# Section 141, subtitle C of title II, section 351, section 392, section 644, title VII, section 934, sections 1033, 1034, 1078, section 1108, subtitle B of title XII, title XIII, sections 2824 and 2826, section 3157, title XXXIII of the National Defense Authorization Act for Fiscal Year 1998

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[Currency: This publication is a compilation of the text of Public Law 105-85. 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).]

**SEC. 141. [10 U.S.C. 4543 note] PILOT PROGRAM ON SALES OF MANUFACTURED ARTICLES AND SERVICES OF CERTAIN ARMY INDUSTRIAL FACILITIES WITHOUT REGARD TO AVAILABILITY FROM DOMESTIC SOURCES.**

(a) PILOT PROGRAM REQUIRED.—During fiscal years 1998 through 2009, the Secretary of the Army shall carry out a pilot program to test the efficacy and appropriateness of selling manufactured articles and services of Army industrial facilities under section 4543 of title 10, United States Code, without regard to the availability of the articles and services from United States commercial sources. In carrying out the pilot program, the Secretary may use articles manufactured at, and services provided by, not more than three Army industrial facilities, except that during fiscal year 2002 the Secretary may only use articles manufactured at, and services provided by, not more than one Army industrial facility.

(b) TEMPORARY WAIVER OF REQUIREMENT FOR DETERMINATION OF UNAVAILABILITY FROM DOMESTIC SOURCE.—Under the pilot program, the Secretary of the Army is not required under section 4543(a)(5) of title 10, United States Code, to determine whether an article or service is available from a commercial source located in the United States in the case of any of the following sales for which a solicitation of offers is issued during the period during which the pilot program is being conducted:

(1) A sale of articles to be incorporated into a weapon system being procured by the Department of Defense.

(2) A sale of services to be used in the manufacture of a weapon system being procured by the Department of Defense.

(c) TRANSFER OF CERTAIN SUMS.—For each Army industrial facility participating in the pilot program that sells manufactured articles and services in a total amount in excess of $20,000,000 in

any fiscal year, the amount equal to one-half of one percent of such total amount shall be transferred from the sums in the Army Working Capital Fund for unutilized plant capacity to appropriations available for the following fiscal year for the demilitarization of conventional ammunition by the Army.

(d) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of Defense shall review the experience under the pilot program under this section and, not later than July 1, 1999, submit to Congress a report on the results of the review. The report shall contain the following:

(1) The Inspector General's views regarding the extent to which the waiver under subsection (b) enhances the opportunity for United States manufacturers, assemblers, developers, and other concerns to enter into or participate in contracts and teaming arrangements with Army industrial facilities under weapon system programs of the Department of Defense.

(2) The Inspector General's views regarding the extent to which the waiver under subsection (b) enhances the opportunity for Army industrial facilities referred to in section 4543(a) of title 10, United States Code, to enter into or participate in contracts and teaming arrangements with United States manufacturers, assemblers, developers, and other concerns under weapon system programs of the Department of Defense.

(3) The Inspector General's views regarding the effect of the waiver under subsection (b) on the ability of small businesses to compete for the sale of manufactured articles or services in the United States in competitions to enter into or participate in contracts and teaming arrangements under weapon system programs of the Department of Defense.

(4) Specific examples under the pilot program that support the Inspector General's views.

(5) Any other information that the Inspector General considers pertinent regarding the effects of the waiver of section 4543(a)(5) of title 10, United States Code, under the pilot program on opportunities for United States manufacturers, assemblers, developers, or other concerns, and for Army industrial facilities, to enter into or participate in contracts and teaming arrangements under weapon system programs of the Department of Defense.

(6) Any recommendations that the Inspector General considers appropriate regarding continuation or modification of the policy set forth in section 4543(a)(5) of title 10, United States Code.

## TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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## Subtitle C—Ballistic Missile Defense Programs

**SEC. 231. [10 U.S.C. 2431 note] NATIONAL MISSILE DEFENSE PROGRAM.**

(a) PROGRAM STRUCTURE.—To preserve the option of achieving an initial operational capability in fiscal year 2003, the Secretary of Defense shall ensure that the National Missile Defense Program is structured and programmed for funding so as to support a test, in fiscal year 1999, of an integrated national missile defense system that is representative of the national missile defense system architecture that could achieve initial operational capability in fiscal year 2003.

(b) ELEMENTS OF NMD SYSTEM.—The national missile defense system architecture specified in subsection (a) shall consist of the following elements:

(1) An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited ballistic missile attack (whether accidental, unauthorized, or deliberate).

(2) Ground-based radars.

(3) Space-based sensors.

(4) Battle management, command, control, and communications (BM/C3).

(c) PLAN FOR NMD SYSTEM DEVELOPMENT AND DEPLOYMENT.—Not later than February 15, 1998, the Secretary of Defense shall submit to the congressional defense committees a plan for the development and deployment of a national missile defense system that could achieve initial operational capability in fiscal year 2003. The plan shall include the following matters:

(1) A detailed description of the system architecture selected for development.

(2) A discussion of the justification for the selection of that particular architecture.

(3) The Secretary's estimate of the amounts of the appropriations that would be necessary for research, development, test, evaluation, and for procurement for each of fiscal years 1999 through 2003 in order to achieve an initial operational capability of the system architecture in fiscal year 2003.

(4) For each activity necessary for the development and deployment of the national missile defense system architecture selected by the Secretary that would at some point conflict with the terms of the ABM Treaty, if any—

(A) a description of the activity;

(B) a description of the point at which the activity would conflict with the terms of the ABM Treaty;

(C) the legal analysis justifying the Secretary's determination regarding the point at which the activity would conflict with the terms of the ABM Treaty; and

(D) an estimate of the time at which such point would be reached in order to achieve a test of an integrated missile defense system in fiscal year 1999 and initial operational capability of such a system in fiscal year 2003.

(d) FUNDING FOR FISCAL YEAR 1998.—Of the funds authorized to be appropriated under section 201(4), $978,091,000 shall be available for the National Missile Defense Program.

(e) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972, and includes the Protocol to that treaty, signed at Moscow on July 3, 1974.

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**SEC. 233. [10 U.S.C. 221 note] COOPERATIVE BALLISTIC MISSILE DEFENSE PROGRAM.**

(a) REQUIREMENT FOR NEW PROGRAM ELEMENT.—The Secretary of Defense shall establish a program element for the Missile Defense Agency, to be referred to as the "Cooperative Ballistic Missile Defense Program", to support technical and analytical cooperative efforts between the United States and other nations that contribute to United States ballistic missile defense capabilities. Except as provided in subsection (b), all international cooperative ballistic missile defense programs of the Department of Defense shall be budgeted and administered through that program element.

(b) AUTHORITY FOR EXCEPTIONS.—The Secretary of Defense may exclude from the program element established pursuant to subsection (a) any international cooperative ballistic missile defense program of the Department of Defense that after the date of the enactment of this Act is designated by the Secretary of Defense (pursuant to applicable Department of Defense acquisition regulations and policy) to be managed as a separate acquisition program.

(c) RELATIONSHIP TO OTHER PROGRAM ELEMENTS.—The program element established pursuant to subsection (a) is in addition to the program elements for activities of the Missile Defense Agency required under section 251 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 233; 10 U.S.C. 221 note).

**SEC. 234. [50 U.S.C. 2367] REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND THE THREAT POSED BY WEAPONS OF MASS DESTRUCTION, BALLISTIC MISSILES, AND CRUISE MISSILES.**

(a) ANNUAL REPORT.—Not later than January 30 of each year, the Secretary of Defense, in consultation with the Director of National Intelligence, shall submit to the appropriate congressional committees a report on the following:

(1) The threats posed to the United States and allies of the United States—

(A) by weapons of mass destruction, ballistic missiles, and cruise missiles; and

(B) by the proliferation of weapons of mass destruction, ballistic missiles, and cruise missiles.

(2) The acquisition by foreign countries during the preceding 12 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions.

(3) Any trends with respect to the acquisition described in paragraph (2).

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

(1) Identification of each foreign country and non-State organization that possesses weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.

(2) A description of the means by which any foreign country and non-State organization that has achieved, or is making progress toward achieving, capability with respect to weapons of mass destruction, ballistic missiles, or cruise missiles has achieved, or is making progress toward achieving, that capability, including a description of the international network of foreign countries and private entities that provide assistance to foreign countries and non-State organizations in achieving that capability.

(3) An examination of the doctrines that guide the use of weapons of mass destruction in each foreign country that possesses such weapons.

(4) An examination of the existence and implementation of the control mechanisms that exist with respect to nuclear weapons in each foreign country that possesses such weapons.

(5) Identification of each foreign country and non-State organization that seeks to acquire or develop (indigenously or with foreign assistance) weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.

(6) An assessment of various possible timelines for the achievement by foreign countries and non-State organizations of capability with respect to weapons of mass destruction, ballistic missiles, and cruise missiles, taking into account the probability of whether foreign countries that are a party to the Missile Technology Control Regime will comply with and enforce the regime, the potential availability of assistance from foreign technical specialists, and the potential for independent sales by foreign private entities without authorization from their national governments.

(7) For each foreign country or non-State organization that has not achieved the capability to target the United States or its territories with weapons of mass destruction, ballistic missiles, or cruise missiles as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013, an estimate of how far in advance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.

(8) For each foreign country or non-State organization that has not achieved the capability to target members of the Armed Forces of the United States deployed abroad with weapons of mass destruction, ballistic missiles, or cruise missiles as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013, an estimate of how far in advance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.

(c) CLASSIFICATION.—Each report submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the following:

(1) The congressional defense committees.

(2) The congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)).

(3) The Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.

**SEC. 351. [10 U.S.C. 2701 note] PILOT PROGRAM FOR THE SALE OF AIR POLLUTION EMISSION REDUCTION INCENTIVES.**

(a) AUTHORITY.—(1) The Secretary of Defense may, in consultation with the Administrator of General Services, carry out a pilot program to assess the feasibility and advisability of the sale of economic incentives for the reduction of emission of air pollutants attributable to a facility of a military department.

(2) The Secretary may not carry out the pilot program after September 30, 2003.

(b) INCENTIVES AVAILABLE FOR SALE.—(1) Under the pilot program, the Secretary may sell economic incentives for the reduction of emission of air pollutants attributable to a facility of a military department only if such incentives are not otherwise required for the activities or operations of the military department.

(2) The Secretary may not, under the pilot program, sell economic incentives attributable to the closure or realignment of a military installation under a base closure law.

(3) If the Secretary determines that additional sales of economic incentives are likely to result in amounts available for allocation under subsection (c)(2) in a fiscal year in excess of the limitation set forth in subparagraph (B) of that subsection, the Secretary shall not carry out such additional sales in that fiscal year.

(c) USE OF PROCEEDS.—(1) The proceeds of sale of economic incentives attributable to a facility of a military department shall be credited to the funds available to the facility for the costs of identifying, quantifying, or valuing economic incentives for the reduction of emission of air pollutants. The amount credited shall be equal to the cost incurred in identifying, quantifying, or valuing the economic incentives sold.

(2)(A)(i) If after crediting under paragraph (1) a balance remains, the amount of such balance shall be available to the Department of Defense for allocation by the Secretary to the military departments for programs, projects, and activities necessary for compliance with Federal environmental laws, including the purchase of economic incentives for the reduction of emission of air pollutants.

(ii) To the extent practicable, amounts allocated to the military departments under this subparagraph shall be made available to the facilities that generated the economic incentives providing the basis for the amounts.

(B) The total amount allocated under this paragraph in a fiscal year from sales of economic incentives may not equal or exceed $500,000.

(3) If after crediting under paragraph (1) a balance remains in excess of an amount equal to the limitation set forth in paragraph (2)(B), the amount of the excess shall be covered over into the Treasury as miscellaneous receipts.

(4) Funds credited under paragraph (1) or allocated under paragraph (2) shall be merged with the funds to which credited or allocated, as the case may be, and shall be available for the same purposes and for the same period as the funds with which merged.

(d) DEFINITIONS.—In this section:

(1) The term "base closure law" means the following:

(A) Section 2687 of title 10, United States Code.

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(C) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) The term "economic incentives for the reduction of emission of air pollutants" means any transferable economic incentives (including marketable permits and emission rights) necessary or appropriate to meet air quality requirements under the Clean Air Act (42 U.S.C. 7401 et seq.).

[Section 391 was repealed by section 812(b)(13) of division A of Public Law 115–232.]

**SEC. 392. [10 U.S.C. 113 note] PROGRAM TO INVESTIGATE FRAUD, WASTE, AND ABUSE WITHIN DEPARTMENT OF DEFENSE.**

The Secretary of Defense shall maintain a specific coordinated program for the investigation of evidence of fraud, waste, and abuse within the Department of Defense, particularly fraud, waste, and abuse regarding finance and accounting matters and any fraud, waste, and abuse occurring in connection with overpayments made to vendors by the Department of Defense, including overpayments identified under section 354 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 2461 note).

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**SEC. 644. [10 U.S.C. 1448 note] ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES.**

(a) SURVIVOR ANNUITY.—(1) The Secretary concerned shall pay an annuity to the qualified surviving spouse of each member of the uniformed services who—

(A) became entitled to retired or retainer pay before September 21, 1972, died before March 21, 1974, and was entitled to retired or retainer pay on the date of death; or

(B) died before October 1, 1978, and at the time of his death would have been entitled to retired pay under chapter 67 of title 10, United States Code (as in effect before December 1, 1994), but for the fact that he was under 60 years of age.

(2) A qualified surviving spouse for purposes of this section is a surviving spouse who has not remarried.

(b) AMOUNT OF ANNUITY.—(1) An annuity under this section shall be paid at the rate of $185.58 per month, as adjusted from time to time under paragraph (3).

(2) The amount of an annuity to which a surviving spouse is entitled under this section for any period shall be reduced (but not below zero) by any amount paid to that surviving spouse for the same period under any of the following provisions of law:

(A) Section 1311(a) of title 38, United States Code (relating to dependency and indemnity compensation payable by the Secretary of Veterans Affairs).

(B) Chapter 73 of title 10, United States Code.

(C) Section 4 of Public Law 92–425 (10 U.S.C. 1448 note).

(3) Whenever after May 1, 2002, retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code, each annuity that is payable under this section shall be increased at the same time and by the same total percent.

(c) APPLICATION REQUIRED.—No benefit shall be paid to any person under this section unless an application for such benefit is filed with the Secretary concerned by or on behalf of such person.

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

(1) The terms "uniformed services" and "Secretary concerned" have the meanings given such terms in section 101 of title 37, United States Code.

(2) The term "surviving spouse" has the meaning given such term in paragraph (9) of section 1447 of title 10, United States Code.

(e) PROSPECTIVE APPLICABILITY.—(1) Annuities under this section shall be paid for months beginning after November 1997.

(2) No benefit shall accrue to any person by reason of the enactment of this section for any period before December 1997.

# DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE VII—HEALTH CARE PROVISIONS

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**SEC. 731. [10 U.S.C. 1074 note] IMPROVEMENTS IN HEALTH CARE COVERAGE AND ACCESS FOR MEMBERS ASSIGNED TO CERTAIN DUTY LOCATIONS FAR FROM SOURCES OF CARE.**

(a) [Omitted-Amendment]

(b) TEMPORARY AUTHORITY FOR MANAGED CARE EXPANSION TO MEMBERS ON ACTIVE DUTY AT CERTAIN REMOTE LOCATIONS.—(1) A member of the uniformed services [1] described in subsection (c) is

[1] Subsection (a)(2) of section 722 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; October 30, 2000; 114 Stat. 1654A–185) amended subsections (b), (c), and (d)(3) of section 731 by striking "Armed Forces" and inserting "uniformed services". It also added a new paragraph (4) at the end of subsection (b) and a new paragraph (3) at the end of subsection (f). Subsection (b)(2) of such section 722 added

entitled to receive care under the Civilian Health and Medical Program of the Uniformed Services. In connection with such care, the Secretary of Defense shall waive the obligation of the member to pay a deductible, copayment, or annual fee that would otherwise be applicable under that program for care provided to the members under the program. A dependent of the member, as described in subparagraph (A), (D), or (I) of section 1072(2) of title 10, United States Code, who is residing with the member shall have the same entitlement to care and to waiver of charges as the member.

(2) A member or dependent of the member, as the case may be, who is entitled under paragraph (1) to receive health care services under CHAMPUS shall receive such care from a network provider under the TRICARE program if such a provider is available in the service area of the member.

(3) Paragraph (1) shall take effect on the date of the enactment of this Act and shall expire with respect to a member upon the later of the following: [2]

(A) The date that is one year after the date of the enactment of this Act.

(B) The date on which the amendments made by subsection (a) apply with respect to the coverage of medical care for, and provision of such care to, the member.

(4) The Secretary of Defense shall consult with the other administering Secretaries in the administration of this subsection.

(c) ELIGIBLE MEMBERS.—A member referred to in subsection (b) is a member of the uniformed services on active duty who—

(1) receives a duty assignment described in subsection (d); and

(2) pursuant to the assignment of such duty, resides at a location that is more than 50 miles, or approximately one hour of driving time, from—

(A) the nearest health care facility of the uniformed services adequate to provide the needed care under chapter 55 of title 10, United States Code; and

(B) the nearest source of the needed care that is available to the member under the TRICARE Prime plan.

(d) DUTY ASSIGNMENTS COVERED.—A duty assignment referred to in subsection (c)(1) means any of the following:

(1) Permanent duty as a recruiter.

(2) Permanent duty at an educational institution to instruct, administer a program of instruction, or provide admin-

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the second sentence to subsection (b)(1) and made a conforming change in subsection (b)(2). However, subsection (c)(2) of such section 722 provides as follows:

(2) The amendments made by subsection (a)(2), with respect to members of the uniformed services, and the amendments made by subsection (b)(2), with respect to dependents of members, shall take effect on the date of the enactment of this Act and shall expire with respect to a member or the dependents of a member, respectively, on the later of the following:

(A) The date that is one year after the date of the enactment of this Act.

(B) The date on which the policies required by the amendments made by subsection (a)(1) or (b)(1) are implemented with respect to the coverage of medical care for and provision of such care to the member or dependents, respectively.

[2] Subsection (c)(3) of section 722 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–186) provides that subsection (b)(3) does not apply with respect to "a member of the Coast Guard, the National Oceanic and Atmospheric Administration, or the Commissioned Corps of the Public Health Service, or to a dependent of a member of a uniformed service".

istrative services in support of a program of instruction for the Reserve Officers' Training Corps.

(3) Permanent duty as a full-time adviser to a unit of a reserve component of the uniformed services.

(4) Any other permanent duty designated by the Secretary concerned for purposes of this subsection.

(e) PAYMENT OF COSTS.—Deductibles, copayments, and annual fees not payable by a member by reason of a waiver granted under the regulations prescribed pursuant to subsection (b) shall be paid out of funds available to the Department of Defense for the Defense Health Program.

(f) DEFINITIONS.—In this section:

(1) The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

(2) The term "TRICARE Prime plan" means a plan under the TRICARE program that provides for the voluntary enrollment of persons for the receipt of health care services to be furnished in a manner similar to the manner in which health care services are furnished by health maintenance organizations.

(3) The terms "uniformed services" and "administering Secretaries" have the meanings given those terms in section 1072 of title 10, United States Code.

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**SEC. 743. AUTHORITY FOR AGREEMENT FOR USE OF MEDICAL RESOURCE FACILITY, ALAMOGORDO, NEW MEXICO.**

(a) AUTHORITY.—(1) The Secretary of the Air Force may enter into an agreement with Gerald Champion Hospital, Alamogordo, New Mexico, under which the Secretary may furnish health care services to eligible individuals in a medical resource facility in Alamogordo, New Mexico, that is constructed and equipped, in part, using funds provided by the Secretary under the agreement.

(2) For purposes of this section:

(A) The term "eligible individual" means any individual eligible for medical and dental care under chapter 55 of title 10, United States Code, including any member of the uniformed services entitled to such care under section 1074(a) of that title.

(B) The terms "medical resource facility" and "facility" mean the medical resource facility to be constructed and equipped pursuant to the agreement authorized by paragraph (1).

(C) The term "Hospital" means Gerald Champion Hospital, Alamogordo, New Mexico.

(b) CONTENT OF AGREEMENT.—Any agreement entered into under subsection (a) shall specify, at a minimum, the following:

(1) The relationship between the Hospital and the Secretary of the Air Force in the provision of health care services to eligible individuals in the medical resource facility, including—

(A) whether or not the Secretary and the Hospital are to use and administer the facility jointly or independently; and

(B) under what circumstances the Hospital is to act as a provider of health care services under the managed care option of the TRICARE program known as TRICARE Prime.

(2) Matters relating to the administration of the agreement, including—

(A) the duration of the agreement;

(B) the rights and obligations of the Secretary and the Hospital under the agreement, including any contracting or grievance procedures applicable under the agreement;

(C) the types of care to be provided to eligible individuals under the agreement, including the cost to the Department of the Air Force of providing the care to eligible individuals during the term of the agreement;

(D) the access of Air Force medical personnel to the facility under the agreement;

(E) the rights and responsibilities of the Secretary and the Hospital upon termination of the agreement; and

(F) any other matters jointly identified by the Secretary and the Hospital.

(3) The nature of the arrangement between the Secretary and the Hospital with respect to the ownership of the facility and any property under the agreement, including—

(A) the nature of that arrangement while the agreement is in force;

(B) the nature of that arrangement upon termination of the agreement; and

(C) any requirement for reimbursement of the Secretary by the Hospital as a result of the arrangement upon termination of the agreement.

(4) The amount of the funds made available under subsection (c) that the Secretary will contribute for the construction and equipping of the facility.

(5) Any conditions or restrictions relating to the construction, equipping, or use of the facility.

(c) AVAILABILITY OF FUNDS FOR CONSTRUCTION AND EQUIPPING OF FACILITY.—(1) Of the amount authorized to be appropriated pursuant to section 301(4) for operation and maintenance for the Air Force, not more than $7,000,000 may be used by the Secretary of the Air Force to make a contribution toward the construction and equipping of the medical resource facility in the event that the Secretary enters into the agreement authorized by subsection (a). Notwithstanding any other provision of law, the Secretary may not use other sources of funds to make a contribution toward the construction or equipping of the facility.

(2) Notwithstanding subsection (b)(3) regarding the ownership and reimbursement issues to be addressed in the agreement authorized by subsection (a), the Secretary may not contribute funds made available under paragraph (1) toward the construction and equipping of the facility unless the agreement requires, in exchange for the contribution, that the Hospital provide health care services to eligible individuals without charge to the Secretary or at a reduced rate. The value of the services provided by the Hospital shall be at least equal to the amount of the contribution made

by the Secretary, and the Hospital shall complete the provision of services equal in value to the Secretary's contribution within seven years after the facility becomes operational. The provision of additional discounted services to be provided by the Hospital shall be included in the agreement. The value and types of services to be provided by the Hospital shall be negotiated in accordance with principles of resource-sharing agreements under the TRICARE program.

(d) NOTICE AND WAIT.—The Secretary of the Air Force may not enter into the agreement authorized by subsection (a) until 90 days after the Secretary of Defense submits to the congressional defense committees the report required by subsection (e).

(e) REPORT ON PROPOSED AGREEMENT.—The Secretary of Defense shall submit to Congress a report containing an analysis of, and recommendations regarding, the agreement proposed to be entered into under subsection (a), in particular, the implications of the agreement on regional health care costs and its effect on implementation of the TRICARE program in the region. The report shall also include a copy of the agreement, the results of a cost-benefit analysis conducted by the Secretary of the Air Force with respect to the agreement, and such other information with respect to the agreement as the Secretary of Defense and the Secretary of the Air Force considers appropriate. The cost-benefit analysis shall consider the effects of the agreement on operation and maintenance and military construction requirements at Holloman Air Force Base, New Mexico.

**SEC. 744. [10 U.S.C. 1073 note] DISCLOSURES OF CAUTIONARY INFORMATION ON PRESCRIPTION MEDICATIONS.**

(a) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the administering Secretaries referred to in section 1073 of title 10, United States Code, shall prescribe regulations to require each source described in subsection (d) that dispenses a prescription medication to a beneficiary under chapter 55 of such title to include with the medication the written cautionary information required by subsection (b).

(b) INFORMATION TO BE DISCLOSED.—Information required to be disclosed about a medication under the regulations shall include appropriate cautions about usage of the medication, including possible side effects and potentially hazardous interactions with foods.

(c) FORM OF INFORMATION.—The regulations shall require that information be furnished in a form that, to the maximum extent practicable, is easily read and understood.

(d) COVERED SOURCES.—The regulations shall apply to the following:

(1) Pharmacies and any other dispensers of prescription medications in medical facilities of the uniformed services.

(2) Sources of prescription medications under any mail order pharmaceuticals program provided by any of the administering Secretaries under chapter 55 of title 10, United States Code.

(3) Pharmacies paid under the Civilian Health and Medical Program of the Uniformed Services (including the TRICARE program).

(4) Pharmacies, and any other pharmaceutical dispensers, of designated providers referred to in section 721(5) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2593; 10 U.S.C. 1073 note).

**SEC. 745. [10 U.S.C. 1073 note] COMPETITIVE PROCUREMENT OF CERTAIN OPHTHALMIC SERVICES.**

(a) COMPETITIVE PROCUREMENT REQUIRED.—Beginning not later than October 1, 1998, the Secretary of Defense shall competitively procure from private-sector sources, or other sources outside of the Department of Defense, all ophthalmic services related to the provision of single vision and multivision eyeware for members of the Armed Forces, retired members, and certain covered beneficiaries under chapter 55 of title 10, United States Code, who would otherwise receive such ophthalmic services through the Department of Defense.

(b) EXCEPTION.—Subsection (a) shall not apply to the extent that the Secretary of Defense determines that the use of sources within the Department of Defense to provide such ophthalmic services—

(1) is necessary to meet the readiness requirements of the Armed Forces; or

(2) is more cost effective.

(c) COMPLETION OF EXISTING ORDERS.—Subsection (a) shall not apply to orders for ophthalmic services received on or before September 30, 1998.

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**SEC. 934. [10 U.S.C. 1501 note] POW/MIA INTELLIGENCE ANALYSIS.**

(a) INTELLIGENCE ANALYSIS.—The Director of Central Intelligence, in consultation with the Secretary of Defense, shall provide intelligence analysis on matters concerning prisoners of war and missing persons (as defined in chapter 76 of title 10, United States Code) to all departments and agencies of the Federal Government involved in such matters.

(b) USE OF INTELLIGENCE IN ANALYSIS OF POW/MIA CASES IN DEPARTMENT OF DEFENSE.—The Secretary of Defense shall ensure that the Defense Prisoner of War/Missing Personnel Office of the Department of Defense takes into full account all intelligence regarding matters concerning prisoners of war and missing persons (as defined in chapter 76 of title 10, United States Code) in analyzing cases involving such persons.

## TITLE X—GENERAL PROVISIONS

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### Subtitle C—Counter-Drug Activities

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**SEC. 1033.[3] AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF OTHER COUNTRIES.**

(a) AUTHORITY TO PROVIDE SUPPORT.—(1) Subject to subsection (f), the Secretary of Defense may provide any of the foreign governments named in subsection (b) with the support described in subsection (c) for the counter-drug activities of that government. In providing support to a government under this section, the Secretary of Defense shall consult with the Secretary of State.

(2) The authority to provide support to a government under this section expires September 30, 2017. The support provided under the authority of this section shall be in addition to support provided to the governments under any other provision of law.

(b) GOVERNMENTS ELIGIBLE TO RECEIVE SUPPORT.—The foreign governments eligible to receive counter-drug support under this section are as follows:

(1) The Government of Peru.
(2) The Government of Colombia
(3) The Government of Afghanistan.
(4) The Government of Bolivia.
(5) The Government of Ecuador.
(6) The Government of Pakistan.
(7) The Government of Tajikistan.
(8) The Government of Turkmenistan.
(9) The Government of Uzbekistan.
(10) The Government of Azerbaijan.
(11) The Government of Kazakhstan.
(12) The Government of Kyrgyzstan.
(13) The Government of Armenia.
(14) The Government of Guatemala.
(15) The Government of Belize.
(16) The Government of Panama.
(17) The Government of Mexico.
(18) The Government of the Dominican Republic.
(19) The Government of Guinea–Bissau.
(20) The Government of Senegal.
(21) The Government of El Salvador.
(22) The Government of Honduras.
(23) Government of Benin.
(24) Government of Cape Verde.
(25) Government of The Gambia.
(26) Government of Ghana.
(27) Government of Guinea.
(28) Government of Ivory Coast.
(29) Government of Jamaica.
(30) Government of Liberia.
(31) Government of Mauritania.
(32) Government of Nicaragua.
(33) Government of Nigeria.
(34) Government of Sierra Leone.
(35) Government of Togo.
(36) Government of Chad.
(37) Government of Libya.

[3] Effective September 19, 2017, section 1241(d)(5)(C) of division A of Public Law 114–328 provides for a repeal of section 1033.

(38) Government of Mali.
(39) Government of Niger.
(40) Government of Kenya.
(41) Government of Tanzania.

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

(1) The types of support specified in paragraphs (1), (2), and (3) of section 1031(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2637).

(2) The transfer of patrol boats, vehicles, and, subject to section 484(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c(a)), aircraft.

(3) The maintenance and repair or upgrade of equipment of the government that is used for counter-drug activities.

(4) The transfer of detection, interception, monitoring, and testing equipment.

(5) For the Government of Afghanistan only, individual and crew-served weapons of 50 caliber or less and ammunition for such weapons for counter-narcotics security forces.

(d) 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.

(e) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated for any fiscal year after fiscal year 2014 in which the authority under this section is in effect for drug interdiction and counter-drug activities, an amount not to exceed $125,000,000 shall be available in such fiscal year for the provision of support under this section.

(f) CONDITION ON PROVISION OF SUPPORT.—(1) The Secretary of Defense may not obligate or expend funds during a fiscal year to provide support under this section to a government named in subsection (b) until the end of the 15-day period beginning on the date on which the Secretary submits to the congressional committees a written certification described in subsection (g) applicable to that fiscal year. The first such certification with respect to any such government may apply only to a period of one fiscal year. Subsequent certifications with respect to any such government may apply to a period of not to exceed two fiscal years.

(2) In the case of funds appropriated and available for support under this section to a government named in subsection (b), the obligation or expenditure of funds under this section to provide support to that government shall also be subject to the condition that—

(A) the Secretary submit to the congressional committees the counter-drug plan described in subsection (h); and

(B) a period of 60 days expires after the date on which the report is submitted.

(3) In the case of subsequent fiscal years in which support is to be provided under this section to a government named in subsection (b), the obligation or expenditure of funds under this section

to provide support to that government shall also be subject to the condition that the Secretary submit to the congressional committees any revision of the counter-drug plan described in subsection (h) applicable to that government.

(4) For purposes of this subsection, the term "congressional committees" means the following:

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

(B) The Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

(g) REQUIRED CERTIFICATION.—A written certification required by subsection (f)(1) for a government to receive support under this section for any period of time is a certification of each of the following with respect to that government:

(1) That the provision of the support to the government will not adversely affect the military preparedness of the United States Armed Forces.

(2) That the equipment and materiel provided as support will be used only by officials and employees of the government who have undergone background investigations by that government and have been approved by that government to perform counter-drug activities on the basis of the background investigations.

(3) That the government has certified to the Secretary of Defense that—

(A) the equipment and materiel provided as support will be used only by the officials and employees referred to in paragraph (2);

(B) 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

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

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

(5) That the departments, agencies, and instrumentalities of the government 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)).

(6) That the government 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.

(7) That the government 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)).

(h) COUNTER-DRUG PLAN.—The Secretary of Defense, in consultation with the Secretary of State, shall prepare for each fiscal year (and revise as necessary for subsequent fiscal years) a counter-drug plan involving the governments named in subsection (b) to which support will be provided under this section. The plan for a fiscal year shall include the following with respect to each government to receive support under this section:

(1) A detailed security assessment, including a discussion of the threat posed by illicit drug traffickers in the foreign country.

(2) An evaluation of previous and ongoing counter-drug operations by the government.

(3) An assessment of the monitoring of past and current assistance provided by the United States under this section to the government to ensure the appropriate use of such assistance.

(4) A description of the centralized management and coordination among Federal agencies involved in the development and implementation of the plan.

(5) A description of the roles and missions and coordination among agencies of the government involved in the development and implementation of the plan.

(6) A description of the resources to be contributed by the Department of Defense and the Department of State for the fiscal year or years covered by the plan and the manner in which such resources will be utilized under the plan.

(7) For each fiscal year in which support is to be provided to a government under this section, a schedule for establishing a counter-drug program that can be sustained by the government within five years, and for subsequent fiscal years, a description of the progress made in establishing and carrying out the program.

(8) A reporting system to measure the effectiveness of the counter-drug program.

(9) A detailed discussion of how the counter-drug program supports the national drug control strategy of the United States.

**SEC. 1034. [21 U.S.C. 1505a] ANNUAL REPORT ON DEVELOPMENT AND DEPLOYMENT OF NARCOTICS DETECTION TECHNOLOGIES.**

(a) REPORT REQUIREMENT.—Not later than December 1st of each year, the Director of the Office of National Drug Control Policy shall submit to Congress and the President a report on the development and deployment of narcotics detection technologies by Federal agencies. Each such report shall be prepared in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Homeland Security, and the Secretary of the Treasury.

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

(1) a description of each project implemented by a Federal agency relating to the development or deployment of narcotics detection technology;

(2) the agency responsible for each project described in paragraph (1);

(3) the amount of funds obligated or expended to carry out each project described in paragraph (1) during the fiscal year in which the report is submitted or during any fiscal year preceding the fiscal year in which the report is submitted;

(4) the amount of funds estimated to be obligated or expended for each project described in paragraph (1) during any fiscal year after the fiscal year in which the report is submitted to Congress; and

(5) a detailed timeline for implementation of each project described in paragraph (1).

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**SEC. 1078. [50 U.S.C. 1520a] RESTRICTIONS ON THE USE OF HUMAN SUBJECTS FOR TESTING OF CHEMICAL OR BIOLOGICAL AGENTS.**

(a) PROHIBITED ACTIVITIES.—The Secretary of Defense may not conduct (directly or by contract)—

(1) any test or experiment involving the use of a chemical agent or biological agent on a civilian population; or

(2) any other testing of a chemical agent or biological agent on human subjects.

(b) EXCEPTIONS.—Subject to subsections (c), (d), and (e), the prohibition in subsection (a) does not apply to a test or experiment carried out for any of the following purposes:

(1) Any peaceful purpose that is related to a medical, therapeutic, pharmaceutical, agricultural, industrial, or research activity.

(2) Any purpose that is directly related to protection against toxic chemicals or biological weapons and agents.

(3) Any law enforcement purpose, including any purpose related to riot control.

(c) INFORMED CONSENT REQUIRED.—The Secretary of Defense may conduct a test or experiment described in subsection (b) only if informed consent to the testing was obtained from each human subject in advance of the testing on that subject.

(d) PRIOR NOTICE TO CONGRESS.—Not later than 30 days after the date of final approval within the Department of Defense of plans for any experiment or study to be conducted by the Department of Defense (whether directly or under contract) involving the use of human subjects for the testing of a chemical agent or a biological agent, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report setting forth a full accounting of those plans, and the experiment or study may then be conducted only after the end of the 30-day period beginning on the date such report is received by those committees.

(e) BIOLOGICAL AGENT DEFINED.—In this section, the term "biological agent" means any micro-organism (including bacteria, viruses, fungi, rickettsiac, or protozoa), pathogen, or infectious sub-

stance, and any naturally occurring, bioengineered, or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, that is capable of causing—

(1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(2) deterioration of food, water, equipment, supplies, or materials of any kind; or

(3) deleterious alteration of the environment.

(f) REPORT AND CERTIFICATION.—[Omitted-Amendment]

(g) REPEAL OF SUPERSEDED PROVISION OF LAW.—[Omitted-Amendment]

**SEC. 1108. [10 U.S.C. 5013 note] NAVY HIGHER EDUCATION PILOT PROGRAM REGARDING ADMINISTRATION OF BUSINESS RELATIONSHIPS BETWEEN GOVERNMENT AND PRIVATE SECTOR.**

(a) PILOT PROJECT AUTHORIZED.—During fiscal years 1998 through 2002, the Secretary of the Navy may establish and conduct a pilot program of graduate-level higher education regarding the administration of business relationships between the Government and the private sector.

(b) PURPOSE.—The purpose of the pilot program is to make available to employees of the Naval Undersea Warfare Center, employees of the Naval Sea Systems Command, and employees of the Acquisition Center for Excellence of the Navy (upon establishment of such Acquisition Center), a curriculum of graduate-level higher education leading to the award of a graduate degree designed to prepare participants effectively to meet the challenges of administering Government contracting and other business relationships between the United States and private sector businesses in the context of constantly changing or newly emerging industries, technologies, governmental organizations, policies, and procedures (including governmental organizations, policies, and procedures recommended in the National Performance Review).

(c) PARTNERSHIP WITH INSTITUTION OF HIGHER EDUCATION.—(1) The Secretary of the Navy may enter into an agreement with an institution of higher education to assist the Naval Undersea Warfare Center with the development of the curriculum for the pilot program, to offer courses and provide instruction and materials to participants to the extent provided for in the agreement, to provide such other assistance in support of the program as may be provided for in the agreement, and to award a graduate degree under the program.

(2) To be eligible to enter into an agreement under paragraph (1), an institution of higher education must have an established program of graduate-level education that is relevant to the purpose of the pilot program.

(d) CURRICULUM.—The curriculum offered under the pilot program shall—

(1) be designed specifically to achieve the purpose of the pilot program; and

(2) include courses that are—

(A) typically offered under curricula leading to award of the degree of Master of Business Administration by institutions of higher education; and

(B) necessary for meeting educational qualification requirements for certification as an acquisition program manager.

(e) DISTANCE LEARNING OPTION.—The Secretary of the Navy may include as part of the pilot program policies and procedures for offering distance learning instruction by means of telecommunications, correspondence, or other methods for off-site receipt of instruction.

(f) REPORT.—Not later than 90 days after the termination of the pilot program, the Secretary of the Navy shall submit to Congress a report containing—

(1) an assessment by the Secretary of the value of the program for meeting the purpose of the program and the desirability of permanently establishing a similar program for other employees of the Department of Defense; and

(2) such other information and recommendations regarding the program as the Secretary considers appropriate.

(g) LIMITATION ON FUNDING SOURCE.—Any funds required for the pilot program for a fiscal year shall be derived only from the appropriation "Operation and Maintenance, Navy" for that fiscal year.

## TITLE XII—MATTERS RELATING TO OTHER NATIONS

### Subtitle B—Export Controls on High Performance Computers

**SEC. 1211. [50 U.S.C. App. 2404 note] EXPORT APPROVALS FOR HIGH PERFORMANCE COMPUTERS.**

(a) PRIOR APPROVAL OF EXPORTS AND REEXPORTS.—The President shall require that no digital computer with a composite theoretical performance level of more than 2,000 millions of theoretical operations per second (MTOPS) or with such other composite theoretical performance level as may be established subsequently by the President under subsection (d), may be exported or reexported without a license to a country specified in subsection (b) if the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, or the Director of the Arms Control and Disarmament Agency objects, in writing, to such export or reexport. Any person proposing to export or reexport such a digital computer shall so notify the Secretary of Commerce, who, within 24 hours after receiving the notification, shall transmit the notification to the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency.

(b) COVERED COUNTRIES.—For purposes of subsection (a), the countries specified in this subsection are the countries listed as "Computer Tier 3" eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997, subject to modification by the President under subsection (e).

(c) TIME LIMIT.—Written objections under subsection (a) to an export or reexport shall be raised within 10 days after the notifica-

tion is received under subsection (a). If such a written objection to the export or reexport of a computer is raised, the computer may be exported or reexported only pursuant to a license issued by the Secretary of Commerce under the Export Administration Regulations of the Department of Commerce, without regard to the licensing exceptions otherwise authorized under section 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997. If no objection is raised within the 10-day period, the export or reexport is authorized.

(d) ADJUSTMENT OF COMPOSITE THEORETICAL PERFORMANCE.—The President, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency, may establish a new composite theoretical performance level for purposes of subsection (a). Such new level shall not take effect until 60 days after the President submits to the congressional committees designated in section 1215 a report setting forth the new composite theoretical performance level and the justification for such new level. Each report shall, at a minimum—

(1) address the extent to which high performance computers of a composite theoretical level between the level established in subsection (a) or such level as has been previously adjusted pursuant to this section and the new level, are available from other countries;

(2) address all potential uses of military significance to which high performance computers at the new level could be applied; and

(3) assess the impact of such uses on the national security interests of the United States.

(e) ADJUSTMENT OF COVERED COUNTRIES.—

(1) IN GENERAL.—The President, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency, may add a country to or remove a country from the list of covered countries in subsection (b), except that a country may be removed from the list only in accordance with paragraph (2).

(2) DELETIONS FROM LIST OF COVERED COUNTRIES.—The removal of a country from the list of covered countries under subsection (b) shall not take effect until 120 days after the President submits to the congressional committees designated in section 1215 a report setting forth the justification for the deletion.

(3) EXCLUDED COUNTRIES.—A country may not be removed from the list of covered countries under subsection (b) if—

(A) the country is a "nuclear-weapon state" (as defined by Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons) and the country is not a member of the North Atlantic Treaty Organization; or

(B) the country is not a signatory of the Treaty on the Non-Proliferation of Nuclear Weapons and the country is listed on Annex 2 to the Comprehensive Nuclear Test-Ban Treaty.

(f) CLASSIFICATION.—Each report under subsections (d) and (e) shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

(g) DELEGATION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.—For the purposes of the Department of Defense, the authority to issue an objection referred to in subsection (a) shall be executed for the Secretary of Defense by an official at the Assistant Secretary level within the office of the Under Secretary of Defense for Policy. In implementing subsection (a), the Secretary of Defense shall ensure that Department of Defense procedures maximize the ability of the Department of Defense to be able to issue an objection within the 10-day period specified in subsection (c).

(h) CALCULATION OF 60-DAY PERIOD.—The 60-day period referred to in subsection (d) shall be calculated by excluding the days on which either House of Congress is not in session because of an adjournment of the Congress sine die.

**SEC. 1212. [50 U.S.C. App. 2404 note] REPORT ON EXPORTS OF HIGH PERFORMANCE COMPUTERS.**

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall provide to the congressional committees specified in section 1215 a report identifying all exports of digital computers with a composite theoretical performance of more than 2,000 millions of theoretical operations per second (MTOPS) to all countries since January 25, 1996. For each export, the report shall identify—

(1) whether an export license was applied for and whether one was granted;

(2) the date of the transfer of the computer;

(3) the United States manufacturer and exporter of the computer;

(4) the MTOPS level of the computer; and

(5) the recipient country and end user.

(b) ADDITIONAL INFORMATION ON EXPORTS TO CERTAIN COUNTRIES.—In the case of exports to countries specified in subsection (c), the report under subsection (a) shall identify the intended end use for the exported computer and the assessment by the executive branch of whether the end user is a military end user or an end user involved in activities relating to nuclear, chemical, or biological weapons or missile technology. Information provided under this subsection may be submitted in classified form if necessary.

(c) COVERED COUNTRIES.—For purposes of subsection (b), the countries specified in this subsection are—

(1) the countries listed as "Computer Tier 3" eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997; and

(2) the countries listed in section 740.7(e) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997.

**SEC. 1213. [50 U.S.C. App. 2404 note] POST-SHIPMENT VERIFICATION OF EXPORT OF HIGH PERFORMANCE COMPUTERS.**

(a) REQUIRED POST-SHIPMENT VERIFICATION.—The Secretary of Commerce shall conduct post-shipment verification of each digital computer with a composite theoretical performance of more than

2,000 millions of theoretical operations per second (MTOPS) that is exported from the United States, on or after the date of the enactment of this Act, to a country specified in subsection (b).

(b) COVERED COUNTRIES.—For purposes of subsection (a), the countries specified in this subsection are the countries listed as "Computer Tier 3" eligible countries in section 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997, subject to modification by the President under section 1211(e).

(c) ANNUAL REPORT.—The Secretary of Commerce shall submit to the congressional committees specified in section 1215 an annual report on the results of post-shipment verifications conducted under this section during the preceding year. Each such report shall include a list of all such items exported from the United States to such countries during the previous year and, with respect to each such export, the following:

(1) The destination country.

(2) The date of export.

(3) The intended end use and intended end user.

(4) The results of the post-shipment verification.

(d) EXPLANATION WHEN VERIFICATION NOT CONDUCTED.—If a post-shipment verification has not been conducted in accordance with subsection (a) with respect to any such export during the period covered by a report, the Secretary shall include in the report for that period a detailed explanation of the reasons why such a post-shipment verification was not conducted.

(e) ADJUSTMENT OF PERFORMANCE LEVELS.—Whenever a new composite theoretical performance level is established under section 1211(d), that level shall apply for purposes of subsection (a) of this section in lieu of the level set forth in subsection (a).

**SEC. 1214. [50 U.S.C. App. 2404 note] GAO STUDY ON CERTAIN COMPUTERS; END USER INFORMATION ASSISTANCE.**

(a) IN GENERAL.—The Comptroller General of the United States shall submit to the congressional committees specified in section 1215 a study of the national security risks relating to the sale of computers with a composite theoretical performance of between 2,000 and 7,000 millions of theoretical operations per second (MTOPS) to end users in countries specified in subsection (c). The study shall also analyze any foreign availability of computers described in the preceding sentence and the impact of such sales on United States exporters.

(b) END USER INFORMATION ASSISTANCE TO EXPORTERS.—The Secretary of Commerce shall establish a procedure by which exporters may seek information on questionable end users in countries specified in subsection (c) who are seeking to obtain computers described in subsection (a).

(c) COVERED COUNTRIES.—For purposes of subsections (a) and (b), the countries specified in this subsection are the countries listed as "Computer Tier 3" eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997.

**SEC. 1215. [50 U.S.C. App. 2404 note] CONGRESSIONAL COMMITTEES.**

For purposes of sections 1211(d), 1212(a), 1213(c), and 1214(a) the congressional committees specified in those sections are the following:

(1) The Committee on Banking, Housing, and Urban Affairs and the Committee on Armed Services of the Senate.

(2) The Committee on International Relations and the Committee on Armed Services of the House of Representatives.

## TITLE XIII—ARMS CONTROL AND RELATED MATTERS

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**[SEC. 1302. REPEALED. SECTION 1031 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002 (P.L. 107–107; 115 STAT. 1215)**

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**[SEC. 1305. TRANSFERED AND REDESIGNATED AS SECTION 4218 OF THE ATOMIC ENERGY DEFENSE ACT BY SECTION 3164 OF DIVISION C OF PUBLIC LAW 112–239.**

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**SEC. 1309. [10 U.S.C. 113 note] ANNUAL REPORT ON MORATORIUM ON USE BY ARMED FORCES OF ANTIPERSONNEL LANDMINES.**

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

(1) The United States has stated its support for a ban on antipersonnel landmines that is global in scope and verifiable.

(2) On May 16, 1996, the President announced that the United States, as a matter of policy, would eliminate its stockpile of non-self-destructing antipersonnel landmines, except those used for training purposes and in Korea, and that the United States would reserve the right to use self-destructing antipersonnel landmines in the event of conflict.

(3) On May 16, 1996, the President also announced that the United States would lead an effort to negotiate an international treaty permanently banning the use of all antipersonnel landmines.

(4) The United States is currently participating at the United Nations Conference on Disarmament in negotiations aimed at achieving a global ban on the use of antipersonnel landmines.

(5) On August 18, 1997, the administration agreed to participate in international negotiations sponsored by Canada (the so-called "Ottawa process") designed to achieve a treaty that would outlaw the production, use, and sale of antipersonnel landmines.

(6) On September 17, 1997, the President announced that the United States would not sign the antipersonnel landmine treaty concluded in Oslo, Norway, by participants in the Ottawa process because the treaty would not provide a geographic exception to allow the United States to stockpile and use antipersonnel landmines in Korea or an exemption that would preserve the ability of the United States to use mixed

antitank mine systems which could be used to deter an armored assault against United States forces.

(7) The President also announced a change in United States policy whereby the United States—

(A) would no longer deploy antipersonnel landmines, including self-destructing antipersonnel landmines, by 2003, except in Korea;

(B) would seek to field alternatives by that date, or by 2006 in the case of Korea;

(C) would undertake a new initiative in the United Nations Conference on Disarmament to establish a global ban on the transfer of antipersonnel landmines; and

(D) would increase its current humanitarian demining activities around the world.

(8) The President's decision would allow the continued use by United States forces of self-destructing antipersonnel landmines that are used as part of a mixed antitank mine system.

(9) Under existing law (as provided in section 580 of Public Law 104–107; 110 Stat. 751), on February 12, 1999, the United States will implement a one-year moratorium on the use of antipersonnel landmines by United States forces except along internationally recognized national borders or in demilitarized zones within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure the exclusion of civilians.

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

(1) the United States should not implement a moratorium on the use of antipersonnel landmines by United States Armed Forces in a manner that would endanger United States personnel or undermine the military effectiveness of United States Armed Forces in executing their missions; and

(2) the United States should pursue the development of alternatives to self-destructing antipersonnel landmines.

(c) ANNUAL REPORT.—Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees a report concerning antipersonnel landmines. Each such report shall include the Secretary's description of the following:

(1) The military utility of the continued deployment and use by the United States of antipersonnel landmines.

(2) The effect of a moratorium on the production, stockpiling, and use of antipersonnel landmines on the ability of United States forces to deter and defend against attack on land by hostile forces, including on the Korean peninsula.

(3) Progress in developing and fielding systems that are effective substitutes for antipersonnel landmines, including an identification and description of the types of systems that are being developed and fielded, the costs associated with those systems, and the estimated timetable for developing and fielding those systems.

(4) The effect of a moratorium on the use of antipersonnel landmines on the military effectiveness of current antitank mine systems.

(5) The number and type of pure antipersonnel landmines that remain in the United States inventory and that are subject to elimination under the President's September 17, 1997, declaration on United States antipersonnel landmine policy.

(6) The number and type of mixed antitank mine systems that are in the United States inventory, the locations where they are deployed, and their effect on the deterrence and warfighting ability of United States Armed Forces.

(7) The effect of the elimination of pure antipersonnel landmines on the warfighting effectiveness of the United States Armed Forces.

(8) The costs already incurred and anticipated of eliminating antipersonnel landmines from the United States inventory in accordance with the policy enunciated by the President on September 17, 1997.

(9) The benefits that would result to United States military and civilian personnel from an international treaty banning the production, use, transfer, and stockpiling of antipersonnel landmines.

## TITLE XXVIII—GENERAL PROVISIONS

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### Subtitle C—Defense Base Closure and Realignment

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**SEC. 2824. [10 U.S.C. 2687 note] REPORT ON CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS.**

(a) REPORT.—(1) The Secretary of Defense shall prepare and submit to the congressional defense committees a report on the costs and savings attributable to the rounds of base closures and realignments conducted under the base closure laws and on the need, if any, for additional rounds of base closures and realignments.

(2) For purposes of this section, the term "base closure laws" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note); and

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A statement, using data consistent with budget data, of the actual costs and savings (to the extent available for prior fiscal years) and the estimated costs and savings (in the case of future fiscal years) attributable to the closure and realignment of military installations as a result of the base closure laws.

(2) A comparison, set forth by base closure round, of the actual costs and savings stated under paragraph (1) to the estimates of costs and savings submitted to the Defense Base Clo-

sure and Realignment Commission as part of the base closure process.

(3) A comparison, set forth by base closure round, of the actual costs and savings stated under paragraph (1) to the annual estimates of costs and savings previously submitted to Congress.

(4) A list of each military installation at which there is authorized to be employed 300 or more civilian personnel, set forth by Armed Force.

(5) An estimate of current excess capacity at military installations, set forth—

(A) as a percentage of the total capacity of the military installations of the Armed Forces with respect to all military installations of the Armed Forces;

(B) as a percentage of the total capacity of the military installations of each Armed Force with respect to the military installations of such Armed Force; and

(C) as a percentage of the total capacity of a type of military installations with respect to military installations of such type.

(6) An assessment of the effect of the previous base closure rounds on military capabilities and the ability of the Armed Forces to fulfill the National Military Strategy.

(7) A description of the types of military installations that would be recommended for closure or realignment in the event of one or more additional base closure rounds, set forth by Armed Force.

(8) The criteria to be used by the Secretary in evaluating military installations for closure or realignment in such event.

(9) The methodologies to be used by the Secretary in identifying military installations for closure or realignment in such event.

(10) An estimate of the costs and savings that the Secretary believes will be achieved as a result of the closure or realignment of military installations in such event, set forth by Armed Force and by year.

(11) An assessment of whether the costs and estimated savings from one or more future rounds of base closures and realignments, currently unauthorized, are already contained in the current Future Years Defense Plan, and, if not, whether the Secretary will recommend modifications in future defense spending in order to accommodate such costs and savings.

(c) METHOD OF PRESENTING INFORMATION.—The statement and comparison required by paragraphs (1) and (2) of subsection (b) shall be set forth by Armed Force, type of facility, and fiscal year, and include the following:

(1) Operation and maintenance costs, including costs associated with expanded operations and support, maintenance of property, administrative support, and allowances for housing at military installations to which functions are transferred as a result of the closure or realignment of other installations.

(2) Military construction costs, including costs associated with rehabilitating, expanding, and constructing facilities to receive personnel and equipment that are transferred to military

installations as a result of the closure or realignment of other installations.

(3) Environmental cleanup costs, including costs associated with assessments and restoration.

(4) Economic assistance costs, including—

(A) expenditures on Department of Defense demonstration projects relating to economic assistance;

(B) expenditures by the Office of Economic Adjustment; and

(C) to the extent available, expenditures by the Economic Development Administration, the Federal Aviation Administration, and the Department of Labor relating to economic assistance.

(5) To the extent information is available, unemployment compensation costs, early retirement benefits (including benefits paid under section 5597 of title 5, United States Code), and worker retraining expenses under the Priority Placement Program, title I of the Workforce Investment Act of 1998, and any other federally funded job training program.

(6) Costs associated with military health care.

(7) Savings attributable to changes in military force structure.

(8) Savings due to lower support costs with respect to military installations that are closed or realigned.

(d) DEADLINE.—The Secretary shall submit the report under subsection (a) not later than the date on which the President submits to Congress the budget for fiscal year 2000 under section 1105(a) of title 31, United States Code.

(e) REVIEW.—The Congressional Budget Office and the Comptroller General shall conduct a review of the report prepared under subsection (a).

(f) PROHIBITION ON USE OF FUNDS.—Except as necessary to prepare the report required under subsection (a), no funds authorized to be appropriated or otherwise made available to the Department of Defense by this Act or any other Act may be used for the purposes of planning for, or collecting data in anticipation of, an authorization providing for procedures under which the closure and realignment of military installations may be accomplished, until the later of—

(1) the date on which the Secretary submits the report required by subsection (a); and

(2) the date on which the Congressional Budget Office and the Comptroller General complete a review of the report under subsection (e).

(g) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Secretary should develop a system having the capacity to quantify the actual costs and savings attributable to the closure and realignment of military installations pursuant to the base closure process; and

(2) the Secretary should develop the system in expedient fashion, so that the system may be used to quantify costs and savings attributable to the 1995 base closure round.

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**SEC. 2826. PROHIBITION AGAINST CERTAIN CONVEYANCES OF PROPERTY AT NAVAL STATION, LONG BEACH, CALIFORNIA.**

(a) PROHIBITION AGAINST DIRECT CONVEYANCE.—In disposing of real property in connection with the closure of Naval Station, Long Beach, California, under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), the Secretary of the Navy may not convey any portion of the property (by sale, lease, or other method) to the China Ocean Shipping Company or any legal successor or subsidiary of that Company (in this section referred to as "COSCO").

(b) PROHIBITION AGAINST INDIRECT CONVEYANCE.—The Secretary of the Navy shall impose as a condition on each conveyance of real property located at Naval Station, Long Beach, California, the requirement that the property may not be subsequently conveyed (by sale, lease, or other method) to COSCO.

(c) REVERSIONARY INTEREST.—If the Secretary of the Navy determines at any time that real property located at Naval Station, Long Beach, California, and conveyed under the Defense Base Closure and Realignment Act of 1990 has been conveyed to COSCO in violation of subsection (b) or is otherwise being used by COSCO in violation of such subsection, all right, title, and interest in and to the property shall revert to the United States, and the United States shall have immediate right of entry thereon.

(d) NATIONAL SECURITY REPORT AND DETERMINATION.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense and the Director of the Federal Bureau of Investigation shall separately submit to the President and the congressional defense committees a report regarding the potential national security implications of conveying property described in subsection (a) to COSCO. Each report shall specifically identify any increased risk of espionage, arms smuggling, or other illegal activities that could result from a conveyance to COSCO and recommend appropriate action to address any such risk.

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[Section 3157 (relating to reports on advanced supercomputer sales to certain foreign nations) was repealed by section 3132(b) of Public Law 113–66.]

## TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

**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)).

(3) The term "Market Impact Committee" means the Market Impact Committee established under section 10(c) of the

Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1(c)).

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**SEC. 3303. [50 U.S.C. 98d note] DISPOSAL OF BERYLLIUM COPPER MASTER ALLOY IN NATIONAL DEFENSE STOCKPILE.**

(a) DISPOSAL AUTHORIZATION.—Pursuant to section 5(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)), the National Defense Stockpile Manager may dispose of all beryllium copper master alloy from the National Defense Stockpile as part of continued efforts to modernize the stockpile.

(b) PRECONDITION FOR DISPOSAL.—Before beginning the disposal of beryllium copper master alloy under subsection (a), the National Defense Stockpile Manager shall certify to Congress that the disposal of beryllium copper master alloy will not adversely affect the capability of the National Defense Stockpile to supply the strategic and critical material needs of the United States.

(c) CONSULTATION WITH MARKET IMPACT COMMITTEE.—In disposing of beryllium copper master alloy under subsection (a), the National Defense Stockpile Manager shall consult with the Market Impact Committee to ensure that the disposal of beryllium copper master alloy does not disrupt the domestic beryllium industry.

(d) EXTENDED SALES CONTRACTS.—The National Defense Stockpile Manager shall provide for the use of long-term sales contracts for the disposal of beryllium copper master alloy under subsection (a) so that the domestic beryllium industry can re-absorb this material into the market in a gradual and nondisruptive manner. However, no such contract shall provide for the disposal of beryllium copper master alloy over a period longer than eight years, beginning on the date of the commencement of the first contract under this section.

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

(f) BERYLLIUM COPPER MASTER ALLOY DEFINED.—For purposes of this section, the term "beryllium copper master alloy" means an alloy of nominally four percent beryllium in copper.

**SEC. 3304. [50 U.S.C. 98d note] DISPOSAL OF TITANIUM SPONGE IN NATIONAL DEFENSE STOCKPILE.**

(a) DISPOSAL REQUIRED.—Subject to subsection (b), the National Defense Stockpile Manager shall dispose of 34,800 short tons of titanium sponge contained in the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c) and excess to stockpile requirements.

(b) CONSULTATION WITH MARKET IMPACT COMMITTEE.—In disposing of titanium sponge under subsection (a), the National Defense Stockpile Manager shall consult with the Market Impact Committee to ensure that the disposal of titanium sponge does not disrupt the domestic titanium industry.

(c) 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 materials in the National Defense Stockpile.

**SEC. 3305. [50 U.S.C. 98d note] DISPOSAL OF COBALT IN NATIONAL DEFENSE STOCKPILE.**

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

(1) $20,000,000 during fiscal year 2002;
(2) $50,000,000 during fiscal year 2003;
(3) $64,000,000 during fiscal year 2004;
(4) $67,000,000 during fiscal year 2005; and
(5) $34,000,000 by the end of fiscal year 2011.

(b) LIMITATIONS ON DISPOSAL AUTHORITY.—(1) The total quantity of cobalt authorized for disposal by the President under subsection (a) may not exceed 14,058,014 pounds.

(2) The President may not dispose of cobalt under this section in fiscal year 2006 in excess of the disposals necessary to result in receipts during that fiscal year in the total amount specified in subsection (a)(5).

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of cobalt 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 cobalt; 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 cobalt under subsection (a) shall be deposited into the general fund of the Treasury.

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

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**SEC. 3307. RETURN OF SURPLUS PLATINUM FROM THE DEPARTMENT OF THE TREASURY.**

(a) RETURN OF PLATINUM TO STOCKPILE.—Subject to subsection (b), the Secretary of the Treasury, upon the request of the Secretary of Defense, shall return to the Secretary of Defense for sale or other disposition platinum of the National Defense Stockpile that has been loaned to the Department of the Treasury by the Secretary of Defense, acting as the stockpile manager. The quantity requested and required to be returned shall be any quantity that the Secretary of Defense determines appropriate for sale or other disposition.

(b) ALTERNATIVE TRANSFER OF FUNDS.—The Secretary of the Treasury, with the concurrence of the Secretary of Defense, may transfer to the Secretary of Defense funds in a total amount that is equal to the fair market value of any platinum requested under subsection (a) and not returned. A transfer of funds under this sub-

section shall be a substitute for a return of platinum under subsection (a). Upon a transfer of funds as a substitute for a return of platinum, the platinum shall cease to be part of the National Defense Stockpile. A transfer of funds under this subsection shall be charged to any appropriation for the Department of the Treasury and shall be credited to the National Defense Stockpile Transaction Fund.

(c) RESPONSIBILITY FOR COSTS.—The return of platinum under subsection (a) by the Secretary of the Treasury shall be made without the expenditure of any funds available to the Department of Defense. The Secretary of the Treasury shall be responsible for all costs incurred in connection with the return, such as transportation, storage, testing, refining, or casting costs.