Excerpts from the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005

[Public Law 108–375; approved (Oct. 28, 2004)]

[As Amended Through P.L. 117–263, Enacted December 23, 2022]

[Currency: This publication is a compilation of the text of Public Law 108–375. 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).]

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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Subtitle C—Ballistic Missile Defense

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SEC. 232. [10 U.S.C. 2431 note] INTEGRATION OF PATRIOT ADVANCED CAPABILITY-3 AND MEDIUM EXTENDED AIR DEFENSE SYSTEM INTO BALLISTIC MISSILE DEFENSE SYSTEM.

(a) RELATIONSHIP TO BALLISTIC MISSILE DEFENSE SYSTEM.—The combined program of the Department of the Army known as the Patriot Advanced Capability-3/Medium Extended Air Defense System air and missile defense program (hereinafter in this section referred to as the "PAC–3/MEADS program") is an element of the Ballistic Missile Defense System.

(b) MANAGEMENT OF CONFIGURATION CHANGES.—The Director of the Missile Defense Agency, in consultation with the Secretary of the Army (acting through the Assistant Secretary of the Army for Acquisition, Logistics and Technology) shall ensure that any configuration change for the PAC–3/MEADS program is subject to the configuration control board processes of the Missile Defense Agency so as to ensure integration of the PAC–3/MEADS element with appropriate elements of the Ballistic Missile Defense System.

(c) REQUIRED PROCEDURES.—(1) Except as otherwise directed by the Secretary of Defense, the Secretary of the Army (acting through the Assistant Secretary of the Army for Acquisition, Logistics and Technology) may make a significant change to the baseline technical specifications or the baseline schedule for the PAC–3/

MEADS program only with the concurrence of the Director of the Missile Defense Agency.

(2) With respect to a proposal by the Secretary of the Army to make a significant change to the procurement quantity (including any quantity in any future block procurement) that, as of the date of such proposal, is planned for the PAC–3/MEADS program, the Secretary of Defense shall establish—

(A) procedures for a determination of the effect of such change on Ballistic Missile Defense System capabilities and on the cost of the PAC–3/MEADS program; and

(B) procedures for review of the proposed change by all relevant commands and agencies of the Department of Defense, including determination of the concurrence or nonconcurrence of each such command and agency with respect to such proposed change.

(d) REPORT.—Not later than February 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report describing the procedures developed pursuant to subsection (c)(2).

(e) DEFINITIONS.—For purpose of this section:

(1) The term "significant change" means, with respect to the PAC–3/MEADS program, a change that would substantially alter the role or contribution of that program in the Ballistic Missile Defense System.

(2) The term "baseline technical specifications" means, with respect to the PAC–3/MEADS program, those technical specifications for that program that have been approved by the configuration control board of the Missile Defense Agency and are in effect as of the date of the review.

(3) The term "baseline schedule" means, with respect to the PAC–3/MEADS program, the development and production schedule for the PAC–3/MEADS program in effect at the time of a review of such program conducted pursuant to subsection (b) or (c)(2)(B).

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SEC. 234. [10 U.S.C. 2431 note] BASELINES AND OPERATIONAL TEST AND EVALUATION FOR BALLISTIC MISSILE DEFENSE SYSTEM.

(a) TESTING CRITERIA.—Not later than February 1, 2005, the Secretary of Defense, in consultation with the Director of Operational Test and Evaluation, shall prescribe appropriate criteria for operationally realistic testing of fieldable prototypes developed under the ballistic missile defense spiral development program. The Secretary shall submit a copy of the prescribed criteria to the congressional defense committees.

(b) USE OF CRITERIA.—(1) The Secretary of Defense shall ensure that, not later than October 1, 2005, a test of the ballistic missile defense system is conducted consistent with the criteria prescribed under subsection (a).

(2) The Secretary of Defense shall ensure that each block configuration of the ballistic missile defense system is tested consistent with the criteria prescribed under subsection (a).

(c) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed to exempt any spiral development program of the Department of Defense, after completion of the spiral development, from the applicability of any provision of chapter 144 of title 10, United States Code, or section 139, 181, 2366, 2399, or 2400 of such title in accordance with the terms and conditions of such provision.

(d) EVALUATION.—(1) The Director of Operational Test and Evaluation shall evaluate the results of each test conducted under subsection (a) as soon as practicable after the completion of such test.

(2) The Director shall submit to the Secretary of Defense and the congressional defense committees a report on the evaluation of each test conducted under subsection (a) upon completion of the evaluation of such test under paragraph (1).

(e) COST, SCHEDULE, AND PERFORMANCE BASELINES.—(1) The Director of the Missile Defense Agency shall establish cost, schedule, and performance baselines for each block configuration of the Ballistic Missile Defense System being fielded. The cost baseline for a block configuration shall include full life cycle costs for the block configuration.

(2) The Director shall include the baselines established under paragraph (1) in the first Selected Acquisition Report for the Ballistic Missile Defense System that is submitted to Congress under section 2432 of title 10, United States Code, after the establishment of such baselines.

(3) The Director shall also include in the Selected Acquisition Report submitted to Congress under paragraph (2) the significant assumptions used in determining the performance baseline under paragraph (1), including any assumptions regarding threat missile countermeasures and decoys.

(f) VARIATIONS AGAINST BASELINES.—In the event the cost, schedule, or performance of any block configuration of the Ballistic Missile Defense System varies significantly (as determined by the Director of the Ballistic Missile Defense Agency) from the applicable baseline established under subsection (d), the Director shall include such variation, and the reasons for such variation, in the Selected Acquisition Report submitted to Congress under section 2432 of title 10, United States Code.

(g) MODIFICATIONS OF BASELINES.—In the event the Director of the Missile Defense Agency elects to undertake any modification of a baseline established under subsection (d), the Director shall submit to the congressional defense committees a report setting forth the reasons for such modification.

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TITLE III—OPERATION AND MAINTENANCE

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Subtitle B—Environmental Provisions

SEC. 311. [42 U.S.C. 9611 note] SATISFACTION OF SUPERFUND AUDIT REQUIREMENTS BY INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.

(a) SATISFACTION OF REQUIREMENTS.—The Inspector General of the Department of Defense shall be deemed to be in compliance with the requirements of section 111(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(k)) if the Inspector General conducts periodic audits of the payments, obligations, reimbursements, and other uses of the Hazardous Substance Superfund by the Department of Defense, even if such audits do not occur on an annual basis.

(b) REPORTS TO CONGRESS ON AUDITS.—The Inspector General shall submit to Congress a report on each audit conducted by the Inspector General as described in subsection (a).

SEC. 312. REIMBURSEMENT OF ENVIRONMENTAL PROTECTION AGENCY FOR CERTAIN COSTS IN CONNECTION WITH MOSES LAKE WELLFIELD SUPERFUND SITE, MOSES LAKE, WASHINGTON.

(a) AUTHORITY TO REIMBURSE.—(1) Using funds described in subsection (b), the Secretary of Defense may transfer not more than $524,926.54 to the Moses Lake Wellfield Superfund Site 10–6J Special Account.

(2) The payment under paragraph (1) is to reimburse the Environmental Protection Agency for its costs, including interest, incurred in overseeing a remedial investigation/feasibility study performed by the Department of the Army under the Defense Environmental Restoration Program at the former Larson Air Force Base, Moses Lake Superfund Site, Moses Lake, Washington.

(3) The reimbursement described in paragraph (2) is provided for in the interagency agreement entered into by the Department of the Army and the Environmental Protection Agency for the Moses Lake Wellfield Superfund Site in March 1999.

(b) SOURCE OF FUNDS.—Any payment under subsection (a) shall be made using funds authorized to be appropriated by section 301(17) for operation and maintenance for Environmental Restoration, Formerly Used Defense Sites.

(c) USE OF FUNDS.—The Environmental Protection Agency shall use the amount transferred under subsection (a) to pay costs incurred by the Agency at the Moses Lake Wellfield Superfund Site.

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[Section 315 was repealed by section 362 of Public Law 109–163]

SEC. 316. COMPTROLLER GENERAL STUDY AND REPORT ON ALTERNATIVE TECHNOLOGIES TO DECONTAMINATE GROUNDWATER AT DEPARTMENT OF DEFENSE INSTALLATIONS.

(a) COMPTROLLER GENERAL STUDY.—The Comptroller General shall conduct a study to determine whether cost-effective technologies are available to the Department of Defense for the cleanup of groundwater contamination at Department installations in lieu of traditional methods, such as pump and treat, used to respond to groundwater contamination.

(b) ELEMENTS OF STUDY.—In conducting the study under subsection (a), the Comptroller General shall—

(1) identify current technologies being used or field tested by the Department of Defense to treat groundwater at Department installations;

(2) identify cost-effective technologies for the cleanup of groundwater contamination that—

(A) are being researched, are under development by commercial vendors, or are available commercially and being used outside the Department; and

(B) have potential for use by the Department to address groundwater contamination;

(3) evaluate the potential benefits and limitations of using the technologies identified under paragraphs (1) and (2); and

(4) consider the barriers, such as cost, capability, or legal restrictions, to using the technologies identified under paragraph (2).

(c) REPORT REQUIRED.—Not later than April 1, 2005, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the study, including information regarding the matters specified in subsection (b) and any recommendations, including recommendations for administrative or legislative action, that the Comptroller General considers appropriate.

SEC. 317. COMPTROLLER GENERAL STUDY AND REPORT ON DRINKING WATER CONTAMINATION AND RELATED HEALTH EFFECTS AT CAMP LEJEUNE, NORTH CAROLINA.

(a) STUDY.—The Comptroller General shall conduct a study on drinking water contamination and related health effects at Camp Lejeune, North Carolina. The study shall consist of the following:

(1) A study of the history of drinking water contamination at Camp Lejeune to determine, to the extent practical—

(A) what contamination has been found in the drinking water;

(B) the source of such contamination and when it may have begun; and

(C) what actions have been taken to address such contamination.

(2) An assessment of the study on the possible health effects associated with the drinking of contaminated drinking water at Camp Lejeune as proposed by the Agency for Toxic Substances and Disease Registry of the Department of Health and Human Services, including whether the proposed study—

(A) will address the appropriate at-risk populations;

(B) will encompass an appropriate timeframe;

(C) will consider all relevant health effects; and

(D) can be completed on an expedited basis without compromising its quality.

(b) AUTHORITY TO USE EXPERTS.—The Comptroller General may use experts in conducting the study required by subsection (a). Any such experts shall be independent, highly qualified, and knowledgeable in the matters covered by the study.

(c) PARTICIPATION BY OTHER INTERESTED PARTIES.—In conducting the study required by subsection (a), the Comptroller General shall ensure that interested parties, including individuals who lived or worked at Camp Lejeune during the period when the drinking water may have been contaminated, have the opportunity to submit information and views on the matters covered by the study.

(d) CONSTRUCTION WITH ATSDR STUDY.—The requirement under subsection (a)(2) that the Comptroller General conduct an assessment of the study proposed by the Agency for Toxic Substances and Disease Registry, as described in such subsection, may not be construed as a basis for the delay of that study. The assessment is intended to provide an independent review of the appropriateness and credibility of the study proposed by the Agency and to identify possible improvements in the plan or implementation of the study proposed by the Agency.

(e) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the study required by subsection (a), including such recommendations as the Comptroller General considers appropriate for further study or for legislative or other action.

(2) Recommendations under paragraph (1) may include recommendations for modifications or additions to the study proposed by the Agency for Toxic Substances and Disease Registry, as described in subsection (a)(2), in order to improve the study.

SEC. 318. SENSE OF CONGRESS REGARDING PERCHLORATE CONTAMINATION OF GROUND AND SURFACE WATER FROM DEPARTMENT OF DEFENSE ACTIVITIES.

It is the sense of Congress that the Secretary of Defense should—

(1) develop a plan for the remediation of perchlorate contamination resulting from the activities of the Department of Defense to ensure that the Department is prepared to respond quickly and appropriately once the United States establishes a drinking water standard for perchlorate;

(2) continue remediation activities for perchlorate contamination at those sites where perchlorate contamination poses an imminent and substantial endangerment to public health and welfare and where the Department is undertaking site-specific remedial action as of the date of the enactment of this Act;

(3) develop a plan for the remediation of perchlorate contamination resulting from the activities of the Department of Defense in cases in which, notwithstanding the lack of a drinking water standard for perchlorate, such contamination is present in ground or surface water at levels that the Secretary of Defense determines pose a hazard to human health; and

(4) continue the process of evaluating and prioritizing perchlorate contamination sites without waiting for the establishment of the Federal drinking water standard for perchlorate.

Subtitle C—Workplace and Depot Issues

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SEC. 325. [10 U.S.C. 2461 note] PILOT PROGRAM FOR PURCHASE OF CERTAIN MUNICIPAL SERVICES FOR MILITARY INSTALLATIONS.

(a) PILOT PROGRAM AUTHORIZED.—The Secretary of a military department may carry out a pilot program to procure one or more of the municipal services specified in subsection (b) for a military installation under the jurisdiction of the Secretary from a county or municipality in which the installation is located for the purpose of evaluating the efficacy of procuring such services rather than providing them directly.

(b) SERVICES AUTHORIZED FOR PROCUREMENT.—Only the following services may be procured for a military installation participating in the pilot program:

(1) Refuse collection.
(2) Refuse disposal.
(3) Library services.
(4) Recreation services.
(5) Facility maintenance and repair.
(6) Utilities.

(c) PARTICIPATING INSTALLATIONS.—Not more than three military installations from each military service may be selected to participate in the pilot program, and only installations located in the United States are eligible for selection.

(d) CONGRESSIONAL NOTIFICATION.—The Secretary of a military department may not enter into a contract under the pilot program for the procurement of municipal services until the Secretary notifies the congressional defense committees of the proposed contract and a period of 14 days elapses from the date the notification is received by the committees.

(e) TERMINATION OF PILOT PROGRAM.—The pilot program shall terminate on September 30, 2012. Any contract entered into under the pilot program shall terminate not later than that date.

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Subtitle F—Other Matters

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SEC. 351. [118 Stat. 1857] REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN CONTINGENCY OPERATIONS.

(a) REIMBURSEMENT REQUIRED.—The Secretary of Defense shall reimburse a member of the Armed Forces for the cost (including any shipping cost) of any protective, safety, or health equipment that was purchased by the member or by another person on behalf of the member for the personal use of the member in anticipation of, or during, the deployment of the member in connection with Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom, but only if—

(1) the Secretary of Defense certifies that the protective, safety, or health equipment was critical to the protection, safety, or health of the member;

(2) the member was not issued the protective, safety, or health equipment before the member became engaged in oper-

ations in areas or situations described in section 310(a)(2) of title 37, United States Code; and

(3) the protective, safety, or health equipment was purchased by the member during the period beginning on September 11, 2001, and ending on April 1, 2006, or in the case of protective helmet pads purchased by a member from a qualified vendor for that member's personal use, ending on September 30, 2007.

(b) AMOUNT OF REIMBURSEMENT.—The amount of reimbursement provided under subsection (a) per item of protective, safety, or health equipment purchased by a member of the Armed Forces may not exceed $1,100.

(c) SUBMISSION OF REIMBURSEMENT CLAIMS.—Claims for.

(reimbursement for the cost of protective, safety, or health equipment purchased by a member of the Armed Forces shall comply with regular Department of Defense procedures for the submission of claims and shall be submitted to the Secretary of Defense under this section not later than one year after the date on which the implementing rules required by subsection (d) take effect or one year after the date on which the purchase of the protective, safety, or health equipment was made, whichever occurs last.

(d) RULEMAKING.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue rules to expedite the provision of reimbursement under subsection (a). In conducting such rulemaking, the Secretary shall address the circumstances under which the United States will assume title or ownership of any protective, safety, or health equipment for which reimbursement is made. Subsection (a)(1) shall not apply in the case of the purchase of protective helmet pads on behalf of a member.

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TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

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SEC. 403. [Section 403 was repealed by section 403(h) of Public Law 110–181]

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TITLE V—MILITARY PERSONNEL POLICY

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SUBTITLE K—SEXUAL ASSAULT IN THE ARMED FORCES

SEC. 576. [10 U.S.C. 4331 note] EXAMINATION OF SEXUAL ASSAULT IN THE ARMED FORCES BY THE DEFENSE TASK FORCE ESTABLISHED TO EXAMINE SEXUAL HARASSMENT AND VIOLENCE AT THE MILITARY SERVICE ACADEMIES.

(a) EXTENSION OF TASK FORCE.—(1) The task force in the Department of Defense established by the Secretary of Defense pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1466) to examine

matters relating to sexual harassment and violence at the United States Military Academy and United States Naval Academy shall continue in existence for a period of at least 18 months after the date as of which the task force would otherwise be terminated pursuant to subsection (i) of that section.

(2) Upon the completion of the functions of the task force referred to in paragraph (1) pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004, the name of the task force shall be changed to the Defense Task Force on Sexual Assault in the Military Services, and the task force shall then carry out the functions specified in this section. The task force shall not begin to carry out the functions specified in this section until it has completed its functions under such section 526.

(3) Before the task force extended under this subsection begins to carry out the functions specified in this section, the Secretary of Defense may, consistent with the qualifications required by section 526(f) of Public Law 108–136, change the composition of the task force as the Secretary considers appropriate for the effective performance of such functions, except that—

(A) any change initiated by the Secretary in the membership of the task force under this paragraph may not take effect before the task force has completed its functions under section 526 of Public Law 108–136; and

(B) the total number of members of the task force may not exceed 14.

(b) EXAMINATION OF MATTERS RELATING TO SEXUAL ASSAULT IN THE ARMED FORCES.—The task force shall conduct an examination of matters relating to sexual assault in cases in which members of the Armed Forces are either victims or commit acts of sexual assault.

(c) RECOMMENDATIONS.—The Task Force shall include in its report under subsection (e) recommendations of ways by which civilian officials within the Department of Defense and leadership within the Armed Forces may more effectively address matters relating to sexual assault. That report shall include an assessment of, and recommendations (including any recommendations for changes in law) for measures to improve, with respect to sexual assault, the following:

(1) Victim care and advocacy programs.

(2) Effective prevention.

(3) Collaboration among military investigative organizations with responsibility or jurisdiction.

(4) Coordination and resource sharing between military and civilian communities, including local support organizations.

(5) Reporting procedures, data collection, tracking of cases, and use of data on sexual assault by senior military and civilian leaders.

(6) Oversight of sexual assault programs, including development of measures of the effectiveness of those programs in responding to victim needs.

(7) Military justice issues.

(8) Progress in developing means to investigate and prosecute assailants who are foreign nationals.

(9) Adequacy of resources supporting sexual assault prevention and victim advocacy programs, particularly for deployed units and personnel.

(10) Training of military and civilian personnel responsible for implementation of sexual assault policies.

(11) Programs and policies, including those related to confidentiality, designed to encourage victims to seek services and report offenses.

(12) Other issues identified by the task force relating to sexual assault.

(d) METHODOLOGY.—In carrying out its examination under subsection (b) and in formulating its recommendations under subsection (c), the task force shall consider the findings and recommendations of previous reviews and investigations of sexual assault conducted by the Department of Defense and the Armed Forces.

(e) REPORT.—(1) Not later than December 1, 2009, the task force shall submit to the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force a report on the activities of the task force and on the activities of the Department of Defense and the Armed Forces to respond to sexual assault.

(2) The report shall include the following:

(A) A description of any barrier to implementation of improvements as a result of previous efforts to address sexual assault.

(B) Other areas of concern not previously addressed in prior reports.

(C) The findings and conclusions of the task force.

(D) Any recommendations for changes to policy and law that the task force considers appropriate.

(3) Within 90 days after receipt of the report under paragraph (1), the Secretary of Defense shall submit the report, together with the Secretary's evaluation of the report, to the Committees on Armed Services of the Senate and House of Representatives.

(f) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to the Committees on Armed Services of the Senate and House of Representatives pursuant to subsection (e)(3).

SEC. 577. [10 U.S.C. 113 note] DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES.

(a) COMPREHENSIVE POLICY ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS.—(1) Not later than January 1, 2005, the Secretary of Defense shall develop a comprehensive policy for the Department of Defense on the prevention of and response to sexual assaults involving members of the Armed Forces.

(2) The policy shall be based on the recommendations of the Department of Defense Task Force on Care for Victims of Sexual Assaults and on such other matters as the Secretary considers appropriate.

(3) Before developing the comprehensive policy required by paragraph (1), the Secretary of Defense shall develop a definition of sexual assault. The definition so developed shall be used in the

comprehensive policy under paragraph (1) and otherwise within the Department of Defense and Coast Guard in matters involving members of the Armed Forces. The definition shall be uniform for all the Armed Forces and shall be developed in consultation with the Secretaries of the military departments and the Secretary of Homeland Security with respect to the Coast Guard.

(b) ELEMENTS OF COMPREHENSIVE POLICY.—The comprehensive policy developed under subsection (a) shall, at a minimum, address the following matters:

(1) Prevention measures.

(2) Education and training on prevention and response.

(3) Investigation of complaints by command and law enforcement personnel.

(4) Medical treatment of victims.

(5) Confidential reporting of incidents.

(6) Victim advocacy and intervention.

(7) Oversight by commanders of administrative and disciplinary actions in response to substantiated incidents of sexual assault.

(8) Disposition of victims of sexual assault, including review by appropriate authority of administrative separation actions involving victims of sexual assault.

(9) Disposition of members of the Armed Forces accused of sexual assault.

(10) Liaison and collaboration with civilian agencies on the provision of services to victims of sexual assault.

(11) Uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.

(12) Implementation of clear, consistent, and streamlined sexual assault terminology for use throughout the Department of Defense.

(c) REPORT ON IMPROVEMENT OF CAPABILITY TO RESPOND TO SEXUAL ASSAULTS.—Not later than March 1, 2005, the Secretary of Defense shall submit to Congress a proposal for such legislation as the Secretary considers necessary to enhance the capability of the Department of Defense to address matters relating to sexual assaults involving members of the Armed Forces.

(d) APPLICATION OF COMPREHENSIVE POLICY TO MILITARY DEPARTMENTS.—The Secretary of Defense shall ensure that, to the maximum extent practicable, the policy developed under subsection (a) is implemented uniformly by the military departments.

(e) POLICIES AND PROCEDURES OF MILITARY DEPARTMENTS.—(1) Not later than March 1, 2005, the Secretaries of the military departments shall prescribe regulations, or modify current regulations, on the policies and procedures of the military departments on the prevention of and response to sexual assaults involving members of the Armed Forces in order—

(A) to conform such policies and procedures to the policy developed under subsection (a); and

(B) to ensure that such policies and procedures include the elements specified in paragraph (2).

(2) The elements specified in this paragraph are as follows:

(A) A program to promote awareness of the incidence of sexual assaults involving members of the Armed Forces.

(B) A program to provide victim advocacy and intervention for members of the Armed Force concerned who are victims of sexual assault, which program shall make available, at home stations and in deployed locations, trained advocates who are readily available to intervene on behalf of such victims.

(C) Procedures for members of the Armed Force concerned to follow in the case of an incident of sexual assault involving a member of such Armed Force, including—

(i) specification of the person or persons to whom the alleged offense should be reported;

(ii) specification of any other person whom the victim should contact;

(iii) procedures for the preservation of evidence; and

(iv) procedures for confidential reporting and for contacting victim advocates.

(D) Procedures for disciplinary action in cases of sexual assault by members of the Armed Force concerned.

(E) Other sanctions authorized to be imposed in substantiated cases of sexual assault, whether forcible or nonforcible, by members of the Armed Force concerned.

(F) Training on the policies and procedures for all members of the Armed Force concerned, including specific training for members of the Armed Force concerned who process allegations of sexual assault against members of such Armed Force.

(G) Any other matters that the Secretary of Defense considers appropriate.

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Subtitle M—Other Matters

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SEC. 593. [10 U.S.C. 503 note] ENHANCED SCREENING METHODS AND PROCESS IMPROVEMENTS FOR RECRUITMENT OF HOME SCHOOLED AND NATIONAL GUARD CHALLENGE PROGRAM GED RECIPIENTS.

(a) ENHANCED SCREENING METHODS AND PROCESS IMPROVEMENTS.—(1) The Secretary of the Army shall carry out an initiative—

(A) to develop screening methods and process improvements for recruiting specified GED recipients so as to achieve attrition patterns, among the GED recipients so recruited, that match attrition patterns for Army recruits who are high school diploma graduates; and

(B) subject to subsection (b), to implement such screening methods and process improvements on a test basis.

(2) For purposes of this section, the term "specified GED recipients" means persons who receive a General Educational Development (GED) certificate as a result of home schooling or the completion of a program under the National Guard Challenge program.

(b) SECRETARY OF DEFENSE REVIEW.—Before the screening methods and process improvements developed under subsection (a)(1) are put into effect under subsection (a)(2), the Secretary of

Defense shall review the proposed screening methods and process improvements. Based on such review, the Secretary of Defense either shall approve the use of such screening methods and process improvements for testing (with such modifications as the Secretary may direct) or shall disapprove the use of such methods and process improvements on a test basis.

(c) SECRETARY OF DEFENSE DECISION.—If the Secretary of Defense determines under subsection (b) that the screening methods and process improvements developed under subsection (a)(1) should be implemented on a test basis, then upon completion of the test period, the Secretary of Defense shall, after reviewing the results of the test program, determine whether the new screening methods and process improvements developed by the Army should be extended throughout the Department for recruit candidates identified by the new procedures to be considered tier 1 recruits.

(d) REPORTS.—(1) If the Secretary of Defense determines under subsection (b) that the screening methods and process improvements developed under subsection (a)(1) should not be implemented on a test basis, the Secretary of Defense shall, not later than 90 days thereafter, notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of such determination, together with the reasons of the Secretary for such determination.

(2) If the Secretary of Defense determines under subsection (b) that the screening methods and process improvements developed under subsection (a)(1) should be implemented on a test basis, the Secretary of the Army shall submit to the committees specified in paragraph (1) a report on the results of the testing. The report shall be submitted not later than March 31, 2009, except that if the Secretary of Defense directs an earlier termination of the testing initiative, the Secretary of the Army shall submit the report under this paragraph not later than 180 days after such termination. Such report shall include the determination of the Secretary of Defense under subsection (c). If that determination is that the methods and processes tested should not be extended to the other services, the report shall include the Secretary's rationale for not recommending such extension.

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TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

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Subtitle D—Retired Pay and Survivor Benefits

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SEC. 644. PHASED ELIMINATION OF TWO-TIER ANNUITY COMPUTATION FOR SURVIVING SPOUSES UNDER SURVIVOR BENEFIT PLAN.

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(c) [10 U.S.C. 1450 note] RECOMPUTATION OF ANNUITIES.—

(1) PERIODIC RECOMPUTATION REQUIRED.—Effective on the first day of each month specified in paragraph (2)—

(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) TIME FOR RECOMPUTATION.—The requirement under paragraph (1) for recomputation of certain annuities applies with respect to the following months:

(A) October 2005.

(B) April 2006.

(C) April 2007.

(D) April 2008.

(3) SAVINGS PROVISION.—If, as a result of the recomputation of annuities under section 1450 of title 10, United States Code, and supplemental survivor annuities under section 1457 of such title, as required by paragraph (1), the total amount of both annuities to be paid to an annuitant for a month would be less (because of the offset required by section 1450(c) of such title for dependency and indemnity compensation) than the amount that would be paid to the annuitant in the absence of recomputation, the Secretary of Defense shall take such actions as are necessary to adjust the annuity amounts to eliminate the reduction.

(d) [10 U.S.C. 1460 note] [1]TERMINATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—(1) Except as provided in paragraph (2), there shall be no reduction in retired pay under section 1460 of title 10, United States Code, for any month beginning after the date of the enactment of this Act.

(2) Reductions in retired pay under section 1460 of title 10, United States Code, shall be made for months after September 2005 in the case of coverage under subchapter III of chapter 73 of title 10, United States Code, that is provided (for new coverage or increased coverage) through an election under the open season provided by section 645. The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that reductions in retired pay under section 1460 of title 10, United States Code, pursuant to the preceding sentence are adjusted to achieve the objectives set forth in subsection (b) of that section.

[1]Section 1460 of title 10, USC was repealed effective on April 1, 2008. Therefore, the USC citation for subsection (d) could be relocated to another section in such title.

SEC. 645. ONE-YEAR OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING OCTOBER 1, 2005.

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period, elect to—

(1) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or

(2) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan

at the maximum level, or during the open enrollment period the person increases the level of such participation to the maximum level under subsection (b) of this section, and under that Plan is providing annuity coverage for the person's spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under paragraph (1) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan is to be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section 1451(e). Any such election is irrevocable. A person making such a waiver may make an election under paragraph (1) as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section shall be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD.—The open enrollment period under this section is the one-year period beginning on October 1, 2005.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(i) PREMIUM FOR OPEN ENROLLMENT ELECTION.—

(1) PREMIUMS TO BE CHARGED.—The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating

in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

(A) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to participate under chapter 73 of title 10, United States Code;

(B) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(C) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(2) PREMIUMS TO BE CREDITED TO RETIREMENT FUND.—Premiums paid under the regulations under paragraph (1) shall be credited to the Department of Defense Military Retirement Fund.

(j) DEFINITIONS.—In this section:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "Supplemental Survivor Benefit Plan" means the program established under subchapter III of chapter 73 of title 10, United States Code.

(3) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

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

(5) The term "Department of Defense Military Retirement Fund" means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

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TITLE X—GENERAL PROVISIONS

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Subtitle C—Counterdrug Matters

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SEC. 1021. USE OF FUNDS FOR UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.

(a) AUTHORITY.—(1) In fiscal years 2005 through 2025, funds available to the Department of Defense to provide assistance to the

Government of Colombia may be used by the Secretary of Defense to support a unified campaign by the Government of Colombia against narcotics trafficking and against activities by the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), the United Self-Defense Forces of Colombia (AUC), and any covered organization that the Secretary of Defense, with the concurrence of the Secretary of State, determines poses a threat to the national security interests of the United States.

(2) For purposes of paragraph (1), a covered organization is any foreign terrorist organization, or other organization that is a non-state armed group, that—

(A) promotes illicit economies;

(B) employs violence to protect its interests;

(C) has a military type structure, tactics, and weapons that provide it the ability to carry out large-scale violence;

(D) challenges the security response capacity of Colombia; and

(E) has the capability to control territory.

(3) The authority to provide assistance for a campaign under this subsection includes authority to take actions to protect human health and welfare in emergency circumstances, including the undertaking of rescue operations.

(b) APPLICABILITY OF CERTAIN LAWS AND LIMITATIONS.—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:

(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2160, 2165, and 2166).

(2) Section 8076 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 988).

(c) NUMERICAL LIMITATION ON ASSIGNMENT OF UNITED STATES PERSONNEL.—Notwithstanding section 3204(b) of the Emergency Supplemental Act, 2000 (Division B of Public Law 106–246; 114 Stat. 575), as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131), the number of United States personnel assigned to conduct activities in Colombia in connection with support of Plan Colombia under subsection (a) in fiscal years 2005 through 2025 shall be subject to the following limitations:

(1) The number of United States military personnel assigned for temporary or permanent duty in Colombia in connection with support of Plan Colombia may not exceed 800.

(2) The number of United States individual citizens retained as contractors in Colombia in connection with support of Plan Colombia who are funded by Federal funds may not exceed 600.

(d) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel, United States civilian employees, or United States civilian contractor personnel employed by the United States may participate in any combat operation in connection with assistance using funds pursuant to the authority in subsection (a), except for the purpose of acting in self defense or of rescuing any United States citizen, including any

United States Armed Forces personnel, United States civilian employee, or civilian contractor employed by the United States.

(e) NOTICE ON ASSISTANCE WITH RESPECT TO COVERED ORGANIZATIONS.—(1) Not later than 30 days before providing assistance pursuant to the authority in subsection (a) with respect to a covered organization, the Secretary of Defense shall submit to the appropriate committees of Congress a written notification of the intent to use such authority with respect to such organization, including the name of such organization, the characteristics of such organization, and threat posed by such organization.

(2) In this subsection, the term "appropriate committees of Congress" means—

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

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

(f) RELATION TO OTHER AUTHORITY.—The authority provided by subsection (a) is in addition to any other authority in law to provide assistance to the Government of Colombia.

(g) REPORT ON RELATIONSHIPS BETWEEN TERRORIST ORGANIZATIONS IN COLOMBIA AND FOREIGN GOVERNMENTS AND ORGANIZATIONS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Defense and the Director of Central Intelligence, shall submit to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that describes—

(A) any relationships between foreign governments or organizations and organizations based in Colombia that have been designated as foreign terrorist organizations under United States law, including the provision of any direct or indirect assistance to such organizations; and

(B) United States policies that are designed to address such relationships.

(2) The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(h) ANNUAL REPORT ON PLAN COLOMBIA.—Not later than 30 days after the end of each fiscal year from 2023 to 2025, the Secretary of Defense shall submit to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report that includes the following:

(1) An assessment of the threat to Colombia from narcotics trafficking and activities by organizations designated as foreign terrorist organizations under section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(2) A description of the plan of the Government of Colombia for the unified campaign described in subsection (a).

(3) A description of the activities supported using the authority provided by subsection (a).

(4) An assessment of the effectiveness of the activities described in paragraph (3) in addressing the threat described in paragraph (1).

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Subtitle E—Reports

SEC. 1041. [Section 1041 was repealed by section 1062(f)(2) of division A of Public Law 112–81]

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Subtitle I—Other Matters

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SEC. 1091. [10 U.S.C. 801 note] SENSE OF CONGRESS AND POLICY CONCERNING PERSONS DETAINED BY THE UNITED STATES.

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

(1) the abuses inflicted upon detainees at the Abu Ghraib prison in Baghdad, Iraq, are inconsistent with the professionalism, dedication, standards, and training required of individuals who serve in the United States Armed Forces;

(2) the vast majority of members of the Armed Forces have upheld the highest possible standards of professionalism and morality in the face of illegal tactics and terrorist attacks and attempts on their lives;

(3) the abuse of persons in United States custody in Iraq is appropriately condemned and deplored by the American people;

(4) the Armed Forces are moving swiftly and decisively to identify, try, and, if found guilty, punish persons who perpetrated such abuse;

(5) the Department of Defense and appropriate military authorities must continue to undertake corrective action, as appropriate, to address chain-of-command deficiencies and the systemic deficiencies identified in the incidents in question;

(6) the Constitution, laws, and treaties of the United States and the applicable guidance and regulations of the United States Government prohibit the torture or cruel, inhuman, or degrading treatment of foreign prisoners held in custody by the United States;

(7) the alleged crimes of a handful of individuals should not detract from the commendable sacrifices of over 300,000 members of the Armed Forces who have served, or who are serving, in Operation Iraqi Freedom; and

(8) no detainee shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of United States.

(b) POLICY.—It is the policy of the United States to—

(1) ensure that no detainee shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States;

(2) investigate and prosecute, as appropriate, all alleged instances of unlawful treatment of detainees in a manner con-

sistent with the international obligations, laws, or policies of the United States;

(3) ensure that all personnel of the United States Government understand their obligations in both wartime and peacetime to comply with the legal prohibitions against torture, cruel, inhuman, or degrading treatment of detainees in the custody of the United States;

(4) ensure that, in a case in which there is doubt as to whether a detainee is entitled to prisoner of war status under the Geneva Conventions, such detainee receives the protections accorded to prisoners of war until the detainee's status is determined by a competent tribunal; and

(5) expeditiously process and, if appropriate, prosecute detainees in the custody of the United States, including those in the custody of the United States Armed Forces at Guantanamo Bay, Cuba.

(c) DETAINEES.—For purposes of this section, the term "detainee" means a person in the custody or under the physical control of the United States as a result of armed conflict.

SEC. 1092. [10 U.S.C. 801 note] ACTIONS TO PREVENT THE ABUSE OF DETAINEES.

(a) POLICIES REQUIRED.—The Secretary of Defense shall ensure that policies are prescribed not later than 150 days after the date of the enactment of this Act regarding procedures for Department of Defense personnel and contractor personnel of the Department of Defense intended to ensure that members of the Armed Forces, and all persons acting on behalf of the Armed Forces or within facilities of the Armed Forces, treat persons detained by the United States Government in a humane manner consistent with the international obligations and laws of the United States and the policies set forth in section 1091(b).

(b) MATTERS TO BE INCLUDED.—In order to achieve the objective stated in subsection (a), the policies under that subsection shall specify, at a minimum, procedures for the following:

(1) Ensuring that each commander of a Department of Defense detention facility or interrogation facility—

(A) provides all assigned personnel with training, and documented acknowledgment of receiving training, regarding the law of war, including the Geneva Conventions; and

(B) establishes standard operating procedures for the treatment of detainees.

(2) Ensuring that each Department of Defense contract in which contract personnel in the course of their duties interact with individuals detained by the Department of Defense on behalf of the United States Government include a requirement that such contract personnel have received training, and documented acknowledgment of receiving training, regarding the international obligations and laws of the United States applicable to the detention of personnel.

(3) Providing all detainees with information, in their own language, of the applicable protections afforded under the Geneva Conventions.

(4) Conducting periodic unannounced and announced inspections of detention facilities in order to provide continued oversight of interrogation and detention operations.

(5) Ensuring that, to the maximum extent practicable, detainees and detention facility personnel of a different gender are not alone together.

(c) SECRETARY OF DEFENSE CERTIFICATION.—The Secretary of Defense shall certify that all Federal employees and civilian contractors engaged in the handling or interrogation of individuals detained by the Department of Defense on behalf of the United States Government have fulfilled an annual training requirement on the law of war, the Geneva Conventions, and the obligations of the United States under international law.

SEC. 1093. [10 U.S.C. 801 note] REPORTING REQUIREMENTS.

(a) TRANSMISSION OF REGULATIONS, ETC.—Not later than 30 days after the date on which regulations, policies, and orders are first prescribed under section 1092(a), the Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regulations, policies, or orders, together with a report on steps taken to the date of the report to implement section 1092.

(b) ONE-YEAR IMPLEMENTATION REPORT.—Not later than one year after the date on which regulations, policies, and orders are first prescribed under section 1092(a), the Secretary shall submit to such committees a report on further steps taken to implement section 1092 to the date of such report.

(c) ANNUAL REPORT.—Nine months after the date of the enactment of this Act and annually thereafter, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report for the preceding 12-months containing the following:

(1) Notice of any investigation into, or any prosecution on account of, any violation of international obligations or laws of the United States regarding the treatment of individuals detained by the United States Armed Forces or by a person providing services to the Department of Defense on a contractual basis, if the notice will not compromise any ongoing criminal or administrative investigation or prosecution.

(2) General information on the foreign national detainees in the custody of the Department of Defense during the 12-month period covered by the report, including the following:

(A) The best estimate of the Secretary of Defense of the total number of detainees in the custody of the Department as of the date of the report.

(B) The best estimate of the Secretary of Defense of the total number of detainees released from the custody of the Department during the period covered by the report.

(C) An aggregate summary of the number of persons detained as enemy prisoners of war, civilian internees, and unlawful combatants, including information regarding the average length of detention for persons in each category.

(D) An aggregate summary of the nationality of persons detained.

(E) Aggregate information as to the transfer of detainees to the jurisdiction of other countries, and the countries to which transferred.

(3) For each investigation or prosecution described in paragraph (1) with respect to which notice is included in the report—

(A) a detailed and comprehensive description of such investigation or prosecution and any resulting judicial or nonjudicial punishment or other disciplinary action; and

(B) if the individual receiving the punishment or disciplinary action is a member of the Armed Forces, the grade of that individual (i) as of the time of the incident resulting in the investigation or prosecution, (ii) as of the beginning of the investigation or prosecution, and (iii) as of the submission of the report.

(d) CLASSIFICATION OF REPORTS.—Reports submitted under this section shall be submitted, to the extent practicable, in unclassified form, but may include a classified annex as necessary to protect the national security of the United States.

(e) TERMINATION.—The requirements of this section shall cease to be in effect on December 31, 2007.

(f) ADDITIONAL REPORTING.—In addition to the annual report under subsection (c), the Secretary of Defense shall submit to the committees named in that subsection regular and timely reports on the matters described in paragraphs (1) and (3) of that subsection.

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TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Matters Relating to Iraq, Afghanistan, and Global War on Terrorism

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[Section 1208 was repealed by section 1203(b) of Division A of Public Law 114-328.]

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TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

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SEC. 1303. [Section 1303 was repealed by section 1304(a)(4) of Public Law 110–181]

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TITLE XIV—SUNKEN MILITARY CRAFT

SEC. 1401. [10 U.S.C. 113 note] PRESERVATION OF TITLE TO SUNKEN MILITARY CRAFT AND ASSOCIATED CONTENTS.

Right, title, and interest of the United States in and to any United States sunken military craft—

(1) shall not be extinguished except by an express divestiture of title by the United States; and

(2) shall not be extinguished by the passage of time, regardless of when the sunken military craft sank.

SEC. 1402. [10 U.S.C. 113 note] PROHIBITIONS.

(a) UNAUTHORIZED ACTIVITIES DIRECTED AT SUNKEN MILITARY CRAFT.—No person shall engage in or attempt to engage in any activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft, except—

(1) as authorized by a permit under this title;

(2) as authorized by regulations issued under this title; or

(3) as otherwise authorized by law.

(b) POSSESSION OF SUNKEN MILITARY CRAFT.—No person may possess, disturb, remove, or injure any sunken military craft in violation of—

(1) this section; or

(2) any prohibition, rule, regulation, ordinance, or permit that applies under any other applicable law.

(c) LIMITATIONS ON APPLICATION.—

(1) ACTIONS BY UNITED STATES.—This section shall not apply to actions taken by, or at the direction of, the United States.

(2) FOREIGN PERSONS.—This section shall not apply to any action by a person who is not a citizen, national, or resident alien of the United States, except in accordance with—

(A) generally recognized principles of international law;

(B) an agreement between the United States and the foreign country of which the person is a citizen; or

(C) in the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between the United States and the flag State of the foreign vessel or aircraft that applies to the individual.

(3) LOAN OF SUNKEN MILITARY CRAFT.—This section does not prohibit the loan of United States sunken military craft in accordance with regulations issued by the Secretary concerned.

SEC. 1403. [10 U.S.C. 113 note] PERMITS.

(a) IN GENERAL.—The Secretary concerned may issue a permit authorizing a person to engage in an activity otherwise prohibited by section 1402 with respect to a United States sunken military craft, for archaeological, historical, or educational purposes, in accordance with regulations issued by such Secretary that implement this section.

(b) CONSISTENCY WITH OTHER LAWS.—The Secretary concerned shall require that any activity carried out under a permit issued by such Secretary under this section must be consistent with all requirements and restrictions that apply under any other provision of Federal law.

(c) CONSULTATION.—In carrying out this section (including the issuance after the date of the enactment of this Act of regulations implementing this section), the Secretary concerned shall consult with the head of each Federal agency having authority under Fed-

eral law with respect to activities directed at sunken military craft or the locations of such craft.

(d) APPLICATION TO FOREIGN CRAFT.—At the request of any foreign State, the Secretary of the Navy, in consultation with the Secretary of State, may carry out this section (including regulations promulgated pursuant to this section) with respect to any foreign sunken military craft of that foreign State located in United States waters.

SEC. 1404. [10 U.S.C. 113 note] PENALTIES.

(a) IN GENERAL.—Any person who violates this title, or any regulation or permit issued under this title, shall be liable to the United States for a civil penalty under this section.

(b) ASSESSMENT AND AMOUNT.—The Secretary concerned may assess a civil penalty under this section, after notice and an opportunity for a hearing, of not more than $100,000 for each violation.

(c) CONTINUING VIOLATIONS.—Each day of a continued violation of this title or a regulation or permit issued under this title shall constitute a separate violation for purposes of this section.

(d) IN REM LIABILITY.—A vessel used to violate this title shall be liable in rem for a penalty under this section for such violation.

(e) OTHER RELIEF.—If the Secretary concerned determines that there is an imminent risk of disturbance of, removal of, or injury to any sunken military craft, or that there has been actual disturbance of, removal of, or injury to a sunken military craft, the Attorney General, upon request of the Secretary concerned, may seek such relief as may be necessary to abate such risk or actual disturbance, removal, or injury and to return or restore the sunken military craft. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

(f) LIMITATIONS.—An action to enforce a violation of section 1402 or any regulation or permit issued under this title may not be brought more than 8 years after the date on which—

(1) all facts material to the right of action are known or should have been known by the Secretary concerned; and

(2) the defendant is subject to the jurisdiction of the appropriate district court of the United States or administrative forum.

SEC. 1405. [10 U.S.C. 113 note] LIABILITY FOR DAMAGES.

(a) IN GENERAL.—Any person who engages in an activity in violation of section 1402 or any regulation or permit issued under this title that disturbs, removes, or injures any United States sunken military craft shall pay the United States enforcement costs and damages resulting from such disturbance, removal, or injury.

(b) INCLUDED DAMAGES.—Damages referred to in subsection (a) may include—

(1) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of any sunken military craft that is disturbed, removed, or injured in violation of section 1402 or any regulation or permit issued under this title; and

(2) the cost of retrieving, from the site where the sunken military craft was disturbed, removed, or injured, any information of an archaeological, historical, or cultural nature.

SEC. 1406. [10 U.S.C. 113 note] RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Except to the extent that an activity is undertaken as a subterfuge for activities prohibited by this title, nothing in this title is intended to affect—

(1) any activity that is not directed at a sunken military craft; or

(2) the traditional high seas freedoms of navigation, including—

(A) the laying of submarine cables and pipelines;

(B) operation of vessels;

(C) fishing; or

(D) other internationally lawful uses of the sea related to such freedoms.

(b) INTERNATIONAL LAW.—This title and any regulations implementing this title shall be applied in accordance with generally recognized principles of international law and in accordance with the treaties, conventions, and other agreements to which the United States is a party.

(c) LAW OF FINDS.—The law of finds shall not apply to—

(1) any United States sunken military craft, wherever located; or

(2) any foreign sunken military craft located in United States waters.

(d) LAW OF SALVAGE.—No salvage rights or awards shall be granted with respect to—

(1) any United States sunken military craft without the express permission of the United States; or

(2) any foreign sunken military craft located in United States waters without the express permission of the relevant foreign state.

(e) LAW OF CAPTURE OR PRIZE.—Nothing in this title is intended to alter the international law of capture or prize with respect to sunken military craft.

(f) LIMITATION OF LIABILITY.—Nothing in sections 4281 through 4287 and 4289 of the Revised Statutes (46 U.S.C. App. 181 et seq.) or section 3 of the Act of February 13, 1893 (chapter 105; 27 Stat. 445; 46 U.S.C. App. 192), shall limit the liability of any person under this section.

(g) AUTHORITIES OF THE COMMANDANT OF THE COAST GUARD.—Nothing in this title is intended to preclude or limit the application of any other law enforcement authorities of the Commandant of the Coast Guard.

(h) PRIOR DELEGATIONS, AUTHORIZATIONS, AND RELATED REGULATIONS.—Nothing in this title shall invalidate any prior delegation, authorization, or related regulation that is consistent with this title.

(i) CRIMINAL LAW.—Nothing in this title is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of any applicable criminal law.

(j)[2] WITHHOLDING OF CERTAIN INFORMATION.—Pursuant to subparagraphs (A)(ii) and (B) of section 552(b)(3) of title 5 United States Code, the Secretary concerned may withhold from public disclosure information and data about the location or related artifacts of a sunken military craft under the jurisdiction of the Secretary, if such disclosure would increase the risk of the unauthorized disturbance of one or more sunken military craft.

SEC. 1407. [10 U.S.C. 113 note] ENCOURAGEMENT OF AGREEMENTS WITH FOREIGN COUNTRIES.

The Secretary of State, in consultation with the Secretary of Defense, is encouraged to negotiate and conclude bilateral and multilateral agreements with foreign countries with regard to sunken military craft consistent with this title.

SEC. 1408. [10 U.S.C. 113 note] DEFINITIONS.

In this title:

(1) ASSOCIATED CONTENTS.—The term "associated contents" means—

(A) the equipment, cargo, and contents of a sunken military craft that are within its debris field; and

(B) the remains and personal effects of the crew and passengers of a sunken military craft that are within its debris field.

(2) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) subject to subparagraph (B), the Secretary of a military department; and

(B) in the case of a Coast Guard vessel, the Secretary of the Department in which the Coast Guard is operating.

(3) SUNKEN MILITARY CRAFT.—The term "sunken military craft" means all or any portion of—

(A) any sunken warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial service when it sank;

(B) any sunken military aircraft or military spacecraft that was owned or operated by a government when it sank; and

(C) the associated contents of a craft referred to in subparagraph (A) or (B),

if title thereto has not been abandoned or transferred by the government concerned.

(4) UNITED STATES CONTIGUOUS ZONE.—The term "United States contiguous zone" means the contiguous zone of the United States under Presidential Proclamation 7219, dated September 2, 1999.

(5) UNITED STATES INTERNAL WATERS.—The term "United States internal waters" means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured.

(6) UNITED STATES TERRITORIAL SEA.—The term "United States territorial sea" means the waters of the United States

[2] Subsection (j) was added at the end to section 1406 of the Sunken Military Craft Act (title XIV of Public Law 108–375; 10 U.S.C. 113 note). The amendment was carried out, however, the referenced Act does not exist.

territorial sea under Presidential Proclamation 5928, dated December 27, 1988.

(7) UNITED STATES WATERS.—The term "United States waters" means United States internal waters, the United States territorial sea, and the United States contiguous zone.

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TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

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SEC. 2809. AUTHORITY TO EXCHANGE RESERVE COMPONENT FACILITIES TO ACQUIRE REPLACEMENT FACILITIES.

(a) EXCHANGE AUTHORITY.—[Omitted-Chapter 1803 of title 10, United States Code, amended by adding section 18240.]

(b) CONFORMING AMENDMENT.—[Omitted]

(c) [10 U.S.C. 18240 note] TEMPORARY AUTHORITY TO INCLUDE CASH EQUALIZATION PAYMENTS IN EXCHANGE.—(1) Notwithstanding subsection (c) of section 18240 of title 10, United States Code, as added by subsection (a), the Secretary of Defense may authorize the Secretary of a military department, as part of an exchange agreement under such section, to make or accept a cash equalization payment if the value of the facility, or addition to an existing facility, including any utilities, equipment, and furnishings, to be acquired by the United States under the agreement is not equal to the fair market value of the facility to be conveyed by the United States under the agreement. All other requirements of such section shall continue to apply to the exchange.

(2) Cash equalization payments received by the Secretary of a military department under this subsection shall be deposited in a separate account in the Treasury. Amounts in the account shall be available to the Secretary of Defense, without further appropriation and until expended, for transfer to the Secretary of a military department—

(A) to make any cash equalization payments required to be made by the United States in connection with an exchange agreement covered by this subsection, and the account shall be the only source for such payments; and

(B) to cover costs associated with the maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of facilities, and additions to existing facilities, acquired using an exchange agreement covered by this subsection.

(3) Not more than 15 exchange agreements under section 18240 of title 10, United States Code, may include the exception for cash equalization payments authorized by this subsection. Of those 15 exchange agreements, not more than eight may be for the same reserve component.

(4) In this section, the term "facility" has the meaning given that term in section 18232(2) of title 10, United States Code.

(5) No cash equalization payment may be made or accepted under the authority of this subsection after September 30, 2010.

Except as otherwise specifically authorized by law, the authority provided by this subsection to make or accept cash equalization payments in connection with the acquisition or disposal of facilities of the reserve components is the sole authority available in law to the Secretary of Defense or the Secretary of a military department for that purpose.

(6) Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the exercise of the authority provided by this subsection. The report shall include the following:

(A) A description of the exchange agreements under section 18240 of title 10, United States Code, that included the authority to make or accept cash equalization payments.

(B) A description of the analysis and criteria used to select such agreements for inclusion of the authority to make or accept cash equalization payments.

(C) An assessment of the utility to the Department of Defense of the authority, including recommendations for modifications of such authority in order to enhance the utility of such authority for the Department.

(D) An assessment of interest in the future use of the authority, in the event the authority is extended.

(E) An assessment of the advisability of making the authority, including any modifications of the authority recommended under subparagraph (C), permanent.

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TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2005, the National Defense Stockpile Manager may obligate up to $59,700,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3302. REVISION OF EARLIER AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

[Omitted-Amendment]

SEC. 3303. [50 U.S.C. 98d note] DISPOSAL OF FERROMANGANESE.

(a) DISPOSAL AUTHORIZED.—The Secretary of Defense may dispose of up to 50,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2005.

(b) CONTINGENT AUTHORITY FOR ADDITIONAL DISPOSAL.—(1) If the Secretary of Defense completes the disposal of the total quantity of ferromanganese authorized for disposal by subsection (a) before September 30, 2005, the Secretary of Defense may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(2) If the Secretary completes the disposal of the total quantity of additional ferromanganese authorized for disposal by paragraph (1) before September 30, 2005, the Secretary may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(c) CERTIFICATION.—The Secretary of Defense may dispose of ferromanganese under the authority of paragraph (1) or (2) of subsection (b) only if the Secretary submits written certification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than 30 days before the commencement of disposal under the applicable paragraph, that—

(1) the disposal of the additional ferromanganese from the National Defense Stockpile is in the interest of national defense;

(2) the disposal of the additional ferromanganese will not cause undue disruption to the usual markets of producers and processors of ferromanganese in the United States; and

(3) the disposal of the additional ferromanganese is consistent with the requirements and purpose of the National Defense Stockpile.

(d) DELEGATION OF RESPONSIBILITY.—The Secretary of Defense may delegate the responsibility of the Secretary under subsection (c) to an appropriate official within the Department of Defense.

(e) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 3304. PROHIBITION ON STORAGE OF MERCURY AT CERTAIN FACILITIES.

(a) PROHIBITION.—During fiscal year 2005, the Secretary of Defense may not store mercury from the National Defense Stockpile at any facility that is not owned or leased by the United States.

(b) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).