

Public Law 98-525
98th Congress

An Act

Oct. 19, 1984
[H.R. 5167]

Department of
Defense
Authorization
Act, 1985.

To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1985, to revise and improve defense procurement, compensation, and management programs, to establish new defense educational assistance programs, to authorize appropriations for national security programs of the Department of Energy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Department of Defense Authorization Act, 1985".

(b) The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROCUREMENT

- Sec. 101. Authorization of appropriations, Army.
- Sec. 102. Authorization of appropriations, Navy and Marine Corps.
- Sec. 103. Authorization of appropriations, Air Force.
- Sec. 104. Authorization of appropriations, Defense Agencies.
- Sec. 105. Authorization of appropriations for certain NATO cooperative programs.
- Sec. 106. Extension of authority provided Secretary of Defense in connection with the NATO Airborne Warning and Control System (AWACS) program.
- Sec. 107. Limitation on waivers of cost-recovery requirements under Arms Export Control Act.
- Sec. 108. Waiver of limitation on foreign military sales program.
- Sec. 109. Transfer of certain military equipment or data to foreign countries.
- Sec. 110. Policy concerning acquisition of additional MX missiles.
- Sec. 111. Prohibition of spending funds for binary chemical munitions.
- Sec. 112. Strategic weapons loader.
- Sec. 113. Foreign military sales of Air National Guard OA-37 aircraft.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

- Sec. 201. Authorization of appropriations.
- Sec. 202. Provisions relating to Army programs.
- Sec. 203. Limitations on funds for the Navy.
- Sec. 204. Limitations on funds for the Air Force.
- Sec. 205. Policy governing the test of anti-satellite warheads.
- Sec. 206. Limitation on funds for the Defense Agencies.
- Sec. 207. Implementation of law to establish independent Director of Operational Test and Evaluation.

TITLE III—OPERATION AND MAINTENANCE

- Sec. 301. Authorization of appropriations.
- Sec. 302. General authorization of appropriations for pay raises, fuel costs, and inflation adjustments.
- Sec. 303. Authorization of appropriations for working-capital funds.
- Sec. 304. Contingency funds for the unified and specified commands.
- Sec. 305. Sale of articles manufactured by certain arsenals; asset capitalization program.
- Sec. 306. Administrative transition provision for Navy Stock Fund management change.
- Sec. 307. Limitation on contracting-out core logistics functions.
- Sec. 308. Limitation on consulting and related services.

- Sec. 309. Restriction on reduction in ports of origin for certain cargo carried on vessels of the Military Sealift Command.
- Sec. 310. Sense of Congress concerning introduction of United States Armed Forces into Central America for combat.

TITLE IV—PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

- Sec. 401. Authorization of end strengths.
- Sec. 402. Extension of quality control on enlistments into the Army.

PART B—RESERVE FORCES

- Sec. 411. Authorization of average strengths for Selected Reserve.
- Sec. 412. Authorization of end strengths for members on active duty in support of the reserve components.
- Sec. 413. Increase in number of certain personnel authorized to be on active duty in support of the reserve components.
- Sec. 414. Clarification of status of members of the National Guard performing full-time duty.

PART C—MILITARY TRAINING

- Sec. 421. Authorization of military training student loads.
- Sec. 422. Reduction in number of students required to be in a unit of the Junior Reserve Officers' Training Corps for the unit to be maintained.

TITLE V—DEFENSE PERSONNEL MANAGEMENT

PART A—CIVILIAN PERSONNEL

- Sec. 501. Waiver of civilian personnel ceilings for fiscal year 1985.
- Sec. 502. Civilian personnel ceilings on industrially-funded activities during fiscal year 1984.

PART B—OFFICER PERSONNEL

- Sec. 511. Temporary increase in the number of general and flag officers authorized to be on active duty.
- Sec. 512. Authority to consider for promotion certain Army reserve brigadier generals.
- Sec. 513. Authority to retain in active status until age 60 up to 10 Army reserve brigadier generals.
- Sec. 514. Extension of authority for the temporary promotion of certain Navy lieutenants.
- Sec. 515. Repeal of four-year limitation on period an officer may be assigned to the Army Staff or the Air Staff.

PART C—AMENDMENTS TO PROVISIONS OF LAW ENACTED BY THE DEFENSE

OFFICER PERSONNEL MANAGEMENT ACT

- Sec. 521. Retention in grade of officers appointed in reserves upon separating from active duty.
- Sec. 522. Increase in limitation on number of regular officers in the Navy, Air Force, and Marine Corps.
- Sec. 523. Clarification of senior general and flag officers continuation in grade during a change in status.
- Sec. 524. Authority to use means other than boards to decide whether an officer should be required to show cause for retention.
- Sec. 525. Removal from further consideration for promotion of officers in pay grade O-2 who have twice failed of selection for promotion.
- Sec. 526. Determination of date of rank for officers whose promotions are delayed administratively.
- Sec. 527. Special selection boards for warrant officers.
- Sec. 528. Authority to discharge reserve second lieutenants and ensigns found not qualified for promotion.
- Sec. 529. Navy limited duty officers.
- Sec. 530. Appointment in permanent grade of certain limited duty officers serving in higher temporary grades.
- Sec. 531. Determination of severance pay in certain cases.
- Sec. 532. Consideration for promotion of certain retired officers who later serve on active duty.
- Sec. 533. Technical amendments.

PART D—OFFICER TRAINING PROGRAMS

- Sec. 541. Clarification of authority to order certain cadets and midshipmen to active duty.
- Sec. 542. Extension of military service obligation of service academy and ROTC cadets and midshipmen.
- Sec. 543. Eligibility for advanced training in senior ROTC program.

PART E—MISCELLANEOUS

- Sec. 551. Women in the Armed Forces.
- Sec. 552. Reserve forces readiness.
- Sec. 553. Precedence of award of Purple Heart.
- Sec. 554. Study of military regulations with regard to religious practices.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—BASIC PAY AND ALLOWANCES

- Sec. 601. Military pay raise for fiscal year 1985.
- Sec. 602. Basic allowance for quarters and variable housing allowance.
- Sec. 603. Reimbursement for accommodations in place of quarters.
- Sec. 604. Clarification of authority to deny certain members without dependents right to elect to receive basic allowance for quarters rather than occupy military quarters.
- Sec. 605. Commutation of rations for reservists on inactive duty training who are unable to obtain rations in kind.
- Sec. 606. Forfeiture of accrued leave by certain members who serve on active duty less than six months.
- Sec. 607. Denial of credit for time spent in a delayed enlistment program for purposes of computation of basic pay.

PART B—TRAVEL AND TRANSPORTATION

- Sec. 611. Emergency medical transportation for dependents of members stationed in Alaska or Hawaii.
- Sec. 612. Transportation incident to emergency leave for members whose residences are in possessions of the United States.
- Sec. 613. Travel pay for certain reserve component instructors.
- Sec. 614. Transportation between residence and place of work for senior defense officials.

PART C—BONUSES AND SPECIAL PAYS

- Sec. 621. Extension of enlistment and reenlistment bonus authorities for active forces.
- Sec. 622. Extension of special pay for certain aviation career officers.
- Sec. 623. Special pay for sea duty and special skills for enlisted members.
- Sec. 624. Elimination of certain categories of incentive pay for hazardous duty.

PART D—HEALTH CARE MATTERS

- Sec. 631. Extension of medical and dental care for reserves and National Guard.
- Sec. 632. Enhanced benefits coverage under CHAMPUS.
- Sec. 633. Authority to provide dental care to certain dependents in facilities of the uniformed services.
- Sec. 634. Study of use by CHAMPUS of Medicare prospective payment system.

PART E—BENEFITS FOR SURVIVORS AND FORMER SPOUSES

- Sec. 641. Elimination of certain social security offsets from the Survivor Benefit Plan.
- Sec. 642. Authority to initiate payments under survivor annuity programs when the participant is missing.
- Sec. 643. Clarification of authority to enforce certain court orders in connection with the payment of retired or retainer pay to former spouses.
- Sec. 644. Clarification of authority to elect former spouses as beneficiaries under the Survivor Benefit Plan.
- Sec. 645. Miscellaneous rights and benefits for former spouses.

PART F—MISCELLANEOUS

- Sec. 651. Legal assistance programs.
- Sec. 652. Limitation on transportation of motor vehicles through Guam.
- Sec. 653. Personal vehicles of United States military personnel in Japan.
- Sec. 654. Authority for voluntary withholding of State income taxes from retired and retainer pay.

- Sec. 655. Recomputation of retired pay of certain recalled retirees.
- Sec. 656. Delay of effective date for fee for veterinary services.

TITLE VII—EDUCATIONAL ASSISTANCE PROGRAMS

- Sec. 701. Short title.
- Sec. 702. New educational assistance program.
- Sec. 703. Coordination with other veterans' education and training programs.
- Sec. 704. Suspension of right to enroll in chapter 32 program.
- Sec. 705. Revision of educational assistance program for the Selected Reserve.
- Sec. 706. Accrual funding of Department of Defense liabilities.
- Sec. 707. Educational leave of absence for members of the Armed Forces.
- Sec. 708. Preseparation counseling.
- Sec. 709. Extension of pilot Department of Defense educational assistance loan repayment program.

TITLE VIII—CIVIL DEFENSE

- Sec. 801. Authorization of appropriations.
- Sec. 802. Repeal of limitation on amounts that may be appropriated for certain purposes.

TITLE IX—NATIONAL DEFENSE STOCKPILE

- Sec. 901. Termination of previous disposal authority.
- Sec. 902. Authorizations for disposal.
- Sec. 903. Restrictions on balance in stockpile transaction fund.
- Sec. 904. Stockpile report.
- Sec. 905. Deposits of funds accruing from Naval Petroleum Reserves.

TITLE X—MATTERS RELATING TO NATO AND OTHER ALLIES

- Sec. 1001. Sense of Congress relating to increase in defense spending by United States allies.
- Sec. 1002. Improvements to NATO conventional capability.
- Sec. 1003. Report on allied contributions to the common defense.
- Sec. 1004. NATO Seasparrow cooperative program.
- Sec. 1005. Procurement of communications support and related supplies and services.
- Sec. 1006. Policy on armaments cooperation with NATO member countries.
- Sec. 1007. Authority of Secretary of Defense in connection with cooperative agreements on air defense in Central Europe.

TITLE XI—MATTERS RELATING TO ARMS CONTROL

- Sec. 1101. Report on strategic nuclear submarine force.
- Sec. 1102. Annual report on strategic defense programs.
- Sec. 1103. Report on theater nuclear weapons and force structure.
- Sec. 1104. Report on withdrawal of tactical nuclear warheads from Europe.
- Sec. 1105. Report on United States counterforce capability.
- Sec. 1106. Transmittal to Congress of report on Soviet compliance with arms control agreements.
- Sec. 1107. Report on nuclear winter findings and policy implications.
- Sec. 1108. Sense of Congress relating to the establishment of Nuclear Risk Reduction Centers in the United States and the Soviet Union.
- Sec. 1109. Sense of Congress regarding a report to Congress on certain verification programs relating to biological and chemical weapons.
- Sec. 1110. Sense of Congress expressing support for United States to pursue outstanding arms control compliance.
- Sec. 1111. Policy on the status of certain treaties to prevent nuclear testing.

TITLE XII—PROCUREMENT POLICY REFORM AND OTHER PROCUREMENT MATTERS

PART A—SHORT TITLE AND CONGRESSIONAL FINDINGS

- Sec. 1201. Short title.
- Sec. 1202. Congressional findings and policy.

PART B—AMENDMENTS TO CHAPTER 137 OF TITLE 10, UNITED STATES CODE

- Sec. 1211. Definition.
- Sec. 1212. Publication of proposed regulations.
- Sec. 1213. Planning for procurement of supplies and for future competition.
- Sec. 1214. Delegation of certain procurement functions.

- Sec. 1215. Personnel evaluations to include emphasis on competition and cost savings.
- Sec. 1216. Improved procurement procedures.
- Sec. 1217. Clerical amendments.

PART C—AMENDMENTS TO CHAPTER 141 OF TITLE 10, UNITED STATES CODE

- Sec. 1231. Identification of sources of supplies.
- Sec. 1232. Revision of long-term lease or charter authority.
- Sec. 1233. Economic order quantities.
- Sec. 1234. Additional miscellaneous procurement provisions.
- Sec. 1235. Clerical amendments.

PART D—OTHER PROCUREMENT PROVISIONS

- Sec. 1241. Cooperative agreements for procurement technical assistance.
- Sec. 1242. Revision of requirements for selected acquisition reports and unit cost reports.
- Sec. 1243. Duration of assignment of program managers for major programs.
- Sec. 1244. Authority to waive compliance with certain requirements provided for in regulations relating to prices of spare parts and replacement equipment.
- Sec. 1245. Regulations for allocating overhead to parts to which the prime contractor has added little value.

PART E—TEMPORARY PROVISIONS, REPORTS, AND EFFECTIVE DATES

- Sec. 1251. Report on implementation of certain recommendations of the Grace Commission.
- Sec. 1252. Plans for management of technical data and computer capability improvements.
- Sec. 1253. Report on use of independent cost estimates for major defense acquisition programs.
- Sec. 1254. One-year extension of test program to authorize price differentials to relieve economic dislocations.

TITLE XIII—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

- Sec. 1301. Joint Chiefs of Staff reorganization.
- Sec. 1302. Reduction in headquarters staffs.
- Sec. 1303. Report on size of service Secretariats.
- Sec. 1304. Implementation of certain personnel policies.
- Sec. 1305. Expansion of authority for collection of debts from members of the Armed Forces.
- Sec. 1306. Increased Coast Guard membership on the Reserve Forces Policy Board.
- Sec. 1307. Limitation on use of funds for conducting polygraphs examinations; report.

TITLE XIV—CODIFICATION OF CERTAIN RECURRING AND PERMANENT PROVISIONS OF LAW

- Sec. 1401. Amendments to title 10, United States Code.
- Sec. 1402. Amendments to title 37, United States Code.
- Sec. 1403. Repeal provisions.
- Sec. 1404. Effective date.
- Sec. 1405. Clerical amendments to title 10, United States Code.

TITLE XV—GENERAL PROVISIONS

PART A—DEFENSE FINANCIAL MATTERS

- Sec. 1501. Transfer authority.

PART B—PROVISIONS RELATING TO SPECIFIC PROGRAMS

- Sec. 1511. Chemical Warfare Review Commission.
- Sec. 1512. Restriction on the use of funds for the B-1B bomber aircraft program.
- Sec. 1513. Configuration of the FFG-7 class guided missile frigate.
- Sec. 1514. Prohibition against using funds appropriated for the Advanced Technology Bomber and the Advanced Cruise Missile programs for any other purpose.

PART C—MISCELLANEOUS DEFENSE REPORTING REQUIREMENTS

- Sec. 1521. Extension of time for report of the Commission established by the Military Justice Act of 1983.

- Sec. 1522. Study of foreign sales and procurement of defense articles.
- Sec. 1523. Report on use of Air Force air refueling fleet.
- Sec. 1524. Study by the Secretary of Defense of current and potential exploitation of foreign technology by the Department of Defense.
- Sec. 1525. Report on Americans unaccounted for or missing in Indochina.
- Sec. 1526. Report on safety in the Army.
- Sec. 1527. Report on enhanced military career opportunities for nonphysician health-care providers.

PART D—MISCELLANEOUS DEFENSE-RELATED MATTERS

- Sec. 1531. Exemption from authority to induct under the Military Selective Service Act any person whose mother was killed in line of duty.
- Sec. 1532. Prohibition of unauthorized uses of Marine Corps insignia.
- Sec. 1533. Improved readiness and training of the Civil Air Patrol through provision of certain additional Federal services.
- Sec. 1534. Participation of members of the Armed Forces in international sports activities.
- Sec. 1535. Instruction of foreign officers at the Uniformed Services University of the Health Sciences.
- Sec. 1536. Commission on Merchant Marine and Defense.
- Sec. 1537. Department of Defense air traffic controllers.
- Sec. 1538. Sale of ammunition for avalanche-control purposes.
- Sec. 1539. Supplemental information to the environmental impact statement of the Navy on the proposed transfer of certain personnel.
- Sec. 1540. Authorization for Secretary of Defense to transport humanitarian relief supplies to countries in Central America.

PART E—OTHER MISCELLANEOUS MATTERS

- Sec. 1541. Survivors of the Glomar Java Sea.
- Sec. 1542. Policy regarding the furnishing of food and medical supplies to Afghanistan.
- Sec. 1543. Reaffirmation of United States policy toward Cuba.
- Sec. 1544. Report on use of Cuban and Russian nickel in defense procurements.

TITLE XVI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

- Sec. 1600. Short title.

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

- Sec. 1601. Operating expenses.
- Sec. 1602. Plant and capital equipment.

PART B—RECURRING GENERAL PROVISIONS

- Sec. 1621. Reprograming.
- Sec. 1622. Limits on general plant projects.
- Sec. 1623. Limits on construction projects.
- Sec. 1624. Fund transfer authority.
- Sec. 1625. Authority for construction design.
- Sec. 1626. Authority for emergency construction design.
- Sec. 1627. Funds available for all national security programs of the Department of Energy.
- Sec. 1628. Adjustments for pay increases.
- Sec. 1629. Availability of funds.

PART C—SPECIAL PROGRAM PROVISIONS

- Sec. 1631. Contractor liability for injury or loss of property arising out of atomic weapons testing programs.
- Sec. 1632. Cost-effective funding of nuclear weapons.
- Sec. 1633. Review of the Inertial Confinement Fusion Program.
- Sec. 1634. Naval Nuclear Propulsion Program.
- Sec. 1635. Authorization for production of the 155-millimeter artillery-fired, atomic projectile.

TITLE XVII—UNITED STATES INSTITUTE OF PEACE

- Sec. 1701. Short title.
- Sec. 1702. Declaration of findings and purposes.
- Sec. 1703. Definitions.
- Sec. 1704. Establishment of the Institute.
- Sec. 1705. Powers and duties.
- Sec. 1706. Board of directors.

- Sec. 1707. Officers and employees.
- Sec. 1708. Procedures and records.
- Sec. 1709. Independence and limitations.
- Sec. 1710. Funding.
- Sec. 1711. Dissolution or liquidation.
- Sec. 1712. Reporting requirement and requirement to hold hearings.

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 101. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Army as follows:

For aircraft, \$3,852,200,000.

For missiles, \$3,260,000,000.

For weapons and tracked combat vehicles, \$4,838,600,000.

For ammunition, \$2,338,900,000.

For other procurement, \$5,457,700,000.

For Army National Guard equipment, \$50,000,000.

(2) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement for the Army for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(A) \$30,000,000 for procurement of aircraft to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Army remaining available for obligation;

(B) \$13,000,000 for procurement of missiles to be derived from amounts appropriated for fiscal year 1984 for procurement of missiles for the Army remaining available for obligation;

(C) \$60,500,000 for procurement of weapons and tracked combat vehicles to be derived from amounts available for fiscal year 1983 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation resulting from the sale of M48A5 tanks under a letter of offer issued pursuant to section 21(a)(1) of the Arms Export Control Act that would otherwise be deposited in the Special Defense Acquisition Fund;

(D) \$197,300,000 for procurement of weapons and tracked combat vehicles to be derived from amounts appropriated for fiscal year 1984 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation;

(E) \$44,000,000 for procurement of ammunition to be derived from amounts appropriated for fiscal year 1984 for procurement of ammunition for the Army remaining available for obligation; and

(F) \$18,000,000 for other procurement to be derived from amounts appropriated for fiscal year 1984 for other procurement for the Army remaining available for obligation.

(b) The Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of UH-60A aircraft, EH-60A aircraft, M-1 tanks or subsystems, TOW missiles, 5-ton trucks, Bushmaster Vehicle Rapid-fire weapon systems, and shop equipment contact maintenance vehicles, and for the execution of the CH-47D aircraft modernization program. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(c) Effective on October 1, 1984, the provisions of section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), shall not apply to the procurement of EH-60A and UH-60A aircraft under a multiyear contract.

Effective date.

97 Stat. 1454.

(d) None of the funds appropriated pursuant to the authorizations of appropriations in subsection (a) may be used for the purpose of entering into a contract for the production and assembly of the Division Air Defense System until—

- (1) initial production testing of such system is completed;
- (2) the Secretary of Defense reports the results of such testing to the appropriate committees of Congress; and
- (3) a period of 30 days has elapsed after the day on which those committees receive that report.

(e) Not later than February 1, 1985, the Secretary of the Army shall select a contractor for the supply of 120-millimeter mortars necessary to meet the requirements of the Army. The selection shall be made from among companies that are existing production sources for such mortars.

(f) None of the funds appropriated pursuant to the authorizations of appropriations in subsection (a) may be used for the construction in foreign shipyards of logistics support vessels.

Prohibition.

AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a) AIRCRAFT.—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement of aircraft for the Navy in the amount of \$11,053,200,000.

(2) There is hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Navy for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, \$54,400,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Navy remaining available for obligation.

(b) WEAPONS.—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$4,444,800,000 for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

- For missile programs, \$3,493,400,000.
- For the MK-48 torpedo program, \$212,900,000.
- For the MK-46 torpedo program, \$256,000,000.
- For the MK-60 torpedo program, \$128,500,000.
- For the MK-30 mobile target program, \$21,300,000.
- For the MK-38 minimobile target program, \$2,500,000.
- For the antisubmarine rocket (ASROC) program, \$25,900,000.
- For the modification of torpedoes and related equipment, \$32,200,000.
- For the torpedo support equipment program, \$96,000,000.
- For the MK-15 close-in weapon system program, \$163,900,000.
- For the MK-75 76-millimeter gun mount program, \$10,900,000.
- For other weapons, \$68,300,000.

The sum of the amounts authorized for facilities and contract support under this subsection is reduced by \$12,000,000 in order to meet the total amount authorized to be appropriated set forth at the beginning of this paragraph.

(2) There is hereby authorized to be transferred to, and merged with amounts appropriated for procurement of weapons for the Navy for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1) to the extent provided in appropriation Acts, \$20,000,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of weapons for the Navy remaining for obligation.

(c) SHIPBUILDING AND CONVERSION.—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$12,153,400,000 for shipbuilding and conversion for the Navy as follows:

For the Trident submarine program, \$1,708,200,000.

For the SSN-688 nuclear attack submarine program, \$2,880,000,000.

For the aircraft carrier service life extension program (SLEP), \$764,500,000.

For the CG-47 Aegis cruiser program, \$3,150,000,000.

For the DDG-51 guided missile destroyer program, \$1,173,900,000.

For the LSD-41 landing ship dock program, \$489,500,000.

For the LHD-1 amphibious assault ship program, \$39,200,000.

For the LPD-4 amphibious transport dock service life extension program, \$15,000,000.

For the MCM-1 mine countermeasures ship program, \$349,500,000.

For the TAO-187 fleet oiler program, \$562,600,000.

For the TAGOS ocean surveillance ship program, \$129,900,000.

For the TAGS ocean survey ship program, \$245,000,000.

For the strategic sealift ready reserve program, \$31,000,000.

For the TACS auxiliary crane ship program, \$44,000,000.

For the TAVB aviation logistics support ship program, \$42,800,000.

For the LCAC landing craft air cushion program, \$230,100,000.

For service craft and landing craft, \$93,100,000.

For outfitting and post delivery, \$383,600,000.

The sum of the amounts authorized for programs under this subsection is reduced by \$178,500,000 in order to meet the total amount authorized to be appropriated set forth at the beginning of this paragraph.

(2) There are hereby authorized to be transferred to, and merged with, amounts appropriated for shipbuilding and conversion for the Navy for fiscal year 1985 pursuant to the authorizations of appropriations in paragraph (1), to the extent provided in appropriation Acts, amounts appropriated for fiscal years before fiscal year 1985 for shipbuilding and conversion for the Navy and remaining available for obligation in the total amount of \$70,000,000 as follows:

(A) For the Trident submarine program, \$40,000,000 shall be derived from funds appropriated for fiscal year 1983 for the FFG-7 guided missile frigate program and shall be available only for an x-band phased array radar.

(B) For the naval nuclear reactor training program, \$30,000,000 of which—

(i) \$10,000,000 shall be derived from funds appropriated for fiscal year 1982 for the CVN aircraft carrier program; and

(ii) \$20,000,000 shall be derived from funds appropriated for fiscal year 1983 for the CVN aircraft carrier program.

(3) There are hereby authorized to be transferred to, and merged with, amounts appropriated for shipbuilding and conversion for the Navy for fiscal year 1984, to the extent provided in appropriation Acts, amounts appropriated for fiscal years before fiscal year 1985 for shipbuilding and conversion for the Navy and remaining available for obligation \$336,200,000 for the battleship reactivation program, to be derived from funds appropriated for fiscal year 1983 for the CVN aircraft carrier program.

(d) OTHER PROCUREMENT, NAVY.—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for other procurement for the Navy in the amount of \$5,266,300,000, of which—

(A) \$775,100,000 is available only for the ship support equipment program;

(B) \$1,778,800,000 is available only for the communications and electronics equipment program; and

(C) \$1,137,600,000 is available only for the ordnance support equipment program.

(2) There is hereby authorized to be transferred to, and merged with amounts appropriated for other procurement for the Navy for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1) to the extent provided in appropriation Acts, \$85,000,000 to be derived from amounts appropriated for fiscal year 1984 for other procurement for the Navy remaining for obligation.

(e) PROCUREMENT, MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons) in the amount of \$1,890,700,000.

(f) NAVY AND MARINE CORPS RESERVE.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$20,000,000 for Navy Reserve equipment and \$20,000,000 for Marine Corps Reserve equipment.

(g) MULTIYEAR CONTRACTS.—The Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of CH-53E aircraft and AN/SSQ-36 sonobuoys. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(h) DDG-51 DESTROYER PROGRAM.—None of the funds appropriated pursuant to the authorization of appropriations in subsection (c) for the DDG-51 guided missile destroyer program may be obligated or expended until the Secretary of the Navy certifies to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives that the lead ship in that program is capable of being equipped with a Rankine-Cycle Energy Recovery (RACER) system without rearrangement of ship spaces and equipment or other major modification to the ship.

(i) COMMON AIRCRAFT EJECTION SEAT.—Notwithstanding any other provision of law, the Secretary of the Navy may establish and maintain an alternative source for the procurement of a common aircraft ejection seat for the F/A-18 aircraft, the T-45 aircraft, the

F-14D aircraft, and the A-6E upgrade aircraft. A business concern may be considered as such alternative source regardless of the country in which the business concern is based.

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 103. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Air Force as follows:

For aircraft, \$26,101,700,000.

For missiles, \$8,605,300,000.

For other procurement, \$8,724,000,000.

For Air National Guard equipment, \$20,000,000.

(2)(A) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Air Force for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(i) \$99,000,000 to be derived from amounts available for fiscal years 1983, 1984, and 1985 for procurement of aircraft for the Air Force remaining available for obligation resulting from the sale of aircraft under a letter of offer issued pursuant to section 21(a)(1) of the Arms Export Control Act that would otherwise be deposited in the Special Defense Acquisition Fund;

(ii) \$206,700,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Air Force remaining available for obligation; and

(iii) \$144,800,000 to be derived from amounts appropriated for fiscal year 1983 for procurement of aircraft for the Air Force remaining for obligation from the C-19 program.

(3) There is hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of missiles for the Air Force for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, \$15,000,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of missiles for the Air Force remaining for obligation.

(4) There is hereby authorized to be transferred to, and merged with, amounts appropriated for other procurement for the Air Force for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, \$14,500,000 to be derived from amounts appropriated for fiscal year 1984 for other procurement for the Air Force remaining for obligation.

(b) The Secretary of the Air Force may not make a contract for the procurement of aircraft engines unless the amount under the contract for any warranty required by section 797 of the Department of Defense Appropriation Act, 1983 (as contained in section 101(c) of Public Law 97-377), section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), or section 2403 of title 10, United States Code (as added by section 1234), does not exceed 10 percent of the total contract price.

(c) The Secretary of the Air Force may enter into a multiyear contract for the purchase of F-16 aircraft in accordance with section 2306(h) of title 10, United States Code. Such contract may include an unfunded cancellation ceiling. In the event funds are not made available for the continuation of such contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation

22 USC 2761.

96 Stat. 1833.
97 Stat. 1454.
Post, p. 2601.

shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(d) The Secretary of the Air Force shall acquire four additional used commercial passenger aircraft to be used to augment national security airlift operations. Such aircraft shall be acquired using amounts which were appropriated for fiscal year 1983 for procurement of equipment for the Air National Guard and which remain available for obligation.

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 104. Funds are hereby authorized to be appropriated for fiscal year 1985 for the defense agencies in the amount of \$1,180,200,000.

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN NATO COOPERATIVE PROGRAMS

SEC. 105. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for activities of the Under Secretary of Defense for Research and Engineering for acquisition in connection with cooperative programs of the North Atlantic Treaty Organization as follows:

For acquisition of the Patriot missile system for the Federal Republic of Germany, \$150,000,000.

For acquisition of point air defense of United States airbases in the Federal Republic of Germany, \$65,000,000.

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy, \$15,000,000.

For acquisition of point air defense for ground-launched cruise missile bases in Europe, \$10,000,000.

For acquisition of point air defense of United States airbases in Turkey, \$10,000,000.

(b) None of the amounts appropriated pursuant to the authorizations in subsection (a) may be obligated—

(1) for implementation of a cooperative program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a copy of each government-to-government agreement relating to that program; or

(2) for acquisitions in connection with a NATO cooperative program in which the financial obligations of the United States exceed the collective financial obligations of European countries in connection with such program.

EXTENSION OF AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 106. Effective on October 1, 1984, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1984" each place it appears and inserting in lieu thereof "fiscal year 1985".

Effective date.

LIMITATION ON WAIVERS OF COST-RECOVERY REQUIREMENTS UNDER
ARMS EXPORT CONTROL ACT

22 USC 2761. SEC. 107. The authority of the President under section 21(e)(2) of
97 Stat. 1450. the Arms Export Control Act may be exercised without regard to
the limitation imposed by section 762A of the Department of
Defense Appropriation Act, 1984 (Public Law 98-212).

WAIVER OF LIMITATION ON FOREIGN MILITARY SALES PROGRAM

22 USC 2751 SEC. 108. The Arms Export Control Act shall be administered as if
note. section 743A of the Department of Defense Appropriation Act, 1984
97 Stat. 1446. (Public Law 98-212; 96 Stat. 1858), had not been enacted into law.

TRANSFER OF CERTAIN MILITARY EQUIPMENT OR DATA TO FOREIGN
COUNTRIES

97 Stat. 1450. SEC. 109. Section 765(c) of the Department of Defense Appropria-
tion Act, 1984 (Public Law 98-212), is hereby repealed.

POLICY CONCERNING ACQUISITION OF ADDITIONAL MX MISSILES

SEC. 110. (a) Subject to subsections (b) and (c), of the funds appropriated pursuant to the authorization of appropriations in section 103 for procurement of missiles for the Air Force, \$2,500,000,000 may be used for the MX missile program, including acquisition of not more than 21 additional operational MX missiles.

(b) Except as provided in subsection (c), none of the \$2,500,000,000 described in subsection (a) may be obligated for the procurement of additional operational MX missiles unless—

President of U.S.
Report.

(1) after March 1, 1985, the President submits to Congress a report described in subsection (e);

(2) a joint resolution approving the obligation of those funds is enacted as provided for in this section; and

(3) a second joint resolution is enacted as provided for in the Department of Defense Appropriation Act, 1985 (or in a joint resolution providing funds for the Department of Defense for fiscal year 1985), further approving the obligation of those funds.

(c) Of the \$2,500,000,000 described in subsection (a), \$1,000,000,000 may be obligated only for—

(1) procurement related to the deployment of the 21 MX missiles for which funds were authorized and appropriated for fiscal year 1984;

(2) advance procurement of parts and materials for the MX missile program and for the maintenance of the MX missile program contractor base; and

(3) spare parts for the MX missile program.

(d)(1) For the purpose of subsection (b)(2), "joint resolution" means only a joint resolution introduced after the date on which the report of the President under subsection (b)(1) is received by Congress the matter after the resolving clause of which is as follows: "That subject to the enactment (after the enactment of this joint resolution) of a joint resolution further approving the obligation of such funds, the Congress approves the obligation of funds appropriated for fiscal year 1985 for the procurement of additional operational MX missiles (in addition to the funds previously authorized to be obligated)."

(2) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(3) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a joint resolution approving the further obligation of funds for the procurement of operational MX missiles as provided for in the Department of Defense Appropriation Act, 1985 (or in a joint resolution providing funds for the Department of Defense for fiscal year 1985), whichever is earlier, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(6) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supercedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Report.
President of U.S.

(e) A report under subsection (b)(1) shall include—

(1) a statement that the President has determined that further acquisition of operational missiles under the MX missile program is in the national security interest of the United States and is consistent with United States arms control policy;

(2) findings of the President concerning the effect of the acquisition and deployment of such missiles on the vulnerability of the United States land-based intercontinental ballistic missile force;

(3) a discussion of the basing mode for the MX missile (and related improvements in silo-hardening technology) and of proposals for the basing mode for the small, single-warhead intercontinental ballistic missile; and

(4) to the extent not covered under paragraphs (1) through (3), the assessment of the President submitted pursuant to subsection (g)(2).

(f) Obligation for the MX missile program of funds appropriated for fiscal year 1985 is subject to section 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 693).

(g)(1) Section 1231(e) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 694), is amended—

(A) by striking out “the Committees on Armed Services of the Senate and House of Representatives” and inserting in lieu thereof “Congress”;

(B) by striking out “the date of the enactment of this Act” and inserting in lieu thereof “September 24, 1983,”;

(C) by striking out “and” at the end of clause (B);

(D) by striking out the period at the end of clause (C) and inserting in lieu thereof “; and”; and

(E) by adding at the end thereof the following new clause:

“(D) the progress of efforts to develop more survivable basing modes for the MX and other intercontinental missiles, including a new small mobile intercontinental ballistic missile.”

(2) The first assessment under section 1231(e) of the Department of Defense Authorization Act, 1984, submitted after the date of the enactment of this Act shall be submitted as part of the report described in subsection (e) (rather than coincident with any request

Supra.

for funds for the procurement of MX missiles submitted to Congress before the submission of that report).

PROHIBITION OF SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

SEC. 111. None of the funds appropriated pursuant to authorizations of appropriations in this title may be used for procurement of binary chemical munitions, including advanced procurement of long-lead components or for the establishment of a production base for such munitions.

STRATEGIC WEAPONS LOADER

SEC. 112. None of the funds appropriated to the Department of Defense may be obligated or expended for procurement of a new strategic weapons loader to meet the performance requirements for the B-1B bomber aircraft or the Advanced Technology Bomber aircraft until a contractor for such weapons loader has been determined after a competition.

FOREIGN MILITARY SALES OF AIR NATIONAL GUARD OA-37 AIRCRAFT

SEC. 113. It is the sense of Congress—

(1) that the Air Force should, at the earliest practicable date, provide modern replacement aircraft for those Air National Guard units currently using OA-37 Dragonfly aircraft in order to fulfill Forward Air Controller (FAC) mission of the Air National Guard; and

(2) that the United States should not sell or otherwise provide to any foreign country any OA-37 aircraft currently assigned to an Air National Guard unit unless the unit to which such aircraft is assigned is in the process of converting to the use of a more modern aircraft or unless the OA-37 aircraft to be sold or otherwise provided to a foreign country has been replaced with an OA-37 from the stocks of the Air Force.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

For the Army, \$4,546,675,000.

For the Navy (including the Marine Corps), \$9,409,596,000.

For the Air Force, \$13,547,311,000.

For the Defense Agencies, \$4,577,681,000, of which \$59,000,000 is authorized for the activities of the Director of Test and Evaluation.

(b) There is hereby authorized to be transferred to, and merged with, amounts appropriated for research and development for the Navy for fiscal year 1985 pursuant to the authorization of appropriations in subsection (a), to the extent provided in appropriation Acts, \$13,000,000 to be derived from amounts appropriated for fiscal year 1984 for research and development for the Navy remaining available for obligation.

(c) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1985 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

PROVISIONS RELATING TO ARMY PROGRAMS

Energy.
Motor vehicles.

SEC. 202. (a)(1) Of the amount authorized in section 201 for the Army, the sum of \$1,300,000 is available only for—

- (A) the purchase of new methanol cars;
- (B) establishing the reliability and durability of such vehicles in laboratory and fleet tests;
- (C) testing a percentage of the methanol fleet in cold weather environments; and
- (D) resolving related support functions for the safe and efficient storage, distribution, and the use of neat methanol fuel for such vehicles.

Report.

(2) Not later than September 30, 1985, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and House of Representatives a report on the progress of the methanol fuel program described in paragraph (1).

(b)(1) The Secretary of the Army shall proceed with the competitive development of a Joint Tactical Missile System having the following design goals:

- (A) A maximum range of 200 kilometers.
- (B) A payload at maximum range of 1,000 pounds.

(2) In the development of the Joint Tactical Missile System, the Secretary of the Army shall make maximum use of proven missile system technology with the objective of completing the competitive full-scale engineering development of the system by July 1, 1987.

Report.

(3) Not later than January 1 of 1985, 1986, and 1987, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress of the development of the system referred to in paragraph (1).

LIMITATIONS ON FUNDS FOR THE NAVY

SEC. 203. (a) Of the amount authorized in section 201 for the Navy (including the Marine Corps)—

(1) \$45,000,000 is available only for continued development of the Rankine-Cycle Energy Recovery (RACER) system to ensure compatibility of the RACER system with all ships of the DDG-51 class, including the lead ship;

(2) \$25,016,000 is available only for the development of a derivative of the Navy SH-60 helicopter for the aircraft carrier inner-zone anti-submarine warfare helicopter mission;

(3) \$37,795,000 is available only for the Mark 92 fire control system;

(4) \$30,000,000 is available only for advanced submarine technology initiatives to enhance the effectiveness of the Navy new design attack submarine designated SSN-X and subsequent submarines;

(5) \$42,422,000 is available only for continued development of the low cost anti-radiation guidance and control system for the

High-Speed Anti-Radiation Missile (HARM) and other delivery vehicles;

(6) \$6,000,000 is available only for the development of the rotary engine for Army, Navy, and Marine Corps applications;

(7) \$26,603,000 is available only for the development of the Vertical Launch Anti-Submarine Rocket system; and

(8) \$2,500,000 is available only for the development of the Submarine Laser Communication System.

(b) Of the amount authorized in section 201 for the Navy, not more than \$100,000,000 may be obligated or expended for research and development of the new design submarine and its associated programs and projects unless and until the Secretary of the Navy provides to the Committees on Armed Services of the Senate and House of Representatives written certification that, based on current national intelligence estimates approved by the Director of Central Intelligence, the new design attack submarine will be capable under operational conditions of engaging the known Soviet submarine threat.

LIMITATIONS ON FUNDS FOR THE AIR FORCE

SEC. 204. Of the amount authorized in section 201 for the Air Force—

(1) \$129,285,000 is available only for development of the C-17 cargo transport aircraft;

(2) \$2,000,000 is available only to complete test and evaluation of the C-5 cargo transport aircraft; and

(3) \$4,000,000 is available only for continued development of the low cost anti-radiation guidance and control system for the High-Speed Anti-Radiation Missile (HARM) and other delivery vehicles.

POLICY GOVERNING THE TEST OF ANTI-SATELLITE WARHEADS

SEC. 205. Section 1235 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 695), is amended to read as follows:

President of U.S.
10 USC 139 note.

“POLICY GOVERNING THE TEST OF ANTI-SATELLITE WARHEADS

“SEC. 1235. (a) Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test against an object in space the miniature homing vehicle (MHV) anti-satellite warhead launched from an F-15 aircraft unless the President determines and certifies to Congress—

“(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on anti-satellite weapons consistent with the national security interests of the United States;

“(2) that, pending agreement on such strict limitations, testing against objects in space of the F-15 launched miniature homing vehicle anti-satellite warhead by the United States is necessary to avert clear and irrevocable harm to the national security;

“(3) that such testing would not constitute an irreversible step that would gravely impair prospects for negotiations on anti-satellite weapons; and

23 UST 3435.

“(4) that such testing is fully consistent with the rights and obligations of the United States under the Anti-Ballistic Missile Treaty of 1972 as those rights and obligations exist at the time of such testing.

Prohibition.

“(b) During fiscal year 1985, funds appropriated for the purpose of testing the F-15 launched miniature homing vehicle anti-satellite warhead may not be used to conduct more than two successful tests of that warhead against objects in space.

“(c) The limitation on the expenditure of funds provided by subsection (a) shall cease to apply 15 calendar days after the date of the receipt by Congress of the certification referred to in subsection (a).”.

LIMITATION ON FUNDS FOR THE DEFENSE AGENCIES

SEC. 206. Of the amount authorized in section 201 for the Defense Agencies—

(1) \$35,000,000 is available only for the Strategic Laser Communication Technology program; and

(2) \$10,000,000 is available only for the application of free electron laser technology for medical research.

IMPLEMENTATION OF LAW TO ESTABLISH INDEPENDENT DIRECTOR OF OPERATIONAL TEST AND EVALUATION

SEC. 207. Of the amount appropriated for the activities of the Director of Test and Evaluation of the Department of Defense pursuant to the authorization of appropriations in section 201 (including activities relating to foreign weapons evaluation), not more than \$20,000,000 may be obligated or expended until—

(1) the President appoints, by and with the advice and consent of the Senate, an individual to be the Director of Operational Test and Evaluation of the Department of Defense; and

(2) the Secretary of Defense establishes within the Department of Defense the organizational structure for the Office of the Director of Operational Test and Evaluation, as provided for under section 136a of title 10, United States Code.

97 Stat. 684.

TITLE III—OPERATION AND MAINTENANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) ARMY.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$18,626,623,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army as follows:

(1) For general purpose forces, \$6,531,066,000.

(2) For intelligence and communications, \$1,189,739,000.

(3) For central supply and maintenance, \$5,350,590,000.

(4) For training, medical, and other general personnel activities, \$4,149,964,000.

(5) For administration, \$1,212,090,000.

(6) For support of other nations, \$193,174,000.

(b) **NAVY.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$25,449,923,000 for expenses, not otherwise provided for, for the operation and maintenance of the Navy and the Marine Corps as follows:

- (1) For strategic forces, \$2,257,821,000.
- (2) For general purpose forces, \$12,062,668,000.
- (3) For intelligence and communications, \$1,122,038,000.
- (4) For airlift and sealift, \$561,526,000.
- (5) For central supply and maintenance, \$6,397,666,000.
- (6) For training, medical, and other general personnel activities, \$2,356,457,000.
- (7) For administration, \$689,235,000.
- (8) For support of other nations, \$2,512,000.

(c) **MARINE CORPS.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$1,648,169,000 for expenses, not otherwise provided for, for the operation and maintenance of the Marine Corps as follows:

- (1) For general purpose forces, \$904,152,000.
- (2) For central supply and maintenance, \$395,425,000.
- (3) For training, medical, and other general personnel activities, \$238,574,000.
- (4) For administration, \$110,018,000.

(d) **AIR FORCE.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$19,528,869,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air Force as follows:

- (1) For strategic forces, \$3,175,540,000.
- (2) For general purpose forces, \$4,021,426,000.
- (3) For intelligence and communications, \$2,155,522,000.
- (4) For airlift and sealift, \$1,267,807,000.
- (5) For central supply and maintenance, \$6,299,250,000.
- (6) For training, medical, and other general personnel activities, \$2,042,959,000.
- (7) For administration, \$558,323,000.
- (8) For support of other nations, \$8,042,000.

(e) **DEFENSE AGENCIES.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$7,127,752,000 for expenses, not otherwise provided for, for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments) as follows:

- (1) For general purpose forces, \$324,227,000.
- (2) For intelligence and communications, \$2,530,570,000.
- (3) For central supply and maintenance, \$1,644,460,000.
- (4) For training, medical, and other general personnel activities, \$2,163,411,000.
- (5) For administration, \$465,084,000.

(f) **ARMY RESERVE.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$724,900,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army Reserve as follows:

- (1) For mission forces, \$408,274,000.
- (2) For depot maintenance, \$8,656,000.
- (3) For other support, \$307,970,000.

(g) **NAVAL RESERVE.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$833,681,000 for expenses, not otherwise provided for, for the operation and maintenance of the Naval Reserve as follows:

- (1) For mission forces, \$480,651,000.
- (2) For depot maintenance, \$149,426,000.
- (3) For other support, \$203,604,000.

(h) **MARINE CORPS RESERVE.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$58,642,000 for expenses, not otherwise provided for, for the operation and maintenance of the Marine Corps Reserve as follows:

- (1) For mission forces, \$29,106,000.
- (2) For depot maintenance, \$1,665,000.
- (3) For other support, \$27,871,000.

(i) **AIR FORCE RESERVE.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$872,661,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air Force Reserve as follows:

- (1) For mission forces, \$569,230,000.
- (2) For depot maintenance, \$154,212,000.
- (3) For other support, \$149,219,000.

(j) **ARMY NATIONAL GUARD.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$1,437,743,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army National Guard as follows:

- (1) For training operations, \$228,535,000.
- (2) For logistic support, \$1,080,770,000.
- (3) For headquarters and command support, \$117,429,000.
- (4) For medical support, \$11,009,000.

(k) **AIR NATIONAL GUARD.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$1,814,248,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air National Guard as follows:

- (1) For mission forces, \$1,339,637,000.
- (2) For depot maintenance, \$350,793,000.
- (3) For other support, \$123,818,000.

(l) **NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY.**—There is hereby authorized to be appropriated for fiscal year 1985 the total amount of \$914,000 for expenses of the Secretary of the Army, upon the recommendation of the National Board for the Promotion of Rifle Practice, under section 4308 of title 10, United States Code, and the expenses of the Secretary of the Army under sections 4309 and 4313 of such title.

(m) **CLAIMS, DEFENSE.**—There is hereby authorized to be appropriated for fiscal year 1985 the total amount of \$157,900,000 for payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions).

(n) **COURT OF MILITARY APPEALS, DEFENSE.**—There is hereby authorized to be appropriated for fiscal year 1985 the amount of \$3,416,000 for salaries and expenses for the United States Court of Military Appeals.

GENERAL AUTHORIZATION OF APPROPRIATIONS FOR PAY RAISES, FUEL COSTS, AND INFLATION ADJUSTMENTS

SEC. 302. There are authorized to be appropriated for fiscal year 1985, in addition to the amounts authorized to be appropriated in section 301, such sums as may be necessary—

- (1) for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the

Department of Defense whose compensation is provided for by funds authorized to be appropriated in section 301;

(2) for unbudgeted increases in fuel costs; and

(3) for increases as the result of inflation in the cost of activities authorized by section 301.

AUTHORIZATION OF APPROPRIATIONS FOR WORKING-CAPITAL FUNDS

SEC. 303. Funds are hereby authorized to be appropriated for fiscal year 1985 to provide capital for working-capital funds of the Department of Defense in amounts as follows:

For the Army Stock Fund, \$366,448,000.

For the Navy Stock Fund, \$473,007,000.

For the Marine Corps Stock Fund, \$34,908,000.

For the Air Force Stock Fund, \$631,793,000.

For the Defense Stock Fund, \$130,700,000.

CONTINGENCY FUNDS FOR THE UNIFIED AND SPECIFIED COMMANDS

SEC. 304. The Secretary of Defense may make available to the Joint Chiefs of Staff, out of any funds appropriated pursuant to the authorizations contained in section 301 for the Army, Navy, Marine Corps, and Air Force, such sums as may be necessary to meet unforeseen and contingent requirements of the unified and specified commands of the Armed Forces.

SALE OF ARTICLES MANUFACTURED BY CERTAIN ARSENALS; ASSET CAPITALIZATION PROGRAM

SEC. 305. Section 2208 of title 10, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (k); and

(2) by inserting after subsection (h) the following new subsections:

“(i)(1) Regulations under subsection (h) may authorize an article manufactured by a working-capital funded Department of the Army arsenal that manufactures large caliber cannons, gun mounts, or recoil mechanisms to be sold to a person outside the Department of Defense if—

“(A) the article is sold to a United States manufacturer, assembler, or developer (i) for use in developing new products, or (ii) for incorporation into items to be sold to, or to be used in a contract with, an agency of the United States or a friendly foreign government;

“(B) the purchaser is determined by the Department of Defense to be qualified to carry out the proposed work involving the article to be purchased;

“(C) the article is not readily available from a commercial source in the United States; and

“(D) the sale is to be made on a basis that does not interfere with performance of work by the arsenal for the Department of Defense or for a contractor of the Department of Defense.

“(2) Services related to an article sold under this subsection may also be sold to the purchaser if the services are to be performed in the United States for the purchaser.

“(3) Nothing in this subsection shall be construed to affect the application of the export controls provided for in section 38 of the

22 USC 2778.

Arms Export Control Act to items which incorporate or are produced through the use of an article sold under this subsection.

"(j) The Secretary of Defense shall provide that of the total amount of payments received in a fiscal year by funds established under this section for industrial-type activities, not less than 3 percent during fiscal year 1985, not less than 4 percent during fiscal year 1986, and not less than 5 percent during fiscal year 1987 shall be used for the acquisition of capital equipment for such activities."

ADMINISTRATIVE TRANSITION PROVISION FOR NAVY STOCK FUND MANAGEMENT CHANGE

SEC. 306. (a) In the management of the Navy Stock Fund established under section 2208 of title 10, United States Code, the Secretary of the Navy may provide for a withdrawal credit to be made by the stock fund to the current applicable appropriation accounts of an activity of the Navy in connection with the acquisition by that activity from the stock fund of supplies described in subsection (b). The amount of any such credit shall be the amount of the charge of the stock fund to the activity for the supplies.

(b) Subsection (a) applies in the case of the acquisition by an activity of the Navy from the Navy Stock Fund of supplies—

(1) that are aircraft components (or that are used in connection with aviation activities) that are repairable only at a repair depot; and

(2) that are capitalized into the Navy Stock Fund as a result of the management change effective on April 1, 1985, relating to depot-level repairable assets and that are charged to an activity of the Navy that is a customer of the Navy Stock Fund.

(c) A withdrawal credit may be made under this section without regard to the last sentence of section 2208(g) of title 10, United States Code.

LIMITATION ON CONTRACTING-OUT CORE LOGISTICS FUNCTIONS

SEC. 307. (a)(1) It is essential for the national defense that Department of Defense activities maintain a logistics capability (including personnel, equipment, and facilities) to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency situations, and other emergency requirements.

(2) The Secretary of Defense shall identify those logistics activities that are necessary to maintain the logistics capability described in paragraph (1).

(b)(1) Except as provided in paragraph (2), performance of a logistics activity identified by the Secretary under subsection (a)(2) may not be contracted for performance by non-Government personnel under the procedures and requirements of Office of Management and Budget Circular A-76 or any successor administrative regulation or policy (hereinafter in this section referred to as "OMB Circular A-76").

(2) The Secretary of Defense may waive paragraph (1) in the case of any logistics activity and provide that performance of such activity shall be considered for conversion to contractor performance in accordance with OMB Circular A-76. Any such waiver shall be made under regulations prescribed by the Secretary and shall be based on a determination by the Secretary that Government per-

Defense and
national
security.
10 USC 2304
note.

Waiver.

Regulations.

formance of the activity is no longer required for national defense reasons. Such regulations shall include criteria for determining whether Government performance of a logistics activity identified under subsection (a)(2) is no longer required for national defense reasons.

(3) A waiver under paragraph (2) may not take effect until—

Report.

(A) the Secretary has submitted a report on the waiver to the Committees on Armed Services of the Senate and House of Representatives; and

(B) a period of 20 days of continuous session of Congress or 40 calendar days has passed after the receipt of the report by those committees.

(4) For purposes of paragraph (3)(B), the continuity of a session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 30-day period.

(c) Identification of logistics activities that are necessary to maintain the logistics capability described in subsection (a)(1) shall be completed, and a report describing those activities (including a detailed specification or listing) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives, not later than April 1, 1985.

Report.

LIMITATION ON CONSULTING AND RELATED SERVICES

SEC. 308. Of the funds appropriated to or for the use of the Department of Defense for fiscal year 1985 pursuant to an authorization contained in this Act or any other law, not more than \$1,302,599,000 may be obligated or expended for consultants, studies and analyses, management support contracts, and contract systems and technical engineering.

RESTRICTION ON REDUCTION IN PORTS OF ORIGIN FOR CERTAIN CARGO CARRIED ON VESSELS OF THE MILITARY SEALIFT COMMAND

SEC. 309. (a)(1) Except as provided in subsection (b), funds appropriated to the Department of Defense pursuant to an authorization of appropriations in this Act may not be used to carry out a permanent consolidation or reduction, to a number less than the base number, in the number of ports at which cargo shipments originate that—

(A) are shipments of breakbulk cargo;

(B) are carried through the Panama Canal on vessels operated by or for the Military Sealift Command; and

(C) have a destination at a port on the Pacific Ocean outside the continental United States.

(2) For the purposes of paragraph (1), the base number is the number of ports which were being used to originate cargo shipments described in paragraph (1) as of January 1, 1984.

(b) The limitation in subsection (a) shall cease to apply with respect to a proposed consolidation or reduction 30 days after the date on which Congress receives a report from the Secretary of Defense describing the proposed consolidation or reduction, but not before February 1, 1985.

Expiration date.

SENSE OF CONGRESS CONCERNING INTRODUCTION OF UNITED STATES
ARMED FORCES INTO CENTRAL AMERICA FOR COMBAT

50 USC 1541
note.
President of U.S.

SEC. 310. (a) The Congress makes the following findings:

(1) The President has stated that there is no need to introduce United States Armed Forces into Central America for combat and that he has no intention of doing so.

El Salvador.

(2) The President of El Salvador has stated that there is no need for United States Armed Forces to conduct combat operations in El Salvador and that he has no intention of asking that they do so.

(3) The possibility of the introduction of United States Armed Forces into Central America for combat raises very grave concern in the Congress and the American people.

(b) It is the sense of Congress that—

(1) United States Armed Forces should not be introduced into or over the countries of Central America for combat; and

(2) if circumstances change from those present on the date of the enactment of this Act and the President believes that those changed circumstances require the introduction of United States Armed Forces into or over a country of Central America for combat, the President should consult with Congress before any decision to so introduce United States Armed Forces and any such introduction of United States Armed Forces must comply with the War Powers Resolution.

50 USC 1541
note.

TITLE IV—PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 401. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1985, as follows:

- (1) The Army, 780,800.
- (2) The Navy, 571,300.
- (3) The Marine Corps, 198,300.
- (4) The Air Force, 602,070.

EXTENSION OF QUALITY CONTROL ON ENLISTMENTS INTO THE ARMY

97 Stat. 629.

SEC. 402. Effective on October 1, 1984, section 302(a) of the Department of Defense Authorization Act, 1981 (10 U.S.C. 520 note), is amended by striking out "October 1, 1983" and "September 30, 1984" and inserting in lieu thereof "October 1, 1984" and "September 30, 1985", respectively.

PART B—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS FOR SELECTED RESERVE

10 USC 261 note.

SEC. 411. (a) For fiscal year 1985 the Selected Reserve of the reserve components of the Armed Forces shall be programed to attain average strengths of not less than the following:

- (1) The Army National Guard of the United States, 435,117.
- (2) The Army Reserve, 284,073.
- (3) The Naval Reserve, 124,100.
- (4) The Marine Corps Reserve, 44,300.

(5) The Air National Guard of the United States, 105,438.

(6) The Air Force Reserve, 72,900.

(7) The Coast Guard Reserve, 12,500.

(b) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

(c) The Secretary of the Air Force shall use the personnel strength for the Air National Guard of the United States authorized by subsection (a) to establish and maintain in the Air National Guard of the United States during fiscal year 1985 not less than 91 flying units.

**AUTHORIZATION OF END STRENGTHS FOR MEMBERS ON ACTIVE DUTY IN
SUPPORT OF THE RESERVE COMPONENTS**

SEC. 412. (a) Within the average strengths prescribed in section 411, the reserve components of the Armed Forces and the National Guard are authorized, as of September 30, 1985, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components or the National Guard:

(1) The Army National Guard and the Army National Guard of the United States, 20,583.

(2) The Army Reserve, 10,700.

(3) The Naval Reserve, 15,210.

(4) The Marine Corps Reserve, 1,129.

(5) The Air National Guard and the Air National Guard of the United States, 7,024.

(6) The Air Force Reserve, 623.

(b) Upon a determination by the Secretary of Defense that such action is in the national interest, the end strengths prescribed by subsection (a) may be increased by a total of not more than the number equal to 2 percent of the total end strengths prescribed.

**INCREASE IN NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON
ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS**

SEC. 413. (a) The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	517	156	87	9
E-8	2,295	381	455	74".

10 USC 524.

(b) The table in section 524(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or lieutenant commander	2,261	823	471	100
Lieutenant colonel or commander	1,121	520	293	50
Colonel or Navy captain	345	177	172	25".

Effective date.
10 USC 517 note.

(c) The amendments made by subsections (a) and (b) shall take effect on October 1, 1984.

**CLARIFICATION OF STATUS OF MEMBERS OF THE NATIONAL GUARD
PERFORMING FULL-TIME DUTY**

SEC. 414. (a)(1) Section 101 of title 10, United States Code, is amended—

(A) by adding at the end of paragraph (22) the following new sentence: "It does not include full-time National Guard duty.";

(B) by inserting "or full-time National Guard duty" after "active duty" in paragraph (24); and

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

"(42) 'Full-time National Guard duty' means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of title 32 for which the member is entitled to pay from the United States or for which the member has waived pay from the United States."

10 USC 517.

(2) Section 517(b) of such title is amended—

(A) by inserting "(other than for training) or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training)" after "on active duty";

(B) by striking out "of the armed forces" and inserting in lieu thereof "or the National Guard"; and

(C) by striking out "prescribed for the grade and the armed force" and inserting in lieu thereof "for that grade and armed force".

10 USC 523.

(3) Section 523(b)(1) of such title is amended—

(A) by striking out "or section 502 or 503 of title 32" in clause (C);

(B) by striking out "or" at the end of clause (D);

(C) by striking out the period at the end of clause (E) and inserting in lieu thereof "; or"; and

(D) by adding at the end thereof the following:

"(F) on full-time National Guard duty."

10 USC 524.

(4)(A) Subsection (a) of section 524 of such title is amended—

(i) by inserting "or full-time National Guard duty" after "active duty" the first place it appears; and

(ii) by inserting "or full-time National Guard duty (other than for training) under section 502(f) of title 32" after "of this title".

(B)(i) The heading of such section is amended to read as follows:

"§ 524. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain".

(ii) The item relating to such section in the table of sections at the beginning of chapter 32 of such title to read as follows:

"524. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain."

(5) Section 641(1) of such title is amended—

(A) by striking out "or under section 502 or 503 of title 32" in clause (C);

(B) by striking out "or" at the end of clause (E);

(C) by striking out the period at the end of the clause (F) and inserting in lieu thereof "; or"; and

(D) by adding at the end thereof the following:

"(G) on full-time National Guard duty."

(6) Section 976(a)(1) is amended by striking out "or (B)" and inserting in lieu thereof ", (B) a member of the National Guard who is serving on full-time National Guard duty, or (C)".

(7)(A) Section 3686(2) of such title is amended to read as follows:

"(2) full-time National Guard duty performed by a member of the Army National Guard of the United States shall be deemed to be active duty in Federal service as a Reserve of the Army, except that for purposes of title 38 such duty shall be considered to be active duty for training; and"

(B) Section 8686(2) of such title is amended to read as follows:

"(2) full-time National Guard duty performed by a member of the Air National Guard of the United States shall be deemed to be active duty in Federal service as a Reserve of the Air Force, except that for purposes of title 38 such duty shall be considered to be active duty for training; and"

(b)(1) Section 101 of title 32, United States Code, is amended—

(A) by adding at the end of paragraph (12) the following new sentence: "It does not include full-time National Guard duty."; and

(B) by adding at the end thereof the following new paragraph:

"(19) 'Full-time National Guard duty' means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of this title for which the member is entitled to pay from the United States or for which the member has waived pay from the United States."

(2)(A) Section 335 of such title is repealed.

(B) The table of sections at the beginning of chapter 3 of such title is amended by striking out the item relating to section 335.

10 USC 641.

10 USC 976.

10 USC 3686.

10 USC 8686.

32 USC 316,
502-505.

Repeal.
97 Stat. 632.

(c) Section 101(18) of title 37, United States Code, is amended by inserting "full-time National Guard duty," after "annual training duty,".

PART C—MILITARY TRAINING

AUTHORIZATION OF MILITARY TRAINING STUDENT LOADS

SEC. 421. (a) For fiscal year 1985, the components of the Armed Forces are authorized average military training student loads as follows:

- (1) The Army, 76,920.
- (2) The Navy, 69,116.
- (3) The Marine Corps, 21,186.
- (4) The Air Force, 46,592.
- (5) The Army National Guard of the United States, 18,338.
- (6) The Army Reserve, 15,994.
- (7) The Naval Reserve, 3,389.
- (8) The Marine Corps Reserve, 3,941.
- (9) The Air National Guard of the United States, 2,990.
- (10) The Air Force Reserve, 2,099.

Ante, p. 2516.

(b) The average military training student loads authorized in subsection (a) shall be adjusted consistent with the personnel strengths authorized in parts A and B of this title. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

REDUCTION IN NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS FOR THE UNIT TO BE MAINTAINED

SEC. 422. Section 2031(b) of title 10, United States Code, is amended—

(1) by striking out clause (1) and inserting in lieu thereof the following:

"(1) the number of physically fit students in such unit who are at least 14 years of age and are citizens or nationals of the United States is not less than (A) 10 percent of the number of students enrolled in the institution who are at least 14 years of age, or (B) 100, whichever is less;"

(2) by striking out "and" at the end of clause (3);

(3) by striking out the period at the end of clause (4) and inserting in lieu thereof "; and "; and

(4) by adding at the end thereof the following new clause:

"(5) the unit meets such other requirements as may be established by the Secretary of the military department concerned."

TITLE V—DEFENSE PERSONNEL MANAGEMENT

PART A—CIVILIAN PERSONNEL

WAIVER OF CIVILIAN PERSONNEL CEILINGS FOR FISCAL YEAR 1985

SEC. 501. (a) The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1985 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1985, the civilian personnel of the Department of Defense may not be managed on the basis of any end-

strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an "end-strength") on the number of such personnel who may be employed on the last day of such fiscal year.

(c) Not later than March 1, 1985, the Secretary of Defense and the Director of the Office of Management and Budget shall each submit to the Committees on Armed Services of the Senate and House of Representatives a report on the experience of the Department of Defense during fiscal year 1985 (to the date of the report) concerning the management of civilian personnel of the Department without a congressionally imposed civilian end strength and with a statutory prohibition on the management during that fiscal year of such civilian personnel by end strength. Each such report shall include the views of the Secretary or Director, as appropriate, with respect to the desirability of managing such personnel in such a manner.

Report.

CIVILIAN PERSONNEL CEILINGS ON INDUSTRIALLY-FUNDED ACTIVITIES DURING FISCAL YEAR 1984

SEC. 502. In computing the authorized strength for civilian personnel prescribed in section 601(a) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 632), any increase during fiscal year 1984 in the number of civilian personnel of industrially-funded activities of the Department of Defense in excess of the number of civilian personnel employed in such activities on September 30, 1982, shall not be counted.

PART B—OFFICER PERSONNEL

TEMPORARY INCREASE IN THE NUMBER OF GENERAL AND FLAG OFFICERS AUTHORIZED TO BE ON ACTIVE DUTY

SEC. 511. (a) During fiscal year 1985, the number of officers of the Air Force authorized under section 525(b)(1) of title 10, United States Code, to be serving on active duty in the grade of general is increased by one.

10 USC 525 note.

(b) During fiscal year 1985, the number of officers of the Navy authorized under section 525(b)(2) of title 10, United States Code, to be serving on active duty in a grade above rear admiral is increased by three. None of the additional officers in grades above rear admiral by reason of this subsection may be in the grade of admiral.

(c) During fiscal year 1985, the number of officers of the Marine Corps authorized under section 525(b)(1) of title 10, United States Code, to be serving on active duty in grades above major general is increased by one, plus an additional one during any period of that fiscal year that an officer of the Marine Corps is serving as the Commander-in-Chief of the United States Central Command. An additional officer in a grade above major general by reason of this subsection may not be in the grade of general.

AUTHORITY TO CONSIDER FOR PROMOTION CERTAIN ARMY RESERVE BRIGADIER GENERALS

SEC. 512. Section 3364(e) of title 10, United States Code, is amended by adding at the end thereof the following new sentence: "However, the Secretary may waive the preceding sentence and any other provision of this subtitle relating to the required status of officers eligible to be considered for promotion in order to permit consider-

ation for promotion to the reserve grade of major general of an officer in the reserve grade of brigadier general—

10 USC 3375.

“(1) who is in an inactive status pursuant to a transfer to the inactive status list under section 3375(2) of this title and who has been on that list for less than one year; or

“(2) who has been in an active status for less than one year, if the officer was returned to that status from a transfer to the inactive status list under section 3375(2) of this title.”.

AUTHORITY TO RETAIN IN ACTIVE STATUS UNTIL AGE 60 UP TO 10 ARMY RESERVE BRIGADIER GENERALS

SEC. 513. Section 3851 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d) and by striking out “of this section” in such subsection; and

(2) by inserting after subsection (b) the following new subsection:

“(c) Notwithstanding subsections (a) and (b), the Secretary of the Army may authorize the retention in an active status until age 60 of an officer in the reserve grade of brigadier general who would otherwise be removed from an active status under this section, except that not more than 10 officers may be retained under this subsection at any time.”.

EXTENSION OF AUTHORITY FOR THE TEMPORARY PROMOTION OF CERTAIN NAVY LIEUTENANTS

97 Stat. 629.

SEC. 514. Section 5721(f) of title 10, United States Code, is amended by striking out “September 30, 1984” and inserting in lieu thereof “September 30, 1986”.

REPEAL OF FOUR-YEAR LIMITATION ON PERIOD AN OFFICER MAY BE ASSIGNED TO THE ARMY STAFF OR THE AIR STAFF

Effective date.

SEC. 515. Effective on October 1, 1984, sections 3031(d) and 8031(d) of title 10, United States Code, are repealed.

PART C—AMENDMENTS TO PROVISIONS OF LAW ENACTED BY THE DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

RETENTION IN GRADE OF OFFICERS APPOINTED IN RESERVES UPON SEPARATING FROM ACTIVE DUTY

97 Stat. 666.

SEC. 521. (a) Section 3359 of title 10, United States Code, is amended—

(1) by striking out “subsection (b)” in subsection (a) and inserting “subsections (b) and (c)”; and

(2) by adding at the end thereof the following new subsection:

“(c) Under regulations prescribed by the Secretary concerned, a person who is originally appointed as a reserve officer of the Army and who is a former commissioned officer may be appointed in the reserve grade equivalent to the grade held by that person when discharged or separated and may be credited with time in that grade for promotion purposes equal to the time in grade held by that person when discharged or separated.”.

97 Stat. 666.

(b) Section 8359 of such title is amended—

(1) by striking out "subsection (b)" in subsection (a) and inserting "subsections (b) and (c)"; and

(2) by adding at the end thereof the following new subsection:

"(c) Under regulations prescribed by the Secretary concerned, a person who is originally appointed as a reserve officer of the Air Force and who is a former commissioned officer may be appointed in the reserve grade equivalent to the grade held by that person when discharged or separated and may be credited with time in that grade for promotion purposes equal to the time in grade held by that person when discharged or separated."

(c)(1) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer of the Army or Air Force originally appointed after September 14, 1981, who at the time of that appointment was a former commissioned officer and who was appointed in a reserve grade lower than the grade held by that person when discharged may be appointed in the reserve grade equivalent to the officer's former grade.

10 USC 3559
note.

(2) An original reserve appointment in the Army or the Air Force of a person who (at the time of the appointment) was a former commissioned officer which (A) was made during the period beginning on September 15, 1981, and ending on the day before the date of the enactment of this Act, and (B) was made in a grade formerly held by that person shall be considered to have been a valid appointment at the time made, and any officer who received such an appointment is entitled to all the rights, privileges, and benefits of the grade to which appointed as of the original date of that appointment.

INCREASE IN LIMITATION ON NUMBER OF REGULAR OFFICERS IN THE NAVY, AIR FORCE, AND MARINE CORPS

SEC. 522. Section 522 of title 10, United States Code, is amended by striking out "48,000", "69,425", and "13,000" and inserting in lieu thereof "55,000", "80,000", and "17,000", respectively.

CLARIFICATION OF SENIOR GENERAL AND FLAG OFFICERS CONTINUATION IN GRADE DURING A CHANGE IN STATUS

SEC. 523. Section 601(b) of title 10, United States Code, is amended to read as follows:

"(b) An officer who is appointed to the grade of general, admiral, lieutenant general, or vice admiral for service in a position of importance and responsibility designated to carry that grade shall continue to hold that grade—

"(1) while serving in that position of importance and responsibility;

"(2) while under orders transferring him to another position designating to carry one of those grades, beginning on the day his assignment to the first position is terminated and ending on the day before the day on which he assumes the second position;

"(3) while hospitalized, beginning on the day of the hospitalization and ending on the day he is discharged from the hospital, but not for more than 180 days; and

"(4) while awaiting retirement, beginning on the day he is relieved from the position designated to carry one of those grades and ending on the day before his retirement, but not for more than 90 days."

**AUTHORITY TO USE MEANS OTHER THAN BOARDS TO DECIDE WHETHER
AN OFFICER SHOULD BE REQUIRED TO SHOW CAUSE FOR RETENTION**

SEC. 524. (a) Section 618(b)(2) of title 10, United States Code, is amended to read as follows:

"(2) If the report of a selection board names an officer as having a record which indicates that the officer should be required to show cause for his retention on active duty, the Secretary concerned may provide for the review of the record of that officer as provided for under regulations prescribed under section 1181 of this title."

10 USC 1181.

(b)(1) Section 1181 of such title is amended to read as follows:

Regulations.

"§1181. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons

"(a) Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps to determine whether such officer shall be required, because his performance of duty has fallen below standards prescribed by the Secretary of Defense, to show cause for his retention on active duty.

"(b) Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps to determine whether such officer should be required, because of misconduct, because of moral or professional dereliction, or because his retention is not clearly consistent with the interests of national security, to show cause for his retention on active duty."

(2) The item relating to section 1181 in the table of sections at the beginning of chapter 60 of such title is amended to read as follows:

"1181. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons."

Effective date.
10 USC 1181
note.

(3) The amendments made by paragraphs (1) and (2) shall take effect on the first day of the first month that begins more than 60 days after the date of the enactment of this Act, but shall not apply to any case in which, before that date, a board of officers has been ordered to convene under the provisions of section 1181 of title 10, United States Code, as in effect before that date.

Supra.

**REMOVAL FROM FURTHER CONSIDERATION FOR PROMOTION OF OFFICERS
IN PAY GRADE O-2 WHO HAVE TWICE FAILED OF SELECTION FOR PROMOTION**

SEC. 525. (a) Subsection (b) of section 619 of title 10, United States Code, is amended—

(1) by striking out "An officer" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an officer"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Paragraph (1) does not apply to a regular officer who is ineligible for consideration for promotion under section 631(c) of this title or to a reserve officer who has failed of selection for promotion

to the grade of captain or, in the case of an officer of the Navy, lieutenant for the second time.”.

(b) Subsection (c)(2) of such section is amended—

(1) by striking out “and” at the end of clause (B);

(2) by striking out the period at the end of clause (C) and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following new clause:

“(D) may, by regulation, preclude from consideration by a selection board by which he would otherwise be eligible to be considered, an officer who has an established separation date that is within 90 days after the date the board is convened.”.

(c) Section 631 of such title is amended by adding at the end thereof the following new subsection: 10 USC 631.

“(c) An officer who is subject to discharge under subsection (a)(1) is not eligible for further consideration for promotion.”.

DETERMINATION OF DATE OF RANK FOR OFFICERS WHOSE PROMOTIONS ARE DELAYED ADMINISTRATIVELY

SEC. 526. Paragraphs (1) and (2) of section 624(d) of title 10, United States Code, are each amended by striking out the period at the end and inserting in lieu thereof “, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the active-duty list as the Secretary considers appropriate under the circumstances.”.

SPECIAL SELECTION BOARDS FOR WARRANT OFFICERS

SEC. 527. (a) Subsections (a)(1) and (b)(1) of section 628 of title 10, United States Code, are amended by striking out “(composed in accordance with section 612 of this title)” and inserting in lieu thereof “(composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 558 of this title and regulations prescribed by the Secretary of the military department concerned)”.

(b) Section 641 of such title is amended by striking out “(other than section 640)” and inserting in lieu thereof “(other than section 640 and, in the case of warrant officers, section 628)”. 10 USC 641.

AUTHORITY TO DISCHARGE RESERVE SECOND LIEUTENANTS AND ENSIGNS FOUND NOT QUALIFIED FOR PROMOTION

SEC. 528. (a) Section 1005 of title 10, United States Code, is amended—

(1) by striking out “A reserve commissioned officer, other than a commissioned warrant officer,” and inserting in lieu thereof “(a) Except as provided in subsection (b), a reserve commissioned officer”;

(2) by striking out the comma after “any other provision of law”; and

(3) by adding at the end thereof the following new subsection:

“(b) Subsection (a) does not prevent the discharge or transfer from an active status of—

“(1) a commissioned warrant officer; or

“(2) an officer on the active-duty list who is found not qualified for promotion to the grade of first lieutenant, in the case of

an officer of the Army, Air Force, or Marine Corps, or lieutenant (junior grade), in the case of an officer of the Navy.”.

10 USC 3819. (b) Section 3819 of such title is amended—

(1) by inserting “(a)” before “Except as provided”;

(2) by inserting “and not on the active-duty list” after “in an active status”; and

(3) by adding at the end thereof the following new subsection:

“(b) Except as provided by section 1006 of this title, each second lieutenant of the Army Reserve who is on the active-duty list of the Army and is found not qualified for promotion to the reserve grade of first lieutenant shall be discharged from his reserve appointment not later than the end of the 18-month period beginning on the date on which he is first found not qualified for promotion to that grade, unless he is promoted to that grade before the end of that period.”.

10 USC 6389. (c) Section 6389 of such title is amended by adding at the end thereof the following new subsection:

“(g) An officer in an active status in the Naval Reserve in the permanent grade of ensign who is found not qualified for promotion to the grade of lieutenant (junior grade), and an officer in an active status in the Marine Corps Reserve in the permanent grade of second lieutenant who is found not qualified for promotion to the grade of first lieutenant, may (unless he is sooner promoted) be eliminated from an active status.”.

10 USC 8819. (d) Section 8819 of such title is amended by adding at the end thereof the following new subsection:

“(c) Except as provided by section 1006 of this title, each second lieutenant of the Air Force Reserve who is on the active-duty list of the Air Force and is found not qualified for promotion to the reserve grade of first lieutenant shall be discharged from his reserve appointment not later than the end of the 18-month period beginning on the date on which he is first found not qualified for promotion to that grade, unless he is promoted to that grade before the end of that period.”.

NAVY LIMITED DUTY OFFICERS

SEC. 529. (a) Section 619(d)(2) of title 10, United States Code, is amended by striking out “Navy or” and “lieutenant commander or”.

10 USC 633. (b) Section 633 of such title is amended by striking out “Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies)” and inserting in lieu thereof “Except an officer of the Navy designated for limited duty to whom section 5596(e) of this title applies and an officer of the Marine Corps designated for limited duty to whom section 5596(e) or section 6383 of this title applies”.

10 USC 6383. (c)(1) Subsection (a) of section 6383 of such title is amended by striking out “each regular officer of the Navy or Marine Corps” and inserting in lieu thereof “each regular officer of the Navy who is an officer designated for limited duty and who is serving in a grade below the grade of commander and each regular officer of the Marine Corps who is an officer”.

(2) Subsection (d) of such section is amended by striking out “Each” and inserting in lieu thereof “Except as provided in subsection (i), each”.

(3) Subsection (i) of such section is amended—

(A) by inserting “or the discharge under subsection (d)” after “the retirement under subsection (a) or (b)”;

(B) by striking out the second sentence and inserting in lieu thereof the following: "An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 20 years active commissioned service, if in the grade of lieutenant or captain, beyond 24 years active commissioned service, if in the grade of lieutenant commander or major, or beyond 28 years active commissioned service, if in the grade of lieutenant colonel, or beyond age 62, whichever is earlier."

APPOINTMENT IN PERMANENT GRADE OF CERTAIN LIMITED DUTY
OFFICERS SERVING IN HIGHER TEMPORARY GRADES

SEC. 530. Section 616 of the Defense Officer Personnel Management Act (10 U.S.C. 611 note) is amended by adding at the end thereof the following new subsection:

"(c) An officer of the Navy or Marine Corps who on September 15, 1981, was an officer designated for limited duty under section 5589 of title 10, United States Code, and who on the date of the enactment of this subsection is serving in a temporary grade above the grade of lieutenant, in the case of an officer of the Navy, or captain, in the case of an officer of the Marine Corps, may be reappointed under section 5589 of title 10, United States Code (as in effect on or after September 15, 1981), in the same permanent grade and with the same date of rank held by that officer on the active-duty list immediately before such reappointment if he is otherwise eligible for appointment under that section."

DETERMINATION OF SEVERANCE PAY IN CERTAIN CASES

SEC. 531. Section 631 of the Defense Officer Personnel Management Act (10 U.S.C. 611 note) is amended—

(1) by striking out "the day before the effective date of this Act" each place it appears and inserting in lieu thereof "September 14, 1981,";

(2) by striking out "on or" in subsection (a)(2);

(3) by striking out the period at the end of subsection (a) and inserting in lieu thereof ", unless (in the case of a member discharged or released on or after the date of the enactment of the Department of Defense Authorization Act, 1985) the Secretary concerned determines that the conditions under which the member is discharged or separated do not warrant such pay.";

(4) by striking out "to whom subsection (a) applies is" in subsection (b) and inserting in lieu thereof "who is entitled to receive a readjustment payment or severance pay under subsection (a) is also"; and

(5) by striking out "a readjustment payment or" in subsection (b) and inserting in lieu thereof "the readjustment payment and".

Ante, p. 2492.

CONSIDERATION FOR PROMOTION OF CERTAIN RETIRED OFFICERS WHO
LATER SERVE ON ACTIVE DUTY

SEC. 532. (a) Title VI of the Defense Officer Personnel Management Act (10 U.S.C. 611 note) is amended by adding at the end of part C the following new section:

“SAVINGS PROVISION FOR PROMOTION CONSIDERATION OF CERTAIN
RETIRED OFFICERS

“SEC. 639. Notwithstanding sections 619, 620, and 641(4) of title 10, United States Code, a retired officer serving on active duty on the date of the enactment of this section who on September 14, 1981, was on active duty as a retired officer recalled to active duty and who—

“(1) was eligible for consideration for promotion on that date; and

“(2) has served continuously on active duty since that date, may be considered for promotion (under regulations prescribed by the Secretary of the military department concerned) by a selection board that convenes after the date of the enactment of this section as if he had been placed on the active-duty list pursuant to section 621 of this Act.”.

10 USC 611 note.

(b) The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 638 the following new item:

“Sec. 639. Savings provision for promotion consideration of certain retired officers.”

TECHNICAL AMENDMENTS

SEC. 533. (a) Paragraph (1) of section 645 of title 10, United States Code, is amended—

(1) in subparagraph (A), by inserting “(other than after having been placed on that list after a selection from below the promotion zone)” after “to that grade” in clauses (i)(II) and (ii)(II); and

(2) in subparagraph (B)—

(A) by inserting “in the promotion zone” after “the junior officer”; and

(B) by striking out “in the promotion zone” after “higher grade”.

10 USC 680.

(b) Section 680(b)(3) of such title is amended by inserting “, separation pay,” after “retired pay”.

10 USC 3964,
8964.

(c) Sections 3964 and 8964 of such title are amended by striking out “temporary”.

10 USC 4336.

(d)(1) Subsections (a) and (b) of section 4336 of such title are amended by striking out “when a regular officer” in the second sentence and all that follows through “grade of colonel,” and inserting in lieu thereof “on which he would have been promoted had he been selected for promotion from among officers in the promotion zone,”.

10 USC 9336.

(2) Subsections (a) and (b) of section 9336 of such title are amended by striking out “when a regular officer” in the second sentence and all that follows through “grade of colonel,” and inserting in lieu thereof “on which he would have been promoted had he been selected for promotion from among officers in the promotion zone,”.

10 USC 5891.

(e) Section 5891(c) of such title is amended by striking out “a lineal list” both places it appears and inserting in lieu thereof “the active-duty list”.

Repeal.

10 USC 6482.

(f)(1) Section 6482 of such title is repealed.

(2) The table of sections at the beginning of chapter 575 of such title is amended by striking out the item relating to section 6482.

(g) Section 404(c)(1)(B) of title 37, United States Code, is amended by inserting “separation pay or” before “severance pay” and before “readjustment pay”.

PART D—OFFICER TRAINING PROGRAMS

CLARIFICATION OF AUTHORITY TO ORDER CERTAIN CADETS AND
MIDSHIPMEN TO ACTIVE DUTY

SEC. 541. (a) Section 4348(a) of title 10, United States Code, is amended—

(1) by striking out “, unless sooner separated,” in the matter preceding clause (1);

(2) by inserting “unless sooner separated from the Academy,” in clause (1) before “complete the”; and

(3) by inserting “, unless sooner separated from the service,” in clause (2) before “serve” and in clause (3) before “remain”.

(b) Section 6959(a) of such title is amended—

10 USC 6959.

(1) by striking out “, unless sooner separated,” in the matter preceding clause (1);

(2) by inserting “unless sooner separated from the Naval Academy,” in clause (1) before “complete the”; and

(3) by inserting “, unless sooner separated from the naval service,” in clause (2) before “serve” and in clause (3) before “remain”.

(c) Section 9348(a) of title 10, United States Code, is amended—

10 USC 9348.

(1) by striking out “, unless sooner separated,” in the matter preceding clause (1);

(2) by inserting “unless sooner separated from the Academy,” in clause (1) before “complete the”; and

(3) by inserting “, unless sooner separated from the service,” in clause (2) before “serve” and in clause (3) before “remain”.

(d) The amendments made by this section shall apply with respect to agreements entered into under section 4348, 6959, or 9348 of title 10, United States Code, before, on, or after the date of the enactment of this Act.

Effective date.
10 USC 4348
note.

EXTENSION OF MILITARY SERVICE OBLIGATION OF SERVICE ACADEMY
AND ROTC CADETS AND MIDSHIPMEN

SEC. 542. (a) Section 2107(b)(5) of title 10, United States Code, is amended—

(1) by striking out the semicolon in subclause (A)(i) and inserting in lieu thereof “or before such other date, not beyond the eighth anniversary of the midshipman’s date of rank, that the Secretary of Defense may prescribe;” and

(2) by striking out “the sixth anniversary” in subclause (C)(ii) and inserting in lieu thereof “at least the sixth anniversary and, at the discretion of the Secretary of Defense, up to the eighth anniversary”.

(b) Section 4348(a)(3) of such title is amended by striking out “the sixth anniversary” and inserting in lieu thereof “at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary”.

10 USC 4348.

(c) Section 6959(a)(3) of such title is amended by striking out “the sixth anniversary” and inserting in lieu thereof “at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary”.

10 USC 6959.

(d) Section 9348(a)(3) of such title is amended by striking out “the sixth anniversary” and inserting in lieu thereof “at least the sixth

10 USC 9348.

anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary”.

ELIGIBILITY FOR ADVANCED TRAINING IN SENIOR ROTC PROGRAM

SEC. 543. (a) Section 2104 of title 10, United States Code, is amended—

(1) by striking out “, who have at least two academic years remaining at such educational institution” in subsection (a); and

(2) by striking out subsection (b)(6) and inserting in lieu thereof the following:

“(6) either—

“(A) complete successfully—

“(i) the first two years of a four-year Senior Reserve Officers’ Training Corps course; or

“(ii) field training or a practice cruise of not less than six weeks’ duration which is prescribed by the Secretary concerned as a preliminary requirement for admission to the advanced course; or

“(B) at the discretion of the Secretary concerned, agree in writing to complete field training or a practice cruise, as prescribed by the Secretary concerned, within two years after admission to the advanced course.”.

(b) The amendments made by subsection (a) do not constitute authority for the enactment of new budget authority for a fiscal year beginning before October 1, 1984.

Effective date.
10 USC 2104
note.

PART E—MISCELLANEOUS

WOMEN IN THE ARMED FORCES

SEC. 551. (a) The Secretary of the Air Force shall provide that of all persons originally enlisting in the Regular Air Force during the period beginning on October 1, 1986, and ending on September 30, 1988—

(1) not less than 19 percent of those enlisting during fiscal year 1987 shall be women; and

(2) not less than 22 percent of those enlisting during fiscal year 1988 shall be women.

(b) The Secretary of Defense shall study the propensity of young women to serve in the military and shall submit a report to Congress with the Secretary’s review and analysis of that propensity not later than six months after the date of the enactment of this Act.

10 USC 8251
note.

Study.
Report.

RESERVE FORCES READINESS

SEC. 552. (a)(1) The Secretary of Defense shall conduct a review of the various systems used to measure the readiness of reserve units of the Armed Forces and shall implement a measurement system for the active and reserve components of the Armed Forces to provide an objective and uniform evaluation of the readiness of all units of the Armed Forces. The measurement system should be designed to produce information adequate to provide comparisons concerning the readiness of all units. The system for evaluation of the readiness of a unit of an active component should incorporate the performance of any unit of a reserve component affiliated with the active component unit, including the effect of the reserve component unit on the mobilization capability of the active component unit.

Study.
10 USC 261 note.

(2) Not later than March 31, 1985, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives describing the results of the review under paragraph (1) and the measurement system implemented in accordance with that paragraph.

Report.

(b)(1) The Secretary of Defense, acting through the Assistant Secretary of Defense for Reserve Affairs, shall conduct a study to evaluate the feasibility of allocating equipment to units of reserve components based on a measure of effectiveness of such units. The study should consider the effects of allocating equipment by comparing units with similar deployment times and similar capabilities in terms of training and equipment rather than by comparing all reserve component units with each other. The study should be integrated with an evaluation of the system for measuring unit effectiveness to be implemented in accordance with subsection (a).

Study.

10 USC 261 note.

(2) As part of the report under subsection (a)(2), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the study carried out under paragraph (1).

Report.

(c) It is the sense of Congress that the number of members of the Army Reserve and of the Army National Guard assigned to full-time manning duty should be increased to 14 percent of the total membership of the Army Reserve and of the Army National Guard, respectively, by fiscal year 1989.

10 USC 261 note.

(d)(1)(A) The Secretary of Defense, acting through the Assistant Secretary of Defense for Reserve Affairs, shall conduct a study of the benefits of a longer training program for certain units of the reserve components and shall conduct a test of such a program. The test program should begin at the earliest realistic date.

Study.

10 USC 261 note.

(B) In developing training programs for the reserve components, the Secretary shall give increased attention to innovative training technologies, techniques, and schedules that recognize the limitations on time and the geographic dispersion of the reserve components.

(2) Not later than March 31, 1985, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives describing the study under paragraph (1).

Report.

(e) The Secretary of Defense shall conduct at least one major mobilization exercise each year. The exercise should be as comprehensive and as realistic as possible and should include the participation of associated active component and reserve component units. The Secretary shall develop a plan by June 30, 1985, to test periodically each active component and reserve component unit based in the United States and all interactions of such units, as well as the sustainment of the forces mobilized as part of the exercise, with the objective of permitting an evaluation of the adequacy of resource allocation and planning.

10 USC 261 note.

(f)(1) In order to encourage members of the Armed Forces whose military service obligation is expiring and who do not choose to reenlist or otherwise extend their service on active duty or in active elements of reserve components to remain in the Armed Forces as members of the Individual Ready Reserve, the Secretary of Defense shall consider making greater use of the authority provided under section 308h of title 37, United States Code, to pay bonuses to persons reenlisting for periods of not less than three years in the Individual Ready Reserve.

97 Stat. 663.
37 USC 308h
note.

37 USC 308h.

(2) Such section is amended by striking out the period at the end of subsection (b) and inserting in lieu thereof "and shall be paid in equal annual increments."

10 USC 261 note.

(g) This section does not apply to the Coast Guard.

PRECEDENCE OF AWARD OF PURPLE HEART

SEC. 553. (a) Chapter 57 of title 10, United States Code, is amended by adding at the end thereof the following new section:

Regulations.
10 USC 1127.

"§ 1127. Precedence of the award of the Purple Heart

"In prescribing regulations establishing the order of precedence of awards and decorations authorized to be displayed on the uniforms of members of the armed forces, the Secretary of the military department concerned shall accord the Purple Heart a position of precedence, in relation to other awards and decorations authorized to be displayed, not lower than that immediately following the lowest position accorded any award or decoration for valor."

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item: "1127. Precedence of the award of the Purple Heart."

STUDY OF MILITARY REGULATIONS WITH REGARD TO RELIGIOUS PRACTICES

SEC. 554. (a) In order to promote the free expression of religion by members of the Armed Forces to the greatest extent possible consistent with the requirements of military discipline, the Secretary of Defense shall form a study group to examine ways to minimize the potential conflict between the interests of members of the Armed Forces in abiding by their religious tenets and the military interest in maintaining discipline.

(b) The study group shall consist of eight members appointed by the Secretary of Defense, of whom—

(1) one shall be appointed from members of each of the four Armed Forces under the jurisdiction of the Secretary of Defense upon the recommendation of the respective Secretaries of the military departments;

(2) three shall be appointed upon the recommendation of the Armed Forces Chaplain Board; and

(3) one shall be appointed upon the recommendation of the Assistant Secretary of Defense for Manpower, Installations, and Logistics.

The Secretary of Defense shall designate one of the members to serve as chairman of the study group.

(c) In carrying out its functions under subsection (a), the study group shall make the maximum effort to ascertain the views of the broadest spectrum of religious organizations and to use the research and intellectual resources of specialists outside the Government through receipt of written or oral presentations to the study group.

Report.

(d) Not later than February 1, 1985, the study group shall submit to the Secretary of Defense a report containing its findings and recommendations. Not later than 20 days after receiving that report, the Secretary of Defense shall submit to Congress a copy of the report, together with the Secretary's comments on the report, and shall issue appropriate implementing policy to the Secretaries of the military departments. Such implementing policy shall require

that any change in regulations required by reason of that implementing policy be issued by the Secretaries of the military departments not later than 30 days after the date of the issuance of that implementing policy.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—BASIC PAY AND ALLOWANCES

MILITARY PAY RAISE FOR FISCAL YEAR 1985

SEC. 601. (a) Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1985 shall not be made.

37 USC 1009 note.

(b)(1) Except as provided in paragraph (2), the rates of basic pay and basic allowances for subsistence for members of the uniformed services are increased by 4 percent effective on January 1, 1985.

Effective date.

(2) The increase in rates of basic pay and basic allowances for subsistence provided for in paragraph (1) shall not apply to enlisted members in pay grade E-1 with less than 4 months active duty.

BASIC ALLOWANCE FOR QUARTERS AND VARIABLE HOUSING ALLOWANCE

SEC. 602. (a)(1) Effective on January 1, 1985, the rates of the basic allowance for quarters authorized by section 403(a)(1) of title 37, United States Code, are as follows:

Effective date.
37 USC 403 note.

Pay Grade	Without Dependents		
	Full Rate	Partial Rate ¹	With Dependents
Commissioned officers:			
O-10	\$537.30	\$50.70	\$660.90
O-9	537.30	50.70	660.90
O-8	537.30	50.70	660.90
O-7	537.30	50.70	660.90
O-6	493.20	39.60	599.40
O-5	465.30	33.00	552.30
O-4	426.60	26.70	504.90
O-3	345.30	22.20	420.90
O-2	278.10	17.70	360.90
O-1	238.50	13.20	323.70
Warrant officers:			
W-4	391.20	25.20	453.90
W-3	330.30	20.70	405.90
W-2	297.00	15.90	379.50
W-1	251.40	13.80	330.90
Enlisted members:			
E-9	315.30	18.60	429.90
E-8	292.20	15.30	400.50
E-7	249.30	12.00	372.60
E-6	221.40	9.90	337.80
E-5	204.90	8.70	300.30
E-4	177.60	8.10	259.50
E-3	172.50	7.80	238.50
E-2	146.40	7.20	238.50
E-1	133.50	6.90	238.50 ¹

¹Payable to a member without dependents who under section 403 (b) or (c) of title 37, United States Code, is not entitled to receive a basic allowance for quarters.

(2) During the period beginning on January 1, 1985, and ending on the date on which any change is made by law in any of the rates of basic allowance for quarters for members of the uniformed services prescribed in paragraph (1), the rate of the basic allowance for quarters authorized by section 403(a)(1) of title 37, United States Code, which is payable to a member of the uniformed services who is entitled to that allowance on or after January 1, 1985, and before the date of any such change and who was entitled to that allowance on December 31, 1984, shall not be less than the rate of the basic allowance for quarters that was in effect for that member on December 31, 1984 (unless the member holds a lower grade than he held on that date or has had a change in dependent status from a "with dependents" status to a "without dependents" status).

Prohibition.

(b)(1) During the period beginning on October 1, 1984, and ending on January 1, 1985, the Secretary of a military department may not pay a variable housing allowance under section 403(a)(2) of title 37, United States Code, except in accordance with the limitations on such payments applicable during fiscal year 1984 under the provisions of sections 786 and 792 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212).

97 Stat. 1453,
1454.

97 Stat. 637.
37 USC 403 note.

(2) Section 906 of the Department of Defense Authorization Act, 1984 (Public Law 98-94), is amended by striking out "fiscal year 1984" and inserting in lieu thereof "the period beginning on October 1, 1983, and ending on January 1, 1985".

(c)(1) Subsection (a) of section 403 of title 37, United States Code, is amended by striking out "(1)" after "(a)" and by striking out paragraph (2).

(2) The heading of such section is amended to read as follows:

"§ 403. Basic allowance for quarters".

(d)(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 403 the following new section:

37 USC 403a.

"§ 403a. Variable housing allowance

"(a)(1) Except as provided in subsection (b) of this section, a member of a uniformed service entitled to basic allowance for quarters is entitled to a variable housing allowance under this section whenever assigned to duty in an area of the United States which is a high housing cost area with respect to that member. A member with dependents who is assigned to an unaccompanied tour of duty outside the United States is entitled to a variable housing allowance while serving that tour of duty for any period during which the member's dependents reside in an area of the United States where, if the member were assigned to duty in that area, the member would be entitled to receive a variable housing allowance.

"(2) In the case of a member with dependents—

"(A) who is assigned to duty inside the United States the location or the circumstances of which make it necessary that his dependents reside at another location; and

"(B) whose dependents reside in an area of the United States where, if the member were assigned to duty in that area, the member would be entitled to receive a variable housing allowance at a rate other than the rate to which the member is entitled (if at all) in the area of his duty assignment,

the member may be paid a variable housing allowance as if he were assigned to duty in the area in which his dependents reside if the

Secretary concerned determines (under regulations prescribed under subsection (e) of this section) that it would be inequitable to base the member's entitlement to, and amount of, variable housing allowance on the area to which the member is assigned.

"(3) In the case of a member with dependents—

"(A) who is assigned to an unaccompanied tour of duty in Alaska or Hawaii; and

"(B) who would, if his duty station were outside the United States, be entitled to a family separation allowance under section 427(a) of this title,

37 USC 427.

the member may be paid a variable housing allowance at the rate applicable to a member without dependents serving in the same grade and at the same location. Payment of a variable housing allowance under this paragraph shall be in addition to any allowance or per diem to which the member otherwise may be entitled under this title.

"(b) A member of a uniformed service is not entitled to a variable housing allowance—

"(1) in the case of a member who makes a change in permanent duty station, for the number of days that travel is authorized between permanent duty stations (under regulations prescribed under subsection (e) of this section);

"(2) in the case of a member with dependents, if the member (A) is assigned to unaccompanied personnel housing of the United States (or an unaccompanied personnel housing facility under the jurisdiction of a uniformed service) appropriate to his grade, rank, or rating and adequate for himself, and (B) is authorized the basic allowance for quarters at the rate established for a member with dependents solely by reason of a court order requiring the member to pay support for dependents; or

"(3) in the case of a member of a reserve component, while on active duty under a call or order to active duty specifying a period of less than 140 days.

"(c)(1) The monthly amount of a variable housing allowance under this section for a member of a uniformed service with respect to an area is the difference between (A) the median monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member, and (B) 80 percent of the median monthly cost of housing in the United States for members of the uniformed services serving in the same pay grade as that member.

"(2) The rates of variable housing allowance shall be reduced as necessary to comply with subsection (d) of this section.

"(3) The effective date of any adjustment in rates of variable housing allowance because of a redetermination of median monthly costs of housing under this subsection shall be the same as the effective date of the next increase after such redetermination in the basic allowances for quarters.

Effective date.

"(4) For the purposes of this section, an area shall be considered to be a high housing cost area with respect to a member of a uniformed service whenever the median monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member exceeds 80 percent of the median monthly cost of housing in the United States for members of the uniformed services serving in the same pay grade as that member.

"(5) Any reduction required under paragraph (2) of this subsection and any determination of median monthly costs of housing under this subsection shall be made under regulations prescribed under subsection (e) of this section.

"(d)(1) The total amount that may be paid for a fiscal year for the variable housing allowance authorized members of the uniformed services by this section is the product of—

"(A) the total amount authorized to be paid for such allowance for the preceding fiscal year (as adjusted under paragraph (3) of this subsection); and

"(B) a fraction—

"(i) the numerator of which is the military housing cost index for October of the preceding fiscal year; and

"(ii) the denominator of which is the military housing cost index for October of the fiscal year before the preceding fiscal year.

"(2) The military housing cost index is the housing component of the Consumer Price Index (as determined by the Bureau of Labor Statistics of the Department of Labor), as adjusted under regulations prescribed under subsection (e) of this section. Such regulations may assign weights to the elements of that housing component other than those assigned by the Secretary of Labor in order more appropriately to reflect the distribution of elements of housing costs of members of the uniformed services.

"(3) In making a determination under paragraph (1) of this subsection for a fiscal year, the amount authorized to be paid for the preceding fiscal year for the variable housing allowance shall be adjusted to reflect changes during the year for which the determination is made in the number, grade distribution, and dependency status of members of the uniformed services entitled to variable housing allowance from the number of such members during the preceding fiscal year. Adjustments under this paragraph shall be made in accordance with regulations prescribed under subsection (e) of this section.

"(e) The President may prescribe regulations for the administration of this section."

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 403 and inserting in lieu thereof the following:

"403. Basic allowance for quarters.

"403a. Variable housing allowance."

(3) Section 7572(b)(1)(B) of title 10, United States Code, is amended by striking out "section 403" and inserting in lieu thereof "section 403a".

(e) Section 405 of title 37, United States Code, is amended—

(1) by inserting "(a)" before "Without regard to";

(2) by designating the third sentence as subsection (b) and by inserting "for a member who is on duty outside of the United States" in such sentence after "under this section";

(3) by inserting after such sentence the following new sentence: "A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska."; and

(4) by designating the last sentence as subsection (c).

(f)(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1985.

(2) A member who on December 31, 1984, is assigned to a permanent duty station in Alaska or Hawaii and is entitled on that date to a station housing allowance under section 405 of title 37, United States Code, shall, until he departs that station as a result of a permanent change of duty station, be entitled to receive that allowance as if the amendment made by subsection (d) had not been enacted and shall not be entitled to a variable housing allowance under section 403a of this title (as added by subsection (c)).

Ante, p. 2536.

Ante, p. 2534.

(3) For the period beginning on January 1, 1985, and ending on September 30, 1985, the limitation applicable under subsection (d)(1) of section 403a of title 37, United States Code (as added by subsection (d)), on the total amount that may be paid during a fiscal year for the variable housing allowance authorized members of the uniformed services by that section shall be 15 percent of the median annual costs of housing in the United States for members of the uniformed services as measured during fiscal year 1984. In determining for the purposes of clause (A) of such subsection the total amount authorized to be paid for such allowance for fiscal year 1985, such amount shall be determined as if the amendments made by this section took effect on October 1, 1984.

Effective date.

REIMBURSEMENT FOR ACCOMMODATIONS IN PLACE OF QUARTERS

SEC. 603. (a) Section 7572(b)(3) of title 10, United States Code, is amended—

97 Stat. 640.

(1) by striking out “and” after “fiscal year 1983,”; and

(2) by inserting “, and \$1,421,000 for fiscal year 1985” after “fiscal year 1984”.

(b) Section 3 of Public Law 96-357 (10 U.S.C. 7572 note) is amended by striking out “September 30, 1984” and inserting in lieu thereof “September 30, 1985”.

97 Stat. 640.

CLARIFICATION OF AUTHORITY TO DENY CERTAIN MEMBERS WITHOUT DEPENDENTS RIGHT TO ELECT TO RECEIVE BASIC ALLOWANCE FOR QUARTERS RATHER THAN OCCUPY MILITARY QUARTERS

SEC. 604. (a) Section 403(j)(2) of title 37, United States Code, is amended by striking out “military discipline” and inserting in lieu thereof “a training mission, military discipline,”.

(b) The amendment made by subsection (a) shall apply only with respect to members making an election under section 403(b) of title 37, United States Code, after September 30, 1984.

Effective date.
37 USC 403 note.

COMMUTATION OF RATIONS FOR RESERVISTS ON INACTIVE DUTY TRAINING WHO ARE UNABLE TO OBTAIN RATIONS IN KIND

SEC. 605. Effective on October 1, 1984, section 402(b) of title 37, United States Code, is amended by adding at the end thereof the following new sentence: “The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.”.

Effective date.

FORFEITURE OF ACCRUED LEAVE BY CERTAIN MEMBERS WHO SERVE ON ACTIVE DUTY LESS THAN SIX MONTHS

SEC. 606. (a) Section 501(e) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary concerned may require that a member of a uniformed service who is discharged before completing six months of active duty because of a failure to serve satisfactorily (as determined by the Secretary concerned) forfeit all accrued leave to his credit at the time of his discharge."

Effective date.
37 USC 501 note.

(b) The amendments made by subsection (a) shall apply in the case of members of the uniformed service (as defined in section 101(3) of title 37, United States Code) who enlist or are commissioned on or after the date of the enactment of this Act.

DENIAL OF CREDIT FOR TIME SPENT IN A DELAYED ENLISTMENT PROGRAM FOR PURPOSES OF COMPUTATION OF BASIC PAY

SEC. 607. (a) Section 205 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding subsection (a) of this section, a period served by a member of a uniformed service in a reserve component under an enlistment under section 511 of title 10 before the member—

10 USC 511.

"(1) begins service on active duty under subsection (b) of that section, or

"(2) begins an initial period of active duty for training under subsection (d) of that section,

may not be counted under this section."

Effective date.
37 USC 205 note.

(b) The amendment made by subsection (a) shall apply to persons who enlist under section 511 of title 10, United States Code, on or after the first day of the third calendar month which begins after the date of the enactment of this Act.

PART B—TRAVEL AND TRANSPORTATION

EMERGENCY MEDICAL TRANSPORTATION FOR DEPENDENTS OF MEMBERS STATIONED IN ALASKA OR HAWAII

SEC. 611. Effective on October 1, 1984, section 1040(a) of title 10, United States Code, is amended by inserting "or in Alaska or Hawaii" after "outside the United States".

TRANSPORTATION INCIDENT TO EMERGENCY LEAVE FOR MEMBERS WHOSE RESIDENCES ARE IN POSSESSIONS OF THE UNITED STATES

SEC. 612. (a)(1) Section 411d of title 37, United States Code, is amended to read as follows:

"§ 411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents

"(a) Under uniform regulations prescribed by the Secretaries concerned, transportation in accordance with subsection (b) of this section may be provided for a member of a uniformed service and for dependents of that member authorized to reside at the member's duty station (or authorized to reside at another location and receive a station allowance) incident to emergency leave granted for reasons of a personal emergency (or in the case of transportation provided only for a dependent, under circumstances involving a personal emergency similar to the circumstances for which emergency leave could be granted a member).

“(b)(1) In the case of a member stationed outside the continental United States and the dependents of such a member, transportation under this section may be provided from the international airport nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest the member’s permanent duty station (and if the member’s dependents reside at another overseas location and receive a station allowance, from that location)—

“(A) to the international airport in the continental United States closest to the international airport from which the member and his dependents departed; or

“(B) to an airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, any possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

“(2) In the case of a member whose domicile is outside the continental United States and who is stationed in the continental United States and the dependents of such a member, transportation under this section may be provided from the international airport in the continental United States nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest the member’s permanent duty station to an international airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, a possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

“(3) In the case of a member stationed outside the continental United States whose dependents reside in the continental United States, transportation under this section may be provided for the member as described in paragraph (1) of this subsection and for the dependents as described in paragraph (2) of this subsection.

“(4) Whenever transportation is provided under this section, return transportation may be provided to the international airport from which the member or dependent departed or the international airport nearest the member’s duty station.

“(c) Transportation under this section may be authorized only upon a determination that, considering the nature of the personal emergency involved, Government transportation is not reasonably available. The cost of transportation authorized under this section for a member, or the dependents of a member, may not exceed the cost of Government-procured commercial air travel between the applicable locations described in subsection (b) of this section.

“(d) In this section, ‘continental United States’ means the 48 contiguous States and the District of Columbia.”

(2) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

“411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents.”

(b) The amendment made by subsection (a)(1) shall apply with respect to transportation begun after September 30, 1984.

Effective date.
37 USC 411d
note.

TRAVEL PAY FOR CERTAIN RESERVE COMPONENT INSTRUCTORS

SEC. 613. (a) Section 404(a) of title 37, United States Code, is amended—

(1) by striking out “and” at the end of clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof “; and”; and

(3) by adding at the end the following new clause:

“(5) when not on active duty, if assigned to a Reserve school, and attending a reserve training meeting for the purpose of performing duties as an instructor at such meeting, if such meeting is 100 or more miles from the site at which the member would attend paid drills of the Reserve school to which he is assigned.”.

Effective date.
37 USC 404 note.

(b) The amendments made by subsection (a) shall apply with respect to travel performed after September 30, 1984.

TRANSPORTATION BETWEEN RESIDENCE AND PLACE OF WORK FOR SENIOR DEFENSE OFFICIALS

SEC. 614. (a) Chapter 157 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 2637.

“§ 2637. Transportation between residence and place of work for senior defense officials

“Passenger motor vehicles of the United States may be used to provide transportation between the residences and places of work or employment of the Deputy Secretary of Defense, the Under Secretaries of Defense, and the members of the Joint Chiefs of Staff.”.

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“2637. Transportation between residence and place of work for senior defense officials.”.

PART C—SPECIAL AND INCENTIVE PAYS

EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR ACTIVE FORCES

97 Stat. 55.

SEC. 621. (a) Sections 308(g), 308a(c), and 308f(c) of title 37, United States Code, are amended by striking out “September 30, 1984” and inserting in lieu thereof “September 30, 1987”.

37 USC 308.

(b) Section 308 of such title is amended—

(1) by striking out “\$20,000” in subsection (a)(1) and inserting in lieu thereof “\$30,000”; and

(2) in subsection (b)—

(A) by inserting “(1)” after “(b)”; and

(B) by adding at the end thereof the following:

“(2) Of the bonuses paid under this section to members of a uniformed service during a fiscal year, not more than 10 percent may exceed \$20,000.”.

EXTENSION OF SPECIAL PAY FOR CERTAIN AVIATION CAREER OFFICERS

SEC. 622. (a) Effective on October 1, 1984, section 301b of title 37, United States Code, is amended—

(1) by striking out paragraph (2) of subsection (e) and inserting in lieu thereof the following:

“(2) During the period beginning on October 1, 1984, and ending on September 30, 1985, only agreements executed by officers of the Navy may be accepted under this section.”; and

(2) by striking out "September 30, 1984" in subsections (e)(3) and (f) and inserting in lieu thereof "September 30, 1985".

(b) Not later than February 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written report on the adequacy of the incentive pay for aviation career officers provided for in section 301a of title 37, United States Code, to meet the recruiting and retention needs of each of the Armed Forces and on the relationship, if any, between that incentive pay and the special pay for certain Navy pilots provided for in section 301b of such title, as amended by subsection (a) of this section. The Secretary shall include in the report such recommendations for legislation regarding aviation career incentive and special pay as the Secretary considers appropriate.

Report.

Ante, p. 2540.

SPECIAL PAY FOR SEA DUTY AND SPECIAL SKILLS FOR ENLISTED MEMBERS

SEC. 623. (a) The table relating to rates of special pay for enlisted members in section 305a(b) of title 37, United States Code, is amended to read as follows:

"ENLISTED MEMBERS"

"Pay grade	Years of sea duty								
	1 or Less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6	Over 7	Over 8
E-4.....	\$50	\$60	\$125	\$160	\$175	\$175	\$175	\$175	\$175
E-5.....	60	70	140	175	185	190	205	220	220
E-6.....	125	135	170	190	210	215	225	235	245
E-7.....	135	145	215	235	255	260	265	265	270
E-8.....	165	180	225	255	265	270	280	285	290
E-9.....	175	195	235	265	280	290	310	310	310

Pay grade	Years of sea duty							
	Over 9	Over 10	Over 11	Over 12	Over 13	Over 14	Over 16	Over 18
E-4.....	\$175	\$175	\$175	\$175	\$175	\$175	\$175	\$175
E-5.....	220	220	220	220	220	220	220	220
E-6.....	255	265	265	280	295	310	325	340
E-7.....	275	280	300	310	330	350	370	390
E-8.....	300	310	310	320	340	360	380	400
E-9.....	310	320	330	350	370	390	410	410".

(b)(1) Section 307 of such title is amended to read as follows: 37 USC 307.

"§ 307. Special pay: special duty assignment pay for enlisted members

"(a) An enlisted member who is entitled to basic pay and is performing duties which have been designated under subsection (b) of this section as extremely difficult or as involving an unusual degree of responsibility in a military skill may, in addition to other pay or allowances to which he is entitled, be paid special duty assignment pay at a monthly rate not to exceed \$275.

"(b) The Secretary concerned shall determine which enlisted members under his jurisdiction are to be paid special duty assignment pay under subsection (a) of this section. He shall also designate those skills within each armed force under his jurisdiction for which special duty assignment pay is authorized and shall prescribe the criteria under which members of that armed force are eligible for special duty assignment pay in each skill. He may increase, decrease, or abolish such pay for any skill.

Regulations.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy."

(2) The item relating to such section 307 in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"307. Special pay: special duty assignment pay for enlisted members."

37 USC 307 note.

Ante, p. 2541.

Prohibition.

(3) A member of the uniformed services who, on September 30, 1984, was entitled to special pay under section 307 of title 37, United States Code, as in effect on such date, may continue to be paid the special pay authorized by such section as though the amendments made by this subsection had not been made. However, a member may not be paid the special pay authorized by such section as in effect on September 30, 1984, and the special pay authorized by such section as amended by this section.

Effective date.
37 USC 305a
note.

(c) The amendments made by this section shall take effect on October 1, 1984.

ELIMINATION OF CERTAIN CATEGORIES OF INCENTIVE PAY FOR HAZARDOUS DUTY

SEC. 624. (a) Section 301 of title 37, United States Code, is amended—

(1) in subsection (a), by striking out clauses (3) and (5) and redesignating clause (4) as clause (3) and clauses (6) through (13) as clauses (4) through (11), respectively;

(2) in subsection (c)(1), by striking out "(10), (11), or (12)" and inserting in lieu thereof "or (10),"; and

(3) in subsection (c)(2), by striking out "(13)" and inserting in lieu thereof "(11)".

37 USC 301 note.

Supra.

(b) A member of the uniformed services who is entitled on the day before the date of the enactment of this Act to receive incentive pay under section 301(a)(5) (for the performance of duty involving intimate contact with persons afflicted with leprosy) shall continue to be entitled to such pay under such section as in effect on that day so long as the member continues (without a break) to be assigned to perform such duties on and after that day.

PART D—HEALTH CARE MATTERS

EXTENSION OF MEDICAL AND DENTAL CARE FOR RESERVES AND NATIONAL GUARD

SEC. 631. (a)(1) Section 1074a of title 10, United States Code, is amended to read as follows:

“§ 1074a. Medical and dental care: members on duty other than active duty; injuries, diseases and illnesses incident to duty

“(a) Under joint regulations prescribed by the Secretary of Defense, the Secretary of Transportation, and the Secretary of Health and Human Services, the following persons are entitled to the benefits described in subsection (b):

“(1) Each member of a uniformed service who contracts a disease or becomes ill in line of duty while on active duty for a period of 30 days or less, or while traveling to or from that duty.

“(2) Each member of the National Guard who contracts a disease or becomes ill in line of duty while on full-time National Guard duty, or while traveling to or from that duty.

“(3) Each member of a uniformed service who contracts a disease or becomes ill in line of duty while on inactive duty training under circumstances in which it is determined that the disease or illness was contracted or aggravated as an incident of that inactive duty training.

“(4) Each member of a uniformed service who incurs or aggravates an injury while traveling directly to or from the place at which he is to perform, or has performed, inactive duty training, unless the injury is incurred or aggravated as a result of the member's own gross negligence or misconduct.

“(b) A person described in subsection (a) is entitled to—

“(1) the medical and dental care appropriate for the treatment of his injury, disease, or illness until the resulting disability cannot be materially improved by further hospitalization or treatment; and

“(2) subsistence during hospitalization.”

(2) The item relating to such section in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

“1074a. Medical and dental care: members on duty other than active duty; injuries, diseases, and illnesses incident to duty.”

(b) Section 6148 of such title, relating to certain benefits of members of the Naval Reserve and Marine Corps Reserve, is amended by striking out subsection (d).

(c) The amendments made by this section shall apply only with respect to injuries incurred or aggravated and diseases or illnesses contracted or aggravated after September 30, 1984.

10 USC 6148.

10 USC 1074a note.

ENHANCED BENEFITS COVERAGE UNDER CHAMPUS

SEC. 632. (a)(1) Section 1079(a) of title 10, United States Code, is amended by striking out clause (3) and inserting in lieu thereof the following:

“(3) not more than one eye examination may be provided to a patient in any calendar year.”

(2) Section 1086(a) of such title is amended by adding at the end thereof the following new sentence: “However, eye examinations may not be provided under such plans for persons covered by subsection (c).”

10 USC 1086.

(3) The amendments made by this subsection shall apply only to health care furnished after September 30, 1984.

10 USC 1079 note.

(b) The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct demonstration projects under section 1092 of title 10, United States Code, for the purpose of

10 USC 1092 note.

97 Stat. 650.

evaluating the cost-effectiveness of chiropractic care. In the conduct of such demonstration projects, chiropractic care (including manual manipulation of the spine and other routine chiropractic procedures authorized under joint regulations prescribed by the Secretary of Defense and the Secretary of Health and Human Services and not otherwise prohibited by law) may be provided as appropriate under chapter 55 of title 10, United States Code.

10 USC 1071 *et seq.*

AUTHORITY TO PROVIDE DENTAL CARE TO CERTAIN DEPENDENTS IN
FACILITIES OF THE UNIFORMED SERVICES

SEC. 633. (a) Section 1077(a) of title 10, United States Code, is amended—

(1) by striking out clauses (10), (11), and (12) and inserting in lieu thereof the following:

“(10) Dental care.”; and

(2) by redesignating clauses (13) and (14) as clauses (11) and (12), respectively.

(b) The amendments made by subsection (a) shall take effect on July 1, 1985.

Effective date.
10 USC 1077
note.

STUDY OF USE BY CHAMPUS OF MEDICARE PROSPECTIVE PAYMENT
SYSTEM

SEC. 634. (a) The Congress finds that—

(1) costs of providing medical care under the program administered by the Department of Defense known as the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) have escalated rapidly in recent years;

(2) new and innovative methods for control and containment of costs under the CHAMPUS program must be explored; and

(3) the adoption for the CHAMPUS program of a prospective payment system for inpatient hospital services like that used by Department of Health and Human Services under title XVIII of the Social Security Act for the Medicare program could provide significant savings for the CHAMPUS program.

42 USC 1395.

(b) The Secretary of Defense and the Secretary of Health and Human Services shall jointly study the possible effects of the adoption for the CHAMPUS program of a prospective payment system for inpatient hospital services such as that used by the Department of Health and Human Service for the Medicare program. The study shall address—

(1) the advisability and feasibility of requiring by law that a hospital participate in the CHAMPUS program as a condition of participating in Medicare and whether such a requirement is needed in order to ensure adequate participation by hospitals in the CHAMPUS program if a prospective payment system were to be adopted for the CHAMPUS program; and

(2) the changes that might be expected if such a system were adopted in the CHAMPUS patient workload and the CHAMPUS aggregate payment levels to various segments of the provider community (including private, public, non-profit, and teaching facilities).

Report.

(c) Not later than February 28, 1985, the Secretaries shall submit a report to the Committees on Armed Services and Finance of the Senate and the Committees on Armed Services and Ways and

Means of the House of Representatives of their findings under the study under subsection (b). The report shall include—

(1) such recommendations for changes in the CHAMPUS system of reimbursement as the Secretaries consider appropriate; and

(2) the recommendations of the Secretaries on the need for and appropriateness of a requirement by law relating to hospital participation in the CHAMPUS and Medicare programs such as that described in subsection (b)(1).

PART E—BENEFITS FOR SURVIVORS AND FORMER SPOUSES

ELIMINATION OF CERTAIN SOCIAL SECURITY OFFSETS FROM THE SURVIVOR BENEFIT PLAN

SEC. 641. (a) Section 1451(a)(3) of title 10, United States Code, is amended—

(1) by striking out “would be entitled” in the first sentence and inserting in lieu thereof “is entitled”; and

(2) by striking out the period at the end of the second sentence and inserting in lieu thereof the following: “or to the extent that the benefit to which the beneficiary is entitled is based on the beneficiary’s own earnings or self-employment.”.

(b) The amendments made by subsection (a) shall apply only in the case of payments of annuities payable for periods that begin on or after September 30, 1985.

Effective date.
10 USC 1451
note.

AUTHORITY TO INITIATE PAYMENTS UNDER SURVIVOR ANNUITY PROGRAMS WHEN THE PARTICIPANT IS MISSING

SEC. 642. (a)(1) Section 1437 of title 10, United States Code, is amended—

(A) by striking out “subsection (b)” in subsection (a) and inserting in lieu thereof “subsections (b) and (c),”; and

(B) by adding at the end thereof the following new subsection:

“(c)(1) Upon application of the beneficiary of a member entitled to retired or retainer pay whose retired or retainer pay has been suspended because the member has been determined to be missing, the Secretary concerned may determine for purposes of this subchapter that the member is presumed dead. Any such determination shall be made in accordance with regulations prescribed under section 1444(a) of this title. The Secretary concerned may not make a determination for purposes of this subchapter that a member is presumed dead unless he finds—

10 USC 1444.

“(A) that the member has been missing for at least 30 days; and

“(B) that the circumstances under which the member is missing would lead a reasonably prudent person to conclude that the member is dead.

“(2) Upon a determination under paragraph (1) with respect to a member, an annuity otherwise payable under this subchapter shall be paid as if the member died on the date as of which the retired or retainer pay of the member was suspended.

“(3)(A) If, after a determination under paragraph (1), the Secretary concerned determines that the member is alive, any annuity being paid under this subchapter by reason of this subsection shall be promptly terminated and the total amount of any annuity pay-

ments made by reason of this subsection shall constitute a debt to the United States which (notwithstanding section 144 of this title) may be collected or offset—

“(i) from any retired or retainer pay otherwise payable to the member;

38 USC 301 *et seq.*

“(ii) if the member is entitled to compensation under chapter 11 of title 38, from that compensation; or

“(iii) if the member is entitled to any other payment from the United States, from that payment.

“(B) If the member dies before the full recovery of the amount of annuity payments described in subparagraph (A) has been made by the United States, the remaining amount of such annuity payments may be collected from the member’s beneficiary under this subchapter if that beneficiary was the recipient of the annuity payments made by reason of this subsection.”

10 USC 1440.

(2) Section 1440 of such title is amended by striking out “No” and inserting in lieu thereof “Except as provided in section 1437(c)(3) of this title, no”.

10 USC 1450.

(b) Section 1450 of such title is amended—

(1) by striking out “An” in subsection (i) and inserting in lieu thereof “Except as provided in subsection (l), an”; and

(2) by adding at the end thereof the following new subsection:

10 USC 1331 *et seq.*

“(1)(1) Upon application of the beneficiary of a participant in the plan whose retired or retainer pay has been suspended on the basis that the participant is missing (or of a participant in the plan who would be eligible for retired pay under chapter 67 of this title but for the fact that he is under 60 years of age and whose retired pay, if he were entitled to retired pay, would be suspended on the basis that he is missing), the Secretary concerned may determine for purposes of this subchapter that the participant is presumed dead. Any such determination shall be made in accordance with regulations prescribed under section 1455 of this title. The Secretary concerned may not make a determination for purposes of this subchapter that a participant is presumed dead unless he finds—

“(A) that the participant has been missing for at least 30 days; and

“(B) that the circumstances under which the participant is missing would lead a reasonably prudent person to conclude that the participant is dead.

“(2) Upon a determination under paragraph (1) with respect to a participant in the Plan, an annuity otherwise payable under the provision of this subchapter shall be paid as if the participant died on the date as of which the retired or retainer pay of the participant was suspended.

“(3)(A) If, after a determination under paragraph (1), the Secretary concerned determines that the participant is alive, any annuity being paid under this subchapter by reason of this subsection shall be terminated and the total amount of any annuity payments made by reason of this subsection shall constitute a debt to the United States which (notwithstanding subsection (h)) may be collected or offset—

“(i) from any retired or retainer pay otherwise payable to the participant;

38 USC 301 *et seq.*

“(ii) if the participant is entitled to compensation under chapter 11 of title 38, from that compensation; or

“(iii) if the participant is entitled to any other payment from the United States, from that payment.

“(B) If the participant dies before the full recovery of the amount of annuity payments described in subparagraph (A) has been made by the United States, the remaining amount of such annuity payments may be collected from his beneficiary under the Plan if that beneficiary was the recipient of the annuity payments made by reason of this subsection.”.

CLARIFICATION OF AUTHORITY TO ENFORCE CERTAIN COURT ORDERS IN CONNECTION WITH THE PAYMENT OF RETIRED OR RETAINER PAY TO FORMER SPOUSES

SEC. 643. (a) Subsection (a)(2)(C) of section 1408 of title 10, United States Code, is amended by inserting “in the case of a division of property,” before “specifically provides for”.

(b) Subsection (b)(1)(C) of such section is amended by inserting “, if possible,” after “include”.

(c)(1) The first sentence of paragraph (1) of subsection (d) of such section is amended to read as follows: “After effective service on the Secretary concerned of a court order providing for the payment of child support or alimony or, with respect to a division of property, specifically providing for the payment of an amount of the disposable retired or retainer pay from a member to the spouse or a former spouse of the member, the Secretary shall make payments (subject to the limitations of this section) from the disposable retired or retainer pay of the member to the spouse or former spouse in an amount sufficient to satisfy the amount of child support and alimony set forth in the court order and, with respect to a division of property, in the amount of disposable retired or retainer pay specifically provided for in the court order.”.

Child support.
Alimony.

(2) The first sentence of paragraph (5) of such subsection is amended by striking out “disposable retired or retainer pay” the first place it appears and all that follows through “any part” and inserting in lieu thereof “child support or alimony or the payment of an amount of disposable retired or retainer pay as the result of the court’s treatment of such pay under subsection (c) as property of the member and his spouse, the Secretary concerned shall pay (subject to the limitations of this section) from the disposable retired or retainer pay of the member to the spouse or former spouse of the member, any part”.

(d)(1) Paragraph (2) of subsection (e) of such section is amended by striking out “from the disposable retired or retainer pay of a member, such pay” and inserting in lieu thereof “, the disposable retired or retainer pay of the member”.

(2) Paragraph (3)(A) of such subsection is amended—

(A) by striking out “from the disposable retired or retainer pay”;

(B) by striking out “the least amount of disposable retired or retainer pay” in clause (i) and inserting in lieu thereof “from the member’s disposable retired or retainer pay the least amount”; and

(C) by striking out “of retired or retainer pay” in clause (ii)(I).

(3) The first sentence of paragraph (4)(A) of such subsection is amended—

(A) by striking out “the retired or retainer pay of”; and

(B) by striking out “such court orders and legal process shall be satisfied” and inserting in lieu thereof “satisfaction of such

court orders and legal process from the retired or retiree pay of the member shall be”.

(4) The first sentence of paragraph (5) of such subsection is amended—

(A) by striking out “of disposable retired or retiree pay” both places it appears; and

(B) by striking out “such pay” and inserting in lieu thereof “disposable retired or retiree pay”.

(e) The amendments made by this section shall apply with respect to court orders for which effective service (as described in section 1408(b)(1) of title 10, United States Code, as amended by subsection (b) of this section) is made on or after the date of the enactment of this Act.

Effective date.
10 USC 1408
note.

CLARIFICATION OF AUTHORITY TO ELECT FORMER SPOUSES AS BENEFICIARIES UNDER THE SURVIVOR BENEFIT PLAN

SEC. 644. Section 1450(f) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

“(3)(A) If a person described in paragraph (2) or (3) of section 1448(b) of this title enters, incident to a proceeding of divorce, dissolution, or annulment, into a voluntary written agreement to elect under section 1448(b) of this title to provide an annuity to a former spouse and such agreement has been incorporated in or ratified or approved by a court order, and such person then fails or refuses to make such an election, such person shall be deemed to have made such an election if the Secretary concerned receives a written request, in such manner as the Secretary shall prescribe, from the former spouse concerned requesting that such an election be deemed to have been made and receives a copy of the court order, regular on its face, which incorporates, ratifies, or approves the voluntary written agreement of such person.

“(B) An election may not be deemed to have been made under subparagraph (A) in the case of any person unless the Secretary concerned receives a request from the former spouse of the person before October 1, 1985, or within one year of the date of the court order involved, whichever is later.

“(C) An election deemed to have been made under subparagraph (A) shall become effective on the first day of the first month which begins after the date of the court order involved.”.

MISCELLANEOUS RIGHTS AND BENEFITS FOR FORMER SPOUSES

SEC. 645. (a) Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out “and” at the end of clause (E);

(2) by striking out the period at the end of clause (F) and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following new clause:

“(G) a person who (i) is the unremarried former spouse of a member or former member who performed at least 20 years of service which is creditable in determining the member or former member’s eligibility for retired or retiree pay, or equivalent pay, and on the date of the final

decree of divorce, dissolution, or annulment before April 1, 1985, had been married to the member or former member for a period of at least 20 years, at least 15 of which, but less than 20 of which, were during the period the member or former member performed service creditable in determining the member or former member's eligibility for retired or retainer pay, and (ii) does not have medical coverage under an employer-sponsored health plan."

(b) Section 1006(d) of the Uniformed Services Former Spouses' Protection Act (title X of Public Law 97-252; 96 Stat. 738) is amended—

10 USC 1408
note.

(1) by striking out "only if" and inserting in lieu thereof "whether"; and

(2) by striking out "dated on or after" and all that follows through the end of the sentence and inserting in lieu thereof "dated before, on, or after February 1, 1983."

(c) A person who would qualify as a dependent under section 1072(2)(G) of title 10 (as added by subsection (a)) but for the fact that the person's final decree of divorce, dissolution, or annulment is dated on or after April 1, 1985, shall be considered to be a dependent under such section during the two-year period beginning on the date of such final decree.

10 USC 1072
note.
Ante, p. 2548.

(d) The amendments made by subsections (a), (b), and (c) shall be effective on January 1, 1985, and shall apply with respect to health care furnished on or after that date.

Effective date.
10 USC 1072
note.

PART F—MISCELLANEOUS

LEGAL ASSISTANCE PROGRAMS

SEC. 651. (a) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1044. Legal assistance

10 USC 1044.

"(a) Subject to the availability of legal staff resources, the Secretary concerned may provide legal assistance in connection with their personal civil legal affairs to—

"(1) members of the armed forces under his jurisdiction who are on active duty;

"(2) members and former members under his jurisdiction entitled to retired or retainer pay or equivalent pay; and

"(3) dependents of members and former members described in clauses (1) and (2).

"(b) Under such regulations as may be prescribed by the Secretary concerned, the Judge Advocate General (as defined in section 801(1) of this title) under the jurisdiction of the Secretary is responsible for the establishment and supervision of legal assistance programs under this section.

"(c) This section does not authorize legal counsel to be provided to represent a member or former member of the armed forces, or the dependent of a member or former member, in a legal proceeding if the member or former member can afford legal fees for such representation without undue hardship.

"(d) The Secretary concerned shall define 'dependent' for the purposes of this section."

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1044. Legal assistance."

LIMITATION ON TRANSPORTATION OF MOTOR VEHICLES THROUGH GUAM

SEC. 652. (a) Regulations of the Department of Defense providing for transportation at Government expense of motor vehicles owned by members of the Armed Forces incident to a permanent change of duty station may not authorize the transportation at Government expense from Guam during any month of more than 100 motor vehicles that are owned by members of the Armed Forces who are making permanent changes of duty station from locations outside the United States (other than in Guam) and who are using Guam as an alternate port of shipment.

Effective date.
Termination
date.

(b) Subsection (a) shall apply with respect to the transportation of motor vehicles during the period beginning with the month after the month in which this Act is enacted and ending with September 1985. After that period transportation of motor vehicles from Guam under the circumstances described in subsection (a) may be provided at Government expense only as specifically authorized by law after the date of the enactment of this Act.

Report.

(c) Not later than February 15, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report with respect to the transportation through Guam of motor vehicles owned by members of the Armed Forces. The report shall include—

Japan.

(1) a description of the nature and extent of the burden imposed on members of the Armed Forces by assignment to Japan because they may not (under Japanese law) take into Japan a motor vehicle not manufactured for use in Japan;

(2) a review of alternative programs that could be provided to alleviate the burden of assignment to Japan described in clause (1), including a review of the existing policy to which the limitation in subsection (a) is applicable under which a member of the Armed Forces making a permanent change of station from Japan may purchase a motor vehicle through Guam; and

(3) an analysis of the impact on Guam (including the economy of Guam) of the termination of such policy.

PERSONAL VEHICLES OF UNITED STATES MILITARY PERSONNEL IN JAPAN

SEC. 653. (a) The Congress finds that—

(1) the Government of Japan does not permit members of the Armed Forces of the United States to take their motor vehicles into Japan for their personal use while assigned to a duty station in Japan unless such vehicles are modified to satisfy certain requirements of the Government of Japan;

(2) as a result of the restriction referred to in clause (1), members of the Armed Forces typically need to sell their personal motor vehicles before departing the United States to report to a duty station in Japan, to purchase vehicles in Japan for personal use while stationed in Japan, to sell such purchased vehicles before departing Japan to return to the United States, and to purchase vehicles in the United States upon the return;

(3) members of the Armed Forces incur a substantial financial burden in connection with the repeated sale and replacement of personal vehicles;

(4) the United States permits members of the Armed Forces of foreign nations to bring unmodified vehicles into the United

States for their personal use while assigned to duty stations in the United States; and

(5) the United States provides a substantial contribution to the defense of Japan and the waters surrounding Japan.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President, acting through the Secretary of Defense and the Secretary of State, should enter into negotiations with the Government of Japan for the purpose of obtaining the agreement of such government not to require the modification of the Personal motor vehicles of members of the Armed Forces of the United States brought into Japan for their personal use while stationed in Japan.

President of U.S.
International
agreement.

(c) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall transmit to the Congress a written report relating to the matters described in subsection (a). The report shall include—

Report.

(1) a description of any negotiations carried out with the Government of Japan; and

(2) a description of the other actions the Government of the United States can reasonably take to obtain an agreement described in subsection (b).

AUTHORITY FOR VOLUNTARY WITHHOLDING OF STATE INCOME TAXES FROM RETIRED AND RETAINER PAY

SEC. 654. (a) Chapter 53 of title 10, United States Code, is amended by adding after section 1044 (as added by section 651) the following new section:

Ante, p. 2549.

“§ 1045. Voluntary withholding of State income tax from retired or retainer pay

10 USC 1045.

“(a) The Secretary concerned shall enter into an agreement under this section with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Secretary concerned shall withhold State income tax from the monthly retired or retainer pay of any member or former member entitled to such pay who voluntarily requests such withholding in writing. The amounts withheld during any calendar quarter shall be retained by the Secretary concerned and disbursed to the States during the month following that calendar quarter.

“(b) A member or former member may request that the State designated for withholding be changed and that the withholdings be remitted in accordance with such change. A member or former member also may revoke any request of such member or former member for withholding. Any request for a change in the State designated and any revocation is effective on the first day of the month after the month in which the request or revocation is processed by the Secretary concerned, but in no event later than on the first day of the second month beginning after the day on which the request or revocation is received by the Secretary concerned.

“(c) A member or former member may have in effect at any time only one request for withholding under this section and may not have more than two such requests in effect during any one calendar year.

“(d)(1) This section does not give the consent of the United States to the application of a statute that imposes more burdensome requirements on the United States than on employers generally or

that subjects the United States or any member or former member entitled to retired or retainer pay to a penalty or liability because of this section.

Prohibition.

"(2) The Secretary concerned may not accept pay from a State for services performed in withholding State income taxes from retired or retainer pay.

"(3) Any amount erroneously withheld from retired or retainer pay and paid to a State by the Secretary concerned shall be repaid by the State in accordance with regulations prescribed by the Secretary concerned.

"(e) In this section:

"(1) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(2) 'Secretary concerned' includes the Secretary of Health and Human Services with respect to the commissioned corps of the Public Health Service and the Secretary of Commerce with respect to the commissioned corps of the National Oceanic and Atmospheric Administration."

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1044 (as added by section 651) the following new item:

"1045. Voluntary withholding of State income tax from retired or retainer pay."

RECOMPUTATION OF RETIRED PAY OF CERTAIN RECALLED RETIREES

10 USC 1402
note.

SEC. 655. (a) Notwithstanding the second sentence of footnote 1 of the table contained in section 1402(a) of title 10, United States Code (relating to recomputation of retired pay to reflect later active duty), in the case of a member of the Armed Forces who—

(1) was voluntarily called or ordered to active duty during the period beginning on October 1, 1963, and ending on September 30, 1971;

(2) was at the time of such call or order entitled to retired pay or retainer pay;

(3) served on such active duty under such call or order for a continuous period of at least two years; and

(4) was released from such active duty before October 1, 1973, the retired or retainer pay of such member shall be recomputed, as provided in subsection (b), under the rates of basic pay in effect at the time of that release from active duty.

(b) The retired or retainer pay of a member of the Armed Forces described in subsection (a) shall be the amount determined under section 1402(a) of title 10, United States Code (as modified with respect to such member by subsection (a)), and increased by the amount by which the member's retired or retainer pay would have been increased during the period beginning on the date of the member's release from active duty referred to in subsection (a)(4) and ending on the day before the day on which this section becomes effective had subsection (a) applied in the case of the member at the time of that release from active duty.

Effective date.

(c) This section shall apply only with respect to retired pay and retainer pay payable for months beginning after September 30, 1984, or on or after the date of the enactment of this Act, whichever is later.

DELAY OF EFFECTIVE DATE FOR FEE FOR VETERINARY SERVICES

SEC. 656. Section 1033 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 672), is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1985".

10 USC 133 note.

TITLE VII—EDUCATIONAL ASSISTANCE PROGRAMS

SHORT TITLE

SEC. 701. This title may be cited as the "Veterans' Educational Assistance Act of 1984".

Veterans'
Educational
Assistance Act of
1984.
38 USC 101 note.

NEW EDUCATIONAL ASSISTANCE PROGRAM

SEC. 702. (a)(1) Title 38, United States Code, is amended by inserting before chapter 31 the following new chapter:

"CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM**"SUBCHAPTER I—PURPOSES; DEFINITIONS**

"Sec.

"1401. Purposes.

"1402. Definitions.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

"1411. Basic educational assistance entitlement for service on active duty.

"1412. Basic educational assistance entitlement for service in the Selected Reserve.

"1413. Duration of basic educational assistance.

"1414. Payment of basic educational assistance.

"1415. Amount of basic educational assistance.

"1416. Inservice enrollment in a program of education.

"SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

"1421. Supplemental educational assistance for additional service.

"1422. Amount of supplemental educational assistance.

"1423. Payment of supplemental educational assistance under this chapter.

"SUBCHAPTER IV—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

"1431. Time limitation for use of eligibility and entitlement.

"1432. Limitation on educational assistance for certain individuals.

"1433. Bar to duplication of educational assistance benefits.

"1434. Program administration.

"1435. Allocation of administration and of program costs.

"1436. Reporting requirement.

"Subchapter I—Purposes; Definitions**"§ 1401. Purposes**

38 USC 1401.

"The purposes of this chapter are—

"(1) to provide a new educational assistance program to assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service;

"(2) to promote and assist the All-Volunteer Force program and the Total Force Concept of the Armed Forces by establishing a new program of educational assistance based upon service on active duty or a combination of service on active duty and in the Selected Reserve (including the National Guard) to aid in

the recruitment and retention of highly qualified personnel for both the active and reserve components of the Armed Forces; and

“(3) to give special emphasis to providing educational assistance benefits to aid in the retention of personnel in the Armed Forces.

38 USC 1402.

“§ 1402. Definitions

“For the purposes of this chapter—

“(1) The term ‘basic educational assistance’ means educational assistance provided under subchapter II of this chapter.

“(2) The term ‘supplemental educational assistance’ means educational assistance provided under subchapter III of this chapter.

“(3) The term ‘program of education’ has the meaning given such term in section 1652(b) of this title.

38 USC 1652.

“(4) The term ‘Selected Reserve’ means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10.

10 USC 268.

“(5) The term ‘Secretary’ means the Secretary of Defense with respect to members of the Armed Forces under the jurisdiction of the Secretary of a military department and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

“(6) The term ‘active duty’ does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

10 USC 511.

“Subchapter II—Basic Educational Assistance

38 USC 1411.

“§ 1411. Basic educational assistance entitlement for service on active duty

“(a) Except as provided in subsection (c) of this section each individual—

“(1) who—

“(A) during the period beginning on July 1, 1985, and ending on June 30, 1988, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

“(i) who (I) serves at least three years of continuous active duty in the Armed Forces, or (II) in the case of an individual whose initial period of active duty is less than three years, serves at least two years of continuous active duty in the Armed Forces; or

“(ii) who serves in the Armed Forces and is discharged or released from active duty (I) for a service-connected disability or for hardship, or (II) for the convenience of the Government, in the case of an indi-

vidual who completed not less than 20 months of active duty, if the initial obligated period of active duty of the individual was less than three years, or in the case of an individual who completed not less than 30 months of active duty if the initial obligated period of active duty of the individual was at least three years; or

“(B) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title and without a break in service on active duty since December 31, 1976, and—

38 USC 1651
et seq.

“(i) after June 30, 1985, serves at least three years of continuous active duty in the Armed Forces; or

“(ii) after June 30, 1985, is discharged or released from active duty (I) for a service-connected disability or for hardship, or (II) for the convenience of the Government, if the individual completed not less than 30 months of active duty after that date;

“(2) who, before completion of the service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

“(3) who, after completion of the service described in clause (1) of this subsection—

“(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

“(B) continues on active duty; or

“(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

is entitled to basic educational assistance under this chapter.

“(b) The basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (c)(1) of this section shall be reduced by \$100 for each of the first 12 months that such individual is entitled to such pay. Amounts withheld from basic pay under this subsection shall revert to the Treasury.

“(c)(1) An individual described in subsection (a)(1)(A) of this section may make an election not to receive educational assistance under this chapter. Any such election shall be made at the time the individual initially enters on active duty as a member of the Armed Forces. Any individual who makes such an election is not entitled to educational assistance under this chapter.

“(2) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

10 USC 2107.

“§ 1412. Basic educational assistance entitlement for service in the Selected Reserve

38 USC 1412.

“(a) Except as provided in subsection (c) of this section, each individual—

“(1) who—

38 USC 1651
et seq.

“(A) during the period beginning on July 1, 1985, and ending on June 30, 1988, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

“(i) serves at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service; and

“(ii) subject to subsection (b) of this section and after completion of the service on active duty described in subclause (i) of this clause, serves at least four years of continuous duty in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned; or

“(B) as of December 31, 1989, is eligible for educational assistance under chapter 34 of this title and without a break in service on active duty since December 31, 1976, and—

“(i) after June 30, 1985, serves at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service; and

“(ii) after June 30, 1985, subject to subsection (b) of this section and after completion of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned;

“(2) who, before completion of the service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

“(3) who, after completion of the service described in clause (1) of this subsection—

“(A) is discharged from service with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

“(B) continues on active duty or in the Selected Reserve; is entitled to basic educational assistance under this chapter.

“(b)(1) The requirement of four years of service under clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section is not applicable to an individual who is discharged or released from service in the Selected Reserve for a service-connected disability, for hardship, or (in the case of an individual discharged or released after three and one-half years of service) for the convenience of the Government.

“(2) Continuity of service of a member in the Selected Reserve for purposes of such clauses shall not be considered to be broken—

“(A) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of the member's Armed Force that the member is eligible to join or that has a vacancy; or

“(B) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the

Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

“(c) The basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (d)(1) of this section shall be reduced by \$100 for each of the first 12 months that such individual is entitled to such pay. Amounts withheld from basic pay under this paragraph shall revert to the Treasury.

“(d)(1) An individual described in subsection (a)(1)(A) of this section may make an election not to receive educational assistance under this chapter. Any such election shall be made at the time the individual initially enters on active duty as a member of the Armed Forces. Any individual who makes such an election is not entitled to educational assistance under this chapter.

“(2) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

10 USC 2107.

“§ 1413. Duration of basic educational assistance

38 USC 1413.

“(a)(1) Subject to section 1795 of this title and except as provided in paragraph (2) of this subsection, each individual entitled to basic educational assistance under section 1411 of this title is entitled to 36 months of educational assistance benefits under this chapter (or the equivalent thereof in part-time educational assistance).

Ante, p. 2554.

“(2) In the case of an individual described in section 1411(a)(1)(A)(ii)(I) of this title who is not also described in section 1411(a)(1)(A)(i) of this title or an individual described in section 1411(a)(1)(B)(ii)(I) of this title who is not also described in section 1411(a)(1)(B)(i) of this title, the individual is entitled to one month of educational assistance benefits under this chapter for each month of active duty served by such individual.

“(b) Subject to section 1795 of this title and subsection (c) of this section, each individual entitled to basic educational assistance under section 1412 of this title is entitled to (1) one month of educational assistance benefits under this chapter for each month of active duty served by such individual, and (2) one month of educational assistance benefits under this chapter for each four months served by such individual in the Selected Reserve (other than any month in which the individual served on active duty).

Ante, p. 2555.

“(c) No individual may receive basic educational assistance benefits under this chapter for a period in excess of 36 months (or the equivalent thereof in part-time educational assistance).

“§ 1414. Payment of basic educational assistance

38 USC 1414.

“The Administrator shall pay to each individual entitled to basic educational assistance who is pursuing an approved program of education a basic educational assistance allowance to help meet, in part, the expenses of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

“§ 1415. Amount of basic educational assistance

38 USC 1415.

“(a) Subject to section 1432 of this title and except as otherwise provided in subsections (b) and (c) of this section, a basic educational assistance allowance under this subchapter shall be paid—

Post, p. 2561.

“(1) at the monthly rate of \$300 for an approved program of education pursued on a full-time basis; or

Regulations. “(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

Ante, p. 2554. “(b) In the case of an individual entitled to an educational assistance allowance under section 1411 of this title and whose initial obligated period of active duty is two years, a basic educational assistance allowance under this chapter shall be paid—

““(1) at the monthly rate of \$250 for an approved program of education pursued on a full-time basis; or

Regulations. ““(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

Regulations. ““(c) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit, the Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may increase the rate of the basic educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsections (a) and (b) of this section as the Secretary considers appropriate, but the amount of any such increase may not exceed \$400 per month.

38 USC 1651 *et seq.* ““(d)(1) Subject to paragraph (2) of this subsection, in the case of an individual who on December 31, 1989, was entitled to educational assistance under chapter 34 of this title, the rate of the basic educational assistance allowance applicable to such individual under this chapter shall be increased by the amount equal to one-half of the educational assistance allowance that would be applicable to such individual under such chapter 34 (as of the time the assistance under this chapter is provided and based on the rates in effect on December 31, 1989) if such chapter were in effect.

“(2) The number of months for which the rate of the basic educational assistance allowance applicable to an individual is increased under paragraph (1) of this subsection may not exceed the number of months of entitlement to educational assistance under chapter 34 of this title that the individual had remaining on December 31, 1989.

38 USC 1416. “§ 1416. Inservice enrollment in a program of education

Ante, p. 2555. “A member of the Armed Forces who has completed at least two years of service on active duty after June 30, 1985, has continued on active duty or in the Selected Reserve without a break in service (except as described in section 1412(b)(2) of this title), and who but for section 1411(a)(1) or 1412(a)(1) of this title would be eligible for basic educational assistance may receive educational assistance under this chapter for enrollment in an approved program of education while continuing to perform the duty described in section 1411(a)(1) or 1412(a)(1) of this title.

“Subchapter III—Supplemental Educational Assistance

38 USC 1421. “§ 1421. Supplemental educational assistance for additional service

Regulations. ““(a) The Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 1411 of this title who—

“(1) serves five or more consecutive years of active duty in the Armed Forces in addition to the years of active duty counted under section 1411(a)(1) of this title without a break in such service; and

“(2) after completion of the service described in clause (1) of this subsection—

“(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

“(B) continues on active duty without a break in service; or

“(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

“(b) The Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 1412 of this title who—

Regulations.

Ante, p. 2555.

“(1) serves two or more consecutive years of active duty in the Armed Forces in addition to the years of active duty counted under section 1412(a)(1) of this title and four or more consecutive years of duty in the Selected Reserve in addition to the years of duty in the Selected Reserve counted under such section without a break in service; and

“(2) after completion of the service described in clause (1) of this subsection—

“(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or

“(B) continues on active duty or in the Selected Reserve.

“(c) Continuity of service of a member in the Selected Reserve for purposes of subsection (b)(1) of this section shall not be considered to be broken—

“(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of his Armed Force that the member is eligible to join or that has a vacancy; or

“(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

“(d) A period of active duty or duty in the Selected Reserve that occurs before the period of duty by which the individual concerned qualifies for basic educational assistance may not be counted for purposes of this section.

“§ 1422. Amount of supplemental educational assistance

38 USC 1422.

“(a) Subject to section 1432 of this title and except as otherwise provided under subsection (b) of this section, supplemental educational assistance under section 1421 of this title shall be paid—

Post, p. 2561.

Ante, p. 2558.

“(1) at a monthly rate of \$300 for an approved program of education pursued on a full-time basis; or

“(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

“(b) In the case of a member of the Armed Forces for whom the Secretary concerned has provided for the payment of supplemental educational assistance who has a skill or specialty designated by the

Regulations.

Secretary concerned, pursuant to regulations to be prescribed by the Secretary, as a skill or specialty in which there is a critical shortage of personnel, the Secretary concerned, pursuant to such regulations, may increase the rate of the supplemental educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsection (a) of this section as the Secretary concerned considers appropriate, but the amount of any such increase may not exceed \$300 per month.

38 USC 1423.

"§ 1423. Payment of supplemental educational assistance under this subchapter

"The Administrator shall increase the monthly basic educational assistance allowance paid to an individual who is entitled to supplemental educational assistance under this subchapter by the monthly amount of the supplemental educational assistance to which the individual is entitled.

"Subchapter IV—Time Limitation for Use of Eligibility and Entitlement; General and Administrative Provisions

"§ 1431. Time limitation for use of eligibility and entitlement

38 USC 1431.

"(a) Except as provided in subsections (b) through (d) of this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 10-year period beginning on (1) the date of such individual's last discharge or release from active duty, or (2) the last day on which such individual becomes entitled to such assistance, whichever is later.

"(b) In the case of any eligible individual who has been prevented, as determined by the Administrator, from pursuing a program of education under subchapter II or III of this chapter within the 10-year period prescribed by subsection (a) of this section because such individual had not met the nature of discharge requirement of such subchapter before (1) the nature of such individual's discharge or release was changed by appropriate authority, or (2) with respect to educational assistance under subchapter II of this chapter, the Administrator determined, under regulations prescribed by the Administrator, that such discharge or release was under conditions described in section 1411(a)(3) or 1412(a)(3) of this title, such 10-year period shall not run during the period of time that such individual was so prevented from pursuing such program of education.

Ante, pp. 2554,
2555.

"(c) In the case of an individual eligible for educational assistance under the provisions of this chapter who, after such individual's last discharge or release from active duty, was detained by a foreign government or power, the 10-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized at a military, civilian, or Veterans' Administration medical facility.

"(d) In the case of an individual eligible for educational assistance under this chapter—

"(1) who was prevented from pursuing such individual's chosen program of education before the expiration of the 10-year period for use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which was not the result of the individual's own willful misconduct, and

"(2) who applies for an extension of such 10-year period within one year after (A) the last day of such period, or (B) the

Regulations.

last day on which such individual was so prevented from pursuing such program, whichever is later, such 10-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such 10-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(e)(1) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under this section, expire during a quarter or semester, such period shall be extended to the end of such quarter or semester.

"(2) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under this section, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for 12 weeks, whichever is the lesser period of extension.

"1432. Limitation on educational assistance for certain individuals

38 USC 1432.

"(a) In the case of an individual entitled to educational assistance under this chapter who is pursuing a program of education—

"(1) while on active duty; or

"(2) on less than a half-time basis,

the amount of the monthly educational assistance allowance payable to such individual under this chapter is the amount determined under subsection (b) of this section.

"(b) The amount of the educational assistance allowance payable to an individual described in subsection (a) of this section is the lesser of (1) the amount of the educational assistance allowance otherwise payable to such individual under this chapter, or (2) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay.

"§ 1433. Bar to duplication of educational assistance benefits

38 USC 1433.

"(a)(1) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 34, or 35 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs concurrently but shall elect (in such form and manner as the Administrator may prescribe) under which program to receive educational assistance.

"(2) An individual entitled to educational assistance under chapter 34 of this title may not receive assistance under this chapter before January 1, 1990.

"(b) A period of service counted for purposes of repayment under section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), of an education loan may not also be counted

38 USC 1500 *et seq.*; 1651 *et seq.*; 1700 *et seq.*, *post.*, p. 2564; 10 USC 2141 *et seq.*

38 USC 1651 *et seq.*

for purposes of entitlement to educational assistance under this chapter.

Post, p. 2564.
Ante, p. 2555.

“(c) An individual who is entitled to educational assistance under chapter 106 of title 10 may not also receive educational assistance under this chapter based on entitlement under section 1412 of this title.

38 USC 1434.

“§ 1434. Program administration

38 USC 1770,
1780.

“(a) Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of this title and the provisions of subchapters I and II of chapter 36 of this title (with the exception of sections 1777, 1780(a)(5), 1780(b), 1786, 1787, and 1792 of such chapter) shall be applicable to the provision of educational assistance under this chapter. The term ‘eligible veteran’, as used in those provisions, shall be deemed to include an individual who is eligible for educational assistance under this chapter.

“(b) An educational assistance allowance for any period may not be paid to an individual enrolled in or pursuing a program of education under this chapter until the Administrator has received—

“(1) from such individual a certification as to such individual’s actual attendance during such period; and

“(2) from the educational institution a certification, or an endorsement of the individual’s certificate, that such individual was enrolled in and pursuing a program of education during such period.

Regulations.

“(c) Regulations prescribed by the Secretary of Defense under this chapter shall be uniform for the Armed Forces under the jurisdiction of the Secretary of a military department.

38 USC 1435.

“§ 1435. Allocation of administration and of program costs

“(a) Except to the extent otherwise specifically provided in this chapter, the educational assistance programs established by this chapter shall be administered by the Veterans’ Administration.

Ante, p. 2554.

“(b)(1) Except to the extent provided in paragraph (2) of this subsection, payments for entitlement earned under subchapter II of this chapter shall be made from funds appropriated to, or otherwise available to, the Veterans’ Administration for the payment of readjustment benefits.

Ante, p. 2557.

“(2) Payments for entitlement earned under subchapter II of this chapter that is established under section 1415(c) of this title at a rate in excess of the rate prescribed under section 1415(a) of this title shall, to the extent of that excess, be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

Post, p. 2568.

“(c) Payments for educational assistance provided under subchapter III of this chapter shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

“(d) Funds for the payment by the Administrator of benefits under this chapter that are to be paid from the Department of Defense Education Benefits Fund shall be transferred to the Veterans’ Administration from such Fund as necessary and in accordance with agreements entered into under section 2006 of title 10 by the Administrator, the Secretary of Defense, and the Secretary of the

Treasury. Funds for the payment by the Administrator of benefits under this chapter that are to be paid from appropriations made to the Department of Transportation shall be transferred to the Veterans' Administration as necessary. The Administrator and the Secretary of Transportation shall enter into an agreement for the manner in which such transfers are to be made.

"§ 1436. Reporting requirement

38 USC 1436.

"(a) The Secretary of Defense and the Administrator shall submit to the Congress at least once every two years separate reports on the operation of the program provided for in this chapter.

"(b) The Secretary shall include in each report submitted under this section—

"(1) information indicating (A) the extent to which the benefit levels provided under this chapter are adequate to achieve the purposes of inducing individuals to enter and remain in the Armed Forces and of providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, and (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to individuals who have not yet entered active-duty service; and

"(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary considers appropriate.

"(c) The Administrator shall include in each report submitted under this section—

"(1) information concerning the level of utilization of educational assistance and of expenditures under this chapter; and

"(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Administrator considers appropriate.

"(d)(1) The first report by the Secretary of Defense under this section shall be submitted not later than January 1, 1986.

"(2) The first report by the Administrator under this section shall be submitted not later than January 1, 1988."

(2) The tables of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting above the item relating to chapter 31 the following new item:

"30. All-Volunteer Force Educational Assistance Program..... 1401".

(b) Subchapter III of chapter 30 of title 38, United States Code, as added by subsection (a), shall take effect on July 1, 1986.

(c) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the desirability and the feasibility of permitting members of the Armed Forces entitled to educational assistance under chapter 30 of title 38, United States Code (as added by subsection (a)), to transfer entitlement to such assistance to dependents of such members.

Effective date.
38 USC 1421
note.

Ante, p. 2553.

COORDINATION WITH OTHER VETERANS' EDUCATION AND TRAINING PROGRAMS

SEC. 703. (a) Section 1508(f)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting “30 or” before “34” the first place it appears; and

(B) by striking out “chapter 34” the second place it appears and inserting in lieu thereof “either chapter 30 or chapter 34”; and

(2) in subparagraph (B), by inserting “30 or” before “34”.

38 USC 1673.

(b) The third sentence of section 1673(d)(1) of such title is amended by inserting “30,” after “or chapter”.

Ante, p. 41.

(c) Section 1781 is amended—

(1) in subsection (a)—

(A) by inserting “30,” after “chapter” the first place it appears;

(B) by striking out “36,” and inserting in lieu thereof “36 of this title or 106 or 107 of title 10,”; and

(C) by striking out the comma after “chapter 31”; and

(2) by inserting “30,” in subsection (b)(1) after “Chapters”.

Ante, p. 41.

(d) Section 1795(a) is amended—

(1) by inserting “30,” in clause (4) after “Chapters”; and

(2) by striking out “Chapter 107” in clause (5) and inserting in lieu thereof “Chapters 106 and 107”.

SUSPENSION OF RIGHT TO ENROLL IN CHAPTER 32 PROGRAM

38 USC 1621
note.
38 USC 1601
et seq.

SEC. 704. No individual on active duty in the Armed Forces may initially enroll in the educational assistance program provided for in chapter 32 of title 38, United States Code, during the period beginning on July 1, 1985, and ending on June 30, 1988.

REVISION OF EDUCATIONAL ASSISTANCE PROGRAM FOR THE SELECTED RESERVE

SEC. 705. (a)(1) Chapter 106 of title 10, United States Code, is amended to read as follows:

“CHAPTER 106—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

“Sec.

“2131. Educational assistance program: establishment; amount.

“2132. Eligibility for educational assistance.

“2133. Time limitation for use of entitlement.

“2134. Termination of assistance.

“2135. Failure to participate satisfactorily; penalties.

“2136. Administration of program.

“2137. Reports to Congress.

“2138. Savings provision.

"§ 2131. Educational assistance program: establishment; amount 10 USC 2131.

"(a) To encourage membership in units of the Selected Reserve of the Ready Reserve, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Transportation, under regulations prescribed by the Secretary with respect to the Coast Guard when it is not operating as a service in the Navy, shall establish and maintain a program to provide educational assistance to members of the Selected Reserve of the Ready Reserve of the armed forces under the jurisdiction of the Secretary concerned who agree to remain members of the Selected Reserve for a period of not less than six years.

"(b) Each educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned to each person entitled to educational assistance under this chapter who is pursuing a program of education and educational assistance allowance at the following rates:

"(1) \$140 per month for each month of full-time pursuit of a program of education;

"(2) \$105 per month for each month of three-quarter-time pursuit of a program of education; and

"(3) \$70 per month for each month of half-time pursuit of a program of education.

"(c)(1) Educational assistance may only be provided under this chapter for pursuit of a program of education at an institution of higher learning and may not be provided to a person after the person has completed a course of instruction required for the award of a baccalaureate degree or the equivalent evidence of completion of study.

"(2) Subject to section 1795 of title 38, the maximum number of months of educational assistance that may be provided to any person under this chapter is 36. 38 USC 1795.

"§ 2132. Eligibility for educational assistance 10 USC 2132.

"(a) A person who—

"(1) during the period beginning on July 1, 1985, and ending on June 30, 1988—

"(A) enlists, reenlists, or extends an enlistment as a Reserve for service in the Selected Reserve for a period of not less than six years; or

"(B) is appointed as, or is serving as, a reserve officer and agrees to serve in the Selected Reserve for a period of not less than six years in addition to any other period of obligated service in the Selected Reserve to which the person may be subject; and

"(2) before completing initial active duty for training has received a secondary school diploma (or an equivalency certificate);

is entitled to educational assistance under section 2131 of this title. *Supra.*

"(b) Educational assistance may not be provided to a member under this chapter until the member—

"(1) has completed the initial period of active duty for training required of the member; and

"(2) has completed 180 days of service in the Selected Reserve.

"(c) Each person who becomes entitled to educational assistance under subsection (a) shall at the time the person becomes so entitled be given a statement in writing summarizing the provisions of this

- Infra.* chapter and stating clearly and prominently the substance of sections 2134 and 2135 of this title as such sections may apply to the person.
- Ante*, pp. 2553, 2555. “(d) A person who is entitled to educational assistance under chapter 30 of title 38 based on section 1412 of that title may not also be provided educational assistance under this chapter.
- 10 USC 2133. “§ 2133. Time limitation for use of entitlement
- “(a) Except as provided in subsection (b), the period during which a person entitled to educational assistance under this section may use such person’s entitlement expires (1) at the end of the 10-year period beginning on the date on which such person becomes entitled to such assistance, or (2) on the date the person is separated from the Selected Reserve, whichever occurs first.
- Ante*, p. 2560. “(b)(1) The provisions of section 1431(e) of title 38 shall apply to the period of entitlement prescribed by subsection (a).
- “(2) The provisions of section 1431(d) of title 38 shall apply to the period of entitlement prescribed by subsection (a) in the case of a disability incurred in or aggravated by service in the Selected Reserve.
- 10 USC 2134. “§ 2134. Termination of assistance
- “Educational assistance may not be provided under this chapter—
- “(1) to a member receiving financial assistance under section 2107 of this title as a member of the Senior Reserve Officers’ Training Corps program; or
- “(2) to a member who fails to participate satisfactorily in required training as a member of the Selected Reserve.
- 10 USC 2135. “§ 2135. Failure to participate satisfactorily; penalties
- “(a)(1) A member of the Selected Reserve of the Ready Reserve of an armed force who fails to participate satisfactorily in required training as a member of the Selected Reserve during a term of enlistment or other period of obligated service that created entitlement of the member to educational assistance under this chapter shall, at the option of the Secretary concerned—
- “(A) be ordered to active duty for a period of two years or the period of obligated service the person has remaining under section 2132 of this title, whichever is less; or
- Ante*, p. 2565. “(B) be required to refund to the United States an amount determined under subsection (b).
- “(2) The Secretary concerned may waive the requirements of paragraph (1), or may reduce the amount of any refund under clause (B) of such paragraph, in the case of any individual member when the Secretary determines that the failure to participate satisfactorily was due to reasons beyond the control of the member.
- “(3) Any refund by a member under this section shall not affect the period of obligation of such member to serve as a Reserve in the Selected Reserve.
- “(b)(1) The amount of a refund under subsection (a) shall be the amount equal to the product of—
- “(A) the number of months of obligated service remaining under the agreement entered into under section 2132(a)(3) divided by the original number of months of such obligation; and
- “(B) the total amount of educational assistance provided to the member under this chapter,

as increased by interest determined under paragraph (2).

"(2) The amount computed under paragraph (1) shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the refund is determined to be due for securities having maturities of 90 days or less and shall accrue from the day on which the member is first notified of the amount due to the United States as a refund under this section.

"§ 2136. Administration of program

10 USC 2136.

"(a) Educational assistance under this chapter shall be provided through the Veterans' Administration, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Transportation, with the Administrator of Veterans' Affairs. Such agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Veterans' Administration for the making of payments under this chapter.

"(b) Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of chapter 34 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(a)(5), 1780(b), 1786, 1787(b)(1), and 1792) shall be applicable to the provision of educational assistance under this chapter. The term 'eligible veteran', as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

38 USC 1770,
1780.

"§ 2137. Reports to Congress

10 USC 2137.

"The Secretary of Defense shall submit to the Congress a report not later than December 15 of each year concerning the operation of the educational assistance program established by this chapter during the preceding fiscal year. Each such report shall include the number of members of the Selected Reserve of the Ready Reserve of each armed force receiving, and the number entitled to receive, educational assistance under this chapter during the preceding fiscal year.

"§ 2138. Savings provision

10 USC 2138.

"A member who entered into an agreement under this chapter before July 1, 1985, shall continue to be eligible for educational assistance in accordance with the terms of such agreement and of this chapter as in effect before such date."

(2) The items relating to such chapter in the table of chapters at the beginning of subtitle A of such title, and in the table of chapters at the beginning of part III of such subtitle, are amended to read as follows:

"106. Educational Assistance for Members of the Selected Reserve 2131".

(b) The amendments made by this section shall take effect on July 1, 1985, and shall apply only to members of the Armed Forces who qualify for educational assistance under chapter 106 of title 10, United States Code, as amended by subsection (a), on or after such date.

Effective date.
10 USC 2131
note.
Ante, p. 2564.

ACCRUAL FUNDING OF DEPARTMENT OF DEFENSE LIABILITIES

SEC. 706. (a)(1) Chapter 101 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 2006.

“§ 2006. Department of Defense Education Benefits Fund

“(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Education Benefits Fund (hereinafter in this section referred to as the ‘Fund’), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance Department of Defense education liabilities on an actuarially sound basis.

“(b) In this section:

Ante, pp. 2553, 2564.

“(1) ‘Department of Defense education liabilities’ means liabilities of the Department of Defense for benefits under chapter 30 of title 38 and for benefits under chapter 106 of this title.

“(2) ‘Normal cost’, with respect to any period of time, means the total of the following:

Ante, p. 2557.

“(A) The present value of the future benefits payable from the Fund for amounts attributable to increased amounts of educational assistance authorized under section 1415(c) of title 38 to persons who were not on active duty on July 1, 1985, and who during such period enter on active duty.

Ante, p. 2558.

“(B) The present value of the future benefits payable from the Fund for amounts attributable to educational assistance authorized under subchapter III of chapter 30 of title 38 to persons who were not on active duty on July 1, 1985, and who during such period—

Ante, p. 2554.

“(i) enter a fourth year of active duty, in the case of persons eligible for basic educational assistance under section 1411 of such title; or

Ante, p. 2558.

“(ii) enter a period of service that will establish entitlement to such educational assistance under section 1421(b) of such title, in the case of persons eligible for basic educational assistance under section 1412 of such title.

Ante, p. 2555.

Ante, p. 2564.

“(C) The present value of the future benefits payable from the Fund for educational assistance under chapter 106 of this title to persons who during such period become entitled to such assistance.

“(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

“(1) Amounts paid into the Fund by the Secretary of Defense under subsection (g).

“(2) Any amount appropriated to the Fund.

“(3) Any return on investment of the assets of the Fund.

“(d) The Secretary of the Treasury shall transfer from the Fund to the Administrator of Veterans’ Affairs such amounts as may be necessary to enable the Administrator to make required payments of Department of Defense education liabilities. The Secretary of the Treasury, the Secretary of Defense, and the Administrator shall enter into an agreement as to how and when, and the amounts in which, such transfers shall be made. Except for investments under subsection (h), amounts in the Fund may not be used for any purpose other than transfers as described in this subsection.

“(e)(1)(A) There is established in the Department of Defense a Department of Defense Education Benefits Board of Actuaries (hereinafter in this section referred to as the ‘Board’). The Board shall consist of three members, who shall be appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries.

Department of
Defense
Education
Benefits Board of
Actuaries,
establishment.

“(B)(i) Except as provided in clause (ii), the members of the Board shall serve for a term of fifteen years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which his predecessor was appointed shall only serve until the end of such term. A member may serve after the end of his term until his successor has taken office. A member of the Board may be removed by the Secretary of Defense for misconduct or failure to perform functions vested in the Board, and for no other reason.

“(ii) Of the members of the Board who are first appointed under this paragraph, one each shall be appointed for terms ending five, ten, and fifteen years, respectively, after the date of appointment, as designated by the Secretary of Defense at the time of appointment.

“(C) A member of the Board who is not otherwise an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5, for each day the member is engaged in the performance of duties vested in the Board and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of title 5.

5 USC 5331.

“(2) The Board shall report to the Secretary of Defense annually on the actuarial status of the Fund and shall furnish its advice and opinion on matters referred to it by the Secretary.

5 USC 5703.
Report.

“(3) The Board shall review valuations of the Fund under subsection (f) and report periodically, not less than once every four years, to the President and Congress on the status of the Fund and shall recommend such changes as in the Board's judgment are necessary to protect the public interest and maintain the Fund on a sound actuarial basis.

Report.

“(4) The Secretary shall keep, or cause to be kept, such records as necessary for determining the actuarial status of the Fund.

Records.

“(f)(1) The Secretary of Defense shall carry out periodic actuarial valuations of the educational programs described in subsection (b)(1).

“(2) Based on the most recent such valuation, the Secretary of Defense shall estimate the normal cost for the next fiscal year.

“(3) If at the time of any such valuation there has been a change in benefits under an education program described in subsection (b)(1) that has been made since the last such valuation and that increases or decreases the present value of benefits payable from the Fund, the Secretary of Defense shall determine an amortization methodology and schedule for the liquidation of the unfunded liability (or negative unfunded liability) thus created such that the present value of the sum of the amortization payments equals the increase or decrease in the present value of such benefits.

“(4) If at the time of any such valuation the Secretary of Defense determines that, based upon changes in actuarial assumptions since the last valuation, there has been an actuarial gain or loss to the Fund, the Secretary shall determine an amortization methodology and schedule for the liquidation of such gain or loss through an

increase or decrease in the payments that would otherwise be made to the Fund.

“(5) Based on the determinations under paragraphs (2), (3), and (4) the Secretary of Defense shall determine the amount needed to be appropriated to the Department of Defense for the next fiscal year for payments to be made to the Fund under subsection (g). The President of U.S. President shall include not less than the full amount so determined in the budget transmitted to Congress for the next fiscal year under section 1105 of title 31. The President may comment and make recommendations concerning any such amount.

“(6) All determinations under this subsection shall be made using methods and assumptions approved by the Board of Actuaries (including assumptions of interest rates and inflation) and in accordance with generally accepted actuarial principles and practices.

“(g)(1) The Secretary of Defense shall pay into the Fund each month the amount that, based upon the most recent actuarial valuation of the education programs described in subsection (b)(1), is equal to the actual total normal cost for the preceding month.

“(2) The Secretary of Defense shall pay into the Fund at the beginning of each fiscal year (or as soon thereafter as appropriations are available for such purpose) the sum of the following:

“(A) The amount of the payment for that year, if any, for the amortization of any liability to the Fund resulting from a change in benefits, as determined by the Secretary of Defense under subsection (f)(3).

“(B) The amount of the payment for that year, if any, for the amortization of any actuarial gain or loss to the Fund, as determined by the Secretary of Defense under subsection (f)(4).

“(3) Amounts paid into the Fund under this subsection shall be paid from appropriations available for the pay of members of the armed forces under the jurisdiction of the Secretary of a military department.

“(h) The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Fund.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“2006. Department of Defense Education Benefits Fund.”

10 USC 2006
note.
Ante, p. 2568.

(b) The first payment into the Department of Defense Education Benefits Fund under section 2006 of title 10, United States Code, as added by subsection (a), shall be made not later than three months after the Board of Actuaries determines the amounts needed to be paid into the Fund for that portion of fiscal year 1985 beginning on July 1, 1985. The first payment shall be made in a lump sum equal to the total of the amounts that would have been paid to the Fund each month between July 1, 1985, and the time such first payment is made.

EDUCATIONAL LEAVE OF ABSENCE FOR MEMBERS OF THE ARMED FORCES

SEC. 707. (a)(1) Chapter 40 of title 10, United States Code, relating to leave, is amended by adding at the end thereof the following new section:

“§ 708. Educational leave of absence

10 USC 708.

“(a) Under such regulations as the Secretary of Defense may prescribe after consultation with the Secretary of Transportation and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave of absence for a period of not to exceed two years for the purpose of permitting the member to pursue a program of education.

“(b)(1) A member may not be granted a leave of absence under this section unless—

“(A) in the case of an enlisted member, the member agrees in writing to extend his current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

“(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

“(2) A member may not be granted a leave of absence under this section until he has completed any extension of enlistment or reenlistment, or any period of obligated service, incurred by reason of any previous leave of absence granted under this section.

“(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not receive basic allowance for quarters or basic allowance for subsistence or any other pay and allowances to which he would otherwise be entitled for such period.

“(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of the member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of determining the member's time in grade for promotion purposes, but may not be counted for the purposes of completion of the term of enlistment of the member (in the case of an enlisted member) or for purposes of section 1421 of title 38, relating to entitlement to supplemental educational assistance.

Ante, p. 2558.

“(d)(1) In time of war, or of national emergency declared by the President or the Congress after the date of the enactment of this section, the Secretary concerned may cancel any leave of absence granted under this section.

“(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

“(e) In this section, ‘eligible member’ means a member of the armed forces on active duty who is eligible for basic educational assistance under chapter 30 of title 38 and who—

Ante, p. 2558.

“(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

“(2) in the case of an officer, has completed the officer’s initial period of obligated service on active duty.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“708. Educational leave of absence.”.

Effective date.
10 USC 708 note.

(b) Section 708 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1985.

PRESEPARATION COUNSELING

SEC. 708. (a)(1) Chapter 53 of title 10, United States Code, is amended by adding after section 1045 (as added by section 654) the following new section:

10 USC 1046.

“§ 1046. Preseparation counseling requirement

“Upon the discharge or release from active duty of a member of the armed forces, the Secretary concerned shall provide for individual counseling of that member. That counseling shall include a discussion of the educational assistance benefits to which the member is entitled because of the member’s service in the armed forces and an explanation of the procedures for and advantages of affiliating with the Selected Reserve. A notation of the provision of such counseling, signed by the member, shall be placed in the service record of each member receiving such counseling.”.

(2) The table of sections at the beginning of that chapter is amended by adding after the item relating to section 1045 (as added by section 654) the following new item:

“1046. Preseparation counseling requirement.”.

Effective date.
10 USC 1046
note.

(b) Section 1046 of title 10, United States Code, as added by subsection (a), shall take effect on July 1, 1985.

EXTENSION OF PILOT DEPARTMENT OF DEFENSE EDUCATIONAL ASSISTANCE LOAN REPAYMENT PROGRAM

97 Stat. 672.

SEC. 709. Section 902(g) of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), is amended by striking out “October 1, 1984” and inserting in lieu thereof “October 1, 1986”.

TITLE VIII—CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

50 USC app.
2251-2297.

SEC. 801. There is hereby authorized to be appropriated for fiscal year 1985 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 251 et seq.) the sum of \$190,000,000.

REPEAL OF LIMITATION ON AMOUNTS THAT MAY BE APPROPRIATED FOR CERTAIN PURPOSES

SEC. 802. Section 408 of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2260) is amended by striking out “: *Provided further*” and all that follows through “\$47,000,000 per annum”.

TITLE IX—NATIONAL DEFENSE STOCKPILE

TERMINATION OF PREVIOUS DISPOSAL AUTHORITY

SEC. 901. (a) Any authority provided by law before the date of the enactment of this Act to enter into contracts for the disposal of materials in the National Defense Stockpile established by section 3 of the Strategic and Critical Materials Stock Piling Act (hereinafter in this title referred to as "the Act") (50 U.S.C. 98b) shall expire on September 30, 1984.

Contracts.
50 USC 98d note.

AUTHORIZATIONS FOR DISPOSAL

SEC. 902. Effective on October 1, 1984, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile in accordance with the provisions of the Act, such quantities having been determined to be excess to the current requirements of the stockpile:

Effective date.
President of U.S.
50 USC 98d note.

- (1) 3,200 short tons of antimony.
- (2) 5,600 short tons of asbestos, chrysotile.
- (3) 7,500,000 carats of diamond stones.
- (4) 51,210 short dry tons of manganese dioxide battery natural.
- (5) 292,000 short dry tons of metallurgical grade manganese.
- (6) 5,000 flasks of mercury.
- (7) 500,000 pounds of mercuric oxide.
- (8) 1,000,000 pounds of mica, muscovite film first and second qualities.
- (9) 1,000,000 pounds of mica, muscovite splittings.
- (10) 50,000 pounds of mica, phlogopite splittings.
- (11) 167 short tons of mica block and lump.
- (12) 100,000 pounds of quartz crystals.
- (13) 10,000,000 troy ounces of silver.
- (14) 125,000 pounds of talc, block and lump.
- (15) 50,000 pounds of thorium nitrate.
- (16) 20,000 long tons of tin.
- (17) 2,400,000 pounds of tungsten contained in ores.
- (18) 4,200 long tons of vegetable tannin, chestnut.
- (19) 20,000 long tons of vegetable tannin, quebracho.

RESTRICTIONS ON BALANCE IN STOCKPILE TRANSACTION FUND

SEC. 903. (a) Section 5(b)(2) of the Act (50 U.S.C. 98d(b)(2)) is amended—

- (1) by striking out "a balance" the first place it appears and inserting in lieu thereof "an unobligated balance"; and
- (2) by striking out "\$1,000,000,000" and all that follows through the end and inserting in lieu thereof "\$250,000,000".

(b) Effective on October 1, 1986, section 5(b)(2) of the Act is amended by striking out "\$250,000,000" and inserting in lieu thereof "\$100,000,000".

Effective date.

STOCKPILE REPORT

SEC. 904. Not later than January 31, 1985, the President shall submit to Congress a report respecting the National Defense Stockpile. The report shall include—

President of U.S.

- (1) a plan for attaining the goals of the stockpile specified in section 3(b)(2) of the Act over a three-year period;

(2) an analysis as to the appropriateness of placing all aspects of the management and operation of the stockpile under a single authority, such as the Secretary of Defense;

(3) an analysis of the adequacy of existing legal authority to barter surplus and excess material of the Government and excess real property of the Department of Defense for strategic and critical materials for the stockpile;

(4) an analysis of why existing barter authority has not been used more aggressively in procuring strategic and critical materials to meet stockpile goals; and

(5) a draft of such legislation as may be required to carry out any recommendations respecting such plans and analyses.

DEPOSIT OF FUNDS ACCRUING FROM NAVAL PETROLEUM RESERVES

50 USC 98h note.

SEC. 905. There shall be deposited into the National Defense Stockpile Transaction Fund established under section 9 of the Act (50 U.S.C. 98h) 30 percent of all money accruing to the United States during fiscal year 1985 from lands in the naval petroleum and oil shale reserves (less amounts spent for exploration, development and operation of those reserves and related expenses during that period). Moneys deposited into the Fund under this subsection shall be deemed to have been covered into the Fund under section 9(b) of the Act.

TITLE X—MATTERS RELATING TO NATO AND OTHER ALLIES

SENSE OF CONGRESS RELATING TO INCREASE IN DEFENSE SPENDING BY UNITED STATES ALLIES

22 USC 1928 note.

SEC. 1001. It is the sense of Congress that the President—

(1) should call on the pertinent member nations of the North Atlantic Treaty Organization to meet or exceed their pledges for an annual increase in defense spending during fiscal years 1984 and 1985 of at least 3 percent real growth; and

Japan.

(2) should call on Japan to further increase its defense spending during fiscal years 1984 and 1985; in furtherance of increased unity, equitable sharing of the common defense burden, and international stability.

IMPROVEMENTS TO NATO CONVENTIONAL CAPABILITY

22 USC 1928 note.

SEC. 1002. (a) The Congress finds—

(1) that the North Atlantic Treaty Organization (NATO) should improve its conventional defense capability so as to lengthen the period of time that Western Europe can be defended by conventional forces without the necessity of resorting to the early use of nuclear weapons in the event of a non-nuclear attack on any NATO member country;

(2) that fulfillment by NATO member nations of their goals and commitments to increase defense spending, improve conventional sustainability, and provide support facilities in Western Europe for rapid reinforcements from the United States is crucial to accomplishing that objective; and

(3) that an increase over current United States military personnel levels in European member nations of NATO can be

justified only if these goals and commitments are substantially met by NATO member nations (other than the United States).

(b) The Congress urges the President and the Secretary of Defense to continue to encourage member nations of NATO (other than the United States) to work expeditiously to fulfill the following commitments they have undertaken:

Congress.

(1) To achieve and maintain an annual increase in their defense spending of at least 3 percent, after inflation.

(2) To acquire a 30-day supply of air and ground munitions among those NATO members which have committed forces to the Northern, Center, and Southern Regions.

(3) To construct the number of minimum essential and emergency operating facilities and semihardened aircraft shelters in Western Europe required by NATO Ministerial Guidance to support, under NATO/SHAPE standards, as a minimum, the annual commitment of United States reinforcing tactical aircraft.

(c)(1) After September 30, 1985, none of the funds appropriated pursuant to an authorization contained in this Act or any other Act enacted after the date of the enactment of this Act may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level exceeding a permanent ceiling of 326,414.

Prohibition.

(2) If the Secretary of Defense certifies to the Congress in writing during any fiscal year after fiscal year 1985 that during the previous fiscal year the member nations of NATO (other than the United States) have undertaken significant measures to improve their conventional defense capacity consistent with the goals set forth in subsection (b) which contributes to lengthening the time period between an armed attack on any NATO country and the time the Supreme Allied Commander, Europe, would have to request the release and use of nuclear weapons, the Congress would give strong consideration to authorizing an increase in the permanent ceiling prescribed in paragraph (1) for fiscal years after such fiscal year.

(d)(1) Not later than April 1, 1985, and each year thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the status, as of January 1 of the year in which the report is submitted, of the following matters:

Report.

(A) The number of days of supply of the ground and aerial munitions in hand or on order of the member nations of NATO (other than the United States) which have committed forces to the Northern, Center, and Southern Regions.

(B) The number of facilities and semihardened aircraft shelters completed or under construction as they relate to the United States commitment of reinforcing aircraft in the United States Defense Planning Questionnaire (DPQ) Response of the previous year.

(2)(A) Beginning with the budget submitted to Congress for fiscal year 1986, but not later than April 1, 1985, and each year thereafter, the Secretary of Defense shall submit to Congress a report on the status and cost of the United States commitment to NATO as reflected in the DPQ Response and in the defense budget request. The report shall be an annual update of the Department of Defense Report entitled "United States Expenditures in Support of NATO", first submitted to the Congress in June 1984 pursuant to section

Report.

1107 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 677). In addition to the information required by that section, each such report shall include information which specifically identifies those items in the Secretary of Defense's procurement budget request that are in support of United States forces committed to or earmarked for NATO.

(B) In addition to the requirements of subparagraph (A), the Secretary of Defense shall include in the report an assessment of the performance of the members of NATO (other than the United States) in the following areas:

- (i) Allied contributions to the common defense.
- (ii) Improvement in sustainability and support for United States reinforcing tactical aircraft.
- (iii) Meeting NATO force goals.
- (iv) Increasing NATO infrastructure funding.
- (v) Improvements in air base defenses.
- (vi) Increasing trained manpower levels, particularly reserves.
- (vii) Increasing war reserve material.
- (viii) Improving NATO's ability to neutralize enemy follow-on forces, including use of emerging technologies.
- (ix) Improvements in mine/counter mine capability.
- (x) Improvements in offensive counter air capability.

(C) The requirement under clause (i) of subparagraph (B) is satisfied in any year by the submission of the report required by section 1003(c) for that year.

Infra.

(e)(1) The Congress finds that a viable "two-way street" of defense procurement improves NATO interoperability and therefore is important to overall improvements in conventional defense.

(2) In addition to any funds appropriated pursuant to the authorization contained in this Act for the activities of the Director of Operational Test and Evaluation, Defense, the Director may use an additional amount, not to exceed \$50,000,000, to acquire certain types of weapons, subsystems, and munitions of European NATO manufacture for side-by-side testing with comparable United States manufactured items. Such additional amount shall be derived from any funds appropriated pursuant to an authorization contained in this Act. Items that may be acquired under this paragraph include submunitions and dispensers, anti-tank and anti-armor guided missiles, mines, runway-cratering devices, torpedoes, mortar systems, light armored vehicles, and high-velocity anti-tank guns.

Prohibition.

(f)(1) This section shall not apply in the event of a declaration of war or an armed attack on any NATO member country.

Waiver.

(2) This section may be waived by the President if he declares an emergency and immediately informs the Congress of his action and the reasons therefor.

REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

International
agreements.
Japan.
22 USC 1928
note.
63 Stat. 2241.

11 UST 1632.

SEC. 1003. (a) In recognition of the increasing military threat faced by the Western World and in view of the growth, relative to the United States, in the economic strength of Japan, Canada, and a number of Western European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security Treaty between Japan and the United States on January 19, 1960, it is the sense of the Congress that—

- (1) the burdens of mutual defense now assumed by some of the countries allied with the United States under those agreements are not commensurate with their economic resources;

(2) since May 1978, when each member nation of the North Atlantic Treaty Organization (NATO) agreed to increase real defense spending annually in the range of 3 percent, most NATO members, except for the United States, have failed to meet the 3 percent real growth commitment consistently;

(3) since May 1981, when the Government of Japan established its policy to defend the air and sea lines of communication out to 1,000 nautical miles from the coast of Japan, progress to develop the necessary self-defense capabilities to fulfill that pledge has been extremely disappointing;

(4) Japan is the ally of the United States with the greatest potential for improving its self-defense capabilities and should, therefore, rapidly increase its annual defense spending to the levels required to fulfill that pledge and to enable Japan to be capable of an effective conventional self-defense capability by 1990, including the capability to carry out its 1,000-mile defense policy, a development that would be consonant not only with Japan's current prominent position in the family of nations but also with its unique sensibilities on the issues of war and peace, sensibilities that are recognized and respected by the people of the United States; and

(5) the continued unwillingness of such countries to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) It is further the sense of the Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and an agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

President of U.S.

(c) The Secretary of Defense shall submit to the Congress each year, not later than March 1, a classified report containing—

Report.

(1) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of NATO, and by Japan, based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist and their impact on mutual defense efforts;

(2) a description of efforts by the United States and the efforts of other members of the alliances to eliminate any existing disparities;

(3) projected estimates of the real growth in defense spending for the fiscal year in which the report is submitted for each NATO member nation;

(4) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in the fiscal year immediately preceding the fiscal year in which the report is submitted;

(5) an explanation of those instances in which the commitments to real growth in defense spending have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments;

(6) a description of the activities of each NATO member and Japan to enhance the security and stability of the Southwest

Asia region and to assume additional missions for their own defense as the United States allocates additional resources to the mission of protecting Western interests in world areas not covered by the system of Western Alliances; and

(7) a description of what additional actions the executive branch plans to take should the efforts by the United States referred to in clauses (2) and (5) fail, and, in those instances where such additional actions do not include consideration of the repositioning of American troops, a detailed explanation as to why such repositioning is not being so considered.

Report.
Confidentiality.

(d) The Secretary of Defense shall also submit to the Congress not more than 30 days after the submission of the report required under subsection (a) an unclassified report containing the matters set forth in clauses (1) through (7) of such subsection.

NATO SEASPARROW COOPERATIVE PROGRAM

SEC. 1004. The Secretary of the Navy is authorized to continue participation, in accordance with current operating procedures, in the North Atlantic Treaty Organization SEASPARROW Surface Missile System Cooperative Consortium, as described in the Memorandum of Understanding between the United States, Denmark, Norway, Italy, the Netherlands, Belgium, Canada, Greece, and Federal Republic of Germany, signed by the United States on June 6, 1968, and the Memorandum of Understanding between the same countries, signed by the United States on May 20, 1977.

29 UST 1103.

PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES

SEC. 1005. (a) Chapter 141 of title 10, United States Code, is amended by adding at the end thereof the following new section:

International
agreements.
10 USC 2401a.

“§ 2401a. Procurement of communications support and related supplies and services

“(a) As an alternative means of obtaining communications support and related supplies and services, the Secretary of Defense, subject to the approval of the Secretary of State, may enter into an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO), under which, in return for being provided communications support and related supplies and services, the United States would agree to provide to such country or NATO an equivalent value of communications support and related supplies and services.

“(b) Any arrangement entered into under this section shall require that any accrued credits and liabilities resulting from an unequal exchange of communications support and related supplies and services during the term of such arrangement would be liquidated by direct payment to the party having provided the greater amount of communications support and related supplies and services. Payments received by the United States shall be credited to the appropriation from which such communications support and related supplies and services have been provided.

Records.

“(c) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives copies of all documents evidencing an arrangement entered into

under subsection (a) not later than 45 days after entering into such an arrangement.

“(d) In this section, ‘allied country’ means—

“(1) a country that is a member of the North Atlantic Treaty Organization, or

“(2) Australia, New Zealand, Japan, or the Republic of Korea.”

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“2401a. Procurement of communications support and related supplies and services.”

POLICY ON ARMAMENTS COOPERATION WITH NATO MEMBER COUNTRIES

SEC. 1006. Not later than May 1, 1985, the Secretary of Defense shall transmit to Congress a report setting forth a comprehensive proposal by which the United States and other North Atlantic Treaty Organization member countries may achieve the objectives described in section 1122(b) of the Department of Defense Authorization Act, 1983 (Public Law 97-252; 96 Stat. 755).

Report.

22 USC 1928
note.

AUTHORITY OF SECRETARY OF DEFENSE IN CONNECTION WITH COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE

SEC. 1007. (a) During fiscal year 1985, the Secretary of Defense may carry out the European air defense agreements. In carrying out those agreements during that year, the Secretary—

Federal Republic
of Germany.

(1) may provide without monetary charge to the Federal Republic of Germany articles and services as specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in return for the articles and services provided under paragraph (1)) articles and services as specified in the agreements.

(b) In connection with the administration of the European air defense agreements during fiscal year 1985, the Secretary of Defense may—

Waiver.

(1) waive any surcharge for administrative services otherwise chargeable under section 21(e)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(A));

(2) waive any charge not otherwise waived for services associated with contract administration for the sale under the Arms Export Control Act of Patriot air defense missile fire units to the Federal Republic of Germany contemplated in the agreements;

22 USC 2751
note.

(3) use, to the extent contemplated in the agreements, the NATO Maintenance and Supply Agency (A) for the supply of logistic support in Europe for the Patriot missile system, and (B) for the acquisition of such logistic support, to the extent that the Secretary determines that the procedures of that agency governing such supply and acquisition are appropriate;

(4) share, to the extent contemplated in the agreements, the costs of set-up charges of facilities for use by that agency to perform depot-level support of Patriot missile fire units in Europe; and

(5) deliver to the Federal Republic of Germany one Patriot missile fire unit configured for training, to be purchased by the Federal Republic of Germany under the Arms Export Control Act as contemplated in the agreements, without regard to the

requirement in section 22 of that Act (22 U.S.C. 2762) for payment in advance of delivery for any purchase under that Act.

22 USC 2761. (c) Notwithstanding the rate required to be charged under section 21 of the Arms Export Control Act for services furnished by the United States, in the case of the 14 Patriot missile fire units which the Federal Republic of Germany purchases from the United States under that Act as contemplated in the European air defense agreements, the rate charged by the Secretary of Defense for packing, crating, handling, and transportation services associated with that purchase may not exceed the established Department of Defense rate for such services.

International agreements. (d) For the purposes of this section, the term "European air defense agreements" means (1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on December 6, 1983, and (2) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Federal Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on July 12, 1984.

Contracts. (e) The authority of the Secretary of Defense to enter into contracts under the European air defense agreements is available only to the extent that appropriated funds are otherwise available for that purpose.

TITLE XI—MATTERS RELATING TO ARMS CONTROL

REPORT ON STRATEGIC NUCLEAR SUBMARINE FORCE

SEC. 1101. Not later than April 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the survivability of the United States strategic nuclear ballistic missile submarine force. The report shall address whether there are grounds for adjusting, in short or long-range terms, strategic force plans of the United States based on any vulnerability or potential vulnerability of such force. The report shall also examine the feasibility and desirability of enhancing the survivability of such force through measures that would affect antisubmarine warfare, including the nature of the patrols and the rules of engagement of attack submarines and the nature of the patrols and the rules of engagement of ballistic missile submarines.

ANNUAL REPORT ON STRATEGIC DEFENSE PROGRAMS

10 USC 139 note. SEC. 1102. At the time of the submission by the Secretary of Defense to the Congress of his annual budget presentation materials for each fiscal year beginning with fiscal year 1986 and ending with fiscal year 1990 (but not later than March 15 of the calendar year in which such fiscal year begins), the Secretary of Defense shall transmit to the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate a report on the programs that constitute the Strategic

Defense Initiative and other programs, if any, relating to defense against strategic ballistic missiles. Each such report shall include—

(1) details of all programs and projects included in the Strategic Defense Initiative or relating to defense against strategic ballistic missiles;

(2) a clear definition of the objectives of the Strategic Defense Initiative;

(3) an explanation of the relationship between each such objective and each program and project associated with the Strategic Defense Initiative or defense against strategic ballistic missiles;

(4) the status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program;

(5) a statement of any anticipated impact on the anti-ballistic missile treaty;

(6) consideration of a process by which Congress could review Soviet countermeasures to specific Strategic Defense Initiative programs and evaluate the adequacy of such programs to respond to such countermeasures;

(7) details on the funding of programs, projects, and tasks for the Strategic Defense Initiative, including—

(A) prior and current year funding levels for all such programs, projects, and tasks in the Strategic Defense Initiative budgetary presentation materials;

(B) the amount requested to be appropriated for such programs, projects, and tasks for the fiscal year for which the budget is submitted; and

(C) the amount programmed to be requested for the following fiscal year.

REPORT ON THEATER NUCLEAR WEAPONS AND FORCE STRUCTURE

SEC. 1103. Not later than January 19, 1985, the President shall submit to Congress a report setting forth reasons why the United States should or should not initiate a long-term program for the renovation of the North Atlantic Treaty Organization (NATO) nuclear deterrent in a manner designed to reduce pressures for early first use of tactical nuclear weapons and to substantially reduce the theater nuclear arsenal to types and numbers of weapons whose characteristics make for a more stable and credible force. The report (in addition to any other matter covered) should specifically address the following issues:

(1) Whether NATO should not eliminate its reliance on short-range battlefield nuclear weapons (such as the atomic demolition bomb and 155-millimeter and 8-inch nuclear artillery rounds), the exposure of which to early loss from enemy action promotes pressures for early use.

(2) Whether NATO should not refurbish its nuclear deterrent by designing and deploying specific dedicated nuclear launchers of a range which permits the coverage of all potential targets from locations in the rear of the European NATO territory in the territory of the Warsaw Pact short of the territory of the Soviet Union, thereby reducing pressure from enemy action for early first use of nuclear weapons.

President of U.S.

49 Stat. 3000.

(3) Whether NATO should not, as a consequence of a change in policy described in paragraph (2), eliminate its inventory of dual-capable nuclear/conventional weapons in order to allow early use of artillery, aircraft, and surface-to-surface missiles for conventional missions rather than causing them to be withheld for possible nuclear use.

(4) Whether NATO should not place control and operation of tactical nuclear weapons in a single specialized command established for that purpose so that all other NATO force elements could be free to concentrate on pursuing conventional military missions with maximum efficiency.

REPORT ON WITHDRAWAL OF TACTICAL NUCLEAR WARHEADS FROM EUROPE

President of U.S.

SEC. 1104. The President shall submit a report to Congress not later than 90 days after the final decision is made (based upon the recommendations of the Supreme Allied Commander, Europe) regarding the net reduction to be made by the United States in the number of tactical nuclear warheads in the territory of North Atlantic Treaty Organization European member nations pursuant to the decision of the Nuclear Planning Group of the North Atlantic Treaty Organization of October 17, 1983. The report shall—

(1) specify the types of warheads to be withdrawn in accordance with that decision, the number of each such warhead to be withdrawn, the schedule for the withdrawal, and the rationale for the selection of the particular warheads to be withdrawn; and

(2) any changes in force structure to be made resulting from the changes in the tactical nuclear warheads positioned in Europe.

REPORT ON UNITED STATES COUNTERFORCE CAPABILITY

President of U.S.

SEC. 1105. (a) Not later than April 15, 1985, the President shall submit to Congress a report discussing the required strategic counterforce capability consistent with existing United States policy.

Intercontinental ballistic missiles.

(b) The report under subsection (a) shall be developed taking into consideration current and proposed United States intercontinental ballistic missiles having an accuracy on the order of the MX missile (including specifically the MX missile, the D-5 Trident missile, and the small single-warhead missile) intended to be procured for United States strategic force modernization and the rationale for the overall counterforce capability that would be attained as a cumulative result of those procurements. The President shall include in the report a specific definition of what United States counterforce capability would constitute a so-called "first-strike capability" against the Soviet Union.

(c) The report shall also include an assessment of corresponding Soviet counterforce and first-strike capabilities.

TRANSMITTAL TO CONGRESS OF REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL AGREEMENTS

President of U.S.

SEC. 1106. (a) Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress the text of the report by the General Advisory Committee on Arms Control of the Arms Control and Disarmament Agency entitled "A Quarter

Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983 (U)", dated November 1983. If the President determines that that report contains material the release of which to Congress would compromise United States intelligence sources, methods of intelligence gathering, or the national security of the United States, the President may furnish the text of such report after deleting or modifying such compromising material.

Public
information.
Confidentiality.

(b) Not later than 60 days after the date of the enactment of this Act, the President shall transmit to Congress an unclassified version of the report described in subsection (a).

President of U.S.

REPORT ON NUCLEAR WINTER FINDINGS AND POLICY IMPLICATIONS

SEC. 1107. (a) The Secretary of Defense shall participate in any comprehensive study of the atmospheric, climatic, environmental, and biological consequences of nuclear war and the implications that such consequences have for the nuclear weapons strategy and policy, the arms control policy, and the civil defense policy of the United States.

Study.

(b) Not later than March 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an unclassified report suitable for release to the public, together with classified addenda (if required), concerning the subject described in subsection (a). The Secretary shall include in such report the following:

Public
information.
Confidentiality.

(1) A detailed review and assessment of the current scientific studies and findings on the atmospheric, climatic, environmental, and biological consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such studies and findings have on (A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment, (B) the nuclear arms control policy of the United States, and (C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

SENSE OF THE CONGRESS RELATING TO THE ESTABLISHMENT OF NUCLEAR RISK REDUCTION CENTERS IN THE UNITED STATES AND THE SOVIET UNION

SEC. 1108. (a) The Congress makes the following findings:

(1) An increasing number of scenarios (including misjudgment, miscalculation, misunderstanding, possession of nuclear arms by a terrorist group or a State sponsored threat) could precipitate a sudden increase in tensions and the risk of a nuclear confrontation between the United States and the Soviet Union, situations that neither side anticipates, intends, or desires.

President of U.S.
Communications
and
telecommunica-
tions.

(2) There has been a steady proliferation throughout the world of the knowledge, equipment, and materials necessary to fabricate nuclear weapons.

(3) Such proliferation of nuclear capabilities suggests an increasing potential for nuclear terrorism, the cumulative risk of which, considering potential terrorist groups and other threats over a period of years into the future, may be great.

(4) Current communications links represent equipment of the 1960's and as such are relatively outdated and limited in their capabilities.

(5) The President, responding to congressional initiatives, proposed the establishment of additional and improved communications links between the United States and the Soviet Union and other measures to reduce the risk of nuclear confrontation, and has initiated discussions at a working level with the Soviet Union pertaining to—

(A) the addition of a high speed facsimile capability to the direct communication link (hotline);

(B) the creation of a joint military communications link between the Department of Defense and the Soviet Defense Ministry; and

(C) the establishment by the Governments of the United States and Soviet Union of high-rate data communication links between each nation and its embassy in the other nation's capital.

(6) The establishment of nuclear risk reduction centers in Washington and Moscow could reduce the risk of increased tensions and nuclear confrontations, thereby enhancing the security of both the United States and the Soviet Union.

(7) These centers could serve a variety of functions, including—

(A) discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties;

(B) maintaining close contact during nuclear threats or incidents precipitated by third parties;

(C) exchanging information on a voluntary basis concerning events that might lead to the acquisition of nuclear weapons, materials, or equipment by subnational groups;

(D) exchanging information about United States-Union of Soviet Socialist Republics military activities which might be misunderstood by the other party during periods of mounting tensions; and

(E) establishing a dialog about nuclear doctrines, forces, and activities.

(8) The continuing and routine implementation of these various activities could be facilitated by the establishment within each Government of facilities, organizations, and bureaucratic relationships designated for these purposes, such as risk reduction centers, and by the appointment of individuals responsible to the respective head of state with responsibilities to manage such centers.

(b) The Congress—

(1) commends the President for his announced support for the confidence building measures described in subsection (a) and his initiation of negotiations which have occurred; and

(2) urges the President to pursue negotiations on these measures with the Government of the Soviet Union and to add to these negotiations the establishment of nuclear risk reduction centers in both nations to be operated under the direction of the appropriate diplomatic and defense authorities.

SENSE OF CONGRESS REGARDING A REPORT TO CONGRESS ON CERTAIN
VERIFICATION PROGRAMS RELATING TO BIOLOGICAL AND CHEMICAL
WEAPONS

SEC. 1109. (a) The Congress makes the following findings:

(1) The Iran-Iraq war has recently demonstrated a marked increase in the proliferation of technology on the production of chemical weapons and an increase in the willingness of nations to use such weapons in armed conflict.

Iran-Iraq war.

(2) The President's Report to Congress on Soviet Arms Control Noncompliance concluded that the Soviet Union has refused to respond adequately to United States concerns about the transfer or use by the Soviet Union of lethal chemical warfare agents in Laos, Kampuchea, and Afghanistan and United States concerns about adherence by the Soviet Union to the 1972 Biological and Toxin Weapons Convention.

President of U.S.

(3) Experts at the recent annual meeting of the American Association for the Advancement of Science and at the First World Congress on New Compounds in Biological and Chemical Warfare held at Ghent, Belgium, emphasized that better verification of the use of chemical weapons and of the development of biological and toxin weapons was essential to strengthen the 1972 Biological and Toxin Weapons Convention and the Geneva Protocol of 1925.

26 UST 583.

26 UST 571.

(4) The 1972 Biological and Toxin Weapons Convention is scheduled for review in 1985.

(5) The United States is anxious to promote and strengthen adherence to the Geneva Protocol of 1925 and the 1972 Biological and Chemical Weapons Convention and is vigorously pursuing a comprehensive, verifiable, international agreement to ban chemical weapons.

(6) Any comprehensive agreement intended to ban the production, storage, and transfer of chemical weapons must provide for effective measures of verification and enforcement and in order for the 1972 Biological and Toxin Weapons Convention to be effective, compliance with the terms of the convention must be verifiable; and

(7) The Congress must be well informed regarding existing and planned programs for verifying compliance with the 1972 Biological and Toxin Weapons Convention and with a chemical weapons ban agreement.

(b) It is the sense of Congress that the President should submit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a comprehensive report identifying and evaluating—

(1) existing and planned programs to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban; and

26 UST 583.

(2) the budget resources necessary to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban.

(c) The President is requested to submit the report referred to in subsection (b) to the committees referred to in such subsection not later than December 31, 1984.

SENSE OF CONGRESS EXPRESSING SUPPORT FOR UNITED STATES TO
PURSUE OUTSTANDING ARMS CONTROL COMPLIANCE

SEC. 1110. (a) The Congress makes the following findings:

(1) It is a vital security objective of the United States to limit the Soviet nuclear threat against the United States and its allies.

President of U.S.

(2) The President has declared that "as for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint".

(3) The United States has legitimate concerns about certain Soviet actions and behavior relevant to limitations and other provisions of existing strategic arms agreements.

President of U.S.

(4) The President has declared that "the United States will continue to press compliance issues with the Soviet Union through diplomatic channels, and to insist upon explanations, clarifications, and corrective actions".

(5) The President has also declared that "the United States is continuing to carry out its obligations under relevant agreements".

(6) It would be detrimental to the security interests of the United States and its allies and to international peace and stability for the last remaining limitations on strategic offensive nuclear weapons to break down or lapse before replacement by a new strategic arms control agreement between the United States and the Soviet Union.

(7) The continuation of existing restraints on strategic offensive nuclear arms would provide an atmosphere more conducive to achieving an agreement significantly reducing the levels of nuclear arms.

(8) The Soviet Union has not agreed to a date for resumption of the nuclear arms talks in Geneva, and it is incumbent on the Soviet Union to return to the negotiating table.

(9) A termination of existing restraints on strategic offensive nuclear weapons could make the resumption of negotiations more difficult.

(10) Both sides have, to date, abided by important numerical and other limits contained in existing strategic offensive arms agreements, including dismantling operational missile-firing submarines and remaining within the ceilings on multiple-warhead missile launchers and other related limits.

(11) It is in the interest of the United States and its allies for the Soviet Union to continue to dismantle older missile-firing submarines as new ones are deployed and to continue to remain at or below a level of 820 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles, 1,200 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles and submarine launched ballistic missiles, and 1,320 launchers of interconti-

mental ballistic missiles with multiple independently targeted reentry vehicles and submarine launched ballistic missiles and heavy bombers equipped with air launched cruise missiles, and other related limits in existing strategic offensive arms agreements.

(b) In view of these findings, it is the sense of Congress that—

(1) the United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms control agreements and should seek corrective actions, where appropriate, through the Standing Consultative Commission and other available diplomatic channels;

(2) the United States should, through December 31, 1985, continue to pursue its stated policy to refrain from undercutting the provisions of existing strategic offensive arms agreements so long as the Soviet Union refrains from undercutting the provisions of those agreements, or until a new strategic offensive arms agreement is concluded;

(3) the President should provide a report to the Congress in both classified and unclassified forms reflecting additional findings regarding Soviet adherence to such a no-undercut policy, by February 15, 1985;

President of U.S.
Report.
Confidentiality.

(4) the President shall provide to Congress on or before June 1, 1985, a report that—

President of U.S.
Report.

(A) describes the implications of the United States Ship Alaska's sea trials, both with and without the concurrent dismantling of older launchers of missiles with multiple independently targeted reentry vehicles, for the current United States no-undercut policy on strategic arms and United States security interests more generally;

(B) assesses possible Soviet political, military, and negotiating responses to the termination of the United States no-undercut policy;

(C) reviews and assesses Soviet activities with respect to existing strategic offensive arms agreements; and

(D) makes recommendations regarding the future of United States interim restraint policy; and

(5) the President should carefully consider the impact of any change to this current policy regarding existing strategic offensive arms agreements on the long-term security interests of the United States and its allies and should consult with the Congress before making any change in current policy.

POLICY ON THE STATUS OF CERTAIN TREATIES TO PREVENT NUCLEAR TESTING

SEC. 1111. (a) The Senate makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

14 UST 1313.
21 UST 483.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and

both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

President of U.S.
Report.

(b) It is the sense of the Senate that at the earliest possible date, the President should—

(1) request advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

(c) In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

Defense
Procurement
Reform Act of
1984.

TITLE XII—PROCUREMENT POLICY REFORM AND OTHER PROCUREMENT MATTERS

PART A—SHORT TITLE AND CONGRESSIONAL FINDINGS

SHORT TITLE

10 USC 2301
note.

SEC. 1201. This title may be cited as the “Defense Procurement Reform Act of 1984”.

CONGRESSIONAL FINDINGS AND POLICY

Contracts.
10 USC 2301
note.

SEC. 1202. The Congress finds that recent disclosures of excessive payments by the Department of Defense for replenishment parts have undermined confidence by the public and Congress in the defense procurement system. The Secretary of Defense should make every effort to reform procurement practices relating to replenishment parts. Such efforts should, among other matters, be directed to the elimination of excessive pricing of replenishment spare parts and the recovery of unjustified payments. Specifically, the Secretary should—

(1) direct that officials in the Department of Defense refuse to enter into contracts unless the proposed prices are fair and reasonable;

(2) continue and accelerate ongoing efforts to improve defense contracting procedures in order to encourage effective competition and assure fair and reasonable prices;

(3) direct that replenishment parts be acquired in economic order quantities and on a multiyear basis whenever feasible, practicable, and cost effective;

(4) direct that standard or commercial parts be used whenever such use is technically acceptable and cost effective;

(5) vigorously continue reexamination of policies relating to acquisition, pricing, and management of replenishment parts and of technical data related to such parts; and

(6) ensure that persons that have developed products or processes offered or to be offered for sale to the public are not required, as a condition for the procurement of such products or processes by the Department of Defense, to provide to the United States technical data relating to the design, development, or manufacture of such products or processes (except for such data as may be necessary for the United States to operate and maintain the product or use the process if obtained by the United States as an element of performance under the contract).

PART B—AMENDMENTS TO CHAPTER 137 OF TITLE 10, UNITED STATES CODE

DEFINITIONS

SEC. 1211. Section 2302 of title 10, United States Code, is amended by adding at the end thereof the following new paragraphs:

“(4) ‘Technical data’ means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer software documentation) relating to supplies procured by an agency. Such term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration.

“(5) ‘Major system’ means a combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software or any combination thereof, but excludes construction or other improvements to real property. A system shall be considered a major system if (A) the Department of Defense is responsible for the system and the total expenditures for research, development, test, and evaluation for the system are estimated to be more than \$75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement of more than \$300,000,000 (based on fiscal year 1980 constant dollars); (B) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed \$750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a ‘major system’ established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled ‘Major Systems Acquisitions’, whichever is greater; or (C) the system is designated a ‘major system’ by the head of the agency responsible for the system.”.

PUBLICATION OF PROPOSED REGULATIONS

SEC. 1212. (a) Chapter 137 of title 10, United States Code, is amended by inserting after section 2303 the following new section:

Effective date.
Federal
Register,
publication.
Post, p. 3077.
10 USC 2303a.

“§ 2303a. Publication of proposed regulations

“(a) Except as provided in subsection (d), a procurement policy, regulation, procedure, or form (including amendments or modification thereto) that (1) has a significant effect beyond the internal operating procedures of the agency issuing the procurement policy, regulation, procedure, or form, or (2) has a significant cost or administrative impact on contractors or offerors may not take effect until 30 days after the procurement policy, regulation, procedure, or form is published for public comment in the Federal Register pursuant to subsection (b).

“(b) Subject to subsection (c), the head of the agency shall cause to be published in the Federal Register a notice of the proposed procurement policy, regulation, procedure, or form and provide for a public comment period for receiving and considering the views of all interested parties on such proposal. The length of such comment period may not be less than 30 days.

“(c) Any notice of a proposed procurement policy, regulation, procedure, or form prepared for publication in the Federal Register shall include—

“(1) in a format required for publication in the Federal Register, the text of the proposal or, if it is impracticable to publish the full text of the proposal, a summary of the proposal and a statement specifying the name and address of the officer or employee of the executive agency from whom the full text may be obtained; and

“(2) a request for interested parties to submit comments on the proposal and shall include the name and address of the officer or employee of the Government designated to receive such comments.

“(d)(1) The requirements of subsections (a) and (b) may be waived by the officer of the agency authorized to issue a procurement policy, regulation, procedure, or form if circumstances make compliance with such requirements impracticable.

“(2) A procurement policy, regulation, procedure, or form with respect to which the requirements of subsections (a) and (b) are waived under paragraph (1) shall be effective on a temporary basis if—

“(A) a notice of such procurement policy, regulation, procedure, or form is published in the Federal Register and includes a statement that the procurement policy, regulation, procedure, or form is temporary; and

“(B) provision is made for a public comment period of 30 days beginning on the date on which the notice is published.

After considering the comments received, the head of the agency waiving the requirements of subsections (a) and (b) under paragraph (1) may issue the final procurement policy, regulation, procedure, or form.”

(b) The amendment made by subsection (a) shall take effect with respect to procurement policies, regulations, procedures, or forms first proposed to be issued by an agency on or after the date which is 30 days after the date of enactment of this Act.

Effective date.
10 USC 2303a
note.

PLANNING FOR PROCUREMENT OF SUPPLIES AND FOR FUTURE
COMPETITION

SEC. 1213. (a) Section 2305 of title 10, United States Code, is amended by adding at the end thereof the following new subsections: Contracts.

“(c) The Secretary of Defense shall ensure that before a contract for the delivery of supplies to the Department of Defense is entered into—

“(1) when the appropriate officials of the Department are making an assessment of the most advantageous source for acquisition of the supplies (considering quality, price, delivery, and other factors), there is a review of the availability and cost of each item of supply—

“(A) through the supply system of the Department of Defense; and

“(B) under standard Government supply contracts, if the item is in a category of supplies defined under regulations of the Secretary of Defense as being potentially available under a standard Government supply contract; and

“(2) there is a review of both the procurement history of the item and a description of the item, including, when necessary for an adequate description of the item, a picture, drawing, diagram, or other graphic representation of the item.

“(d)(1)(A) The Secretary of Defense shall ensure that, in preparing a solicitation for the award of a development contract for a major system, the head of an agency consider requiring in the solicitation that an offeror include in its offer proposals described in subparagraph (B). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

“(B) The proposals that the head of an agency is to consider requiring in a solicitation for the award of a development contract are the following:

“(i) Proposals to incorporate in the design of the major system items which are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source.

“(ii) With respect to items that are likely to be required in substantial quantities during the system's service life, proposals to incorporate in the design of the major system items which the United States will be able to acquire competitively in the future.

“(2)(A) The Secretary of Defense shall ensure that, in preparing a solicitation for the award of a production contract for a major system, the head of an agency consider requiring in the solicitation that an offeror include in its offer proposals described in subparagraph (B). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

“(B) The proposals that the head of an agency is to consider requiring in a solicitation for the award of a production contract are proposals identifying opportunities to ensure that the United States will be able to obtain on a competitive basis items procured in connection with the system that are likely to be reprocurd in substantial quantities during the service life of the system. Proposals submitted in response to such requirement may include the following:

“(i) Proposals to provide to the United States the right to use technical data to be provided under the contract for competitive reprocurement of the item, together with the cost to the United States, if any, of acquiring such technical data and the right to use such data.

“(ii) Proposals for the qualification or development of multiple sources of supply for the item.

“(3) If the head of an agency is making a noncompetitive award of a development contract or a production contract for a major system, the factors specified in paragraphs (1) and (2) to be considered in evaluating an offer for a contract may be considered as objectives in negotiating the contract to be awarded.”.

Effective date.
10 USC 2305
note.

(b) The amendment made by subsection (a) shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

DELEGATION OF CERTAIN PROCUREMENT FUNCTIONS

Contracts.
Ante, p. 1194.

SEC. 1214. Section 2311 of title 10, United States Code, is amended—

(1) by inserting “(a)” before “Except as provided in”; and

(2) by adding at the end thereof the following new subsection:

“(b)(1) The head of a procuring activity of an agency named in section 2303 of this title may delegate (subject to his direction) to any general or flag officer, to any civilian officer or employee serving in a position in grade GS-16 or above under the General Schedule. (or in a comparable or higher position under another schedule), or to the head of a contracting office any authority of the head of the procuring activity to enter into a contract (or to approve the authority to enter into a contract) that is a sole-source contract or that results from an unsolicited proposal.

5 USC 5332.

“(2) Any report required to be submitted by the head of an agency to Congress concerning contracts (or negotiations for contracts) above a certain dollar threshold that are sole-source contracts or that result from unsolicited proposals and that are entered into without the approval of certain officials of the procuring activity concerned need not specify a contract or negotiation above the stated amount if the head of the procuring activity, his deputy, or a person to whom authority was delegated under paragraph (1) approved the authority to enter into the contract.”.

PERSONNEL EVALUATIONS TO INCLUDE EMPHASIS ON COMPETITION AND COST SAVINGS

SEC. 1215. Chapter 137 of title 10, United States Code, is amended by adding at the end thereof the following new section:

“§ 2317. Encouragement of competition and cost savings

10 USC 2317.

“The Secretary of Defense shall establish procedures to ensure that personnel appraisal systems of the Department of Defense give appropriate recognition to efforts to increase competition and achieve cost savings in areas relating to contracts covered by this chapter.”.

IMPROVED PROCUREMENT PROCEDURES

SEC. 1216. (a) Chapter 137 of title 10, United States Code, is amended by adding after section 2317 (as added by section 1215 of this Act) the following new sections:

“§ 2318. Advocates for competition

10 USC 2318.

“(a)(1) In addition to the advocates for competition established or designated pursuant to section 20(a) of the Office of Federal Procurement Policy Act, the Secretary of Defense shall designate an officer or employee of the Defense Logistics Agency to serve as the advocate for competition of the agency.

Ante, p. 1195.

“(2) The advocate for competition of the Defense Logistics Agency shall carry out the responsibilities and functions provided for in sections 20(b) and 20(c) of the Office of Federal Procurement Policy Act.

“(b) Each advocate for competition of an agency named in section 2303(a) of this title shall be a general or flag officer if a member of the armed forces or a grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule), if a civilian employee and shall be designated to serve for a minimum of two years.

5 USC 5332.

“(c) Each advocate for competition of an agency of the Department of Defense shall transmit to the Secretary of Defense a report describing his activities during the preceding year. The report of each advocate for competition shall be included in the annual report of the Secretary of Defense required by section 21 of the Office of Federal Procurement Policy Act, in the form in which it was submitted to the Secretary.

Report.

Ante, p. 1195.**“§ 2319. Encouragement of new competitors**Contracts.
10 USC 2319.

“(a) In this section, ‘qualification requirement’ means a requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract.

“(b) Except as provided in subsection (c), the head of the agency shall, before establishing a qualification requirement—

“(1) prepare a written justification stating the necessity for establishing the qualification requirement and specify why the qualification requirement must be demonstrated before contract award;

“(2) specify in writing and make available to a potential offeror upon request all requirements which a prospective offeror, or its product, must satisfy in order to become qualified, such requirements to be limited to those least restrictive to meet the purposes necessitating the establishment of the qualification requirement;

“(3) specify an estimate of the costs of testing and evaluation likely to be incurred by a potential offeror in order to become qualified;

“(4) ensure that a potential offeror is provided, upon request and on a reimbursable basis, a prompt opportunity to demonstrate its ability to meet the standards specified for qualification

using qualified personnel and facilities of the agency concerned or of another agency obtained through interagency agreement, or under contract, or other methods approved by the agency (including use of approved testing and evaluation services not provided under contract to the agency);

“(5) if testing and evaluation services are provided under contract to the agency for the purposes of clause (4), provide to the extent possible that such services be provided by a contractor who is not expected to benefit from an absence of additional qualified sources and who shall be required in such contract to adhere to any restriction on technical data asserted by the potential offeror seeking qualification; and

“(6) ensure that a potential offeror seeking qualification is promptly informed as to whether qualification is attained and, in the event qualification is not attained, is promptly furnished specific information why qualification was not attained.

“(c)(1) Subsection (b) of this section does not apply with respect to a qualification requirement established by statute or administrative action before the date of the enactment of the Defense Procurement Reform Act of 1984 unless such requirement is a qualified products list.

Ante, p. 2588.

Waiver.

“(2)(A) Except as provided in subparagraph (B), if it is unreasonable to specify the standards for qualification which a prospective offeror or its product must satisfy, a determination to that effect shall be submitted to the advocate for competition of the procuring activity responsible for the purchase of the item subject to the qualification requirement. After considering any comments of the advocate for competition reviewing such determination, the head of the purchasing office may waive the requirements of clauses (2) through (6) of subsection (b) for up to two years with respect to the item subject to the qualification requirement.

“(B) The waiver authority provided in this paragraph does not apply with respect to a qualified products list.

“(3) A potential offeror may not be denied the opportunity to submit and have considered an offer for a contract solely because the potential offeror (A) is not on a qualified bidders list, qualified manufacturers list, or qualified products list, or (B) has not been identified as meeting a qualification requirement established after the date of the enactment of the Defense Procurement Reform Act of 1984 if the potential offeror can demonstrate to the satisfaction of the contracting officer that the potential offeror or its product meets the standards established for qualification or can meet such standards before the date specified for award of the contract.

“(4) Nothing contained in this subsection requires the referral of an offer to the Small Business Administration pursuant to section 8(b)(7) of the Small Business Act if the basis for the referral is a challenge by the offeror to either the validity of the qualification requirement or the offeror's compliance with such requirement.

15 USC 637.

“(5) The head of an agency need not delay a proposed procurement in order to comply with subsection (b) or in order to provide a potential offeror with an opportunity to demonstrate its ability to meet the standards specified for qualification.

“(6) The requirements of subsection (b) also apply before enforcement of any qualified products list, qualified manufacturers list, or qualified bidders list.

“(d)(1) If the number of qualified sources or qualified products available to compete actively for an anticipated future requirement is fewer than two actual manufacturers or the products of two actual manufacturers, respectively, the head of the agency concerned shall—

“(A) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification, unless the contracting officer determines that such publication would compromise national security; and

“(B) bear the cost of conducting the specified testing and evaluation (excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated) for a small business concern or a product manufactured by a small business concern which has met the standards specified for qualification and which could reasonably be expected to compete for a contract for that requirement, but such costs may be borne only if the head of the agency determines that such additional qualified sources or products are likely to result in cost savings from increased competition for future requirements sufficient to amortize the costs incurred by the agency within a reasonable period of time considering the duration and dollar value of anticipated future requirements.

“(2) The head of an agency shall require a prospective contractor requesting the United States to bear testing and evaluation costs under paragraph (1)(B) to certify as to its status as a small business concern under section 3 of the Small Business Act.

“(e) Within seven years after the establishment of a qualification requirement under subsection (b) or within seven years following an agency's enforcement of a qualified products list, qualified manufacturers list, or qualified bidders list, any such qualification requirement shall be examined and revalidated in accordance with the requirements of subsection (b). The preceding sentence does not apply in the case of a qualification requirement for which a waiver is in effect under subsection (c)(2).

“(f) Except in an emergency as determined by the head of the agency, whenever the head of the agency determines not to enforce a qualification requirement for a solicitation, the agency may not thereafter enforce that qualification requirement unless the agency complies with the requirements of subsection (b).

“§ 2320. Rights in technical data

“(a) The legitimate proprietary interest of the United States and of a contractor in technical or other data shall be defined in regulations prescribed as part of the single system of Government-wide procurement regulations as defined in section 4(4) of the Office of Federal Procurement Policy Act. Such regulations may not impair any right of the United States or of any contractor with respect to patents or copyrights or any other right in technical data otherwise established by law. The following factors shall be considered in prescribing such regulations:

“(1) Whether the technical data was developed—

“(A) exclusively with Federal funds;

“(B) exclusively at private expense; or

“(C) in part with Federal funds and in part at private expense.

15 USC 632.

Contracts.
Regulations.
10 USC 2320.

Ante, p. 1195.
Patents and
trademarks.
Copyrights.

35 USC 200.

"(2) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (Public Law 97-219; 15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(3) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

Ante, p. 2588.

"(4) The policy set forth in section 1202(6) of the Defense Procurement Reform Act of 1984.

10 USC 2303.

"(b) Regulations prescribed under subsection (a) shall require that, whenever practicable, a contract for supplies or services entered into by an agency named in section 2303 of this title contain appropriate provisions relating to technical data, including provisions—

"(1) defining the respective rights of the United States and the contractor or subcontractor (at any tier) regarding any technical data to be delivered under the contract;

"(2) specifying the technical data, if any, to be delivered under the contract and delivery schedules for such delivery;

"(3) establishing or referencing procedures for determining the acceptability of technical data to be delivered under the contract;

"(4) establishing separate contract line items for the technical data, if any, to be delivered under the contract;

"(5) to the maximum practicable extent, identifying, in advance of delivery, technical data which is to be delivered with restrictions on the right of the United States to use such data;

"(6) requiring the contractor to revise any technical data delivered under the contract to reflect engineering design changes made during the performance of the contract and affecting the form, fit, and function of the items specified in the contract and to deliver such revised technical data to an agency within a time specified in the contract;

"(7) requiring the contractor to furnish written assurance at the time the technical data is delivered or is made available that the technical data is complete and accurate and satisfies the requirements of the contract concerning technical data;

"(8) establishing remedies to be available to the United States when technical data required to be delivered or made available under the contract is found to be incomplete or inadequate or to not satisfy the requirements of the contract concerning technical data; and

"(9) authorizing the head of the agency to withhold payments under the contract (or exercise such other remedies as the head of the agency considers appropriate) during any period if the contractor does not meet the requirements of the contract pertaining to the delivery of technical data.

Ante, p. 2591.

"(c) Nothing in this section or in section 2305(d) of this title prohibits the Secretary of Defense from prescribing standards for determining whether a contract entered into by the Department of Defense shall provide for a time to be specified in the contract after which the United States shall have the right to use (or have used) for any purpose of the United States all technical data required to be delivered to the United States under the contract or providing for such a period of time (not to exceed 7 years) as a negotiation objective.

“(d) The Secretary of Defense shall by regulation establish programs which provide domestic business concerns an opportunity to purchase or borrow replenishment parts from the United States for the purpose of design replication or modification, to be used by such concerns in the submission of subsequent offers to sell the same or like parts to the United States. Nothing in this subsection limits the authority of the head of an agency to impose restrictions on such a program related to national security considerations, inventory needs of the United States, the improbability of future purchases of the same or like parts, or any additional restriction otherwise required by law.

Business and
industry.

“§ 2321. Validation of proprietary data restrictions

Contracts.
10 USC 2321.

“(a) A contract for supplies or services entered into by the Department of Defense which provides for the delivery of technical data shall provide that—

“(1) a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data; and

“(2) the contracting officer may review the validity of any restriction asserted by the contractor or by a subcontractor under the contract on the right of the United States to use technical data furnished to the United States under the contract if the contracting officer determines that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time.

“(b) If after such review the contracting officer determines that a challenge to the asserted restriction is warranted, the contracting officer shall provide written notice to the contractor or subcontractor asserting the restriction. Such notice shall—

“(1) state the grounds for challenging the asserted restriction; and

“(2) require a response within 60 days justifying the current validity of the asserted restriction.

“(c) If a contractor or subcontractor asserting a restriction subject to this section submits to the contracting officer a written request, showing the need for additional time to comply with the requirement to justify the current validity of the asserted restriction, additional time to adequately permit the submission of such justification shall be provided by the contracting officer as appropriate. If a party asserting a restriction receives notices of challenges to restrictions on technical data from more than one contracting officer, and notifies each contracting officer of the existence of more than one challenge, the contracting officer initiating the first in time challenge, after consultation with the party asserting the restriction and the other contracting officers, shall formulate a schedule of responses to each of the challenges that will afford the party asserting the restriction with an equitable opportunity to respond to each such challenge.

“(d)(1) Upon a failure by the contractor or subcontractor to submit any response under subsection (b), the contracting officer shall issue a decision pertaining to the validity of the asserted restriction.

“(2) After review of any justification submitted in response to the notice provided pursuant to subsection (b), the contracting officer

shall, within 60 days of receipt of any justification submitted, issue a decision or notify the party asserting the restriction of the time within which a decision will be issued.

Claims.

"(e) If a claim pertaining to the validity of the asserted restriction is submitted in writing to a contracting officer by a contractor or subcontractor at any tier, such claim shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

"(f)(1) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the United States to use such technical data is sustained—

"(A) the restriction on the right of the United States to use the technical data shall be cancelled; and

"(B) if the asserted restriction is found not to be substantially justified, the contractor or subcontractor, as appropriate, shall be liable to the United States for payment of the cost to the United States of reviewing the asserted restriction and the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the United States in challenging the asserted restriction, unless special circumstances would make such payment unjust.

"(2) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the United States to use such technical data is not sustained—

"(A) the United States shall continue to be bound by the restriction; and

"(B) the United States shall be liable for payment to the party asserting the restriction for fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the party asserting the restriction in defending the asserted restriction if the challenge by the United States is found not to be made in good faith.

10 USC 2322.

"§ 2322. Limitation on small business set-asides

"(a) The head of an agency may not authorize a procurement to be set-aside for participation only by small business concerns in the case of a procurement under the Foreign Military Sales Program, if the foreign purchaser specifies the sources qualified to meet the requirement and only one of those sources is a small business concern.

Expiration date.

"(b) This section expires two years after the effective date of this section.

10 USC 2323.

"§ 2323. Commercial pricing for supplies

"(a) Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), a contract entered into using other than competitive procedures by an agency named in section 2303(a) of this title for the purchase of items that are offered for sale to the public may not result in a price to the United States that exceeds the lowest price at which such items are sold by the contractor to the public.

"(b) A person who submits an offer to such an agency for the supply of items that it offers for sale to the public (1) shall certify in the offer that the price offered is not more than its lowest commercial price for the items, or (2) shall submit with the offer a written

statement specifying the amount of the difference between its lowest commercial price for the items and the price offered and providing a justification for that difference.

“(c) Subsections (a) and (b) do not apply to a contract if the contracting officer determines that the use of the price otherwise required by subsection (a) for such contract is not appropriate because of—

“(1) national security considerations; or

“(2) differences in quantities, quality, delivery, or other terms and conditions of the contract from commercial contract terms.”.

(b) Within 60 days after the date the regulations required by section 2320(a) of title 10, United States Code (as added by subsection (a)), are prescribed, the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration shall submit to Congress a joint report describing in detail how those regulations give consideration to the factors specified for consideration in that subsection.

Ante, p. 2593.

(c)(1) Section 2318 of title 10, United States Code (as added by subsection (a)), shall take effect on April 1, 1985.

Effective dates.
10 USC 2318
note.
10 USC 2319
note.

(2) Sections 2319, 2320, and 2321 of title 10, United States Code (as added by subsection (a)), shall apply with respect to solicitations issued after the end of the one-year period beginning on the date of the enactment of this Act.

(3) Section 2322 of title 10, United States Code (as added by subsection (a)), shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

10 USC 2322
note.

(4) Section 2323 of title 10, United States Code (as added by subsection (a)), shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

10 USC 2323
note.

CLERICAL AMENDMENTS

SEC. 1217. The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended—

(1) by inserting after the item relating to section 2303 the following new item:

“2303a. Publication of proposed regulations.”; and

(2) by adding at the end thereof the following new items:

“2317. Encouragement of competition and cost savings.

“2318. Advocates for competition.

“2319. Encouragement of new competition.

“2320. Rights in technical data.

“2321. Validation of proprietary data restrictions.

“2322. Limitation on small business set-asides.

“2323. Commercial pricing for supplies.”.

PART C—AMENDMENTS TO CHAPTER 141 OF TITLE 10, UNITED STATES CODE

IDENTIFICATION OF SOURCES OF SUPPLIES

SEC. 1231. (a) Section 2384 of title 10, United States Code, is amended to read as follows:

Contracts

“§ 2384. Supplies: identification of supplier and sources

“(a) The Secretary of Defense shall require that the contractor under a contract with the Department of Defense for the furnishing of supplies to the United States shall mark or otherwise identify supplies furnished under the contract with the identity of the contractor, the national stock number for the supplies furnished (if there is such a number), and the contractor's identification number for the supplies.

Regulations.

“(b) The Secretary of Defense shall prescribe regulations requiring that, whenever practicable, each contract requiring the delivery of supplies shall require that the contractor identify—

“(1) the actual manufacturer or producer of the item or of all sources of supply of the contractor for that item;

“(2) the national stock number of the item (if there is such a number) and the identification number of the actual manufacturer or producer of the item or of each source of supply of the contractor for the item; and

“(3) the source of any technical data delivered under the contract.

“(c) Identification of supplies and technical data under this section shall be made in the manner and with respect to the supplies prescribed by the Secretary of Defense.”

Effective date.
10 USC 2384
note.

(b) The amendment made by subsection (a) shall take effect at the end of the one-year period beginning on the date of the enactment of this Act.

REVISION OF LONG-TERM LEASE OR CHARTER AUTHORITY

97 Stat. 679.

SEC. 1232. (a)(1) Subsection (c) of section 2401 of title 10, United States Code, is amended—

(A) by inserting “(1)” after “(c)”;

(B) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

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

“(2) Funds appropriated to the Department of Defense pursuant to an authorization contained in the Department of Defense Authorization Act, 1984 (Public Law 98-94), or in any other law enacted after September 24, 1983, may not be used to indemnify any person under the terms of a contract entered into under this section—

97 Stat. 614.

“(A) for any amount paid or due by any person to the United States for any liability arising under the Internal Revenue Code of 1954; or

26 USC 1 *et seq.*

“(B) to pay any attorneys' fees in connection with such contract.”

10 USC 2401
note.

(2) Subsection (f) of such section is amended by striking out the second sentence. The guidelines required to be issued under that subsection shall be issued not later than October 31, 1984.

(b) Section 1202(c)(1) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 681), is amended by striking out “fiscal year 1985,” and inserting in lieu thereof “each of fiscal years 1985, 1986, and 1987.”

ECONOMIC ORDER QUANTITIES

SEC. 1233. (a) Chapter 141 of title 10, United States Code, is amended by inserting after section 2384 the following new section:

“§ 2384a. Supplies: economic order quantities

10 USC 2384a.

“(a)(1) An agency referred to in section 2303(a) of this title shall procure supplies in such quantity as (A) will result in the total cost and unit cost most advantageous to the United States, where practicable, and (B) does not exceed the quantity reasonably expected to be required by the agency.

“(2) The Secretary of Defense shall take paragraph (1) into account in approving rates of obligation of appropriations under section 2204 of this title.

“(b) Each solicitation for a contract for supplies shall, if practicable, include a provision inviting each offeror responding to the solicitation to state an opinion on whether the quantity of the supplies proposed to be procured is economically advantageous to the United States and, if applicable, to recommend a quantity or quantities which would be more economically advantageous to the United States. Each such recommendation shall include a quotation of the total price and the unit price for supplies procured in each recommended quantity.”

(b) The amendment made by subsection (a) shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

Effective date.
10 USC 2384a
note.

ADDITIONAL MISCELLANEOUS PROCUREMENT PROVISIONS

SEC. 1234. (a) Chapter 141 of title 10, United States Code, as amended by section 1005, is amended by adding at the end thereof the following new sections:

“§ 2402. Prohibition of contractors limiting subcontractor sales directly to the United States

10 USC 2402.

“(a) Each contract for the purchase of supplies or services made by the Department of Defense shall provide that the contractor will not—

“(1) enter into any agreement with a subcontractor under the contract that has the effect of unreasonably restricting sales by the subcontractor directly to the United States of any item or process (including computer software) made or furnished by the subcontractor under the contract (or any follow-on production contract); or

“(2) otherwise act to restrict unreasonably the ability of a subcontractor to make sales to the United States described in clause (1).

“(b) This section does not prohibit a contractor from asserting rights it otherwise has under law.

“§ 2403. Major weapon systems: contractor guarantees

10 USC 2403.

“(a) In this section:

“(1) ‘Weapon system’ means items that can be used directly by the armed forces to carry out combat missions and that cost more than \$100,000 or for which the eventual total procurement cost is more than \$10,000,000. Such term does not include commercial items sold in substantial quantities to the general public.

“(2) ‘Prime contractor’ means a party that enters into an agreement directly with the United States to furnish part or all of a weapon system.

"(3) 'Design and manufacturing requirements' means structural and engineering plans and manufacturing particulars, including precise measurements, tolerances, materials, and finished product tests for the weapon system being produced.

"(4) 'Essential performance requirements', with respect to a weapon system, means the operating capabilities or maintenance and reliability characteristics of the system that are determined by the Secretary of Defense to be necessary for the system to fulfill the military requirement for which the system is designed.

"(5) 'Component' means any constituent element of a weapon system.

"(6) 'Mature full-scale production' means the manufacture of all units of a weapon system after the manufacture of the first one-tenth of the eventual total production or the initial production quantity of such system, whichever is less.

"(7) 'Initial production quantity' means the number of units of a weapon system contracted for in the first year of full-scale production.

"(8) 'Head of an agency' has the meaning given that term in section 2302 of this title.

Ante, p. 2589.

"(b) Except as otherwise provided in this section, the head of an agency may not after January 1, 1985, enter into a contract for the production of a weapon system unless each prime contractor for the system provides the United States with written guarantees that—

"(1) the item provided under the contract will conform to the design and manufacturing requirements specifically delineated in the production contract (or in any amendment to that contract);

"(2) the item provided under the contract, at the time it is delivered to the United States, will be free from all defects in materials and workmanship;

"(3) the item provided under the contract will conform to the essential performance requirements of the item as specifically delineated in the production contract (or in any amendment to that contract); and

"(4) if the item provided under the contract fails to meet the guarantee specified in clause (1), (2), or (3), the contractor will at the election of the Secretary of Defense or as otherwise provided in the contract—

"(A) promptly take such corrective action as may be necessary to correct the failure at no additional cost to the United States; or

"(B) pay costs reasonably incurred by the United States in taking such corrective action.

Prohibition.

"(c) The head of the agency concerned may not require guarantees under subsection (b) from a prime contractor for a weapon system, or for a component of a weapon system, that is furnished by the United States to the contractor.

Waiver.

"(d) Subject to subsection (e)(1), the Secretary of Defense may waive part or all of subsection (b) in the case of a weapon system, or component of a weapon system, if the Secretary determines—

"(1) that the waiver is necessary in the interest of national defense; or

"(2) that a guarantee under that subsection would not be cost-effective.

The Secretary may not delegate authority under this subsection to any person who holds a position below the level of Assistant Secretary of Defense or Assistant Secretary of a military department.

Prohibition.

"(e)(1) Before making a waiver under subsection (d) with respect to a weapon system that is a major defense acquisition program for the purpose of section 139a of this title, the Secretary of Defense shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives in writing of his intention to waive any or all of the requirements of subsection (b) with respect to that system and shall include in the notice an explanation of the reasons for the waiver.

10 USC 139a.

"(2) Not later than February 1 of each year, the Secretary of Defense shall submit to the committees specified in paragraph (1) a report identifying each waiver made under subsection (d) during the preceding calendar year for a weapon system that is not a major defense acquisition program for the purpose of section 139a of this title and shall include in the report an explanation of the reasons for the waivers.

Report.

"(f) The requirement for a guarantee under subsection (b)(3) applies only in the case of a contract for a weapon system that is in mature full-scale production. However, nothing in this section prohibits the head of the agency concerned from negotiating a guarantee similar to the guarantee described in that subsection for a weapon system not yet in mature full-scale production. When a contract for a weapon system not yet in mature full-scale production is not to include the full guarantee described in subsection (b)(3), the Secretary shall comply with the notice requirements of subsection (e).

"(g) Nothing in this section prohibits the head of the agency concerned from—

"(1) negotiating the specific details of a guarantee, including reasonable exclusions, limitations and time duration, so long as the negotiated guarantee is consistent with the general requirements of this section;

"(2) requiring that components of a weapon system furnished by the United States to a contractor be properly installed so as not to invalidate any warranty or guarantee provided by the manufacturer of such component to the United States;

"(3) reducing the price of any contract for a weapon system or other defense equipment to take account of any payment due from a contractor pursuant to subclause (B) of subsection (b)(4);

"(4) in the case of a dual source procurement, exempting from the requirements of subsection (b)(3) an amount of production by the second source contractor equivalent to the first one-tenth of the eventual total production by the second source contractor; and

"(5) using written guarantees to a greater extent than required by this section, including guarantees that exceed those in clauses (1), (2), and (3) of subsection (b) and guarantees that provide more comprehensive remedies than the remedies specified under clause (4) of that subsection.

"(h)(1) The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this section.

Regulations.

"(2) This section does not apply to the Coast Guard or to the National Aeronautics and Space Administration.

10 USC 2404.

“§ 2404. Acquisition of petroleum: authority to waive contract procedures

“(a) The Secretary of Defense may, for any purchase of petroleum, waive the application of any provision of law prescribing procedures to be followed in the formation of contracts, prescribing terms and conditions to be included in contracts, or regulating the performance of contracts if the Secretary determines—

“(1) that petroleum market conditions have adversely affected (or will in the near future adversely affect) the acquisition of petroleum by the Department of Defense; and

“(2) the waiver will expedite or facilitate the acquisition of petroleum for Government needs.

“(b) A waiver under subsection (a) may be made with respect to a particular contract or with respect to classes of contracts. Such a waiver that is applicable to a contract for the purchase of petroleum may also be made applicable to a subcontract under that contract.

“(c) The Secretary of Defense may acquire petroleum by exchange of petroleum or petroleum derivatives.

“(d) The Secretary of Defense shall notify the Congress within 10 days of the date on which any waiver is made under this section and of the reasons for the necessity of exercising such waiver.

“(e) In this section, ‘petroleum’ means natural or synthetic crude, blends of natural or synthetic crude, and products refined or derived from natural or synthetic crude or from such blends.

10 USC 2405.

“§ 2405. Limitation on adjustment of shipbuilding contracts

“(a) The Secretary of a military department may not adjust any price under a shipbuilding contract entered into after December 7, 1983, for an amount set forth in a claim, request for equitable adjustment, or demand for payment under the contract (or incurred due to the preparation, submission, or adjudication of any such claim, request, or demand) arising out of events occurring more than 18 months before the submission of the claim, request, or demand.

“(b) For the purposes of subsection (a), a claim, request, or demand shall be considered to have been submitted only when the contractor has provided the certification required by section 6(c)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)(1)) and the supporting data for the claim, request, or demand.”

(b)(1) Effective on January 1, 1985, section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 97 Stat. 1454), is repealed.

(2) Effective on the date of the enactment of this Act, section 787 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 97 Stat. 1453), is repealed.

(c) Section 2402 of title 10, United States Code (as added by subsection (a)), shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

Effective dates.

Repeals.

10 USC 2304

note.

10 USC 2304

note.

10 USC 2402

note.

CLERICAL AMENDMENTS

SEC. 1235. The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended—

(1) by striking out the item relating to section 2384 and inserting in lieu thereof the following:

“2384. Supplies: identification of supplier and sources.

“2384a. Supplies: economic order quantities.”; and

(2) by adding at the end thereof the following new item:

"2402. Prohibition of contractors limiting subcontractor sales directly to the United States.

"2403. Major weapon systems: contractor guarantees.

"2404. Acquisition of petroleum: authority to waive contract procedures.

"2405. Limitation on adjustment of shipbuilding contracts."

PART D—OTHER PROCUREMENT PROVISIONS

COOPERATIVE AGREEMENTS FOR PROCUREMENT TECHNICAL ASSISTANCE

SEC. 1241. (a)(1) Title 10, United States Code, is amended by inserting after chapter 141 the following new chapter:

"CHAPTER 142—PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

"Sec.

"2411. Definitions.

"2412. Purposes.

"2413. Cooperative agreements.

"2414. Limitation.

"2415. Distribution.

"2416. Regulations.

"§ 2411. Definitions

10 USC 2411.

"In this chapter:

"(1) 'Eligible entity' means a State (as defined in section 6302(5) of title 31), a local government (as defined in section 6302(2) of that title), or a private, nonprofit organization that enters into a cooperative agreement with the Secretary under this chapter to furnish procurement technical assistance to business entities and to defray at least one-half of the costs of furnishing such assistance.

"(2) 'Secretary' means the Secretary of Defense acting through the Director of the Defense Logistics Agency.

"§ 2412. Purposes

10 USC 2412.

"The purposes of the program authorized by this chapter are—

"(1) to increase Department of Defense assistance for eligible entities furnishing procurement technical assistance to business entities; and

"(2) to assist eligible entities in the payment of the costs of establishing and carrying out new procurement technical assistance programs and maintaining existing procurement technical assistance programs.

"§ 2413. Cooperative agreements

10 USC 2413.

"(a) The Secretary may, in accordance with the provisions of this chapter, enter into cooperative agreements with eligible entities to carry out the purposes of this chapter.

"(b) In entering into cooperative agreements under subsection (a), the Secretary shall assure that at least one procurement technical assistance program is carried out in each Department of Defense contract administration services region during each fiscal year.

10 USC 2414. **"§ 2414. Limitation**

"The value of the assistance furnished by the Department of Defense to any eligible entity to carry out a procurement technical assistance program pursuant to a cooperative agreement under this chapter during any fiscal year may not exceed \$150,000.

10 USC 2415. **"§ 2415. Distribution**

Ante, p. 2605.

"(a)(1) During a fiscal year specified in paragraph (2), the Secretary shall reserve the applicable percentage prescribed in paragraph (2), out of funds appropriated to carry out this chapter in such fiscal year, for the purpose of furnishing assistance pursuant to cooperative agreements entered into under section 2413 of this title with eligible entities which have carried out a procurement technical assistance program before such fiscal year. The Secretary may use the remainder of such funds during such fiscal year for the purpose of furnishing assistance pursuant to cooperative agreements entered into under such section with eligible entities which have not carried out a procurement technical assistance program before such fiscal year.

"(2) For the purposes of paragraph (1), the applicable percentage during fiscal year 1985 is 50 percent and during fiscal year 1986 is 75 percent.

"(b) During any fiscal year after fiscal year 1986, the Secretary shall allocate assistance under this chapter in accordance with such cooperative agreements as the Secretary enters into pursuant to section 2413 of this title.

10 USC 2416. **"§ 2416. Regulations**

"The Secretary of Defense shall prescribe regulations to carry out this chapter."

(2) The table of chapters at the beginning of subtitle A of such title and at the beginning of part IV of such subtitle are each amended by inserting after the item relating to chapter 141 the following new item:

"142. Procurement Technical Assistance Cooperative Agreement Program 2411".

Appropriation
authorizations.

(b)(1) There are authorized to be appropriated \$2,000,000 for fiscal year 1985 to be available for the purpose of furnishing assistance to carry out procurement technical assistance programs pursuant to cooperative agreements under chapter 142 of title 10, United States Code (as added by subsection (a)).

Ante, p. 2605.

(2) There are authorized to be appropriated for fiscal year 1985 such additional sums as are necessary to defray the expenses of administering the provisions of such chapter during such fiscal year, including the expenses related to the employment of any additional personnel necessary to administer such provisions.

REVISION OF REQUIREMENTS FOR SELECTED ACQUISITION REPORTS AND
UNIT COST REPORTS

SEC. 1242. (a) Section 139a of title 10, United States Code, is amended—

(1) in subsection (a)(3)—

(A) by striking out "procurement funds appropriated" and inserting in lieu thereof "funds programed to be available for obligation for procurement"; and

(B) by striking out “of funds appropriated” and inserting in lieu thereof “of funds programed to be available for obligation”;

(2) by inserting “and that is in excess of \$2,000,000” after “dollar amount” in subsection (a)(4);

(3) in subsection (b)(2), by striking out “there has been no” and all that follows and inserting in lieu thereof “during the period since that report there has been—

“(A) less than a 5 percent change in total program cost; and

“(B) less than a three-month delay in any program schedule milestone shown in the Selected Acquisition Report.”;

(4) in subsection (f)—

(A) by striking out “30” the first place it appears and inserting in lieu thereof “60”;

(B) by striking out “30” the second place it appears and inserting in lieu thereof “45”; and

(C) by striking out the second sentence and inserting in lieu thereof the following: “A preliminary report shall be submitted for each annual Selected Acquisition Report within 30 days of the date on which the President submits the Budget to Congress.”; and

(5) by adding at the end thereof the following new subsection:

“(g) The requirements of this section with respect to a major defense acquisition program shall cease to apply after 90 percent of the items to be delivered to the United States under the program (shown as the total quantity of items to be purchased under the program in the most recent Selected Acquisition Report) have been delivered or 90 percent of planned expenditures under the program have been made.”.

(b)(1) Subsection (a) of section 139b of title 10, United States Code, is amended by adding at the end thereof the following new paragraph:

“(4) ‘Baseline Report’, with respect to a unit cost report that is submitted under this section to the Secretary concerned on a major defense acquisition program, means—

“(A) the most recent unit cost report submitted under subsection (e)(2)(B)(ii) with respect to the program, if that report was submitted for the second, third, or fourth quarter of the preceding fiscal year;

“(B) if no report was submitted under subsection (e)(2)(B)(ii) with respect to the program during that three-quarter period, the most recent unit cost report submitted under subsection (e)(1) with respect to the program, if that report was submitted during that three-quarter period; and

“(C) if no report was submitted with respect to the program under subsection (e)(1) or (e)(2)(B)(ii) during that three-quarter period, the baseline Selected Acquisition Report.”.

(2) Subsection (b) of such section is amended—

(A) by striking out “not more than 7 days”;

(B) by inserting after the first sentence the following new sentence: “Each report for the first quarter of a fiscal year shall be submitted not more than 7 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each report for other quarters shall be submitted not more than 7 days after the end of that quarter.”; and

Report.

Expiration date.

Reports.

(C) by striking out "baseline Selected Acquisition Report" in paragraph (3) and inserting in lieu thereof "Baseline Report".

(3) Clauses (A) and (B) of subsection (c)(1) of such section are amended by striking out "baseline Selected Acquisition Report" and inserting in lieu thereof "Baseline Report".

(4)(A) Paragraphs (1) and (2) of subsection (d) of such section are amended by striking out "baseline Selected Acquisition Report" and inserting in lieu thereof "Baseline Report".

(B) Paragraph (3)(B) of such subsection is amended—

(i) by striking out "additional funds may not be obligated in connection with such program" and inserting in lieu thereof "funds appropriated for military construction, for research, development, test, and evaluation, and for procurement may not be obligated for a major contract under the program"; and

(ii) by striking out "but less than 25 percent" in subclause (i).

(5) Subsection (e) of such section is amended—

(A) in paragraph (1)—

(i) by striking out "subsection (d)(3)(B)" and inserting in lieu thereof "subsection (d)(3)(B)(i)"; and

(ii) by inserting "more than" before "15 percent";

(B) in paragraph (2)—

(i) by striking out "subsection (d)(3)(B)" and inserting in lieu thereof "subsection (d)(3)(B)(ii)";

(ii) by inserting "more than" before "25 percent";

(iii) by inserting in clause (A) "and the Secretary concerned submits to Congress, before the end of the 30-day period referred to in subsection (d)(3)(B)(i), a report containing the information described in subsection (g)" after "acquisition program"; and

(iv) by striking out "such subsection" in clause (B) and inserting in lieu thereof "subsection (d)(3)(B)(ii)"; and

(C) by striking out "in the case of" in paragraph (3) and all that follows and inserting in lieu thereof "at the end of a period of 30 days of continuous session of Congress (as determined under section 7307(b)(2) of this title) beginning on the date—

"(A) on which Congress receives the report of the Secretary concerned under paragraph (1) or (2)(B)(ii) with respect to that program, in the case of a determination of a more than 15 percent increase (as determined in subsection (d)); or

"(B) on which Congress has received both the report of the Secretary concerned under paragraph (1) or (2)(B)(ii) and the certification of the Secretary of Defense under paragraph (2)(B)(i) with respect to that program, in the case of a more than 25 percent increase (as determined under subsection (d))."

(6) Subsection (g)(1) of such section is amended—

(A) by striking out clause (I) and inserting in lieu thereof the following:

"(I) The type of the Baseline Report (under subsection (a)(4)) and the date of the Baseline Report."; and

(B) in clause (K), by inserting "and the procurement unit cost for the succeeding fiscal year expressed in constant base-year dollars and in current year dollars" after "current dollars".

DURATION OF ASSIGNMENT OF PROGRAM MANAGERS FOR MAJOR
PROGRAMS

SEC. 1243. (a) The tour of duty of an officer of the Armed Forces assigned after the date of the enactment of this Act as a program manager of a major defense acquisition program (as defined in section 139a(a) of title 10, United States Code) shall be (1) not less than four years, or (2) until completion of a major program milestone (as defined in regulations prescribed by the Secretary of Defense).

10 USC 139a
note.

(b) The Secretary of the military department concerned may waive the length of the tour of duty prescribed in subsection (a). Such authority may not be delegated.

Waiver.
Prohibition.

AUTHORITY TO WAIVE COMPLIANCE WITH CERTAIN REQUIREMENTS PROVIDED FOR IN REGULATIONS RELATING TO PRICES OF SPARE PARTS AND REPLACEMENT EQUIPMENT

SEC. 1244. Section 1215(b) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 10 U.S.C. 2452 note), is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end thereof the following new paragraph:

“(2) The Secretary may provide in such regulations for the waiver of the prohibition in subsection (a)(1) and compliance with the requirements of subsection (a)(2) in the case of a purchase of any spare part or replacement equipment made or to be made through competitive procedures.”.

REGULATIONS FOR ALLOCATING OVERHEAD TO PARTS TO WHICH THE
PRIME CONTRACTOR HAS ADDED LITTLE VALUE

SEC. 1245. Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe by regulation the manner in which the Department of Defense negotiates prices for supplies to be obtained through the use of procedures other than competitive procedures, as defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)). Such revision shall specify the incurred overhead a contractor may appropriately allocate to such supplies and shall require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value. Nothing in this section requires the submission of cost or pricing data not otherwise required by law.

Ante, p. 1195.

PART E—TEMPORARY PROVISIONS, REPORTS, AND EFFECTIVE DATES

REPORT ON IMPLEMENTATION OF CERTAIN RECOMMENDATIONS OF THE
GRACE COMMISSION

SEC. 1251. Not later than March 31, 1985, the Secretary of Defense shall submit to Congress a report assessing the recommendations of the President's Private Sector Survey on Cost Control (commonly referred to as the “Grace Commission”) concerning—

(1) the system of making progress payments to defense contractors to offset high interest rates and inflation; and

(2) modernization of automated data processing systems in order to achieve more effective control of Department of Defense supply inventories.

PLANS FOR MANAGEMENT OF TECHNICAL DATA AND COMPUTER
CAPABILITY IMPROVEMENTS

10 USC 139 note.

SEC. 1252. (a)(1) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall develop a plan for an improved system for the management of technical data relating to any major system of the Department of Defense. At a minimum, the management plan shall address procedures for—

(A) indexing, storing, and updating items of technical data in a system;

(B) developing, to the maximum extent practicable, a centralized system to identify the repository within the department responsible for technical data relating to an item and the extent of the data on file in that repository with respect to that item; and

(C) assuring that those parties otherwise entitled to receive technical data will have timely access to complete and current technical data.

(2) Not later than 5 years after the date of the enactment of this Act, the Secretary shall complete implementation of the management plan required to be developed by paragraph (1).

Report.

(3) Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall transmit to Congress a report evaluating the plan developed by the Secretary of Defense under paragraph (1).

(b) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives a plan to improve substantially the computer capability of each of the military departments and of the Defense Logistics Agency to store and access rapidly data that is needed for the efficient procurement of supplies. The plan shall provide for a computer data base that includes price and procurement history, item identification, sources of supply, and other relevant information. The plan shall specify a schedule for the implementation of the improvements, the projected cost of implementation of the improvements, and such other recommendations as the Secretary of Defense considers appropriate to accomplish the improvements.

REPORT ON USE OF INDEPENDENT COST ESTIMATES FOR MAJOR DEFENSE
ACQUISITION PROGRAMS

SEC. 1253. Not later than May 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the continued use of independent cost estimates in the planning, programing, budgeting, and selection process for major defense acquisition programs in the Department of Defense. Such report shall be a follow-on to the report required by section 1203(c) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 10 U.S.C. 1039 note), and shall include an overall assessment of the extent to which such estimates were adopted by the Department of Defense in making decisions on the fiscal year 1986 budget and a general explanation of why such estimates might have been modified or rejected. The Secretary shall also include in the report a statement as to whether adequate personnel and financial resources have been allocated at all levels of the Department of Defense to those organizations or

97 Stat. 683.
10 USC 139c
note.

offices charged with developing or assessing independent estimates of the costs of major defense acquisition programs.

ONE-YEAR EXTENSION OF TEST PROGRAM TO AUTHORIZE PRICE
DIFFERENTIALS TO RELIEVE ECONOMIC DISLOCATIONS

SEC. 1254. (a) Effective on October 1, 1984, section 1109 of the Department of Defense Authorization Act, 1983 (10 U.S.C. 2392 note), is amended—

Effective dates.
97 Stat. 683.

(1) by striking out “fiscal years 1983 and 1984” each place it appears and inserting in lieu thereof “fiscal years 1983, 1984, and 1985”; and

(2) by striking out “and April 15, 1984,” in the first sentence of subsection (b) and inserting in lieu thereof “, April 15, 1984, and April 15, 1985”.

(b) Effective as of October 1, 1982, such section is amended by striking out “section 2892” and inserting in lieu thereof “section 2392”.

TITLE XIII—DEPARTMENT OF DEFENSE ORGANIZATION
AND MANAGEMENT MATTERS

JOINT CHIEFS OF STAFF REORGANIZATION

SEC. 1301. (a)(1) Subsection (a) of section 124 of title 10, United States Code, is amended by striking out “shall” in clause (2).

(2) Subsection (c) of such section is amended—

(A) by inserting “(1)” after “(c)”; and

(B) by adding at the end thereof the following new paragraph:

“(2) Subject to the authority, direction, and control of the Secretary, the Chairman acts as the spokesman for the commanders of the combatant commands on operational requirements.”.

(b) Section 142(b)(2) of such title is amended—

10 USC 142.

(1) by striking out “and assist” and inserting in lieu thereof “(including any subject for the agenda recommended by the Joint Chiefs of Staff, assist”; and

(2) by striking out “practicable” and inserting in lieu thereof “practicable, and determine when issues under consideration shall be decided”.

(c)(1) Subsection (a) of section 143 of title 10, United States Code, is amended to read as follows:

“(a)(1) There is under the Joint Chiefs of Staff a Joint Staff consisting of not more than 400 officers selected by the Chairman of the Joint Chiefs of Staff. The Joint Staff shall be selected in approximately equal numbers from—

“(A) the Army;

“(B) the Navy and the Marine Corps; and

“(C) the Air Force.

“(2) Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by that armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

“(3) The tenure of the members of the Joint Staff is subject to the approval of the Chairman of the Joint Chiefs of Staff.”.

(2) Subsection (b) of such section is amended by striking out the second and third sentences.

(3) Such section is further amended by adding at the end thereof the following new subsection:

“(e) An officer who is assigned or detailed to duty on the Joint Staff may not serve for a tour of duty of more than four years. An officer completing a tour of duty with the Joint Staff may not be assigned or detailed to duty on the Joint Staff within two years after relief from that duty except with the approval of the Secretary. This subsection does not apply in time of war declared by Congress or in time of national emergency declared by the President.”.

Prohibition.

(d)(1) Chapter 36 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 646.

“§ 646. Consideration of performance as a member of the Joint Staff

“The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall ensure that officer personnel policies of the Army, Navy, Air Force, and Marine Corps concerning promotion, retention, and assignment give appropriate consideration to the performance of an officer as a member of the Joint Staff.”.

(2) The table of sections at the beginning of subchapter V of such chapter is amended by adding at the end thereof the following new item:

“646. Consideration of performance as a member of the Joint Staff.”.

REDUCTION IN HEADQUARTERS STAFFS

SEC. 1302. (a) Not later than September 30, 1985, the Secretary of Defense shall reduce the total number of military and civilian personnel assigned to duty in the agencies of the Department of Defense and the military departments to perform management headquarters activities or management headquarters support activities by a number that is at least 2 percent below the total number of personnel requested by the President for fiscal year 1985 to perform such activities.

(b) The number of military and civilian personnel assigned to the Office of the Secretary of Defense as of September 30, 1985, may not exceed 1,730. However, if the Secretary of Defense determines that such action is necessary in the national interest, the Secretary may increase the number specified in the limitation in the preceding sentence, but such number may not be increased by more than 2 percent. The Secretary shall promptly notify the Congress of any exercise of such authority.

(c) Any reduction in military or civilian personnel assigned to perform management headquarters activities or management headquarters support activities in the National Security Agency/Central Security Service, the Defense Intelligence Agency, the Organization of the Joint Chiefs of Staff, or the Naval Intelligence Command may not be included for the purposes of complying with the requirements of subsection (a).

(d) For purposes of this section, the terms “management headquarters activities” and “management headquarters support activities” have the same meanings as prescribed for such terms in Department of Defense Directive 5100.73 entitled “Department of Defense Management Headquarters and Headquarters Support”, dated March 12, 1981.

REPORT ON SIZE OF SERVICE SECRETARIATS

SEC. 1303. Not later than December 15, 1984, the Secretary of Defense shall submit a report to Congress on the reasons for the disparity in size among the Offices of the Secretaries of the military departments and particularly on the reasons for the size of the Office of the Secretary of the Navy compared to the size of the Office of the Secretary of the Army and of the Secretary of the Air Force. For the purposes of this section, the Office of a Secretary of a military department includes the Secretary, the Under Secretary, the Assistant Secretaries of the military department, their staffs, and other elements of the executive parts of the military department.

IMPLEMENTATION OF CERTAIN PERSONNEL POLICIES

SEC. 1304. No funds appropriated to the Department of Defense may be used before July 1, 1985, to comply with the regulation of the Office of Personnel Management referred to as Basic Installment 311 of the Federal Personnel Manual (issued by the Office of Personnel Management on January 6, 1984), concerning personnel suitability, personnel security, personnel investigations, and suitability disqualification actions.

Prohibition.

EXPANSION OF AUTHORITY FOR COLLECTION OF DEBTS FROM MEMBERS OF THE ARMED FORCES

SEC. 1305. Section 1007(c) of title 37, United States Code, is amended by striking out "an enlisted member of the Army or the Air Force" and inserting in lieu thereof "a member of the armed forces".

INCREASED COAST GUARD MEMBERSHIP ON THE RESERVE FORCES POLICY BOARD

SEC. 1306. Section 175(b) of title 10, United States Code, is amended by striking out "an officer of the Regular Coast Guard or the Coast Guard Reserve" and inserting in lieu thereof "two officers of the Coast Guard, regular or reserve,".

LIMITATION ON USE OF FUNDS FOR CONDUCTING POLYGRAPH EXAMINATIONS; REPORT

SEC. 1307. (a) None of the funds appropriated pursuant to an authorization of appropriations contained in this or any other Act may be used for the purpose of implementing any revision of Department of Defense Directive 5210.48, dated October 6, 1975, relating to polygraph examinations and examiners except for the conduct of a test program involving not more than 3,500 persons.

(b) Not later than December 31, 1985, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a report on the use of polygraph examinations administered by or for the Department of Defense during the fiscal year 1985. The report shall include the number of polygraph examinations conducted, a description of the purposes and results of such examinations, and an explanation of the uses made of the results of the examinations, as well as detailed reports

on those cases in which more than two examinations were needed to attempt to resolve discrepancies.

(c) This section does not apply—

(1) in the case of any individual assigned to, or detailed to, the Central Intelligence Agency or to any expert or consultant under a contract with the Central Intelligence Agency;

(2) in the case of any individual employed by, assigned to, or detailed to, the National Security Agency, any expert or consultant under a contract with the National Security Agency, or any employee of a contractor of the National Security Agency; or

(3) in the case of any individual applying for a position in the National Security Agency.

Expiration date.

(d) The provisions of subsection (a) shall expire on September 30, 1985.

TITLE XIV—CODIFICATION OF CERTAIN RECURRING AND PERMANENT PROVISIONS OF LAW

AMENDMENTS TO TITLE 10, UNITED STATES CODE

SEC. 1401. (a)(1) Chapter 31 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 520b.

“§ 520b. Applicants for enlistment: authority to use funds for the issue of authorized articles

“Funds appropriated to the Department of Defense may be used for the issue of authorized articles to applicants for enlistments.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“520b. Applicants for enlistments: authority to use funds for the issue of authorized articles.”.

(b)(1) Chapter 48 of such title is amended by adding at the end thereof the following new section:

10 USC 956.

“§ 956. Deserters, prisoners, members absent without leave: expenses and rewards

“Funds appropriated to the Department of Defense may be used for the following purposes:

“(1) Expenses for the apprehension and delivery of deserters, prisoners, and members absent without leave, including the payment of rewards, in an amount not to exceed \$75, for the apprehension of any such person.

“(2) Expenses of prisoners confined in nonmilitary facilities.

“(3) Payment of a gratuity of not to exceed \$25 to each prisoner upon release from confinement in a military or contract prison facility.

“(4) The issue of authorized articles to prisoners and other persons in military custody.

“(5) Under such regulations as the Secretary concerned may prescribe, expenses incident to the maintenance, pay, and allowances of prisoners of war, other persons in the custody of the Army, Navy, or Air Force whose status is determined by the Secretary concerned to be similar to prisoners of war, and persons detained in the custody of the Army, Navy, or Air Force pursuant to Presidential proclamation.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"956. Deserters, prisoners, members absent without leave: expenses and rewards."

(c)(1) Chapter 49 of such title is amended by adding at the end thereof the following new sections:

"§ 979. Prohibition on loan and grant assistance to persons convicted of certain crimes 10 USC 979.

"Funds appropriated to the Department of Defense may not be used to provide a loan, a guarantee of a loan, or a grant to any person who has been convicted by a court of general jurisdiction of any crime which involves the use of (or assisting others in the use of) force, trespass, or the seizure of property under the control of an institution of higher education to prevent officials or students of the institution from engaging in their duties or pursuing their studies.

"§ 980. Limitation on use of humans as experimental subjects 10 USC 980.

"Funds appropriated to the Department of Defense may not be used for research involving a human being as an experimental subject unless—

"(1) the informed consent of the subject is obtained in advance; or

"(2) in the case of research intended to be beneficial to the subject, the informed consent of the subject or a legal representative of the subject is obtained in advance.

"§ 981. Limitation on number of enlisted aides 10 USC 981.

"(a) Subject to subsection (b), the total number of enlisted members that may be assigned or otherwise detailed to duty as enlisted aides on the personal staffs of officers of the Army, Navy, Marine Corps, Air Force, and Coast Guard (when operating as a service of the Navy) during a fiscal year is the number equal to the sum of (1) four times the number of officers serving on active duty at the end of the preceding fiscal year in the grade of general or admiral, and (2) two times the number of officers serving on active duty at the end of the preceding fiscal year in the grade of lieutenant general or vice admiral.

"(b) Not more than 300 enlisted members may be assigned to duty at any time as enlisted aides for officers of the Army, Navy, Air Force, and Marine Corps."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"979. Prohibition on loan and grant assistance to persons convicted of certain crimes.

"980. Limitation on use of humans as experimental subjects.

"981. Limitation on number of enlisted aides."

(d)(1) Chapter 53 of such title is amended by adding after section 1046 (as added by section 708) the following new sections:

"§ 1047. Allowance for civilian clothing 10 USC 1047.

"The Secretary of the military department concerned may furnish civilian clothing, at a cost of not more than \$40, to an enlisted member who is—

"(1) discharged for misconduct or unsuitability or under conditions other than honorable;

"(2) sentenced by a civil court to confinement in a prison;

“(3) interned or discharged as an alien enemy; or
 “(4) discharged before completion of recruit training under honorable conditions for dependency, hardship, minority, or disability or for the convenience of the Government.

10 USC 1048. **“§ 1048. Gratuity payment to persons discharged for fraudulent enlistment**

“The Secretary concerned may pay a gratuity of not to exceed \$25 to a person discharged for fraudulent enlistment.

10 USC 1049. **“§ 1049. Subsistence: miscellaneous persons**

“The following persons may be provided subsistence at the expense of the United States:

- “(1) Enlisted members while sick in hospitals.
- “(2) Applicants for enlistment and selective service registrants called for induction.
- “(3) Prisoners.
- “(4) Civilian employees, as authorized by law.
- “(5) Supernumeraries, when necessitated by emergent military circumstances.

10 USC 1050. **“§ 1050. Latin American cooperation: payment of personnel expenses**

“The Secretary of a military department may pay the travel, subsistence, and special compensation of officers and students of Latin American countries and other expenses that the Secretary considers necessary for Latin American cooperation.”.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1046 (as added by section 708) the following new items:

- “1047. Allowance for civilian clothing.
- “1048. Gratuity payment to persons discharged for fraudulent enlistment.
- “1049. Subsistence: miscellaneous persons.
- “1050. Latin American cooperation: payment of personnel expenses.”.

Repeal.

10 USC 7208.

(3)(A) Section 7208 of such title is repealed.

(B) The table of sections at the beginning of chapter 631 is amended by striking out the item relating to section 7208.

10 USC 1074.

(e)(1) Section 1074 of such title is amended by adding at the end thereof the following new subsection:

“(c) Funds appropriated to a military department may be used to provide medical and dental care to persons entitled to such care by law or regulations, including the provision of such care (other than elective private treatment) in private facilities for members of the armed forces.”.

(2)(A) Chapter 55 of such title is amended by inserting after section 1074a the following new section:

10 USC 1074b.

“§ 1074b. Medical care: authority to provide a wig

“A person entitled to medical care under this chapter who has alopecia resulting from the treatment of a malignant disease may be furnished a wig if the person has not previously been furnished one at the expense of the United States.”.

(B) The table of sections at the beginning of such chapter is amended by inserting below the item relating to item 1074 the following new item:

“1074b. Medical care: authority to provide a wig.”.

(3) Section 1077(b) of such title is amended by adding at the end thereof the following new paragraph: 10 USC 1077.

“(3) The elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.”.

(4)(A) Section 1079(a) of such title is amended— 97 Stat. 648.

(i) by striking out “and” at the end of clause (5);

(ii) by striking out the period at the end of clause (6) and inserting in lieu thereof a semicolon; and

(iii) by adding after clause (6) the following new clauses:

“(7) services in connection with nonemergency inpatient hospital care may not be provided if such services are available at a facility of the uniformed services located within a 40-mile radius of the residence of the patient, except that such services may be provided in any case in which another insurance plan or program pays for at least 75 percent of the services;

“(8) services of pastoral counselors, family and child counselors, or marital counselors may not be provided unless the patient has been referred to the counselor by a medical doctor for treatment of a specific problem with the results of that treatment to be communicated back to the medical doctor who made the referral;

“(9) special education may not be provided, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis;

“(10) therapy or counseling for sexual dysfunctions or sexual inadequacies may not be provided;

“(11) treatment of obesity may not be provided if obesity is the sole or major condition treated;

“(12) surgery which improves physical appearance but is not expected to significantly restore functions (including mammary augmentation, face lifts, and sex gender changes) may not be provided, except that—

“(A) breast reconstructive surgery following a mastectomy may be provided;

“(B) reconstructive surgery to correct serious deformities caused by congenital anomalies or accidental injuries may be provided; and

“(C) neoplastic surgery may be provided;

“(13) any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, optometrist, podiatrist, certified nurse-midwife, certified nurse practitioner, or certified clinical social worker, as appropriate, may not be provided, except as authorized in clause (4); and

“(14) the prohibition contained in section 1077(b)(3) of this title shall not apply in the case of a member or former member of the uniformed services.”. *Supra.*

(B) Paragraph (2) of section 1079(h) of such title is amended by striking out the second sentence and inserting in lieu thereof the following: “The Secretary of Defense shall adjust the base period as frequently as he considers appropriate.”. 10 USC 1079.

(5)(A) Chapter 55 of such title is further amended by adding at the end thereof the following new section:

10 USC 1093.

"§ 1093. Restriction on use of funds for abortions

"Funds available to the Department of Defense may not be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."

(B) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1093. Restriction on use of funds for abortions."

(f)(1) Chapter 81 of such title is amended by adding at the end thereof the following new section:

10 USC 1589.

"§ 1589. Prohibition on payment of lodging expenses when adequate Government quarters are available

"(a) Funds available to the Department of Defense (including funds in any working-capital fund) may not be used to pay the lodging expenses of a civilian employee of the Department of Defense while such employee is on official business away from his designated post of duty or, in the case of a person referred to in section 5703 of title 5, while such person is away from his home or regular place of duty, when adequate Government quarters are available but are not occupied by such employee or person.

5 USC 5703.

"(b) Subsection (a) does not apply during a fiscal year to an employee whose duties can be expected to require official travel during more than one-half of the number of the basic administrative work weeks during that fiscal year."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"1589. Prohibition on payment of lodging expenses when adequate Government quarters are available."

(g)(1) Chapter 101 of such title is amended by adding after section 2006 (as added by section 706(a)(1)) the following new sections:

10 USC 2007.

"§ 2007. Limitation on payment of tuition for off-duty training or education

"(a) The Secretary of a military department may not pay more than 75 percent of the charges of an educational institution for the tuition or expenses of a member of the armed forces enrolled in such institution for education or training during his off-duty periods, except that—

"(1) in the case of an enlisted member in the pay grade of E-5 or higher with less than 14 years' service, not more than 90 percent of the charges may be paid;

"(2) in the case of a member enrolled in a high school completion program, all of the charges may be paid; and

"(3) in the case of a commissioned officer, no part of the charges may be paid unless the officer agrees to remain on active duty for a period of at least two years after the completion of the training or education.

"(b) The limitation in subsection (a) does not apply to the Program for Afloat College Education.

10 USC 2008.

"§ 2008. Authority to use funds for certain educational purposes

"Funds appropriated to the Department of Defense may be used to carry out section 10 of the Act of September 23, 1950 (20 U.S.C. 640), relating to impact aid authorization.

“§ 2009. Military colleges: female students

10 USC 2009.

“(a) Under regulations prescribed by the Secretary of Defense, any college or university designated by the Secretary of Defense as a military college shall, as a condition of maintaining such designation, provide that qualified female undergraduate students enrolled in such college or university be eligible to participate in military training at such college or university.

“(b) Regulations prescribed under subsection (a) may not require a college or university, as a condition of maintaining its designation as a military college or for any other purpose, to require female undergraduate students enrolled in such college or university to participate in military training.”

Prohibition.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2006 (as added by section 706(a)(2)) the following new items:

“2007. Limitation on payment of tuition for off-duty training or education.

“2008. Authority to use funds for certain educational purposes.

“2009. Military colleges: female students.”.

(h) Section 2104(b) of such title is amended—

10 USC 2104.

(1) by striking out “and” at the end of clause (5);

(2) by striking out the period at the end of clause (6) and inserting in lieu thereof “; and”; and

(3) by inserting after clause (6) the following new clause:

“(7) execute a certificate of loyalty in such form as the Secretary of Defense prescribes or take a loyalty oath as prescribed by the Secretary.”.

(i)(1) Chapter 147 of such title is amended by adding at the end thereof the following new section:

“§ 2484. Commissary stores: expenses

10 USC 2484.

“(a) Except to the extent authorized in regulations prescribed by the Secretary of a military department and approved by the Secretary of Defense and except as provided in subsection (b), funds available to the Department of Defense may not be used to pay, in connection with the operation of any commissary store—

“(1) the cost of purchases (including commercial transportation in the United States to the place of sale) and the cost of maintenance of operating equipment and supplies;

“(2) the actual or estimated cost of utilities furnished by the United States;

“(3) the actual or estimated cost of shrinkage, spoilage, and pilferage of merchandise under the control of the commissary store; or

“(4) costs incurred in connection with obtaining the face value amount of manufacturer or vendor cents-off discount coupons by the commissary store (or other entity acting on behalf of the commissary store).

“(b) Appropriated funds may be used to pay any costs described in subsection (a) but only to the extent that appropriation accounts used to pay such costs are reimbursed for the payment of such costs, including, in the case of any costs incurred in connection with discount coupons referred to in subsection (a)(4), all fees or moneys received for handling or processing such coupons. The sales prices in commissary stores shall be adjusted to the extent necessary to provide sufficient gross revenues from the sales of such stores to make such reimbursements. Such adjustments shall be made under

regulations prescribed by the Secretary of the military department concerned and approved by the Secretary of Defense.

“(c) Under regulations prescribed by the Secretary of Defense, utilities may be furnished without cost to a commissary store outside the United States or in Alaska or Hawaii.

Transportation.

“(d) Transportation outside the United States may be furnished in connection with the operation of commissary stores outside the United States.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“2484. Commissary stores: expenses.”.

(j)(1) Chapter 157 of such title is amended by adding after section 2637 (as added by section 614) the following new sections:

10 USC 2638.

“§ 2638. Transportation of civilian clothing of enlisted members

“The Secretary of the military department concerned may provide for the transportation of the civilian clothing of any person entering the armed forces as an enlisted member to the member's home of record.

10 USC 2639.

“§ 2639. Transportation to and from school for certain minor dependents

“Funds appropriated to the Department of Defense may be used to provide minor dependents of members of the armed forces and of civilian officers and employees of the Department of Defense with transportation to and from primary and secondary schools if the schools attended by the dependents are not accessible by regular means of transportation.”.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2637 (as added by section 614) the following new items:

“2638. Transportation of civilian clothing of enlisted members.

“2639. Transportation to and from school for certain minor dependents.”.

10 USC 7204.

(3)(A) Section 7204(a) of such title is amended—

(i) by striking out “may—” and inserting in lieu thereof “may”;

(ii) by striking out “(1)”;

(iii) by redesignating subclauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively;

(iv) by striking out “; and” at the end of clause (1) and inserting in lieu thereof a period; and

(v) by striking out clause (2).

10 USC 7204.

(B) The heading of section 7204 of such title is amended to read as follows:

“§ 7204. Schools near naval activities: financial aid”.

(B) The item relating to such section in the table of sections at the beginning of chapter 631 of such title is amended to read as follows:

“7204. Schools near naval activities: financial aid.”.

AMENDMENTS TO TITLE 37, UNITED STATES CODE

SEC. 1402. (a) Section 206 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

“(e) A member of the National Guard or of a reserve component of the uniformed services may not be paid under this section for more than four periods of equivalent training, instruction, duty, or appropriate duties performed during a fiscal year instead of the member’s regular period of instruction or regular period of appropriate duty during that fiscal year.”

National
Guard.
Uniformed
services.

(b)(1) Chapter 5 of such title is amended by inserting after section 306 the following new section:

“§ 306a. Special pay: members assigned to international military headquarters

37 USC 306a.

“Not more than nine members of the armed forces, including members detailed to international military headquarters, may be paid pay and allowances at rates referred to in section 625(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2385(d)).”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 306 the following new item:

“306a. Special pay: members assigned to international military headquarters.”

(c) Section 404 of such title is amended by adding at the end thereof the following new subsection:

37 USC 404.

“(g) In the case of an enlisted member who is in a travel status and not entitled to receive per diem in lieu of subsistence for any day (or portion of a day) because the member is furnished meals in a Government mess, the member may not be paid a basic allowance for subsistence for such day (or portion of such day) that the member is furnished meals in a Government mess.”

Prohibition.

REPEAL PROVISIONS

SEC. 1403. (a)(1) Section 706 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 97 Stat. 1437), is repealed.

10 USC 138 note.

(2) Section 735 of such Act (97 Stat. 1444) is amended by striking out “medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment);”

10 USC 138 note.

(b) Section 809 of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 92 Stat. 1623), is repealed.

10 USC 2102
note.

(c) Section 820 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 89 Stat. 544), is repealed.

EFFECTIVE DATE

SEC. 1404. The amendments made by sections 1401, 1402, and 1403 take effect on October 1, 1985.

10 USC 520b
note.

CLERICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE

SEC. 1405. Title 10, United States Code, is amended as follows:

(1) Section 125(a) is amended by striking out “section 401 of title 50” and inserting in lieu thereof “section 2 of the National Security Act of 1947 (50 U.S.C. 401)”.

(2) Section 138(g) is amended by inserting “(22 U.S.C. 2795 et seq.)” after “chapter 5 of the Arms Export Control Act”.

(3) Section 139 is amended—

(A) by striking out “thirty” both places it appears and inserting in lieu thereof “30”; and

10 USC 175.

(B) by striking out "ninety" and inserting in lieu thereof "90".

(4) Section 175(c) is amended by inserting a comma after "Reserve Affairs".

(5) Section 177(a)(1) is amended by striking out "sec. 29-1001" and inserting in lieu thereof "sec. 29-501".

(6) Section 191(a) is amended by striking out "such use in" and inserting in lieu thereof "such use is".

(7)(A) Section 264 is amended by striking out "Reserve components" in subsection (b) and inserting in lieu thereof "reserve components".

(B) The heading of such section is amended to read as follows:

"§ 264. Reserve affairs: designation of general or flag officer of each armed force; personnel and logistic support for Reserves".

(C) The item relating to such section in the table of sections at the beginning of chapter 11 is amended to read as follows:

"264. Reserve affairs: designation of general or flag officer of each armed force; personnel and logistic support for Reserves.".

(8) Section 280 is amended by striking out "5597,".

(9) Section 374(a)(3) is amended by striking out "(19 U.S.C. 1202)".

(10) Section 378 is amended by striking out "prior to the enactment of this chapter" and inserting in lieu thereof "before December 1, 1981".

(11) Section 630(2) is amended by striking out "eighteen-month" and inserting in lieu thereof "18-month".

(12) Section 633 is amended by striking out "twenty-eight" and inserting in lieu thereof "28".

(13) Sections 634 and 635 are amended by striking out "thirty" and inserting in lieu thereof "30".

(14) Section 636 is amended by striking out "thirty-five" and inserting in lieu thereof "35".

(15) Section 637(a) is amended—

(A) by striking out "twenty" in paragraph (2) and inserting in lieu thereof "20"; and

(B) by striking out "twenty-four" in paragraph (3) and inserting in lieu thereof "24".

(16) Section 673c(b)(1) is amended by inserting "of this title" after "or 673b".

(17) Section 680(a)(2)(D) is amended by striking out "Reserve Officer" and inserting in lieu thereof "reserve officer".

(18) Section 701(g) is amended—

(A) by striking out "sixty-day" and inserting in lieu thereof "60-day";

(B) by striking out "ninety-day" and inserting in lieu thereof "90-day"; and

(C) by striking out "one hundred and fifty" both places it appears and inserting in lieu thereof "150".

(19)(A) Section 1034 is amended by striking out "member of Congress" and inserting in lieu thereof "Member of Congress".

(B)(i) The heading of such section is amended to read as follows:

97 Stat. 670.

“§ 1034. Communicating with a Member of Congress”.

(ii) The item relating to such section in the table of sections at the beginning of chapter 53 is amended to read as follows:

“1034. Communicating with a Member of Congress.”.

(20) Section 1035(b) is amended—

10 USC 1035.

(A) by striking out “per centum” and inserting in lieu thereof “percent”;

(B) by striking out “Act” and inserting in lieu thereof “subsection”; and

(C) by striking out “ninety” and inserting in lieu thereof “90”.

(21) Section 1040(a) is amended by striking out “thirty” and inserting in lieu thereof “30”.

(22) The heading of section 1077 is amended by striking out the semicolon and inserting in lieu thereof a colon.

(23) Section 1079(e) is amended by striking out the period at the end of the matter preceding clause (1) and inserting in lieu thereof “as follows”:

(24) Section 1087(b)(2) is amended by inserting “(42 U.S.C. 1395c et seq.)” after “the Social Security Act.”

(25) Section 1216(b) is amended by striking out “of this section”.

(26) Section 1401a(f) is amended by striking out “prior to the effective date of this subsection” and inserting in lieu thereof “before October 7, 1975”.

(27) Section 1464(c) is amended by striking out “section 1466” and inserting in lieu thereof “section 1465(c)”.

97 Stat. 645.

(28) Section 1465(c)(1) is amended by striking out “(A)”.

97 Stat. 646.

(29) Section 1586 is amended—

(A) in subsection (b)—

(i) by striking out “thirty” and inserting in lieu thereof “30”;

(ii) by striking out “of this section” after “subsection (c)”;

(iii) by striking out “of this subsection”;

(B) in subsection (c)—

(i) by striking out “thirty” and inserting in lieu thereof “30”;

(ii) by striking out “ninety days” both places it appears and inserting in lieu thereof “90 days”;

(iii) by striking out “ninety-day” in paragraph (5) and inserting in lieu thereof “90-day”;

(iv) by striking out “of this subsection” each place it appears in paragraphs (3), (4), and (5);

(v) by striking out “such” in paragraph (5); and

(vi) in paragraph (6)—

(I) by striking out “of this subsection” after “paragraph (1)”;

(II) by striking out “of this subsection,” after “as applicable,”;

(C) by striking out “of this section” in subsections (d), (e)(1), and (g)(1); and

(D) by striking out “of this subsection” in subsection (e)(2).

10 USC 2002.

(30) Section 2002(b) is amended by striking out "For the purposes of this section, the word" and inserting in lieu thereof "In this section,".

(31) The item relating to section 2003 in the table of sections at the beginning of chapter 101 is amended by striking out the semicolon and inserting in lieu thereof a colon.

(32) Section 2031(a) is amended by striking out "the date of enactment of this section" and inserting in lieu thereof "October 13, 1964".

(33) Section 2107(b) is amended by aligning the second sentence flush with the left margin.

(34) Section 2233 is amended—

(A) by striking out "subsection (c) of this section" in subsection (a) and inserting in lieu thereof "to subsection (c)"; and

(B) by striking out "or Territory, Puerto Rico, or the District of Columbia" both places it appears in the second sentence of subsection (b).

(35) Section 2381(c) is amended—

(A) by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)"; and

(B) by striking out "section 481(a) of that title" and inserting in lieu thereof "section 201(a) of that Act (40 U.S.C. 481(a))".

(36) The heading of section 2394a is amended to read as follows:

"§ 2394a. Procurement of energy systems using renewable forms of energy".

(37) Section 2577(a)(1) is amended by striking out "puposes" and inserting in lieu thereof "purposes".

(38) Section 2668(a)(10) is amended by striking out "section 961 of title 43" and inserting in lieu thereof "the Act of March 4, 1911 (43 U.S.C. 961)".

(39) Section 2672a is amended—

(A) by designating the first sentence as subsection (a);

(B) by striking out "operation" in such sentence and inserting in lieu thereof "operational";

(C) by designating the second sentence as subsection (b); and

(D) in the fourth sentence—

(i) by striking out "provision will" and inserting in lieu thereof "section shall"; and

(ii) by striking out "Armed Services Committees" and inserting in lieu thereof "Committees on Armed Services".

(40) Section 2675(b) is amended by striking out "thirty" and inserting in lieu thereof "30".

(41) Section 2687 is amended—

(A) by striking out "one thousand" in subsection (a)(2) and inserting in lieu thereof "1,000";

(B) by inserting "(42 U.S.C. 4321 et seq.)" in subsection (b)(2) after "National Environmental Policy Act of 1969";

(C) by striking out "sixty" in subsection (b)(4) and inserting in lieu thereof "60"; and

(D) by striking out “three hundred” in subsection (d)(1)(B) and inserting in lieu thereof “300”.

(42)(A) The heading of section 2734a is amended to read as follows: 10 USC 2734a.

“§ 2734a. Property loss; personal injury or death: incident to non-combat activities of armed forces in foreign countries; international agreements”.

(B) The item relating to such section in the table of sections at the beginning of chapter 163 is amended to read as follows:

“2734a. Property loss; personal injury or death: incident to noncombat activities of armed forces in foreign countries; international agreements.”.

(43) Section 2777(c) is amended by striking out “of this section”.

(44) Section 2822(b)(3) is amended by striking out “section 2833” and inserting in lieu thereof “section 2832”.

(45)(A) Section 2857(b)(1) is amended by striking out “use of” and all that follows through “the potential for” and inserting in lieu thereof “use of such forms of energy has the potential for”.

(B) The amendment made by subparagraph (A) shall take effect as if it had been included in the amendments made by section 801 of Public Law 97-321.

10 USC 2857
note.

(46) Section 3579(a) is amended by striking out “subsection (c)” and inserting in lieu thereof “subsection (b)”.

(47) Section 5897(b)(5) is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

(48) The item relating to chapter 661 in the table of chapters at the beginning of subtitle C is amended to read as follows:

“661. Accountability and Responsibility 7861”.

(49) Section 7227(a) is amended—

(A) by striking out “routine” both places it appears and inserting in lieu thereof “Routine”;

(B) by striking out “miscellaneous” and inserting in lieu thereof “Miscellaneous”;

(C) by striking out the semicolons at the end of clauses (1) and (2) and inserting in lieu thereof periods; and

(D) by striking out “; and” at the end of clause (3) and inserting in lieu thereof a period.

(50) Section 7421(b) is amended by striking out “naval petroleum reserves numbered 1 and 2” and inserting in lieu thereof “Naval Petroleum Reserves Numbered 1 and 2”.

(51) Section 7422(b) is amended by striking out “of this section”.

(52) Sections 7426(a), 7431(b)(1), and 7431(c) are amended by inserting “of this title” after “section 7422(c)”.

(53) Section 7430 is amended—

(A) by striking out “of this section” in subsection (d)(4);

(B) subsection (g)(2)—

(i) by striking out “thirty days” and inserting in lieu thereof “30 days”; and

(ii) by striking out “thirty day” and inserting in lieu thereof “30-day”; and

(C) by striking out “of this section” both places it appears in subsection (1)(4).

(54) Section 7572(b)(1)(B) is amended by striking out “on-board” and inserting in lieu thereof “on board”.

10 USC 8851.

(55) Section 8851(c) is amended by striking out "of this section".

(56)(A) Sections 2127(b), 2388(c), and 6154 are amended by striking out "section 3324 (a) and (b)" and inserting in lieu thereof "subsections (a) and (b) of section 3324".

(B) Section 7522(b) is amended by striking out "Section 3324 (a) and (b) of title 31 does" and inserting in lieu thereof "Subsections (a) and (b) of section 3324 of title 31 do".

(57) Section 9512(b)(1) is amended by inserting "App." after "49 U.S.C.".

TITLE XV—GENERAL PROVISIONS

PART A—DEFENSE FINANCIAL MATTERS

TRANSFER AUTHORITY

SEC. 1501. (a)(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this Act between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed \$2,000,000,000.

(b) The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for higher priority items than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

(d) Transfers between paragraphs of a subsection of section 301 may be made without regard to the requirements of this section.

Ante, p. 2510.

PART B—PROVISIONS RELATING TO SPECIFIC PROGRAMS

Establishment.

CHEMICAL WARFARE REVIEW COMMISSION

Report.

SEC. 1511. (a) The President shall establish a bipartisan commission to be known as the "Chemical Warfare Review Commission". The Commission shall review the overall adequacy of the chemical warfare posture of the United States with particular emphasis on the question of whether the United States should produce binary chemical munitions, and shall report its findings and recommendations to the President not later than April 1, 1985. In developing its recommendations, the Commission shall consider—

(1) the relationship of chemical stockpile modernization by the United States with the ultimate goal of the United States of achieving a multilateral, comprehensive, and verifiable ban on chemical weapons;

(2) the adequacy of the existing United States stockpile of unitary chemical weapons in providing a credible deterrent to

use by the Soviet Union of chemical weapons against United States and allied forces;

(3) whether the binary chemical modernization program proposed by the Department of Defense is adequate to support United States national security policy by posing a credible deterrent to chemical warfare; and

(4) the ability of defensive measures alone to meet the Soviet chemical warfare threat and the adequacy of funding for current and projected defensive measure programs.

(b) The President shall submit to Congress the report of the Commission, together with the President's comments on the report, not later than April 1, 1985.

President of U.S.
Report.

RESTRICTION ON THE USE OF FUNDS FOR THE B-1B BOMBER AIRCRAFT PROGRAM

SEC. 1512. None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended for the conduct of research, design, demonstration, development, or procurement of more than 100 B-1B bomber aircraft (including any derivative or modified version of such aircraft) unless the Secretary of Defense first notifies the Committees on Armed Services of the Senate and House of Representatives of the specific purpose for which the funds are proposed to be used and the amount proposed to be expended for that purpose.

CONFIGURATION OF THE FFG-7 CLASS GUIDED MISSILE FRIGATE

SEC. 1513. The Secretary of the Navy may determine the configuration of the FFG-7 class guided missile frigate for which funds were appropriated in the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 97 Stat. 1421), without regard to the provisions relating to the design of that frigate in the paragraph in title IV of that Act under the heading "SHIPBUILDING AND CONVERSION, NAVY".

PROHIBITION AGAINST USING FUNDS APPROPRIATED FOR THE ADVANCED TECHNOLOGY BOMBER AND THE ADVANCED CRUISE MISSILE PROGRAMS FOR ANY OTHER PURPOSE

SEC. 1514. (a) It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber program and the Advanced Cruise Missile program are a critical national security asset for maintaining an adequate and credible deterrent posture;

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the Soviet Union and as a consequence enhance the deterrent posture of the United States;

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) None of the funds appropriated pursuant to an authorization of appropriations in this Act to carry out the Advanced Technology

Bomber program or the Advanced Cruise Missile program may be used for any other purpose.

PART C—MISCELLANEOUS DEFENSE REPORTING REQUIREMENTS

EXTENSION OF TIME FOR REPORT OF THE COMMISSION ESTABLISHED BY THE MILITARY JUSTICE ACT OF 1983

10 USC 867 note.
10 USC 867.

SEC. 1521. Section 9(b)(4) of the Military Justice Act of 1983 (Public Law 98-209; 97 Stat. 1404) is amended by striking out "the first day of the ninth calendar month that begins after the date of the enactment of this Act" and inserting in lieu thereof "December 15, 1984".

STUDY OF FOREIGN SALES AND PROCUREMENT OF DEFENSE ARTICLES

Commerce and
trade.

SEC. 1522. (a)(1) The Secretary of Defense, in consultation with the heads of other appropriate Federal agencies, shall carry out a study to assess how the adequacy of the industrial base of the United States in the event of a war or national emergency is affected—

(A) by procurement by the Department of Defense of defense articles that are produced outside the United States or that are assembled from components, or fabricated from materials, produced outside the United States; and

(B) by sales by the Department of Defense or commercial manufacturers of defense articles manufactured in the United States to purchasers outside the United States.

(2) For the purposes of this section, the term "foreign-component defense article" means a defense article—

(A) that was produced outside the United States;

(B) that was assembled from over 50 percent components, or fabricated from over 50 percent materials, produced outside the United States; or

(C) that contains a major component that was produced outside the United States.

(b) The study under subsection (a) shall assess the effects of restrictions on the procurement of foreign-component defense articles on the overall United States balance of trade, on the balance of trade in defense articles, on treaties currently in effect, on the budgetary cost of national defense, on existing memoranda of understanding, on United States military alliances, and on efforts to increase the rationalization, standardization, and interoperability of articles used by North Atlantic Treaty Organization forces.

(c) Restrictions to be considered for the purposes of subsection (b) shall include—

(1) a prohibition on procurement of foreign-component defense articles;

(2) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source unless there is also a domestic producer of the article;

(3) a prohibition on procurement of defense articles (and major components of defense articles) from a country with which the United States has an unfavorable balance of trade in defense articles; and

(4) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source of

more than 50 percent of the total quantity of the defense article (or major component) to be procured.

(d) The study under subsection (a) shall consider circumstances and requirements under a war or national emergency of both a brief duration and a long duration.

(e) A report of the study under subsection (a) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives not later than October 15, 1985.

Report.

REPORT ON USE OF AIR FORCE AIR REFUELING FLEET

SEC. 1523. Not later than March 1, 1985, the Secretary of the Air Force shall submit to the appropriate committees of Congress a report analyzing the planned operational use of the Air Force's air refueling fleet throughout the remainder of the 1980's. This study shall include the planned use of the air refueling fleet for the Single Integrated Operational Plan (SIOP) and shall consider the growing number of potential contingency operations throughout the global spectrum of conflict to include multiple and simultaneous global threats.

Study.

STUDY BY THE SECRETARY OF DEFENSE OF CURRENT AND POTENTIAL EXPLOITATION OF FOREIGN TECHNOLOGY BY THE DEPARTMENT OF DEFENSE

SEC. 1524. (a)(1) The Secretary of Defense shall conduct a comprehensive study on how the Department of Defense can most effectively benefit from technology obtained from both cooperative and noncooperative foreign sources. In carrying out the study, the Secretary shall specifically consider—

(A) the existing and any planned organizational changes within the Department of Defense with respect to the office or offices responsible for collecting and disseminating foreign technology;

(B) whether additional funding is needed, and could be used in a cost-effective manner, for the collection of foreign technology by the various elements of the Department of Defense responsible for collecting and disseminating that technology; and

(C) an evaluation of the effectiveness of the current programs of the Department of Defense for collecting and disseminating foreign technology.

(2) Not later than March 1, 1985, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study conducted under paragraph (1), together with such comments and recommendations as the Secretary considers appropriate. The Secretary shall also submit to such committees, at the same time as the report referred to in the preceding sentence is submitted, an unclassified report on the matters described in paragraph (1).

Report.

(b) The Secretary of the Army may not transfer any of the functions now performed by the Foreign Science and Technology Center of the Material Development and Readiness Command of the Army to any other Office or agency within the Army until after the day on which the report referred to in subsection (a)(2) is received by the Committees on Armed Services of the Senate and House of Representatives.

REPORT ON AMERICANS UNACCOUNTED FOR OR MISSING IN INDOCHINA

Lao People's
Democratic
Republic.
Socialist
Republic of
Vietnam.
President of U.S.

SEC. 1525. (a) The Congress finds that—

(1) the President has declared that the issue of the 2,483 Americans missing or otherwise unaccounted for in Indochina is an issue of the highest national priority and has initiated high level discussions with the Governments of the Lao People's Democratic Republic and the Socialist Republic of Vietnam on the issue;

(2) the Congress, on a bipartisan basis, fully supports these initiatives and realizes that the fullest possible accounting of those Americans can only be achieved with the cooperation of those governments;

(3) the Government of the Lao People's Democratic Republic has recently taken positive actions to assist the United States Government in resolving the status of those missing Americans; and

(4) the Government of the Socialist Republic of Vietnam has pledged to cooperate with the Government of the United States in resolving this humanitarian issue, separate from other issues dividing the two countries.

(b) The Congress strongly urges the President—

(1) to ensure that officials of the United States Government conscientiously and fully carry out the pledge of the President to commit the full resources of the United States Government to resolve the issue of the 2,483 Americans still missing or otherwise unaccounted for in Indochina;

(2) to pursue vigorously all reports concerning sightings of live Americans who may be among those missing or otherwise unaccounted for in Indochina;

(3) to work to achieve the fullest possible accounting of all Americans missing or otherwise unaccounted for in Indochina;

(4) to seek the immediate return of the remains of all Americans who have died in Indochina and whose remains have not been returned; and

(5) to make every effort to secure the further cooperation of the Lao People's Democratic Republic and the Socialist Republic of Vietnam in resolving this humanitarian issue of fundamental importance.

(c) The Congress calls upon the Socialist Republic of Vietnam and the Lao People's Democratic Republic to accelerate cooperation with the United States in achieving the fullest possible accounting for Americans still missing in Indochina.

(d) Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report detailing actions being taken by the United States Government described in subsection (b).

President of U.S.
Report.

REPORT ON SAFETY IN THE ARMY

SEC. 1526. Not later than the end of the one-year period beginning on the date of the enactment of this Act, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing current and planned programs related to safety of personnel in the Army. The report shall include safety involving training exercises and safety in the operation of Army equipment.

**REPORT ON ENHANCED MILITARY CAREER OPPORTUNITIES FOR NON-
PHYSICIAN HEALTH-CARE PROVIDERS**

SEC. 1527. Not later than March 15, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing and evaluating a plan to enhance the military career opportunities of non-physician providers of health care.

PART D—MISCELLANEOUS DEFENSE-RELATED MATTERS

EXEMPTION FROM AUTHORITY TO INDUCT UNDER THE MILITARY SELECTIVE SERVICE ACT ANY PERSON WHOSE MOTHER WAS KILLED IN LINE OF DUTY

SEC. 1531. Section 6(o) of the Military Selective Service Act (50 U.S.C. App. 456(o)) is amended by inserting "or the mother" after "the father" in clauses (1) and (2).

PROHIBITION OF UNAUTHORIZED USES OF MARINE CORPS INSIGNIA

SEC. 1532. (a)(1) Part IV of subtitle C of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 663—NAMES AND INSIGNIA

"Sec.

"7881. Unauthorized use of Marine Corps insignia.

"§7881. Unauthorized use of Marine Corps insignia

10 USC 7881.

"(a) The seal, emblem, and initials of the United States Marine Corps shall be deemed to be insignia of the United States.

"(b) No person may, except with the written permission of the Secretary of the Navy, use or imitate the seal, emblem, name, or initials of the United States Marine Corps in connection with any promotion, goods, services, or commercial activity in a manner reasonably tending to suggest that such use is approved, endorsed, or authorized by the Marine Corps or any other component of the Department of Defense.

"(c) Whenever it appears to the Attorney General of the United States that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (b), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought."

Law
enforcement.

(2) The table of chapters at the beginning of such subtitle, and the table of chapters at the beginning of part IV of such subtitle, are amended by inserting after the item relating to chapter 661 the following new item:

"663. Names and Insignia 7881".

(b) The amendments made by subsection (a) shall not affect rights that vested before the date of the enactment of this Act.

10 USC 7881
note.

IMPROVED READINESS AND TRAINING OF THE CIVIL AIR PATROL
THROUGH PROVISION OF CERTAIN ADDITIONAL FEDERAL SERVICES

SEC. 1533. (a) Subsection (b) of section 9441 of title 10, United States Code, relating to support of the Civil Air Patrol by the Air Force, is amended—

- (1) by striking out “and” at the end of clause (7);
- (2) by striking out the period at the end of clause (8) and inserting in lieu thereof “; and”; and
- (3) by adding at the end thereof the following new clauses:
“(9) authorize the payment of expenses of placing into serviceable condition a major item of equipment furnished to the Civil Air Patrol under clause (1);
“(10) authorize the purchase with funds appropriated to the Air Force of such major items of equipment as the Secretary considers needed by the Civil Air Patrol to carry out its missions; and
“(11) furnish articles of the Air Force uniform to Civil Air Patrol cadets without cost to such cadets.”.

(b)(1) Chapter 909 of such title is amended by adding at the end thereof the following new section:

10 USC 9442.

“§ 9442. Assistance by other agencies

“The Secretary of the Air Force may arrange for the use by the Civil Air Patrol of such facilities and services under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, or the head of any other department or agency of the United States as the Secretary of the Air Force considers to be needed by the Civil Air Patrol to carry out its mission. Any such arrangement shall be made under regulations prescribed by the Secretary of the Air Force with the approval of the Secretary of Defense and shall be subject to the agreement of the other military department or other department or agency of the United States furnishing the facilities or services.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:
“9442. Assistance by other agencies.”.

Effective date.
10 USC 9441
note.

(c) The amendments made by this section shall take effect on October 1, 1984.

PARTICIPATION OF MEMBERS OF THE ARMED FORCES IN INTERNATIONAL
SPORTS ACTIVITIES

SEC. 1534. Section 717 of title 10, United States Code, relating to participation by members of the armed forces in international sports, is amended—

- (1) by striking out the semicolon at the end of subsection (a)(1) and inserting in lieu thereof “and qualifying events and preparatory competition for those games;”;
- (2) by striking out “that competition” in subsection (a)(2) and inserting in lieu thereof “that competition, and qualifying events and preparatory competition for that competition”;
- (3) by striking out “(c), (d), and (e)” in subsection (b) and inserting in lieu thereof “(c) and (d)”;
- (4) by striking out “Not more than \$800,000” in subsection (c) and inserting in lieu thereof “(1) Not more than \$3,000,000”;

(5) by striking out “(d)” before “Not more than \$100,000” and inserting in lieu thereof “(2)”;

(6) by striking out “March 14, 1955” both places it appears and inserting in lieu thereof “October 1, 1980”; and

(7) by redesignating subsection (e) as subsection (d).

INSTRUCTION OF FOREIGN OFFICERS AT THE UNIFORMED SERVICES
UNIVERSITY OF THE HEALTH SCIENCES

SEC. 1535. Section 2114 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

“(e)(1) The Board, upon approval of the Secretary of Defense, may enter into agreements with foreign military medical schools for reciprocal education programs under which students at the University receive specialized military medical instruction at the foreign military medical school and military medical personnel of the country of such medical school receive specialized military medical instruction at the University. Any such agreement may be made on a reimbursable basis or a nonreimbursable basis.

“(2) Not more than 40 persons at any one time may receive instruction at the University under this subsection. Attendance of such persons at the University may not result in a decrease in the number of students enrolled in the University. Subsection (b) does not apply to students receiving instruction under this subsection.

“(3) The Dean of the University, with the approval of the Secretary of Defense, shall determine the countries from which persons may be selected to receive instruction under this subsection and the number of persons that may be selected from each country. The Dean may establish qualifications and methods of selection and shall select those persons who will be permitted to receive instruction at the University. The qualifications established shall be comparable to those required of United States citizens.

“(4) Each foreign country from which a student is permitted to receive instruction at the University under this subsection shall reimburse the United States for the cost of providing such instruction, unless such reimbursement is waived by the Secretary of Defense. The Secretary of Defense shall prescribe the rates for reimbursement under this paragraph.

“(5) Except as the Dean determines, a person receiving instruction at the University under this subsection is subject to the same regulations governing attendance, discipline, discharge, and dismissal as a student enrolled in the University. The Secretary may prescribe regulations with respect to access to classified information by a person receiving instruction under this subsection that differ from the regulations that apply to a student enrolled in the University.”.

Reimbursement.

Confidentiality.
Regulations.

COMMISSION ON MERCHANT MARINE AND DEFENSE

SEC. 1536. (a) There is hereby established a commission to be known as the Commission on Merchant Marine and Defense (hereinafter in this section referred to as the “Commission”).

(b) The Commission shall study problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the United States merchant marine to meet the need for such transportation, and the adequacy of the shipbuilding mobilization base of the United States

Establishment.
46 USC app.
1120 note.

Study.
Transportation.

Reports.

to meet the needs of naval and merchant ship construction in time of war or national emergency. Based on the results of the study, the Commission shall make such specific recommendations, including recommendations for legislative action, action by the executive branch, and action by the private sector, as the Commission considers appropriate to foster and maintain a United States merchant marine capable of meeting national security requirements. The recommendations of the Commission shall be provided in the reports of the Commission due on September 30, 1985, and September 30, 1986, under subsection (g).

(c)(1) The Commission shall be composed of seven members, as follows:

(A) The Secretary of the Navy (or his delegate), who shall be the chairman of the Commission.

(B) The Administrator of the Maritime Administration (or his delegate).

(C) Five members appointed by the President, by and with the advice and consent of the Senate, from among individuals of recognized stature and distinction who by reason of their background, experience, and knowledge in the fields of merchant ship operations, shipbuilding and its supporting industrial base, maritime labor, and defense matters are particularly suited to serve on the Commission.

(2) A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments may be made under paragraph (1)(C) without regard to section 5311(b) of title 5, United States Code. Members appointed under such paragraph shall be appointed for the life of the Commission.

(3) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings. The Commission shall meet at the call of the chairman.

(d) Members of the Commission appointed under subsection (c)(1)(C) may each be paid at a rate equal to the daily equivalent of the rate of basic pay payable for level IV of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of the business of the Commission. Other members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(e)(1) The Commission may (without regard to section 5311(b) of title 5, United States Code) appoint an executive director, who shall be paid at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule.

(2) The Commission may appoint such additional staff as it considers appropriate. Such personnel shall be paid at a rate not to exceed the rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(3) The executive director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the executive branch and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f)(1) The Secretary of the Navy and the Administrator of the Maritime Administration may detail personnel under their jurisdic-

5 USC 5315.

5 USC 5315.

5 USC 5101
et seq., 5331.

tion to the Commission to assist the Commission in carrying out its duties under this section.

(2) The Secretary of the Navy and the Administrator of the Maritime Administration may provide to the Commission such administrative support services as the Commission may require.

(g) Not later than June 30, 1985, and June 30, 1986, the Commission shall submit to the President and to Congress a report containing its findings of fact and its conclusions. Not later than September 30, 1985, and September 30, 1986, the Commission, based upon those findings and conclusions, shall prepare a report containing the recommendations of the Commission as specified in subsection (b) and shall submit the report to the President and Congress. Each such report shall be prepared without any prior review or approval by any official of the executive branch (other than the members and staff of the Commission).

Reports.

(h) The Commission shall cease to exist 90 days after the date on which the final report of the Commission under subsection (g) is submitted to the President and the Congress.

Termination date.

(i) There is authorized to be appropriated for fiscal years 1985, 1986, and 1987, a total of \$1,500,000 to carry out this section. Any amount appropriated under this subsection shall remain available until September 30, 1987.

Appropriation authorization.

DEPARTMENT OF DEFENSE AIR TRAFFIC CONTROLLERS

SEC. 1537. (a) Section 4109(c) of title 5, United States Code, is amended by inserting "and the Secretary of Defense may pay an individual training to be an air traffic controller of the Department of Defense," after "of such Administration,".

(b) Section 5532(f) of such title is amended—

5 USC 5532.

(1) in paragraph (1) by inserting "or of the Secretary of Defense" after "Administrator, Federal Aviation Administration,"; and

(2) in paragraph (2)—

(A) by inserting "or the Secretary of Defense" after "Administrator, Federal Aviation Administration,"; and

(B) by inserting "or such Secretary, respectively" before the period.

(c)(1) Subsection (a) of section 5546a of such title is amended—

5 USC 5546a.

(A) by inserting "and the Secretary of Defense (hereafter in this section referred to as the 'Secretary')" after "referred to as the 'Administrator'";

(B) in paragraph (1) by inserting "or the Department of Defense" after "Federal Aviation Administration" and by inserting "or the Secretary" after "by the Administrator"; and

(C) in paragraph (2) by inserting "or the Department of Defense" after "Federal Aviation Administration" and by inserting "or the Secretary" after "determined by the Administrator".

(2) Subsection (c)(1) of such section is amended—

(A) by inserting "or the Secretary" after "Administrator" both places it appears; and

(B) by inserting "or the Department of Defense" after "Federal Aviation Administration";

(3) Subsection (d) of such section is amended—

(A) in paragraph (1) by inserting "or the Secretary" after "Administrator" both places it appears and inserting "or the

Department of Defense" after "Federal Aviation Administration"; and

(B) in paragraph (2) by inserting "or the Department of Defense" after "Federal Aviation Administration".

(4) Subsection (e)(1) of such section is amended—

(A) by inserting "or the Secretary" after "Administrator"; and

(B) by inserting "or the Department of Defense" after "Federal Aviation Administration".

(5) Subsection (f) of such section is amended—

(A) in paragraph (1) by inserting "or the Secretary" after "Administrator" and by inserting "or the Department of Defense" after "Federal Aviation Administration"; and

(B) in paragraph (2) by inserting "and the Secretary" after "Administrator".

(6)(A) The heading of such section is amended by inserting at the end thereof "and the Department of Defense".

(B) The item relating to section 5546a in the analysis of chapter 55 of such title is amended by inserting "and the Department of Defense" before the period.

5 USC 5547. (d) Section 5547 of such title is amended by inserting "or the Department of Defense" after "Federal Aviation Administration".

5 USC 8344. (e) Section 8344(h)(1) of such title is amended by inserting "or the Secretary of Defense" after "Administrator, Federal Aviation Administration,".

Effective date. (f) The amendments made by this section shall take effect on
5 USC 4109 note. October 1, 1984.

SALE OF AMMUNITION FOR AVALANCHE-CONTROL PURPOSES

SEC. 1538. (a)(1) Chapter 441 of title 10, United States Code, is amended by adding at the end thereof the following new section:

Contracts. "§ 4657. Sale of ammunition for avalanche-control purposes

10 USC 4657.

"Subject to the needs of the Army, the Secretary of the Army may sell ammunition for military weapons which are used for avalanche-control purposes to any State (or entity of a State) or to any other non-Federal entity that has been authorized by a State to use those weapons in that State for avalanche-control purposes. Sales of ammunition under this section shall be on a reimbursable basis and shall be subject to the condition that the ammunition be used only for avalanche-control purposes."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"4657. Sale of ammunition for avalanche-control purposes."

Effective date. (b) Section 4657 of title 10, United States Code, as added by
10 USC 4657
note. subsection (a), shall take effect on October 1, 1984.

SUPPLEMENTAL INFORMATION TO THE ENVIRONMENTAL IMPACT STATEMENT OF THE NAVY ON THE PROPOSED TRANSFER OF CERTAIN PERSONNEL

SEC. 1539. In addition to any other requirement regarding an environmental impact statement prepared by the Secretary of the Navy in connection with the 1981 Navy master plan to vacate leased space by transferring military and civilian personnel of the Department of the Navy from Arlington County, Virginia, to the Washing-

ton Navy Yard in Washington, District of Columbia, the Secretary of the Navy shall also prepare as a supplement to such impact statement a detailed analysis with respect to the following matters:

(1) The socio-economic impact on the area from which the transfer is proposed to be made.

(2) The impact of the proposed transfer on the traffic capacity of bridges over the Potomac River and the Anacostia River.

(3) The impact of the proposed transfer on shuttle requirements of the Department of Defense.

(4) The overall impact of the proposed transfer on the area from which the transfer is proposed to be made and on the area to which the transfer is proposed to be made, taking into consideration all other planned moves of personnel by the Navy to the Washington Navy Yard and by all other agencies of the Government.

(5) The impact of such proposed transfer, and all other planned transfers to the Washington Navy Yard, on both present and potential parking capacity in the vicinity of such facility.

(6) The impact of the proposed transfer on communications and security requirements of the Navy.

(7) The impact of the proposed transfer on supporting and servicing contractors and the impact that the movement of such contractors will likely have on public and private facilities in the area from which they move and the area to which they move.

AUTHORIZATION FOR SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO COUNTRIES IN CENTRAL AMERICA

SEC. 1540. (a) Notwithstanding any other provision of law, during fiscal year 1985, the Secretary of Defense may transport on a space available basis, at no charge, to any country in Central America goods and supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance.

(b)(1) The President shall institute procedures, including complete inspection prior to acceptance for transport, for determining that—

President of U.S.

(A) the transport of any goods and supplies transported under this section is consistent with foreign policy objectives;

(B) the goods and supplies to be transported are suitable for humanitarian purposes and are in usable condition;

(C) there is a legitimate humanitarian need for such goods and supplies;

(D) the goods and supplies will in fact be used for humanitarian purposes; and

(E) there are adequate arrangements for the distribution of such goods and supplies in the country of destination.

(2) Goods and supplies determined not to meet the criteria of paragraph (1) may not be transported under this section.

Prohibition.

(3) It shall be the responsibility of the donor to ensure that goods or supplies to be transported under this section are suitable for transport.

(c) Goods and supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, or international organization, or a private nonprofit relief organization. The Secretary of Defense may not accept any goods or supplies for transportation under this section unless verifi-

cation of adequate arrangements has been received in advance for distribution of such goods and supplies.

(d) Goods or supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in military or paramilitary activity.

Report.

(e) No later than 90 days after the date of the enactment of this section, and every 60 days thereafter, the Secretary of State shall report to the Congress concerning the origin, contents, destination, and disposition of all goods and supplies transported under this section.

PART E—OTHER MISCELLANEOUS MATTERS

SURVIVORS OF THE GLOMAR JAVA SEA

Vessels.

SEC. 1541. (a) The Congress finds that—

(1) on October 26, 1983, the United States registered oil drilling ship Glomar Java Sea was reported missing during stormy weather at its drilling site 60 miles off Hainan Island in the South China Sea and was found sunken near its drilling site on November 1, 1983;

(2) no evidence has been found of 46 of the 81 crewmen, including citizens of the United States, or of the lifeboats which, reportedly, were launched from the Glomar Java Sea, despite an intensive cooperative search involving United States military search and rescue aircraft and commercial vessels;

Vietnam.

(3) the Chairman of the United States Coast Guard Marine Board of Investigation has concluded that it is possible that crewmembers of the Glomar Java Sea survived and drifted into waters near the coast of Vietnam; and

(4) the Government of Vietnam has refused to allow an independent search for the possible survivors to be conducted in waters within 20 miles of such coast.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President should, through all appropriate bilateral and multilateral channels, continue and accelerate the effort to obtain the cooperation of the Government of Vietnam in ascertaining the fate or locations of the 46 crewmen of the sunken United States registered vessel Glomar Java Sea.

POLICY REGARDING THE FURNISHING OF FOOD AND MEDICAL SUPPLIES TO AFGHANISTAN

SEC. 1542. (a) The Congress finds—

(1) that after more than four years of occupation by the military forces of the Soviet Union, the freedom-loving people of Afghanistan continue bravely to resist the oppression of the Soviet Union;

(2) that the current Soviet Union offensive has resulted in great suffering and destruction in Afghanistan and has intensified the Soviet policy which targets civilian populations; and

(3) that this "scorched earth" policy of the Soviet Union, which has resulted in the destruction of crops, food supplies, farms, hospitals, and other public buildings in Afghanistan, has been a desperate attempt on the part of the Soviet Union to subdue the population of that country or to force the depopulation of certain areas which the occupying forces of the Soviet Union are unable to control.

(b) It is, therefore, the sense of Congress that the free world should take all appropriate steps to ensure that the people of Afghanistan have food and medical supplies adequate to sustain themselves as they struggle to regain their freedom.

REAFFIRMATION OF UNITED STATES POLICY TOWARD CUBA

SEC. 1543. (a) It is the policy of the Government of the United States to continue in its relations with the Government of Cuba the policy set forth in the joint resolution entitled "Joint resolution expressing the determination of the United States with respect to the situation in Cuba", approved by the President on October 3, 1962 (Public Law 87-733; 76 Stat. 697).

(b) Nothing in this section shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, the Foreign Assistance Act of 1961, or the War Powers Resolution. This section does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution.

50 USC 401 note,
22 USC 2151
note.
50 USC 1541
note.

REPORT ON USE OF CUBAN AND RUSSIAN NICKEL IN DEFENSE PROCUREMENTS

SEC. 1544. Not later than April 1, 1985, the Secretary of Defense shall submit to Congress a report on the effects on the national security of the United States of procurement by the Department of Defense of products containing nickel produced in Cuba or the Soviet Union. The report shall be prepared after consultation with the Secretaries of Commerce, the Interior, and the Treasury.

TITLE XVI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

SHORT TITLE

SEC. 1600. This title may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1985".

Department of
Energy National
Security and
Military
Applications of
Nuclear Energy
Authorization
Act of 1985.

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

OPERATING EXPENSES

SEC. 1601. Funds are authorized to be appropriated to the Department of Energy for fiscal year 1985 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

- (1) For naval reactors development, \$426,400,000.
- (2) For weapons activities, \$3,364,130,000, to be allocated as follows:
 - (A) For research and development, \$805,625,000.
 - (B) For weapons testing, \$532,000,000.
 - (C) For the defense inertial confinement fusion program, \$154,750,000, of which—

- (i) \$92,700,000 shall be used for glass laser experiments;
- (ii) \$42,100,000 shall be used for gas laser experiments;
- (iii) \$19,200,000 shall be used for pulsed power experiments; and
- (iv) \$750,000 shall be used for supporting research.
- (D) For production and surveillance, \$1,810,900,000.
- (E) For program direction, \$60,855,000.
- (3) For verification and control technology, \$73,700,000, of which \$3,200,000 shall be used for program direction.
- (4) For defense nuclear materials production, \$1,407,090,000, to be allocated as follows:
 - (A) For uranium enrichment, \$142,800,000.
 - (B) For production reactor operations, \$551,235,000.
 - (C) For processing of defense nuclear materials, \$379,770,000.
 - (D) For special isotope separation, \$60,000,000.
 - (E) For supporting services, \$252,985,000.
 - (F) For program direction, \$20,300,000.
- (5) For defense nuclear waste and byproduct management, \$358,700,000, to be allocated as follows:
 - (A) For interim waste management, \$240,400,000.
 - (B) For long-term waste management technology, \$90,400,000.
 - (C) For terminal waste storage, \$25,800,000.
 - (D) For program direction, \$2,100,000.
- (6) For nuclear materials safeguards and security technology development program, \$58,000,000, of which \$7,600,000 shall be used for program direction.
- (7) For security investigations, \$34,000,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 1602. Funds are authorized to be appropriated to the Department of Energy for fiscal year 1985 for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

- (1) For naval reactors development:
 - Project 85-N-101, general plant projects, various locations, \$2,000,000.
 - Project 82-N-111, materials facility, Savannah River, South Carolina, \$40,000,000, for a total project authorization of \$165,000,000.
 - Project 81-T-112, modifications and additions to prototype facilities, various locations, \$6,000,000, for a total project authorization of \$110,000,000.
- (2) For weapons activities:
 - Project 85-D-101, general plant projects, various locations, \$29,600,000.
 - Project 85-D-111, general plant projects, various locations, \$30,200,000.
 - Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, phase I, various locations, \$35,400,000.

Project 85-D-103, safeguards and security enhancements, Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore, California, \$4,700,000.

Project 85-D-104, test devices assembly building, Los Alamos National Laboratory, Los Alamos, New Mexico, \$800,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, \$3,000,000.

Project 85-D-106, hardened radiography facility, site 300, Lawrence Livermore National Laboratory, Livermore, California, \$800,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, \$4,500,000.

Project 85-D-113, powerplant and steam distribution system, Pantex Plant, Amarillo, Texas, \$4,500,000.

Project 85-D-114, safeguards vaults, Y-12 Plant, Oak Ridge, Tennessee, \$3,100,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, \$2,900,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, \$5,000,000.

Project 85-D-122, safeguards and site security upgrade, Mound Facility, Miamisburg, Ohio, \$2,700,000.

Project 85-D-123, safeguards and site security upgrade, phase I, Pantex Plant, Amarillo, Texas, \$1,000,000.

Project 85-D-124, safeguards and site security upgrade, Rocky Flats, Golden, Colorado, \$1,000,000.

Project 85-D-125, tactical bomb production facilities, various locations, \$10,000,000.

Project 84-D-102, radiation-hardened integrated circuit laboratory, Sandia National Laboratories, Albuquerque, New Mexico, \$20,000,000, for a total project authorization of \$22,000,000.

Project 84-D-103, hardened central guard force facility, Los Alamos National Laboratory, Los Alamos, New Mexico, \$5,600,000, for a total project authorization of \$6,200,000.

Project 84-D-104, nuclear materials storage facility, Los Alamos National Laboratory, Los Alamos, New Mexico, \$6,500,000, for a total project authorization of \$7,200,000.

Project 84-D-105, safeguards and security upgrades, phase I, Los Alamos National Laboratory, Los Alamos, New Mexico, \$10,100,000, for a total project authorization of \$15,100,000.

Project 84-D-106, security system upgrade, Sandia National Laboratories, Albuquerque, New Mexico, \$2,300,000, for a total project authorization of \$3,800,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, \$21,900,000, for a total project authorization of \$35,400,000.

Project 84-D-112, TRIDENT II warhead production facilities, various locations, \$60,700,000, for a total project authorization of \$80,000,000.

Project 84-D-114, consolidated manufacturing facility, Rocky Flats Plant, Golden, Colorado, \$18,100,000, for a total project authorization of \$42,200,000.

Project 84-D-115, electrical system expansion, Pantex Plant, Amarillo, Texas, \$10,000,000, for a total project authorization of \$11,500,000.

Project 84-D-117, inert assembly and test facility, Pantex Plant, Amarillo, Texas, \$11,700,000, for a total project authorization of \$13,200,000.

Project 84-D-119, railroad track replacement and upgrade, Pantex Plant, Amarillo, Texas, \$6,800,000, for a total project authorization of \$7,600,000.

Project 84-D-120, explosive component test facility, Mound Facility, Miamisburg, Ohio, \$16,900,000, for a total project authorization of \$20,000,000.

Project 84-D-121, safeguards and site security upgrading, Rocky Flats Plant, Golden, Colorado, \$11,200,000, for a total project authorization of \$21,200,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, \$21,400,000, for a total project authorization of \$29,000,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, \$8,000,000, for a total project authorization of \$15,500,000.

Project 84-D-212, safeguards and site security upgrade, Pinellas Plant, Florida, \$2,700,000, for a total project authorization of \$3,700,000.

Project 83-D-199, buffer land acquisition, Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore, California, \$7,000,000, for a total project authorization of \$17,000,000.

Project 82-D-107, utilities and equipment restoration, replacement and upgrade, phase III, various locations, \$165,000,000, for a total project authorization of \$570,400,000.

Project 82-D-111, interactive graphics systems, various locations, \$6,800,000, for a total project authorization of \$20,000,000.

Project 82-D-144, simulation technology laboratory, Sandia National Laboratories, Albuquerque, New Mexico, \$11,500,000, for a total project authorization of \$23,700,000.

Project 82-D-150, weapons materials research and development facility, Lawrence Livermore National Laboratory, Livermore, California, \$16,800,000, for a total project authorization of \$27,200,000.

Project 81-D-101, particle beam fusion accelerator-II, Sandia National Laboratories, Albuquerque, New Mexico, \$3,500,000, for a total project authorization of \$45,650,000.

Project 81-D-115, missile X warhead production facilities, various locations, \$20,900,000, for a total project authorization of \$125,000,000.

Project 81-D-120, control of effluents and pollutants, Y-12 Plant, Oak Ridge, Tennessee, \$1,400,000, for a total project authorization of \$7,800,000.

Project 81-D-134, earthquake damage restoration, Sandia National Laboratories, Livermore, California, \$4,900,000, for a total project authorization of \$8,600,000.

Project 79-7-0, universal pilot plant, Pantex Plant, Amarillo, Texas, \$3,800,000, for a total project authorization of \$15,900,000.

(3) For verification and control technology:

Project 85-D-171, space science laboratory, Los Alamos, New Mexico, \$1,000,000.

(4) For materials production:

Project 85-D-131, general plant projects, various locations, \$30,000,000.

Project 85-D-132, plant engineering and design, various locations, \$2,000,000.

Project 85-D-136, components protection system, 100-N area, Richland, Washington, \$3,300,000.

Project 85-D-137, vault safety special nuclear material inventory system, Richland, Washington, \$2,500,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, \$10,000,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Productions Center, Fernald, Ohio, \$6,000,000.

Project 85-D-142, fuel tube facilities, fuel preparation area, Savannah River, South Carolina, \$8,000,000.

Project 85-D-145, uranyl nitrate to oxide conversion facility, Savannah River, South Carolina, \$1,800,000.

Project 84-D-130, modification processing facility substations, Savannah River, South Carolina, \$200,000, for a total project authorization of \$5,800,000.

Project 84-D-134, safeguards and security improvements, Plantwide, Savannah River, South Carolina, \$14,900,000, for a total project authorization of \$26,900,000.

Project 84-D-136, enriched uranium conversion facility modifications, Y-12 Plant, Oak Ridge, Tennessee, \$8,000,000, for a total project authorization of \$12,400,000.

Project 84-D-137, facility security systems upgrade, Idaho Fuels Processing Facility (IFPF), Idaho National Engineering Laboratory, Idaho, \$8,000,000, for a total project authorization of \$10,000,000.

Project 83-D-146, water pollution control, Feed Materials Production Center, Fernald, Ohio, \$4,100,000, for a total project authorization of \$9,500,000.

Project 83-D-147, pollution discharge elimination, Savannah River, South Carolina, \$2,150,000, for a total project authorization of \$8,650,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, \$11,500,000, for a total project authorization of \$19,000,000.

Project 83-D-180, facility storage modifications, various locations, \$6,500,000, for a total project authorization of \$15,800,000.

Project 82-D-124, restoration of production capabilities, phases II, III, IV, and V, various locations, \$68,800,000, for a total project authorization of \$300,634,000.

Project 82-D-128, plant perimeter security systems upgrade, Idaho Fuels Processing Plant, Idaho National Engineering Laboratory, Idaho, \$400,000, for a total project authorization of \$5,400,000.

Project 82-D-136, fuel processing facilities upgrade, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, \$1,000,000, for a total project authorization of \$46,000,000.

Project 82-D-201, special plutonium recovery facilities, JB-Line, Savannah River, South Carolina, \$24,400,000, for a total project authorization of \$61,400,000.

(5) For defense waste and byproducts management:

Project 85-D-156, general plant projects, interim waste operations and long-term waste management technology, various locations, \$23,645,000.

Project 85-D-157, seventh calcined solids storage facility, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, \$7,000,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, \$700,000.

Project 85-D-159, new waste transfer facilities, H Area, Savannah River, South Carolina, \$11,000,000.

Project 85-D-160, test reactor area security system upgrade, Idaho National Engineering Laboratory (INEL), Idaho, \$2,000,000.

Project 83-D-157, additional radioactive waste storage facilities, Richland, Washington, \$3,155,000, for a total project authorization of \$53,155,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, \$230,500,000, for a total project authorization of \$432,500,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast, New Mexico, \$51,100,000, for a total project authorization of \$394,200,000.

(6) For capital equipment not related to construction—

(A) for naval reactors development, \$22,500,000;

(B) for weapons activities, \$241,850,000;

(C) for inertial confinement fusion, \$9,500,000;

(D) for verification and control technology, \$2,000,000;

(E) for materials production, \$117,660,000;

(F) for defense waste and byproducts management, \$35,771,000; and

(G) for nuclear safeguards and security, \$4,700,000.

PART B—RECURRING GENERAL PROVISIONS

REPROGRAMING

Limitations.

SEC. 1621. (a) Except as otherwise provided in this title—

(1) no amount appropriated pursuant to this title may be used for any program in excess of 105 percent of the amount authorized for that program by this title or \$10,000,000 more than the amount authorized for that program by this title, whichever is the lesser, and

(2) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the appropriate committees of Congress of notice from the Secretary of Energy (hereinafter in this part referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

Prohibition.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 1622. (a) The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated costs of the construction project does not exceed \$1,000,000.

(b) If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds \$1,000,000, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variation.

Report.

(c) In no event may the total amount of funds obligated to carry out all general plant projects authorized by this title exceed the total amount authorized to be appropriated for such projects by this title.

Prohibition.

LIMITS ON CONSTRUCTION PROJECTS

SEC. 1623. (a) Whenever the current estimated cost of a construction project which is authorized by section 302 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of (1) the amount authorized for the project, or (2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress, construction may not be started or additional obligations incurred in connection with the project above the total estimated cost, as the case may be, unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of the Congress of written notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the action, or unless each committee before the expiration of such period has notified the Secretary it has no objection to the proposed action.

(b) Subsection (a) shall not apply to any construction project which has a current estimated cost of less than \$5,000,000.

FUND TRANSFER AUTHORITY

SEC. 1624. To the extent specified in appropriation Acts, funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

AUTHORITY FOR CONSTRUCTION DESIGN

SEC. 1625. (a)(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction

project if the total estimated cost for such planning and design does not exceed \$2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds \$300,000, the Secretary shall notify the appropriate committees of Congress in writing of the details of such project at least thirty days before any funds are obligated for design services for such project.

(b) In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds \$2,000,000, funds for such design must be specifically authorized by law.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

SEC. 1626. In addition to the advance planning and construction design authorized by section 302, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

SEC. 1627. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

ADJUSTMENTS FOR PAY INCREASES

SEC. 1628. Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

AVAILABILITY OF FUNDS

SEC. 1629. When so specified in an appropriation Act, amounts appropriated for Department of Energy defense programs may remain available until expended.

PART C—SPECIAL PROGRAM PROVISIONS

CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY ARISING OUT OF ATOMIC WEAPONS TESTING PROGRAMS

SEC. 1631. (a)(1) The remedy against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or by the Act of March 9, 1920 (46 U.S.C. 741-752 and 781-790), as appropriate, for injury, loss of property, personal injury, or death shall apply to any civil action for injury, loss of property, personal injury, or death due to exposure to radiation based on acts or omissions by a contractor in carrying out an atomic weapons testing program under a contract with the United States.

(2) The remedies referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining

Claims.

42 USC 2212.

46 USC 781-790.

civil liability arising from any act or omission of the contractor without regard to when the act or omission occurred. The employees of a contractor referred to in paragraph (1) shall be considered to be employees of the Federal Government, as provided in section 2671 of title 28, United States Code, for the purposes of any such civil action or proceeding; and the civil action or proceeding shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of such title and shall be subject to the limitations and exceptions applicable to those actions.

28 USC 1346.

(b) A contractor against whom a civil action or proceeding described in subsection (a) is brought shall promptly deliver all processes served upon that contractor to the Attorney General of the United States. Upon certification by the Attorney General that the suit against the contractor is within the provisions of subsection (a), a civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings shall be deemed a tort action brought against the United States under the provisions of section 1346(b), 2401(b), or 2402, or sections 2671 through 2680 of title 28, United States Code. For purposes of removal, the certification by the Attorney General under this subsection establishes contractor status conclusively.

(c) The provisions of this section shall apply to any action now pending or hereafter commenced which is an action within the provisions of subsection (a) of this section. Notwithstanding section 2401(b) of title 28, United States Code, if a civil action or proceeding pending on the date of enactment of this section is dismissed because the plaintiff in such action or proceeding did not file an administrative claim as required by section 2672 of that title, the plaintiff in that action or proceeding shall have 30 days from the date of the dismissal or two years from the date upon which the claim accrued, whichever is later, to file an administrative claim, and any claim or subsequent civil action or proceeding shall thereafter be subject to the provisions of section 2401(b) of title 28, United States Code.

28 USC 2672.

(d) For purposes of this section, the term "contractor" includes a contractor or cost reimbursement subcontractor of any tier participating in the conduct of the United States atomic weapons testing program for the Department of Energy (or its predecessor agencies, including the Manhattan Engineer District, the Atomic Energy Commission, and the Energy Research and Development Administration). Such term also includes facilities which conduct or have conducted research concerning health effects of ionizing radiation in connection with the testing under contract with the Department of Energy (or any of its predecessor agencies).

Research and
development.
Hazardous
materials.

COST-EFFECTIVE FUNDING OF NUCLEAR WEAPONS

SEC. 1632. (a) The President shall establish a Blue Ribbon Task Group to examine the procedures used by the Department of Defense and the Department of Energy in establishing requirements for, and in providing resources for, the research, development, testing, production, surveillance, and retirement of nuclear weapons. The Task Group shall recommend any needed change in such procedures in accordance with subsection (e).

President of U.S.
Blue Ribbon
Task Group,
establishment.

(b)(1) The Task Group shall consist of seven members, qualified for service by reasons of experience and education. The President shall appoint three members and shall designate one of those members to act as chairman of the Task Group. The Chairman and ranking minority members of the Committees on Armed Services of the Senate and House of Representatives shall each appoint one member.

(2) None of the members may be an employee of the Department of Defense or the Department of Energy.

President of U.S.

(c) Within 90 days of the date of the enactment of this Act, the President shall submit to the Committees on Armed Services of the Senate and House of Representatives (1) the names of the persons appointed by him to the Task Group, together with the qualifications of each such person to serve on the Task Group, and (2) a detailed plan for completing the report required by subsection (e).

President of U.S.

(d) The President shall ensure that the Task Group has complete and timely access to employees and records of the Department of Energy and the Department of Defense pertaining to procedures referred to in subsection (a).

Report.

(e) Within 270 days of the date of the enactment of this Act, the Task Group shall submit to the President and the Committees on Armed Services of the Senate and House of Representatives a report containing its findings and recommendations. Such report shall include any additional or dissenting views that any member of the Task Group may wish to submit. The report shall (in addition to any other matters) include recommendations in the following areas:

(1) Ways to improve coordination between the Department of Energy and the Department of Defense to ensure cost-effective implementation of weapon activities and materials production.

(2) Cost-effective improvements that can be made in budgeting and management procedures that affect weapon activities and materials productions.

(3) Whether the Department of Defense should assume the responsibility for funding current Department of Energy weapon activities and materials production programs.

REVIEW OF THE INERTIAL CONFINEMENT FUSION PROGRAM

President of U.S.
Technical
Review Group on
Inertial
Confinement
Fusion,
establishment.

SEC. 1633. (a)(1) Within 30 days after the date of the enactment of this Act, the President shall establish a review body to be known as the Technical Review Group on Inertial Confinement Fusion (hereinafter in this section referred to as the "Technical Review Group").

(2) It shall be the function of the group to review thoroughly the accomplishments, management, goals, and anticipated contributions of the defense inertial confinement fusion program.

(3) The President shall appoint to serve on the Technical Review Group only persons who, because of recent training and experience in the scientific disciplines associated with the development and testing of nuclear weapons, are most qualified to make findings of fact and recommendations to the Congress and the President concerning that program.

Reports.

(b) The Technical Review Group shall submit to the President and the Committees on Armed Services of the Senate and House of Representatives written reports containing the results of its review, together with such recommendations regarding priorities for future work in the inertial confinement fusion program as it determines appropriate, as follows:

- (1) A first interim report shall be submitted before February 1, 1985.
- (2) A second interim report shall be submitted before June 1, 1985.
- (3) A final report shall be submitted before May 1, 1986.
- (c) Upon the submission of its final report, the Technical Review Group shall cease to exist.

Termination
date.

NAVAL NUCLEAR PROPULSION PROGRAM

SEC. 1634. The provisions of Executive Order Numbered 12344, dated February 1, 1982, pertaining to the Naval Nuclear Propulsion Program, shall remain in force until changed by law.

42 USC 7158
note.
3 CFR, 1982
Comp., p. 128.

AUTHORIZATION FOR PRODUCTION OF THE 155-MILLIMETER ARTILLERY-FIRED, ATOMIC PROJECTILE

SEC. 1635. (a) In addition to the amounts otherwise authorized to be appropriated in this title, there is authorized to be appropriated to the Secretary of Energy for fiscal years beginning after September 30, 1984, \$50,000,000 for the construction of facilities necessary to produce the 155-millimeter artillery-fired, atomic projectile (Project 82-D-109).

(b) In the case of the 155-millimeter atomic-fired artillery projectile (W-82) and the 8-inch atomic-fired artillery projectile (W-79), the following conditions shall be complied with:

(1) The total number of both such warheads produced may not exceed 925.

(2) The total amount spent for the production of both such warheads after the date of the enactment of this Act may not exceed \$1,100,000,000.

(3) No such warhead produced after the date of the enactment of this Act may be produced in the enhanced radiation version.

(4) In producing such warheads, special emphasis shall be placed upon improvements in the safety, security, range, and survivability of such warheads.

(5) Replacement of obsolete atomic-fired artillery projectiles now in Europe with such improved warheads shall be carried out within the nuclear stockpile limits agreed to by NATO Defense Ministers at Montebello, Canada, in October 1983, which required the withdrawal of 1,400 tactical nuclear warheads from the European stockpile in addition to the 1,000 warheads withdrawn in 1980.

(c) No action may be taken to implement this section until the Secretary of Defense submits a plan for the implementation of this section to the Committees on Armed Services of the Senate and House of Representatives.

TITLE XVII—UNITED STATES INSTITUTE OF PEACE

SHORT TITLE

SEC. 1701. This title may be cited as the "United States Institute of Peace Act".

United States
Institute of
Peace Act.

22 USC 4601
note.

DECLARATION OF FINDINGS AND PURPOSES

SEC. 1702. (a) The Congress finds and declares that—

22 USC 4601.

(1) a living institution embodying the heritage, ideals, and concerns of the American people for peace would be a significant response to the deep public need for the Nation to develop fully a range of effective options, in addition to armed capacity, that can leash international violence and manage international conflict;

(2) people throughout the world are fearful of nuclear war, are divided by war and threats of war, are experiencing social and cultural hostilities from rapid international change and real and perceived conflicts over interests, and are diverted from peace by the lack of problem-solving skills for dealing with such conflicts;

(3) many potentially destructive conflicts among nations and peoples have been resolved constructively and with cost efficiency at the international, national, and community levels through proper use of such techniques as negotiation, conciliation, mediation, and arbitration;

(4) there is a national need to examine the disciplines in the social, behavioral, and physical sciences and the arts and humanities with regard to the history, nature, elements, and future of peace processes, and to bring together and develop new and tested techniques to promote peaceful economic, political, social, and cultural relations in the world;

(5) existing institutions providing programs in international affairs, diplomacy, conflict resolution, and peace studies are essential to further development of techniques to promote peaceful resolution of international conflict, and the peacemaking activities of people in such institutions, government, private enterprise, and voluntary associations can be strengthened by a national institution devoted to international peace research, education and training, and information services;

(6) there is a need for Federal leadership to expand and support the existing international peace and conflict resolution efforts of the Nation and to develop new comprehensive peace education and training programs, basic and applied research projects, and programs providing peace information;

(7) the Commission on Proposals for the National Academy of Peace and Conflict Resolution, created by the Education Amendments of 1978, recommended establishing an academy as a highly desirable investment to further the Nation's interest in promoting international peace;

(8) an institute strengthening and symbolizing the fruitful relation between the world of learning and the world of public affairs, would be the most efficient and immediate means for the Nation to enlarge its capacity to promote the peaceful resolution of international conflicts; and

(9) the establishment of such an institute is an appropriate investment by the people of this Nation to advance the history, science, art, and practice of international peace and the resolution of conflicts among nations without the use of violence.

(b) It is the purpose of this title to establish an independent, nonprofit, national institute to serve the people and the Government through the widest possible range of education and training, basic and applied research opportunities, and peace information services on the means to promote international peace and the resolution of conflicts among the nations and peoples of the world without recourse to violence.

DEFINITIONS

SEC. 1703. As used in this title, the term—

22 USC 4602.

(1) "Institute" means the United States Institute of Peace established by this title; and

(2) "Board" means the Board of Directors of the Institute.

ESTABLISHMENT OF THE INSTITUTE

SEC. 1704. (a) There is hereby established the United States Institute of Peace.

22 USC 4603.

(b) The Institute is an independent nonprofit corporation and an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954. The Institute does not have the power to issue any shares of stock or to declare or pay any dividends.

Corporation.
26 USC 170.
Securities.

(c) As determined by the Board, the Institute may establish, under the laws of the District of Columbia, a legal entity which is capable of receiving, holding, and investing public funds for purposes in furtherance of the Institute under this title. The Institute may designate such legal entity as the "Endowment of the United States Institute for Peace".

Endowment of
the United
States Institute
of Peace,
designation.

(d) The Institute is liable for the acts of its directors, officers, employees, and agents when acting within the scope of their authority.

(e)(1) The Institute has the sole and exclusive right to use and to allow or refuse others the use of the terms "United States Institute of Peace", "Jennings Randolph Program for International Peace", and "Endowment of the United States Institute of Peace" and the use of any official United States Institute of Peace emblem, badge, seal, and other mark of recognition or any colorable simulation thereof. No powers or privileges hereby granted shall interfere or conflict with established or vested rights secured as of September 1, 1981.

Prohibition.

(2) Notwithstanding any other provision of this title, the Institute may use "United States" or "U.S." or any other reference to the United States Government or Nation in its title or in its corporate seal, emblem, badge, or other mark of recognition or colorable simulation thereof in any fiscal year only if there is an authorization of appropriations for the Institute for such fiscal year provided by law.

POWERS AND DUTIES

SEC. 1705. (a) The Institute may exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act consistent with this title, except for section 5(o) of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1005(o)).

22 USC 4604.

(b) The Institute, acting through the Board, may—

(1) establish a Jennings Randolph Program for International Peace and appoint, for periods up to two years, scholars and leaders in peace from the United States and abroad to pursue scholarly inquiry and other appropriate forms of communication on international peace and conflict resolution and, as appropriate, provide stipends, grants, fellowships, and other support to the leaders and scholars;

(2) enter into formal and informal relationships with other institutions, public and private, for purposes not inconsistent with this title;

(3) conduct research and make studies, particularly of an interdisciplinary or of a multidisciplinary nature, into the causes of war and other international conflicts and the elements of peace among the nations and peoples of the world, including peace theories, methods, techniques, programs, and systems, and into the experiences of the United States and other nations in resolving conflicts with justice and dignity and without violence as they pertain to the advancement of international peace and conflict resolution, placing particular emphasis on realistic approaches to past successes and failures in the quest for peace and arms control and utilizing to the maximum extent possible United States Government documents and classified materials from the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, and the intelligence community;

(4) develop programs to make international peace and conflict resolution research, education, and training more available and useful to persons in government, private enterprise, and voluntary associations, including the creation of handbooks and other practical materials;

(5) provide, promote, and support peace education and research programs at graduate and postgraduate levels;

(6) conduct training, symposia, and continuing education programs for practitioners, policymakers, policy implementers, and citizens and noncitizens directed to developing their skills in international peace and conflict resolution;

(7) develop, for publication or other public communication, and disseminate, the carefully selected products of the Institute;

(8) establish a clearinghouse and other means for disseminating information, including classified information that is properly safeguarded, from the field of peace learning to the public and to government personnel with appropriate security clearances;

(9) recommend to the Congress the establishment of a United States Medal of Peace to be awarded under such procedures as the Congress may determine, except that no person associated with the Institute may receive the United States Medal of Peace; and

(10) secure directly, upon request of the president of the Institute to the head of any Federal department or agency and in accordance with section 552 of title 5, United States Code (relating to freedom of information), information necessary to enable the Institute to carry out the purposes of this title if such release of the information would not unduly interfere with the proper functioning of a department or agency, including classified information if the Institute staff and members of the Board who have access to such classified information obtain appropriate security clearances from the Department of Defense and the Department of State.

(c) The Institute may undertake extension and outreach activities under this title by making grants and entering into contracts with institutions of postsecondary, community, secondary, and elementary education (including combinations of such institutions), with public and private educational, training, or research institutions

Medals and
decorations.

Public
information.

Grants.
Contracts.
Schools and
colleges.
State and local
governments.

(including the American Federation of Labor-the Congress of Industrial Organizations) and libraries, and with public departments and agencies (including State and territorial departments of education and of commerce). No grant may be made to an institution unless it is a nonprofit or official public institution, and at least one-fourth of the Institute's annual appropriations shall be paid to such nonprofit and official public institutions. A grant or contract may be made to—

(1) initiate, strengthen, and support basic and applied research on international peace and conflict resolution;

(2) promote and advance the study of international peace and conflict resolution by educational, training, and research institutions, departments, and agencies;

(3) educate the Nation about and educate and train individuals in peace and conflict resolution theories, methods, techniques, programs, and systems;

(4) assist the Institute in its publication, clearinghouse, and other information services programs;

(5) assist the Institute in the study of conflict resolution between free trade unions and Communist-dominated organizations in the context of the global struggle for the protection of human rights; and

(6) promote the other purposes of this title.

(d) The Institute may respond to the request of a department or agency of the United States Government to investigate, examine, study, and report on any issue within the Institute's competence, including the study of past negotiating histories and the use of classified materials.

Study.

(e) The Institute may enter into contracts for the proper operation of the Institute.

(f) The Institute may fix the duties of its officers, employees, and agents, and establish such advisory committees, councils, or other bodies, as the efficient administration of the business and purposes of the Institute may require.

(g)(1) Except as provided in paragraphs (2) and (3), the Institute may obtain grants and contracts, including contracts for classified research for the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, and the intelligence community, and receive gifts and contributions from government at all levels.

Grants.
Contracts.
Confidentiality.
Gifts and
property.

(2) The Institute may not accept any gift, contribution, or grant from, or enter into any contract with, a foreign government, any agency or instrumentality of such government, any international organization, or any foreign national, except that the Institute may accept the payment of tuition by foreign nationals for instruction provided by the Institute. For purposes of this paragraph, the term—

(A) "foreign national" means—

(i) a natural person who is a citizen of a foreign country or who owes permanent allegiance to a foreign country; and

(ii) a corporation or other legal entity in which natural persons who are nationals of a foreign country own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity; and

(B) "person" means a natural person, partnership, association, other unincorporated body, or corporation.

Prohibition.
Ante, p. 2651.

(3) Notwithstanding any other provision of this title, the Institute and the legal entity described in section 1704(c) may not obtain any grant or contract or receive any gift or contribution from any private agency, organization, corporation or other legal entity, institution, or individual.

(h) The Institute may charge and collect subscription fees and develop, for publication or other public communication, and disseminate, periodicals and other materials.

(i) The Institute may charge and collect fees and other participation costs from persons and institutions participating in the Institute's direct activities authorized in subsection (b).

(j) The Institute may sue and be sued, complain, and defend in any court of competent jurisdiction.

(k) The Institute may adopt, alter, use, and display a corporate seal, emblem, badge, and other mark of recognition and colorable simulations thereof.

(l) The Institute may do any and all lawful acts and things necessary or desirable to carry out the objectives and purposes of this title.

Prohibition.
Congress.
State and local
governments.

(m) The Institute shall not itself undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, or by the United Nations, except that personnel of the Institute may testify or make other appropriate communication when formally requested to do so by a legislative body, a committee, or a member thereof.

(n) The Institute may obtain administrative support services from the Administrator of General Services on a reimbursable basis.

BOARD OF DIRECTORS

22 USC 4605.

SEC. 1706. (a) The powers of the Institute shall be vested in a Board of Directors unless otherwise specified in this title.

(b) The Board shall consist of fifteen voting members as follows:

(1) The Secretary of State (or if the Secretary so designates, another officer of the Department of State who was appointed with the advice and consent of the Senate).

(2) The Secretary of Defense (or if the Secretary so designates, another officer of the Department of Defense who was appointed with the advice and consent of the Senate).

(3) The Director of the Arms Control and Disarmament Agency (or if the Director so designates, another officer of that Agency who was appointed with the advice and consent of the Senate).

(4) The president of the National Defense University (or if the president so designates, the vice president of the National Defense University).

(5) Eleven individuals appointed by the President, by and with the advice and consent of the Senate.

(c) Not more than eight voting members of the Board (including members described in paragraphs (1) through (4) of subsection (b)) may be members of the same political party.

(d)(1) Each individual appointed to the Board under subsection (b)(5) shall have appropriate practical or academic experience in peace and conflict resolution efforts of the United States.

(2) Officers and employees of the United States Government may not be appointed to the Board under subsection (b)(5).

(e)(1) Members of the Board appointed under subsection (b)(5) shall be appointed to four year terms, except that—

(A) the term of six of the members initially appointed shall be two years, as designated by the President at the time of their nomination;

(B) a member may continue to serve until his or her successor is appointed; and

(C) a member appointed to replace a member whose term has not expired shall be appointed to serve the remainder of that term.

(2) The terms of the members of the Board initially appointed under subsection (b)(5) shall begin on January 20, 1985, and subsequent terms shall begin upon the expiration of the preceding term, regardless of when a member is appointed to fill that term.

(3) The President may not nominate an individual for appointment to the Board under subsection (b)(5) prior to January 20, 1985, but shall submit the names of eleven nominees for initial Board membership under subsection (b)(5) not later than ninety days after that date. If the Senate rejects such a nomination or if such a nomination is withdrawn, the President shall submit the name of a new nominee within fifteen days.

(4) An individual appointed as a member of the Board under subsection (b)(5) may not be appointed to more than two terms on the Board.

(f) A member of the Board appointed under subsection (b)(5) may be removed by the President—

(1) in consultation with the Board, for conviction of a felony, malfeasance in office, persistent neglect of duties, or inability to discharge duties;

(2) upon the recommendation of eight voting members of the Board; or

(3) upon the recommendation of a majority of the members of the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives and a majority of the members of the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate.

A recommendation made in accordance with paragraph (2) may be made only pursuant to action taken at a meeting of the Board, which may be closed pursuant to the procedures of subsection (h)(3). Only members who are present may vote. A record of the vote shall be maintained. The President shall be informed immediately by the Board of the recommendation.

(g) No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly and financially benefits the member or pertains specifically to any public body or any private or nonprofit firm or organization with which the member is then formally associated or has been formally associated within a period of two years, except that this subsection shall not be construed to prohibit an ex officio member of the Board from participation in actions of the Board which pertain specifically to the public body of which that member is an officer.

(h) Meetings of the Board shall be conducted as follows:

(1) The President shall stipulate by name the nominee who shall be the first Chairman of the Board. The first Chairman shall serve for a term of three years. Thereafter, the Board shall elect a Chairman every three years from among the directors

President of U.S.

Record.

President of U.S.

appointed by the President under subsection (b)(5) and may elect a Vice Chairman if so provided by the Institute's bylaws.

(2) The Board shall meet at least semiannually, at any time pursuant to the call of the Chairman or as requested in writing to the Chairman by at least five members of the Board. A majority of the members of the Board shall constitute a quorum for any Board meeting.

(3) All meetings of the Board shall be open to public observation and shall be preceded by reasonable public notice. Notice in the Federal Register shall be deemed to be reasonable public notice for purposes of the preceding sentence. In exceptional circumstances, the Board may close those portions of a meeting, upon a majority vote of its members present and with the vote taken in public session, which are likely to disclose information likely to affect adversely any ongoing peace proceeding or activity or to disclose information or matters exempted from public disclosure pursuant to subsection (c) of section 552b of title 5, United States Code.

(i) A director appointed by the President under subsection (b)(5) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which the director is engaged in the performance of duties as a member of the Board.

(j) While away from his home or regular place of business in the performance of duties for the Institute, a director shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703(b) of title 5, United States Code.

OFFICERS AND EMPLOYEES

SEC. 1707. (a) The Board shall appoint the president of the Institute and such other officers as the Board determines to be necessary. The president of the Institute shall be a nonvoting ex officio member of the Board. All officers shall serve at the pleasure of the Board. The president shall be appointed for an explicit term of years. Notwithstanding any other provision of law limiting the payment of compensation, the president and other officers appointed by the Board shall be compensated at rates determined by the Board, but no greater than that payable for level I of the Executive Schedule under chapter 53 of title 5, United States Code.

(b) Subject to the provisions of section 1705(g)(3), the Board shall authorize the president and any other officials or employees it designates to receive and disburse public moneys, obtain and make grants, enter into contracts, establish and collect fees, and undertake all other activities necessary for the efficient and proper functioning of the Institute.

(c) The president, subject to Institute's bylaws and general policies established by the Board, may appoint, fix the compensation of, and remove such employees of the Institute as the president determines necessary to carry out the purposes of the Institute. In determining employee rates of compensation, the president shall be governed by the provisions of title 5, United States Code, relating to classification and General Schedule pay rates.

(d)(1) The president may request the assignment of any Federal officer or employee to the Institute by an appropriate department,

Public
availability.
Federal
Register,
publication.

22 USC 4606.

5 USC 5312.
Ante, p. 2651.

5 USC 5332.

agency, or congressional official or Member of Congress and may enter into an agreement for such assignment, if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement within the department, agency, or congressional staff of such officer or employee.

(2) The Secretary of State, the Secretary of Defense, the Director of the Arms Control and Disarmament Agency, and the Director of Central Intelligence each may assign officers and employees of his respective department or agency, on a rotating basis to be determined by the Board, to the Institute if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement within the respective department or agency of such officer or employee.

(e) No officer or full-time employee of the Institute may receive any salary or other compensation for services from any source other than the Institute during the officer's or employee's period of employment by the Institute, except as authorized by the Board.

(f)(1) Officers and employees of the Institute shall not be considered officers and employees of the Federal Government except for purposes of the provisions of title 28, United States Code, which relate to Federal tort claims liability, and the provisions of title 5, United States Code, which relate to compensation and benefits, including the following provisions: chapter 51 (relating to classification); subchapters I and III of chapter 53 (relating to pay rates); subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions of title 5 referred to in this section.

28 USC 2671 *et seq.*

5 USC 5101 *et seq.*, 5301, 5331, 8101, 8301 *et seq.*, 8901 *et seq.*

(2) No Federal funds shall be used to pay for private fringe benefit programs. The Institute shall not make long-term commitments to employees that are inconsistent with rules and regulations applicable to Federal employees.

Prohibitions.

(g) No part of the financial resources, income, or assets of the Institute or of any legal entity created by the Institute shall inure to any agent, employee, officer, or director or be distributable to any such person during the life of the corporation or upon dissolution or final liquidation. Nothing in this section may be construed to prevent the payment of reasonable compensation for services or expenses to the directors, officers, employees, and agents of the Institute in amounts approved in accordance with the provisions of this title.

(h) The Institute shall not make loans to its directors, officers, employees, or agents, or to any legal entity created by the Institute. A director, officer, employee, or agent who votes for or assents to the making of a loan or who participates in the making of a loan shall be jointly and severally liable to the Institute for the amount of the loan until repayment thereof.

PROCEDURES AND RECORDS

SEC. 1708. (a) The Institute shall monitor and evaluate and provide for independent evaluation if necessary of programs supported in whole or in part under this title to ensure that the provisions of this title and the bylaws, rules, regulations, and guidelines promulgated pursuant to this title are adhered to.

22 USC 4607.

(b) The Institute shall prescribe procedures to ensure that grants, contracts, and financial support under this title are not suspended unless the grantee, contractor, or person or entity receiving financial support has been given reasonable notice and opportunity to show cause why the action should not be taken.

(c) In selecting persons to participate in Institute activities, the Institute may consider a person's practical experience or equivalency in peace study and activity as well as other formal requirements.

Records.

Report.

(d) The Institute shall keep correct and complete books and records of account, including separate and distinct accounts of receipts and disbursements of Federal funds. The Institute's annual financial report shall identify the use of such funding and shall present a clear description of the full financial situation of the Institute.

Records.

(e) The Institute shall keep minutes of the proceedings of its Board and of any committees having authority under the Board.

(f) The Institute shall keep a record of the names and addresses of its Board members; copies of this title, of any other Acts relating to the Institute, and of all Institute bylaws, rules, regulations, and guidelines; required minutes of proceedings; a record of all applications and proposals and issued or received contracts and grants; and financial records of the Institute. All items required by this subsection may be inspected by any Board member or the member's agent or attorney for any proper purpose at any reasonable time.

Audit.

(g) The accounts of the Institute shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. The audit shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, files, and other papers, things, and property belonging to or in use by the Institute and necessary to facilitate the audit shall be made available to the person or persons conducting the audit, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

Report.

(h) The Institute shall provide a report of the audit to the President and to each House of Congress no later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the Institute's assets and liabilities, surplus or deficit, with reasonable detail, including a statement of the Institute's income and expenses during the year, including a schedule of all contracts and grants requiring payments in excess of \$5,000 and any payments of compensation, salaries, or fees at a rate in excess of \$5,000 per year. The report shall be produced in sufficient copies for the public.

(i) The Institute and its directors, officers, employees, and agents shall be subject to the provisions of section 552 of title 5, United States Code (relating to freedom of information).

INDEPENDENCE AND LIMITATIONS

SEC. 1709. (a) Nothing in this title may be construed as limiting the authority of the Office of Management and Budget to review and submit comments on the Institute's budget request at the time it is transmitted to the Congress. 22 USC 4608.

(b) No political test or political qualification may be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, employee, agent, or recipient of Institute funds or services or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this title.

FUNDING

SEC. 1710. (a) For the purpose of carrying out this title (except for paragraph (9) of section 1705(b)), there are authorized to be appropriated \$6,000,000 for the fiscal year 1985 and \$10,000,000 for the fiscal year 1986. Moneys appropriated for the fiscal year 1985 shall remain available to the Institute through the fiscal year 1986. 22 USC 4609.

(b) The Board of Directors may transfer to the legal entity authorized to be established under section 1704(c) any funds not obligated or expended from appropriations to the Institute for a fiscal year, and such funds shall remain available for obligation or expenditure for the purposes of such legal entity without regard to fiscal year limitations. Any use by such legal entity of appropriated funds shall be reported to each House of the Congress and to the President of the United States.

Report.

(c) Any authority provided by this title to enter into contracts shall be effective for a fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Contracts.

DISSOLUTION OR LIQUIDATION

SEC. 1711. Upon dissolution or final liquidation of the Institute or of any legal entity created pursuant to this title, all income and assets of the Institute or other legal entity shall revert to the United States Treasury. 22 USC 4610.

REPORTING REQUIREMENT AND REQUIREMENT TO HOLD HEARINGS

SEC. 1712. Beginning two years after the date of enactment of this title, and at intervals of two years thereafter, the Chairman of the Board shall prepare and transmit to the Congress and the President a report detailing the progress the Institute has made in carrying out the purposes of this title during the preceding two-year period. The President shall prepare and transmit to the Congress within a reasonable time after the receipt of such report the written comments and recommendations of the appropriate agencies of the United States with respect to the contents of such report and their recommendations with respect to any legislation which may be required concerning the Institute. After receipt of such report by the Congress, the Committee on Foreign Affairs and the Committee on

22 USC 4611.

President of U.S.

Congress.

Education and Labor of the House of Representatives and the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate shall hold hearings to review the findings and recommendations of such report and the written comments received from the President.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 5167 (S. 2723):

HOUSE REPORTS: No. 98-691 (Comm. on Armed Services) and No. 98-1080 (Comm. of Conference).

SENATE REPORT No. 98-500 accompanying S. 2723 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 130 (1984):

May 15-17, 23, 24, 30, 31, considered and passed House.

June 7, 8, 11-15, 18-20, S. 2723 considered in Senate; H.R. 5167, amended, passed in lieu.

Sept. 26, House agreed to conference report.

Sept. 27, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):
Oct. 19, Presidential statement.