Title II, sections 311, 335, 355, 521, and 635, title VII, title XII, title XIII, section 2892, subtitle B of title XXXIV, and division D of the National Defense Authorization Act for Fiscal Year 1996

[Public Law 104–106, approved Feb. 10, 1996]

[As Amended Through P.L. 114–92, Enacted November 25, 2015]

[Currency: This publication is a compilation of the text of Public Law 104–106. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at https://www.govinfo.gov/app/collection/comps/]

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

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

* * * * * * *

Subtitle C—Ballistic Missile Defense Act of 1995

SEC. 231. [10 U.S.C. 2431 note] SHORT TITLE.

This subtitle may be cited as the "Ballistic Missile Defense Act of 1995".

SEC. 232. [10 U.S.C. 2431 note] FINDINGS.

Congress makes the following findings:

(1) The emerging threat that is posed to the national security interests of the United States by the proliferation of ballistic missiles is significant and growing, both in terms of numbers of missiles and in terms of the technical capabilities of those missiles.

(2) The deployment of ballistic missile defenses is a necessary, but not sufficient, element of a broader strategy to discourage both the proliferation of weapons of mass destruction and the proliferation of the means of their delivery and to defend against the consequences of such proliferation.

(3) The deployment of effective Theater Missile Defense systems can deter potential adversaries of the United States from escalating a conflict by threatening or attacking United States forces or the forces or territory of coalition partners or allies of the United States with ballistic missiles armed with weapons of mass destruction to offset the operational and technical advantages of the United States and its coalition partners and allies.

(4) United States intelligence officials have provided intelligence estimates to congressional committees that (A) the trend in missile proliferation is toward longer range and more sophisticated ballistic missiles, (B) North Korea may deploy an intercontinental ballistic missile capable of reaching Alaska or beyond within five years, and (C) although a new, indigenously developed ballistic missile threat to the continental United States is not foreseen within the next ten years, determined countries can acquire intercontinental ballistic missiles in the near future and with little warning by means other than indigenous development.

(5) The development and deployment by the United States and its allies of effective defenses against ballistic missiles of all ranges will reduce the incentives for countries to acquire such missiles or to augment existing missile capabilities.

(6) The concept of mutual assured destruction (based upon an offense-only form of deterrence), which is the major philosophical rationale underlying the ABM Treaty, is now questionable as a basis for stability in a multipolar world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

(7) The development and deployment of a National Missile Defense system against the threat of limited ballistic missile attacks—

(A) would strengthen deterrence at the levels of forces agreed to by the United States and Russia under the Strategic Arms Reduction Talks Treaty (START–I); and

(B) would further strengthen deterrence if reductions below the levels permitted under START–I should be agreed to and implemented in the future.

(8) The distinction made during the Cold War, based upon the technology of the time, between strategic ballistic missiles and nonstrategic ballistic missiles, which resulted in the distinction made in the ABM Treaty between strategic defense and nonstrategic defense, has become obsolete because of technological advancement (including the development by North Korea of long-range Taepo-Dong I and Taepo-Dong II missiles) and, therefore, that distinction in the ABM Treaty should be reviewed.

SEC. 233. [10 U.S.C. 2431 note] BALLISTIC MISSILE DEFENSE POLICY.

It is the policy of the United States—

(1) to deploy affordable and operationally effective theater missile defenses to protect forward-deployed and expeditionary elements of the Armed Forces of the United States and to complement the missile defense capabilities of forces of coalition partners and of allies of the United States; and

(2) to seek a cooperative, negotiated transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 234. [10 U.S.C. 2431 note] THEATER MISSILE DEFENSE ARCHITECTURE.

(a) ESTABLISHMENT OF CORE PROGRAM.—To implement the policy established in paragraph (1) of section 233, the Secretary of Defense shall restructure the core theater missile defense program to consist of the following systems:

(1) The Patriot PAC–3 system.

(2) The Navy Area Defense system.

(3) The Theater High-Altitude Area Defense (THAAD) system.

(4) The Navy Theater Wide system.

(b) USE OF STREAMLINED ACQUISITION PROCEDURES.—The Secretary of Defense shall prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing and deploying the theater missile defense systems specified in subsection (a).

(c) INTEROPERABILITY AND SUPPORT OF CORE SYSTEMS.—To maximize effectiveness and flexibility of the systems comprising the core theater missile defense program, the Secretary of Defense shall ensure that those systems are integrated and complementary and are fully capable of exploiting external sensor and battle management support from systems such as—

(A) the Cooperative Engagement Capability (CEC) system of the Navy;

(B) airborne sensors; and

(C) space-based sensors (including, in particular, the Space and Missile Tracking System).

(d) FOLLOW-ON SYSTEMS.—(1) The Secretary of Defense shall prepare an affordable development plan for theater missile defense systems to be developed as follow-on systems to the core systems specified in subsection (a). The Secretary shall make the selection of a system for inclusion in the plan based on the capability of the system to satisfy military requirements not met by the systems in the core program and on the capability of the system to use prior investments in technologies, infrastructure, and battle-management capabilities that are incorporated in, or associated with, the systems in the core program.

(2) The Secretary may not proceed with the development of a follow-on theater missile defense system beyond the Demonstration/Validation stage of development unless the Secretary designates that system as a part of the core program under this section and submits to the congressional defense committees notice of that designation. The Secretary shall include with any such notification a report describing—

(A) the requirements for the system and the specific threats that such system is designed to counter;

(B) how the system will relate to, support, and build upon existing core systems;

(C) the planned acquisition strategy for the system; and

(D) a preliminary estimate of total program cost for that system and the effect of development and acquisition of such system on Department of Defense budget projections.

(e) PROGRAM ACCOUNTABILITY REPORT.—(1) As part of the annual report of the Ballistic Missile Defense Organization required by section 224 of Public Law 101–189 (10 U.S.C. 2431 note), the Secretary of Defense shall describe the technical milestones, the schedule, and the cost of each phase of development and acquisition (together with total estimated program costs) for each core and follow-on theater missile defense program.

(2) As part of such report, the Secretary shall describe, with respect to each program covered in the report, any variance in the technical milestones, program schedule milestones, and costs for the program compared with the information relating to that program in the report submitted in the previous year and in the report submitted in the first year in which that program was covered.

SEC. 235. [10 U.S.C. 2431 note] PROHIBITION ON USE OF FUNDS TO IMPLEMENT AN INTERNATIONAL AGREEMENT CONCERNING THEATER MISSILE DEFENSE SYSTEMS.

(a) FINDINGS.—(1) Congress hereby reaffirms—

(A) the finding in section 234(a)(7) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1595; 10 U.S.C. 2431 note) that the ABM Treaty was not intended to, and does not, apply to or limit research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles, regardless of the capabilities of such missiles, unless those systems, system upgrades, or system components are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles; and

(B) the statement in section 232 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2700) that the United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution.

(2) Congress also finds that the demarcation standard described in subsection (b)(1) for compliance of a missile defense system, system upgrade, or system component with the ABM Treaty is based upon current technology.

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

(1) unless a missile defense system, system upgrade, or system component (including one that exploits data from space-based or other external sensors) is flight tested in an ABM-qualifying flight test (as defined in subsection (e)), that system, system upgrade, or system component has not, for purposes of the ABM Treaty, been tested in an ABM mode nor been given capabilities to counter strategic ballistic missiles and, therefore, is not subject to any application, limitation, or obligation under the ABM Treaty; and

(2) any international agreement that would limit the research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles in a manner

that would be more restrictive than the compliance criteria specified in paragraph (1) should be entered into only pursuant to the treaty making powers of the President under the Constitution.

(c) PROHIBITION ON FUNDING.—Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1996 may not be obligated or expended to implement an agreement, or any understanding with respect to interpretation of the ABM Treaty, between the United States and any of the independent states of the former Soviet Union entered into after January 1, 1995, that—

(1) would establish a demarcation between theater missile defense systems and anti-ballistic missile systems for purposes of the ABM Treaty; or

(2) would restrict the performance, operation, or deployment of United States theater missile defense systems.

(d) EXCEPTIONS.—Subsection (c) does not apply—

(1) to the extent provided by law in an Act enacted after this Act;

(2) to expenditures to implement that portion of any such agreement or understanding that implements the policy set forth in subsection (b)(1); or

(3) to expenditures to implement any such agreement or understanding that is approved as a treaty or by law.

(e) ABM-QUALIFYING FLIGHT TEST DEFINED.—For purposes of this section, an ABM-qualifying flight test is a flight test against a ballistic missile which, in that flight test, exceeds (1) a range of 3,500 kilometers, or (2) a velocity of 5 kilometers per second.

SEC. 236. [10 U.S.C. 2431 note] BALLISTIC MISSILE DEFENSE COOPERATION WITH ALLIES.

It is in the interest of the United States to develop its own missile defense capabilities in a manner that will permit the United States to complement the missile defense capabilities developed and deployed by its allies and possible coalition partners. Therefore, the Congress urges the President—

(1) to pursue high-level discussions with allies of the United States and selected other states on the means and methods by which the parties on a bilateral basis can cooperate in the development, deployment, and operation of ballistic missile defenses;

(2) to take the initiative within the North Atlantic Treaty Organization to develop consensus in the Alliance for a timely deployment of effective ballistic missile defenses by the Alliance; and

(3) in the interim, to seek agreement with allies of the United States and selected other states on steps the parties should take, consistent with their national interests, to reduce the risks posed by the threat of limited ballistic missile attacks, such steps to include—

(A) the sharing of early warning information derived from sensors deployed by the United States and other states;

(B) the exchange on a reciprocal basis of technical data and technology to support both joint development pro-

grams and the sale and purchase of missile defense systems and components; and

(C) operational level planning to exploit current missile defense capabilities and to help define future requirements.

SEC. 237. [10 U.S.C. 2431 note] ABM TREATY DEFINED.

For purposes of this subtitle, 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, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

SEC. 238. [10 U.S.C. 2431 note] REPEAL OF MISSILE DEFENSE ACT OF 1991.

The Missile Defense Act of 1991 (10 U.S.C. 2431 note) is repealed.

SEC. 311. [10 U.S.C. 2464 note] POLICY REGARDING PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR FOR THE DEPARTMENT OF DEFENSE.

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

(1) The Department of Defense does not have a comprehensive policy regarding the performance of depot-level maintenance and repair of military equipment.

(2) The absence of such a policy has caused the Congress to establish guidelines for the performance of such functions.

(3) It is essential to the national security of the United States that the Department of Defense maintain an organic capability within the department, including skilled personnel, technical competencies, equipment, and facilities, to perform depot-level maintenance and repair of military equipment in order to ensure that the Armed Forces of the United States are able to meet training, operational, mobilization, and emergency requirements without impediment.

(4) The organic capability of the Department of Defense to perform depot-level maintenance and repair of military equipment must satisfy known and anticipated core maintenance and repair requirements across the full range of peacetime and wartime scenarios.

(5) Although it is possible that savings can be achieved by contracting with private-sector sources for the performance of some work currently performed by Department of Defense depots, the Department of Defense has not determined the type or amount of work that should be performed under contract with private-sector sources nor the relative costs and benefits of contracting for the performance of such work by those sources.

(b) SENSE OF CONGRESS.—It is the sense of Congress that there is a compelling need for the Department of Defense to articulate known and anticipated core maintenance and repair requirements, to organize the resources of the Department of Defense to meet those requirements economically and efficiently, and to determine what work should be performed by the private sector and how such work should be managed.

(c) REQUIREMENT FOR POLICY.—Not later than March 31, 1996, the Secretary of Defense shall develop and report to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a comprehensive policy on the performance of depot-level maintenance and repair for the Department of Defense that maintains the capability described in section 2464 of title 10, United States Code.

(d) CONTENT OF POLICY.—In developing the policy, the Secretary of Defense shall do each of the following:

(1) Identify for each military department, with the concurrence of the Secretary of that military department, those depot-level maintenance and repair activities that are necessary to ensure the depot-level maintenance and repair capability as required by section 2464 of title 10, United States Code.

(2) Provide for performance of core depot-level maintenance and repair capabilities in facilities owned and operated by the United States.

(3) Provide for the core capabilities to include sufficient skilled personnel, equipment, and facilities that—

(A) is of the proper size (i) to ensure a ready and controlled source of technical competence and repair and maintenance capability necessary to meet the requirements of the National Military Strategy and other requirements for responding to mobilizations and military contingencies, and (ii) to provide for rapid augmentation in time of emergency; and

(B) is assigned sufficient workload to ensure cost efficiency and technical proficiency in time of peace.

(4) Address environmental liability.

(5) In the case of depot-level maintenance and repair workloads in excess of the workload required to be performed by Department of Defense depots, provide for competition for those workloads between public and private entities when there is sufficient potential for realizing cost savings based on adequate private-sector competition and technical capabilities.

(6) Address issues concerning exchange of technical data between the Federal Government and the private sector.

(7) Provide for, in the Secretary's discretion and after consultation with the Secretaries of the military departments, the transfer from one military department to another, in accordance with merit-based selection processes, workload that supports the core depot-level maintenance and repair capabilities in facilities owned and operated by the United States.

(8) Require that, in any competition for a workload (whether among private-sector sources or between depot-level activities of the Department of Defense and private-sector sources), bids are evaluated under a methodology that ensures that appropriate costs to the Government and the private sector are identified.

(9) Provide for the performance of maintenance and repair for any new weapons systems defined as core, under section 2464 of title 10, United States Code, in facilities owned and operated by the United States.

(e) CONSIDERATIONS.—In developing the policy, the Secretary shall take into consideration the following matters:

(1) The national security interests of the United States.

(2) The capabilities of the public depots and the capabilities of businesses in the private sector to perform the maintenance and repair work required by the Department of Defense.

(3) Any applicable recommendations of the Defense Base Closure and Realignment Commission that are required to be implemented under the Defense Base Closure and Realignment Act of 1990.

(4) The extent to which the readiness of the Armed Forces would be affected by a necessity to construct new facilities to accommodate any redistribution of depot-level maintenance and repair workloads that is made in accordance with the recommendation of the Defense Base Closure and Realignment Commission, under the Defense Base Closure and Realignment Act of 1990, that such workloads be consolidated at Department of Defense depots or private-sector facilities.

(5) Analyses of costs and benefits of alternatives, including a comparative analysis of—

(A) the costs and benefits, including any readiness implications, of any proposed policy to convert to contractor performance of depot-level maintenance and repair workloads where the workload is being performed by Department of Defense personnel; and

(B) the costs and benefits, including any readiness implications, of a policy to transfer depot-level maintenance and repair workloads among depots.

(f) REPEAL OF 60/40 REQUIREMENT AND REQUIREMENT RELATING TO COMPETITION.—(1) Sections 2466 and 2469 of title 10, United States Code, are repealed.

(2) The table of sections at the beginning of chapter 146 of such title is amended by striking out the items relating to sections 2466 and 2469.

(3) The amendments made by paragraphs (1) and (2) shall take effect on the date (after the date of the enactment of this Act) on which legislation is enacted that contains a provision that specifically states one of the following:

(A) "The policy on the performance of depot-level maintenance and repair for the Department of Defense that was submitted by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives pursuant to section 311 of the National Defense Authorization Act for Fiscal Year 1996 is approved."; or

(B) "The policy on the performance of depot-level maintenance and repair for the Department of Defense that was submitted by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives pursuant to section 311 of the National Defense Authorization Act for Fiscal Year 1996 is approved with the following modifications:" (with the modifications being stated in matter appearing after the colon).

(g) ANNUAL REPORT.—If legislation referred to in subsection (f)(3) is enacted, the Secretary of Defense shall, not later than March 1 of each year (beginning with the year after the year in which such legislation is enacted), submit to Congress a report that—

(1) specifies depot maintenance core capability requirements determined in accordance with the procedures established to comply with the policy prescribed pursuant to subsections (d)(2) and (d)(3);

(2) specifies the planned amount of workload to be accomplished by the depot-level activities of each military department in support of those requirements for the following fiscal year; and

(3) identifies the planned amount of workload, which—

(A) shall be measured by direct labor hours and by amounts to be expended; and

(B) shall be shown separately for each commodity group.

(h) REVIEW BY GENERAL ACCOUNTING OFFICE.—(1) The Secretary shall make available to the Comptroller General of the United States all information used by the Department of Defense in developing the policy under subsections (c) through (e) of this section.

(2) Not later than 45 days after the date on which the Secretary submits to Congress the report required by subsection (c), the Comptroller General shall transmit to Congress a report containing a detailed analysis of the Secretary's proposed policy as reported under such subsection.

(i) REPORT ON DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOAD.—Not later than March 31, 1996, the Secretary of Defense shall submit to Congress a report on the depot-level maintenance and repair workload of the Department of Defense. The report shall, to the maximum extent practicable, include the following:

(1) An analysis of the need for and effect of the requirement under section 2466 of title 10, United States Code, that no more than 40 percent of the depot-level maintenance and repair work of the Department of Defense be contracted for performance by non-Government personnel, including a description of the effect on military readiness and the national security resulting from that requirement and a description of any specific difficulties experienced by the Department of Defense as a result of that requirement.

(2) An analysis of the distribution during the five fiscal years ending with fiscal year 1995 of the depot-level maintenance and repair workload of the Department of Defense between depot-level activities of the Department of Defense and non-Government personnel, measured by direct labor hours and by amounts expended, and displayed, for that five-year period and for each year of that period, so as to show (for each military department (and separately for the Navy and Marine Corps)) such distribution.

(3) A projection of the distribution during the five fiscal years beginning with fiscal year 1997 of the depot-level maintenance and repair workload of the Department of Defense be-

tween depot-level activities of the Department of Defense and non-Government personnel, measured by direct labor hours and by amounts expended, and displayed, for that five-year period and for each year of that period, so as to show (for each military department (and separately for the Navy and Marine Corps)) such distribution that would be accomplished under a new policy as required under subsection (c).

(j) OTHER REVIEW BY GENERAL ACCOUNTING OFFICE.—(1) The Comptroller General of the United States shall conduct an independent audit of the findings of the Secretary of Defense in the report under subsection (i). The Secretary of Defense shall provide to the Comptroller General for such purpose all information used by the Secretary in preparing such report.

(2) Not later than 45 days after the date on which the Secretary of Defense submits to Congress the report required under subsection (i), the Comptroller General shall transmit to Congress a report containing a detailed analysis of the report submitted under that subsection.

SEC. 335. [10 U.S.C. 2241 note] DEMONSTRATION PROJECT FOR UNIFORM FUNDING OF MORALE, WELFARE, AND RECREATION ACTIVITIES AT CERTAIN MILITARY INSTALLATIONS.

(a) DEMONSTRATION PROJECT REQUIRED.—(1) The Secretary of Defense shall conduct a demonstration project to evaluate the feasibility of using only nonappropriated funds to support morale, welfare, and recreation programs at military installations in order to facilitate the procurement of property and services for those programs and the management of employees used to carry out those programs.

(2) Under the demonstration project—

(A) procurements of property and services for programs referred to in paragraph (1) may be carried out in accordance with laws and regulations applicable to procurements paid for with nonappropriated funds; and

(B) appropriated funds available for such programs may be expended in accordance with laws applicable to expenditures of nonappropriated funds as if the appropriated funds were nonappropriated funds.

(3) The Secretary shall prescribe regulations to carry out paragraph (2). The regulations shall provide for financial management and accounting of appropriated funds expended in accordance with subparagraph (B) of such paragraph.

(b) COVERED MILITARY INSTALLATIONS.—The Secretary shall select not less than three and not more than six military installations to participate in the demonstration project.

(c) PERIOD OF DEMONSTRATION PROJECT.—The demonstration project shall terminate not later than September 30, 1998.

(d) EFFECT ON EMPLOYEES.—For the purpose of testing fiscal accounting procedures, the Secretary may convert, for the duration of the demonstration project, the status of an employee who carries out a program referred to in subsection (a)(1) from the status of an employee paid by appropriated funds to the status of a nonappropriated fund instrumentality employee, except that such conversion may occur only—

(1) if the employee whose status is to be converted—

(A) is fully informed of the effects of such conversion on the terms and conditions of the employment of that employee for purposes of title 5, United States Code, and on the benefits provided to that employee under such title; and

(B) consents to such conversion; or

(2) in a manner which does not affect such terms and conditions of employment or such benefits.

(e) REPORTS.—(1) Not later than six months after the date of the enactment of this Act, the Secretary shall submit to Congress an interim report on the implementation of this section.

(2) Not later than December 31, 1998, the Secretary shall submit to Congress a final report on the results of the demonstration project. The report shall include a comparison of—

(A) the cost incurred under the demonstration project in using employees paid by appropriated funds together with nonappropriated fund instrumentality employees to carry out the programs referred to in subsection (a)(1); and

(B) an estimate of the cost that would have been incurred if only nonappropriated fund instrumentality employees had been used to carry out such programs.

SEC. 355. [20 U.S.C. 921 note] PILOT PROGRAM ON PRIVATE OPERATION OF DEFENSE DEPENDENTS' SCHOOLS.

(a) PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program to evaluate the feasibility of using private contractors to operate schools of the defense dependents' education system established under section 1402(a) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(a)).

(b) SELECTION OF SCHOOL FOR PROGRAM.—If the Secretary conducts the pilot program, the Secretary shall select one school of the defense dependents' education system for participation in the program and provide for the operation of the school by a private contractor for not less than one complete school year.

(c) REPORT.—Not later than 30 days after the end of the first school year in which the pilot program is conducted, the Secretary shall submit to Congress a report on the results of the program. The report shall include the recommendation of the Secretary with respect to the extent to which other schools of the defense dependents' education system should be operated by private contractors.

SEC. 521. [10 U.S.C. 1129 note] AWARD OF PURPLE HEART TO PERSONS WOUNDED WHILE HELD AS PRISONERS OF WAR BEFORE APRIL 25, 1962.

(a) AWARD OF PURPLE HEART.—For purposes of the award of the Purple Heart, the Secretary concerned (as defined in section 101 of title 10, United States Code) shall treat a former prisoner of war who was wounded before April 25, 1962, while held as a prisoner of war (or while being taken captive) in the same manner as a former prisoner of war who is wounded on or after that date while held as a prisoner of war (or while being taken captive).

(b) STANDARDS FOR AWARD.—An award of the Purple Heart under subsection (a) shall be made in accordance with the standards in effect on the date of the enactment of this Act for the award of the Purple Heart to persons wounded on or after April 25, 1962.

(c) ELIGIBLE FORMER PRISONERS OF WAR.—A person shall be considered to be a former prisoner of war for purposes of this section if the person is eligible for the prisoner-of-war medal under section 1128 of title 10, United States Code.

(d) PROCEDURES FOR AWARD.—In determining whether a former prisoner of war who submits an application for the award of the Purple Heart under subsection (a) is eligible for that award, the Secretary concerned shall apply the following procedures:

(1) Failure of the applicant to provide any documentation as required by the Secretary shall not in itself disqualify the application from being considered.

(2) In evaluating the application, the Secretary shall consider (A) historical information as to the prison camp or other circumstances in which the applicant was held captive, and (B) the length of time that the applicant was held captive.

(3) To the extent that information is readily available, the Secretary shall assist the applicant in obtaining information or identifying the sources of information referred to in paragraph (2).

(4) The Secretary shall review a completed application under this section based upon the totality of the information presented, taking into account the length of time between the period during which the applicant was held as a prisoner of war and the date of the application.

SEC. 635. [10 U.S.C. 1448 note] AUTHORITY FOR RELIEF FROM PREVIOUS OVERPAYMENTS UNDER MINIMUM INCOME WIDOWS PROGRAM.

(a) AUTHORITY.—The Secretary of Defense may waive recovery by the United States of any overpayment by the United States described in subsection (b). In the case of any such waiver, any debt to the United States arising from such overpayment is forgiven.

(b) COVERED OVERPAYMENTS.—Subsection (a) applies in the case of an overpayment by the United States that—

(1) was made before the date of the enactment of this Act under section 4 of Public Law 92–425 (10 U.S.C. 1448 note); and

(2) is attributable to failure by the Department of Defense to apply the eligibility provisions of subsection (a) of such section in the case of the person to whom the overpayment was made.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * * * *

TITLE VII—HEALTH CARE PROVISIONS

* * * * * * *

Subtitle B—TRICARE Program

SEC. 711. DEFINITION OF TRICARE PROGRAM.

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

* * * * * * *

SEC. 715. [10 U.S.C. 1073 note] TRAINING IN HEALTH CARE MANAGEMENT AND ADMINISTRATION FOR TRICARE LEAD AGENTS.

(a) PROVISION OF TRAINING.—The Secretary of Defense shall implement a professional educational program to provide appropriate training in health care management and administration—

(1) to each commander, deputy commander, and managed care coordinator of a military medical treatment facility of the Department of Defense, and any other person, who is selected to serve as a lead agent to coordinate the delivery of health care by military and civilian providers under the TRICARE program; and

(2) to appropriate members of the support staff of the treatment facility who will be responsible for daily operation of the TRICARE program.

(b) LIMITATION ON ASSIGNMENT UNTIL COMPLETION OF TRAINING.—No person may be assigned as the commander, deputy commander, or managed care coordinator of a military medical treatment facility or as a TRICARE lead agent or senior member of the staff of a TRICARE lead agent office until the Secretary of the military department concerned submits a certification to the Secretary of Defense that such person has completed the training described in subsection (a).

* * * * * * *

SEC. 717. [10 U.S.C. 1073 note] EVALUATION AND REPORT ON TRICARE PROGRAM EFFECTIVENESS.

(a) EVALUATION REQUIRED.—The Secretary of Defense shall arrange for an on-going evaluation of the effectiveness of the TRICARE program in meeting the goals of increasing the access of covered beneficiaries under chapter 55 of title 10, United States Code, to health care and improving the quality of health care provided to covered beneficiaries, without increasing the costs incurred by the Government or covered beneficiaries. The evaluation shall specifically—

(1) address the impact of the TRICARE program on military retirees with regard to access, costs, and quality of health care services;

(2) identify noncatchment areas in which the health maintenance organization option of the TRICARE program is available or is proposed to become available; and

(3) address patient safety, quality of care, and access to care at military medical treatment facilities, including—

(A) an identification of the number of practitioners providing health care in military medical treatment facilities that were reported to the National Practitioner Data Bank during the year preceding the evaluation; and

(B) with respect to each military medical treatment facility, an assessment of—

(i) the current accreditation status of such facility, including any recommendations for corrective action made by the relevant accrediting body;

(ii) any policies or procedures implemented during such year by the Secretary of the military department concerned that were designed to improve patient safety, quality of care, and access to care at such facility;

(iii) data on surgical and maternity care outcomes during such year;

(iv) data on appointment wait times during such year; and

(v) data on patient safety, quality of care, and access to care as compared to standards established by the Department of Defense with respect to patient safety, quality of care, and access to care.

(b) ENTITY TO CONDUCT EVALUATION.—The Secretary may use a federally funded research and development center to conduct the evaluation required by subsection (a).

(c) ANNUAL REPORT.—Not later than March 1, 1997, and each March 1 thereafter, the Secretary shall submit to Congress a report describing the results of the evaluation under subsection (a) during the preceding year.

* * * * * * *

Subtitle E—Other Matters

* * * * * * *

SEC. 743. [10 U.S.C. 1086 note] WAIVER OF COLLECTION OF PAYMENTS DUE FROM CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.

(a) AUTHORITY TO WAIVE COLLECTION.—The administering Secretaries may waive the collection of payments otherwise due from a person described in subsection (b) as a result of the receipt by the person of health benefits under section 1086 of title 10, United States Code, after the termination of the person's eligibility for such benefits.

(b) PERSONS ELIGIBLE FOR WAIVER.—A person shall be eligible for relief under subsection (a) if the person—

(1) is a person described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;

(2) in the absence of such paragraph, would have been eligible for health benefits under such section; and

(3) at the time of the receipt of such benefits, satisfied the criteria specified in subparagraphs (A) and (B) of paragraph (2) of such subsection.

(c) EXTENT OF WAIVER AUTHORITY.—The authority to waive the collection of payments pursuant to this section shall apply with regard to health benefits provided under section 1086 of title 10,

United States Code, to persons described in subsection (b) during the period beginning on January 1, 1967, and ending on the later of—

(1) the termination date of any special enrollment period provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) specifically for such persons; and

(2) July 1, 1996.

(d) DEFINITIONS.—For purposes of this section, the term "administering Secretaries" has the meaning given such term in section 1072(3) of title 10, United States Code.

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

SEC. 1201. [22 U.S.C. 5955 note] SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) IN GENERAL.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in subsection (b).

(b) SPECIFIED PROGRAMS.—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons, fissile material suitable for use in nuclear weapons, and their delivery vehicles.

(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

(3) Programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise.

(4) Programs to expand military-to-military and defense contacts.

* * * * * * *

SEC. 1206. [22 U.S.C. 5955 note] REPORT ON ACCOUNTING FOR UNITED STATES ASSISTANCE.

[Repealed by section 1308(g)(1)(C) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–343)]

* * * * * * *

TITLE XIII—MATTERS RELATING TO OTHER NATIONS

* * * * * * *

SEC. 1323. [50 U.S.C. APP. 2404 note] DEPARTMENT OF DEFENSE REVIEW OF EXPORT LICENSES FOR CERTAIN BIOLOGICAL PATHOGENS.

(a) DEPARTMENT OF DEFENSE REVIEW.—Any application to the Secretary of Commerce for a license for the export of a class 2, class 3, or class 4 biological pathogen to a country identified to the Secretary under subsection (c) as a country that is known or suspected to have a biological weapons program shall be referred to the Secretary of Defense for review. The Secretary of Defense shall

notify the Secretary of Commerce within 15 days after receipt of an application under the preceding sentence whether the export of such biological pathogen pursuant to the license would be contrary to the national security interests of the United States.

(b) DENIAL OF LICENSE IF CONTRARY TO NATIONAL SECURITY INTEREST.—A license described in subsection (a) shall be denied by the Secretary of Commerce if it is determined that the export of such biological pathogen to that country would be contrary to the national security interests of the United States.

(c) IDENTIFICATION OF COUNTRIES KNOWN OR SUSPECTED TO HAVE A PROGRAM TO DEVELOP OFFENSIVE BIOLOGICAL WEAPONS.—(1) The Secretary of Defense shall determine, for the purposes of this section, those countries that are known or suspected to have a program to develop offensive biological weapons. Upon making such determination, the Secretary shall provide to the Secretary of Commerce a list of those countries.

(2) The Secretary of Defense shall update the list under paragraph (1) on a regular basis. Whenever a country is added to or deleted from such list, the Secretary shall notify the Secretary of Commerce.

(3) Determination under this subsection of countries that are known or suspected to have a program to develop offensive biological weapons shall be made in consultation with the Secretary of State and the intelligence community.

(d) DEFINITION.—For purposes of this section, the term "class 2, class 3, or class 4 biological pathogen" means any biological pathogen that is characterized by the Centers for Disease Control as a class 2, class 3, or class 4 biological pathogen.

* * * * * * *

SEC. 2892. [10 U.S.C. 2805 note] DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a program (to be known as the "Department of Defense Laboratory Revitalization Demonstration Program") for the revitalization of Department of Defense laboratories. Under the program, the Secretary may carry out minor military construction projects in accordance with subsection (b) and other applicable law to improve Department of Defense laboratories covered by the program.

(b) INCREASED MAXIMUM AMOUNTS APPLICABLE TO MINOR CONSTRUCTION PROJECTS.—For purpose of any military construction project carried out under the program—

(1) the amount provided in the second sentence of subsection (a)(1) of section 2805 of title 10, United States Code, shall be deemed to be $3,000,000;

(2) the amount provided in subsection (b)(1) of such section shall be deemed to be $1,500,000; and

(3) the amount provided in subsection (c)(1)(B) of such section shall be deemed to be $1,000,000.

(c) PROGRAM REQUIREMENTS.—(1) Not later than 30 days before commencing the program, the Secretary shall establish procedures for the review and approval of requests from Department of Defense laboratories for construction under the program.

(2) The laboratories at which construction may be carried out under the program may not include Department of Defense laboratories that are contractor-owned.

(d) REPORT.—Not later than February 1, 2003, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendation regarding the desirability of making the authority set forth under subsection (b) permanent.

(e) EXCLUSIVITY OF PROGRAM.—Nothing in this section may be construed to limit any other authority provided by law for any military construction project at a Department of Defense laboratory covered by the program.

(f) DEFINITIONS.—In this section:

(1) The term "laboratory" includes—

(A) a research, engineering, and development center;

(B) a test and evaluation activity owned, funded, and operated by the Federal Government through the Department of Defense; and

(C) a supporting facility of a laboratory.

(2) The term "supporting facility", with respect to a laboratory, means any building or structure that is used in support of research, development, test, and evaluation at the laboratory.

(g) EXPIRATION OF AUTHORITY.—The Secretary may not commence a construction project under the program after September 30, 2005.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

* * * * * * *

Subtitle B—Sale of Naval Petroleum Reserve

SEC. 3411. [10 U.S.C. 7420 note] DEFINITIONS.

For purposes of this subtitle:

(1) The terms "Naval Petroleum Reserve Numbered 1" and "reserve" mean Naval Petroleum Reserve Numbered 1, commonly referred to as the Elk Hills Unit, located in Kern County, California, and established by Executive order of the President, dated September 2, 1912.

(2) The term "naval petroleum reserves" has the meaning given that term in section 7420(2) of title 10, United States Code, except that the term does not include Naval Petroleum Reserve Numbered 1.

(3) The term "unit plan contract" means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 entered into on June 19, 1944.

(4) The term "effective date" means the date of the enactment of this Act.

(5) The term "Secretary" means the Secretary of Energy.

(6) The term "appropriate congressional committees" means the Committee on Armed Services of the Senate and the Committee on Armed Services and the Committee on Commerce of the House of Representatives.

SEC. 3412. [10 U.S.C. 7420 note] SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.

(a) SALE OF RESERVE REQUIRED.—Subject to section 3414, not later than two years after the effective date, the Secretary of Energy shall enter into one or more contracts for the sale of all right, title, and interest of the United States in and to all lands owned or controlled by the United States inside Naval Petroleum Reserve Numbered 1. Chapter 641 of title 10, United States Code, shall not apply to the sale of the reserve.

(b) EQUITY FINALIZATION.—(1) Not later than eight months after the effective date, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in Naval Petroleum Reserve Numbered 1 in accordance with the recommendation, or the Secretary may use such other method to establish final equity interest in the reserve as the Secretary considers appropriate.

(3) If, on the effective date, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, the dispute shall be resolved in the manner provided in the unit plan contract within eight months after the effective date. The resolution shall be considered final for all purposes under this section.

(c) NOTICE OF SALE.—Not later than two months after the effective date, the Secretary shall publish a notice of intent to sell Naval Petroleum Reserve Numbered 1. The Secretary shall make all technical, geological, and financial information relevant to the sale of the reserve available to all interested and qualified buyers upon request. The Secretary, in consultation with the Administrator of General Services, shall ensure that the sale process is fair and open to all interested and qualified parties.

(d) ESTABLISHMENT OF MINIMUM SALE PRICE.—(1) Not later than seven months after the effective date, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the value of the interest of the United States in Naval Petroleum Reserve Numbered 1. The independent experts shall complete their assessments within 11 months after the effective date. In making their assessments, the independent experts shall consider (among other factors)—

(A) all equipment and facilities to be included in the sale;

(B) the estimated quantity of petroleum and natural gas in the reserve; and

(C) the net present value of the anticipated revenue stream that the Secretary and the Director of the Office of Management and Budget jointly determine the Treasury would receive from the reserve if the reserve were not sold, adjusted for any anticipated increases in tax revenues that would result if the reserve were sold.

(2) The independent experts retained under paragraph (1) shall also determine and submit to the Secretary the estimated total amount of the cost of any environmental restoration and remediation necessary at the reserve. The Secretary shall report the estimate to the Director of the Office of Management and Budget, the Secretary of the Treasury, and Congress.

(3) The Secretary, in consultation with the Director of the Office of Management and Budget, shall set the minimum acceptable price for the reserve. The Secretary may not set the minimum acceptable price below the higher of—

(A) the average of the five assessments prepared under paragraph (1); and

(B) the average of three assessments after excluding the high and low assessments.

(e) ADMINISTRATION OF SALE; DRAFT CONTRACT.—(1) Not later than two months after the effective date, the Secretary shall retain the services of an investment banker or an appropriate equivalent financial adviser to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of Naval Petroleum Reserve Numbered 1 under this section. Costs and fees of retaining the investment banker or financial adviser may be paid out of the proceeds of the sale of the reserve.

(2) Not later than 11 months after the effective date, the investment banker or financial adviser retained under paragraph (1) shall complete a draft contract or contracts for the sale of Naval Petroleum Reserve Numbered 1, which shall accompany the solicitation of offers and describe the terms and provisions of the sale of the interest of the United States in the reserve.

(3) The draft contract or contracts shall identify—

(A) all equipment and facilities to be included in the sale; and

(B) any potential claim or liability (including liability for environmental restoration and remediation), and the extent of any such claim or liability, for which the United States is responsible under subsection (g).

(4) The draft contract or contracts, including the terms and provisions of the sale of the interest of the United States in the reserve, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget. Each of those officials shall complete the review of, and approve or disapprove, the draft contract or contracts not later than 12 months after the effective date.

(f) SOLICITATION OF OFFERS.—(1) Not later than 13 months after the effective date, the Secretary shall publish the solicitation of offers for Naval Petroleum Reserve Numbered 1.

(2) Not later than 18 months after the effective date, the Secretary shall identify the highest responsible offer or offers for purchase of the interest of the United States in Naval Petroleum Reserve Numbered 1 that, in total, meet or exceed the minimum acceptable price determined under subsection (d)(3).

(3) The Secretary shall take such action immediately after the effective date as is necessary to obtain from an independent petroleum engineer within 10 months after that date a reserve report

prepared in a manner consistent with commercial practices. The Secretary shall use the reserve report in support of the preparation of the solicitation of offers for the reserve.

(g) FUTURE LIABILITIES.—To effectuate the sale of the interest of the United States in Naval Petroleum Reserve Numbered 1, the Secretary may extend such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser from claims arising from the ownership in the reserve by the United States.

(h) MAINTAINING PRODUCTION.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce the reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract.

(i) NONCOMPLIANCE WITH DEADLINES.—At any time during the two-year period beginning on the effective date, if the Secretary determines that the actions necessary to complete the sale of the reserve within that period are not being taken or timely completed, the Secretary shall transmit to the appropriate congressional committees a written notification of that determination together with a plan setting forth the actions that will be taken to ensure that the sale of the reserve will be completed within that period. The Secretary shall consult with the Director of the Office of Management and Budget in preparing the plan for submission to the committees.

(j) OVERSIGHT.—The Comptroller General shall monitor the actions of the Secretary relating to the sale of the reserve and report to the appropriate congressional committees any findings on such actions that the Comptroller General considers appropriate to report to the committees.

(k) ACQUISITION OF SERVICES.—The Secretary may enter into contracts for the acquisition of services required under this section under the authority of paragraph (7) of section 3304(a) of title 41, United States Code, except that the notification required under subparagraph (B) of such paragraph for each contract shall be submitted to Congress not less than 7 days before the award of the contract.

SEC. 3413. [10 U.S.C. 7420 note] EFFECT OF SALE OF RESERVE.

(a) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date, for the purchase of production from any part of the United States' share of Naval Petroleum Reserve Numbered 1, the sale of the interest of the United States in the reserve shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date for the purchase of the production shall not exceed the anticipated closing date for the sale of the reserve.

(2) The Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–ACO1–85FE60520 so that the contract terminates not later than the date of closing

of the sale of Naval Petroleum Reserve Numbered 1 under section 3412.

(3) The Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of reserve.

(b) EFFECT ON ANTITRUST LAWS.—Nothing in this subtitle shall be construed to alter the application of the antitrust laws of the United States to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 or to the lands in the reserve subject to sale under section 3412 upon the completion of the sale.

(c) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this subtitle shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of Naval Petroleum Reserve Numbered 1 and which are subject to the unit plan contract.

(d) TRANSFER OF OTHERWISE NONTRANSFERABLE PERMIT.—The Secretary may transfer to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 the incidental take permit regarding the reserve issued to the Secretary by the United States Fish and Wildlife Service and in effect on the effective date if the Secretary determines that transfer of the permit is necessary to expedite the sale of the reserve in a manner that maximizes the value of the sale to the United States. The transferred permit shall cover the identical activities, and shall be subject to the same terms and conditions, as apply to the permit at the time of the transfer.

SEC. 3414. [10 U.S.C. 7420 note] CONDITIONS ON SALE PROCESS.

(a) NOTICE REGARDING SALE CONDITIONS.—The Secretary may not enter into any contract for the sale of Naval Petroleum Reserve Numbered 1 under section 3412 until the end of the 31-day period beginning on the date on which the Secretary submits to the appropriate congressional committees a written notification—

(1) describing the conditions of the proposed sale; and

(2) containing an assessment by the Secretary of whether it is in the best interests of the United States to sell the reserve under such conditions.

(b) AUTHORITY TO SUSPEND SALE.—(1) The Secretary may suspend the sale of Naval Petroleum Reserve Numbered 1 under section 3412 if the Secretary and the Director of the Office of Management and Budget jointly determine that—

(A) the sale is proceeding in a manner inconsistent with achievement of a sale price that reflects the full value of the reserve; or

(B) a course of action other than the immediate sale of the reserve is in the best interests of the United States.

(2) Immediately after making a determination under paragraph (1) to suspend the sale of Naval Petroleum Reserve Numbered 1, the Secretary shall submit to the appropriate congressional committees a written notification describing the basis for the determination and requesting a reconsideration of the merits of the sale of the reserve.

(c) EFFECT OF RECONSIDERATION NOTICE.—After the Secretary submits a notification under subsection (b), the Secretary may not complete the sale of Naval Petroleum Reserve Numbered 1 under section 3412 or any other provision of law unless the sale of the reserve is authorized in an Act of Congress enacted after the date of the submission of the notification.

SEC. 3415. [10 U.S.C. 7420 note] TREATMENT OF STATE OF CALIFORNIA CLAIM REGARDING RESERVE.

(a) RESERVATION OF FUNDS.—After the costs incurred in the conduct of the sale of Naval Petroleum Reserve Numbered 1 under section 3412 are deducted, nine percent of the remaining proceeds from the sale of the reserve shall be reserved in a contingent fund in the Treasury for payment to the State of California for the Teachers' Retirement Fund of the State in the event that, and to the extent that, the claims of the State against the United States regarding production and proceeds of sale from Naval Petroleum Reserve Numbered 1 are—

(1) settled by agreement with the United States under subsection (c); or

(2) finally resolved in favor of the State by a court of competent jurisdiction, if a settlement agreement is not reached.

(b) DISPOSITION OF FUNDS.—In such amounts as may be provided in appropriation Acts, amounts in the contingent fund shall be available for paying a claim described in subsection (a). After final disposition of the claims, any unobligated balance in the contingent fund shall be credited to the general fund of the Treasury. If no payment is made from the contingent fund within 10 years after the effective date, amounts in the contingent fund shall be credited to the general fund of the Treasury.

(c) SETTLEMENT OFFER.—Not later than 30 days after the date of the sale of Naval Petroleum Reserve Numbered 1 under section 3412, the Secretary shall offer to settle all claims of the State of California against the United States with respect to lands in the reserve located in sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, and production or proceeds of sale from the reserve, in order to provide proper compensation for the State's claims. The Secretary shall base the amount of the offered settlement payment from the contingent fund on the fair value for the State's claims, including the mineral estate, not to exceed the amount reserved in the contingent fund.

(d) RELEASE OF CLAIMS.—Acceptance of the settlement offer made under subsection (c) shall be subject to the condition that all claims against the United States by the State of California for the Teachers' Retirement Fund of the State be released with respect to lands in Naval Petroleum Reserve Numbered 1, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from the reserve.

SEC. 3416. [10 U.S.C. 7420 note] STUDY OF FUTURE OF OTHER NAVAL PETROLEUM RESERVES.

(a) STUDY REQUIRED.—The Secretary of Energy shall conduct a study to determine which of the following options, or combinations of options, regarding the naval petroleum reserves (other

than Naval Petroleum Reserve Numbered 1) would maximize the value of the reserves to the United States:

(1) Retention and operation of the naval petroleum reserves by the Secretary under chapter 641 of title 10, United States Code.

(2) Transfer of all or a part of the naval petroleum reserves to the jurisdiction of another Federal agency for administration under chapter 641 of title 10, United States Code.

(3) Transfer of all or a part of the naval petroleum reserves to the Department of the Interior for leasing in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and surface management in accordance with the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(4) Sale of the interest of the United States in the naval petroleum reserves.

(b) CONDUCT OF STUDY.—The Secretary shall retain an independent petroleum consultant to conduct the study.

(c) CONSIDERATIONS UNDER STUDY.—An examination of the value to be derived by the United States from the transfer or sale of the naval petroleum reserves shall include an assessment and estimate of the fair market value of the interest of the United States in the naval petroleum reserves. The assessment and estimate shall be made in a manner consistent with customary property valuation practices in the oil and gas industry.

(d) REPORT AND RECOMMENDATIONS REGARDING STUDY.—Not later than June 1, 1996, the Secretary shall submit to Congress a report describing the results of the study and containing such recommendations (including proposed legislation) as the Secretary considers necessary to implement the option, or combination of options, identified in the study that would maximize the value of the naval petroleum reserves to the United States.

DIVISION D—FEDERAL ACQUISITION REFORM

SEC. 4001. [41 U.S.C. 251 note] SHORT TITLE.

This division and division E may be cited as the "Clinger-Cohen Act of 1996".

* * * * * * *

TITLE XLIII—ADDITIONAL ACQUISITION REFORM PROVISIONS

[Section 4308 repealed by section 872(b) of division A of Public Law 111–383.]

* * * * * * *

TITLE XLIV—EFFECTIVE DATES AND IMPLEMENTATION

SEC. 4401. [41 U.S.C. 251 note] EFFECTIVE DATE AND APPLICABILITY.

(a) EFFECTIVE DATE.—Except as otherwise provided in this division, this division and the amendments made by this division shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY OF AMENDMENTS.—

(1) SOLICITATIONS, UNSOLICITED PROPOSALS, AND RELATED CONTRACTS.—An amendment made by this division shall apply, in the manner prescribed in the final regulations promulgated pursuant to section 4402 to implement such amendment, with respect to any solicitation that is issued, any unsolicited proposal that is received, and any contract entered into pursuant to such a solicitation or proposal, on or after the date described in paragraph (3).

(2) OTHER MATTERS.—An amendment made by this division shall also apply, to the extent and in the manner prescribed in the final regulations promulgated pursuant to section 4402 to implement such amendment, with respect to any matter related to—

(A) a contract that is in effect on the date described in paragraph (3);

(B) an offer under consideration on the date described in paragraph (3); or

(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

(3) DEMARCATION DATE.—The date referred to in paragraphs (1) and (2) is the date specified in such final regulations. The date so specified shall be January 1, 1997, or any earlier date that is not within 30 days after the date on which such final regulations are published.

SEC. 4402. [41 U.S.C. 251 note] IMPLEMENTING REGULATIONS.

(a) PROPOSED REVISIONS.—Proposed revisions to the Federal Acquisition Regulation and such other proposed regulations (or revisions to existing regulations) as may be necessary to implement this Act shall be published in the Federal Register not later than 210 days after the date of the enactment of this Act.

(b) PUBLIC COMMENT.—The proposed regulations described in subsection (a) shall be made available for public comment for a period of not less than 60 days.

(c) FINAL REGULATIONS.—Final regulations shall be published in the Federal Register not later than 330 days after the date of enactment of this Act.

(d) MODIFICATIONS.—Final regulations promulgated pursuant to this section to implement an amendment made by this Act may provide for modification of an existing contract without consideration upon the request of the contractor.

(e) SAVINGS PROVISIONS.—

(1) VALIDITY OF PRIOR ACTIONS.—Nothing in this division shall be construed to affect the validity of any action taken or any contract entered into before the date specified in the regu-

lations pursuant to section 4401(b)(3) except to the extent and in the manner prescribed in such regulations.

(2) RENEGOTIATION AND MODIFICATION OF PREEXISTING CONTRACTS.—Except as specifically provided in this division, nothing in this division shall be construed to require the renegotiation or modification of contracts in existence on the date of the enactment of this Act.

(3) CONTINUED APPLICABILITY OF PREEXISTING LAW.—Except as otherwise provided in this division, a law amended by this division shall continue to be applied according to the provisions thereof as such law was in effect on the day before the date of the enactment of this Act until—

(A) the date specified in final regulations implementing the amendment of that law (as promulgated pursuant to this section); or

(B) if no such date is specified in regulations, January 1, 1997.

DIVISION E—INFORMATION TECHNOLOGY MANAGEMENT REFORM

[Note: Division E of the Clinger-Cohen Act of 1996 was revised, codified, and reenacted without substantive change as subtitle III of title 40, United States Code, by Public Law 107–217, and is set forth beginning on page 861.]