Subtitle C of title II, subtitles C and E of title VII, subtitles C and F of title X, titles XI and XIV, sections 1501 and 1616, and title XXXIII of the National Defense Authorization Act for Fiscal Year 1997

[P.L. 104–201, approved Sept. 23, 1996]

[As Amended Through P.L. 116–283, Enacted January 1, 2021]

[Currency: This publication is a compilation of the text of Public Law 104–201. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at https://www.govinfo.gov/app/collection/comps/]

[Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).]

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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Subtitle C—Ballistic Missile Defense Programs

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SEC. 246. CAPABILITY OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall ensure that any National Missile Defense system deployed by the United States is capable of defeating the threat posed by the Taepo Dong II missile of North Korea.

SEC. 247. ACTIONS TO LIMIT ADVERSE EFFECTS ON PRIVATE SECTOR EMPLOYMENT OF ESTABLISHMENT OF NATIONAL MISSILE DEFENSE JOINT PROGRAM OFFICE.

The Secretary of Defense shall take such actions as are necessary in connection with the establishment of the National Missile Defense Joint Program Office within the Ballistic Missile Defense Organization to ensure that the establishment of that office does not make it necessary for a Federal Government contractor to reduce significantly the number of persons employed by that contractor for supporting the national missile defense development program at any particular location outside the National Capital Region (as defined in section 2674(f)(2) of title 10, United States Code).

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE VII—HEALTH CARE PROVISIONS

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Subtitle C—Uniformed Services Treatment Facilities

SEC. 721. [10 U.S.C. 1073 note] DEFINITIONS.

In this subtitle:

(1) The term "administering Secretaries" means the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Health and Human Services.

(2) The term "agreement" means the agreement required under section 722(b) between the Secretary of Defense and a designated provider.

(3) The term "capitation payment" means an actuarially sound payment for a defined set of health care services that is established on a per enrollee per month basis.

(4) The term "covered beneficiary" means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

(5) The term "designated provider" means a public or nonprofit private entity that was a transferee of a Public Health Service hospital or other station under section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 42 U.S.C. 248b) and that, before the date of the enactment of this Act, was deemed to be a facility of the uniformed services for the purposes of chapter 55 of title 10, United States Code. The term includes any legal successor in interest of the transferee.

(6) The term "enrollee" means a covered beneficiary who enrolls with a designated provider.

(7) The term "health care services" means the health care services provided under the health plan known as the "TRICARE PRIME" option under the TRICARE program.

(8) The term "Secretary" means the Secretary of Defense.

(9) The term "TRICARE program" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

SEC. 722. [10 U.S.C. 1073 note] INCLUSION OF DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.

(a) INCLUSION IN SYSTEM.—The health care delivery system of the uniformed services shall include the designated providers.

(b) AGREEMENTS TO PROVIDE MANAGED HEALTH CARE SERVICES.—(1) After consultation with the other administering Secretaries, the Secretary of Defense shall negotiate and enter into an

agreement with each designated provider under which the designated provider will provide health care services in or through managed care plans to covered beneficiaries who enroll with the designated provider.

(2) The agreement shall be entered into on a sole source basis. The Federal Acquisition Regulation, except for those requirements regarding competition, issued pursuant to section 1303(a) of title 41, United States Code shall apply to the agreements as acquisitions of commercial items.

(3) The implementation of an agreement is subject to availability of funds for such purpose.

(c) EFFECTIVE DATE OF AGREEMENTS.—(1) Unless an earlier effective date is agreed upon by the Secretary and the designated provider, the agreement shall take effect upon the later of the following:

(A) The date on which a managed care support contract under the TRICARE program is implemented in the service area of the designated provider.

(B) October 1, 1997.

(2) The Secretary may modify the effective date established under paragraph (1) for an agreement to permit a transition period of not more than six months between the date on which the agreement is executed by the parties and the date on which the designated provider commences the delivery of health care services under the agreement.

(d) TEMPORARY CONTINUATION OF EXISTING PARTICIPATION AGREEMENTS.—The Secretary shall extend the participation agreement of a designated provider in effect immediately before the date of the enactment of this Act under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 42 U.S.C. 248c) until the agreement required by this section takes effect under subsection (c), including any transitional period provided by the Secretary under paragraph (2) of such subsection.

(e) SERVICE AREA.—The Secretary may not reduce the size of the service area of a designated provider below the size of the service area in effect as of September 30, 1996.

(f) COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS.—(1) Unless otherwise agreed upon by the Secretary and a designated provider, the designated provider shall comply with necessary and appropriate administrative requirements established by the Secretary for other providers of health care services and requirements established by the Secretary of Health and Human Services for risk-sharing contractors under section 1876 of the Social Security Act (42 U.S.C. 1395mm). The Secretary and the designated provider shall determine and apply only such administrative requirements as are minimally necessary and appropriate. A designated provider shall not be required to comply with a law or regulation of a State government requiring licensure as a health insurer or health maintenance organization.

(2) A designated provider may not contract out more than five percent of its primary care enrollment without the approval of the Secretary, except in the case of primary care contracts between a designated provider and a primary care contractor in force on the date of the enactment of this Act.

(g) CONTINUED ACQUISITION OF REDUCED-COST DRUGS.—A designated provider shall be treated as part of the Department of Defense for purposes of section 8126 of title 38, United States Code, in connection with the provision by the designated provider of health care services to covered beneficiaries pursuant to the participation agreement of the designated provider under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 42 U.S.C. 248c note) or pursuant to the agreement entered into under subsection (b).

SEC. 723. [10 U.S.C. 1073 note] PROVISION OF UNIFORM BENEFIT BY DESIGNATED PROVIDERS.

(a) UNIFORM BENEFIT REQUIRED.—A designated provider shall offer to enrollees the health benefit option prescribed and implemented by the Secretary under section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 1073 note), including accompanying cost-sharing requirements.

(b) TIME FOR IMPLEMENTATION OF BENEFIT.—A designated provider shall offer the health benefit option described in subsection (a) to enrollees upon the later of the following:

(1) The date on which health care services within the health care delivery system of the uniformed services are rendered through the TRICARE program in the region in which the designated provider operates.

(2) October 1, 1997.

(c) ADJUSTMENTS.—The Secretary may establish a later date under subsection (b)(2) or prescribe reduced cost-sharing requirements for enrollees.

SEC. 724. [10 U.S.C. 1073 note] ENROLLMENT OF COVERED BENEFICIARIES.

(a) FISCAL YEAR 1997 LIMITATION.—(1) During fiscal year 1997, the number of covered beneficiaries who are enrolled in managed care plans offered by designated providers may not exceed the number of such enrollees as of October 1, 1995.

(2) The Secretary may waive the limitation under paragraph (1) if the Secretary determines that additional enrollment authority for a designated provider is required to accommodate covered beneficiaries who are dependents of members of the uniformed services entitled to health care under section 1074(a) of title 10, United States Code.

(b) PERMANENT LIMITATION.—For each fiscal year beginning after September 30, 1997, the number of enrollees in managed care plans offered by designated providers may not exceed 110 percent of the number of such enrollees as of the first day of the immediately preceding fiscal year. The Secretary may waive this limitation as provided in subsection (a)(2).

(c) RETENTION OF CURRENT ENROLLEES.—An enrollee in the managed care plan of a designated provider as of September 30, 1997, or such earlier date as the designated provider and the Secretary may agree upon, shall continue receiving services from the designated provider pursuant to the agreement entered into under section 722 unless the enrollee disenrolls from the designated provider. Except as provided in subsection (e), the administering Sec-

retaries may not disenroll such an enrollee unless the disenrollment is agreed to by the Secretary and the designated provider.

(d) ADDITIONAL ENROLLMENT AUTHORITY.—(1) Subject to paragraph (2), other covered beneficiaries may also receive health care services from a designated provider.

(2)(A) The designated provider may market such services to, and enroll, covered beneficiaries who—

(i) do not have other primary health insurance coverage (other than Medicare coverage) covering basic primary care and inpatient and outpatient services;

(ii) subject to the limitation in subparagraph (B), have other primary health insurance coverage (other than Medicare coverage) covering basic primary care and inpatient and outpatient services; or

(iii) are enrolled in the direct care system under the TRICARE program, regardless of whether the covered beneficiaries were users of the health care delivery system of the uniformed services in prior years.

(B) For each fiscal year beginning after September 30, 2003, the number of covered beneficiaries newly enrolled by designated providers pursuant to clause (ii) of subparagraph (A) during such fiscal year may not exceed 10 percent of the total number of the covered beneficiaries who are newly enrolled under such subparagraph during such fiscal year.

(3) For purposes of this subsection, a covered beneficiary who has other primary health insurance coverage includes any covered beneficiary who has primary health insurance coverage—

(A) on the date of enrollment with a designated provider pursuant to paragraph (2)(A)(i); or

(B) on such date of enrollment and during the period after such date while the beneficiary is enrolled with the designated provider.

(e) SPECIAL RULE FOR MEDICARE-ELIGIBLE BENEFICIARIES.—(1) Except as provided in paragraph (2), if a covered beneficiary who desires to enroll in the managed care program of a designated provider is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), the covered beneficiary shall elect whether to receive health care services as an enrollee or under part A of title XVIII of the Social Security Act. The Secretary may disenroll an enrollee who subsequently violates the election made under this subsection and receives benefits under part A of title XVIII of the Social Security Act.

(2) After September 30, 2012, a covered beneficiary (other than a beneficiary under section 1079 of title 10, United States Code) who is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act due to age may not enroll in the managed care program of a designated provider unless the beneficiary was enrolled in that program on September 30, 2012.

(f) INFORMATION REGARDING ELIGIBLE COVERED BENEFICIARIES.—The Secretary shall provide, in a timely manner, a designated provider with an accurate list of covered beneficiaries within the marketing area of the designated provider to whom the designated provider may offer enrollment.

(g) OPEN ENROLLMENT DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program under which covered beneficiaries shall be permitted to enroll at any time in a managed care plan offered by a designated provider consistent with the enrollment requirements for the TRICARE Prime option under the TRICARE program, but without regard to the limitation in subsection (b). The demonstration program under this subsection shall cover designated providers, selected by the Secretary of Defense, and the service areas of the designated providers.

(2) The demonstration program carried out under this section shall commence on October 1, 1999, and end on September 30, 2001.

(3) Not later than March 15, 2001, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration program carried out under this subsection. The report shall include, at a minimum, an evaluation of the benefits of the open enrollment opportunity to covered beneficiaries and a recommendation on whether to authorize open enrollments in the managed care plans of designated providers permanently.

SEC. 725. [10 U.S.C. 1073 note] APPLICATION OF CHAMPUS PAYMENT RULES.

(a) APPLICATION OF PAYMENT RULES.—Subject to subsection (b), the Secretary shall require a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services to apply the payment rules described in section 1074(c) of title 10, United States Code, in imposing charges for health care that the private facility or provider provides to enrollees of a designated provider.

(b) AUTHORIZED ADJUSTMENTS.—The payment rules imposed under subsection (a) shall be subject to such modifications as the Secretary considers appropriate. The Secretary may authorize a lower rate than the maximum rate that would otherwise apply under subsection (a) if the lower rate is agreed to by the designated provider and the private facility or health care provider.

(c) REGULATIONS.—The Secretary shall prescribe regulations to implement this section after consultation with the other administering Secretaries.

(d) CONFORMING AMENDMENT.—Section 1074 of title 10, United States Code, is amended by striking out subsection (d).

SEC. 726. [10 U.S.C. 1073 note] PAYMENTS FOR SERVICES.

(a) FORM OF PAYMENT.—Unless otherwise agreed to by the Secretary and a designated provider, the form of payment for health care services provided by a designated provider shall be on a full risk capitation payment basis. The capitation payments shall be negotiated and agreed upon by the Secretary and the designated provider. In addition to such other factors as the parties may agree to apply, the capitation payments shall be based on the utilization experience of enrollees and competitive market rates for equivalent health care services for a comparable population to such enrollees in the area in which the designated provider is located.

(b) LIMITATION ON TOTAL PAYMENTS.—Total capitation payments for health care services to a designated provider shall not

exceed an amount equal to the cost that would have been incurred by the Government if the enrollees had received such health care services through a military treatment facility, the TRICARE program, or the Medicare program, as the case may be. In establishing the ceiling rate for enrollees with the designated providers who are also eligible for the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense shall take into account the health status of the enrollees.

(c) ESTABLISHMENT OF PAYMENT RATES ON ANNUAL BASIS.—The Secretary and a designated provider shall establish capitation payments on an annual basis, subject to periodic review for actuarial soundness and to adjustment for any adverse or favorable selection reasonably anticipated to result from the design of the program under this subtitle.

(d) ALTERNATIVE BASIS FOR CALCULATING PAYMENTS.—After September 30, 1999, the Secretary and a designated provider may mutually agree upon a new basis for calculating capitation payments.

SEC. 727. [10 U.S.C. 1073 note] REPEAL OF SUPERSEDED AUTHORITIES.

(a) REPEALS.—The following provisions of law are repealed:

(1) Section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c).

(2) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d).

(3) Section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 42 U.S.C. 248c note).

(4) Section 726 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 42 U.S.C. 248c note).

(b) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) of subsection (a) shall take effect on October 1, 1997.

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Subtitle E—Other Matters

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SEC. 742. [10 U.S.C. 1071 note] EXTERNAL PEER REVIEW FOR DEFENSE HEALTH PROGRAM EXTRAMURAL MEDICAL RESEARCH INVOLVING HUMAN SUBJECTS.

(a) ESTABLISHMENT OF EXTERNAL PEER REVIEW PROCESS.—The Secretary of Defense shall establish a peer review process that will use persons who are not officers or employees of the Government to review the research protocols of medical research projects.

(b) PEER REVIEW REQUIREMENTS.—Funds of the Department of Defense may not be obligated or expended for any medical research project unless the research protocol for the project has been approved by the external peer review process established under subsection (a).

(c) MEDICAL RESEARCH PROJECT DEFINED.—For purposes of this section, the term "medical research project" means a research project that—

(1) involves the participation of human subjects;

(2) is conducted solely by a non-Federal entity; and

(3) is funded through the Defense Health Program account.

(d) EFFECTIVE DATE.—The peer review requirements of subsection (b) shall take effect on October 1, 1996, and, except as provided in subsection (e), shall apply to all medical research projects proposed funded on or after that date, including medical research projects funded pursuant to any requirement of law enacted before, on, or after that date.

(e) EXCEPTIONS.—Only the following medical research projects shall be exempt from the peer review requirements of subsection (b):

(1) A medical research project that the Secretary determines has been substantially completed by October 1, 1996.

(2) A medical research project funded pursuant to any provision of law enacted on or after that date if the provision of law specifically refers to this section and specifically states that the peer review requirements do not apply.

SEC. 743. [10 U.S.C. 1074 note] INDEPENDENT RESEARCH REGARDING GULF WAR SYNDROME.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "Gulf War service" means service on active duty as a member of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(2) The term "Gulf War syndrome" means the complex of illnesses and symptoms commonly known as Gulf War syndrome.

(3) The term "Persian Gulf War" has the meaning given that term in section 101(33) of title 38, United States Code.

(b) RESEARCH.—The Secretary of Defense shall provide, by contract, grant, or other transaction, for scientific research to be carried out by entities independent of the Federal Government on possible causal relationships between Gulf War syndrome and—

(1) the possible exposures of members of the Armed Forces to chemical warfare agents or other hazardous materials during Gulf War service; and

(2) the use by the Department of Defense during the Persian Gulf War of combinations of various inoculations and investigational new drugs.

(c) PROCEDURES FOR AWARDING GRANTS.—The Secretary shall prescribe the procedures to be used to make research awards under subsection (b). The procedures shall—

(1) include a comprehensive, independent peer-review process for the evaluation of proposals for scientific research that are submitted to the Department of Defense; and

(2) provide for the final selection of proposals for award to be based on the scientific merit and program relevance of the proposed research.

(d) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated under section 301(21) for defense medical programs, $10,000,000 is available for research under subsection (b).

TITLE X—GENERAL PROVISIONS

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Subtitle C—Counter-Drug Activities

SEC. 1031. AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF MEXICO.

(a) AUTHORITY TO PROVIDE ADDITIONAL SUPPORT.—Subject to subsection (e), during fiscal years 1997 and 1998, the Secretary of Defense may provide the Government of Mexico with the support described in subsection (b) for the counter-drug activities of the Government of Mexico. In providing support to the Government of Mexico under this section, the Secretary of Defense shall consult with the Secretary of State. The support provided under the authority of this subsection shall be in addition to support provided to the Government of Mexico under any other provision of law.

(b) TYPES OF SUPPORT.—The authority under subsection (a) is limited to the provision of the following types of support:

(1) The transfer of nonlethal protective and utility personnel equipment.

(2) The transfer of the following nonlethal specialized equipment:

(A) Navigation equipment.

(B) Secure and nonsecure communications equipment.

(C) Photo equipment.

(D) Radar equipment.

(E) Night vision systems.

(F) Repair equipment and parts for equipment referred to in subparagraphs (A), (B), (C), (D), and (E).

(3) The transfer of nonlethal components, accessories, attachments, parts (including ground support equipment), firmware, and software for aircraft or patrol boats, and related repair equipment.

(4) The maintenance and repair of equipment of the Government of Mexico that is used for counter-drug activities.

(c) APPLICABILITY OF OTHER SUPPORT AUTHORITIES.—Except as otherwise provided in this section, the provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) shall apply to the provision of support under this section.

(d) FUNDING.—Of the amount authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activities, an amount not to exceed $8,000,000 shall be available for the provision of support under this section. Funds made available for fiscal year 1997 under this subsection and unobligated by September 30, 1997, may be obligated during fiscal year 1998. No funds are authorized to be appropriated for fiscal year 1998 for the provision of support under this section.

(e) LIMITATIONS.—(1) The Secretary may not obligate or expend funds to provide support under this section until 15 days after the date on which the Secretary submits to the committees referred to in paragraph (3) the certification described in paragraph (2).

(2) The certification referred to in paragraph (1) is a written certification of the following:

(A) That the provision of support under this section will not adversely affect the military preparedness of the United States Armed Forces.

(B) That the equipment and materiel provided as support will be used only by officials and employees of the Government of Mexico who have undergone a background check by that government.

(C) That the Government of Mexico has certified to the Secretary that—

(i) the equipment and material provided as support will be used only by the officials and employees referred to in subparagraph (B);

(ii) none of the equipment or materiel will be transferred (by sale, gift, or otherwise) to any person or entity not authorized by the United States to receive the equipment or materiel; and

(iii) the equipment and materiel will be used only for the purposes intended by the United States Government.

(D) That the Government of Mexico has implemented, to the satisfaction of the Secretary, a system that will provide an accounting and inventory of the equipment and materiel provided as support.

(E) That the departments, agencies, and instrumentalities of the Government of Mexico will grant United States Government personnel access to any of the equipment or materiel provided as support, or to any of the records relating to such equipment or materiel, under terms and conditions similar to the terms and conditions imposed with respect to such access under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(F) That the Government of Mexico will provide security with respect to the equipment and materiel provided as support that is substantially the same degree of security that the United States Government would provide with respect to such equipment and materiel.

(G) That the Government of Mexico will permit continuous observation and review by United States Government personnel of the use of the equipment and materiel provided as support under terms and conditions similar to the terms and conditions imposed with respect to such observation and review under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(3) The committees referred to in this paragraph are the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on National Security and the Committee on International Relations of the House of Representatives.

SEC. 1053. [110 Stat. 2650] DISPOSAL OF TRACT OF REAL PROPERTY IN THE DISTRICT OF COLUMBIA.

(a) DISPOSAL AUTHORIZED.—(1) Notwithstanding title II the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), title VIII of such Act (40 U.S.C. 531 et seq.), section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411), or any other provision of law relating to the management and disposal of real property by the United States, the

Armed Forces Retirement Home Board shall convey, by sale or lease, all right, title, and interest of the United States in a parcel of real property, including improvements thereon, consisting of approximately 49 acres located in Washington, District of Columbia, east of North Capitol Street, and recorded as District Parcel 121/19. [1]

(2) The Armed Forces Retirement Home Board shall sell or lease the property described in subsection (a) within 12 months after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2000.

(b) MANNER, TERMS AND CONDITIONS OF DISPOSAL.—(1) The Armed Forces Retirement Home Board shall determine the manner, terms, and conditions for the sale or lease of the real property under subsection (a), except as follows:

(A) Any lease of the real property under subsection (a) shall include an option to purchase.

(B) The conveyance may not involve any form of public/private partnership, but shall be limited to fee-simple sale or long-term lease.

(C) Before conveying the property by sale or lease to any other person or entity, the Board shall provide the Catholic University of America with the opportunity to match or exceed the highest bona fide offer otherwise received for the purchase or lease of the property, as the case may be, and to acquire the property.

(2) As consideration for the real property conveyance under subsection (a), the purchaser selected under paragraph (1) shall pay to the United States an amount equal to the fair market value of the real property at its highest and best economic use, as determined by the Armed Forces Retirement Home Board, based on an independent appraisal. In no event shall the sale or lease of the property be for less than the appraised value of the property in its existing condition and on the basis of its highest and best use.

(3) The payment received under paragraph (2) shall be deposited in the Armed Forces Retirement Home Trust Fund in accordance with section 1519(a)(2) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1730; 24 U.S.C. 419(a)(2)).

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Armed Forces Retirement Home Board. The cost of the survey shall be borne by the party or parties to which the property is to be conveyed.

(d) CONGRESSIONAL NOTIFICATION.—(1) Before disposing of real property under subsection (a), the Armed Forces Retirement Home Board shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the proposed disposal. The Board may not dispose of the real property until the later of—

(A) the date that is 60 days after the date on which the notification is received by the committees; or

[1] The Federal Property and Administrative Services Act of 1949 was repealed as part of the codification of title 40, United States Code, by Public Law 107–217. Former title II of that Act is now chapter 5 of title 40.

(B) the date of the next day following the expiration of the first period of 30 days of continuous session of Congress that follows the date on which the notification is received by the committees.

(2) For the purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

Subtitle F—Other Matters

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[Section 1082 was repealed by section 1242(c)(1) of division A of Public Law 114-328.]

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TITLE XI—NATIONAL IMAGERY AND MAPPING AGENCY

SEC. 1101. SHORT TITLE.

This title may be cited as the "National Imagery and Mapping Agency Act of 1996".

SEC. 1102. FINDINGS.

Congress makes the following findings:

(1) There is a need within the Department of Defense and the Intelligence Community of the United States to provide a single agency focus for the growing number and diverse types of customers for imagery and geospatial information resources within the Government, to ensure visibility and accountability for those resources, and to harness, leverage, and focus rapid

technological developments to serve the imagery, imagery intelligence, and geospatial information customers.

(2) There is a need for a single Government agency to solicit and advocate the needs of that growing and diverse pool of customers.

(3) A single combat support agency dedicated to imagery, imagery intelligence, and geospatial information could act as a focal point for support of all imagery intelligence and geospatial information customers, including customers in the Department of Defense, the Intelligence Community, and related agencies outside of the Department of Defense.

(4) Such an agency would best serve the needs of the imagery, imagery intelligence, and geospatial information customers if it were organized—

(A) to carry out its mission responsibilities under the authority, direction, and control of the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff; and

(B) to carry out its responsibilities to national intelligence customers in accordance with policies and priorities established by the Director of Central Intelligence.

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Subtitle A—Establishment of Agency

SEC. 1111. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is hereby established in the Department of Defense a Defense Agency to be known as the National Imagery and Mapping Agency.

(b) TRANSFER OF FUNCTIONS FROM DEPARTMENT OF DEFENSE ENTITIES.—The missions and functions of the following elements of the Department of Defense are transferred to the National Imagery and Mapping Agency:

(1) The Defense Mapping Agency.

(2) The Central Imagery Office.

(3) Other elements of the Department of Defense as specified in the classified annex to this Act.

(c) TRANSFER OF FUNCTIONS FROM CENTRAL INTELLIGENCE AGENCY.—The missions and functions of the following elements of the Central Intelligence Agency are transferred to the National Imagery and Mapping Agency:

(1) The National Photographic Interpretation Center.

(2) Other elements of the Central Intelligence Agency as specified in the classified annex to this Act.

(d) PRESERVATION OF LEVEL AND QUALITY OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE ANALYSIS AND PRODUCTION.—In managing the establishment of the National Imagery and Mapping Agency, the Secretary of Defense, in consultation with the Director of Central Intelligence, shall ensure that imagery intelligence support provided to all-source analysis and production is in no way degraded or compromised.

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SEC. 1113. TRANSFERS OF PERSONNEL AND ASSETS.

(a) PERSONNEL AND ASSETS.—Subject to subsections (b) and (c), the personnel, assets, unobligated balances of appropriations and authorizations of appropriations, and, to the extent jointly determined appropriate by the Secretary of Defense and Director of Central Intelligence, obligated balances of appropriations and authorizations of appropriations employed, used, held, arising from, or available in connection with the missions and functions transferred under section 1111(b) or section 1111(c) are transferred to the National Imagery and Mapping Agency. Transfers of appropriations from the Central Intelligence Agency under this subsection shall be made in accordance with section 1531 of title 31, United States Code.

(b) DETERMINATION OF CIA POSITIONS TO BE TRANSFERRED.—Not earlier than two years after the effective date of this subtitle, the Secretary of Defense and the Director of Central Intelligence shall determine which, if any, positions and personnel of the Central Intelligence Agency are to be transferred to the National Imagery and Mapping Agency. The positions to be transferred, and the employees serving in such positions, shall be transferred to the National Imagery and Mapping Agency under terms and conditions prescribed by the Secretary of Defense and the Director of Central Intelligence.

(c) RULE FOR CIA IMAGERY ACTIVITIES ONLY PARTIALLY TRANSFERRED.—If the National Photographic Interpretation Center of the Central Intelligence Agency or any imagery-related activity of the Central Intelligence Agency authorized to be performed by the National Imagery and Mapping Agency is not completely transferred to the National Imagery and Mapping Agency, the Secretary of Defense and the Director of Central Intelligence shall—

(1) jointly determine which, if any, contracts, leases, property, and records employed, used, held, arising from, available to, or otherwise relating to such Center or activity is to be transferred to the National Imagery and Intelligence Agency; and

(2) provide by written agreement for the transfer of such items.

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SEC. 1115. CREDITABLE CIVILIAN SERVICE FOR CAREER CONDITIONAL EMPLOYEES OF THE DEFENSE MAPPING AGENCY.

In the case of an employee of the National Imagery and Mapping Agency who, on the day before the effective date of this title, was an employee of the Defense Mapping Agency in a career-conditional status, the continuous service of that employee as an employee of the National Imagery and Mapping Agency on and after such date shall be considered creditable service for the purpose of any determination of the career status of the employee.

SEC. 1116. SAVING PROVISIONS.

(a) CONTINUING EFFECT ON LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, international agreements, grants, contracts, leases, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in connection with any of the functions which are transferred under this title or any function that the National Imagery and Mapping Agency is authorized to perform by law, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Defense, the Director of the National Imagery and Mapping Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—This title and the amendments made by this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an element of the Department of Defense or Central Intelligence Agency at the time this title takes effect, with respect to function of that element transferred by section 1122, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

SEC. 1117. DEFINITIONS.

In this subtitle, the terms "function", "imagery", "imagery intelligence", and "geospatial information" have the meanings given those terms in section 467 of title 10, United States Code, as added by section 1112.

SEC. 1118. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for the National Imagery and Mapping Agency for fiscal year 1997 in amounts and for purposes, and subject to the terms, conditions, limitations, restrictions, and requirements, that are set forth in the Classified Annex to this Act.

Subtitle B—Conforming Amendments and Effective Dates

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SEC. 1124. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on October 1, 1996, or the date of the enactment of this Act, whichever is later.

TITLE XIV—DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION

SEC. 1401. [50 U.S.C. 2301 note] SHORT TITLE.

This title may be cited as the "Defense Against Weapons of Mass Destruction Act of 1996".

SEC. 1402. [50 U.S.C. 2301] FINDINGS.

Congress makes the following findings:

(1) Weapons of mass destruction and related materials and technologies are increasingly available from worldwide sources. Technical information relating to such weapons is readily available on the Internet, and raw materials for chemical, biological, and radiological weapons are widely available for legitimate commercial purposes.

(2) The former Soviet Union produced and maintained a vast array of nuclear, biological, and chemical weapons of mass destruction.

(3) Many of the states of the former Soviet Union retain the facilities, materials, and technologies capable of producing additional quantities of weapons of mass destruction.

(4) The disintegration of the former Soviet Union was accompanied by disruptions of command and control systems, deficiencies in accountability for weapons, weapons-related materials and technologies, economic hardships, and significant gaps in border control among the states of the former Soviet Union. The problems of organized crime and corruption in the states of the former Soviet Union increase the potential for proliferation of nuclear, radiological, biological, and chemical weapons and related materials.

(5) The conditions described in paragraph (4) have substantially increased the ability of potentially hostile nations, terrorist groups, and individuals to acquire weapons of mass destruction and related materials and technologies from within the states of the former Soviet Union and from unemployed scientists who worked on those programs.

(6) As a result of such conditions, the capability of potentially hostile nations and terrorist groups to acquire nuclear, radiological, biological, and chemical weapons is greater than at any time in history.

(7) The President has identified North Korea, Iraq, Iran, and Libya as hostile states which already possess some weapons of mass destruction and are developing others.

(8) The acquisition or the development and use of weapons of mass destruction is well within the capability of many extremist and terrorist movements, acting independently or as proxies for foreign states.

(9) Foreign states can transfer weapons to or otherwise aid extremist and terrorist movements indirectly and with plausible deniability.

(10) Terrorist groups have already conducted chemical attacks against civilian targets in the United States and Japan, and a radiological attack in Russia.

(11) The potential for the national security of the United States to be threatened by nuclear, radiological, chemical, or biological terrorism must be taken seriously.

(12) There is a significant and growing threat of attack by weapons of mass destruction on targets that are not military targets in the usual sense of the term.

(13) Concomitantly, the threat posed to the citizens of the United States by nuclear, radiological, biological, and chemical weapons delivered by unconventional means is significant and growing.

(14) Mass terror may result from terrorist incidents involving nuclear, radiological, biological, or chemical materials.

(15) Facilities required for production of radiological, biological, and chemical weapons are much smaller and harder to detect than nuclear weapons facilities, and biological and chemical weapons can be deployed by alternative delivery means other than long-range ballistic missiles.

(16) Covert or unconventional means of delivery of nuclear, radiological, biological, and chemical weapons include cargo ships, passenger aircraft, commercial and private vehicles and vessels, and commercial cargo shipments routed through multiple destinations.

(17) Traditional arms control efforts assume large state efforts with detectable manufacturing programs and weapons production programs, but are ineffective in monitoring and controlling smaller, though potentially more dangerous, unconventional proliferation efforts.

(18) Conventional counterproliferation efforts would do little to detect or prevent the rapid development of a capability to suddenly manufacture several hundred chemical or biological weapons with nothing but commercial supplies and equipment.

(19) The United States lacks adequate planning and countermeasures to address the threat of nuclear, radiological, biological, and chemical terrorism.

(20) The Department of Energy has established a Nuclear Emergency Response Team which is available in case of nuclear or radiological emergencies, but no comparable units exist to deal with emergencies involving biological or chemical weapons or related materials.

(21) State and local emergency response personnel are not adequately prepared or trained for incidents involving nuclear, radiological, biological, or chemical materials.

(22) Exercises of the Federal, State, and local response to nuclear, radiological, biological, or chemical terrorism have revealed serious deficiencies in preparedness and severe problems of coordination.

(23) The development of, and allocation of responsibilities for, effective countermeasures to nuclear, radiological, biological, or chemical terrorism in the United States requires well-coordinated participation of many Federal agencies, and careful planning by the Federal Government and State and local governments.

(24) Training and exercises can significantly improve the preparedness of State and local emergency response personnel for emergencies involving nuclear, radiological, biological, or chemical weapons or related materials.

(25) Sharing of the expertise and capabilities of the Department of Defense, which traditionally has provided assistance to Federal, State, and local officials in neutralizing, dismantling, and disposing of explosive ordnance, as well as radiological, biological, and chemical materials, can be a vital contribution to the development and deployment of countermeasures against nuclear, biological, and chemical weapons of mass destruction.

(26) The United States lacks effective policy coordination regarding the threat posed by the proliferation of weapons of mass destruction.

SEC. 1403. [50 U.S.C. 2302] DEFINITIONS.

In this title:

(1) The term "weapon of mass destruction" means any weapon or device that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of—

(A) toxic or poisonous chemicals or their precursors;

(B) a disease organism; or

(C) radiation or radioactivity.

(2) The term "independent states of the former Soviet Union" has the meaning given that term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(3) The term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U–235.

Subtitle A—Domestic Preparedness

SEC. 1411. [50 U.S.C. 2311] RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.

(a) ENHANCED RESPONSE CAPABILITY.—In light of the potential for terrorist use of weapons of mass destruction against the United States, the President shall take immediate action—

(1) to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction; and

(2) to provide enhanced support to improve the capabilities of State and local emergency response agencies to prevent and respond to such incidents at both the national and the local level.

(b) REPORT REQUIRED.—Not later than January 31, 1997, the President shall transmit to Congress a report containing—

(1) an assessment of the capabilities of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction and to support State and local prevention and response efforts;

(2) requirements for improvements in those capabilities; and

(3) the measures that should be taken to achieve such improvements, including additional resources and legislative authorities that would be required.

SEC. 1412. [50 U.S.C. 2312] EMERGENCY RESPONSE ASSISTANCE PROGRAM.

[Section 1412 was repealed by 1034 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3429).]

SEC. 1413. [50 U.S.C. 2313] NUCLEAR, CHEMICAL, AND BIOLOGICAL EMERGENCY RESPONSE.

(a) DEPARTMENT OF DEFENSE.—The Assistant Secretary of Defense for Homeland Defense is responsible for the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving nuclear, radiological, biological, chemical weapons, or high-yield explosives or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear, radiological, biological, chemical weapons, and high-yield explosives and related materials and technologies.

(b) DEPARTMENT OF ENERGY.—The Secretary of Energy shall designate an official within the Department of Energy as the executive agent for—

(1) the coordination of Department of Energy assistance to Federal, State, and local officials in responding to threats involving nuclear, chemical, and biological weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear weapons and related materials and technologies; and

(2) the coordination of Department of Energy assistance to the Department of Defense in carrying out that department's responsibilities under subsection (a).

(c) FUNDING.—Of the total amount authorized to be appropriated under section 301, $15,000,000 is available for providing assistance described in subsection (a).

SEC. 1414. [50 U.S.C. 2314] CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND HIGH-YIELD EXPLOSIVES RESPONSE TEAM.

(a) DEPARTMENT OF DEFENSE RAPID RESPONSE TEAM.—The Secretary of Defense shall develop and maintain at least one domestic terrorism rapid response team composed of members of the Armed Forces and employees of the Department of Defense who are capable of aiding Federal, State, and local officials in the detection, neutralization, containment, dismantlement, and disposal of weapons of mass destruction containing chemical, biological, radiological, nuclear, and high-yield explosives.

(b) ADDITION TO FEDERAL RESPONSE PLANS.—The Secretary of Homeland Security shall incorporate into the National Response Plan prepared pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)), other existing Federal emergency response plans, and programs prepared under section 611(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) guidance on the use and deployment of the rapid response teams established under this section to respond to

emergencies involving weapons of mass destruction. The Secretary of Homeland Security shall carry out this subsection in coordination with the Secretary of Defense and the heads of other Federal agencies involved with the emergency response plans.

SEC. 1415. [50 U.S.C. 2315] TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, AND BIOLOGICAL WEAPONS.

(a) EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, OR BIOLOGICAL WEAPONS.—(1) The Secretary of Homeland Security shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving nuclear, radiological, biological, and chemical weapons and related materials.

(2) The program shall include exercises to be carried out in accordance with sections 102(c) and 430(c)(1) of the Homeland Security Act of 2002 (6 U.S.C. 112(c), 238(c)(1)).

(3) In developing and carrying out the program, the Secretary shall coordinate with the Secretary of Defense, the Director of the Federal Bureau of Investigation, the Secretary of Energy, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(b) ANNUAL REVISIONS OF PROGRAMS.—The Secretary of Homeland Security shall revise the program developed under subsection (a) not later than June 1 in each fiscal year covered by the program. The revisions shall include adjustments that the Secretary determines necessary or appropriate on the basis of the lessons learned from the exercise or exercises carried out under the program in the fiscal year, including lessons learned regarding coordination problems and equipment deficiencies.

SEC. 1416. [50 U.S.C. 2316] MILITARY ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS IN EMERGENCY SITUATIONS INVOLVING BIOLOGICAL OR CHEMICAL WEAPONS.

[Subsections (a), (b), and (c) omitted—Amendments]

(d) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce the reliance of civilian law enforcement officials on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States. The measures shall include—

(1) actions to increase civilian law enforcement expertise to counter such a threat; and

(2) actions to improve coordination between civilian law enforcement officials and other civilian sources of expertise, within and outside the Federal Government, to counter such a threat.

(e) REPORTS.—The President shall submit to Congress the following reports:

(1) Not later than 90 days after the date of the enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States.

(2) Not later than one year after such date, a report describing—

(A) the actions planned to be taken to carry out subsection (d); and

(B) the costs of such actions.

(3) Not later than three years after such date, a report updating the information provided in the reports submitted pursuant to paragraphs (1) and (2), including the measures taken pursuant to subsection (d).

SEC. 1417. [50 U.S.C. 2317] RAPID RESPONSE INFORMATION SYSTEM.

(a) INVENTORY OF RAPID RESPONSE ASSETS.—(1) The head of each Federal Response Plan agency shall develop and maintain an inventory of physical equipment and assets under the jurisdiction of that agency that could be made available to aid State and local officials in search and rescue and other disaster management and mitigation efforts associated with an emergency involving weapons of mass destruction. The agency head shall submit a copy of the inventory, and any updates of the inventory, to the Director of the Federal Emergency Management Agency for inclusion in the master inventory required under subsection (b).

(2) Each inventory shall include a separate listing of any equipment that is excess to the needs of that agency and could be considered for disposal as excess or surplus property for use for response and training with regard to emergencies involving weapons of mass destruction.

(b) MASTER INVENTORY.—The Director of the Federal Emergency Management Agency shall compile and maintain a comprehensive listing of all inventories prepared under subsection (a). The first such master list shall be completed not later than December 31, 1997, and shall be updated annually thereafter.

(c) ADDITION TO FEDERAL RESPONSE PLAN.—Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 611(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) guidance on accessing and using the physical equipment and assets included in the master list developed under subsection to respond to emergencies involving weapons of mass destruction.

(d) DATABASE ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Director of the Federal Emergency Management Agency, in consultation with the Secretary of Defense, shall prepare a database on chemical and biological agents and munitions characteristics and safety precautions for civilian use. The initial design and compilation of the database shall be completed not later than December 31, 1997.

(e) ACCESS TO INVENTORY AND DATABASE.—The Director of the Federal Emergency Management Agency shall design and maintain a system to give Federal, State, and local officials access to the inventory listing and database maintained under this section in the event of an emergency involving weapons of mass destruction or to prepare and train to respond to such an emergency. The system shall include a secure but accessible emergency response hotline to access information and request assistance.

Subtitle B—Interdiction of Weapons of Mass Destruction and Related Materials

SEC. 1421. [50 U.S.C. 2331] PROCUREMENT OF DETECTION EQUIPMENT UNITED STATES BORDER SECURITY.

Of the amount authorized to be appropriated by section 301, $15,000,000 is available for the procurement of—

(1) equipment capable of detecting the movement of weapons of mass destruction and related materials into the United States;

(2) equipment capable of interdicting the movement of weapons of mass destruction and related materials into the United States; and

(3) materials and technologies related to use of equipment described in paragraph (1) or (2).

SEC. 1422. EXTENSION OF COVERAGE OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

[Omitted—Amendment]

SEC. 1423. [50 U.S.C. 2332] SENSE OF CONGRESS CONCERNING CRIMINAL PENALTIES.

(a) SENSE OF CONGRESS CONCERNING INADEQUACY OF SENTENCING GUIDELINES.—It is the sense of Congress that the sentencing guidelines prescribed by the United States Sentencing Commission for the offenses of importation, attempted importation, exportation, and attempted exportation of nuclear, biological, and chemical weapons materials constitute inadequate punishment for such offenses.

(b) URGING OF REVISON TO GUIDELINES.—Congress urges the United States Sentencing Commission to revise the relevant sentencing guidelines to provide for increased penalties for offenses relating to importation, attempted importation, exportation, and attempted exportation of nuclear, biological, or chemical weapons or related materials or technologies under the following provisions of law:

(1) Section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410).

(2) Sections 38 and 40 of the Arms Export Control Act (22 U.S.C. 2778 and 2780).

(3) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(4) Section 309(c) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2139a(c))).

SEC. 1424. [50 U.S.C. 2333] INTERNATIONAL BORDER SECURITY.

(a) SECRETARY OF DEFENSE RESPONSIBILITY.—The Secretary of Defense, in consultation and cooperation with the Commissioner of Customs, shall carry out programs for assisting customs officials and border guard officials in the independent states of the former Soviet Union, the Baltic states, and other countries of Eastern Europe in preventing unauthorized transfer and transportation of nuclear, biological, and chemical weapons and related materials. Training, expert advice, maintenance of equipment, loan of equipment, and audits may be provided under or in connection with the programs.

(b) OTHER COUNTRIES.—The Secretary of Defense may carry out programs under subsection (a) in a country other than a country specified in that subsection if the Secretary determines that there exists in that country a significant threat of the unauthorized transfer and transportation of nuclear, biological, or chemical weapons or related materials.

(c) ASSISTANCE TO STATES OF THE FORMER SOVIET UNION.—Assistance under programs referred to in subsection (a) may (notwithstanding any provision of law prohibiting the extension of foreign assistance to any of the newly independent states of the former Soviet Union) be extended to include an independent state of the former Soviet Union if the President certifies to Congress that it is in the national interest of the United States to extend assistance under this section to that state.

Subtitle C—Control and Disposition of Weapons of Mass Destruction and Related Materials Threatening the United States

SEC. 1431. COVERAGE OF WEAPONS-USABLE FISSILE MATERIALS IN COOPERATIVE THREAT REDUCTION PROGRAMS ON ELIMINATION OR TRANSPORTATION OF NUCLEAR WEAPONS.

[Omitted—Amendment]

SEC. 1432. [50 U.S.C. 2341] ELIMINATION OF PLUTONIUM PRODUCTION.

(a) REPLACEMENT PROGRAM.—The Secretary of Energy, in consultation with the Secretary of Defense, shall develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium by modifying or replacing the reactor cores at Tomsk–7 and Krasnoyarsk–26 with reactor cores that are less suitable for the production of weapons-grade plutonium.

(b) PROGRAM REQUIREMENTS.—(1) The program shall be designed to achieve completion of the modifications or replacements of the reactor cores within three years after the modification or replacement activities under the program are begun.

(2) The plan for the program shall—

(A) specify—

(i) successive steps for the modification or replacement of the reactor cores; and

(ii) clearly defined milestones to be achieved; and

(B) include estimates of the costs of the program.

(c) SUBMISSION OF PROGRAM PLAN TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress—

(1) a plan for the program under subsection (a);

(2) an estimate of the United States funding that is necessary for carrying out the activities under the program for each fiscal year covered by the program; and

(3) a comparison of the benefits of the program with the benefits of other nonproliferation programs.

Subtitle D—Coordination of Policy and Countermeasures Against Proliferation of Weapons of Mass Destruction

SEC. 1441. [50 U.S.C. 2351] NATIONAL COORDINATOR ON NONPROLIFERATION.

(a) DESIGNATION OF POSITION.—The President shall designate an individual to serve in the Executive Office of the President as the National Coordinator for Nonproliferation Matters.

(b) DUTIES.—The Coordinator, under the direction of the National Security Council, shall advise and assist the President by—

(1) advising the President on nonproliferation of weapons of mass destruction, including issues related to terrorism, arms control, and international organized crime;

(2) chairing the Committee on Nonproliferation of the National Security Council; and

(3) taking such actions as are necessary to ensure that there is appropriate emphasis in, cooperation on, and coordination of, nonproliferation research efforts of the United States, including activities of Federal agencies as well as activities of contractors funded by the Federal Government.

(c) ALLOCATION OF FUNDS.—Of the total amount authorized to be appropriated under section 301, $2,000,000 is available to the Department of Defense for carrying out research referred to in subsection (b)(3).

SEC. 1442. [50 U.S.C. 2352] NATIONAL SECURITY COUNCIL COMMITTEE ON NONPROLIFERATION.

(a) ESTABLISHMENT.—The Committee on Nonproliferation (in this section referred to as the "Committee") is established as a committee of the National Security Council.

(b) MEMBERSHIP.—(1) The Committee shall be composed of representatives of the following:

(A) The Secretary of State.

(B) The Secretary of Defense.

(C) The Director of Central Intelligence.

(D) The Attorney General.

(E) The Secretary of Energy.

(F) The Administrator of the Federal Emergency Management Agency.

(G) The Secretary of the Treasury.

(H) The Secretary of Commerce.

(I) Such other members as the President may designate.

(2) The National Coordinator for Nonproliferation Matters shall chair the Committee on Nonproliferation.

(c) RESPONSIBILITIES.—The Committee has the following responsibilities:

(1) To review and coordinate Federal programs, policies, and directives relating to the proliferation of weapons of mass destruction and related materials and technologies, including matters relating to terrorism and international organized crime.

(2) To make recommendations through the National Security Council to the President regarding the following:

(A) Integrated national policies for countering the threats posed by weapons of mass destruction.

(B) Options for integrating Federal agency budgets for countering such threats.

(C) Means to ensure that Federal, State, and local governments have adequate capabilities to manage crises involving nuclear, radiological, biological, or chemical weapons or related materials or technologies, and to manage the consequences of a use of such weapon or related materials or technologies, and that use of those capabilities is coordinated.

(D) Means to ensure appropriate cooperation on, and coordination of, the following:

(i) Preventing the smuggling of weapons of mass destruction and related materials and technologies.

(ii) Promoting domestic and international law enforcement efforts against proliferation-related efforts.

(iii) Countering the involvement of organized crime groups in proliferation-related activities.

(iv) Safeguarding weapons of mass destruction materials and related technologies.

(v) Improving coordination and cooperation among intelligence activities, law enforcement, and the Departments of Defense, State, Commerce, and Energy in support of nonproliferation and counterproliferation efforts.

(vi) Improving export controls over materials and technologies that can contribute to the acquisition of weapons of mass destruction.

(vii) Reducing proliferation of weapons of mass destruction and related materials and technologies.

SEC. 1443. [50 U.S.C. 2353] COMPREHENSIVE PREPAREDNESS PROGRAM.

(a) PROGRAM REQUIRED.—The President, acting through the Committee on Nonproliferation established under section 1442, shall develop a comprehensive program for carrying out this title.

(b) CONTENT OF PROGRAM.—The program set forth in the report shall include specific plans as follows:

(1) Plans for countering proliferation of weapons of mass destruction and related materials and technologies.

(2) Plans for training and equipping Federal, State, and local officials for managing a crisis involving a use or threatened use of a weapon of mass destruction, including the consequences of the use of such a weapon.

(3) Plans for providing for regular sharing of information among intelligence, law enforcement, and customs agencies.

(4) Plans for training and equipping law enforcement units, customs services, and border security personnel to counter the smuggling of weapons of mass destruction and related materials and technologies.

(5) Plans for establishing appropriate centers for analyzing seized nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(6) Plans for establishing in the United States appropriate legal controls and authorities relating to the exporting of nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(7) Plans for encouraging and assisting governments of foreign countries to implement and enforce laws that set forth appropriate penalties for offenses regarding the smuggling of weapons of mass destruction and related materials and technologies.

(8) Plans for building the confidence of the United States and Russia in each other's controls over United States and Russian nuclear weapons and fissile materials, including plans for verifying the dismantlement of nuclear weapons.

(9) Plans for reducing United States and Russian stockpiles of excess plutonium, reflecting—

(A) consideration of the desirability and feasibility of a United States-Russian agreement governing fissile material disposition and the specific technologies and approaches to be used for disposition of excess plutonium; and

(B) an assessment of the options for United States cooperation with Russia in the disposition of Russian plutonium.

(10) Plans for studying the merits and costs of establishing a global network of means for detecting and responding to terroristic or other criminal use of biological agents against people or other forms of life in the United States or any foreign country.

(c) REPORT.—(1) At the same time that the President submits the budget for fiscal year 1998 to Congress pursuant to section 1105(a) of title 31, United States Code, the President shall submit to Congress a report that sets forth the comprehensive program developed under subsection (a).

(2) The report shall include the following:

(A) The specific plans for the program that are required under subsection (b).

(B) Estimates of the funds necessary, by agency or department, for carrying out such plans in fiscal year 1998 and the following five fiscal years.

(3) The report shall be in an unclassified form. If there is a classified version of the report, the President shall submit the classified version at the same time.

SEC. 1444. [50 U.S.C. 2354] TERMINATION.

After September 30, 1999, the President—

(1) is not required to maintain a National Coordinator for Nonproliferation Matters under section 1441; and

(2) may terminate the Committee on Nonproliferation established under section 1442.

Subtitle E—Miscellaneous

SEC. 1451. [50 U.S.C. 2361] SENSE OF CONGRESS CONCERNING CONTRACTING POLICY.

It is the sense of Congress that the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State, to the extent authorized by law, should—

(1) contract directly with suppliers in independent states of the former Soviet Union when such action would—

(A) result in significant savings of the programs referred to in subtitle C; and

(B) substantially expedite completion of the programs referred to in subtitle C; and

(2) seek means to use innovative contracting approaches to avoid delay and increase the effectiveness of such programs and of the exercise of such authorities.

SEC. 1452. [50 U.S.C. 2362] TRANSFERS OF ALLOCATIONS AMONG COOPERATIVE THREAT REDUCTION PROGRAMS.

Congress finds that—

(1) the various Cooperative Threat Reduction programs are being carried out at different rates in the various countries covered by such programs; and

(2) it is necessary to authorize transfers of funding allocations among the various programs in order to maximize the effectiveness of United States efforts under such programs.

SEC. 1453. [50 U.S.C. 2363] SENSE OF CONGRESS CONCERNING ASSISTANCE TO STATES OF FORMER SOVIET UNION.

It is the sense of Congress that—

(1) the Cooperative Threat Reduction programs and other United States programs authorized in title XIV of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 22 U.S.C. 5901 et seq.) should be expanded by offering assistance under those programs to other independent states of the former Soviet Union in addition to Russia, Ukraine, Kazakstan, and Belarus; and

(2) the President should offer assistance to additional independent states of the former Soviet Union in each case in which the participation of such states would benefit national security interests of the United States by improving border controls and safeguards over materials and technology associated with weapons of mass destruction.

SEC. 1454. [50 U.S.C. 2364] PURCHASE OF LOW-ENRICHED URANIUM DERIVED FROM RUSSIAN HIGHLY ENRICHED URANIUM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the allies of the United States and other nations should participate in efforts to ensure that stockpiles of weapons-grade nuclear material are reduced.

(b) ACTIONS BY THE SECRETARY OF STATE.—Congress urges the Secretary of State to encourage, in consultation with the Secretary of Energy, other countries to purchase low-enriched uranium that is derived from highly enriched uranium extracted from Russian nuclear weapons.

SEC. 1455. [50 U.S.C. 2365] SENSE OF CONGRESS CONCERNING PURCHASE, PACKAGING, AND TRANSPORTATION OF FISSILE MATERIALS AT RISK OF THEFT.

It is the sense of Congress that—

(1) the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State should purchase, package, and transport to secure locations weapons-grade nuclear materials from a stockpile of such materials if such officials determine that—

(A) there is a significant risk of theft of such materials; and

(B) there is no reasonable and economically feasible alternative for securing such materials; and

(2) if it is necessary to do so in order to secure the materials, the materials should be imported into the United States, subject to the laws and regulations that are applicable to the importation of such materials into the United States.

TITLE XVI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

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Subtitle A—Miscellaneous Matters Relating to Personnel Management, Pay, and Allowances

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SEC. 1616. [5 U.S.C. 8331 note] PILOT PROGRAMS FOR DEFENSE EMPLOYEES CONVERTED TO CONTRACTOR EMPLOYEES DUE TO PRIVATIZATION AT CLOSED MILITARY INSTALLATIONS.

(a) PILOT PROGRAMS AUTHORIZED.—(1) The Secretary of Defense, after consultation with the Director of the Office of Personnel Management, may establish one or more pilot programs under which Federal retirement benefits are provided in accordance with this section to persons who convert from Federal employment to employment by a Department of Defense contractor in connection with the privatization of the performance of functions at selected military installations being closed under the base closure and realignment process.

(2) The Secretary of Defense shall select the military installations to be covered by a pilot program under this section.

(b) ELIGIBLE CONVERTED EMPLOYEES.—(1) A person is a converted employee eligible for Federal retirement benefits under this section if the person is a former employee of the Department of Defense (other than a temporary employee) who—

(A) while employed by the Department of Defense at a military installation selected to participate in a pilot program, performed a function that was recommended, in a report of the Defense Base Closure and Realignment Commission submitted to the President under the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), to be privatized for performance by a defense con-

tractor at the same installation or in the vicinity of the installation;

(B) while so employed, separated from Federal service after being notified that the employee would be separated in a reduction in force resulting from such privatization;

(C) at the time separated from Federal service, was covered under the Civil Service Retirement System, but was not eligible for an immediate annuity under the Civil Service Retirement System;

(D) does not withdraw retirement contributions under section 8342 of title 5, United States Code;

(E) within 60 days following such separation, is employed by the defense contractor selected to privatize the function to perform substantially the same function performed by the person before the separation; and

(F) remains employed by the defense contractor (or a successor defense contractor) or subcontractor of the defense contractor (or successor defense contractor) until attaining early deferred retirement age (unless the employment is sooner involuntarily terminated for reasons other than performance or conduct of the employee).

(2) A person who, under paragraph (1), would otherwise be eligible for an early deferred annuity under this section shall not be eligible for such benefits if the person received separation pay or severance pay due to a separation described in subparagraph (B) of that paragraph unless the person repays the full amount of such pay with interest (computed at a rate determined appropriate by the Director of the Office of Personnel Management) to the Department of Defense before attaining early deferred retirement age.

(c) RETIREMENT BENEFITS OF CONVERTED EMPLOYEES.—In the case of a converted employee covered by a pilot program, payment of a deferred annuity for which the converted employee is eligible under section 8338(a) of title 5, United States Code, shall commence on the first day of the first month that begins after the date on which the converted employee attains early deferred retirement age, notwithstanding the age requirement under that section. If the employment of a converted employee is involuntarily terminated by the defense contractor or subcontractor as described in subsection (b)(1)(F) and the converted employee resumes Federal service before the converted employee attains early deferred retirement age, the converted employee shall once again be covered under the Civil Service Retirement System instead of the pilot program.

(d) COMPUTATION OF AVERAGE PAY.—(1)(A) This paragraph applies to a converted employee who was employed in a position classified under the General Schedule immediately before the employee's covered separation from Federal service.

(B) Subject to subparagraph (C), for purposes of computing the deferred annuity for a converted employee referred to in subparagraph (A), the average pay of the converted employee, computed under section 8331(4) of title 5, United States Code, as of the date of the employee's covered separation from Federal service, shall be adjusted at the same time and by the same percentage that rates of basic pay are increased under section 5303 of such title during

the period beginning on that date and ending on the date on which the converted employee attains early deferred retirement age.

(C) The average pay of a converted employee, as adjusted under subparagraph (B), may not exceed the amount to which an annuity of the converted employee could be increased under section 8340 of title 5, United States Code, in accordance with the limitation in subsection (g)(1) of such section (relating to maximum pay, final pay, or average pay).

(2)(A) This paragraph applies to a converted employee who was a prevailing rate employee (as defined under section 5342(2) of title 5, United States Code) immediately before the employee's covered separation from Federal service.

(B) For purposes of computing the deferred annuity for a converted employee referred to in subparagraph (A), the average pay of the converted employee, computed under section 8331(4) of title 5, United States Code, as of the date of the employee's covered separation from Federal service, shall be adjusted at the same time and by the same percentage that pay rates for positions that are in the same area as, and are comparable to, the last position the converted employee held as a prevailing rate employee, are increased under section 5343(a) of such title during the period beginning on that date and ending on the date on which the converted employee attains early deferred retirement age.

(e) PAYMENT OF UNFUNDED LIABILITY.—(1) The military department concerned shall be liable for that portion of any estimated increase in the unfunded liability of the Civil Service Retirement and Disability Fund established under section 8348 of title 5, United States Code, which is attributable to any benefits payable from such Fund to a converted employee, and any survivor of a converted employee, when the increase results from—

(A) an increase in the average pay of the converted employee under subsection (d) upon which such benefits are computed; and

(B) the commencement of an early deferred annuity in accordance with this section before the attainment of 62 years of age by the converted employee.

(2) The estimated increase in the unfunded liability for each department referred to in paragraph (1) shall be determined by the Director of the Office of Personnel Management. In making the determination, the Director shall consider any savings to the Fund as a result of a pilot program established under this section. The Secretary of the military department concerned shall pay the amount so determined to the Director in 10 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the fiscal year in which an increase in average pay under subsection (d) becomes effective.

(f) CONTRACTOR SERVICE NOT CREDITABLE.—Service performed by a converted employee for a defense contractor after the employee's covered separation from Federal service is not creditable service for purposes of subchapter III of chapter 83 of title 5, United States Code.

(g) RECEIPT OF BENEFITS WHILE EMPLOYED BY A DEFENSE CONTRACTOR.—A converted employee may commence receipt of an

early deferred annuity in accordance with this section while continuing to work for a defense contractor.

(h) LUMP-SUM CREDIT PAYMENT.—If a converted employee dies before attaining early deferred retirement age, such employee shall be treated as a former employee who dies not retired for purposes of payment of the lump-sum credit under section 8342(d) of title 5, United States Code.

(i) CONTINUED FEDERAL HEALTH BENEFITS COVERAGE.—Notwithstanding section 8905a(e)(1)(A) of title 5, United States Code, the continued coverage of a converted employee for health benefits under chapter 89 of such title by reason of the application of section 8905a of such title to such employee shall terminate 90 days after the date of the employee's covered separation from Federal employment. For the purposes of the preceding sentence, a person who, except for subsection (b)(2), would be a converted employee shall be considered a converted employee.

(j) REPORT BY GENERAL ACCOUNTING OFFICE.—The Comptroller General shall conduct a study of each pilot program, if any, established under this section and submit a report on the pilot program to Congress not later than two years after the date on which the program is established. The report shall contain the following:

(1) A review and evaluation of the program, including—

(A) an evaluation of the success of the privatization outcomes of the program;

(B) a comparison and evaluation of such privatization outcomes with the privatization outcomes with respect to facilities at other military installations closed or realigned under the base closure laws;

(C) an evaluation of the impact of the program on the Federal workforce and whether the program results in the maintenance of a skilled workforce for defense contractors at an acceptable cost to the military department concerned; and

(D) an assessment of the extent to which the program is a cost-effective means of facilitating privatization of the performance of Federal activities.

(2) Recommendations relating to the expansion of the program to other installations and employees.

(3) Any other recommendation relating to the program.

(k) IMPLEMENTING REGULATIONS.—Not later than 30 days after the Secretary of Defense notifies the Director of the Office of Personnel Management of a decision to establish a pilot program under this section, the Director shall prescribe regulations to carry out the provisions of this section with respect to that pilot program. Before prescribing the regulations, the Director shall consult with the Secretary.

(l) DEFINITIONS.—In this section:

(1) The term "converted employee" means a person who, pursuant to subsection (b), is eligible for benefits under this section.

(2) The term "covered separation from Federal service" means a separation from Federal service as described under subsection (b)(1)(B).

(3) The term "Civil Service Retirement System" means the retirement system under subchapter III of chapter 83 of title 5, United States Code.

(4) The term "defense contractor" means any entity that—

(A) contracts with the Department of Defense to perform a function previously performed by Department of Defense employees;

(B) performs that function at the same installation at which such function was previously performed by Department of Defense employees or in the vicinity of that installation; and

(C) is the employer of one or more converted employees.

(5) The term "early deferred retirement age" means the first age at which a converted employee would have been eligible for immediate retirement under subsection (a) or (b) of section 8336 of title 5, United States Code, if such converted employee had remained an employee within the meaning of section 8331(1) of such title continuously until attaining such age.

(6) The term "severance pay" means severance pay payable under section 5595 of title 5, United States Code.

(7) The term "separation pay" means separation pay payable under section 5597 of title 5, United States Code.

(m) APPLICATION OF PILOT PROGRAM.—In the event that a pilot program is established for a military installation, the pilot program shall apply to a covered separation from Federal service by an employee of the Department of Defense at the installation occurring on or after August 1, 1996.

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TITLE XXIX—MILITARY LAND WITHDRAWALS

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Subtitle B—El Centro Naval Air Facility Ranges Withdrawal [1]

SEC. 2921. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This subtitle may be cited as the "El Centro Naval Air Facility Ranges Withdrawal Act".

(b) DEFINITIONS.—In this subtitle:

(1) The term "El Centro" means the Naval Air Facility, El Centro, California.

(2) The term "cooperative agreement" means the cooperative agreement entered into between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy, dated June 29, 1987, with regard to the defense-related uses of Federal lands to further the mission of El Centro.

[1] This subtitle is part of title XXIX of division B of the National Defense Authorization Act for Fiscal Year 1997 (Pub. Law 104–201).

(3) The term "relinquishment notice" means a notice of intention by the Secretary of the Navy under section 2928(a) to relinquish, before the termination date specified in section 2925, the withdrawal and reservation of certain lands withdrawn under this subtitle.

SEC. 2922. WITHDRAWAL AND RESERVATION OF LANDS FOR EL CENTRO.

(a) WITHDRAWALS.—Subject to valid existing rights, and except as otherwise provided in this subtitle, the Federal lands utilized in the mission of the Naval Air Facility, El Centro, California, that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing or geothermal leasing laws or the mineral materials sales laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for the use by the Secretary of the Navy—

(1) for defense-related purposes in accordance with the cooperative agreement; and

(2) subject to notice to the Secretary of the Interior under section 2924(e), for other defense-related purposes determined by the Secretary of the Navy.

(c) DESCRIPTION OF WITHDRAWN LANDS.—The lands withdrawn and reserved under subsection (a) are—

(1) the Federal lands comprising approximately 46,600 acres in Imperial County, California, as generally depicted in part on a map entitled "Exhibit A, Naval Air Facility, El Centro, California, Land Acquisition Map, Range 2510 (West Mesa)" and dated March 1993 and in part on a map entitled "Exhibit B, Naval Air Facility, El Centro, California, Land Acquisition Map Range 2512 (East Mesa)" and dated March 1993; and

(2) and all other areas within the boundaries of such lands as depicted on such maps that may become subject to the operation of the public land laws.

SEC. 2923. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENTS.—As soon as practicable after the date of the enactment of this subtitle, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved under this subtitle; and

(2) file maps and the legal description of the lands withdrawn and reserved under this subtitle with the Committee on Energy and Natural Resources of the Senate and with the Committee on Resources of the House of Representatives.

(b) LEGAL EFFECT.—The maps and legal description prepared under subsection (a) shall have the same force and effect as if they were included in this subtitle, except that the Secretary of the Interior may correct clerical and typographical errors in the maps and legal description.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of the maps and legal description prepared under subsection (a) shall be available for public inspection in—

(1) the Office of the State Director, California State Office of the Bureau of Land Management, Sacramento, California;

(2) the Office of the District Manager, California Desert District of the Bureau of Land Management, Riverside, California; and

(3) the Office of the Commanding Officer, Marine Corps Air Station, Yuma, Arizona.

(d) REIMBURSEMENT.—The Secretary of Navy shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 2924. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT CONSISTENT WITH COOPERATIVE AGREEMENT.—The lands and resources shall be managed in accordance with the cooperative agreement, revised as necessary to conform to the provisions of this subtitle. The parties to the cooperative agreement shall review the cooperative agreement for conformance with this subtitle and amend the cooperative agreement, if appropriate, within 120 days after the date of the enactment of this subtitle. The term of the cooperative agreement shall be amended so that its duration is at least equal to the duration of the withdrawal made by section 2925. The cooperative agreement may be reviewed and amended by the managing agencies as necessary.

(b) MANAGEMENT BY SECRETARY OF THE INTERIOR.—

(1) GENERAL MANAGEMENT AUTHORITY.—During the period of withdrawal, the Secretary of the Interior shall manage the lands withdrawn and reserved under this subtitle pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable laws, including this subtitle.

(2) SPECIFIC AUTHORITIES.—To the extent consistent with applicable laws, Executive orders, and the cooperative agreement, the lands withdrawn and reserved under this subtitle may be managed in a manner permitting—

(A) protection of wildlife and wildlife habitat;

(B) control of predatory and other animals;

(C) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(D) geothermal leasing and development and related power production, mineral leasing and development, and mineral material sales.

(3) EFFECT OF WITHDRAWAL.—The Secretary of the Interior shall manage the lands withdrawn and reserved under this subtitle, in coordination with the Secretary of the Navy, such that all nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in the cooperative agreement or authorized pursuant to this subtitle.

(c) CERTAIN ACTIVITIES SUBJECT TO CONCURRENCE OF NAVY.—The Secretary of the Interior may issue a lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of the withdrawn lands only with the concurrence of the Sec-

retary of the Navy and under the terms of the cooperative agreement.

(d) ACCESS RESTRICTIONS.—If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn under this subtitle, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure. Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection. Before and during any closure under this subsection, the Secretary of the Navy shall keep appropriate warning notices posted and take appropriate steps to notify the public concerning such closures.

(e) ADDITIONAL MILITARY USES.—Lands withdrawn under this subtitle may be used for defense-related uses other than those specified in the cooperative agreement. The Secretary of the Navy shall promptly notify the Secretary of the Interior in the event that the lands withdrawn under this subtitle will be used for additional defense-related purposes. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of all or any portion of the withdrawn lands.

SEC. 2925. DURATION OF WITHDRAWAL AND RESERVATION.

The withdrawal and reservation made under this subtitle shall terminate on November 6, 2046.

SEC. 2926. CONTINUATION OF ONGOING DECONTAMINATION ACTIVITIES.

Throughout the duration of the withdrawal and reservation made under this subtitle, and subject to the availability of funds, the Secretary of the Navy shall maintain a program of decontamination of the lands withdrawn under this subtitle at least at the level of decontamination activities performed on such lands in fiscal year 1995. Such activities shall be subject to applicable laws, such as the amendments made by the Federal Facility Compliance Act of 1992 (Public Law 102–386; 106 Stat. 1505) and the Defense Environmental Restoration Program established under section 2701 of title 10, United States Code.

SEC. 2927. REQUIREMENTS FOR EXTENSION.

(a) NOTICE OF CONTINUED MILITARY NEED.—Not later than five years before the termination date specified in section 2925, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Navy will have a continuing military need for any or all of the lands withdrawn and reserved under this subtitle after the termination date.

(b) APPLICATION FOR EXTENSION.—If the Secretary of the Navy determines that there will be a continuing military need for any or all of the withdrawn lands after the termination date specified in section 2925, the Secretary of the Navy shall file an application for extension of the withdrawal and reservation of the lands in accordance with the then existing regulations and procedures of the Department of the Interior applicable to extension of withdrawal of

lands for military purposes and that are consistent with this subtitle. Such application shall be filed with the Department of the Interior not later than four years before the termination date.

(c) EXTENSION PROCESS.—The withdrawal and reservation established by this subtitle may not be extended except by an Act or Joint Resolution of Congress.

SEC. 2928. EARLY RELINQUISHMENT OF WITHDRAWAL.

(a) FILING OF RELINQUISHMENT NOTICE.—If, during the period of withdrawal and reservation specified in section 2925, the Secretary of the Navy decides to relinquish all or any portion of the lands withdrawn and reserved under this subtitle, the Secretary of the Navy shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) DETERMINATION OF PRESENCE OF CONTAMINATION.—Before transmitting a relinquishment notice under subsection (a), the Secretary of the Navy, in consultation with the Secretary of the Interior, shall prepare a written determination concerning whether and to what extent the lands to be relinquished are contaminated with explosive, toxic, or other hazardous wastes and substances. A copy of such determination shall be transmitted with the relinquishment notice.

(c) DECONTAMINATION AND REMEDIATION.—In the case of contaminated lands which are the subject of a relinquishment notice, the Secretary of the Navy shall decontaminate or remediate the land to the extent that funds are appropriated for such purpose if the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that—

(1) decontamination or remediation of the lands is practicable and economically feasible, taking into consideration the potential future use and value of the land; and

(2) upon decontamination or remediation, the land could be opened to the operation of some or all of the public land laws, including the mining laws.

(d) DECONTAMINATION AND REMEDIATION ACTIVITIES SUBJECT TO OTHER LAWS.—The activities of the Secretary of the Navy under subsection (c) are subject to applicable laws and regulations, including the Defense Environmental Restoration Program established under section 2701 of title 10, United States Code, the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(e) AUTHORITY OF SECRETARY OF THE INTERIOR TO REFUSE CONTAMINATED LANDS.—The Secretary of the Interior shall not be required to accept lands specified in a relinquishment notice if the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that—

(1) decontamination or remediation of any land subject to the relinquishment notice is not practicable or economically feasible;

(2) the land cannot be decontaminated or remediated sufficiently to be opened to operation of some or all of the public land laws; or

(3) a sufficient amount of funds are not appropriated for the decontamination of the land.

(f) STATUS OF CONTAMINATED LANDS.—If, because of the condition of the lands, the Secretary of the Interior declines to accept jurisdiction of lands proposed for relinquishment or, if at the expiration of the withdrawal made under this subtitle, the Secretary of the Interior determines that some of the lands withdrawn under this subtitle are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall retain jurisdiction over the withdrawn lands, but shall undertake no activities on such lands except in connection with the decontamination or remediation of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken under paragraphs (1) and (2).

(g) SUBSEQUENT DECONTAMINATION OR REMEDIATION.—If lands covered by subsection (f) are subsequently decontaminated or remediated and the Secretary of the Navy certifies that the lands are safe for nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(h) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, upon deciding that it is in the public interest to accept jurisdiction over lands specified in a relinquishment notice, the Secretary of the Interior may revoke the withdrawal and reservation made under this subtitle as it applies to such lands. If the decision be made to accept the relinquishment and to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws, if appropriate.

SEC. 2929. DELEGATION OF AUTHORITY.

(a) DEPARTMENT OF THE NAVY.—The functions of the Secretary of the Navy under this subtitle may be delegated.

(b) DEPARTMENT OF THE INTERIOR.—The functions of the Secretary of the Interior under this subtitle may be delegated, except that an order described in section 2928(h) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 2930. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn under this subtitle shall be conducted in accordance with section 2671 of title 10, United States Code.

SEC. 2931. HOLD HARMLESS.

Any party conducting any mining, mineral, or geothermal leasing activity on lands withdrawn and reserved under this subtitle shall indemnify the United States against any costs, fees, damages, or other liabilities (including costs of litigation) incurred by the United States and arising from or relating to such mining activities, including costs of mineral materials disposal, whether arising under the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Solid Waste Disposal Act, or otherwise.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Subtitle A—Authorization of Disposals and Use of Funds

SEC. 3301. [50 U.S.C. 98d note] DEFINITIONS.

In this title:

(1) The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term "National Defense Stockpile Transaction Fund" means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

* * * * * * *

SEC. 3303. [50 U.S.C. 98d note] DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL REQUIRED.—Subject to subsection (c), the President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in total amounts not less than—

(1) $81,000,000 during fiscal year 1997; and

(2) $720,000,000 during the 12-fiscal year period ending September 30, 2008.

(b) LIMITATIONS ON DISPOSAL AUTHORITY.—(1) The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	26,000,000 pounds contained
Columbium Ferro	930,911 pounds contained
Germanium Metal	40,000 kilograms
Indium	35,000 troy ounces
Palladium	15,000 troy ounces
Platinum	10,000 troy ounces
Rubber, Natural	125,138 long tons
Tantalum, Carbide Powder	6,000 pounds contained

Authorized Stockpile Disposals—Continued

Material for disposal	Quantity
Tantalum, Minerals	750,000 pounds contained
Tantalum, Oxide	40,000 pounds contained

(2) The President may not dispose of materials under this section during the period referred to in subsection (a)(2) in excess of the disposals necessary to result in receipts during that period in the total amount specified in such subsection.

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) TREATMENT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a) shall be—

(1) deposited into the general fund of the Treasury; and

(2) to the extent necessary, used to offset the revenues that will be lost as a result of execution of the amendments made by section 4303(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 658).

(e) QUALIFYING OFFSETTING LEGISLATION.—This section is specifically enacted as qualifying offsetting legislation for the purpose of offsetting fully the estimated revenues lost as a result of the amendments made by subsection (a) of section 4303 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 658), and as such is deemed to satisfy the conditions in subsection (b) of such section.

(f) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.