being purchased, or has been pur-
13 chased, under procedures established for the
14 procurement of commercial items in accordance
15 with the requirements of subsection (b); or

16 “(B) the contracting officer determines in writ-
17 ing that—

18 “(i) the component or spare part is a com-
19 mercial item, as defined in section 4(12) of the
20 Office of Federal Procurement Policy Act (41
21 U.S.C. 403(12)); and

22 “(ii) the offeror has submitted sufficient
23 information to evaluate, through price analysis,
24 the reasonableness of the price for such compo-
25 nent or spare part.

1 “(2) This subsection shall apply only to components
2 and spare parts that are acquired by the Department of
3 Defense through a prime contract or a modification to a
4 prime contract (or through a subcontract under a prime
5 contract or modification to a prime contract on which the
6 prime contractor adds no, or negligible, value).

7 “(d) INFORMATION SUBMITTED.—To the extent nec-
8 essary to make a determination under subsection (a)(2),
9 (b)(2), or (c)(1)(B), the contracting officer may request
10 the offeror to submit—

11 “(1) prices paid for the same or similar com-
12 mercial items under comparable terms and condi-
13 tions by both government and commercial customers;
14 and

15 “(2) if the contracting officer determines that
16 the information described in paragraph (1) is not
17 sufficient to determine the reasonableness of price,
18 other relevant information regarding the basis for
19 price or cost, including information on labor costs,
20 material costs, and overhead rates.”.

21 “(2) CONFORMING AMENDMENT TO TECHNICAL
22 DATA PROVISION.—Section 2321(f)(2) of such title
23 is amended by striking “(whether or not under a
24 contract for commercial items)” and inserting
25 “(other than technical data for a commercially avail-

1 able off-the-shelf item as defined in section 35(c) of
2 the Office of Federal Procurement Policy Act (41
3 U.S.C. 431(c))”.

4 (b) SALES OF COMMERCIAL ITEMS TO NONGOVERN-
5 MENTAL ENTITIES.—Not later than 180 days after the
6 date of the enactment of this Act, the Secretary of Defense
7 shall modify the regulations of the Department of Defense
8 on the procurement of commercial items in order to clarify
9 that the terms “general public” and “nongovernmental en-
10 tities” in such regulations do not include the Federal Gov-
11 ernment or a State, local, or foreign government.

12 **SEC. 816. REVIEW OF SYSTEMIC DEFICIENCIES ON MAJOR**
13 **DEFENSE ACQUISITION PROGRAMS.**

14 (a) ANNUAL REVIEW.—The Under Secretary of De-
15 fense for Acquisition, Technology, and Logistics shall con-
16 duct an annual review of systemic deficiencies in the major
17 defense acquisition programs of the Department of De-
18 fense for each fiscal year in which three or more major
19 defense acquisition programs—

20 (1) experience a critical cost growth threshold
21 breach;

22 (2) have a section 2366a certification with-
23 drawn; or

24 (3) have a Milestone A approval or Key Deci-
25 sion Point A approval rescinded, by the milestone

1 decision authority under subsection (b) of section
2 2366b of title 10, United States Code, as added by
3 section 943 of this Act.

4 (b) CONTENT OF REVIEW.—The review conducted
5 under subsection (a) shall—

6 (1) identify common factors, including any sys-
7 temic deficiencies in the budget, requirements, and
8 acquisition policies and practices, that may have
9 contributed to problems with major defense acquisi-
10 tion programs covered by the criteria in subsection
11 (a);

12 (2) assess the adequacy of corrective actions
13 taken or to be taken to address cost growth or other
14 performance deficiencies in programs covered by the
15 criteria in subsection (a); and

16 (3) make recommendations for any changes in
17 budget, requirements, and acquisition policies and
18 practices that may be appropriate to avoid similar
19 problems with major defense acquisition programs in
20 the future.

21 (c) DEFINITIONS.—In this section:

22 (1) CRITICAL COST GROWTH THRESHOLD
23 BREACH.—The term “critical cost growth threshold
24 breach” means a determination under section
25 2433(d) of title 10, United States Code, by the Sec-

1 retary of a military department with respect to a
2 major defense acquisition program that the program
3 acquisition unit cost has increased by a percentage
4 equal to or greater than the critical cost growth
5 threshold or that the procurement unit cost has in-
6 creased by a percentage equal to or greater than the
7 critical cost growth threshold.

8 (2) SECTION 2366a CERTIFICATION.—The term
9 “section 2366a certification” means a certification
10 with respect to a major defense acquisition program
11 under section 2366a(a) of title 10, United States
12 Code, by the milestone decision authority.

13 (d) REPORT.—Not later than July 15, 2008, and not
14 later than August 15 of each year from 2009 through
15 2012, the Secretary of Defense shall submit to the con-
16 gressional defense committees a report on the results of
17 the annual review conducted (if any) for the preceding fis-
18 cal year under subsection (a).

19 (e) SUNSET.—The requirement to conduct an annual
20 review under subsection (a) shall terminate on September
21 30, 2012.

22 **SEC. 817. INVESTMENT STRATEGY FOR MAJOR DEFENSE**
23 **ACQUISITION PROGRAMS.**

24 (a) REPORT REQUIRED.—Not later than May 1,
25 2008, the Secretary of Defense shall submit to the con-

1 gressional defense committees a report on the strategies
2 of the Department of Defense for balancing the allocation
3 of funds and other resources among major defense acqui-
4 sition programs.

5 (b) ELEMENTS.—The report required by subsection
6 (a) shall address, at a minimum, the ability of the organi-
7 zations, policies, and procedures of the Department of De-
8 fense to provide for—

9 (1) establishing priorities among needed capa-
10 bilities under major defense acquisition programs,
11 and assessing the resources (including funds, tech-
12 nologies, time, and personnel) needed to achieve
13 such capabilities;

14 (2) balancing the cost, schedule, and require-
15 ments of major defense acquisition programs, includ-
16 ing those within the same functional or mission area,
17 to ensure the most efficient use of resources; and

18 (3) ensuring that the budget, requirements, and
19 acquisition processes of the Department of Defense
20 work in a complementary manner to achieve desired
21 results.

22 (c) ROLE OF TRI-CHAIR COMMITTEE IN RESOURCE
23 ALLOCATION.—

24 (1) IN GENERAL.—The report required by sub-
25 section (a) shall also address the role of the com-

1 mittee described in paragraph (2) in the resource al-
2 location process for major defense acquisition pro-
3 grams.

4 (2) COMMITTEE.—The committee described in
5 this paragraph is a committee (to be known as the
6 “Tri-Chair Committee”) composed of the following:

7 (A) The Under Secretary of Defense for
8 Acquisition, Technology, and Logistics, who is
9 one of the chairs of the committee.

10 (B) The Vice Chairman of the Joint Chiefs
11 of Staff, who is one of the chairs of the com-
12 mittee.

13 (C) The Director of Program Analysis and
14 Evaluation, who is one of the chairs of the com-
15 mittee.

16 (D) Any other appropriate officials of the
17 Department of Defense, as jointly agreed upon
18 by the Under Secretary and the Vice Chairman.

19 (d) CHANGES IN LAW.—The report required by sub-
20 section (a) shall, to the maximum extent practicable, in-
21 clude a discussion of any changes in the budget, acquisi-
22 tion, and requirements processes of the Department of De-
23 fense undertaken as a result of changes in law pursuant
24 to any section in this Act.

1 (e) RECOMMENDATIONS.—The report required by
2 subsection (a) shall include any recommendations, includ-
3 ing recommendations for legislative action, that the Sec-
4 retary considers appropriate to improve the organizations,
5 policies, and procedures described in the report.

6 **SEC. 818. REPORT ON IMPLEMENTATION OF RECOMMENDA-**
7 **TIONS ON TOTAL OWNERSHIP COST FOR**
8 **MAJOR WEAPON SYSTEMS.**

9 (a) REPORT REQUIRED.—Not later than 180 days
10 after the date of the enactment of this Act, the Secretary
11 of Defense shall submit to the congressional defense com-
12 mittees a report on the extent of the implementation of
13 the recommendations set forth in the February 2003 re-
14 port of the Government Accountability Office entitled
15 “Setting Requirements Differently Could Reduce Weapon
16 Systems’ Total Ownership Costs”.

17 (b) ELEMENTS.—The report required by subsection
18 (a) shall include the following:

19 (1) For each recommendation described in sub-
20 section (a) that has been implemented, or that the
21 Secretary plans to implement—

22 (A) a summary of all actions that have
23 been taken to implement such recommendation;
24 and

1 (B) a schedule, with specific milestones,
2 for completing the implementation of such rec-
3 ommendation.

4 (2) For each recommendation that the Sec-
5 retary has not implemented and does not plan to im-
6 plement—

7 (A) the reasons for the decision not to im-
8 plement such recommendation; and

9 (B) a summary of any alternative actions
10 the Secretary plans to take to address the pur-
11 poses underlying such recommendation.

12 (3) A summary of any additional actions the
13 Secretary has taken or plans to take to ensure that
14 total ownership cost is appropriately considered in
15 the requirements process for major weapon systems.

16 **Subtitle C—Amendments to Gen-**
17 **eral Contracting Authorities,**
18 **Procedures, and Limitations**

19 **SEC. 821. PLAN FOR RESTRICTING GOVERNMENT-UNIQUE**
20 **CONTRACT CLAUSES ON COMMERCIAL CON-**
21 **TRACTS.**

22 (a) PLAN.—The Under Secretary of Defense for Ac-
23 quisition, Technology, and Logistics shall develop and im-
24 plement a plan to minimize the number of government-

1 unique contract clauses used in commercial contracts by
2 restricting the clauses to the following:

3 (1) Government-unique clauses authorized by
4 law or regulation.

5 (2) Any additional clauses that are relevant and
6 necessary to a specific contract.

7 (b) **COMMERCIAL CONTRACT.**—In this section:

8 (1) The term “commercial contract” means a
9 contract awarded by the Federal Government for the
10 procurement of a commercial item.

11 (2) The term “commercial item” has the mean-
12 ing provided by section 4(12) of the Office of Fed-
13 eral Procurement Policy Act (41 U.S.C. 403(12)).

14 **SEC. 822. EXTENSION OF AUTHORITY FOR USE OF SIM-**
15 **PLIFIED ACQUISITION PROCEDURES FOR**
16 **CERTAIN COMMERCIAL ITEMS.**

17 (a) **EXTENSION.**—Section 4202(e) of the Clinger-
18 Cohen Act of 1996 (division D of Public Law 104–106;
19 110 Stat. 652; 10 U.S.C. 2304 note) is amended by strik-
20 ing “January 1, 2008” and inserting “January 1, 2010”.

21 (b) **REPORT.**—Not later than March 1, 2008, the
22 Under Secretary of Defense for Acquisition, Technology,
23 and Logistics shall submit to the Committees on Armed
24 Services of the Senate and the House of Representatives
25 a report on the use by the Department of Defense of the

1 authority provided by section 4202(e) of the Clinger-
2 Cohen Act of 1996 (10 U.S.C. 2304 note). The report
3 shall include, at a minimum, the following:

4 (1) Summary data on the use of the authority.

5 (2) Specific examples of the use of the author-
6 ity.

7 (3) An evaluation of potential benefits and costs
8 of extending the authority after January 1, 2010.

9 **SEC. 823. FIVE-YEAR EXTENSION OF AUTHORITY TO CARRY**
10 **OUT CERTAIN PROTOTYPE PROJECTS.**

11 Section 845(i) of the National Defense Authorization
12 Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amend-
13 ed by striking “September 30, 2008” and inserting “Sep-
14 tember 30, 2013”.

15 **SEC. 824. EXEMPTION OF SPECIAL OPERATIONS COMMAND**
16 **FROM CERTAIN REQUIREMENTS FOR CER-**
17 **TAIN CONTRACTS RELATING TO VESSELS,**
18 **AIRCRAFT, AND COMBAT VEHICLES.**

19 Section 2401(b) of title 10, United States Code, is
20 amended by adding at the end the following new para-
21 graph:

22 “(5) In the case of a contract described in subsection
23 (a)(1)(B), the commander of the special operations com-
24 mand may make a contract without regard to this sub-
25 section if—

1 “(A) funds are available and obligated for the
2 full cost of the contract (including termination costs)
3 on or before the date the contract is awarded;

4 “(B) the Secretary of Defense submits to the
5 congressional defense committees a certification that
6 there is no alternative for meeting urgent oper-
7 ational requirements other than making the con-
8 tract; and

9 “(C) a period of 30 days of continuous session
10 of Congress has expired following the date on which
11 the certification was received by such committees.”.

12 **SEC. 825. PROVISION OF AUTHORITY TO MAINTAIN EQUIP-**
13 **MENT TO UNIFIED COMBATANT COMMAND**
14 **FOR JOINT WARFIGHTING.**

15 (a) **AUTHORITY.**—Section 167a of title 10, United
16 States Code, is amended—

17 (1) in subsection (a), by striking “and acquire”
18 and inserting “, acquire, and maintain”;

19 (2) by redesignating subsection (f) as sub-
20 section (g); and

21 (3) by inserting after subsection (e) the fol-
22 lowing new subsection:

23 “(f) **LIMITATION ON AUTHORITY TO MAINTAIN**
24 **EQUIPMENT.**—The authority delegated under subsection
25 (a) to maintain equipment is subject to the availability of

1 funds authorized and appropriated specifically for that
2 purpose.”.

3 (b) TWO-YEAR EXTENSION.—Subsection (g) of such
4 section, as so redesignated, is amended—

5 (1) by striking “through 2008” and inserting
6 “through 2010”; and

7 (2) by striking “September 30, 2008” and in-
8 serting “September 30, 2010”.

9 **SEC. 826. MARKET RESEARCH.**

10 (a) ADDITIONAL REQUIREMENTS.—Subsection (c) of
11 section 2377 of title 10, United States Code, is amended—

12 (1) in paragraph (1)—

13 (A) by striking “and” at the end of sub-
14 paragraph (A);

15 (B) by striking the period at the end of
16 subparagraph (B) and inserting “; and”; and

17 (C) by adding at the end the following:

18 “(C) before awarding a task order or deliv-
19 ery order in excess of the simplified acquisition
20 threshold.”; and

21 (2) by adding at the end the following:

22 “(4) The head of an agency shall take appropriate
23 steps to ensure that any prime contractor of a contract
24 (or task order or delivery order) in an amount in excess
25 of \$5,000,000 for the procurement of items other than

1 commercial items engages in such market research as may
2 be necessary to carry out the requirements of subsection
3 (b)(2) before making purchases for or on behalf of the
4 Department of Defense.”.

5 (b) REQUIREMENT TO DEVELOP TRAINING AND
6 TOOLS.—The Secretary of Defense shall develop training
7 to assist contracting officers, and market research tools
8 to assist such officers and prime contractors, in per-
9 forming appropriate market research as required by sub-
10 section (c) of section 2377 of title 10, United States Code,
11 as amended by this section.

12 **SEC. 827. MODIFICATION OF COMPETITION REQUIRE-**
13 **MENTS FOR PURCHASES FROM FEDERAL**
14 **PRISON INDUSTRIES.**

15 (a) MODIFICATION OF COMPETITION REQUIRE-
16 MENTS.—

17 (1) IN GENERAL.—Section 2410n of title 10,
18 United States Code, is amended by striking sub-
19 sections (a) and (b) and inserting the following new
20 subsections (a) and (b):

21 “(a) PRODUCTS FOR WHICH FEDERAL PRISON IN-
22 DUSTRIES DOES NOT HAVE SIGNIFICANT MARKET
23 SHARE.—(1) Before purchasing a product listed in the
24 latest edition of the Federal Prison Industries catalog
25 under section 4124(d) of title 18 for which Federal Prison

1 Industries does not have a significant market share, the
2 Secretary of Defense shall conduct market research to de-
3 termine whether the product is comparable to products
4 available from the private sector that best meet the needs
5 of the Department in terms of price, quality, and time of
6 delivery.

7 “(2) If the Secretary determines that a Federal Pris-
8 on Industries product described in paragraph (1) is not
9 comparable in price, quality, or time of delivery to prod-
10 ucts of the private sector that best meets the needs of the
11 Department in terms of price, quality, and time of deliv-
12 ery, the Secretary shall use competitive procedures for the
13 procurement of the product, or shall make an individual
14 purchase under a multiple award contract in accordance
15 with the competition requirements applicable to such con-
16 tract. In conducting such a competition, the Secretary
17 shall consider a timely offer from Federal Prison Indus-
18 tries.

19 “(b) PRODUCTS FOR WHICH FEDERAL PRISON IN-
20 DUSTRIES HAS SIGNIFICANT MARKET SHARE.—(1) The
21 Secretary of Defense may purchase a product listed in the
22 latest edition of the Federal Prison Industries catalog for
23 which Federal Prison Industries has a significant market
24 share only if the Secretary uses competitive procedures for
25 the procurement of the product or makes an individual

1 purchase under a multiple award contract in accordance
2 with the competition requirements applicable to such con-
3 tract. In conducting such a competition, the Secretary
4 shall consider a timely offer from Federal Prison Indus-
5 tries.

6 “(2) For purposes of this subsection, Federal Prison
7 Industries shall be treated as having a significant share
8 of the market for a product if the Secretary, in consulta-
9 tion with the Administrator of Federal Procurement Pol-
10 icy, determines that the Federal Prison Industries share
11 of the Department of Defense market for the category of
12 products including such product is greater than 5 per-
13 cent.”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by subsection (a) shall take effect 60 days after the
16 date of the enactment of this Act.

17 (b) LIST OF PRODUCTS FOR WHICH FEDERAL PRIS-
18 ON INDUSTRIES HAS SIGNIFICANT MARKET SHARE.—

19 (1) INITIAL LIST.—Not later than 60 days after
20 the date of the enactment of this Act, the Secretary
21 of Defense shall publish a list of product categories
22 for which Federal Prison Industries’ share of the
23 Department of Defense market is greater than 5
24 percent, based on the most recent fiscal year for
25 which data is available.

1 (2) MODIFICATION.—The Secretary may modify
2 the list published under paragraph (1) at any time
3 if the Secretary determines that new data require
4 adding a product category to the list or omitting a
5 product category from the list.

6 (3) CONSULTATION.—The Secretary shall carry
7 out this subsection in consultation with the Adminis-
8 trator for Federal Procurement Policy.

9 **SEC. 828. MULTIYEAR CONTRACT AUTHORITY FOR ELEC-**
10 **TRICITY FROM RENEWABLE ENERGY**
11 **SOURCES.**

12 (a) MULTIYEAR CONTRACT AUTHORITY.—Chapter
13 141 of title 10, United States Code, is amended by adding
14 at the end the following new section:

15 **“§ 2410q. Multiyear contracts: purchase of electricity**
16 **from renewable energy sources**

17 “(a) MULTIYEAR CONTRACTS AUTHORIZED.—Sub-
18 ject to subsection (b), the Secretary of Defense may enter
19 into a contract for a period not to exceed 10 years for
20 the purchase of electricity from sources of renewable en-
21 ergy, as that term is defined in section 203(b)(2) of the
22 Energy Policy Act of 2005 (42 U.S.C. 15852(b)(2)).

23 “(b) LIMITATIONS ON CONTRACTS FOR PERIODS IN
24 EXCESS OF FIVE YEARS.—The Secretary may exercise
25 the authority in subsection (a) to enter into a contract

1 for a period in excess of five years only if the Secretary
2 determines, on the basis of a business case analysis pre-
3 pared by the Department of Defense, that—

4 “(1) the proposed purchase of electricity under
5 such contract is cost effective for the Department of
6 Defense; and

7 “(2) it would not be possible to purchase elec-
8 tricity from the source in an economical manner
9 without the use of a contract for a period in excess
10 of five years.

11 “(c) RELATIONSHIP TO OTHER MULTIYEAR CON-
12 TRACTING AUTHORITY.—Nothing in this section shall be
13 construed to preclude the Department of Defense from
14 using other multiyear contracting authority of the Depart-
15 ment to purchase renewable energy.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of chapter 141 of such title is amended
18 by adding at the end the following new item:

“2410q. Multiyear contracts: purchase of electricity from renewable energy
sources.”.

19 **SEC. 829. PROCUREMENT OF FIRE RESISTANT RAYON**
20 **FIBER FOR THE PRODUCTION OF UNIFORMS**
21 **FROM FOREIGN SOURCES.**

22 (a) AUTHORITY TO PROCURE.—The Secretary of De-
23 fense may procure fire resistant rayon fiber for the pro-
24 duction of uniforms that is manufactured in a foreign

1 country referred to in subsection (d) if the Secretary de-
2 termines either of the following:

3 (1) That fire resistant rayon fiber for the pro-
4 duction of uniforms is not available from sources
5 within the national technology and industrial base.

6 (2) That—

7 (A) procuring fire resistant rayon fiber
8 manufactured from suppliers within the na-
9 tional technology and industrial base would re-
10 sult in sole-source contracts or subcontracts for
11 the supply of fire resistant rayon fiber; and

12 (B) such sole-source contracts or sub-
13 contracts would not be in the best interests of
14 the Government or consistent with the objec-
15 tives of section 2304 of title 10, United States
16 Code.

17 (b) SUBMISSION TO CONGRESS.—Not later than 30
18 days after making a determination under subsection (a),
19 the Secretary shall submit to Congress a copy of the deter-
20 mination.

21 (c) APPLICABILITY TO SUBCONTRACTS.—The au-
22 thority under subsection (a) applies with respect to sub-
23 contracts under Department of Defense contracts as well
24 as to such contracts.

1 (d) FOREIGN COUNTRIES COVERED.—The authority
2 under subsection (a) applies with respect to a foreign
3 country that—

4 (1) is a party to a defense memorandum of un-
5 derstanding entered into under section 2531 of title
6 10, United States Code; and

7 (2) does not discriminate against defense items
8 produced in the United States to a greater degree
9 than the United States discriminates against defense
10 items produced in that country.

11 (e) NATIONAL TECHNOLOGY AND INDUSTRIAL BASE
12 DEFINED.—In this section, the term “national technology
13 and industrial base” has the meaning given that term in
14 section 2500 of title 10, United States Code.

15 (f) SUNSET.—The authority under subsection (a)
16 shall expire on the date that is five years after the date
17 of the enactment of this Act.

18 **SEC. 830. COMPTROLLER GENERAL REVIEW OF NON-**
19 **COMPETITIVE AWARDS OF CONGRESSIONAL**
20 **AND EXECUTIVE BRANCH INTEREST ITEMS.**

21 Not later than one year after the date of the enact-
22 ment of this Act, the Comptroller General of the United
23 States shall submit to the congressional defense commit-
24 tees a report on the use of procedures other than competi-
25 tive procedures in the award of contracts by the Depart-

1 ment of Defense. The report shall compare the procedures
2 used by the Department of Defense for the award of funds
3 for new projects pursuant to congressionally directed
4 spending items, as defined in rule XLIV of the Standing
5 Rules of the Senate, or congressional earmarks, as defined
6 in rule XXI of the Rules of the House of Representatives,
7 with the procedures used by the Department of Defense
8 for the award of funds for new projects of special interest
9 to senior executive branch officials.

10 **Subtitle D—Accountability in**
11 **Contracting**

12 **SEC. 841. COMMISSION ON WARTIME CONTRACTING IN**
13 **IRAQ AND AFGHANISTAN.**

14 (a) ESTABLISHMENT.—There is hereby established a
15 commission to be known as the “Commission on Wartime
16 Contracting” (in this section referred to as the “Commis-
17 sion”).

18 (b) MEMBERSHIP MATTERS.—

19 (1) MEMBERSHIP.—The Commission shall be
20 composed of 8 members, as follows:

21 (A) 2 members shall be appointed by the
22 majority leader of the Senate, in consultation
23 with the Chairmen of the Committee on Armed
24 Services, the Committee on Homeland Security

1 and Governmental Affairs, and the Committee
2 on Foreign Relations of the Senate.

3 (B) 2 members shall be appointed by the
4 Speaker of the House of Representatives, in
5 consultation with the Chairmen of the Com-
6 mittee on Armed Services, the Committee on
7 Oversight and Government Reform, and the
8 Committee on Foreign Affairs of the House of
9 Representatives.

10 (C) 1 member shall be appointed by the
11 minority leader of the Senate, in consultation
12 with the Ranking Minority Members of the
13 Committee on Armed Services, the Committee
14 on Homeland Security and Governmental Af-
15 fairs, and the Committee on Foreign Relations
16 of the Senate.

17 (D) 1 member shall be appointed by the
18 minority leader of the House of Representa-
19 tives, in consultation with the Ranking Minority
20 Member of the Committee on Armed Services,
21 the Committee on Oversight and Government
22 Reform, and the Committee on Foreign Affairs
23 of the House of Representatives.

1 (E) 2 members shall be appointed by the
2 President, in consultation with the Secretary of
3 Defense and the Secretary of State.

4 (2) DEADLINE FOR APPOINTMENTS.—All ap-
5 pointments to the Commission shall be made not
6 later than 120 days after the date of the enactment
7 of this Act.

8 (3) CO-CHAIRMEN.—The Commission shall have
9 two co-chairmen, including—

10 (A) a co-chairman who shall be a member
11 of the Commission jointly designated by the
12 Speaker of the House of Representatives and
13 the majority leader of the Senate; and

14 (B) a co-chairman who shall be a member
15 of the Commission jointly designated by the mi-
16 nority leader of the House of Representatives
17 and the minority leader of the Senate.

18 (4) VACANCY.—In the event of a vacancy in a
19 seat on the Commission, the individual appointed to
20 fill the vacant seat shall be—

21 (A) appointed by the same officer (or the
22 officer's successor) who made the appointment
23 to the seat when the Commission was first es-
24 tablished; and

1 (B) if the officer in subparagraph (A) is of
2 a party other than the party of the officer who
3 made the appointment to the seat when the
4 Commission was first established, chosen in
5 consultation with the senior officers in the Sen-
6 ate and the House of Representatives of the
7 party which is the party of the officer who
8 made the appointment to the seat when the
9 Commission was first established.

10 (c) DUTIES.—

11 (1) GENERAL DUTIES.—The Commission shall
12 study the following matters:

13 (A) Federal agency contracting for the re-
14 construction of Iraq and Afghanistan.

15 (B) Federal agency contracting for the
16 logistical support of coalition forces operating in
17 Iraq and Afghanistan.

18 (C) Federal agency contracting for the per-
19 formance of security functions in Iraq and Af-
20 ghanistan.

21 (2) SCOPE OF CONTRACTING COVERED.—The
22 Federal agency contracting covered by this sub-
23 section includes contracts entered into both in the
24 United States and abroad for the performance of ac-
25 tivities described in paragraph (1).

1 (3) PARTICULAR DUTIES.—In carrying out the
2 study under this subsection, the Commission shall
3 assess—

4 (A) the extent of the reliance of the Fed-
5 eral Government on contractors to perform
6 functions (including security functions) in Iraq
7 and Afghanistan and the impact of this reliance
8 on the achievement of the objectives of the
9 United States;

10 (B) the performance exhibited by Federal
11 contractors for the contracts under review pur-
12 suant to paragraph (1), and the mechanisms
13 used to evaluate contractor performance;

14 (C) the extent of waste, fraud, and abuse
15 under such contracts;

16 (D) the extent to which those responsible
17 for such waste, fraud, and abuse have been held
18 financially or legally accountable;

19 (E) the appropriateness of the organiza-
20 tional structure, policies, practices, and re-
21 sources of the Department of Defense and the
22 Department of State for handling program
23 management and contracting for the programs
24 and contracts under review pursuant to para-
25 graph (1);

1 (F) the extent to which contractors under
2 such contracts have engaged in the misuse of
3 force or have used force in a manner incon-
4 sistent with the objectives of the operational
5 field commander; and

6 (G) the extent of potential violations of the
7 laws of war, Federal law, or other applicable
8 legal standards by contractors under such con-
9 tracts.

10 (d) REPORTS.—

11 (1) INTERIM REPORT.—On March 1, 2009, the
12 Commission shall submit to Congress an interim re-
13 port on the study carried out under subsection (c),
14 including the results and findings of the study as of
15 that date.

16 (2) OTHER REPORTS.—The Commission may
17 from time to time submit to Congress such other re-
18 ports on the study carried out under subsection (c)
19 as the Commission considers appropriate.

20 (3) FINAL REPORT.—Not later than two years
21 after the date of the appointment of all of the mem-
22 bers of the Commission under subsection (b), the
23 Commission shall submit to Congress a final report
24 on the study carried out under subsection (c). The
25 report shall—

1 (A) include the findings of the Commis-
2 sion;

3 (B) identify lessons learned relating to
4 contingency program management and contin-
5 gency contracting covered by the study; and

6 (C) include specific recommendations for
7 improvements to be made in—

8 (i) the process for defining require-
9 ments and developing statements of work
10 for contracts in contingency contracting;

11 (ii) the process for awarding contracts
12 and task or delivery orders in contingency
13 contracting;

14 (iii) the process for contingency pro-
15 gram management;

16 (iv) the process for identifying, ad-
17 dressing, and providing accountability for
18 waste, fraud, and abuse in contingency
19 contracting;

20 (v) the process for determining which
21 functions are inherently governmental and
22 which functions are appropriate for per-
23 formance by contractors in a contingency
24 operation (including during combat oper-
25 ations), especially whether providing secu-

1 rity in an area of combat operations is in-
2 herently governmental;

3 (vi) the organizational structure, re-
4 sources, policies, and practices of the De-
5 partment of Defense and the Department
6 of State for performing contingency pro-
7 gram management; and

8 (vii) the process by which roles and
9 responsibilities with respect to manage-
10 ment and oversight of contracts in contin-
11 gency contracting are distributed among
12 the various departments and agencies of
13 the Federal Government, and interagency
14 coordination and communication mecha-
15 nisms associated with contingency con-
16 tracting.

17 (e) OTHER POWERS AND AUTHORITIES.—

18 (1) HEARINGS AND EVIDENCE.—The Commis-
19 sion or, on the authority of the Commission, any
20 portion thereof, may, for the purpose of carrying out
21 this section—

22 (A) hold such hearings and sit and act at
23 such times and places, take such testimony, re-
24 ceive such evidence, administer such oaths (pro-

1 vided that the quorum for a hearing shall be
2 three members of the Commission); and

3 (B) provide for the attendance and testi-
4 mony of such witnesses and the production of
5 such books, records, correspondence, memo-
6 randa, papers, and documents;

7 as the Commission, or such portion thereof, may de-
8 termine advisable.

9 (2) INABILITY TO OBTAIN DOCUMENTS OR TES-
10 TIMONY.—In the event the Commission is unable to
11 obtain testimony or documents needed to conduct its
12 work, the Commission shall notify the committees of
13 Congress of jurisdiction and appropriate investiga-
14 tive authorities.

15 (3) ACCESS TO INFORMATION.—The Commis-
16 sion may secure directly from the Department of
17 Defense and any other department or agency of the
18 Federal Government any information or assistance
19 that the Commission considers necessary to enable
20 the Commission to carry out the requirements of
21 this section. Upon request of the Commission, the
22 head of such department or agency shall furnish
23 such information expeditiously to the Commission.
24 Whenever information or assistance requested by the
25 Commission is unreasonably refused or not provided,

1 the Commission shall report the circumstances to
2 Congress without delay.

3 (4) PERSONNEL.—The Commission shall have
4 the authorities provided in section 3161 of title 5,
5 United States Code, and shall be subject to the con-
6 ditions set forth in such section, except to the extent
7 that such conditions would be inconsistent with the
8 requirements of this section.

9 (5) DETAILEES.—Any employee of the Federal
10 Government may be detailed to the Commission
11 without reimbursement from the Commission, and
12 such detailee shall retain the rights, status, and
13 privileges of his or her regular employment without
14 interruption.

15 (6) SECURITY CLEARANCES.—The appropriate
16 departments or agencies of the Federal Government
17 shall cooperate with the Commission in expeditiously
18 providing to the Commission members and staff ap-
19 propriate security clearances to the extent possible
20 pursuant to existing procedures and requirements,
21 except that no person shall be provided with access
22 to classified information under this section without
23 the appropriate security clearances.

24 (7) VIOLATIONS OF LAW.—

1 (A) REFERRAL TO ATTORNEY GENERAL.—
2 The Commission may refer to the Attorney
3 General any violation or potential violation of
4 law identified by the Commission in carrying
5 out its duties under this section.

6 (B) REPORTS ON RESULTS OF REFER-
7 RAL.—The Attorney General shall submit to
8 Congress a report on each prosecution, convic-
9 tion, resolution, or other disposition that results
10 from a referral made under this subparagraph.

11 (f) TERMINATION.—The Commission shall terminate
12 on the date that is 60 days after the date of the submittal
13 of its final report under subsection (d)(3).

14 (g) DEFINITIONS.—In this section:

15 (1) CONTINGENCY CONTRACTING.—The term
16 “contingency contracting” means all stages of the
17 process of acquiring property or services during a
18 contingency operation.

19 (2) CONTINGENCY OPERATION.—The term
20 “contingency operation” has the meaning given that
21 term in section 101 of title 10, United States Code.

22 (3) CONTINGENCY PROGRAM MANAGEMENT.—
23 The term “contingency program management”
24 means the process of planning, organizing, staffing,
25 controlling, and leading the combined efforts of par-

1 participating personnel for the management of a spe-
2 cific acquisition program or programs during contin-
3 gency operations.

4 **SEC. 842. INVESTIGATION OF WASTE, FRAUD, AND ABUSE**
5 **IN WARTIME CONTRACTS AND CONTRACTING**
6 **PROCESSES IN IRAQ AND AFGHANISTAN.**

7 (a) AUDITS REQUIRED.—Thorough audits shall be
8 performed in accordance with this section to identify po-
9 tential waste, fraud, and abuse in the performance of—

10 (1) Department of Defense contracts, sub-
11 contracts, and task and delivery orders for the
12 logistical support of coalition forces in Iraq and Af-
13 ghanistan; and

14 (2) Federal agency contracts, subcontracts, and
15 task and delivery orders for the performance of secu-
16 rity and reconstruction functions in Iraq and Af-
17 ghanistan.

18 (b) AUDIT PLANS.—

19 (1) The Department of Defense Inspector Gen-
20 eral shall develop a comprehensive plan for a series
21 of audits of contracts, subcontracts, and task and
22 delivery orders covered by subsection (a)(1), con-
23 sistent with the requirements of subsection (g), in
24 consultation with other Inspectors General specified
25 in subsection (c) with regard to any contracts, sub-

1 contracts, or task or delivery orders over which such
2 Inspectors General have jurisdiction.

3 (2) The Special Inspector General for Iraq Re-
4 construction shall develop a comprehensive plan for
5 a series of audits of contracts, subcontracts, and
6 task and delivery orders covered by subsection (a)(2)
7 relating to Iraq, consistent with the requirements of
8 subsection (h), in consultation with other Inspectors
9 General specified in subsection (c) with regard to
10 any contracts, subcontracts, or task or delivery or-
11 ders over which such Inspectors General have juris-
12 diction.

13 (3) The Special Inspector General for Afghani-
14 stan Reconstruction shall develop a comprehensive
15 plan for a series of audits of contracts, subcontracts,
16 and task and delivery orders covered by subsection
17 (a)(2) relating to Afghanistan, consistent with the
18 requirements of subsection (h), in consultation with
19 other Inspectors General specified in subsection (c)
20 with regard to any contracts, subcontracts, or task
21 or delivery orders over which such Inspectors Gen-
22 eral have jurisdiction.

23 (c) PERFORMANCE OF AUDITS BY CERTAIN INSPEC-
24 TORS GENERAL.—The Special Inspector General for Iraq
25 Reconstruction, during such period as such office exists,

1 the Special Inspector General for Afghanistan Reconstruc-
2 tion, during such period as such office exists, the Inspector
3 General of the Department of Defense, the Inspector Gen-
4 eral of the Department of State, and the Inspector Gen-
5 eral of the United States Agency for International Devel-
6 opment shall perform such audits as required by sub-
7 section (a) and identified in the audit plans developed pur-
8 suant to subsection (b) as fall within the respective scope
9 of their duties as specified in law.

10 (d) COORDINATION OF AUDITS.—The Inspectors
11 General specified in subsection (c) shall work to coordinate
12 the performance of the audits required by subsection (a)
13 and identified in the audit plans developed under to sub-
14 section (b) including through councils and working groups
15 composed of such Inspectors General.

16 (e) JOINT AUDITS.—If one or more audits required
17 by subsection (a) and identified in an audit plan developed
18 under subsection (b) falls within the scope of the duties
19 of more than one of the Inspectors General specified in
20 subsection (c), and such Inspectors General agree that
21 such audit or audits are best pursued jointly, such Inspec-
22 tors General shall enter into a memorandum of under-
23 standing relating to the performance of such audit or au-
24 dits.

1 (f) SEPARATE AUDITS.—If one or more audits re-
2 quired by subsection (a) and identified in an audit plan
3 developed under subsection (b) falls within the scope of
4 the duties of more than one of the Inspectors General
5 specified in subsection (c), and such Inspectors General
6 do not agree that such audit or audits are best pursued
7 jointly, such audit or audits shall be separately performed
8 by one or more of the Inspectors General concerned.

9 (g) SCOPE OF AUDITS OF CONTRACTS.—Audits con-
10 ducted pursuant to subsection (a)(1) shall examine, at a
11 minimum, one or more of the following issues:

12 (1) The manner in which contract requirements
13 were developed.

14 (2) The procedures under which contracts or
15 task or delivery orders were awarded.

16 (3) The terms and conditions of contracts or
17 task or delivery orders.

18 (4) The staffing and method of performance of
19 contractors, including cost controls.

20 (5) The efficacy of Department of Defense
21 management and oversight, including the adequacy
22 of staffing and training of officials responsible for
23 such management and oversight.

1 (6) The flow of information from contractors to
2 officials responsible for contract management and
3 oversight.

4 (h) SCOPE OF AUDITS OF OTHER CONTRACTS.—Au-
5 dits conducted pursuant to subsection (a)(2) shall exam-
6 ine, at a minimum, one or more of the following issues:

7 (1) The manner in which contract requirements
8 were developed and contracts or task and delivery
9 orders were awarded.

10 (2) The manner in which the Federal agency
11 exercised control over the performance of contrac-
12 tors.

13 (3) The extent to which operational field com-
14 manders were able to coordinate or direct the per-
15 formance of contractors in an area of combat oper-
16 ations.

17 (4) The degree to which contractor employees
18 were properly screened, selected, trained, and
19 equipped for the functions to be performed.

20 (5) The nature and extent of any incidents of
21 misconduct or unlawful activity by contractor em-
22 ployees.

23 (6) The nature and extent of any activity by
24 contractor employees that was inconsistent with the
25 objectives of operational field commanders.

1 “(i) the task or delivery orders expected under
2 the contract are so integrally related that only a sin-
3 gle source can reasonably perform the work;

4 “(ii) the contract provides only for firm, fixed
5 price task orders or delivery orders for—

6 “(I) products for which unit prices are es-
7 tablished in the contract; or

8 “(II) services for which prices are estab-
9 lished in the contract for the specific tasks to
10 be performed;

11 “(iii) only one source is qualified and capable of
12 performing the work at a reasonable price to the
13 government; or

14 “(iv) because of exceptional circumstances, it is
15 necessary in the public interest to award the con-
16 tract to a single source.

17 “(B) The head of the agency shall notify Congress
18 within 30 days after any determination under subpara-
19 graph (A)(iv).”.

20 (2) ENHANCED COMPETITION FOR ORDERS IN
21 EXCESS OF \$5,000,000.—Section 2304c of such title
22 is amended—

23 (A) by redesignating subsections (d), (e),
24 and (f) as subsections (e), (f), and (g), respec-
25 tively;

1 (B) by inserting after subsection (c) the
2 following new subsection (d):

3 “(d) ENHANCED COMPETITION FOR ORDERS IN EX-
4 CESS OF \$5,000,000.—In the case of a task or delivery
5 order in excess of \$5,000,000, the requirement to provide
6 all contractors a fair opportunity to be considered under
7 subsection (b) is not met unless all such contractors are
8 provided, at a minimum—

9 “(1) a notice of the task or delivery order that
10 includes a clear statement of the agency’s require-
11 ments;

12 “(2) a reasonable period of time to provide a
13 proposal in response to the notice;

14 “(3) disclosure of the significant factors and
15 subfactors, including cost or price, that the agency
16 expects to consider in evaluating such proposals, and
17 their relative importance;

18 “(4) in the case of an award that is to be made
19 on a best value basis, a written statement docu-
20 menting the basis for the award and the relative im-
21 portance of quality and price or cost factors; and

22 “(5) an opportunity for a post-award debriefing
23 consistent with the requirements of section
24 2305(b)(5) of this title.”; and

1 (C) by striking subsection (e), as redesignig-
2 nated by paragraph (1), and inserting the fol-
3 lowing new subsection (e):

4 “(e) PROTESTS.—(1) A protest is not authorized in
5 connection with the issuance or proposed issuance of a
6 task or delivery order except for—

7 “(A) a protest on the ground that the order in-
8 creases the scope, period, or maximum value of the
9 contract under which the order is issued; or

10 “(B) a protest of an order valued in excess of
11 \$10,000,000.

12 “(2) Notwithstanding section 3556 of title 31, the
13 Comptroller General of the United States shall have exclu-
14 sive jurisdiction of a protest authorized under paragraph
15 (1)(B).

16 “(3) This subsection shall be in effect for three years,
17 beginning on the date that is 120 days after the date of
18 the enactment of the National Defense Authorization Act
19 for Fiscal Year 2008.”.

20 (3) EFFECTIVE DATES.—

21 (A) SINGLE AWARD CONTRACTS.—The
22 amendments made by paragraph (1) shall take
23 effect on the date that is 120 days after the
24 date of the enactment of this Act, and shall

1 apply with respect to any contract awarded on
2 or after such date.

3 (B) ORDERS IN EXCESS OF \$5,000,000.—

4 The amendments made by paragraph (2) shall
5 take effect on the date that is 120 days after
6 the date of the enactment of this Act, and shall
7 apply with respect to any task or delivery order
8 awarded on or after such date.

9 (b) CIVILIAN AGENCY CONTRACTS.—

10 (1) LIMITATION ON SINGLE AWARD CON-
11 TRACTS.—Section 303H(d) of the Federal Property
12 and Administrative Services Act of 1949 (41 U.S.C.
13 253h(d)) is amended—

14 (A) by redesignating paragraph (3) as
15 paragraph (4); and

16 (B) by inserting after paragraph (2) the
17 following new paragraph (3):

18 “(3)(A) No task or delivery order contract in an
19 amount estimated to exceed \$100,000,000 (including all
20 options) may be awarded to a single source unless the
21 head of the executive agency determines in writing that—

22 “(i) the task or delivery orders expected under
23 the contract are so integrally related that only a sin-
24 gle source can reasonably perform the work;

1 “(ii) the contract provides only for firm, fixed
2 price task orders or delivery orders for—

3 “(I) products for which unit prices are es-
4 tablished in the contract; or

5 “(II) services for which prices are estab-
6 lished in the contract for the specific tasks to
7 be performed;

8 “(iii) only one source is qualified and capable of
9 performing the work at a reasonable price to the
10 government; or

11 “(iv) because of exceptional circumstances, it is
12 necessary in the public interest to award the con-
13 tract to a single source.

14 “(B) The head of the executive agency shall notify
15 Congress within 30 days after any determination under
16 subparagraph (A)(iv).”.

17 (2) ENHANCED COMPETITION FOR ORDERS IN
18 EXCESS OF \$5,000,000.—Section 303J of such Act
19 (41 U.S.C. 253j) is amended—

20 (A) by redesignating subsections (d), (e),
21 and (f) as subsections (e), (f), and (g), respec-
22 tively;

23 (B) by inserting after subsection (c) the
24 following new subsection (d):

1 “(d) ENHANCED COMPETITION FOR ORDERS IN EX-
2 CESS OF \$5,000,000.—In the case of a task or delivery
3 order in excess of \$5,000,000, the requirement to provide
4 all contractors a fair opportunity to be considered under
5 subsection (b) is not met unless all such contractors are
6 provided, at a minimum—

7 “(1) a notice of the task or delivery order that
8 includes a clear statement of the executive agency’s
9 requirements;

10 “(2) a reasonable period of time to provide a
11 proposal in response to the notice;

12 “(3) disclosure of the significant factors and
13 subfactors, including cost or price, that the executive
14 agency expects to consider in evaluating such pro-
15 posals, and their relative importance;

16 “(4) in the case of an award that is to be made
17 on a best value basis, a written statement docu-
18 menting the basis for the award and the relative im-
19 portance of quality and price or cost factors; and

20 “(5) an opportunity for a post-award debriefing
21 consistent with the requirements of section
22 303B(e).”; and

23 (C) by striking subsection (e), as redesign-
24 nated by paragraph (1), and inserting the fol-
25 lowing new subsection (e):

1 “(e) PROTESTS.—(1) A protest is not authorized in
2 connection with the issuance or proposed issuance of a
3 task or delivery order except for—

4 “(A) a protest on the ground that the order in-
5 creases the scope, period, or maximum value of the
6 contract under which the order is issued; or

7 “(B) a protest of an order valued in excess of
8 \$10,000,000.

9 “(2) Notwithstanding section 3556 of title 31, United
10 States Code, the Comptroller General of the United States
11 shall have exclusive jurisdiction of a protest authorized
12 under paragraph (1)(B).

13 “(3) This subsection shall be in effect for three years,
14 beginning on the date that is 120 days after the date of
15 the enactment of the National Defense Authorization Act
16 for Fiscal Year 2008.”.

17 (3) EFFECTIVE DATES.—

18 (A) SINGLE AWARD CONTRACTS.—The
19 amendments made by paragraph (1) shall take
20 effect on the date that is 120 days after the
21 date of the enactment of this Act, and shall
22 apply with respect to any contract awarded on
23 or after such date.

24 (B) ORDERS IN EXCESS OF \$5,000,000.—
25 The amendments made by paragraph (2) shall

1 take effect on the date that is 120 days after
2 the date of the enactment of this Act, and shall
3 apply with respect to any task or delivery order
4 awarded on or after such date.

5 **SEC. 844. PUBLIC DISCLOSURE OF JUSTIFICATION AND AP-**
6 **PROVAL DOCUMENTS FOR NONCOMPETITIVE**
7 **CONTRACTS.**

8 (a) CIVILIAN AGENCY CONTRACTS.—

9 (1) IN GENERAL.—Section 303 of the Federal
10 Property and Administrative Services Act of 1949
11 (41 U.S.C. 253) is amended by adding at the end
12 the following new subsection:

13 “(j)(1)(A) Except as provided in subparagraph (B),
14 in the case of a procurement permitted by subsection (c),
15 the head of an executive agency shall make publicly avail-
16 able, within 14 days after the award of the contract, the
17 documents containing the justification and approval re-
18 quired by subsection (f)(1) with respect to the procure-
19 ment.

20 “(B) In the case of a procurement permitted by sub-
21 section (c)(2), subparagraph (A) shall be applied by sub-
22 stituting ‘30 days’ for ‘14 days’.

23 “(2) The documents shall be made available on the
24 website of the agency and through a government-wide

1 website selected by the Administrator for Federal Procure-
2 ment Policy.

3 “(3) This subsection does not require the public avail-
4 ability of information that is exempt from public disclosure
5 under section 552(b) of title 5, United States Code.”.

6 (2) CONFORMING AMENDMENT.—Section 303(f)
7 of such Act is amended—

8 (A) by striking paragraph (4); and

9 (B) by redesignating paragraph (5) as
10 paragraph (4).

11 (b) DEFENSE AGENCY CONTRACTS.—

12 (1) IN GENERAL.—Section 2304 of title 10,
13 United States Code, is amended by adding at the
14 end the following new subsection:

15 “(1)(1)(A) Except as provided in subparagraph (B),
16 in the case of a procurement permitted by subsection (c),
17 the head of an agency shall make publicly available, within
18 14 days after the award of the contract, the documents
19 containing the justification and approval required by sub-
20 section (f)(1) with respect to the procurement.

21 “(B) In the case of a procurement permitted by sub-
22 section (c)(2), subparagraph (A) shall be applied by sub-
23 stituting ‘30 days’ for ‘14 days’.

24 “(2) The documents shall be made available on the
25 website of the agency and through a government-wide

1 website selected by the Administrator for Federal Procure-
2 ment Policy.

3 “(3) This subsection does not require the public avail-
4 ability of information that is exempt from public disclosure
5 under section 552(b) of title 5.”

6 (2) CONFORMING AMENDMENT.—Section
7 2304(f) of such title is amended—

8 (A) by striking paragraph (4); and

9 (B) by redesignating paragraphs (5) and
10 (6) as paragraphs (4) and (5), respectively.

11 **SEC. 845. DISCLOSURE OF GOVERNMENT CONTRACTOR**
12 **AUDIT FINDINGS.**

13 (a) REQUIRED ANNEX ON SIGNIFICANT AUDIT FIND-
14 INGS.—

15 (1) IN GENERAL.—Each Inspector General ap-
16 pointed under the Inspector General Act of 1978
17 shall submit, as part of the semiannual report sub-
18 mitted to Congress pursuant to section 5 of such
19 Act, an annex on final, completed contract audit re-
20 ports issued to the contracting activity containing
21 significant audit findings issued during the period
22 covered by the semiannual report concerned.

23 (2) ELEMENTS.—Such annex shall include—

24 (A) a list of such contract audit reports;

1 (B) for each audit report, a brief descrip-
2 tion of the nature of the significant audit find-
3 ings in the report; and

4 (C) for each audit report, the specific
5 amounts of costs identified as unsupported,
6 questioned, or disallowed.

7 (3) INFORMATION EXEMPT FROM PUBLIC DIS-
8 CLOSURE.—(A) Nothing in this subsection shall be
9 construed to require the release of information to
10 the public that is exempt from public disclosure
11 under section 552(b) of title 5, United States Code.

12 (B) For each element required by paragraph
13 (2), the Inspector General concerned shall note each
14 instance where information has been redacted in ac-
15 cordance with the requirements of section 552(b) of
16 title 5, United States Code, and submit an
17 unredacted annex to the committees listed in sub-
18 section (d)(2) within 7 days after the issuance of the
19 semiannual report.

20 (b) DEFENSE CONTRACT AUDIT AGENCY IN-
21 CLUDED.—For purposes of subsection (a), audits of the
22 Defense Contract Audit Agency shall be included in the
23 annex provided by the Inspector General of the Depart-
24 ment of Defense if they include significant audit findings.

1 (c) EXCEPTION.—Subsection (a) shall not apply to
2 an Inspector General if no audits described in such sub-
3 section were issued during the covered period.

4 (d) SUBMISSION OF INDIVIDUAL AUDITS.—

5 (1) REQUIREMENT.—The head of each Federal
6 department or agency shall provide, within 14 days
7 after a request in writing by the chairman or rank-
8 ing member of any committee listed in paragraph
9 (2), a full and unredacted copy of any audit de-
10 scribed in subsection (a). Such copy shall include an
11 identification of information in the audit exempt
12 from public disclosure under section 552(b) of title
13 5, United States Code.

14 (2) COMMITTEES.—The committees listed in
15 this paragraph are the following:

16 (A) The Committee on Oversight and Gov-
17 ernment Reform of the House of Representa-
18 tives.

19 (B) The Committee on Homeland Security
20 and Governmental Affairs of the Senate.

21 (C) The Committees on Appropriations of
22 the House of Representatives and the Senate.

23 (D) With respect to the Department of De-
24 fense and the Department of Energy, the Com-

1 mittees on Armed Services of the Senate and
2 House of Representatives.

3 (E) The Committees of primary jurisdic-
4 tion over the agency or department to which the
5 request is made.

6 (e) CLASSIFIED INFORMATION.—Nothing in this sec-
7 tion shall be interpreted to require the handling of classi-
8 fied information or information relating to intelligence
9 sources and methods in a manner inconsistent with any
10 law, regulation, executive order, or rule of the House of
11 Representatives or of the Senate relating to the handling
12 or protection of such information.

13 (f) DEFINITIONS.—In this section:

14 (1) SIGNIFICANT AUDIT FINDINGS.—The term
15 “significant audit findings” includes—

16 (A) unsupported, questioned, or disallowed
17 costs in an amount in excess of \$10,000,000; or

18 (B) other findings that the Inspector Gen-
19 eral of the agency or department concerned de-
20 termines to be significant.

21 (2) CONTRACT.—The term “contract” includes
22 a contract, an order placed under a task or delivery
23 order contract, or a subcontract.

1 **SEC. 846. PROTECTION FOR CONTRACTOR EMPLOYEES**
2 **FROM REPRISAL FOR DISCLOSURE OF CER-**
3 **TAIN INFORMATION.**

4 (a) INCREASED PROTECTION FROM REPRISAL.—
5 Subsection (a) of section 2409 of title 10, United States
6 Code, is amended—

7 (1) by striking “disclosing to a Member of Con-
8 gress” and inserting “disclosing to a Member of
9 Congress, a representative of a committee of Con-
10 gress, an Inspector General, the Government Ac-
11 countability Office, a Department of Defense em-
12 ployee responsible for contract oversight or manage-
13 ment,”; and

14 (2) by striking “information relating to a sub-
15 stantial violation of law related to a contract (includ-
16 ing the competition for or negotiation of a con-
17 tract)” and inserting “information that the employee
18 reasonably believes is evidence of gross mismanage-
19 ment of a Department of Defense contract or grant,
20 a gross waste of Department of Defense funds, a
21 substantial and specific danger to public health or
22 safety, or a violation of law related to a Department
23 of Defense contract (including the competition for or
24 negotiation of a contract) or grant”.

1 (b) CLARIFICATION OF INSPECTOR GENERAL DE-
2 TERMINATION.—Subsection (b) of such section is amend-
3 ed—

4 (1) by inserting “(1)” after “INVESTIGATION
5 OF COMPLAINTS.—”;

6 (2) by striking “an agency” and inserting “the
7 Department of Defense, or the Inspector General of
8 the National Aeronautics and Space Administration
9 in the case of a complaint regarding the National
10 Aeronautics and Space Administration”; and

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

13 “(2)(A) Except as provided under subparagraph (B),
14 the Inspector General shall make a determination that a
15 complaint is frivolous or submit a report under paragraph
16 (1) within 180 days after receiving the complaint.

17 “(B) If the Inspector General is unable to complete
18 an investigation in time to submit a report within the 180-
19 day period specified in subparagraph (A) and the person
20 submitting the complaint agrees to an extension of time,
21 the Inspector General shall submit a report under para-
22 graph (1) within such additional period of time as shall
23 be agreed upon between the Inspector General and the
24 person submitting the complaint.”.

1 (c) ACCELERATION OF SCHEDULE FOR DENYING RE-
2 LIEF OR PROVIDING REMEDY.—Subsection (c) of such
3 section is amended—

4 (1) in paragraph (1), by striking “If the head
5 of the agency determines that a contractor has sub-
6 jected a person to a reprisal prohibited by subsection
7 (a), the head of the agency may” and inserting after
8 “(1)” the following: “Not later than 30 days after
9 receiving an Inspector General report pursuant to
10 subsection (b), the head of the agency concerned
11 shall determine whether there is sufficient basis to
12 conclude that the contractor concerned has subjected
13 the complainant to a reprisal prohibited by sub-
14 section (a) and shall either issue an order denying
15 relief or shall”;

16 (2) by redesignating paragraphs (2) and (3) as
17 paragraphs (4) and (5), respectively; and

18 (3) by inserting after paragraph (1) the fol-
19 lowing new paragraphs:

20 “(2) If the head of an executive agency issues an
21 order denying relief under paragraph (1) or has not issued
22 an order within 210 days after the submission of a com-
23 plaint under subsection (b), or in the case of an extension
24 of time under paragraph (b)(2)(B), not later than 30 days
25 after the expiration of the extension of time, and there

1 is no showing that such delay is due to the bad faith of
2 the complainant, the complainant shall be deemed to have
3 exhausted all administrative remedies with respect to the
4 complaint, and the complainant may bring a de novo ac-
5 tion at law or equity against the contractor to seek com-
6 pensatory damages and other relief available under this
7 section in the appropriate district court of the United
8 States, which shall have jurisdiction over such an action
9 without regard to the amount in controversy. Such an ac-
10 tion shall, at the request of either party to the action, be
11 tried by the court with a jury.

12 “(3) An Inspector General determination and an
13 agency head order denying relief under paragraph (2)
14 shall be admissible in evidence in any de novo action at
15 law or equity brought pursuant to this subsection.”.

16 (d) DEFINITIONS.—Subsection (e) of such section is
17 amended—

18 (1) in paragraph (4), by inserting “or a grant”
19 after “a contract”; and

20 (2) by inserting before the period at the end the
21 following: “and any Inspector General that receives
22 funding from, or has oversight over contracts award-
23 ed for or on behalf of, the Secretary of Defense”.

1 **SEC. 847. REQUIREMENTS FOR SENIOR DEPARTMENT OF**
2 **DEFENSE OFFICIALS SEEKING EMPLOYMENT**
3 **WITH DEFENSE CONTRACTORS.**

4 (a) REQUIREMENT TO SEEK AND OBTAIN WRITTEN
5 OPINION.—

6 (1) REQUEST.—An official or former official of
7 the Department of Defense described in subsection
8 (c) who, within two years after leaving service in the
9 Department of Defense, expects to receive com-
10 pensation from a Department of Defense contractor,
11 shall, prior to accepting such compensation, request
12 a written opinion regarding the applicability of post-
13 employment restrictions to activities that the official
14 or former official may undertake on behalf of a con-
15 tractor.

16 (2) SUBMISSION OF REQUEST.—A request for a
17 written opinion under paragraph (1) shall be sub-
18 mitted in writing to an ethics official of the Depart-
19 ment of Defense having responsibility for the organi-
20 zation in which the official or former official serves
21 or served and shall set forth all information relevant
22 to the request, including information relating to gov-
23 ernment positions held and major duties in those po-
24 sitions, actions taken concerning future employment,
25 positions sought, and future job descriptions, if ap-
26 plicable.

1 (3) WRITTEN OPINION.—Not later than 30
2 days after receiving a request by an official or
3 former official of the Department of Defense de-
4 scribed in subsection (c), the appropriate ethics
5 counselor shall provide such official or former offi-
6 cial a written opinion regarding the applicability or
7 inapplicability of post-employment restrictions to ac-
8 tivities that the official or former official may under-
9 take on behalf of a contractor.

10 (4) CONTRACTOR REQUIREMENT.—A Depart-
11 ment of Defense contractor may not knowingly pro-
12 vide compensation to a former Department of De-
13 fense official described in subsection (c) within two
14 years after such former official leaves service in the
15 Department of Defense, without first determining
16 that the former official has sought and received (or
17 has not received after 30 days of seeking) a written
18 opinion from the appropriate ethics counselor re-
19 garding the applicability of post-employment restric-
20 tions to the activities that the former official is ex-
21 pected to undertake on behalf of the contractor.

22 (5) ADMINISTRATIVE ACTIONS.—In the event
23 that an official or former official of the Department
24 of Defense described in subsection (c), or a Depart-
25 ment of Defense contractor, knowingly fails to com-

1 ply with the requirements of this subsection, the
2 Secretary of Defense may take any of the adminis-
3 trative actions set forth in section 27(e) of the Office
4 of Federal Procurement Policy Act (41 U.S.C.
5 423(e)) that the Secretary of Defense determines to
6 be appropriate.

7 (b) RECORDKEEPING REQUIREMENT.—

8 (1) DATABASE.—Each request for a written
9 opinion made pursuant to this section, and each
10 written opinion provided pursuant to such a request,
11 shall be retained by the Department of Defense in
12 a central database or repository for not less than
13 five years beginning on the date on which the writ-
14 ten opinion was provided.

15 (2) INSPECTOR GENERAL REVIEW.—The In-
16 spector General of the Department of Defense shall
17 conduct periodic reviews to ensure that written opin-
18 ions are being provided and retained in accordance
19 with the requirements of this section. The first such
20 review shall be conducted no later than two years
21 after the date of the enactment of this Act.

22 (c) COVERED DEPARTMENT OF DEFENSE OFFI-
23 CIALS.—An official or former official of the Department
24 of Defense is covered by the requirements of this section
25 if such official or former official—

1 (1) participated personally and substantially in
2 an acquisition as defined in section 4(16) of the Of-
3 fice of Federal Procurement Policy Act with a value
4 in excess of \$10,000,000 and serves or served—

5 (A) in an Executive Schedule position
6 under subchapter II of chapter 53 of title 5,
7 United States Code;

8 (B) in a position in the Senior Executive
9 Service under subchapter VIII of chapter 53 of
10 title 5, United States Code; or

11 (C) in a general or flag officer position
12 compensated at a rate of pay for grade O-7 or
13 above under section 201 of title 37, United
14 States Code; or

15 (2) serves or served as a program manager,
16 deputy program manager, procuring contracting offi-
17 cer, administrative contracting officer, source selec-
18 tion authority, member of the source selection eval-
19 uation board, or chief of a financial or technical
20 evaluation team for a contract in an amount in ex-
21 cess of \$10,000,000.

22 (d) DEFINITION.—In this section, the term “post-em-
23 ployment restrictions” includes—

24 (1) section 27 of the Office of Federal Procure-
25 ment Policy Act (41 U.S.C. 423);

1 (2) section 207 of title 18, United States Code;

2 and

3 (3) any other statute or regulation restricting

4 the employment or activities of individuals who leave

5 government service in the Department of Defense.

6 **SEC. 848. REPORT ON CONTRACTOR ETHICS PROGRAMS OF**

7 **MAJOR DEFENSE CONTRACTORS.**

8 (a) **REPORT REQUIRED.**—Not later than one year
9 after the date of the enactment of this Act, the Comp-
10 troller General of the United States shall submit to the
11 Committees on Armed Services of the Senate and the
12 House of Representatives a report on the internal ethics
13 programs of major defense contractors.

14 (b) **ELEMENTS.**—The report required by subsection
15 (a) shall address, at a minimum—

16 (1) the extent to which major defense contrac-
17 tors have internal ethics programs in place;

18 (2) the extent to which the ethics programs de-
19 scribed in paragraph (1) include—

20 (A) the availability of internal mechanisms,
21 such as hotlines, for contractor employees to re-
22 port conduct that may violate applicable re-
23 quirements of law or regulation;

24 (B) notification to contractor employees of
25 the availability of external mechanisms, such as

1 the hotline of the Inspector General of the De-
2 partment of Defense, for the reporting of con-
3 duct that may violate applicable requirements of
4 law or regulation;

5 (C) notification to contractor employees of
6 their right to be free from reprisal for dis-
7 closing a substantial violation of law related to
8 a contract, in accordance with section 2409 of
9 title 10, United States Code;

10 (D) ethics training programs for con-
11 tractor officers and employees;

12 (E) internal audit or review programs to
13 identify and address conduct that may violate
14 applicable requirements of law or regulation;

15 (F) self-reporting requirements, under
16 which contractors report conduct that may vio-
17 late applicable requirements of law or regula-
18 tion to appropriate government officials;

19 (G) disciplinary action for contractor em-
20 ployees whose conduct is determined to have
21 violated applicable requirements of law or regu-
22 lation; and

23 (H) appropriate management oversight to
24 ensure the successful implementation of such
25 ethics programs;

1 (1) by redesignating subsection (e) as sub-
2 section (f); and

3 (2) by inserting after subsection (d) the fol-
4 lowing new subsection (e):

5 “(e) TRAINING FOR PERSONNEL OUTSIDE ACQUI-
6 TION WORKFORCE.—(1) The joint policy for requirements
7 definition, contingency program management, and contin-
8 gency contracting required by subsection (a) shall provide
9 for training of military personnel outside the acquisition
10 workforce (including operational field commanders and of-
11 ficers performing key staff functions for operational field
12 commanders) who are expected to have acquisition respon-
13 sibility, including oversight duties associated with con-
14 tracts or contractors, during combat operations, post-con-
15 flict operations, and contingency operations.

16 “(2) Training under paragraph (1) shall be sufficient
17 to ensure that the military personnel referred to in that
18 paragraph understand the scope and scale of contractor
19 support they will experience in contingency operations and
20 are prepared for their roles and responsibilities with re-
21 gard to requirements definition, program management (in-
22 cluding contractor oversight), and contingency con-
23 tracting.

24 “(3) The joint policy shall also provide for the incor-
25 poration of contractors and contract operations in mission

1 readiness exercises for operations that will include con-
2 tracting and contractor support.”.

3 (b) ORGANIZATIONAL REQUIREMENTS.—

4 (1) EVALUATION BY THE SECRETARY OF DE-
5 FENSE.—The Secretary of Defense, in consultation
6 with the Chairman of the Joint Chiefs of Staff, shall
7 evaluate the recommendations included in the report
8 of the Commission on Army Acquisition and Pro-
9 gram Management in Expeditionary Operations and
10 shall determine the extent to which such rec-
11 ommendations are applicable to the other Armed
12 Forces. Not later than 120 days after the date of
13 the enactment of this Act, the Secretary of Defense
14 shall submit a report to the congressional defense
15 committees with the conclusions of this evaluation
16 and a description of the Secretary’s plans for imple-
17 menting the Commission’s recommendations for
18 Armed Forces other than the Army.

19 (2) EVALUATION BY THE SECRETARY OF THE
20 ARMY.—The Secretary of the Army, in consultation
21 with the Chief of Staff of the Army, shall evaluate
22 the recommendations included in the report of the
23 Commission on Army Acquisition and Program
24 Management in Expeditionary Operations. Not later
25 than 120 days after the date of the enactment of

1 this Act, the Secretary of the Army shall submit to
2 the congressional defense committees a report detail-
3 ing the Secretary's plans for implementation of the
4 recommendations of the Commission. The report
5 shall include the following:

6 (A) For each recommendation that has
7 been implemented, or that the Secretary plans
8 to implement—

9 (i) a summary of all actions that have
10 been taken to implement such rec-
11 ommendation; and

12 (ii) a schedule, with specific mile-
13 stones, for completing the implementation
14 of such recommendation.

15 (B) For each recommendation that the
16 Secretary has not implemented and does not
17 plan to implement—

18 (i) the reasons for the decision not to
19 implement such recommendation; and

20 (ii) a summary of any alternative ac-
21 tions the Secretary plans to take to ad-
22 dress the purposes underlying such rec-
23 ommendation.

1 (C) For each recommendation that would
2 require legislation to implement, the Secretary's
3 recommendations regarding such legislation.

4 (c) **COMPTROLLER GENERAL REPORT.**—Section
5 854(c) of the John Warner National Defense Authoriza-
6 tion Act for Fiscal Year 2007 (Public Law 109–364; 120
7 Stat. 2346) is amended by adding at the end the following
8 new paragraph:

9 “(3) **COMPTROLLER GENERAL REPORT.**—Not
10 later than 180 days after the date on which the Sec-
11 retary of Defense submits the final report required
12 by paragraph (2), the Comptroller General of the
13 United States shall—

14 “(A) review the joint policies developed by
15 the Secretary, including the implementation of
16 such policies; and

17 “(B) submit to the Committees on Armed
18 Services of the Senate and the House of Rep-
19 resentatives a report on the extent to which
20 such policies, and the implementation of such
21 policies, comply with the requirements of sec-
22 tion 2333 of title 10, United States Code (as so
23 amended).”.

1 **Subtitle E—Acquisition Workforce**
2 **Provisions**

3 **SEC. 851. REQUIREMENT FOR SECTION ON DEFENSE AC-**
4 **QUISITION WORKFORCE IN STRATEGIC**
5 **HUMAN CAPITAL PLAN.**

6 (a) **IN GENERAL.**—In the update of the strategic
7 human capital plan for 2008, and in each subsequent up-
8 date, the Secretary of Defense shall include a separate sec-
9 tion focused on the defense acquisition workforce, includ-
10 ing both military and civilian personnel.

11 (b) **FUNDING.**—The section shall contain—

12 (1) an identification of the funding programmed
13 for defense acquisition workforce improvements, includ-
14 ing a specific identification of funding provided
15 in the Department of Defense Acquisition Workforce
16 Fund established under section 1705 of title 10,
17 United States Code (as added by section 852 of this
18 Act);

19 (2) an identification of the funding programmed
20 for defense acquisition workforce training in the fu-
21 ture-years defense program, including a specific
22 identification of funding provided by the acquisition
23 workforce training fund established under section
24 37(h)(3) of the Office of Federal Procurement Pol-
25 icy Act (41 U.S.C. 433(h)(3));

1 (3) a description of how the funding identified
2 pursuant to paragraphs (1) and (2) will be imple-
3 mented during the fiscal year concerned to address
4 the areas of need identified in accordance with sub-
5 section (c);

6 (4) a statement of whether the funding identi-
7 fied under paragraphs (1) and (2) is being fully
8 used; and

9 (5) a description of any continuing shortfall in
10 funding available for the defense acquisition work-
11 force.

12 (c) AREAS OF NEED.—The section also shall identify
13 any areas of need in the defense acquisition workforce, in-
14 cluding—

15 (1) gaps in the skills and competencies of the
16 current or projected defense acquisition workforce;

17 (2) changes to the types of skills needed in the
18 current or projected defense acquisition workforce;

19 (3) incentives to retain in the defense acquisi-
20 tion workforce qualified, experienced defense acquisi-
21 tion workforce personnel; and

22 (4) incentives for attracting new, high-quality
23 personnel to the defense acquisition workforce.

24 (d) STRATEGIC HUMAN CAPITAL PLAN DEFINED.—

25 In this section, the term “strategic human capital plan”

1 means the strategic human capital plan required under
2 section 1122 of the National Defense Authorization Act
3 for Fiscal Year 2006 (Public Law 109–163; 119 Stat.
4 3452; 10 U.S.C. prec. 1580 note).

5 **SEC. 852. DEPARTMENT OF DEFENSE ACQUISITION WORK-**
6 **FORCE DEVELOPMENT FUND.**

7 (a) IN GENERAL.—

8 (1) ESTABLISHMENT OF FUND.—Chapter 87 of
9 title 10, United States Code, is amended by insert-
10 ing after section 1704 the following new section:

11 **“§ 1705. Department of Defense Acquisition Work-**
12 **force Development Fund**

13 “(a) ESTABLISHMENT.—The Secretary of Defense
14 shall establish a fund to be known as the ‘Department of
15 Defense Acquisition Workforce Fund’ (in this section re-
16 ferred to as the ‘Fund’) to provide funds, in addition to
17 other funds that may be available, for the recruitment,
18 training, and retention of acquisition personnel of the De-
19 partment of Defense.

20 “(b) PURPOSE.—The purpose of the Fund is to en-
21 sure that the Department of Defense acquisition work-
22 force has the capacity, in both personnel and skills, needed
23 to properly perform its mission, provide appropriate over-
24 sight of contractor performance, and ensure that the De-

1 partment receives the best value for the expenditure of
2 public resources.

3 “(c) MANAGEMENT.—The Fund shall be managed by
4 a senior official of the Department of Defense designated
5 by the Under Secretary of Defense for Acquisition, Tech-
6 nology, and Logistics for that purpose, from among per-
7 sons with an extensive background in management relat-
8 ing to acquisition and personnel.

9 “(d) ELEMENTS.—

10 “(1) IN GENERAL.—The Fund shall consist of
11 amounts as follows:

12 “(A) Amounts credited to the Fund under
13 paragraph (2).

14 “(B) Any other amounts appropriated to,
15 credited to, or deposited into the Fund by law.

16 “(2) CREDITS TO THE FUND.—(A) There shall
17 be credited to the Fund an amount equal to the ap-
18 plicable percentage for a fiscal year of all amounts
19 expended by the Department of Defense in such fis-
20 cal year for contract services, other than services re-
21 lating to research and development and services re-
22 lating to military construction.

23 “(B) Not later than 30 days after the end of
24 the third fiscal year quarter of fiscal year 2008, and
25 30 days after the end of each fiscal year quarter

1 thereafter, the head of each military department and
2 Defense Agency shall remit to the Secretary of De-
3 fense an amount equal to the applicable percentage
4 for such fiscal year of the amount expended by such
5 military department or Defense Agency, as the case
6 may be, during such fiscal year quarter for services
7 covered by subparagraph (A). Any amount so remit-
8 ted shall be credited to the Fund under subpara-
9 graph (A).

10 “(C) For purposes of this paragraph, the appli-
11 cable percentage for a fiscal year is a percentage as
12 follows:

13 “(i) For fiscal year 2008, 0.5 percent.

14 “(ii) For fiscal year 2009, 1 percent.

15 “(iii) For fiscal year 2010, 1.5 percent.

16 “(iv) For any fiscal year after fiscal year
17 2010, 2 percent.

18 “(D) The Secretary of Defense may reduce a
19 percentage established in subparagraph (C) for any
20 fiscal year, if he determines that the application of
21 such percentage would result in the crediting of an
22 amount greater than is reasonably needed for the
23 purpose of the Fund. In no event may the Secretary
24 reduce a percentage for any fiscal year below a per-

1 centage that results in the deposit in a fiscal year
2 of an amount equal to the following:

3 “(i) For fiscal year 2008, \$300,000,000.

4 “(ii) For fiscal year 2009, \$400,000,000.

5 “(iii) For fiscal year 2010, \$500,000,000.

6 “(iv) For any fiscal year after fiscal year
7 2010, \$600,000,000.

8 “(e) AVAILABILITY OF FUNDS.—

9 “(1) IN GENERAL.—Subject to the provisions of
10 this subsection, amounts in the Fund shall be avail-
11 able to the Secretary of Defense for expenditure, or
12 for transfer to a military department or Defense
13 Agency, for the recruitment, training, and retention
14 of acquisition personnel of the Department of De-
15 fense for the purpose of the Fund, including for the
16 provision of training and retention incentives to the
17 acquisition workforce of the Department.

18 “(2) PROHIBITION.—Amounts in the Fund may
19 not be obligated for any purpose other than pur-
20 poses described in paragraph (1) or otherwise in ac-
21 cordance with this subsection.

22 “(3) GUIDANCE.—The Under Secretary of De-
23 fense for Acquisition, Technology, and Logistics, act-
24 ing through the senior official designated to manage
25 the Fund, shall issue guidance for the administra-

1 tion of the Fund. Such guidance shall include provi-
2 sions—

3 “(A) identifying areas of need in the acqui-
4 sition workforce for which amounts in the Fund
5 may be used, including—

6 “(i) changes to the types of skills
7 needed in the acquisition workforce;

8 “(ii) incentives to retain in the acqui-
9 sition workforce qualified, experienced ac-
10 quisition workforce personnel; and

11 “(iii) incentives for attracting new,
12 high-quality personnel to the acquisition
13 workforce;

14 “(B) describing the manner and timing for
15 applications for amounts in the Fund to be sub-
16 mitted;

17 “(C) describing the evaluation criteria to
18 be used for approving or prioritizing applica-
19 tions for amounts in the Fund in any fiscal
20 year; and

21 “(D) describing measurable objectives of
22 performance for determining whether amounts
23 in the Fund are being used in compliance with
24 this section.

1 “(4) LIMITATION ON PAYMENTS TO OR FOR
2 CONTRACTORS.—Amounts in the Fund shall not be
3 available for payments to contractors or contractor
4 employees, other than for the purpose of providing
5 advanced training to Department of Defense employ-
6 ees.

7 “(5) PROHIBITION ON PAYMENT OF BASE SAL-
8 ARY OF CURRENT EMPLOYEES.—Amounts in the
9 Fund may not be used to pay the base salary of any
10 person who was an employee of the Department as
11 of the date of the enactment of the National Defense
12 Authorization Act for Fiscal Year 2008.

13 “(6) DURATION OF AVAILABILITY.—Amounts
14 credited to the Fund under subsection (d)(2) shall
15 remain available for expenditure in the fiscal year
16 for which credited and the two succeeding fiscal
17 years.

18 “(f) ANNUAL REPORT.—Not later than 60 days after
19 the end of each fiscal year beginning with fiscal year 2008,
20 the Secretary of Defense shall submit to the congressional
21 defense committees a report on the operation of the Fund
22 during such fiscal year. Each report shall include, for the
23 fiscal year covered by such report, the following:

24 “(1) A statement of the amounts remitted to
25 the Secretary for crediting to the Fund for such fis-

1 cal year by each military department and Defense
2 Agency, and a statement of the amounts credited to
3 the Fund for such fiscal year.

4 “(2) A description of the expenditures made
5 from the Fund (including expenditures following a
6 transfer of amounts in the Fund to a military de-
7 partment or Defense Agency) in such fiscal year, in-
8 cluding the purpose of such expenditures.

9 “(3) A description and assessment of improve-
10 ments in the Department of Defense acquisition
11 workforce resulting from such expenditures.

12 “(4) Recommendations for additional authori-
13 ties to fulfill the purpose of the Fund.

14 “(5) A statement of the balance remaining in
15 the Fund at the end of such fiscal year.

16 “(g) ACQUISITION WORKFORCE DEFINED.—In this
17 section, the term ‘acquisition workforce’ means personnel
18 in positions designated under section 1721 of this title as
19 acquisition positions for purposes of this chapter.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions at the beginning of subchapter I of such chap-
22 ter is amended by inserting after the item relating
23 to section 1704 the following new item:

“1705. Department of Defense Acquisition Workforce Development Fund.”.

1 (b) EFFECTIVE DATE.—Section 1705 of title 10,
2 United States Code, as added by subsection (a), shall take
3 effect on the date of the enactment of this Act.

4 **SEC. 853. EXTENSION OF AUTHORITY TO FILL SHORTAGE**
5 **CATEGORY POSITIONS FOR CERTAIN FED-**
6 **ERAL ACQUISITION POSITIONS.**

7 Section 1413(b) of the National Defense Authoriza-
8 tion Act for Fiscal Year 2004 (Public Law 108–136; 117
9 Stat. 1665) is amended by striking “September 30, 2007”
10 and inserting “September 30, 2012”.

11 **SEC. 854. REPEAL OF SUNSET OF ACQUISITION WORK-**
12 **FORCE TRAINING FUND.**

13 Section 37(h)(3) of the Office of Federal Procure-
14 ment Policy Act (41 U.S.C. 433(h)(3)) is amended by
15 striking subparagraph (H).

16 **SEC. 855. FEDERAL ACQUISITION WORKFORCE IMPROVE-**
17 **MENTS.**

18 (a) ASSOCIATE ADMINISTRATOR FOR ACQUISITION
19 WORKFORCE PROGRAMS.—The Administrator for Federal
20 Procurement Policy shall designate a member of the Sen-
21 ior Executive Service as the Associate Administrator for
22 Acquisition Workforce Programs. The Associate Adminis-
23 trator for Acquisition Workforce Programs shall be lo-
24 cated in the Federal Acquisition Institute (or its suc-

1 cessor). The Associate Administrator shall be responsible
2 for—

3 (1) supervising the acquisition workforce train-
4 ing fund established under section 37(h)(3) of the
5 Office of Federal Procurement Policy Act (41 U. S.
6 C. 433(h)(3));

7 (2) developing, in coordination with Chief Ac-
8 quisition Officers and Chief Human Capital Officers,
9 a strategic human capital plan for the acquisition
10 workforce of the Federal Government;

11 (3) reviewing and providing input to individual
12 agency acquisition workforce succession plans;

13 (4) recommending to the Administrator and
14 other senior government officials appropriate pro-
15 grams, policies, and practices to increase the quan-
16 tity and quality of the Federal acquisition workforce;
17 and

18 (5) carrying out such other functions as the Ad-
19 ministrator may assign.

20 (b) ACQUISITION AND CONTRACTING TRAINING PRO-
21 GRAMS WITHIN EXECUTIVE AGENCIES.—

22 (1) REQUIREMENT.—The head of each execu-
23 tive agency, after consultation with the Associate
24 Administrator for Acquisition Workforce Programs,

1 shall establish and operate acquisition and con-
2 tracting training programs. Such programs shall—

3 (A) have curricula covering a broad range
4 of acquisition and contracting disciplines cor-
5 responding to the specific acquisition and con-
6 tracting needs of the agency involved;

7 (B) be developed and applied according to
8 rigorous standards; and

9 (C) be designed to maximize efficiency,
10 through the use of self-paced courses, online
11 courses, on-the-job training, and the use of re-
12 mote instructors, wherever such features can be
13 applied without reducing the effectiveness of the
14 training or negatively affecting academic stand-
15 ards.

16 (2) CHIEF ACQUISITION OFFICER AUTHORITIES
17 AND RESPONSIBILITIES.—Subject to the authority,
18 direction, and control of the head of an executive
19 agency, the Chief Acquisition Officer for such agen-
20 cy shall carry out all powers, functions, and duties
21 of the head of the agency with respect to implemen-
22 tation of this subsection. The Chief Acquisition Offi-
23 cer shall ensure that the policies established by the
24 head of the agency in accordance with this sub-
25 section are implemented throughout the agency.

1 (c) GOVERNMENT-WIDE POLICIES AND EVALUA-
2 TION.—The Administrator for Federal Procurement Pol-
3 icy shall issue policies to promote the development of per-
4 formance standards for training and uniform implementa-
5 tion of this section by executive agencies, with due regard
6 for differences in program requirements among agencies
7 that may be appropriate and warranted in view of the
8 agency mission. The Administrator shall evaluate the im-
9 plementation of the provisions of subsection (b) by execu-
10 tive agencies.

11 (d) ACQUISITION AND CONTRACTING TRAINING RE-
12 PORTING.—The Administrator for Federal Procurement
13 Policy shall ensure that the heads of executive agencies
14 collect and maintain standardized information on the ac-
15 quisition and contracting workforce related to the imple-
16 mentation of subsection (b).

17 (e) ACQUISITION WORKFORCE HUMAN CAPITAL SUC-
18 CESSION PLAN.—

19 (1) IN GENERAL.—Not later than 1 year after
20 the date of the enactment of this Act, each Chief Ac-
21 quisition Officer for an executive agency shall de-
22 velop, in consultation with the Chief Human Capital
23 Officer for the agency and the Associate Adminis-
24 trator for Acquisition Workforce Programs, a suc-
25 cession plan consistent with the agency's strategic

1 human capital plan for the recruitment, develop-
2 ment, and retention of the agency's acquisition
3 workforce, with a particular focus on warranted con-
4 tracting officers and program managers of the agen-
5 cy.

6 (2) CONTENT OF PLAN.—The acquisition work-
7 force succession plan shall address—

8 (A) recruitment goals for personnel from
9 procurement intern programs;

10 (B) the agency's acquisition workforce
11 training needs;

12 (C) actions to retain high performing ac-
13 quisition professionals who possess critical rel-
14 evant skills;

15 (D) recruitment goals for personnel from
16 the Federal Career Intern Program; and

17 (E) recruitment goals for personnel from
18 the Presidential Management Fellows Program.

19 (f) TRAINING IN THE ACQUISITION OF ARCHITECT
20 AND ENGINEERING SERVICES.—The Administrator for
21 Federal Procurement Policy shall ensure that a sufficient
22 number of Federal employees are trained in the acqui-
23 sition of architect and engineering services.

24 (g) UTILIZATION OF RECRUITMENT AND RETENTION
25 AUTHORITIES.—The Administrator for Federal Procure-

1 ment Policy, in coordination with the Director of the Of-
2 fice of Personnel Management, shall encourage executive
3 agencies to utilize existing authorities, including direct
4 hire authority and tuition assistance programs, to recruit
5 and retain acquisition personnel and consider recruiting
6 acquisition personnel who may be retiring from the private
7 sector, consistent with existing laws and regulations.

8 (h) DEFINITIONS.—In this section:

9 (1) EXECUTIVE AGENCY.—The term “executive
10 agency” has the meaning provided in section 4(1) of
11 the Office of Federal Procurement Policy Act (41
12 U.S.C. 403(1)).

13 (2) CHIEF ACQUISITION OFFICER.—The term
14 “Chief Acquisition Officer” means a Chief Acquisi-
15 tion Officer for an executive agency appointed pur-
16 suant to section 16 of the Office of Federal Procure-
17 ment Policy Act (41 U.S.C. 414).

18 **Subtitle F—Contracts in Iraq and** 19 **Afghanistan**

20 **SEC. 861. MEMORANDUM OF UNDERSTANDING ON MAT-** 21 **TERS RELATING TO CONTRACTING.**

22 (a) MEMORANDUM OF UNDERSTANDING RE-
23 QUIRED.—The Secretary of Defense, the Secretary of
24 State, and the Administrator of the United States Agency
25 for International Development shall, not later than July

1 1, 2008, enter into a memorandum of understanding re-
2 garding matters relating to contracting for contracts in
3 Iraq or Afghanistan.

4 (b) MATTERS COVERED.—The memorandum of un-
5 derstanding required by subsection (a) shall address, at
6 a minimum, the following:

7 (1) Identification of the major categories of
8 contracts in Iraq or Afghanistan being awarded by
9 the Department of Defense, the Department of
10 State, or the United States Agency for International
11 Development.

12 (2) Identification of the roles and responsibil-
13 ities of each department or agency for matters relat-
14 ing to contracting for contracts in Iraq or Afghani-
15 stan.

16 (3) Responsibility for establishing procedures
17 for, and the coordination of, movement of contractor
18 personnel in Iraq or Afghanistan.

19 (4) Identification of common databases that will
20 serve as repositories of information on contracts in
21 Iraq or Afghanistan and contractor personnel in
22 Iraq or Afghanistan, including agreement on the ele-
23 ments to be included in the databases, including, at
24 a minimum—

25 (A) with respect to each contract—

1 (i) a brief description of the contract
2 (to the extent consistent with security con-
3 siderations);

4 (ii) the total value of the contract;
5 and

6 (iii) whether the contract was awarded
7 competitively; and

8 (B) with respect to contractor personnel—

9 (i) the total number of personnel em-
10 ployed on contracts in Iraq or Afghanistan;

11 (ii) the total number of personnel per-
12 forming security functions under contracts
13 in Iraq or Afghanistan; and

14 (iii) the total number of personnel
15 working under contracts in Iraq or Af-
16 ghanistan who have been killed or wound-
17 ed.

18 (5) Responsibility for maintaining and updating
19 information in the common databases identified
20 under paragraph (4).

21 (6) Responsibility for the collection and referral
22 to the appropriate Government agency of any infor-
23 mation relating to offenses under chapter 47 of title
24 10, United States Code (the Uniform Code of Mili-
25 tary Justice) or chapter 212 of title 18, United

1 States Code (commonly referred to as the Military
2 Extraterritorial Jurisdiction Act), including a clari-
3 fication of responsibilities under section 802(a)(10)
4 of title 10, United States Code (article 2(a) of the
5 Uniform Code of Military Justice), as amended by
6 section 552 of the John Warner National Defense
7 Authorization Act for Fiscal Year 2007 (Public Law
8 109-364).

9 (c) IMPLEMENTATION OF MEMORANDUM OF UNDER-
10 STANDING.—Not later than 120 days after the memo-
11 randum of understanding required by subsection (a) is
12 signed, the Secretary of Defense, the Secretary of State,
13 and the Administrator of the United States Agency for
14 International Development shall issue such policies or
15 guidance and prescribe such regulations as are necessary
16 to implement the memorandum of understanding for the
17 relevant matters pertaining to their respective agencies.

18 (d) COPIES PROVIDED TO CONGRESS.—

19 (1) MEMORANDUM OF UNDERSTANDING.—Cop-
20 ies of the memorandum of understanding required
21 by subsection (a) shall be provided to the relevant
22 committees of Congress within 30 days after the
23 memorandum is signed.

24 (2) REPORT ON IMPLEMENTATION.—Not later
25 than 180 days after the memorandum of under-

1 standing required by subsection (a) is signed, the
2 Secretary of Defense, the Secretary of State, and
3 the Administrator of the United States Agency for
4 International Development shall each provide a re-
5 port to the relevant committees of Congress on the
6 implementation of the memorandum of under-
7 standing.

8 (3) DATABASES.—The Secretary of Defense,
9 the Secretary of State, or the Administrator of the
10 United States Agency for International Development
11 shall provide access to the common databases identi-
12 fied under subsection (b)(4) to the relevant commit-
13 tees of Congress.

14 (4) CONTRACTS.—Effective on the date of the
15 enactment of this Act, copies of any contracts in
16 Iraq or Afghanistan awarded after December 1,
17 2007, shall be provided to any of the relevant com-
18 mittees of Congress within 15 days after the submis-
19 sion of a request for such contract or contracts from
20 such committee to the department or agency man-
21 aging the contract.

1 **SEC. 862. CONTRACTORS PERFORMING PRIVATE SECURITY**
2 **FUNCTIONS IN AREAS OF COMBAT OPER-**
3 **ATIONS.**

4 (a) REGULATIONS ON CONTRACTORS PERFORMING
5 PRIVATE SECURITY FUNCTIONS.—

6 (1) IN GENERAL.—Not later than 120 days
7 after the date of the enactment of this Act, the Sec-
8 retary of Defense, in coordination with the Secretary
9 of State, shall prescribe regulations on the selection,
10 training, equipping, and conduct of personnel per-
11 forming private security functions under a covered
12 contract in an area of combat operations.

13 (2) ELEMENTS.—The regulations prescribed
14 under subsection (a) shall, at a minimum, estab-
15 lish—

16 (A) a process for registering, processing,
17 accounting for, and keeping appropriate records
18 of personnel performing private security func-
19 tions in an area of combat operations;

20 (B) a process for authorizing and account-
21 ing for weapons to be carried by, or available to
22 be used by, personnel performing private secu-
23 rity functions in an area of combat operations;

24 (C) a process for the registration and iden-
25 tification of armored vehicles, helicopters, and
26 other military vehicles operated by contractors

1 performing private security functions in an area
2 of combat operations;

3 (D) a process under which contractors are
4 required to report all incidents, and persons
5 other than contractors are permitted to report
6 incidents, in which—

7 (i) a weapon is discharged by per-
8 sonnel performing private security func-
9 tions in an area of combat operations;

10 (ii) personnel performing private secu-
11 rity functions in an area of combat oper-
12 ations are killed or injured; or

13 (iii) persons are killed or injured, or
14 property is destroyed, as a result of con-
15 duct by contractor personnel;

16 (E) a process for the independent review
17 and, if practicable, investigation of—

18 (i) incidents reported pursuant to sub-
19 paragraph (D); and

20 (ii) incidents of alleged misconduct by
21 personnel performing private security func-
22 tions in an area of combat operations;

23 (F) requirements for qualification, train-
24 ing, screening (including, if practicable, through
25 background checks), and security for personnel

1 performing private security functions in an area
2 of combat operations;

3 (G) guidance to the commanders of the
4 combatant commands on the issuance of—

5 (i) orders, directives, and instructions
6 to contractors performing private security
7 functions relating to equipment, force pro-
8 tection, security, health, safety, or relations
9 and interaction with locals;

10 (ii) predeployment training require-
11 ments for personnel performing private se-
12 curity functions in an area of combat oper-
13 ations, addressing the requirements of this
14 section, resources and assistance available
15 to contractor personnel, country informa-
16 tion and cultural training, and guidance on
17 working with host country nationals and
18 military; and

19 (iii) rules on the use of force for per-
20 sonnel performing private security func-
21 tions in an area of combat operations;

22 (H) a process by which a commander of a
23 combatant command may request an action de-
24 scribed in subsection (b)(3); and

1 (I) a process by which the training require-
2 ments referred to in subparagraph (G)(ii) shall
3 be implemented.

4 (3) AVAILABILITY OF ORDERS, DIRECTIVES,
5 AND INSTRUCTIONS.—The regulations prescribed
6 under subsection (a) shall include mechanisms to en-
7 sure the provision and availability of the orders, di-
8 rectives, and instructions referred to in paragraph
9 (2)(G)(i) to contractors referred to in that para-
10 graph, including through the maintenance of a single
11 location (including an Internet website, to the extent
12 consistent with security considerations) at or
13 through which such contractors may access such or-
14 ders, directives, and instructions.

15 (b) CONTRACT CLAUSE ON CONTRACTORS PER-
16 FORMING PRIVATE SECURITY FUNCTIONS.—

17 (1) REQUIREMENT UNDER FAR.—Not later
18 than 180 days after the date of the enactment of
19 this Act, the Federal Acquisition Regulation issued
20 in accordance with section 25 of the Office of Fed-
21 eral Procurement Policy Act (41 U.S.C. 421) shall
22 be revised to require the insertion into each covered
23 contract (or, in the case of a task order, the contract
24 under which the task order is issued) of a contract
25 clause addressing the selection, training, equipping,

1 and conduct of personnel performing private security
2 functions under such contract.

3 (2) **CLAUSE REQUIREMENT.**—The contract
4 clause required by paragraph (1) shall require, at a
5 minimum, that the contractor concerned shall—

6 (A) comply with regulations prescribed
7 under subsection (a), including any revisions or
8 updates to such regulations, and follow the pro-
9 cedures established in such regulations for—

10 (i) registering, processing, accounting
11 for, and keeping appropriate records of
12 personnel performing private security func-
13 tions in an area of combat operations;

14 (ii) authorizing and accounting of
15 weapons to be carried by, or available to be
16 used by, personnel performing private se-
17 curity functions in an area of combat oper-
18 ations;

19 (iii) registration and identification of
20 armored vehicles, helicopters, and other
21 military vehicles operated by contractors
22 and subcontractors performing private se-
23 curity functions in an area of combat oper-
24 ations; and

1 (iv) the reporting of incidents in
2 which—

3 (I) a weapon is discharged by
4 personnel performing private security
5 functions in an area of combat oper-
6 ations;

7 (II) personnel performing private
8 security functions in an area of com-
9 bat operations are killed or injured; or

10 (III) persons are killed or in-
11 jured, or property is destroyed, as a
12 result of conduct by contractor per-
13 sonnel;

14 (B) ensure that all personnel performing
15 private security functions under such contract
16 are briefed on and understand their obligation
17 to comply with—

18 (i) qualification, training, screening
19 (including, if practicable, through back-
20 ground checks), and security requirements
21 established by the Secretary of Defense for
22 personnel performing private security func-
23 tions in an area of combat operations;

24 (ii) applicable laws and regulations of
25 the United States and the host country,

1 and applicable treaties and international
2 agreements, regarding the performance of
3 the functions of the contractor;

4 (iii) orders, directives, and instruc-
5 tions issued by the applicable commander
6 of a combatant command relating to equip-
7 ment, force protection, security, health,
8 safety, or relations and interaction with
9 locals; and

10 (iv) rules on the use of force issued by
11 the applicable commander of a combatant
12 command for personnel performing private
13 security functions in an area of combat op-
14 erations; and

15 (C) cooperate with any investigation con-
16 ducted by the Department of Defense pursuant
17 to subsection (a)(2)(E) by providing access to
18 employees of the contractor and relevant infor-
19 mation in the possession of the contractor re-
20 garding the incident concerned.

21 (3) NONCOMPLIANCE OF PERSONNEL WITH
22 CLAUSE.—The contracting officer for a covered con-
23 tract may direct the contractor, at its own expense,
24 to remove or replace any personnel performing pri-
25 vate security functions in an area of combat oper-

1 ations who violate or fail to comply with applicable
2 requirements of the clause required by this sub-
3 section. If the violation or failure to comply is a
4 gross violation or failure or is repeated, the contract
5 may be terminated for default.

6 (4) APPLICABILITY.—The contract clause re-
7 quired by this subsection shall be included in all cov-
8 ered contracts awarded on or after the date that is
9 180 days after the date of the enactment of this Act.
10 Federal agencies shall make best efforts to provide
11 for the inclusion of the contract clause required by
12 this subsection in covered contracts awarded before
13 such date.

14 (5) INSPECTOR GENERAL REPORT ON PILOT
15 PROGRAM ON IMPOSITION OF FINES FOR NON-
16 COMPLIANCE OF PERSONNEL WITH CLAUSE.—Not
17 later than March 30, 2008, the Inspector General of
18 the Department of Defense shall submit to Congress
19 a report assessing the feasibility and advisability of
20 carrying out a pilot program for the imposition of
21 fines on contractors for personnel who violate or fail
22 to comply with applicable requirements of the clause
23 required by this section as a mechanism for enhanc-
24 ing the compliance of such personnel with the clause.
25 The report shall include—

1 (A) an assessment of the feasibility and
2 advisability of carrying out the pilot program;
3 and

4 (B) if the Inspector General determines
5 that carrying out the pilot program is feasible
6 and advisable—

7 (i) recommendations on the range of
8 contracts and subcontracts to which the
9 pilot program should apply; and

10 (ii) a schedule of fines to be imposed
11 under the pilot program for various types
12 of personnel actions or failures.

13 (c) AREAS OF COMBAT OPERATIONS.—

14 (1) DESIGNATION.—The Secretary of Defense
15 shall designate the areas constituting an area of
16 combat operations for purposes of this section by not
17 later than 120 days after the date of the enactment
18 of this Act.

19 (2) PARTICULAR AREAS.—Iraq and Afghanistan
20 shall be included in the areas designated as an area
21 of combat operations under paragraph (1).

22 (3) ADDITIONAL AREAS.—The Secretary may
23 designate any additional area as an area constituting
24 an area of combat operations for purposes of this
25 section if the Secretary determines that the presence

1 or potential of combat operations in such area war-
2 rants designation of such area as an area of combat
3 operations for purposes of this section.

4 (4) MODIFICATION OR ELIMINATION OF DES-
5 IGNATION.—The Secretary may modify or cease the
6 designation of an area under this subsection as an
7 area of combat operations if the Secretary deter-
8 mines that combat operations are no longer ongoing
9 in such area.

10 (d) EXCEPTION.—The requirements of this section
11 shall not apply to contracts entered into by elements of
12 the intelligence community in support of intelligence ac-
13 tivities.

14 **SEC. 863. COMPTROLLER GENERAL REVIEWS AND RE-**
15 **PORTS ON CONTRACTING IN IRAQ AND AF-**
16 **GHANISTAN.**

17 (a) REVIEWS AND REPORTS REQUIRED.—

18 (1) IN GENERAL.—Every 12 months, the
19 Comptroller General shall review contracts in Iraq or
20 Afghanistan and submit to the relevant committees
21 of Congress a report on such review.

22 (2) MATTERS COVERED.—A report under this
23 subsection shall cover the following with respect to
24 the contracts in Iraq or Afghanistan reviewed for the
25 report:

1 (A) Total number of contracts and task or-
2 ders awarded during the period covered by the
3 report.

4 (B) Total number of active contracts and
5 task orders.

6 (C) Total value of all contracts and task
7 orders awarded during the reporting period.

8 (D) Total value of active contracts and
9 task orders.

10 (E) The extent to which such contracts
11 have used competitive procedures.

12 (F) Total number of contractor personnel
13 working on contracts during the reporting pe-
14 riod.

15 (G) Total number of contractor personnel,
16 on average, who are performing security func-
17 tions during the reporting period.

18 (H) The number of contractor personnel
19 killed or wounded during the reporting period.

20 (I) Information on any specific contract or
21 class of contracts that the Comptroller General
22 determines raises issues of significant concern.

23 (3) SUBMISSION OF REPORTS.—The Comp-
24 troller General shall submit an initial report under
25 this subsection not later than October 1, 2008, and

1 shall submit an updated report every year thereafter
2 until October 1, 2010.

3 (b) ACCESS TO DATABASES ON CONTRACTS.—The
4 Secretary of Defense and the Secretary of State shall pro-
5 vide full access to the databases described in section
6 861(b)(4) to the Comptroller General for purposes of the
7 reviews carried out under this section.

8 **SEC. 864. DEFINITIONS AND OTHER GENERAL PROVISIONS.**

9 (a) DEFINITIONS.—In this subtitle:

10 (1) MATTERS RELATING TO CONTRACTING.—

11 The term “matters relating to contracting”, with re-
12 spect to contracts in Iraq and Afghanistan, means
13 all matters relating to awarding, funding, managing,
14 tracking, monitoring, and providing oversight to con-
15 tracts and contractor personnel.

16 (2) CONTRACT IN IRAQ OR AFGHANISTAN.—The

17 term “contract in Iraq or Afghanistan” means a
18 contract with the Department of Defense, the De-
19 partment of State, or the United States Agency for
20 International Development, a subcontract at any tier
21 issued under such a contract, or a task order or de-
22 livery order at any tier issued under such a contract
23 (including a contract, subcontract, or task order or
24 delivery order issued by another Government agency
25 for the Department of Defense, the Department of

1 State, or the United States Agency for International
2 Development), if the contract, subcontract, or task
3 order or delivery order involves work performed in
4 Iraq or Afghanistan for a period longer than 14
5 days.

6 (3) COVERED CONTRACT.—The term “covered
7 contract” means—

8 (A) a contract of a Federal agency for the
9 performance of services in an area of combat
10 operations, as designated by the Secretary of
11 Defense under subsection (c) of section 862;

12 (B) a subcontract at any tier under such
13 a contract; or

14 (C) a task order or delivery order issued
15 under such a contract or subcontract.

16 (4) CONTRACTOR.—The term “contractor”,
17 with respect to a covered contract, means the con-
18 tractor or subcontractor carrying out the covered
19 contract.

20 (5) PRIVATE SECURITY FUNCTIONS.—The term
21 “private security functions” means activities en-
22 gaged in by a contractor under a covered contract as
23 follows:

1 (A) Guarding of personnel, facilities, or
2 property of a Federal agency, the contractor or
3 subcontractor, or a third party.

4 (B) Any other activity for which personnel
5 are required to carry weapons in the perform-
6 ance of their duties.

7 (6) RELEVANT COMMITTEES OF CONGRESS.—
8 The term “relevant committees of Congress” means
9 each of the following committees:

10 (A) The Committees on Armed Services of
11 the Senate and the House of Representatives.

12 (B) The Committee on Homeland Security
13 and Governmental Affairs of the Senate and the
14 Committee on Oversight and Government Re-
15 form of the House of Representatives.

16 (C) The Committee on Foreign Relations
17 of the Senate and the Committee on Foreign
18 Affairs of the House of Representatives.

19 (D) For purposes of contracts relating to
20 the National Foreign Intelligence Program, the
21 Select Committee on Intelligence of the Senate
22 and the Permanent Select Committee on Intel-
23 ligence of the House of Representatives.

24 (b) CLASSIFIED INFORMATION.—Nothing in this sub-
25 title shall be interpreted to require the handling of classi-

1 fied information or information relating to intelligence
2 sources and methods in a manner inconsistent with any
3 law, regulation, executive order, or rule of the House of
4 Representatives or of the Senate relating to the handling
5 or protection of such information.

6 **Subtitle G—Defense Materiel**
7 **Readiness Board**

8 **SEC. 871. ESTABLISHMENT OF DEFENSE MATERIEL READI-**
9 **NESS BOARD.**

10 (a) ESTABLISHMENT.—Not later than six months
11 after the date of the enactment of this Act, the Secretary
12 of Defense shall establish a Defense Materiel Readiness
13 Board (in this subtitle referred to as the “Board”) within
14 the Office of the Secretary of Defense.

15 (b) MEMBERSHIP.—The Secretary shall appoint the
16 chairman and the members of the Board from among offi-
17 cers of the Armed Forces with expertise in matters rel-
18 evant to the function of the Board to assess materiel readi-
19 ness and evaluate plans and policies relating to materiel
20 readiness. At a minimum, the Board shall include rep-
21 resentatives of the Joint Chiefs of Staff, each of the
22 Armed Forces, and each of the reserve components of the
23 Armed Forces.

24 (c) STAFF.—The Secretary of Defense shall assign
25 staff, and request the Secretaries of the military depart-

1 ments to assign staff, as necessary to assist the Board
2 in carrying out its duties.

3 (d) FUNCTIONS.—The Board shall provide inde-
4 pendent assessments of materiel readiness, material readi-
5 ness shortfalls, and material readiness plans to the Sec-
6 retary of Defense and the Congress. To carry out such
7 functions, the Board shall—

8 (1) monitor and assess the materiel readiness of
9 the Armed Forces;

10 (2) assist the Secretary of Defense in the iden-
11 tification of deficiencies in the material readiness of
12 the Armed Forces caused by shortfalls in weapons
13 systems, equipment, and supplies;

14 (3) identify shortfalls in materiel readiness, in-
15 cluding critical materiel readiness shortfalls, for pur-
16 poses of the Secretary's designations under section
17 872 and the funding needed to address such short-
18 falls;

19 (4) assess the adequacy of current Department
20 of Defense plans, policies, and programs to address
21 shortfalls in materiel readiness, including critical
22 materiel readiness shortfalls (as designated by the
23 Secretary under section 872), and to sustain and im-
24 prove materiel readiness;

1 (5) assist the Secretary of Defense in deter-
2 mining whether the industrial capacity of the De-
3 partment of Defense and of the defense industrial
4 base is being best utilized to support the materiel
5 readiness needs of the Armed Forces;

6 (6) review and assess Department of Defense
7 systems for measuring the status of current materiel
8 readiness of the Armed Forces; and

9 (7) make recommendations with respect to ma-
10 teriel readiness funding, measurement techniques,
11 plans, policies, and programs.

12 (e) REPORTS.—The Board shall submit to the Sec-
13 retary of Defense a report summarizing its findings and
14 recommendations not less than once every six months.
15 Within 30 days after receiving a report from the Board,
16 the Secretary shall forward the report in its entirety, to-
17 gether with his comments, to the congressional defense
18 committees. The report shall be submitted in unclassified
19 form. To the extent necessary, the report may be accom-
20 panied by a classified annex.

21 **SEC. 872. CRITICAL MATERIEL READINESS SHORTFALLS.**

22 (a) DESIGNATION OF CRITICAL MATERIEL READI-
23 NESS SHORTFALLS.—

24 (1) DESIGNATION.—The Secretary of Defense
25 may designate any requirement of the Armed Forces

1 for equipment or supplies as a critical materiel read-
2 iness shortfall if there is a shortfall in the required
3 equipment or supplies that materially reduces readi-
4 ness of the Armed Forces and that—

5 (A) cannot be adequately addressed by
6 identifying acceptable substitute capabilities or
7 cross leveling of equipment that does not unac-
8 ceptably reduce the readiness of other Armed
9 Forces; and

10 (B) that is likely to persist for more than
11 two years based on currently projected budgets
12 and schedules for deliveries of equipment and
13 supplies.

14 (2) CONSIDERATION OF BOARD FINDINGS AND
15 RECOMMENDATIONS.—In making any such designa-
16 tion, the Secretary shall take into consideration the
17 findings and recommendations of the Defense Mate-
18 rial Readiness Board.

19 (b) MEASURES TO ADDRESS CRITICAL MATERIEL
20 READINESS SHORTFALLS.—The Secretary of Defense
21 shall ensure that critical materiel readiness shortfalls des-
22 ignated pursuant to subsection (a)(1) are transmitted to
23 the relevant officials of the Department of Defense respon-
24 sible for requirements, budgets, and acquisition, and that

1 such officials prioritize and address such shortfalls in the
2 shortest time frame practicable.

3 (c) TRANSFER AUTHORITY.—

4 (1) IN GENERAL.—The amounts of authoriza-
5 tions that the Secretary may transfer under the au-
6 thority of section 1001 of this Act is hereby in-
7 creased by \$2,000,000,000.

8 (2) LIMITATIONS.—The additional transfer au-
9 thority provided by this section—

10 (A) may be made only from authorizations
11 to the Department of Defense for fiscal year
12 2008;

13 (B) may be exercised solely for the purpose
14 of addressing critical materiel readiness short-
15 falls as designated by the Secretary of Defense
16 under subsection (a); and

17 (C) is subject to the same terms, condi-
18 tions, and procedures as other transfer author-
19 ity under section 1001 of this Act.

20 (d) STRATEGIC READINESS FUND.—

21 (1) ESTABLISHMENT.—There is established on
22 the books of the Treasury a fund to be known as the
23 Department of Defense Strategic Readiness Fund
24 (in this subsection referred to as the “Fund”), which

1 shall be administered by the Secretary of the Treas-
2 ury.

3 (2) PURPOSES.—The Fund shall be used to ad-
4 dress critical materiel readiness shortfalls as des-
5 ignated by the Secretary of Defense under sub-
6 section (a).

7 (3) ASSETS OF FUND.—There shall be depos-
8 ited into the Fund any amount appropriated to the
9 Fund, which shall constitute the assets of the Fund.

10 (4) LIMITATION.—The procurement unit cost
11 (as defined in section 2432(a) of title 10, United
12 States Code) of any item purchased using assets of
13 the Fund, whether such assets are in the Fund or
14 after such assets have been transferred from the
15 Fund using the authority provided in subsection (c),
16 shall not exceed \$30,000,000.

17 (e) MULTIYEAR CONTRACT NOTIFICATION.—

18 (1) NOTIFICATION.—If the Secretary of a mili-
19 tary department makes the determination described
20 in paragraph (2) with respect to the use of a
21 multiyear contract, the Secretary shall notify the
22 congressional defense committees within 30 days of
23 the determination and provide a detailed description
24 of the proposed multiyear contract.

1 (2) DETERMINATION.—The determination re-
2 ferred to in paragraph (1) is a determination by the
3 Secretary of a military department that the use of
4 a multiyear contract to procure an item to address
5 a critical materiel readiness shortfall—

6 (A) will significantly accelerate efforts to
7 address a critical materiel readiness shortfall;

8 (B) will provide savings compared to the
9 total anticipated costs of carrying out the con-
10 tract through annual contracts; and

11 (C) will serve the interest of national secu-
12 rity.

13 (f) DEFINITION.—In this section, the term “critical
14 materiel readiness shortfall” means a critical materiel
15 readiness shortfall designated by the Secretary of Defense
16 under this section.

17 **Subtitle H—Other Matters**

18 **SEC. 881. CLEARINGHOUSE FOR RAPID IDENTIFICATION** 19 **AND DISSEMINATION OF COMMERCIAL IN-** 20 **FORMATION TECHNOLOGIES.**

21 (a) REQUIREMENT TO ESTABLISH CLEARING-
22 HOUSE.—Not later than 180 days after the date of the
23 enactment of this Act, the Secretary of Defense, acting
24 through the Assistant Secretary of Defense for Networks
25 and Information Integration, shall establish a clearing-

1 house for identifying, assessing, and disseminating knowl-
2 edge about readily available information technologies (with
3 an emphasis on commercial off-the-shelf information tech-
4 nologies) that could support the warfighting mission of the
5 Department of Defense.

6 (b) RESPONSIBILITIES.—The clearinghouse estab-
7 lished pursuant to subsection (a) shall be responsible for
8 the following:

9 (1) Developing a process to rapidly assess and
10 set priorities and needs for significant information
11 technology needs of the Department of Defense that
12 could be met by commercial technologies, including
13 a process for—

14 (A) aligning priorities and needs with the
15 requirements of the commanders of the combat-
16 ant command; and

17 (B) proposing recommendations to the
18 commanders of the combatant command of fea-
19 sible technical solutions for further evaluation.

20 (2) Identifying and assessing emerging commer-
21 cial technologies (including commercial off-the-shelf
22 technologies) that could support the warfighting mis-
23 sion of the Department of Defense, including the
24 priorities and needs identified pursuant to para-
25 graph (1).

1 (3) Disseminating information about commer-
2 cial technologies identified pursuant to paragraph
3 (2) to commanders of combatant commands and
4 other potential users of such technologies.

5 (4) Identifying gaps in commercial technologies
6 and working to stimulate investment in research and
7 development in the public and private sectors to ad-
8 dress those gaps.

9 (5) Enhancing internal data and communica-
10 tions systems of the Department of Defense for
11 sharing and retaining information regarding com-
12 mercial technology priorities and needs, technologies
13 available to meet such priorities and needs, and on-
14 going research and development directed toward
15 gaps in such technologies.

16 (6) Developing mechanisms, including web-
17 based mechanisms, to facilitate communications with
18 industry regarding the priorities and needs of the
19 Department of Defense identified pursuant to para-
20 graph (1) and commercial technologies available to
21 address such priorities and needs.

22 (7) Assisting in the development of guides to
23 help small information technology companies with
24 promising technologies to understand and navigate

1 the funding and acquisition processes of the Depart-
2 ment of Defense.

3 (8) Developing methods to measure how well
4 processes developed by the clearinghouse are being
5 utilized and to collect data on an ongoing basis to
6 assess the benefits of commercial technologies that
7 are procured on the recommendation of the clearing-
8 house.

9 (c) PERSONNEL.—The Secretary of Defense, acting
10 through the Assistant Secretary of Defense for Networks
11 and Information Integration, shall provide for the hiring
12 and support of employees (including detailees from other
13 components of the Department of Defense and from other
14 Federal departments or agencies) to assist in identifying,
15 assessing, and disseminating information regarding com-
16 mercial technologies under this section.

17 (d) REPORT TO CONGRESS.—Not later than one year
18 after the date of the enactment of this Act, the Secretary
19 of Defense shall submit to the congressional defense com-
20 mittees a report on the implementation of this section.

1 **SEC. 882. AUTHORITY TO LICENSE CERTAIN MILITARY DES-**
2 **IGNATIONS AND LIKENESSES OF WEAPONS**
3 **SYSTEMS TO TOY AND HOBBY MANUFACTUR-**
4 **ERS.**

5 (a) **AUTHORITY TO LICENSE CERTAIN ITEMS.**—Sec-
6 tion 2260 of title 10, United States Code, is amended—

7 (1) by redesignating subsections (c), (d), and
8 (e) as subsections (d), (e), and (f), respectively; and

9 (2) by inserting after subsection (b) the fol-
10 lowing new subsection:

11 “(c) **LICENSES FOR QUALIFYING COMPANIES.**—(1)
12 The Secretary concerned may license trademarks, service
13 marks, certification marks, and collective marks owned or
14 controlled by the Secretary relating to military designa-
15 tions and likenesses of military weapons systems to any
16 qualifying company upon receipt of a request from the
17 company.

18 “(2) For purposes of paragraph (1), a qualifying
19 company is any United States company that—

20 “(A) is a toy or hobby manufacturer; and

21 “(B) is determined by the Secretary concerned
22 to be qualified in accordance with such criteria as
23 determined appropriate by the Secretary of Defense.

24 “(3) The fee for a license under this subsection shall
25 not exceed by more than a nominal amount the amount
26 needed to recover all costs of the Department of Defense

1 in processing the request for the license and supplying the
2 license.

3 “(4) A license to a qualifying company under this
4 subsection shall provide that the license may not be trans-
5 ferred, sold, or relicensed by the qualifying company.

6 “(5) A license under this subsection shall not be an
7 exclusive license.”.

8 (b) **EFFECTIVE DATE.**—The Secretary of Defense
9 shall prescribe regulations to implement the amendment
10 made by this section not later than 180 days after the
11 date of the enactment of this Act.

12 **SEC. 883. MODIFICATIONS TO LIMITATION ON CONTRACTS**
13 **TO ACQUIRE MILITARY FLIGHT SIMULATOR.**

14 (a) **EFFECT ON EXISTING CONTRACTS.**—Section 832
15 of the John Warner National Defense Authorization Act
16 for Fiscal Year 2007 (Public Law 109–364; 120 Stat.
17 2331) is amended by adding at the end the following new
18 subsection:

19 “(e) **EFFECT ON EXISTING CONTRACTS.**—The limi-
20 tation in subsection (a) does not apply to any service con-
21 tract of a military department to acquire a military flight
22 simulator, or to any renewal or extension of, or follow-
23 on contract to, such a contract, if—

24 “(1) the contract was in effect as of October
25 17, 2006;

1 “(2) the number of flight simulators to be ac-
2 quired under the contract (or renewal, extension, or
3 follow-on) will not result in the total number of
4 flight simulators acquired by the military depart-
5 ment concerned through service contracts to exceed
6 the total number of flight simulators to be acquired
7 under all service contracts of such department for
8 such simulators in effect as of October 17, 2006;
9 and

10 “(3) in the case of a renewal or extension of,
11 or follow-on contract to, the contract, the Secretary
12 of the military department concerned provides to the
13 congressional defense committees a written notice of
14 the decision to exercise an option to renew or extend
15 the contract, or to issue a solicitation for bids or
16 proposals using competitive procedures for a follow-
17 on contract, and an economic analysis as described
18 in subsection (c) supporting the decision, at least 30
19 days before carrying out such decision.”.

20 (b) CHANGE IN GROUNDS FOR WAIVER.—Section
21 832(c)(1) of such Act, as redesignated by subsection (a),
22 is amend by striking “necessary for national security pur-
23 poses” and inserting “in the national interest”.

1 **SEC. 884. REQUIREMENTS RELATING TO WAIVERS OF CER-**
2 **TAIN DOMESTIC SOURCE LIMITATIONS RE-**
3 **LATING TO SPECIALTY METALS.**

4 (a) NOTICE REQUIREMENT.—At least 30 days prior
5 to making a domestic nonavailability determination pursu-
6 ant to section 2533b(b) of title 10, United States Code,
7 that would apply to more than one contract of the Depart-
8 ment of Defense, the Secretary of Defense shall, to the
9 maximum extent practicable and in a manner consistent
10 with the protection of national security information and
11 confidential business information—

12 (1) publish a notice on the website maintained
13 by the General Services Administration known as
14 FedBizOpps.gov (or any successor site) of the Sec-
15 retary's intent to make the domestic nonavailability
16 determination; and

17 (2) solicit information relevant to such notice
18 from interested parties, including producers of spe-
19 cialty metal mill products.

20 (b) DETERMINATION.—(1) The Secretary shall take
21 into consideration all information submitted pursuant to
22 subsection (a) in making a domestic nonavailability deter-
23 mination pursuant to section 2533b(b) of title 10, United
24 States Code, that would apply to more than one contract
25 of the Department of Defense, and may also consider
26 other relevant information that cannot be made part of

1 the public record consistent with the protection of national
2 security information and confidential business informa-
3 tion.

4 (2) The Secretary shall ensure that any such deter-
5 mination and the rationale for such determination is made
6 publicly available to the maximum extent consistent with
7 the protection of national security information and con-
8 fidential business information.

9 **SEC. 885. TELEPHONE SERVICES FOR MILITARY PER-**
10 **SONNEL SERVING IN COMBAT ZONES.**

11 (a) **COMPETITIVE PROCEDURES REQUIRED.—**

12 (1) **REQUIREMENT.—**When the Secretary of
13 Defense considers it necessary to provide morale,
14 welfare, and recreation telephone services for mili-
15 tary personnel serving in combat zones, the Sec-
16 retary shall use competitive procedures when enter-
17 ing into a contract to provide those services.

18 (2) **REVIEW AND DETERMINATION.—**Before so-
19 liciting bids or proposals for new contracts, or con-
20 sidering extensions to existing contracts, to provide
21 morale, welfare, and recreation telephone services for
22 military personnel serving in combat zones, the Sec-
23 retary shall review and determine whether it is in
24 the best interest of the Department to require bids
25 or proposals, or adjustments for the purpose of ex-

1 tending a contract, to include options that minimize
2 the cost of the telephone services to individual users
3 while providing individual users the flexibility of
4 using phone cards from other than the prospective
5 contractor. The Secretary shall submit the results of
6 this review and determination to the Committees on
7 Armed Services of the Senate and the House of Rep-
8 resentatives.

9 (b) EFFECTIVE DATE.—

10 (1) REQUIREMENT.—Subsection (a)(1) shall
11 apply to any new contract to provide morale, wel-
12 fare, and recreation telephone services for military
13 personnel serving in combat zones that is entered
14 into after the date of the enactment of this Act.

15 (2) REVIEW AND DETERMINATION.—Subsection
16 (a)(2) shall apply to any new contract or extension
17 to an existing contract to provide morale, welfare,
18 and recreation telephone services for military per-
19 sonnel serving in combat zones that is entered into
20 or agreed upon after the date of the enactment of
21 this Act.

1 **SEC. 886. ENHANCED AUTHORITY TO ACQUIRE PRODUCTS**
2 **AND SERVICES PRODUCED IN IRAQ AND AF-**
3 **GHANISTAN.**

4 (a) IN GENERAL.—In the case of a product or service
5 to be acquired in support of military operations or stability
6 operations in Iraq or Afghanistan (including security,
7 transition, reconstruction, and humanitarian relief activi-
8 ties) for which the Secretary of Defense makes a deter-
9 mination described in subsection (b), the Secretary may
10 conduct a procurement in which—

11 (1) competition is limited to products or serv-
12 ices that are from Iraq or Afghanistan;

13 (2) procedures other than competitive proce-
14 dures are used to award a contract to a particular
15 source or sources from Iraq or Afghanistan; or

16 (3) a preference is provided for products or
17 services that are from Iraq or Afghanistan.

18 (b) DETERMINATION.—A determination described in
19 this subsection is a determination by the Secretary that—

20 (1) the product or service concerned is to be
21 used only by the military forces, police, or other se-
22 curity personnel of Iraq or Afghanistan; or

23 (2) it is in the national security interest of the
24 United States to limit competition, use procedures
25 other than competitive procedures, or provide a pref-
26 erence as described in subsection (a) because—

1 (A) such limitation, procedure, or pref-
2 erence is necessary to provide a stable source of
3 jobs in Iraq or Afghanistan; and

4 (B) such limitation, procedure, or pref-
5 erence will not adversely affect—

6 (i) military operations or stability op-
7 erations in Iraq or Afghanistan; or

8 (ii) the United States industrial base.

9 (c) PRODUCTS, SERVICES, AND SOURCES FROM IRAQ
10 OR AFGHANISTAN.—For the purposes of this section:

11 (1) A product is from Iraq or Afghanistan if it
12 is mined, produced, or manufactured in Iraq or Af-
13 ghanistan.

14 (2) A service is from Iraq or Afghanistan if it
15 is performed in Iraq or Afghanistan by citizens or
16 permanent resident aliens of Iraq or Afghanistan.

17 (3) A source is from Iraq or Afghanistan if it—

18 (A) is located in Iraq or Afghanistan; and

19 (B) offers products or services that are
20 from Iraq or Afghanistan.

1 **SEC. 887. DEFENSE SCIENCE BOARD REVIEW OF DEPART-**
2 **MENT OF DEFENSE POLICIES AND PROCE-**
3 **DURES FOR THE ACQUISITION OF INFORMA-**
4 **TION TECHNOLOGY.**

5 (a) REVIEW REQUIRED.—Not later than 90 days
6 after the date of the enactment of this Act, the Secretary
7 of Defense shall direct the Defense Science Board to carry
8 out a review of Department of Defense policies and proce-
9 dures for the acquisition of information technology.

10 (b) MATTERS TO BE ADDRESSED.—The matters ad-
11 dressed by the review required by subsection (a) shall in-
12 clude the following:

13 (1) Department of Defense policies and proce-
14 dures for acquiring national security systems, busi-
15 ness information systems, and other information
16 technology.

17 (2) The roles and responsibilities in imple-
18 menting such policies and procedures of—

19 (A) the Under Secretary of Defense for
20 Acquisition, Technology, and Logistics;

21 (B) the Chief Information Officer of the
22 Department of Defense;

23 (C) the Director of the Business Trans-
24 formation Agency;

25 (D) the service acquisition executives;

1 (E) the chief information officers of the
2 military departments;

3 (F) Defense Agency acquisition officials;

4 (G) the information officers of the Defense
5 Agencies; and

6 (H) the Director of Operational Test and
7 Evaluation and the heads of the operational
8 test organizations of the military departments
9 and the Defense Agencies.

10 (3) The application of such policies and proce-
11 dures to information technologies that are an inte-
12 gral part of weapons or weapon systems.

13 (4) The requirements of subtitle III of title 40,
14 United States Code, and chapter 35 of title 44,
15 United States Code, regarding performance-based
16 and results-based management, capital planning,
17 and investment control in the acquisition of informa-
18 tion technology.

19 (5) Department of Defense policies and proce-
20 dures for maximizing the usage of commercial infor-
21 mation technology while ensuring the security of the
22 microelectronics, software, and networks of the De-
23 partment.

24 (6) The suitability of Department of Defense
25 acquisition regulations, including Department of De-

1 fense Directive 5000.1 and the accompanying mile-
2 stones, to the acquisition of information technology
3 systems.

4 (7) The adequacy and transparency of metrics
5 used by the Department of Defense for the acquisi-
6 tion of information technology systems.

7 (8) The effectiveness of existing statutory and
8 regulatory reporting requirements for the acquisition
9 of information technology systems.

10 (9) The adequacy of operational and develop-
11 ment test resources (including infrastructure and
12 personnel), policies, and procedures to ensure appro-
13 priate testing of information technology systems
14 both during development and before operational use.

15 (10) The appropriate policies and procedures
16 for technology assessment, development, and oper-
17 ational testing for purposes of the adoption of com-
18 mercial technologies into information technology sys-
19 tems.

20 (c) REPORT REQUIRED.—Not later than one year
21 after the date of enactment of this Act, the Secretary shall
22 submit to the congressional defense committees a report
23 on the results of the review required by subsection (a).
24 The report shall include the findings and recommenda-
25 tions of the Defense Science Board pursuant to the review,

1 including such recommendations for legislative or adminis-
2 trative action as the Board considers appropriate, together
3 with any comments the Secretary considers appropriate.

4 **SEC. 888. GREEN PROCUREMENT POLICY.**

5 (a) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that the Department of Defense should establish a
7 system to document and track the use of environmentally
8 preferable products and services.

9 (b) REPORT.—Not later than 90 days after the date
10 of the enactment of this Act, the Secretary of Defense
11 shall submit to Congress a report on a plan to increase
12 the usage of environmentally friendly products that mini-
13 mize potential impacts to human health and the environ-
14 ment at all Department of Defense facilities inside and
15 outside the United States, including through the direct
16 purchase of products and the purchase of products by fa-
17 cility maintenance contractors. The report shall also cover
18 consideration of the budgetary impact of implementation
19 of the plan.

20 **SEC. 889. COMPTROLLER GENERAL REVIEW OF USE OF AU-**
21 **THORITY UNDER THE DEFENSE PRODUCTION**
22 **ACT OF 1950.**

23 (a) THOROUGH REVIEW REQUIRED.—The Comp-
24 troller General of the United States (in this section re-
25 ferred to as the “Comptroller”) shall conduct a thorough

1 review of the application of the Defense Production Act
2 of 1950, covering the period beginning on the date of the
3 enactment of the Defense Production Act Reauthorization
4 of 2003 (Public Law 108–195) and ending on the date
5 of the enactment of this Act.

6 (b) CONSIDERATIONS.—In conducting the review re-
7 quired by this section, the Comptroller shall examine—

8 (1) the relevance and utility of the authorities
9 provided under the Defense Production Act of 1950
10 to meet the security challenges of the 21st Century;

11 (2) the manner in which the authorities pro-
12 vided under such Act have been used by the Federal
13 Government—

14 (A) to meet security challenges;

15 (B) to meet current and future defense re-
16 quirements;

17 (C) to meet current and future energy re-
18 quirements;

19 (D) to meet current and future domestic
20 emergency and disaster response and recovery
21 requirements;

22 (E) to reduce the interruption of critical
23 infrastructure operations during a terrorist at-
24 tack, natural catastrophe, or other similar na-
25 tional emergency; and

1 (F) to safeguard critical components of the
2 United States industrial base, including Amer-
3 ican aerospace and shipbuilding industries;

4 (3) the economic impact of foreign offset con-
5 tracts;

6 (4) the relative merit of developing rapid and
7 standardized systems for use of the authorities pro-
8 vided under the Defense Production Act of 1950, by
9 any Federal agency; and

10 (5) such other issues as the Comptroller deter-
11 mines relevant.

12 (c) REPORT TO CONGRESS.—Not later than 150 days
13 after the date of the enactment of this Act, the Comp-
14 troller shall submit to the Committees on Armed Services
15 and on Banking, Housing, and Urban Affairs of the Sen-
16 ate and the Committees on Armed Services and on Finan-
17 cial Services of the House of Representatives a report on
18 the review conducted under this section.

19 (d) RULES OF CONSTRUCTION ON PROTECTION OF
20 INFORMATION.—Notwithstanding any other provision of
21 law—

22 (1) the provisions of section 705(d) of the De-
23 fense Production Act of 1950 (50 U.S.C. App.
24 2155(d)) shall not apply to information sought or

1 obtained by the Comptroller for purposes of the re-
2 view required by this section; and

3 (2) provisions of law pertaining to the protec-
4 tion of classified information or proprietary informa-
5 tion otherwise applicable to information sought or
6 obtained by the Comptroller in carrying out this sec-
7 tion shall not be affected by any provision of this
8 section.

9 **SEC. 890. PREVENTION OF EXPORT CONTROL VIOLATIONS.**

10 (a) **PREVENTION OF EXPORT CONTROL VIOLA-**
11 **TIONS.**—Not later than 180 days after the date of the en-
12 actment of this Act, the Secretary of Defense shall pre-
13 scribe regulations requiring any contractor under a con-
14 tract with the Department of Defense to provide goods
15 or technology that is subject to export controls under the
16 Arms Export Control Act or the Export Administration
17 of 1979 (as continued in effect under the International
18 Emergency Economic Powers Act) to comply with those
19 Acts and applicable regulations with respect to such goods
20 and technology, including the International Traffic in
21 Arms Regulations and the Export Administration Regula-
22 tions. Regulations prescribed under this subsection shall
23 include a contract clause enforcing such requirement.

24 (b) **TRAINING ON EXPORT CONTROLS.**—The Sec-
25 retary of Defense shall ensure that any contractor under

1 a contract with the Department of Defense to provide
2 goods or technology that is subject to export controls
3 under the Arms Export Control Act or the Export Admin-
4 istration of 1979 (as continued in effect under the Inter-
5 national Emergency Economic Powers Act) is made aware
6 of any relevant resources made available by the Depart-
7 ment of State and the Department of Commerce to assist
8 in compliance with the requirement established by sub-
9 section (a) and the need for a corporate compliance plan
10 and periodic internal audits of corporate performance
11 under such plan.

12 (c) REPORT.—Not later than 180 days after the date
13 of the enactment of this Act, the Secretary of Defense
14 shall submit to the Committee on Armed Services of the
15 Senate and the Committee on Armed Services of the
16 House of Representatives a report assessing the utility
17 of—

18 (1) requiring defense contractors (or sub-
19 contractors at any tier) to periodically report on
20 measures taken to ensure compliance with the Inter-
21 national Traffic in Arms Regulations and the Export
22 Administration Regulations;

23 (2) requiring periodic audits of defense contrac-
24 tors (or subcontractors at any tier) to ensure compli-
25 ance with all provisions of the International Traffic

1 in Arms Regulations and the Export Administration
2 Regulations;

3 (3) requiring defense contractors to maintain a
4 corporate training plan to disseminate information
5 to appropriate contractor personnel regarding the
6 applicability of the Arms Export Control Act and the
7 Export Administration Act of 1979; and

8 (4) requiring a designated corporate liaison,
9 available for training provided by the United States
10 Government, whose primary responsibility would be
11 contractor compliance with the Arms Export Control
12 Act and the Export Administration Act of 1979.

13 (d) DEFINITIONS.—In this section:

14 (1) EXPORT ADMINISTRATION REGULATIONS.—
15 The term “Export Administration Regulations”
16 means those regulations contained in sections 730
17 through 774 of title 15, Code of Federal Regulations
18 (or successor regulations).

19 (2) INTERNATIONAL TRAFFIC IN ARMS REGULA-
20 TIONS.—The term “International Traffic in Arms
21 Regulations” means those regulations contained in
22 sections 120 through 130 of title 22, Code of Fed-
23 eral Regulations (or successor regulations).

1 **SEC. 891. PROCUREMENT GOAL FOR NATIVE HAWAIIAN-**
2 **SERVING INSTITUTIONS AND ALASKA NA-**
3 **TIVE-SERVING INSTITUTIONS.**

4 Section 2323 of title 10, United States Code, is
5 amended—

6 (1) in subsection (a)(1)—

7 (A) by striking “and” at the end of sub-
8 paragraph (C);

9 (B) by striking the period at the end of
10 subparagraph (D) and inserting “; and”; and

11 (C) by adding at the end the following new
12 subparagraph:

13 “(E) Native Hawaiian-serving institutions
14 and Alaska Native-serving institutions (as de-
15 fined in section 317 of the Higher Education
16 Act of 1965).”;

17 (2) in subsection (a)(2), by inserting after
18 “Hispanic-serving institutions,” the following: “Na-
19 tive Hawaiian-serving institutions and Alaska Na-
20 tive-serving institutions,”;

21 (3) in subsection (c)(1), by inserting after “His-
22 panic-serving institutions,” the following: “Native
23 Hawaiian-serving institutions and Alaska Native-
24 serving institutions,”; and

25 (4) in subsection (c)(3), by inserting after “His-
26 panic-serving institutions,” the following: “to Native

1 Hawaiian-serving institutions and Alaska Native-
2 serving institutions,”.

3 **SEC. 892. COMPETITION FOR PROCUREMENT OF SMALL**
4 **ARMS SUPPLIED TO IRAQ AND AFGHANISTAN.**

5 (a) **COMPETITION REQUIREMENT.**—For the procure-
6 ment of pistols and other weapons described in subsection
7 (b), the Secretary of Defense shall ensure, consistent with
8 the provisions of section 2304 of title 10, United States
9 Code, that—

10 (1) full and open competition is obtained to the
11 maximum extent practicable;

12 (2) no responsible United States manufacturer
13 is excluded from competing for such procurements;
14 and

15 (3) products manufactured in the United States
16 are not excluded from the competition.

17 (b) **PROCUREMENTS COVERED.**—This section applies
18 to the procurement of the following:

19 (1) Pistols and other weapons less than 0.50
20 caliber for assistance to the Army of Iraq, the Iraqi
21 Police Forces, and other Iraqi security organiza-
22 tions.

23 (2) Pistols and other weapons less than 0.50
24 caliber for assistance to the Army of Afghanistan,

1 the Afghani Police Forces, and other Afghani secu-
2 rity organizations.