

Massachusetts (Mr. KERRY), the Senator from Ohio (Mr. DEWINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Hawaii (Mr. INOUE), the Senator from Texas (Mrs. HUTCHISON), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Res. 301, a resolution designating August 16, 2000, as "National Airborne Day".

## AMENDMENT NO. 3200

At the request of Mr. JEFFORDS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of Amendment No. 3200 intended to be proposed to S. 2549, an original bill to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

## AMENDMENT NO. 3204

At the request of Mr. STEVENS, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of Amendment No. 3204 intended to be proposed to S. 2549, an original bill to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

## AMENDMENT NO. 3214

At the request of Mr. DASCHLE, his name was added as a cosponsor of Amendment No. 3214 proposed to S. 2549, an original bill to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. FEINGOLD, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Nevada (Mr. BRYAN), and the Senator from California (Mrs. BOXER) were added as cosponsors of Amendment No. 3214 proposed to S. 2549, supra.

At the request of Mr. JOHNSON, his name was added as a cosponsor of amendment No. 3214 proposed to S. 2549, supra.

## AMENDMENTS SUBMITTED

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

## CONRAD AMENDMENT NO. 3215

(Ordered to lie on the table.)

Mr. DASCHLE (for Mr. CONRAD) submitted an amendment to be proposed

by him to the bill (S. 3215) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 378, between lines 19 and 20, insert the following:

## SEC. 1027. STUDY AND REPORT ON USE OF EB-52 AIRCRAFT FOR PROVIDING ELECTRONIC COUNTERMEASURES.

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

(1) Experience in Operation Allied Force demonstrates that the Armed Forces lack sufficient assets for meeting the requirements of the Armed Forces for airborne electronic countermeasures.

(2) The B-52H aircraft, because of its outstanding reliability, range, payload capacity, and affordability, has excellent potential to serve as a platform for electronic countermeasures to supplement the other assets that the Armed Forces have for providing electronic countermeasures.

(b) STUDY REQUIRED.—The Secretary of Defense shall study—

(1) the option of using B-52 aircraft not provided for in the future-years defense program for fiscal year 2001 and ensuing fiscal years for the performance of the mission of jamming communications by means of electronic countermeasures, including the issues involving necessary modifications of the aircraft, costs, and operational benefits; and

(2) the options for, and implications of, funding the modification and use of B-52 aircraft for the performance of that mission from funds available for Department of Defense-wide use.

(c) REPORT.—(1) The Secretary shall submit to Congress a report on the study. The report shall include the following:

(A) The Secretary's findings resulting from the study.

(B) A strategy for providing for the procurement and conversion activities necessary for using B-52 aircraft for the performance of the mission of jamming communications by means of electronic countermeasures.

(2) The Secretary shall submit the report under paragraph (1) at the same time that the President submits the budget for fiscal year 2002 to Congress under section 1105(a) of title 31, United States Code.

## SNOWE (AND KENNEDY)

## AMENDMENT NO. 3216

Mr. WARNER (for Ms. SNOWE (for herself and Mr. KENNEDY)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 31, strike lines 16 through 18, and insert the following:

(c) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (b) shall include a clause that states that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2001 is subject to the availability of appropriations for that purpose for that later fiscal year.

## WARNER AMENDMENT NO. 3217

Mr. WARNER proposed an amendment to the bill, S. 2549, supra; as follows:

On page 364, between the matter following line 13 and line 14, insert the following:

## SEC. 1010. REPEAL OF CERTAIN PROVISIONS SHIFTING CERTAIN OUTLAYS FROM ONE FISCAL YEAR TO ANOTHER.

Sections 305 and 306 of H.R. 3425 of the 106th Congress, as enacted into law by section 1000(a)(5) of Public Law 106-113 (113 Stat. 1501A-306), are repealed.

## ROBB AMENDMENT NO. 3218

Mr. LEVIN (for Mr. ROBB) proposed an amendment to the bill, S. 2549, supra; as follows:

On page \_\_\_\_, between lines \_\_\_\_ and \_\_\_\_, insert the following:

## SEC. DEFENSE TRAVEL SYSTEM.

(a) REQUIREMENT FOR REPORT.—Not later than November 30, 2000, the Secretary of Defense shall submit to the congressional defense committees a report on the Defense Travel System.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A detailed discussion of the development, testing, and fielding of the system, including the performance requirements, the evaluation criteria, the funding that has been provided for the development, testing, and fielding of the system, and the funding that is projected to be required for completing the development, testing, and fielding of the system.

(2) The schedule that has been followed for the testing of the system, including the initial operational test and evaluation and the final operational testing and evaluation, together with the results of the testing.

(3) The cost savings expected to result from the deployment of the system and from the completed implementation of the system, together with a discussion of how the savings are estimated and the expected schedule for the realization of the savings.

(4) An analysis of the costs and benefits of fielding the front-end software for the system throughout all 18 geographical areas selected for the original fielding of the system.

(c) LIMITATIONS.—(1) Not more than 25 percent of the amount authorized to be appropriated under section 301(5) for the Defense Travel System may be obligated or expended before the date on which the Secretary submits the report required under subsection (a).

(2) Funds appropriated for the Defense Travel System pursuant to the authorization of appropriations referred to in paragraph (1) may not be used for a purpose other than the Defense Travel System unless the Secretary first submits to Congress a written notification of the intended use and the amount to be so used.

## WARNER (AND ROBB) AMENDMENT NO. 3219

Mr. WARNER (for himself and Mr. ROBB) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 501, between lines 10 and 11, insert the following:

## SEC. 2404. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1990 PROJECT.

(a) INCREASE.—Section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105-261; 112 Stat. 2197), is amended in the item relating to Portsmouth Naval Hospital, Virginia, by striking "\$351,354,000" and inserting "\$359,854,000".

(b) CONFORMING AMENDMENT.—Section 2405(b)(2) of the Military Construction Authorization Act for Fiscal Years 1990 and

1991, as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1999, is amended by striking "\$342,854,000" and inserting "\$351,354,000".

On page \_\_\_\_, between lines \_\_\_\_ and \_\_\_\_, insert the following:

**SEC. . DEFENSE TRAVEL SYSTEM.**

(a) REQUIREMENT FOR REPORT.—Not later than November 30, 2000, the Secretary of Defense shall submit to the congressional defense committees a report on the Defense Travel System.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A detailed discussion of the development, testing, and fielding of the system, including the performance requirements, the evaluation criteria, the funding that has been provided for the development, testing, and fielding of the system, and the funding that is projected to be required for completing the development, testing, and fielding of the system.

(2) The schedule that has been followed for the testing of the system, including the initial operational test and evaluation and the final operational testing and evaluation, together with the results of the testing.

(3) The cost savings expected to result from the deployment of the system and from the completed implementation of the system, together with a discussion of how the savings are estimated and the expected schedule for the realization of the savings.

(4) An analysis of the costs and benefits of fielding the front-end software for the system throughout all 18 geographical areas selected for the original fielding of the system.

(c) LIMITATIONS.—(1) Not more than 25 percent of the amount authorized to be appropriated under section \_\_\_\_ for the Defense Travel System may be obligated or expended before the date on which the Secretary submits the report required under subsection (a).

(2) Funds appropriated for the Defense Travel System pursuant to the authorization of appropriations referred to in paragraph (1) may not be used for a purpose other than the Defense Travel System unless the Secretary first submits to Congress a written notification of the intended use and the amount to be so used.

**WARNER AMENDMENTS NOS. 3220–3225**

Mr. WARNER proposed six amendments to the bill, S. 2549, supra; as follows:

**AMENDMENT NO. 3220**

On page 94, between lines 6 and 7, insert the following:

(6) \$7,975 for payment to the Texas Natural Resource Conservation Commission of a cash fine for permit violations assessed under the Solid Waste Disposal Act.

**AMENDMENT NO. 3221**

On page 88, strike line 11 and all that follows through page 92, line 19.

**AMENDMENT NO. 3222**

On page 147, line 6, strike "section 573(b)" and insert "section 573(c)".

On page 303, strike line 10 and insert the following:

**SEC. 901. REPEAL OF LIMITATION ON MAJOR**

On page 358, beginning on line 11, strike "Defense Finance and Accounting System" and insert "Defense Finance and Accounting Service".

On page 358, beginning on line 12, strike "contract administration service" and insert "contract administration services system".

On page 359, line 5, strike "Defense Finance and Accounting System" and insert "Defense Finance and Accounting Service".

On page 359, beginning on line 6, strike "contract administration service" and insert "contract administration services system".

On page 359, beginning on line 9, strike "Defense Finance and Accounting System" and insert "Defense Finance and Accounting Service".

On page 493, in the table following line 10, strike "136 units" in the purpose column in the item relating to Mountain Home Air Force Base, Idaho, and insert "119 units".

**AMENDMENT NO. 3223**

On page 584, line 13, strike "3101(c)" and insert "301(a)(1)(C)".

**AMENDMENT NO. 3224**

On page 565, strike lines 9 through 13.

**AMENDMENT NO. 3225**

On page 554, line 25, strike "\$31,000,000." and insert "\$20,000,000.".

On page 555, line 4, strike "\$15,000,000." and insert "\$26,000,000.".

**CLELAND (AND OTHERS)  
AMENDMENT NO. 3226**

Mr. LEVIN (for Mr. CLELAND (for himself, Mr. LEVIN, Mr. ROBB, Mr. REED, Mr. WARNER, Mr. MCCAIN, Mr. ABRAHAM, and Mr. JEFFORDS)) proposed an amendment to the bill, S. 2549, supra; as follows:

At the end of title VI, add the following new subtitle:

**Subtitle F—Education Benefits**

**SEC. 671. SHORT TITLE.**

This subtitle may be cited as the "Helping Our Professionals Educationally (HOPE) Act of 2000".

**SEC. 672. TRANSFER OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE BY CERTAIN MEMBERS OF THE ARMED FORCES.**

(a) AUTHORITY TO TRANSFER TO FAMILY MEMBERS.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

**"§ 3020. Transfer of entitlement to basic educational assistance: members of the Armed Forces**

"(a)(1) Subject to the provisions of this section, the Secretary of each military department may, for the purpose of enhancing recruiting and retention and at such Secretary's sole discretion, permit an individual described in paragraph (2) who is entitled to basic educational assistance under this subchapter to elect to transfer such individual's entitlement to such assistance, in whole or in part, to the dependents specified in subsection (b).

"(2) An individual referred to in paragraph (1) is any individual who is a member of the Armed Forces at the time of the approval by the Secretary of the military department concerned of the individual's request to transfer entitlement to educational assistance under this section.

"(3) The Secretary of the military department concerned may not approve an individual's request to transfer entitlement to educational assistance under this section until the individual has completed six years of service in the Armed Forces.

"(4) Subject to the time limitation for use of entitlement under section 3031 of this title, an individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement at any time after the approval of individual's request to transfer such entitlement without

regard to whether the individual is a member of the Armed Forces when the transfer is executed.

"(b) An individual approved to transfer an entitlement to basic educational assistance under this section may transfer the individual's entitlement to such assistance as follows:

"(1) To the individual's spouse.

"(2) To one or more of the individual's children.

"(3) To a combination of the individuals referred to in paragraphs (1) and (2).

"(c)(1) An individual transferring an entitlement to basic educational assistance under this section shall—

"(A) designate the dependent or dependents to whom such entitlement is being transferred and the percentage of such entitlement to be transferred to each such dependent; and

"(B) specify the period for which the transfer shall be effective for each dependent designated under subparagraph (A).

"(2) The aggregate amount of the entitlement transferable by an individual under this section may not exceed the aggregate amount of the entitlement of such individual to basic educational assistance under this subchapter.

"(3) An individual transferring an entitlement under this section may modify or revoke the transfer at any time before the use of the transferred entitlement begins. An individual shall make the modification or revocation by submitting written notice of the action to the Secretary of the military department concerned.

"(d)(1) A dependent to whom entitlement to educational assistance is transferred under this section may not commence the use of the transferred entitlement until the completion by the individual making the transfer of 10 years of service in the Armed Forces.

"(2) The use of any entitlement transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

"(3) Except as provided in under subsection (c)(1)(B) and subject to paragraphs (4) and (5), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this subchapter in the same manner and at the same rate as the individual from whom the entitlement was transferred.

"(4) Notwithstanding section 3031 of this title, a child to whom entitlement is transferred under this section may not use any entitlement so transferred after attaining the age of 26 years.

"(5) The administrative provisions of this chapter (including the provisions set forth in section 3034(a)(1) of this title) shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible veteran for purposes of such provisions.

"(e) In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of this title.

"(f) The Secretary of a military department may approve transfers of entitlement to educational assistance under this section in a fiscal year only to the extent that appropriations for military personnel are available in the fiscal year for purposes of making transfers of funds under section 2006 of title 10 with respect to such transfers of entitlement.

“(g) The Secretary of Defense shall prescribe regulations for purposes of this section. Such regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (c)(3) and shall specify the manner of the applicability of the administrative provisions referred to in subsection (d)(5) to a dependent to whom entitlement is transferred under this section.

“(h)(1) Not later than January 31, 2002, and each year thereafter, each Secretary of a military department shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the transfers of entitlement under this section that were approved by such Secretary during the preceding year.

“(2) Each report shall set forth—

“(A) the number of transfers of entitlement under this section that were approved by such Secretary during the preceding year; or

“(B) if no transfers of entitlement under this section were approved by such Secretary during that year, a justification for such Secretary's decision not to approve any such transfers of entitlement during that year.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3019 the following new item:

“3020. Transfer of entitlement to basic educational assistance: members of the Armed Forces.”

(b) TREATMENT UNDER DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND.—Section 2006(b)(2) of title 10, United States Code, is amended by adding at the end the following:

“(D) The present value of the future benefits payable from the Fund as a result of transfers under section 3020 of title 38 of entitlement to basic educational assistance under chapter 30 of title 38.”

(c) PLAN FOR IMPLEMENTATION.—Not later than June 30, 2001, the Secretary of Defense shall submit to Congress a report describing the manner in which the Secretaries of the military departments propose to exercise the authority granted by section 3020 of title 38, United States Code, as added by subsection (a).

**SEC. 673. PARTICIPATION OF ADDITIONAL MEMBERS OF THE ARMED FORCES IN MONTGOMERY GI BILL PROGRAM.**

(a) PARTICIPATION AUTHORIZED.—(1) Subchapter II of chapter 30 of title 38, United States Code, as amended by section 672(a) of this Act, is further amended by inserting after section 3018C the following new section:

**“§ 3018D. Opportunity to enroll: certain VEAP participants; active duty personnel not previously enrolled**

“(a)(1) Notwithstanding any other provision of law and subject to the provisions of this section, the Secretary concerned may, for the purpose of enhancing recruiting and retention and at such Secretary's sole discretion, permit an individual described in subsection (b) to elect under subsection (c) to become entitled to basic educational assistance under this chapter.

“(2) The Secretary concerned may permit an individual to elect to become entitled to basic educational assistance under this section only if sufficient funds are available in accordance with this section for purposes of payments by the Secretary of Defense into the Department of Defense Education Benefits Fund under section 2006 of title 10 with respect to such election.

“(3) An individual who makes an election to become entitled to basic educational assistance under this section shall be entitled to basic educational assistance under this chapter.

“(b) An individual eligible to be permitted to make an election under this section is an individual who—

“(1) either—

“(A)(i) is a participant on the date of the enactment of this section in the educational benefits program provided by chapter 32 of this title; or

“(ii) disenrolled from participation in that program before that date; or

“(B) has made an election under section 3011(c)(1) or 3012(d)(1) of this title not to receive educational assistance under this chapter and has not withdrawn that election under section 3018(a) of this title as of that date;

“(2) is serving on active duty (excluding periods referred to in section 3202(1)(C) of this title in the case of an individual described in paragraph (1)(A)) on that date; and

“(3) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree.

“(c) An individual permitted to make an election under this section to become entitled to basic educational assistance under this chapter shall make an irrevocable election to receive benefits under this section in lieu of benefits under chapter 32 of this title or withdraw the election made under section 3011(c)(1) or 3012(d)(1) of this title, as the case may be, pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Transportation shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy.

“(d)(1) Except as provided in paragraphs (2) and (3), in the case of an individual who makes an election under this section to become entitled to basic educational assistance under this chapter, the basic pay of the individual shall be reduced (in a manner determined by the Secretary of Defense) until the total amount by which such basic pay is reduced is—

“(A) \$1,200, in the case of an individual described in subsection (b)(1)(A); or

“(B) \$1,500, in the case of an individual described in subsection (b)(1)(B).

“(2) In the case of an individual previously enrolled in the educational benefits program provided by chapter 32 of this title, the total amount of the reduction in basic pay otherwise required by paragraph (1) shall be reduced by an amount equal to so much of the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account under section 3222(a) of this title as do not exceed \$1,200.

“(3) An individual may at any time pay the Secretary concerned an amount equal to the difference between the total of the reductions otherwise required with respect to the individual under this subsection and the total amount of the reductions made with respect to the individual under this subsection as of the time of the payment.

“(4) The Secretary concerned shall transfer to the Secretary of Defense amounts retained with respect to individuals under paragraph (1) and amounts, if any, paid by individuals under paragraph (3).

“(e)(1) An individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (c) shall be disenrolled from the program as of the date of such election.

“(2) For each individual who is disenrolled from such program, the Secretary shall transfer to Secretary of Defense any amounts in the Post-Vietnam Era Veterans Education Account that are attributable to

the individual, including amounts in the Account that are attributable to the individual by reason of contributions made by the Secretary of Defense under section 3222(c) of this title.

“(f) With respect to each individual electing under this section to become entitled to basic educational assistance under this chapter, the Secretary concerned shall transfer to the Secretary of Defense, from appropriations for military personnel that are available for transfer, an amount equal to the difference between—

“(1) the amount required to be paid by the Secretary of Defense into the Department of Defense Education Benefits Fund with respect to such election; and

“(2) the aggregate amount transferred to the Secretary of Defense with respect to the individual under subsections (d) and (e).

“(g) The Secretary of Defense shall utilize amounts transferred to such Secretary under this section for purposes of payments into the Department of Defense Education Benefits Fund with respect to the provision of benefits under this chapter for individuals making elections under this section.

“(h)(1) The requirements of sections 3011(a)(3) and 3012(a)(3) of this title shall apply to an individual who makes an election under this section, except that the completion of service referred to in such section shall be the completion of the period of active duty being served by the individual on the date of the enactment of this section.

“(2) The procedures provided in regulations referred to in subsection (c) shall provide for notice of the requirements of subparagraphs (B), (C), and (D) of section 3011(a)(3) of this title and of subparagraphs (B), (C), and (D) of section 3012(a)(3) of this title. Receipt of such notice shall be acknowledged in writing.

“(i)(1) Not later than January 31, 2002, and each year thereafter, each Secretary concerned shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the members of the Armed Forces under the jurisdiction of such Secretary who were permitted to elect to become entitled to basic educational assistance under this section during the preceding year.

“(2) Each report shall set forth—

“(A) the number of members who were permitted to elect to become entitled to basic educational assistance under this section during the preceding year;

“(B) the number of members so permitted who elected to become entitled to basic educational assistance during that year; and

“(C) if no members were so permitted during that year, a justification for such Secretary's decision not to permit any members to elect to become so entitled during that year.”

(2) The table of sections at the beginning of chapter 30 of that title, as amended by section 672(a) of this Act, is further amended by inserting after the item relating to section 3018C the following new item:

“3018D. Opportunity to enroll: certain VEAP participants; active duty personnel not previously enrolled.”

(b) CONFORMING AMENDMENT.—Section 3015(f) of that title is amended by striking “or 3018C” and inserting “3018C, or 3018D”.

(c) TREATMENT UNDER DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND.—Section 2006(b)(2) of title 10, United States Code, as amended by section 672(b) of this Act, is further amended by adding at the end the following:

“(E) The present value of the future benefits payable from the Fund as a result of elections under section 3018D of title 38 of entitlement to basic educational assistance under chapter 30 of title 38.”

(d) PLANS FOR IMPLEMENTATION.—(1) Not later than June 30, 2001, the Secretary of Defense shall submit to Congress a report describing the manner in which the Secretaries of the military departments propose to exercise the authority granted by section 3018A of title 38, United States Code, as added by subsection (a).

(2) Not later than June 30, 2001, the Secretary of Transportation shall submit to Congress a report describing the manner in which that Secretary proposes to exercise the authority granted by such section 3018A with respect to members of the Coast Guard.

**SEC. 674. MODIFICATION OF AUTHORITY TO PAY TUITION FOR OFF-DUTY TRAINING AND EDUCATION.**

(a) AUTHORITY TO PAY ALL CHARGES.—Section 2007 of title 10, United States Code, is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

“(a) Subject to subsection (b), the Secretary of a military department may pay all or a portion of the charges of an educational institution for the tuition or expenses of a member of the armed forces enrolled in such educational institution for education or training during the member’s off-duty periods.

“(b) In the case of a commissioned officer on active duty, the Secretary of the military department concerned may not pay charges under subsection (a) 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 for which the charges are paid.”; and

(2) in subsection (d)—

(A) by striking “(within the limits set forth in subsection (a))” in the matter preceding paragraph (1); and

(B) in paragraph (3), by striking “subsection (a)(3)” and inserting “subsection (b)”.

(b) USE OF ENTITLEMENT TO ASSISTANCE UNDER MONTGOMERY GI BILL FOR PAYMENT OF CHARGES.—(1) That section is further amended by adding at the end the following new subsection:

“(e)(1) A member of the armed forces who is entitled to basic educational assistance under chapter 30 of title 38 may use such entitlement for purposes of paying any portion of the charges described in subsection (a) or (c) that are not paid for by the Secretary of the military department concerned under such subsection.

“(2) The use of entitlement under paragraph (1) shall be governed by the provisions of section 3014(b) of title 38.”.

(2) Section 3014 of title 38, United States Code, is amended—

(A) by inserting “(a)” before “The Secretary”; and

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

“(b)(1) In the case of an individual entitled to basic educational assistance who is pursuing education or training described in subsection (a) or (c) of section 2007 of title 10, the Secretary shall, at the election of the individual, pay the individual a basic educational assistance allowance to meet all or

a portion of the charges of the educational institution for the education or training that are not paid by the Secretary of the military department concerned under such subsection.

“(2)(A) The amount of the basic educational assistance allowance payable to an individual under this subsection for a month shall be the amount of the basic educational assistance allowance to which the individual would be entitled for the month under section 3015 of this title (without regard to subsection (g) of that section) were payment made under that section instead of under this subsection.

“(B) The maximum number of months for which an individual may be paid a basic educational assistance allowance under paragraph (1) is 36.”.

(3) Section 3015 of title 38, United States Code, is amended—

(A) by striking “subsection (g)” each place it appears in subsections (a) and (b);

(B) by redesignating subsection (g) as subsection (h); and

(C) by inserting after subsection (f) the following new subsection (g):

“(g) In the case of an individual who has been paid a basic educational assistance allowance under section 3014(b) of this title, the rate of the basic educational assistance allowance applicable to the individual under this section shall be the rate otherwise applicable to the individual under this section reduced by an amount equal to—

“(1) the aggregate amount of such allowances paid the individual under such section 3014(b); divided by

“(2) 36.”.

**SEC. 675. MODIFICATION OF TIME FOR USE BY CERTAIN MEMBERS OF SELECTED RESERVE OF ENTITLEMENT TO CERTAIN EDUCATIONAL ASSISTANCE.**

Section 16133(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(5)(A) In the case of a person who continues to serve as member of the Selected Reserve as of the end of the 10-year period applicable to the person under subsection (a), as extended, if at all, under paragraph (4), the period during which the person may use the person’s entitlement shall expire at the end of the 5-year period beginning on the date the person is separated from the Selected Reserve.

“(B) The provisions of paragraph (4) shall apply with respect to any period of active duty of a person referred to in subparagraph (A) during the 5-year period referred to in that subparagraph.”.

**KENNEDY (AND CLELAND)  
AMENDMENT NO. 3227**

Mr. LEVIN (for Mr. KENNEDY (for himself and Mr. CLELAND)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 186, strike lines 1 through 9, and insert the following:

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on July 1, 2002.

(2) The amendments made by subsection (b)

**MCCAIN (AND OTHERS)  
AMENDMENT NO. 3228**

Mr. WARNER (for Mr. MCCAIN (for himself, Mr. WARNER, and Mr. LEVIN)) proposed and amendment to the bill, S. 2549, supra; as follows:

On page 236, between lines 6 and 7, insert the following:

**SEC. 646. POLICY ON INCREASING MINIMUM SURVIVOR BENEFIT PLAN BASIC ANNUITIES FOR SURVIVING SPOUSES AGE 62 OR OLDER.**

It is the sense of Congress that there should be enacted during the 106th Congress legislation that increases the minimum basic annuities provided under the Survivor Benefit Plan for surviving spouses of members of the uniformed services who are 62 years of age or older.

**SEC. 647. SURVIVOR BENEFIT PLAN ANNUITIES FOR SURVIVORS OF ALL MEMBERS WHO DIE ON ACTIVE DUTY.**

(a) ENTITLEMENT.—(1) Subsection (d)(1) of section 1448 of title 10, United States Code, is amended to read as follows:

“(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of—

“(A) a member who dies on active duty after—

“(i) becoming eligible to receive retired pay;

“(ii) qualifying for retired pay except that he has not applied for or been granted that pay; or

“(iii) completing 20 years of active service but before he is eligible to retire as a commissioned officer because he has not completed 10 years of active commissioned service; or

“(B) a member not described in subparagraph (A) who dies on active duty, except in the case of a member whose death, as determined by the Secretary concerned—

“(i) is a direct result of the member’s intentional misconduct or willful neglect; or

“(ii) occurs during a period of unauthorized absence.”.

(2) The heading for subsection (d) of such section is amended by striking “RETIREMENT-ELIGIBLE”.

(b) AMOUNT OF ANNUITY.—Section 1451(c)(1) of such title is amended to read as follows:

“(1) IN GENERAL.—In the case of an annuity provided under section 1448(d) or 1448(f) of this title, the amount of the annuity shall be determined as follows:

“(A) BENEFICIARY UNDER 62 YEARS OF AGE.—If the person receiving the annuity is under 62 years of age or is a dependent child when the member or former member dies, the monthly annuity shall be the amount equal to 55 percent of the retired pay imputed to the member or former member. The retired pay imputed to a member or former member is as follows:

“(i) Except in a case described in clause (ii), the retired pay to which the member or former member would have been entitled if the member or former member had been entitled to that pay based upon his years of active service when he died.

“(ii) In the case of a deceased member referred to in subparagraph (A)(iii) or (B) of section 1448(d)(1) of this title, the retired pay to which the member or former member would have been entitled if the member had been entitled to that pay based upon a retirement under section 1201 of this title (if on active duty for more than 30 days when the member died) or section 1204 of this title (if on active duty for 30 days or less when the member died) for a disability rated as total.

“(B) BENEFICIARY 62 YEARS OF AGE OR OLDER.—

“(i) GENERAL RULE.—If the person receiving the annuity (other than a dependent child) is 62 years of age or older when the member or former member dies, the monthly annuity shall be the amount equal to 35 percent of the retired pay imputed to the member or former member as described in clause (i) or (ii) of the second sentence of subparagraph (A).

“(ii) RULE IF BENEFICIARY ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—If the beneficiary is eligible to have the annuity computed under subsection (e) and if, at the time the beneficiary becomes entitled to the annuity, computation of the annuity under that subsection is more favorable to the beneficiary than computation under clause (i), the annuity shall be computed under that subsection rather than under clause (i).”

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 2000, and shall apply with respect to deaths occurring on or after that date.

**SEC. 648. FAMILY COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.**

(a) INSURABLE DEPENDENTS.—Section 1965 of title 38, United States Code, is amended by adding at the end the following:

“(10) The term ‘insurable dependent’, with respect to a member, means the following:

“(A) The member's spouse.

“(B) A child of the member for so long as the child is unmarried and the member is providing over 50 percent of the support of the child.”

(b) INSURANCE COVERAGE.—(1) Subsection (a) of section 1967 of title 38, United States Code, is amended to read as follows:

“(a)(1) Subject to an election under paragraph (2), any policy of insurance purchased by the Secretary under section 1966 of this title shall automatically insure the following persons against death:

“(A) In the case of any member of a uniformed service on active duty (other than active duty for training)—

“(i) the member; and

“(ii) each insurable dependent of the member.

“(B) Any member of a uniformed service on active duty for training or inactive duty training scheduled in advance by competent authority.

“(C) Any member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 1965(5)(B) of this title.

“(2)(A) A member may elect in writing not to be insured under this subchapter.

“(B) A member referred to in subparagraph (A) may also make either or both of the following elections in writing:

“(i) An election not to insure a dependent spouse under this subchapter.

“(ii) An election to insure none of the member's children under this subchapter.

“(3)(A) Subject to an election under subparagraph (B), the amount for which a per-

son is insured under this subchapter is as follows:

“(i) In the case of a member, \$200,000.

“(ii) In the case of a member's spouse, the amount equal to 50 percent of the amount for which the member is insured under this subchapter.

“(iii) In the case of a member's child, \$10,000.

“(B) A member may elect in writing to be insured or to insure an insurable dependent in an amount less than the amount provided under subparagraph (A). The amount of insurance so elected shall, in the case of a member or spouse, be evenly divisible by \$10,000 and, in the case of a child, be evenly divisible by \$5,000.

“(4) No dependent of a member is insured under this chapter unless the member is insured under this subchapter.

“(5) The insurance shall be effective with respect to a member and the member's dependents on the first day of active duty or active duty for training, or the beginning of a period of inactive duty training scheduled in advance by competent authority, or the first day a member of the Ready Reserve meets the qualifications set forth in section 1965(5)(B) of this title, or the date certified by the Secretary to the Secretary concerned as the date Servicemembers' Group Life Insurance under this subchapter for the class or group concerned takes effect, whichever is the later date.”

(2) Subsection (c) of such section is amended by striking out the first sentence and inserting the following: “If a person eligible for insurance under this subchapter is not so insured, or is insured for less than the maximum amount provided for the person under subparagraph (A) of subsection (a)(3), by reason of an election made by a member under subparagraph (B) of that subsection, the person may thereafter be insured under this subchapter in the maximum amount or any lesser amount elected as provided in such subparagraph (B) upon written application by the member, proof of good health of each person to be so insured, and compliance with such other terms and conditions as may be prescribed by the Secretary.”

(c) TERMINATION OF COVERAGE.—(1) Subsection (a) of section 1968 of such title is amended—

(A) in the matter preceding paragraph (1), by inserting “and any insurance thereunder on any insurable dependent of such a member,” after “any insurance thereunder on any member of the uniformed services;”

(B) by striking “and” at the end of paragraph (3);

(C) by striking the period at the end of paragraph (4) and inserting “; and”; and

(D) by adding at the end the following:

“(5) with respect to an insurable dependent of the member—

“(A) upon election made in writing by the member to terminate the coverage; or

“(B) on the earlier of—

“(i) the date of the member's death;

“(ii) the date of termination of the insurance on the member's life under this subchapter;

“(iii) the date of the dependent's death; or

“(iv) the termination of the dependent's status as an insurable dependent of the member.

(2) Subsection (b)(1)(A) of such section is amended by inserting “(to insure against death of the member only)” after “converted to Veterans' Group Life Insurance”.

(d) PREMIUMS.—Section 1969 of such title is amended by adding at the end the following:

“(g)(1) During any period in which any insurable dependent of a member is insured under this subchapter, there shall be deducted each month from the member's basic or other pay until separation or release from

active duty an amount determined by the Secretary (which shall be the same for all such members) as the premium allocable to the pay period for providing that insurance coverage.

“(2)(A) The Secretary shall determine the premium amounts to be charged for life insurance coverage for dependents of members under this subchapter.

“(B) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

“(C) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary in advance of that policy year.

“(h) Any overpayment of a premium for insurance coverage for an insurable dependent of a member that is terminated under section 1968(a)(5) of this title shall be refunded to the member.”

(e) PAYMENTS OF INSURANCE PROCEEDS.—Section 1970 of such title is amended by adding at the end the following:

“(h) Any amount of insurance in force on an insurable dependent of a member under this subchapter on the date of the dependent's death shall be paid, upon the establishment of a valid claim therefor, to the member or, in the event of the member's death before payment to the member can be made, then to the person or persons entitled to receive payment of the proceeds of insurance on the member's life under this subchapter.”

(f) EFFECTIVE DATE AND INITIAL IMPLEMENTATION.—(1) This section and the amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act, except that paragraph (2) shall take effect on the date of the enactment of this Act.

(2) The Secretary of Veterans Affairs, in consultation with the Secretaries of the military departments, the Secretary of Transportation, the Secretary of Commerce and the Secretary of Health and Human Services, shall take such action as is necessary to ensure that each member of the uniformed services on active duty (other than active duty for training) during the period between the date of the enactment of this Act and the effective date determined under paragraph (1) is furnished an explanation of the insurance benefits available for dependents under the amendments made by this section and is afforded an opportunity before such effective date to make elections that are authorized under those amendments to be made with respect to dependents.

**MCCAIN AMENDMENT NO. 3229**

Mr. WARNER (for Mr. MCCAIN (for himself and Mr. WARNER)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 206, between lines 15 and 16, insert the following:

**SEC. 610. RESTRUCTURING OF BASIC PAY TABLES FOR CERTAIN ENLISTED MEMBERS.**

(a) IN GENERAL.—The table under the heading “ENLISTED MEMBERS” in section 601(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 105-65; 113 Stat. 648) is amended by striking the amounts relating to pay grades E-7, E-6, and E-5 and inserting the amounts for the corresponding years of service specified in the following table:

ENLISTED MEMBERS  
Years of service computed under section 205 of title 37, United States Code

| Pay Grade | 2 or less | Over 2   | Over 3   | Over 4   | Over 6   |
|-----------|-----------|----------|----------|----------|----------|
| E-7       | 1,765.80  | 1,927.80 | 2,001.00 | 2,073.00 | 2,148.60 |
| E-6       | 1,518.90  | 1,678.20 | 1,752.60 | 1,824.30 | 1,899.40 |
| E-5       | 1,332.60  | 1,494.00 | 1,566.00 | 1,640.40 | 1,715.70 |
|           | Over 8    | Over 10  | Over 12  | Over 14  | Over 16  |
| E-7       | 2,277.80  | 2,350.70 | 2,423.20 | 2,495.90 | 2,570.90 |
| E-6       | 2,022.60  | 2,096.40 | 2,168.60 | 2,241.90 | 2,294.80 |
| E-5       | 1,821.00  | 1,893.00 | 1,967.10 | 1,967.60 | 1,967.60 |
|           | Over 18   | Over 20  | Over 22  | Over 24  | Over 26  |
| E-7       | 2,644.20  | 2,717.50 | 2,844.40 | 2,926.40 | 3,134.40 |
| E-6       | 2,332.00  | 2,332.00 | 2,335.00 | 2,335.00 | 2,335.00 |
| E-5       | 1,967.60  | 1,967.60 | 1,967.60 | 1,967.60 | 1,967.60 |

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall take effect as of October 1, 2000, and shall apply with respect to months beginning on or after that date.

GRAMS (AND OTHERS)  
AMENDMENT NO. 3230

Mr. WARNER (for Mr. GRAMS (for himself, Mr. MCCAIN, Mr. SESSIONS, Mr. ALLARD, Mr. ASHCROFT, and Mr. LEVIN)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 239, after line 22, add the following:

**Subtitle F—Additional Benefits For Reserves and Their Dependents**

**SEC. 671. SENSE OF CONGRESS.**

It is the sense of Congress that it is in the national interest for the President to provide the funds for the reserve components of the Armed Forces (including the National Guard and Reserves) that are sufficient to ensure that the reserve components meet the requirements specified for the reserve components in the National Military Strategy, including training requirements.

**SEC. 672. TRAVEL BY RESERVES ON MILITARY AIRCRAFT.**

(a) SPACE-REQUIRED TRAVEL FOR TRAVEL TO DUTY STATIONS INCONUS AND OCONUS.—(1) Subsection (a) of section 18505 of title 10, United States Code, is amended to read as follows:

“(a) A member of a reserve component traveling to a place of annual training duty or inactive-duty training (including a place other than the member’s unit training assembly if the member is performing annual training duty or inactive-duty training in another location) may travel in a space-required status on aircraft of the armed forces between the member’s home and the place of such duty or training.”

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

“§ 18505. Reserves traveling to annual training duty or inactive-duty training: authority for space-required travel”.

(b) SPACE-AVAILABLE TRAVEL FOR MEMBERS OF SELECTED RESERVE, GRAY AREA RETIREES, AND DEPENDENTS.—Chapter 1805 of such title is amended by adding at the end the following new section:

“§ 18506. Space-available travel: Selected Reserve members and reserve retirees under age 60; dependents

“(a) ELIGIBILITY FOR SPACE-AVAILABLE TRAVEL.—The Secretary of Defense shall prescribe regulations to allow persons described in subsection (b) to receive transportation on aircraft of the Department of Defense on a space-available basis under the same terms and conditions (including terms and conditions applicable to travel outside the United

States) as apply to members of the armed forces entitled to retired pay.

“(b) PERSONS ELIGIBLE.—Subsection (a) applies to the following persons:

“(1) A person who is a member of the Selected Reserve in good standing (as determined by the Secretary concerned) or who is a participating member of the Individual Ready Reserve of the Navy or Coast Guard in good standing (as determined by the Secretary concerned).

“(c) DEPENDENTS.—A dependent of a person described in subsection (b) shall be provided transportation under this section on the same basis as dependents of members of the armed forces entitled to retired pay.

“(d) LIMITATION ON REQUIRED IDENTIFICATION.—Neither the ‘Authentication of Reserve Status for Travel Eligibility’ form (DD Form 1853), nor any other form, other than the presentation of military identification and duty orders upon request, or other methods of identification required of active duty personnel, shall be required of reserve component personnel using space-available transportation within or outside the continental United States under this section.”

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 18505 and inserting the following new items:

“18505. Reserves traveling to annual training duty or inactive-duty training: authority for space-required travel.

“18506. Space-available travel: Selected Reserve members and reserve retirees under age 60; dependents.”

(d) IMPLEMENTING REGULATIONS.—Regulations under section 18506 of title 10, United States Code, as added by subsection (b), shall be prescribed not later than 180 days after the date of the enactment of this Act.

**SEC. 673. BILLETING SERVICES FOR RESERVE MEMBERS TRAVELING FOR INACTIVE DUTY TRAINING.**

(a) IN GENERAL.—(1) Chapter 1217 of title 10, United States Code, is amended by inserting after section 12603 the following new section:

“§ 12604. Billeting in Department of Defense facilities: Reserves attending inactive-duty training

“(a) AUTHORITY FOR BILLETING ON SAME BASIS AS ACTIVE DUTY MEMBERS TRAVELING UNDER ORDERS.—The Secretary of Defense shall prescribe regulations authorizing a Reserve traveling to inactive-duty training at a location more than 50 miles from that Reserve’s residence to be eligible for billeting in Department of Defense facilities on the same basis and to the same extent as a member of the armed forces on active duty who is traveling under orders away from the member’s permanent duty station.

“(b) PROOF OF REASON FOR TRAVEL.—The Secretary shall include in the regulations

the means for confirming a Reserve’s eligibility for billeting under subsection (a).”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 12603 the following new item:

“12604. Billeting in Department of Defense facilities: Reserves attending inactive-duty training.

(b) EFFECTIVE DATE.—Section 12604 of title 10, United States Code, as added by subsection (a), shall apply with respect to periods of inactive-duty training beginning more than 180 days after the date of the enactment of this Act.

**SEC. 674. INCREASE IN MAXIMUM NUMBER OF RESERVE RETIREMENT POINTS THAT MAY BE CREDITED IN ANY YEAR.**

Section 12733(3) of title 10, United States Code, is amended by striking “but not more than” and all that follows and inserting “but not more than—

“(A) 60 days in any one year of service before the year of service that includes September 23, 1996;

“(B) 75 days in the year of service that includes September 23, 1996, and in any subsequent year of service before the year of service that includes the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001; and

“(C) 90 days in the year of service that includes the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001 and in any subsequent year of service.”

**SEC. 675. AUTHORITY FOR PROVISION OF LEGAL SERVICES TO RESERVE COMPONENT MEMBERS FOLLOWING RELEASE FROM ACTIVE DUTY.**

(a) LEGAL SERVICES.—Section 1044(a) of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

“(4) Members of reserve components of the armed forces not covered by paragraph (1) or (2) following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (as determined by the Secretary of Defense), but only during the period that begins on the date of the release and is equal to at least twice the length of the period served on active duty under such call or order to active duty.”

(b) DEPENDENTS.—Paragraph (5) of such section, as redesignated by subsection (a)(1), is amended by striking “and (3)” and inserting “(3), and (4)”.

(c) IMPLEMENTING REGULATIONS.—Regulations to implement the amendments made by this section shall be prescribed not later than 180 days after the date of the enactment of this Act.

BINGAMAN (AND OTHERS)  
AMENDMENT NO. 3231

Mr. LEVIN (for Mr. BINGAMAN (for himself, Mr. WARNER, Mr. BIDEN, and Mr. INOUE) proposed an amendment to the bill, S. 2549, supra; as follows:

At the end of title X, insert the following:  
**SEC. 10. CONGRESSIONAL MEDALS FOR NAVAJO CODE TALKERS.**

(a) FINDINGS.—Congress finds that—

(1) on December 7, 1941, the Japanese Empire attacked Pearl Harbor and war was declared by Congress on the following day;

(2) the military code developed by the United States for transmitting messages had been deciphered by the Japanese, and a search was made by United States Intelligence to develop new means to counter the enemy;

(3) the United States Government called upon the Navajo Nation to support the military effort by recruiting and enlisting 29 Navajo men to serve as Marine Corps Radio Operators;

(4) the number of Navajo enlistees later increased to more than 350;

(5) at the time, the Navajos were often treated as second-class citizens, and they were a people who were discouraged from using their own native language;

(6) the Navajo Marine Corps Radio Operators, who became known as the "Navajo Code Talkers", were used to develop a code using their native language to communicate military messages in the Pacific;

(7) to the enemy's frustration, the code developed by these Native Americans proved to be unbreakable, and was used extensively throughout the Pacific theater;

(8) the Navajo language, discouraged in the past, was instrumental in developing the most significant and successful military code of the time;

(9) at Iwo Jima alone, the Navajo Code Talkers passed more than 800 error-free messages in a 48-hour period;

(10) use of the Navajo Code was so successful, that—

(A) military commanders credited it in saving the lives of countless American soldiers and in the success of the engagements of the United States in the battles of Guadalcanal, Tarawa, Saipan, Iwo Jima, and Okinawa;

(B) some Code Talkers were guarded by fellow Marines, whose role was to kill them in case of imminent capture by the enemy; and

(C) the Navajo Code was kept secret for 23 years after the end of World War II;

(11) following the conclusion of World War II, the Department of Defense maintained the secrecy of the Navajo Code until it was declassified in 1968; and

(12) only then did a realization of the sacrifice and valor of these brave Native Americans emerge from history.

(b) CONGRESSIONAL MEDALS AUTHORIZED.—To express recognition by the United States and its citizens in honoring the Navajo Code Talkers, who distinguished themselves in performing a unique, highly successful communications operation that greatly assisted in saving countless lives and hastening the end of World War II in the Pacific, the President is authorized—

(1) to award to each of the original 29 Navajo Code Talkers, or a surviving family member, on behalf of the Congress, a gold medal of appropriate design, honoring the Navajo Code Talkers; and

(2) to award to each person who qualified as a Navajo Code Talker (MOS 642), or a surviving family member, on behalf of the Congress, a silver medal of appropriate design, honoring the Navajo Code Talkers.

(c) DESIGN AND STRIKING.—For purposes of the awards authorized by subsection (b), the

Secretary of the Treasury (in this section referred to as the "Secretary") shall strike gold and silver medals with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(d) DUPLICATE MEDALS.—The Secretary may strike and sell duplicates in bronze of the medals struck pursuant to this section, under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the medals.

(e) NATIONAL MEDALS.—The medals struck pursuant to this section are national medals for purposes of chapter 51, of title 31, United States Code.

(f) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, not more than \$30,000, to pay for the costs of the medals authorized by this section.

(g) PROCEEDS OF SALE.—Amounts received from the sale of duplicate medals under this section shall be deposited in the United States Mint Public Enterprise Fund.

LOTT AMENDMENT NO. 3232

Mr. WARNER (for Mr. LOTT) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 236, between lines 6 and 7, insert the following:

**SEC. 646. FEES PAID BY RESIDENTS OF THE ARMED FORCES RETIREMENT HOME.**

(a) NAVAL HOME.—Section 1514 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 414) is amended by striking subsection (d) and inserting the following:

"(d) NAVAL HOME.—The monthly fee required to be paid by a resident of the Naval Home under subsection (a) shall be as follows:

"(1) For a resident in an independent living status, \$500.

"(2) For a resident in an assisted living status, \$750.

"(3) For a resident of a skilled nursing facility, \$1,250."

(b) UNITED STATES SOLDIERS' AND AIRMEN'S HOME.—Subsection (c) of such section is amended—

(1) by striking "(c) FIXING FEES.—" and inserting "(c) UNITED STATES SOLDIERS' AND AIRMEN'S HOME.—";

(2) in paragraph (1)—

(A) by striking "the fee required by subsection (a) of this section" and inserting "the fee required to be paid by residents of the United States Soldiers' and Airmen's Home under subsection (a)"; and

(B) by striking "needs of the Retirement Home" and inserting "needs of that establishment"; and

(3) in paragraph (2), by striking the second sentence.

(c) SAVINGS PROVISION.—Such section is further amended by adding at the end the following:

"(e) RESIDENTS BEFORE FISCAL YEAR 2001.—A resident of the Retirement Home on September 30, 2000, may not be charged a monthly fee under this section in an amount that exceeds the amount of the monthly fee charged that resident for the month of September 2000."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2000.

KENNEDY (AND OTHERS)  
AMENDMENT NO. 3233

Mr. LEVIN (for Mr. KENNEDY (for himself, Mr. ROTH, Mr. THURMOND, Mr. BIDEN, and Mr. REID)) proposed an

amendment to the bill, S. 2549, supra; as follows:

Submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 200, after line 23, insert the following:

**SEC. 566. SENIOR OFFICERS IN COMMAND IN HAWAII ON DECEMBER 7, 1941.**

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

(1) Rear Admiral Husband E. Kimmel, formerly the Commander in Chief of the United States Fleet and the Commander in Chief, United States Pacific Fleet, had an excellent and unassailable record throughout his career in the United States Navy prior to the December 7, 1941, attack on Pearl Harbor.

(2) Major General Walter C. Short, formerly the Commander of the United States Army Hawaiian Department, had an excellent and unassailable record throughout his career in the United States Army prior to the December 7, 1941, attack on Pearl Harbor.

(3) Numerous investigations following the attack on Pearl Harbor have documented that Admiral Kimmel and Lieutenant General Short were not provided necessary and critical intelligence that was available, that foretold of war with Japan, that warned of imminent attack, and that would have alerted them to prepare for the attack, including such essential communiques as the Japanese Pearl Harbor Bomb Plot message of September 24, 1941, and the message sent from the Imperial Japanese Foreign Ministry to the Japanese Ambassador in the United States from December 6 to 7, 1941, known as the Fourteen-Part Message.

(4) On December 16, 1941, Admiral Kimmel and Lieutenant General Short were relieved of their commands and returned to their permanent ranks of rear admiral and major general.

(5) Admiral William Harrison Standley, who served as a member of the investigating commission known as the Roberts Commission that accused Admiral Kimmel and Lieutenant General Short of "dereliction of duty" only six weeks after the attack on Pearl Harbor, later disavowed the report maintaining that "these two officers were martyred" and "if they had been brought to trial, both would have been cleared of the charge".

(6) On October 19, 1944, a Naval Court of Inquiry exonerated Admiral Kimmel on the grounds that his military decisions and the disposition of his forces at the time of the December 7, 1941, attack on Pearl Harbor were proper "by virtue of the information that Admiral Kimmel had at hand which indicated neither the probability nor the imminence of an air attack on Pearl Harbor"; criticized the higher command for not sharing with Admiral Kimmel "during the very critical period of November 26 to December 7, 1941, important information... regarding the Japanese situation"; and, concluded that the Japanese attack and its outcome was attributable to no serious fault on the part of anyone in the naval service.

(7) On June 15, 1944, an investigation conducted by Admiral T. C. Hart at the direction of the Secretary of the Navy produced evidence, subsequently confirmed, that essential intelligence concerning Japanese intentions and war plans was available in Washington but was not shared with Admiral Kimmel.

(8) On October 20, 1944, the Army Pearl Harbor Board of Investigation determined that Lieutenant General Short had not been kept "fully advised of the growing tenseness of the Japanese situation which indicated an increasing necessity for better preparation

for war"; detailed information and intelligence about Japanese intentions and war plans were available in "abundance" but were not shared with the General Short's Hawaii command; and General Short was not provided "on the evening of December 6th and the early morning of December 7th, the critical information indicating an almost immediate break with Japan, though there was ample time to have accomplished this".

(9) The reports by both the Naval Court of Inquiry and the Army Pearl Harbor Board of Investigation were kept secret, and Rear Admiral Kimmel and Major General Short were denied their requests to defend themselves through trial by court-martial.

(10) The joint committee of Congress that was established to investigate the conduct of Admiral Kimmel and Lieutenant General Short completed, on May 31, 1946, a 1,075-page report which included the conclusions of the committee that the two officers had not been guilty of dereliction of duty.

(11) The then Chief of Naval Personnel, Admiral J. L. Holloway, Jr., on April 27, 1954, recommended that Admiral Kimmel be advanced in rank in accordance with the provisions of the Officer Personnel Act of 1947.

(12) On November 13, 1991, a majority of the members of the Board for the Correction of Military Records of the Department of the Army found that Lieutenant General Short "was unjustly held responsible for the Pearl Harbor disaster" and that "it would be equitable and just" to advance him to the rank of lieutenant general on the retired list.

(13) In October 1994, the then Chief of Naval Operations, Admiral Carlisle Trost, withdrew his 1988 recommendation against the advancement of Admiral Kimmel and recommended that the case of Admiral Kimmel be reopened.

(14) Although the Dorn Report, a report on the results of a Department of Defense study that was issued on December 15, 1995, did not provide support for an advancement of Rear Admiral Kimmel or Major General Short in grade, it did set forth as a conclusion of the study that "responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and Lieutenant General Short, it should be broadly shared".

(15) The Dorn Report found that "Army and Navy officials in Washington were privy to intercepted Japanese diplomatic communications...which provided crucial confirmation of the imminence of war"; that "the evidence of the handling of these messages in Washington reveals some ineptitude, some unwarranted assumptions and misestimations, limited coordination, ambiguous language, and lack of clarification and followup at higher levels"; and, that "together, these characteristics resulted in failure...to appreciate fully and to convey to the commanders in Hawaii the sense of focus and urgency that these intercepts should have engendered".

(16) On July 21, 1997, Vice Admiral David C. Richardson (United States Navy, retired) responded to the Dorn Report with his own study which confirmed findings of the Naval Court of Inquiry and the Army Pearl Harbor Board of Investigation and established, among other facts, that the war effort in 1941 was undermined by a restrictive intelligence distribution policy, and the degree to which the commanders of the United States forces in Hawaii were not alerted about the impending attack on Hawaii was directly attributable to the withholding of intelligence from Admiral Kimmel and Lieutenant General Short.

(17) The Officer Personnel Act of 1947, in establishing a promotion system for the Navy and the Army, provided a legal basis for the President to honor any officer of the

Armed Forces of the United States who served his country as a senior commander during World War II with a placement of that officer, with the advice and consent of the Senate, on the retired list with the highest grade held while on the active duty list.

(18) Rear Admiral Kimmel and Major General Short are the only two eligible officers from World War II who were excluded from the list of retired officers presented for advancement on the retired lists to their highest wartime ranks under the terms of the Officer Personnel Act of 1947.

(19) This singular exclusion from advancement on the retired list serves only to perpetuate the myth that the senior commanders in Hawaii were derelict in their duty and responsible for the success of the attack on Pearl Harbor, a distinct and unacceptable expression of dishonor toward two of the finest officers who have served in the Armed Forces of the United States.

(20) Major General Walter Short died on September 23, 1949, and Rear Admiral Husband Kimmel died on May 14, 1968, without the honor of having been returned to their wartime ranks as were their fellow veterans of World War II.

(21) The Veterans of Foreign Wars, the Pearl Harbor Survivors Association, the Admiral Nimitz Foundation, the Naval Academy Alumni Association, the Retired Officers Association, and the Pearl Harbor Commemorative Committee, and other associations and numerous retired military officers have called for the rehabilitation of the reputations and honor of Admiral Kimmel and Lieutenant General Short through their posthumous advancement on the retired lists to their highest wartime grades.

(b) **ADVANCEMENT OF REAR ADMIRAL KIMMEL AND MAJOR GENERAL SHORT ON RETIRED LISTS.**—(1) The President is requested—

(A) to advance the late Rear Admiral Husband E. Kimmel to the grade of admiral on the retired list of the Navy; and

(B) to advance the late Major General Walter C. Short to the grade of lieutenant general on the retired list of the Army.

(2) Any advancement in grade on a retired list requested under paragraph (1) shall not increase or change the compensation or benefits from the United States to which any person is now or may in the future be entitled based upon the military service of the officer advanced.

(c) **SENSE OF CONGRESS REGARDING THE PROFESSIONAL PERFORMANCE OF ADMIRAL KIMMEL AND LIEUTENANT GENERAL SHORT.**—It is the sense of Congress that—

(1) the late Rear Admiral Husband E. Kimmel performed his duties as Commander in Chief, United States Pacific Fleet, competently and professionally, and, therefore, the losses incurred by the United States in the attacks on the naval base at Pearl Harbor, Hawaii, and other targets on the island of Oahu, Hawaii, on December 7, 1941, were not a result of dereliction in the performance of those duties by the then Admiral Kimmel; and

(2) the late Major General Walter C. Short performed his duties as Commanding General, Hawaiian Department, competently and professionally, and, therefore, the losses incurred by the United States in the attacks on Hickam Army Air Field and Schofield Barracks, Hawaii, and other targets on the island of Oahu, Hawaii, on December 7, 1941, were not a result of dereliction in the performance of those duties by the then Lieutenant General Short.

#### BIDEN (AND ROTH) AMENDMENT NO. 3234

Mr. LEVIN (for Mr. BIDEN (for himself and Mr. ROTH)) proposed an amend-

ment to the bill, S. 2549, supra; as follows:

On page 378, between lines 19 and 20, insert the following:

#### SEC. 1027. REPORT ON SPARE PARTS AND REPAIR PARTS PROGRAM OF THE AIR FORCE FOR THE C-5 AIRCRAFT.

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

(1) There exists a significant shortfall in the Nation's current strategic airlift requirement, even though strategic airlift remains critical to the national security strategy of the United States.

(2) This shortfall results from the slow phase-out C-141 aircraft and their replacement with C-17 aircraft and from lower than optimal reliability rates for the C-5 aircraft.

(3) One of the primary causes of these reliability rates for C-5 aircraft, and especially for operational unit aircraft, is the shortage of spare repair parts. Over the past 5 years, this shortage has been particularly evident in the C-5 fleet.

(4) NMCS (Not Mission Capable for Supply) rates for C-5 aircraft have increased significantly in the period between 1997 and 1999. At Dover Air Force Base, Delaware, an average of 7 through 9 C-5 aircraft were not available during that period because of a lack of parts.

(5) Average rates of cannibalization of C-5 aircraft per 100 sorties of such aircraft have also increased during that period and are well above the Air Mobility Command standard. In any given month, this means devoting additional manhours to cannibalizations of C-5 aircraft. At Dover Air Force Base, an average of 800 to 1,000 additional manhours were required for cannibalizations of C-5 aircraft during that period. Cannibalizations are often required for aircraft that transit through a base such as Dover Air Force Base, as well as those that are based there.

(6) High cannibalization rates indicate a significant problem in delivering spare parts in a timely manner and systemic problems within the repair and maintenance process, and also demoralize overworked maintenance crews.

(7) The C-5 aircraft remains an absolutely critical asset in air mobility and airlifting heavy equipment and personnel to both military contingencies and humanitarian relief efforts around the world.

(8) Despite increased funding for spare and repair parts and other efforts by the Air Force to mitigate the parts shortage problem, Congress continues to receive reports of significant cannibalizations to airworthy C-5 aircraft and parts backlogs.

(b) **REPORTS.**—Not later than January 1, 2001, and September 30, 2001, the Secretary of the Air Force shall submit to the congressional defense committees a report on the overall status of the spare and repair parts program of the Air Force for the C-5 aircraft. The report shall include the following—

(1) a statement of the funds currently allocated to parts for the C-5 aircraft and the adequacy of such funds to meet current and future parts and maintenance requirements for that aircraft;

(2) a description of current efforts to address shortfalls in parts for such aircraft, including an assessment of potential short-term and long-term effects of such efforts;

(3) an assessment of the effects of such shortfalls on readiness and reliability ratings for C-5 aircraft;

(4) a description of cannibalization rates for C-5 aircraft and the manhours devoted to cannibalizations of such aircraft; and

(5) an assessment of the effects of parts shortfalls and cannibalizations with respect to C-5 aircraft on readiness and retention.

## ROBERTS AMENDMENT NO. 3235

Mr. WARNER (for Mr. ROBERTS) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 539, between lines 7 and 8, insert the following:

**SEC. 2836. LAND CONVEYANCE, FORT RILEY, KANSAS.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Kansas, all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 70 acres at Fort Riley Military Reservation, Fort Riley, Kansas. The preferred site is adjacent to the Fort Riley Military Reservation boundary, along the north side of Huebner Road across from the First Territorial Capitol of Kansas Historical Site Museum.

(b) CONDITIONS OF CONVEYANCE.—The conveyance required by subsection (a) shall be subject to the following conditions:

(1) That the State of Kansas use the property conveyed solely for purposes of establishing and maintaining a State-operated veterans cemetery.

(2) That all costs associated with the conveyance, including the cost of relocating water and electric utilities should the Secretary determine that such relocations are necessary, be borne by the State of Kansas.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary and the Director of the Kansas Commission on Veterans Affairs.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance required by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

LIEBERMAN (AND ROBERTS)  
AMENDMENT NO. 3236

Mr. LEVIN (for Mr. LIEBERMAN (for himself and Mr. ROBERTS)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 436, between lines 2 and 3, insert the following:

**SEC. 1114. CLARIFICATION OF PERSONNEL MANAGEMENT AUTHORITY OF UNDER A PERSONNEL DEMONSTRATION PROJECT.**

Section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 is amended—

(1) by striking the last sentence of paragraph (4); and

(2) by adding at the end the following:

“(5) The employees of a laboratory covered by a personnel demonstration project under this section shall be managed by the director of the laboratory subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics. Notwithstanding any other provision of law, the director of the laboratory is authorized to appoint individuals to positions in the laboratory, and to fix the compensation of such individuals for service in those positions, under the demonstration project without the review or approval of any official or agency other than the Under Secretary.”.

## ROBERTS AMENDMENT NO. 3237

Mr. WARNER (for Mr. ROBERTS) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 34, between lines 2 and 3, insert the following:

**SEC. 203. ADDITIONAL AUTHORIZATION FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ON WEATHERING AND CORROSION OF AIRCRAFT SURFACES AND PARTS.**

(a) INCREASE IN AUTHORIZATION.—The amount authorized to be appropriated by section 201(3) is hereby increased by \$1,500,000.

(b) AVAILABILITY OF FUNDS.—The amount available under section 201(3), as increased by subsection (a), for research, development, test, and evaluation on weathering and corrosion of aircraft surfaces and parts (PE62102F) is hereby increased by \$1,500,000.

(c) OFFSET.—The amount authorized to be appropriated by section 201(4) is hereby decreased by \$1,500,000, with the amount of such decrease being allocated to Sensor and Guidance Technology (PE63762E).

CONRAD (AND OTHERS)  
AMENDMENT NO. 3238

Mr. LEVIN (for Mr. CONRAD (for himself, Ms. LANDRIEU, and Mr. DORGAN)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 372, between lines 6 and 7, insert the following:

**SEC. 1019. SENSE OF SENATE ON THE MAINTENANCE OF THE STRATEGIC NUCLEAR TRIAD.**

It is the sense of the Senate that, in light of the potential for further arms control agreements with the Russian Federation limiting strategic forces—

(1) it is in the national interest of the United States to maintain a robust and balanced TRIAD of strategic nuclear delivery vehicles, including long-range bombers, land-based intercontinental ballistic missiles (ICBMs), and ballistic missile submarines; and

(2) reductions to United States conventional bomber capability are not in the national interest of the United States.

NICKLES (AND INHOFE)  
AMENDMENT NO. 3239

Mr. WARNER (for Mr. NICKLES (for himself and Mr. INHOFE)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 72, strike line 3, and insert the following:

“(B) Each arsenal of the Army.

“(C) Each government-owned, government-operated ammunition plant of the Army.”.

On page 77, strike line 17, and insert the following:

“(f) CONSTRUCTION OF PROVISION.—Nothing in this section may be construed to authorize a change, otherwise prohibited by law, from the performance of work at a Center of Industrial and Technical Excellence by Department of Defense personnel to performance by a contractor.”.

LIEBERMAN (AND OTHERS)  
AMENDMENT NO. 3240

Mr. LEVIN (for Mr. LIEBERMAN (for himself, Mr. SANTORUM, Mr. ROBB, and Mrs. HUTCHISON)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 415, between lines 2 and 3, insert the following:

**SEC. 1061. AEROSPACE INDUSTRY BLUE RIBBON COMMISSION.**

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

(1) The United States aerospace industry, composed of manufacturers of commercial,

military, and business aircraft, helicopters, aircraft engines, missiles, spacecraft, materials, and related components and equipment, has a unique role in the economic and national security of our Nation.

(2) In 1999, the aerospace industry continued to produce, at \$37,000,000,000, the largest trade surplus of any industry in the United States economy.

(3) The United States aerospace industry employs 800,000 Americans in highly skilled positions associated with manufacturing aerospace products.

(4) United States aerospace technology is preeminent in the global marketplace for both defense and commercial products.

(5) History since World War I has demonstrated that a superior aerospace capability usually determines victory in military operations and that a robust, technically innovative aerospace capability will be essential for maintaining United States military superiority in the 21st century.

(6) Federal Government policies concerning investment in aerospace research and development and procurement, controls on the export of services and goods containing advanced technologies, and other aspects of the Government-industry relationship will have a critical impact on the ability of the United States aerospace industry to retain its position of global leadership.

(7) Recent trends in investment in aerospace research and development, in changes in global aerospace market share, and in the development of competitive, non-United States aerospace industries could undermine the future role of the United States aerospace industry in the national economy and in the security of the Nation.

(8) Because the United States aerospace industry stands at an historical crossroads, it is advisable for the President and Congress to appoint a blue ribbon commission to assess the future of the industry and to make recommendations for Federal Government actions to ensure United States preeminence in aerospace in the 21st century.

(b) ESTABLISHMENT.—There is established a Blue Ribbon Commission on the Future of the United States Aerospace Industry.

(c) MEMBERSHIP.—(1) The Commission shall be composed of 12 members appointed, not later than March 1, 2001, as follows:

(A) Up to 6 members appointed by the President.

(B) Two members appointed by the Majority Leader of the Senate.

(C) Two members appointed by the Speaker of the House.

(D) One member appointed by the Minority Leader of the Senate.

(E) One member appointed by the Minority Leader of the House of Representatives.

(2) The members of the Commission shall be appointed from among—

(A) persons with extensive experience and national reputations in aerospace manufacturing, economics, finance, national security, international trade or foreign policy; and

(B) persons who are representative of labor organizations associated with the aerospace industry.

(3) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) The President shall designate one member of the Commission to serve as the Chairman.

(5) The Commission shall meet at the call of the Chairman. A majority of the members shall constitute a quorum, but a lesser number may hold hearings for the Commission.

(d) DUTIES.—(1) The Commission shall—

(A) study the issues associated with the future of the United States aerospace industry

in the global economy, particularly in relationship to United States national security; and

(B) assess the future importance of the domestic aerospace industry for the economic and national security of the United States.

(2) In order to fulfill its responsibilities, the Commission shall study the following:

(A) The budget process of the Federal Government, particularly with a view to assessing the adequacy of projected budgets of the Federal Government agencies for aerospace research and development and procurement.

(B) The acquisition process of the Federal Government, particularly with a view to assessing—

(i) the adequacy of the current acquisition process of Federal agencies; and

(ii) the procedures for developing and fielding aerospace systems incorporating new technologies in a timely fashion.

(C) The policies, procedures, and methods for the financing and payment of government contracts.

(D) Statutes and regulations governing international trade and the export of technology, particularly with a view to assessing—

(i) the extent to which the current system for controlling the export of aerospace goods, services, and technologies reflects an adequate balance between the need to protect national security and the need to ensure unhindered access to the global marketplace; and

(ii) the adequacy of United States and multilateral trade laws and policies for maintaining the international competitiveness of the United States aerospace industry.

(E) Policies governing taxation, particularly with a view to assessing the impact of current tax laws and practices on the international competitiveness of the aerospace industry.

(F) Programs for the maintenance of the national space launch infrastructure, particularly with a view to assessing the adequacy of current and projected programs for maintaining the national space launch infrastructure.

(G) Programs for the support of science and engineering education, including current programs for supporting aerospace science and engineering efforts at institutions of higher learning, with a view to determining the adequacy of those programs.

(e) REPORT.—(1) Not later than March 1, 2002, the Commission shall submit a report on its activities to the President and Congress.

(2) The report shall include the following:

(A) The Commission's findings and conclusions.

(B) Recommendations for actions by Federal Government agencies to support the maintenance of a robust aerospace industry in the United States in the 21st century.

(C) A discussion of the appropriate means for implementing the recommendations.

(f) IMPLEMENTATION OF RECOMMENDATIONS.—The heads of the executive agencies of the Federal Government having responsibility for matters covered by recommendations of the Commission shall consider the implementation of those recommendations in accordance with regular administrative procedures. The Director of the Office of Management and Budget shall coordinate the consideration of the recommendations among the heads of those agencies.

(g) ADMINISTRATIVE REQUIREMENTS AND AUTHORITIES.—(1) The Director of the Office of Management and Budget shall ensure that the Commission is provided such administrative services, facilities, staff, and other support services as may be necessary. Any expenses of the Commission shall be paid from funds available to the Director.

(2) The Commission may hold hearings, sit and act at times and places, take testimony, and receive evidence that the Commission considers advisable to carry out the purposes of this Act.

(3) The Commission may secure directly from any department or agency of the Federal Government any information that the Commission considers necessary to carry out the provisions of this Act. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(5) The Commission is an advisory committee for the purposes of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(h) COMMISSION PERSONNEL MATTERS.—(1) Members of the Commission shall serve without additional compensation for their service on the Commission, except that members appointed from among private citizens may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in government service under subchapter I of chapter 57 of title 5, United States Code, while away from their homes and places of business in the performance of services for the Commission.

(2) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate any staff that may be necessary to enable the Commission to perform its duties. The employment of a head of staff shall be subject to confirmation by the Commission. The Chairman may fix the compensation of the staff personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rates of pay fixed by the Chairman shall be in compliance with the guidelines prescribed under section 7(d) of the Federal Advisory Committee Act.

(3) Any Federal Government employee may be detailed to the Commission without reimbursement. Any such detail shall be without interruption or loss of civil status or privilege.

(4) The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(i) TERMINATION.—The Commission shall terminate 30 days after the submission of the report under subsection (e).

#### GRAMM (AND HUTCHISON) AMENDMENT NO. 3241

Mr. WARNER (for Mr. GRAMM (for himself and Mrs. HUTCHISON)) proposed an amendment to the bill, S. 2549, supra; as follows:

At the appropriate place, insert the following:

##### SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Voting Rights Act of 2000".

##### SEC. 2. GUARANTEE OF RESIDENCY.

Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. 700 et seq.) is amended by adding at the end the following:

"SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State; or

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia."

##### SEC. 3. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff-1) is amended—

(1) by inserting "(a) ELECTIONS FOR FEDERAL OFFICES.—" before "Each State shall—"; and

(2) by adding at the end the following:

"(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall.—

"(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and run-off elections for State and local offices; and

"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election."

(b) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking out "FOR FEDERAL OFFICE".

#### FEINSTEIN AMENDMENT NO. 3242

Mr. LEVIN (for Mrs. FEINSTEIN) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 543, between lines 19 and 20, insert the following:

##### SEC. 2855. MODIFICATION OF AUTHORITY FOR OXNARD HARBOR DISTRICT, PORT HUENEME, CALIFORNIA, TO USE CERTAIN NAVY PROPERTY.

(a) ADDITIONAL RESTRICTIONS ON JOINT USE.—Subsection (c) of section 2843 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103-337; 108 Stat. 3067) is amended to read as follows:

"(c) RESTRICTIONS ON USE.—The District's use of the property covered by an agreement under subsection (a) is subject to the following conditions:

"(1) The District shall suspend operations under the agreement upon notification by the commanding officer of the Center that the property is needed to support mission essential naval vessel support requirements or Navy contingency operations, including combat missions, natural disasters, and humanitarian missions.

"(2) The District shall use the property covered by the agreement in a manner consistent with Navy operations at the Center, including cooperating with the Navy for the purpose of assisting the Navy to meet its through-put requirements at the Center for the expeditious movement of military cargo.

"(3) The commanding officer of the Center may require the District to remove any of its personal property at the Center that the commanding officer determines may interfere with military operations at the Center. If the District cannot expeditiously remove the property, the commanding officer may provide for the removal of the property at District expense."

(b) CONSIDERATION.—Subsection (d) of such section is amended to read as follows:

"(d) CONSIDERATION.—(1) As consideration for the use of the property covered by an

agreement under subsection (a), the District shall pay to the Navy an amount that is mutually agreeable to the parties to the agreement, taking into account the nature and extent of the District's use of the property.

"(2) The Secretary may accept in-kind consideration under paragraph (1), including consideration in the form of—

"(A) the District's maintenance, preservation, improvement, protection, repair, or restoration of all or any portion of the property covered by the agreement;

"(B) the construction of new facilities, the modification of existing facilities, or the replacement of facilities vacated by the Navy on account of the agreement; and

"(C) covering the cost of relocation of the operations of the Navy from the vacated facilities to the replacement facilities.

"(3) All cash consideration received under paragraph (1) shall be deposited in the special account in the Treasury established for the Navy under section 2667(d) of title 10, United States Code. The amounts deposited in the special account pursuant to this paragraph shall be available, as provided in appropriation Acts, for general supervision, administration, overhead expenses, and Center operations and for the maintenance preservation, improvement, protection, repair, or restoration of property at the Center."

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

#### THURMOND (AND OTHERS) AMENDMENT NO. 3243

Mr. WARNER (for Mr. THURMOND (for himself, Mr. LOTT, Mr. MCCAIN, Mr. CLELAND, Mr. COCHRAN, Ms. LANDRIEU, Ms. SNOWE, Mr. SESSIONS, Mr. INOUE, and Mr. DODD) proposed an amendment to the bill, S. 2549, supra; as follows:

In title VI, at the end of subtitle D, add the following:

#### SEC. . COMPUTATION OF SURVIVOR BENEFITS.

(a) INCREASED BASIC ANNUITY.—(1) Subsection (a)(1)(B)(i) of section 1451 of title 10, United States Code, is amended by striking "35 percent of the base amount." and inserting "the product of the base amount and the percent applicable for the month. The percent applicable for a month is 35 percent for months beginning on or before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001, 40 percent for months beginning after such date and before October 2004, and 45 percent for months beginning after September 2004."

(2) Subsection (a)(2)(B)(i)(I) of such section is amended by striking "35 percent" and inserting "the percent specified under subsection (a)(1)(B)(i) as being applicable for the month".

(3) Subsection (c)(1)(B)(i) of such section is amended—

(A) by striking "35 percent" and inserting "the applicable percent"; and

(B) by adding at the end the following: "The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for the month."

(4) The heading for subsection (d)(2)(A) of such section is amended to read as follows: "COMPUTATION OF ANNUITY.—"

(b) ADJUSTED SUPPLEMENTAL ANNUITY.—Section 1457(b) of title 10, United States Code, is amended—

(1) by striking "5, 10, 15, or 20 percent" and inserting "the applicable percent"; and

(2) by inserting after the first sentence the following: "The percent used for the com-

putation shall be an even multiple of 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months beginning on or before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001, 15 percent for months beginning after that date and before October 2004, and 10 percent for months beginning after September 2004."

(c) RECOMPUTATION OF ANNUITIES.—(1) Effective on the first day of each month referred to in paragraph (2)—

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

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

(2) The requirements for recomputation of annuities under paragraph (1) apply with respect to the following months:

(A) The first month that begins after the date of the enactment of this Act.

(B) October 2004.

(d) RECOMPUTATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that the reductions in retired pay under section 1460 of title 10, United States Code, are adjusted to achieve the objectives set forth in subsection (b) of that section.

#### BINGAMAN AMENDMENT NO. 3244

Mr. LEVIN (for Mr. BINGAMAN) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 236, between lines 6 and 7, insert the following:

#### SEC. 646. EQUITABLE APPLICATION OF EARLY RETIREMENT ELIGIBILITY REQUIREMENTS TO MILITARY RESERVE TECHNICIANS.

(a) TECHNICIANS COVERED BY FERS.—Paragraph (1) of section 8414(c) of title 5, United States Code, is amended by striking "after becoming 50 years of age and completing 25 years of service" and inserting "after completing 25 years of service or after becoming 50 years of age and completing 20 years of service".

(b) TECHNICIANS COVERED BY CSRS.—Section 8336 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(p) Section 8414(c) of this title applies—

"(1) under paragraph (1) of such section to a military reserve technician described in that paragraph for purposes of determining entitlement to an annuity under this subchapter; and

"(2) under paragraph (2) of such section to a military technician (dual status) described in that paragraph for purposes of determining entitlement to an annuity under this subchapter."

(c) TECHNICAL AMENDMENT.—Section 1109(a)(2) of Public Law 105-261 (112 Stat. 2143) is amended by striking "adding at the end" and inserting "inserting after subsection (n)".

(d) APPLICABILITY.—Subsection (c) of section 8414 of such title (as amended by subsection (a)), and subsection (p) of section 8336 of title 5, United States Code (as added by subsection (b)), shall apply according to the provisions thereof with respect to separations from service referred to in such subsections that occur on or after October 5, 1999.

#### STEVENS AMENDMENT NO. 3245

Mr. WARNER (for Mr. STEVENS) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 239, after line 22, insert the following:

#### SEC. 656. TRAVEL BY RESERVES ON MILITARY AIRCRAFT TO AND FROM LOCATIONS OUTSIDE THE CONTINENTAL UNITED STATES FOR INACTIVE-DUTY TRAINING.

(a) SPACE-REQUIRED TRAVEL.—Subsection (a) of section 18505 of title 10, United States Code, is amended—

(1) by inserting "residence or" after "In the case of a member of a reserve component whose"; and

(2) by inserting after "(including a place" the following: "of inactive-duty training".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 18505. Space-required travel: Reserves traveling to inactive-duty training".

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

"18505. Space-required travel: Reserves traveling to inactive-duty training."

#### BINGAMAN (AND MURRAY) AMENDMENT NO. 3246

Mr. LEVIN (for Mr. BINGAMAN (for himself and Mrs. MURRAY) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 239, following line 22, add the following:

#### SEC. 656. ADDITIONAL BENEFITS AND PROTECTIONS FOR PERSONNEL INCURRING INJURY, ILLNESS, OR DISEASE IN THE PERFORMANCE OF FUNERAL HONORS DUTY.

(a) INCAPACITATION PAY.—Section 204 of title 37, United States Code, is amended—

(1) in subsection (g)(1)—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(C) by adding at the end the following:

"(E) in line of duty while—

"(i) serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

"(ii) traveling to or from the place at which the duty was to be performed; or

"(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence."; and

(2) in subsection (h)(1)—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(C) by adding at the end the following:

"(E) in line of duty while—

"(i) serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

"(ii) traveling to or from the place at which the duty was to be performed; or

“(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member’s residence.”.

(b) TORT CLAIMS.—Section 2671 of title 28, United States Code, is amended by inserting “115,” in the second paragraph after “members of the National Guard while engaged in training or duty under section”.

(c) APPLICABILITY.—(1) The amendments made by subsection (a) shall apply with respect to months beginning on or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to acts and omissions occurring before, on, or after the date of the enactment of this Act.

SMITH OF OREGON (AND OTHERS)  
AMENDMENT NO. 3247

Mr. WARNER (for Mr. SMITH of Oregon for himself, Mr. WYDEN, and Mr. BRYAN) proposed an amendment to the bill, S. 2549, *supra*; as follows:

[The amendment was not available for printing. It will appear in a future edition of the RECORD.]

CLELAND (AND HUTCHISON)  
AMENDMENT NO. 3248

Mr. LEVIN (for Mr. CLELAND (for himself and Mrs. HUTCHISON) proposed an amendment to the bill, S. 2549, *supra*; as follows:

On page 155, between lines 9 and 10, insert the following:

**SEC. 511. CONTINGENT EXEMPTION FROM LIMITATION ON NUMBER OF AIR FORCE OFFICERS SERVING ON ACTIVE DUTY IN GRADES ABOVE MAJOR GENERAL.**

Section 525(b) of title 10, United States Code, is amended by adding at the end the following:

“(8) While an officer of the Army, Navy, or Marine Corps is serving as Commander in Chief of the United States Transportation Command, an officer of the Air Force, while serving as Commander of the Air Mobility Command, if serving in the grade of general, is in addition to the number that would otherwise be permitted for the Air Force for officers serving on active duty in grades above major general under paragraph (1).

“(9) While an officer of the Army, Navy, or Marine Corps is serving as Commander in Chief of the United States Space Command, an officer of the Air Force, while serving as Commander of the Air Force Space Command, if serving in the grade of general, is in addition to the number that would otherwise be permitted for the Air Force for officers serving on active duty in grades above major general under paragraph (1).”.

BOND (AND OTHERS) AMENDMENT  
NO. 3249

Mr. WARNER (for Mr. BOND (for himself, Mr. BRYAN, Mr. AKAKA, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. COCHRAN, Ms. COLLINS, Mr. COVERDELL, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DEWINE, Mr. DOMENICI, Mr. DURBIN, Mr. EDWARDS, Mr. ENZI, Mr. FEINGOLD, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INOUE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr.

KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mrs. LINCOLN, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MURKOWSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROTH, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Ms. SNOWE, Mr. STEVENS, Mr. THURMOND, Mr. VOINOVICH, and Mr. CONRAD)) proposed an amendment to the bill, S. 2549, *supra*; as follows:

On page 125, line 19, strike “22,536” and insert “22,974.”

On page 126, line 10, strike “22,357” and insert “24,728.”

THOMPSON (AND OTHERS)  
AMENDMENT NO. 3250

Mr. WARNER (for Mr. THOMPSON (for himself, Mr. BINGAMAN, Mr. VOINOVICH, Mr. KENNEDY, Mr. DEWINE, Mr. REID, Mr. THURMOND, Mr. BRYAN, Mr. FRIST, Mrs. MURRAY, Mr. MURKOWSKI, Mr. HARKIN, Mr. HOLLINGS, and Mr. STEVENS)) proposed an amendment to the bill, S. 2549, *supra*; as follows:

On page 613, after line 12, add the following:

**TITLE XXXV—ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION**  
**SEC. 3501. SHORT TITLE.**

This title may be cited as the “Energy Employees Occupational Illness Compensation Act of 2000”.

**SEC. 3502. CONSTRUCTION WITH OTHER LAWS.**

References in this title to a provision of another statute shall be considered as references to such provision, as amended and as may be amended from time to time.

**SEC. 3503. DEFINITIONS.**

(a) IN GENERAL.—In this title:

(1) ATOMIC WEAPON.—The term “atomic weapon” has the meaning given that term in section 11 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(d)).

(2) ATOMIC WEAPONS EMPLOYEE.—The term “atomic weapons employee” means an individual employed by an atomic weapons employer during a time when the employer was processing or producing, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling.

(3) ATOMIC WEAPONS EMPLOYER.—The term “atomic weapons employer” means an entity that—

(A) processed or produced, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling; and

(B) is designated as an atomic weapons employer for purposes of this title by the Secretary of Energy.

(4) ATOMIC WEAPONS EMPLOYER FACILITY.—The term “atomic weapons employer facility” means a facility, owned by an atomic weapons employer, that is or was used to process or produce, for use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining or milling.

(5) BERYLLIUM VENDOR.—The term “beryllium vendor” means the following:

(A) Atomics International.

(B) Brush Wellman, Incorporated, and its predecessor, Brush Beryllium Company.

(C) General Atomics.

(D) General Electric Company.

(E) NGK Metals Corporation and its predecessors, Kawecki-Beryllco, Cabot Corpora-

tion, BerylCo, and Beryllium Corporation of America.

(F) Nuclear Materials and Equipment Corporation.

(G) StarMet Corporation, and its predecessor, Nuclear Metals, Incorporated.

(H) Wyman Gordan, Incorporated.

(I) Any other vendor, processor, or producer of beryllium or related products designated as a beryllium vendor for purposes of this title under section 3504(a).

(6) CHRONIC SILICOSIS.—The term “chronic silicosis” means silicosis if—

(A) at least 10 years elapse between initial exposure to silica and the emergence of the silicosis; and

(B) the silicosis is established by one of the following:

(i) A chest x-ray presenting any combination of rounded opacities of type p/q/r, with or without irregular opacities, present in at least both upper lung zones and of profusion 1/0 or greater, as found in accordance with the International Labor Organization classification system.

(ii) A physician’s provisional or working diagnosis of silicosis, combined with—

(I) a chest radiograph interpreted as consistent with silicosis; or

(II) pathologic findings consistent with silicosis.

(iii) A history of occupational exposure to airborne silica dust and a chest radiograph or other imaging technique interpreted as consistent with silicosis or pathologic findings consistent with silicosis.

(7) COMPENSATION.—The term “compensation” means the money allowance payable under this title and any other benefits paid for from the Fund including the alternative compensation payable pursuant to section 3515.

(8) COVERED BERYLLIUM EMPLOYEE.—The term “covered beryllium employee” means the following:

(A) A current or former employee (as that term is defined in section 8101(1) of title 5, United States Code) who may have been exposed to beryllium at a Department of Energy facility or at a facility owned, operated, or occupied by a beryllium vendor.

(B) A current or former employee of any entity that contracted with the Department of Energy to provide management and operation, management and integration, or environmental remediation of a Department of Energy facility or an employee of any contractor or subcontractor that provided services, including construction and maintenance, at such a facility.

(C) A current or former employee of a beryllium vendor, or a contractor or subcontractor of a beryllium vendor, during a period when the vendor was engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy.

(9) COVERED BERYLLIUM ILLNESS.—The term “covered beryllium illness” means any condition as follows:

(A) Beryllium sensitivity as established by,—

(i) an abnormal beryllium lymphocyte proliferation test performed on either blood or lung lavage cells; or

(ii) other means specified under section 3504(b).

(B) Chronic beryllium disease as established by the following:

(i) For diagnoses on or after January 1, 1993,—

(I) beryllium sensitivity, as established in accordance with subparagraph (A), and

(II) lung pathology consistent with chronic beryllium disease, including—

(aa) a lung biopsy showing granulomas or a lymphocytic process consistent with chronic beryllium disease;

(bb) a computerized axial tomography scan showing changes consistent with chronic beryllium disease; or

(cc) pulmonary function or exercise testing showing pulmonary deficits consistent with chronic beryllium disease.

(ii) For diagnoses before January 1, 1993, the presence of four of the criteria set forth in subclauses (I) through (VI), including the criteria set forth in subclause (I) and any three of the criteria set forth in subclauses (II) through (VI):

(I) Occupational or environmental history, or epidemiologic evidence of beryllium exposure.

(II) Characteristic chest radiographic (or computed tomography (CT) abnormalities).

(III) Restrictive or obstructive lung physiology testing or diffusing lung capacity defect.

(IV) Lung pathology consistent with chronic beryllium disease.

(V) Clinical course consistent with a chronic respiratory disorder.

(VI) Immunologic tests showing beryllium sensitivity (skin patch test or beryllium blood test preferred).

(iii) Other means specified under section 3504(b).

(C) Any injury, illness, impairment, or disability sustained as a consequence of a covered beryllium illness referred to in subparagraph (A) or (B).

(10) COVERED EMPLOYEE.—The term “covered employee” means a covered beryllium employee, a covered employee with cancer, or a covered employee with chronic silicosis.

(11) COVERED EMPLOYEE WITH CANCER.—The term “covered employee with cancer” means the following:

(A) An individual who meets the criteria in section 3511(c)(1).

(B) A member of the Special Exposure Cohort.

(12) COVERED EMPLOYEE WITH CHRONIC SILICOSIS.—The term “covered employee with chronic silicosis” means a—

(A) Department of Energy employee; or  
(B) Department of Energy contractor employee;

with chronic silicosis who was exposed to silica in the performance of duty as determined in section 3511(b).

(13) DEPARTMENT OF ENERGY.—The term “Department of Energy” includes the predecessor agencies of the Department of Energy, including the Manhattan Engineering District.

(14) DEPARTMENT OF ENERGY CONTRACTOR EMPLOYEE.—The term “Department of Energy contractor employee” means the following:

(A) An individual who is or was in residence at a Department of Energy facility as a researcher for a period of at least 24 cumulative months.

(B) An individual who is or was employed, at a Department of Energy facility by—

(i) an entity that contracted with the Department of Energy to provide management and operating, management and integration, or environmental remediation at the facility; or

(ii) a contractor or subcontractor that provided services, including construction and maintenance, at the facility.

(15) DEPARTMENT OF ENERGY FACILITY.—The term “Department of Energy facility” means any building, structure, or premise, including the grounds upon which such building, structure, or premise is located—

(A) in which operations are, or have been, conducted by, or on behalf of, the Department of Energy (except for buildings, structures, premises, grounds, or operations covered by Executive Order 12344, pertaining to the Naval Nuclear Propulsion Program); and

(B) with regard to which the Department of Energy has or had—

(i) a proprietary interest; or  
(ii) entered into a contract with an entity to provide management and operation, management and integration, environmental remediation services, construction, or maintenance services.

(16) FUND.—The term “Fund” means the Energy Employee’s Occupational Illness Compensation Fund under section 3542 of this title.

(17) MONTHLY PAY.—The term “monthly pay” means the monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time the compensable disability recurs, if the recurrence begins more than 6 months after the employee resumes regular full-time employment, whichever is greater, except when otherwise determined under section 8113 of title 5, United States Code.

(18) RADIATION.—The term “radiation” means ionizing radiation in the form of—

(A) alpha particles;  
(B) beta particles;  
(C) neutrons;  
(D) gamma rays; or  
(E) accelerated ions or subatomic particles from accelerator machines.

(19) SECRETARY OF HEALTH AND HUMAN SERVICES.—The term “Secretary of Health and Human Services” means the Secretary of Health and Human Services with the assistance of the Director of the National Institute for Occupational Safety and Health.

(20) SPECIAL EXPOSURE COHORT.—The term “Special Exposure Cohort” means the following groups of Department of Energy employees, Department of Energy contractor employees, and atomic weapons employees:

(A) Individual who—  
(i) were employed during the period prior to February 1, 1992—  
(I) at the gaseous diffusion plants located in—

(aa) Paducah, Kentucky;  
(bb) Portsmouth, Ohio; or  
(cc) Oak Ridge, Tennessee; and  
(II) by—

(aa) the Department of Energy;  
(bb) a Department of Energy contractor or subcontractor; or

(cc) an atomic weapons employer; and  
(ii) during employment covered by clause (i)—

(I) were monitored through the use of dosimetry badges for exposure at the plant of the external parts of the employee’s body to radiation; or  
(II) worked in a job that had exposures comparable to a job that is or was monitored through the use of dosimetry badges.

(B) Individuals who were employed by the Department of Energy or a Department of Energy contractor or subcontractor on Amchitka Island, Alaska, prior to January 1, 1974, and who were exposed to ionizing radiation in the performance of duty related to the Long Shot, Milrow, or Cannikin underground nuclear tests.

(C) Individuals designated as part of the Special Exposure Cohort by the Secretary of Health and Human Services, in accordance with section 3513.

(21) SPECIFIED CANCER.—The term “specified cancer” means the following:

(A) Leukemia (other than chronic lymphocytic leukemia).

(B) Multiple myeloma.

(C) Non-Hodgkins Lymphoma.

(D) Cancer of the—  
(i) bladder;

(ii) bone;

(iii) brain;

(iv) breast (male or female);  
(v) cervix;

(vi) digestive system (including esophagus, stomach, small intestine, bile ducts, colon, rectum, or other digestive organs);

(vii) gallbladder;  
(viii) kidney;  
(ix) larynx, pharynx, or other respiratory organs;

(x) liver;

(xi) lung;

(xii) male genitalia;

(xiii) nasal organs;

(xiv) nervous system;

(xv) ovary;

(xvi) pancreas;

(xvii) prostate;

(xviii) salivary gland (parotid or non-parotid);

(xix) thyroid;

(xx) ureter;

(xxi) urinary tract or other urinary organs;

or  
(xxii) uterus.

(22) SURVIVOR.—The term “survivor” means any individual or individuals eligible to receive compensation pursuant to section 8133 of title 5, United States Code.

(23) TIME OF INJURY.—The term “time of injury” means—

(A) in regard to a claim arising out of exposure to beryllium, the last date on which a covered employee was exposed to beryllium in the performance of duty in accordance with section 3511(a);

(B) in regard to a claim arising out of chronic silicosis, the last date on which a covered employee was exposed to silica in the performance of duty in accordance with section 3511(b); and

(C) in regard to a claim arising out of exposure to radiation, the last date on which a covered employee was exposed to radiation in the performance of duty in accordance with section 3511(c)(1) or, in the case of a member of the Special Exposure Cohort, the last date on which the member of the Special Exposure Cohort was employed at the Department of Energy facility at which the member was exposed to radiation.

(b) TERMS USED IN ADMINISTRATION.—

(1) IN GENERAL.—The following terms have the meaning given those terms in section 8101 of title 5, United States Code:

(A) “physician”;

(B) “medical, surgical, and hospital services and supplies”;

(C) “injury”;

(D) “widow”;

(E) “parent”;

(F) “brother”;

(G) “sister”;

(H) “child”;

(I) “grandchild”;

(J) “widower”;

(K) “student”;

(L) “price index”;

(M) “organ”; and

(N) “United States medical officers and hospitals”.

(2) EMPLOYEE.—In applying any provision of chapter 81 of title 5, United States Code (except section 8101), under this title, the term “employee” in such provision shall mean a covered employee.

(3) EMPLOYEES’ COMPENSATION FUND.—In applying any provision of chapter 81 of title 5, United States Code, under this title, the term “Employees’ Compensation Fund” in such provision shall mean the Fund.

**SEC. 3504. EXPANSION OF LIST OF BERYLLIUM VENDORS AND MEANS OF ESTABLISHING COVERED BERYLLIUM ILLNESSES.**

(a) BERYLLIUM VENDORS.—The Secretary of Energy may from time to time, and in consultation with the Secretary of Labor, designate as a beryllium vendor for purposes of section 3503(a)(5) any vendor, processor, or producer of beryllium or related products not previously listed under or designated for purposes of that section if the Secretary of Energy finds that such vendor, processor, or

producer has been engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy in a manner similar to the entities listed in that section.

(b) MEANS OF ESTABLISHING COVERED BERYLLIUM ILLNESSES.—The Secretary of Health and Human Services may from time to time, and in consultation with the Secretary of Energy, specify means of establishing the existence of a covered beryllium illness referred to in subparagraph (A) or (B) of section 3503(a)(9) not previously listed under or specified for purposes of such subparagraph.

**Subtitle A—Beryllium, Silicosis, and Radiation Compensation**

**SEC. 3511. EXPOSURE TO HAZARDS IN THE PERFORMANCE OF DUTY.**

(a) BERYLLIUM.—In the absence of substantial evidence to the contrary, a covered beryllium employee shall be determined to have been exposed to beryllium in the performance of duty for the purposes of this title if, and only if, the covered beryllium employee was—

(1) employed at a Department of Energy facility; or

(2) present at a Department of Energy facility, or a facility owned and operated by a beryllium vendor, because of employment by the United States, a beryllium vendor, or a contractor or subcontractor of the Department of Energy;

during a period when beryllium dust, particles, or vapor may have been present at such facility.

(b) CHRONIC SILICOSIS.—In the absence of substantial evidence to the contrary, a covered employee with chronic silicosis shall be determined to have been exposed to silica in the performance of duty for the purposes of this title if, and only if, the covered employee with chronic silicosis was present during the mining of tunnels at a Department of Energy facility for tests or experiments related to an atomic weapon.

**(c) CANCER.—**

(1) IN GENERAL.—A Department of Energy employee, Department of Energy contractor employee, or an atomic weapons employee shall be determined to have sustained a cancer in the performance of duty if, and only if, such employee—

(A) contracted cancer after beginning employment at a Department of Energy facility for a Department of Energy contractor or an atomic weapons employer facility for an atomic weapons employer; and

(B) falls within guidelines that—

(i) are established by the Secretary of Health and Human Services by regulation, after consultation with the Secretary of Energy and after technical review by the Advisory Board under section 3512, for determining whether the cancer the employee contracted was at least as likely as not related to employment at the facility;

(ii) are based on the radiation dose received by the employee (or a group of employees performing similar work) at the facility and the upper 99 percent confidence interval of the probability of causation in the radioepidemiological tables published under section 7(b) of the Orphan Drug Act (42 U.S.C. 241 note), as such tables may be updated under section 7(b)(3) of such Act from time to time;

(iii) incorporate the methods established under subsection (d); and

(iv) take into consideration the type of cancer; past health-related activities, such as smoking; information on the risk of developing a radiation-related cancer from workplace exposure; and other relevant factors.

(2) SPECIAL EXPOSURE COHORT.—A member of the Special Exposure Cohort shall be de-

termined to have sustained a cancer in the performance of duty if, and only if, such individual contracted a specified cancer after beginning employment at a Department of Energy facility for a Department of Energy contractor or an atomic weapons employer facility for an atomic weapons employer.

**(d) RADIATION DOSE.—**

(1) IN GENERAL.—The Secretary of Health and Human Services, after consultation with the Secretary of Energy, shall—

(A) establish by regulation methods for arriving at reasonable estimates of the radiation doses Department of Energy employees or Department of Energy contractor employees received at a Department of Energy facility and atomic weapons employees received at a facility operated by an atomic weapons employer if such employees were not monitored for exposure to radiation at the facility, or were monitored inadequately, or if the employees' exposure records are missing or incomplete; and

(B) provide to an employee who meets the requirements of subsection (c)(1)(B) an estimate of the radiation dose the employee received based on dosimetry reading, a method established under subparagraph (A), or a combination of both.

(2) SCIENTIFIC REVIEW.—The Secretary of Health and Human Services shall establish an independent review process utilizing the Advisory Board under section 3512 to assess the methods established under paragraph (1)(A) and the application of those methods and to verify a reasonable sample of individual dose reconstructions provided under paragraph (1)(B).

(3) ACCESS TO DOSE RECONSTRUCTIONS.—The Secretary of Health and Human Services and the Secretary of Energy each shall, consistent with the protection of private medical records, make available to researchers and the general public information on the assumptions, methodology, and data used in dose reconstructions undertaken under this subtitle.

**SEC. 3512. ADVISORY BOARD ON RADIATION AND WORKER HEALTH.**

**(a) ESTABLISHMENT.—**

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this title, the Secretary of Health and Human Services, in consultation with the Secretary of Energy, shall establish and appoint an Advisory Board on Radiation and Worker Health.

(2) BALANCE OF VIEWS.—In making appointments to the Board, the Secretary of Health and Human Services shall also consult with labor unions and other organizations with expertise on worker health issues to ensure that the membership of the Board reflects a balance of scientific, medical, and worker perspectives.

(3) CHAIR.—The Secretary of Health and Human Services shall designate a Chair for the Board from among its members.

(b) DUTIES.—The Board shall advise the Secretary of Health and Human Services, Secretary of Energy, and Secretary of Labor on—

(1) the development of guidelines to be used by the Secretary of Health and Human Services under section 3511;

(2) the scientific validity and quality of dose estimation and reconstruction efforts being performed to implement compensation programs under this subtitle; and

(3) other matters related to radiation and worker health in Department of Energy facilities as the Secretary of Labor, the Secretary of Energy, or the Secretary of Health and Human Services may request.

**(c) STAFF.—**

(1) IN GENERAL.—The Secretary of Health and Human Services shall appoint a staff to facilitate the work of the Board, headed by a Director appointed under subchapter VIII of chapter 33 of title 5, United States Code.

(2) DETAILS.—The Secretary of Health and Human Services may accept for staff of the Board personnel on detail from other federal agencies to serve on the staff on a non-reimbursable basis.

(d) EXPENSES.—Members of the Board, other than full-time employees of the federal government, while attending meetings of the Board or while otherwise serving at the request of the Secretary of Health and Human Services while serving away from their homes or regular places of business, may be allowed travel and meal expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

(e) APPLICABILITY OF FACIA.—The Advisory Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

**SEC. 3513. DESIGNATION OF ADDITIONAL MEMBERS OF THE SPECIAL EXPOSURE COHORT.**

**(a) ADVICE ON MEMBERSHIP IN COHORT.—**

(1) IN GENERAL.—Upon request of the Secretary of Health and Human Services, the Advisory Board of Radiation and Worker Health under section 3512, based on exposure assessments by radiation health professionals, information provided by the Department of Energy, and other information deemed appropriate by the Board, shall advise the Secretary of Health and Human Services whether there is a class of employees at a Department of Energy facility who likely were exposed to radiation at the facility but for whom it is not feasible to estimate with sufficient accuracy the radiation dose they received.

(2) PROCEDURES.—The Secretary of Health and Human Services shall establish procedures for considering petitions by classes of employees to request the advice of the Board.

(b) TREATMENT AS MEMBERS OF COHORT.—A class of employees at a Department of Energy facility shall be considered as members of the Special Exposure Cohort for purposes of section 3503(a)(20) if the Secretary of Health and Human Services, upon recommendation of the Advisory Board on Radiation and Worker Health and in consultation with the Secretary of Energy, determines that—

(1) it is not feasible to estimate with sufficient accuracy the radiation dose which the class received; and

(2) there is a reasonable likelihood that the radiation dose may have endangered the health of members of the class.

(c) ACCESS TO INFORMATION.—The Secretary of Energy shall, in accordance with law, provide the Secretary of Health and Human Services and the members and staff of the Advisory Board under section 3512 access to relevant information on worker exposures, including access to Restricted Data (as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y))).

**SEC. 3514. AUTHORITY TO PROVIDE COMPENSATION AND OTHER ASSISTANCE.**

(a) COMPENSATION.—Subject to the provisions of this title, the Secretary of Labor—

(1) shall pay compensation in accordance with sections 8105 through 8110, 8111(a), 8112, 8113, 8115, 8117, 8133, 8134, 8146a(a), and 8146a(b) of title 5, United States Code, for the disability or death—

(A) from a covered beryllium illness of a covered beryllium employee who was exposed to beryllium while in the performance of duty as determined in accordance with section 3511(a) of this title;

(B) from chronic silicosis of a covered employee with chronic silicosis who was exposed to silica in the performance of duty as determined in accordance with section 3511(b) of this title; or

(C) from cancer of a covered employee with cancer determined to have sustained that cancer in the performance of duty in accordance with section 3511(c) of this title or from any injury suffered as a consequence of that cancer;

(2) shall furnish the services and other benefits specified in section 8103 of title 5, United States Code, to—

(A) a covered beryllium employee with a covered beryllium illness who was exposed to beryllium in the performance of duty as determined in accordance with section 3511(a) of this title;

(B) a covered employee with chronic silicosis who was exposed to silica in the performance of duty as determined in accordance with section 3511(b) of this title; or

(C) a covered employee with cancer determined to have sustained that cancer in the performance of duty in accordance with section 3511(c) of this title or to have suffered any injury as a consequence of that cancer; and

(3) may direct a permanently disabled individual whose disability is compensable under this subtitle to undergo vocational rehabilitation and shall provide for furnishing such vocational rehabilitation services pursuant to the provisions of sections 8104, 8111(b), and 8113(b) of title 5, United States Code.

**(b) LIMITATIONS ON COMPENSATION.—**

(1) **EMPLOYEE MISCONDUCT.**—No compensation or benefits may be paid or provided under this title for a cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death if the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death occurred under one of the circumstances set forth in paragraph (1), (2), or (3) of section 8102(a) of title 5, United States Code.

(2) **RETROACTIVE BENEFITS.**—No compensation may be paid under this section for any period before the date of enactment of this title, except in the case of compensation under section 3515.

(3) **SOURCE.**—All compensation under this subtitle shall be paid from the Fund.

**(c) COMPUTATION OF PAY.—**

(1) **IN GENERAL.**—Except as otherwise provided by this title or by regulation, computation of pay under this title shall be determined in accordance with section 8114 of title 5, United States Code.

(2) **SUBSTITUTE RULE FOR SECTION 8114(d)(3).**—If either of the methods of determining the average annual earnings specified in section 8114(d)(1) and (2) of title 5, United States Code, cannot be applied reasonably and fairly, the average annual earnings are a sum that reasonably represents the annual earning capacity of the covered employee in the employment in which the employee was working at the time of injury having regard to the previous earnings of the employee in similar employment, and of other employees of the same employer in the same or most similar class working in the same or most similar employment in the same or neighboring location, other previous employment of the employee, or other relevant factors. However, the average annual earnings may not be less than 150 times the average daily wage the covered employee earned in the employment during the days employed within 1 year immediately preceding the time of injury.

(d) **ASSISTANCE FOR CLAIMANTS.**—The Secretary of Labor shall, upon the receipt of a request for assistance from a claimant for compensation under this section, provide assistance to the claimant in connection with the claim, including—

(1) assistance in securing medical testing and diagnostic services necessary to establish the existence of a covered beryllium illness or cancer; and

(2) such other assistance as may be required to develop facts pertinent to the claim.

(e) **ASSISTANCE FOR POTENTIAL CLAIMANTS.**—The Secretary of Energy, in consultation with the Secretary of Labor, shall take appropriate actions to inform and assist covered employees who are potential claimants under this subtitle, and other potential claimants under this subtitle, of the availability of compensation under this subtitle, including actions to—

(1) ensure the ready availability, in paper and electronic format, of forms necessary for making claims;

(2) provide such covered employees and other potential claimants with information and other support necessary for making claims, including—

(A) medical protocols for medical testing and diagnosis to establish the existence of a covered beryllium illness, silicosis, or cancer; and

(B) lists of vendors approved for providing laboratory services related to such medical testing and diagnosis;

(3) provide such additional assistance to such covered employees and other potential claimants as may be required for the development of facts pertinent to a claim.

(f) **INFORMATION FROM BERYLLIUM VENDORS AND OTHER CONTRACTORS.**—As part of the assistance program provided under subsections (d) and (e), and as permitted by law, the Secretary of Energy shall, upon the request of the Secretary of Labor, require a beryllium vendor or other Department of Energy contractor or subcontractor to provide information relevant to a claim or potential claim under this title to the Secretary of Labor.

**SEC. 3515. ALTERNATIVE COMPENSATION.**

(a) **IN GENERAL.**—Subject to the provisions of this section, a covered employee eligible for benefits under section 3514(a), or the survivor of such covered employee if the employee is deceased, may elect to receive compensation in the amount of \$200,000 in lieu of any other compensation under section 3514(a)(1).

**(b) DEATH BEFORE ELECTION.—**

(1) **IN GENERAL.**—Subject to the provisions of this section, if a covered employee otherwise eligible to make an election provided by this section dies before the date of enactment of this title, or before making the election, whether or not the death is a result of a cancer (including a specified cancer), chronic silicosis, or covered beryllium illness, a survivor of the covered employee on behalf of the survivor and any other survivors of the covered employee may make the election and receive the compensation provided for under this section.

(2) **PRECEDENCE OF SURVIVORS.**—The right to make an election and to receive compensation under this section shall be afforded to survivors in the order of precedence set forth in section 8109 of title 5, United States Code.

(c) **TIME LIMIT FOR ELECTION.**—An election under this section may be made at any time after the submittal under this subtitle of the claim on which such compensation is based, but not later than 30 days after the latter of the date of—

(1) a determination by the Secretary of Labor that an employee is eligible for an award under this section; or

(2) a determination by the Secretary of Labor under section 3214 awarding an employee or an employee's survivors compensation for total or partial disability or compensation in case of death.

**(d) IRREVOCABILITY OF ELECTION.—**

(1) **IN GENERAL.**—An election under this section when made is irrevocable.

(2) **BINDING EFFECT.**—An election made by a covered employee or survivor under this sec-

tion is binding on all survivors of the covered employee.

**SEC. 3516. SUBMITTAL OF CLAIMS.**

(a) **CLAIMS REQUIRED.**—A claim for compensation under this subtitle shall be submitted to the Secretary of Labor in the manner specified in section 8121 of title 5, United States Code.

(b) **GENERAL TIME LIMITATIONS.**—A claim for compensation under this subtitle shall be filed under this section not later than the later of—

(1) seven years after the date of enactment of this title;

(2) seven years after the date the claimant first becomes aware that a cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death from any of the foregoing of a covered employee may be connected to the exposure of the covered employee to beryllium, radiation, or silica in the performance of duty.

(c) **NEW PERIOD FOR ADDITIONAL ILLNESSES AND CONDITIONS.**—A new period of limitation under subsection (b)(2) shall commence with each new diagnosis of a cancer (including a specified cancer), chronic silicosis, or covered beryllium illness that is different from a previously diagnosed cancer (including a specified cancer), chronic silicosis, or covered beryllium illness.

(d) **DEATH CLAIM.**—The timely filing of a disability claim for a cancer (including a specified cancer), chronic silicosis, or covered beryllium illness shall satisfy the time requirements of this section for death benefits for the same cancer (including a specified cancer), chronic silicosis, or covered beryllium illness.

**SEC. 3517. ADJUDICATION AND ADMINISTRATION.**

**(a) IN GENERAL.—**

(1) **REQUIREMENT.**—The Secretary of Labor shall determine and make a finding of fact and make an award for or against payment of compensation under this subtitle after—

(2) (A) considering the claim presented by the claimant, the results of any medical test or diagnosis undertaken to establish the existence of a cancer (including a specified cancer), chronic silicosis, or covered beryllium illness, and any report furnished by the Secretary of Energy with respect to the claim; and

(B) completing such investigation as the Secretary of Labor considers necessary.

(2) **SCOPE OF ALLOWANCE AND DENIAL.**—The Secretary may allow or deny a claim, in whole or in part.

**(b) AVAILABLE AUTHORITIES.—**

(1) **IN GENERAL.**—Except as provided in paragraph (2), in carrying out activities under subsection (c), the Secretary of Labor may utilize the authorities available to the Secretary under sections 8123, 8124(b), 8125, 8126, 8128(a), and 8129 of title 5, United States Code.

(2) **DISAGREEMENT.**—If there is a disagreement under section 8123(a) of title 5, United States Code, between the physician making the examination for the United States and the physician of the employee, the Secretary of Labor shall appoint a third physician from a roster of physicians with relevant expertise maintained by the Secretary of Health and Human Services.

**(c) RIGHTS OF CLAIMANT.—**

(1) **IN GENERAL.**—Except as provided by paragraph (2), the provisions of section 8127 of title 5, United States Code, shall apply.

(2) **SUITS TO COMPEL INFORMATION.**—A claimant may commence an action in the appropriate district court of the United States against a beryllium vendor, or other contractor or subcontractor of the Department of Energy, to compel the production of information or documents requested by the Secretary of Labor under this subtitle if such information or documents are not provided

within 180 days of the date of the request. Upon successful resolution of any action brought under this paragraph, the court shall award the claimant reasonable attorney fees and costs to be paid by the defendant in such action.

(d) DEADLINES.—Beginning on the date that is two years after the date of enactment of this title, the Secretary of Labor shall allow or deny a claim under this section not later than the later of—

(1) 180 days after the date of submittal of the claim to the Secretary under section 3516; or

(2) 120 days after the date of receipt of information or documents produced under subsection (c)(2).

(e) RESOLUTION OF REASONABLE DOUBT.—Except as provided in subsection (b)(2), in determining whether a claimant meets the requirements of this subtitle, the Secretary of Labor shall find in favor of the claimant in circumstances where the evidence supporting the claim of the claimant and the evidence controverting the claim of the claimant is in equipoise.

(f) SERVICE OF DECISION.—The Secretary of Labor shall have served upon a claimant the Secretary's decision denying the claim under this section, including the finding of fact under subsection (a)(1).

(g) HEARINGS AND FURTHER REVIEW.—

(1) REGULATIONS.—The Secretary of Labor may prescribe regulations necessary for the administration and enforcement of this title including regulations for the conduct of hearings under this section.

(2) APPEALS PANELS.—

(A) IN GENERAL.—Regulations issued by the Secretary of Labor under this title shall provide for one or more Energy Employees' Compensation Appeals Panels of three individuals with authority to hear and, subject to applicable law and the regulations of the Secretary, make final decisions on appeals taken from determinations and awards with respect to claims of employees filed under this subtitle.

(B) INTERAGENCY AGREEMENT.—Under an agreement between the Secretary of Labor and another federal agency (except the Department of Energy), a panel appointed by the other federal agency may provide these appellate decision-making services.

(3) APPEAL.—An individual seeking review of a denial of an award under this section shall submit an appeal in accordance with the regulations under this subsection.

(h) RECONSIDERATION BASED ON NEW CRITERIA OR EVIDENCE.—

(1) NEW CRITERIA OR METHODS FOR ESTABLISHING WORK-RELATED ILLNESS.—A claimant may obtain reconsideration of a decision awarding or denying coverage under this subtitle within one year after the effective date of regulations setting forth—

(A) new criteria for establishing a covered beryllium illness pursuant to section 3504(b), or

(B) additional or revised methods for determining whether a cancer was as likely as not related to employment pursuant to section 3211(c)(1)(B)(i)—

by submitting evidence that is relevant and pertinent to the new regulations.

(2) NEW EVIDENCE.—A covered employee or covered employee's survivor may obtain reconsideration of a decision denying an application for compensation or benefits under this title if the employee or employee's survivor has additional medical or other information relevant to the claim that was not reasonably available at the time of the decision and that likely would lead to the reversal of the decision.

#### Subtitle B—Exposure to Other Toxic Substances

##### SEC. 3521. DEFINITIONS.

In this subtitle—

(1) DIRECTOR.—The term "Director" means the Director of the Office of Workers' Compensation Advocate under section 217 of the Department of Energy Organization Act, as added by section 3538 of this Act.

(2) PANEL.—The term "panel" means a physicians panel established under section 3522(d).

(3) SECRETARY.—The term "Secretary" means the Secretary of Energy.

##### SEC. 3522. AGREEMENTS WITH STATES.

(a) AGREEMENTS.—The Secretary, through the Director, may enter into agreements with the Governor of a State to provide assistance to a Department of Energy contractor employee in filing a claim under the appropriate State workers' compensation system.

(b) PROCEDURE.—Pursuant to agreements under subsection (a), the Director may—

(1) establish procedures under which an individual may submit an application for review and assistance under this section, and

(2) review an application submitted under this section and determine whether the applicant submitted reasonable evidence that—

(A) the application was filed by or on behalf of a Department of Energy contractor employee or employee's estate, and

(B) the illness or death of the Department of Energy contractor employee may have been related to employment at a Department of Energy facility.

(c) SUBMITTAL OF APPLICATIONS TO PANELS.—If provided in an agreement under subsection (a), and if the Director determines that the applicant submitted reasonable evidence under subsection (b)(2), the Director shall submit the application to a physicians panel established under subsection (d). The Director shall assist the employee in obtaining additional evidence within the control of the Department of Energy and relevant to the panel's deliberations.

(d) PANEL.—

(1) NUMBER OF PANELS.—The Director shall inform the Secretary of Health and Human Services of the number of physicians panels the Director has determined to be appropriate to administer this section, the number of physicians needed for each panel, and the area of jurisdiction of each panel. The Director may determine to have only one panel.

(2) APPOINTMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall appoint panel members with experience and competency in diagnosing occupational illnesses under section 3109 of title 5, United States Code.

(B) COMPENSATION.—Each member of a panel shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) the member is engaged in the work of a panel.

(3) DUTIES.—A panel shall review an application submitted to it by the Director and determine, under guidelines established by the Director, by rule, whether the illness or death that is the subject of the application arose out of and in the course of employment by the Department of Energy and exposure to a toxic substance at a Department of Energy facility.

(4) ADDITIONAL INFORMATION.—At the request of a panel, the Director and a contractor who employed a Department of Energy contractor employee shall provide additional information relevant to the panel's deliberations. A panel may consult specialists in relevant fields it determines necessary.

(5) DETERMINATIONS.—Once a panel has made a determination under paragraph (3), it shall report to the Director its determination and the basis for the determination.

(6) INAPPLICABILITY OF FACA.—A panel established under this section shall not be sub-

ject to the Federal Advisory Committee Act (5 U.S.C. App.).

(e) ASSISTANCE.—If provided in an agreement under subsection (a)—

(1) the Director shall review a panel's determination made under subsection (d), information the panel considered in reaching its determination, any relevant new information not reasonably available at the time of the panel's deliberations, and the basis for the panel's determination;

(2) as a result of the review under paragraph (1), the Director shall accept the panel's determination in the absence of compelling evidence to the contrary;

(3) if the panel has made a positive determination under subsection (d) and the Director accepts the determination under paragraph (2), or the panel has made a negative determination under subsection (d) and the Director finds compelling evidence to the contrary—

(A) the Director shall—

(i) assist the applicant to file a claim under the appropriate State workers' compensation system based on the health condition that was the subject of the determination,

(ii) recommend to the Secretary of Energy that the Department of Energy not contest a claim filed under a State workers' compensation system based on the health condition that was the subject of the determination and not contest an award made under a State workers' compensation system regarding that claim, and

(iii) recommend to the Secretary of Energy that the Secretary direct, as permitted by law, the contractor who employed the Department of Energy contractor employee who is the subject of the claim not to contest the claim or an award regarding the claim; and

(B) any costs of contesting a claim or an award regarding the claim incurred by the contractor who employed the Department of Energy contractor employee who is the subject of the claim shall not be an allowable cost under a Department of Energy contract.

(f) INFORMATION.—At the request of the Director, a contractor who employed a Department of Energy contractor employee shall make available to the Director or the employee, information relevant to deliberations under this section.

(g) GAO REPORT.—Not later than February 1, 2002, the Comptroller General shall submit a report to the Congress evaluating the implementing by the Department of Energy of the provisions of this subtitle and of the effectiveness of the program under this subtitle in providing compensation to Department of Energy contractor employees for occupational illness.

#### Subtitle C—General Provisions

##### SEC. 3531. TREATMENT OF COMPENSATION AND BENEFITS.

(a) IN GENERAL.—Any compensation or benefits allowed, paid, or provided under this title—

(1) shall not be considered income for purposes of the Internal Revenue Code, and shall not be subject to Federal income tax under the internal revenue laws of the United States;

(2) shall not be included a income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of those benefits; and

(3) shall not be subject to offset under chapter 37 of title 31, United States Code.

(b) INSURANCE.—(1) Compensation or benefits paid or provided under this title shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on an individual receiving the compensation or benefits to repay

any insurance carrier for insurance payments made.

(2) The payment or provision of compensation or benefits under this title shall not be treated as affecting any claim against an insurance carrier with respect to insurance.

(c) PROHIBITION ON ASSIGNMENT OR ATTACHMENT OF CLAIMS.—The provisions of section 8130 of title 5, United States Code, shall apply to claims under this title.

(d) RETENTION OF CIVIL SERVICE RIGHTS.—If a Federal employee found to be disabled under this title resumes employment with the Federal government, the employee shall be entitled to the rights set forth in section 8151 of title 5, United States Code.

**SEC. 3532. FORFEITURE OF BENEFITS BY CONVICTED FELONS.**

(a) FORFEIT COMPENSATION.—Any individual convicted of a violation of section 1920 of title 18, or any other Federal or State criminal statute relating to fraud in the application for or receipt of any benefit under this title or under any other Federal or State workers' compensation law, shall forfeit (as of the date of such conviction) any entitlement to any benefit under this title such individual would otherwise be awarded for any injury, illness or death covered by this title for which the time of injury was on or before the date of the conviction. This forfeiture shall be in addition to any action the Secretary of Labor takes under sections 8106 or 8129 of title 5, United States Code.

(b) DEPENDENTS.—(1) Notwithstanding any other provision of law, except as provided under paragraph (2), compensation under this title shall not be paid or provided to an individual during any period during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to that individual's conviction of an offense that constituted a felony under applicable law. After this period of incarceration ends, the individual shall not receive compensation forfeited during the period of incarceration.

(2) If an individual has one or more dependents as defined under section 8110(a) of title 5, United States Code, the Secretary of Labor may, during the period of incarceration, pay to such dependents a percentage of the compensation under section 3114 that would have been payable to the individual computed according to the percentages set forth in section 8133(a)(1) through (5) of title 5, United States Code.

(c) INFORMATION.—Notwithstanding section 552a of title 5, United States Code, or any other Federal or State law, an agency of the United States, a State, or a political subdivision of a State shall make available to the Secretary of Labor, upon written request from the Secretary of Labor and if the Secretary of Labor requires the information to carry out this section, the names and Social Security account numbers of individuals confined, for conviction of a felony, in a jail, prison, or other penal institution or correctional facility under the jurisdiction of that agency.

**SEC. 3533. LIMITATION ON RIGHT TO RECEIVE BENEFITS.**

(a) CLAIMANT.—A claimant who receives compensation for any claim under this title, except for compensation provided under the authority of section 8103(b) of title 5, United States Code, shall not receive compensation for any other claim under this title.

(b) SURVIVOR.—If a survivor receives compensation for any claim under this title derived from a covered employee, except for compensation provided under the authority of section 8103(b) of title 5, United States Code, such survivor shall not receive compensation for any other claim under this title derived from the same covered em-

ployee. A survivor of a claimant who receives compensation for any claim under this title, except for compensation provided under the authority of section 8103(b) of title 5, United States Code, shall not receive compensation for any other claim under this title derived from the same covered employee.

(c) WIDOW OR WIDOWER.—A widow or widower who is eligible for benefits under this title derived from more than one husband or wife shall elect one benefit to receive.

**SEC. 3534. COORDINATION OF BENEFITS—STATE WORKERS' COMPENSATION.**

(a) IN GENERAL.—An individual who is eligible to receive compensation under this title because of a cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death and who is also entitled to receive benefits because of the same cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death from a State workers' compensation system shall elect which such benefits to receive, unless—

(1) at the time of injury, workers' compensation coverage for the employee was secured by a policy or contract of insurance; and

(2) the Secretary of Labor waives the requirement to make such an election.

(b) ELECTION.—The individual shall make the election within the time allowed by the Secretary of Labor. The election when made is irrevocable and binding on all survivors of that individual.

(c) COORDINATION.—Except as provided in paragraph (d), an individual who has been awarded compensation under this title and who also has received benefits from a State workers' compensation system because of the same cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death, shall receive compensation as specified under this title reduced by the amount of any workers' compensation benefits that the individual has received under the State workers' compensation system as a result of the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death attributable to the period subsequent to the effective date of this title, after deducting the reasonable costs, as determined by the Secretary of Labor, of obtaining benefits under the State workers' compensation system.

(d) WAIVER.—An individual described in paragraph (a) who has also received, under paragraph (a)(2), a waiver of the requirement to elect between compensation under this title and benefits under a State workers' compensation system shall receive compensation as specified in this title for the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death, reduced by eighty percent of the net amount of any workers' compensation benefits that the claimant has received under a State workers' compensation system attributable to the period subsequent to the effective date of this title, after deducting the reasonable costs, as determined by the Secretary of Labor, of obtaining benefits under the State workers' compensation system.

**SEC. 3535. COORDINATION OF BENEFITS—FEDERAL WORKERS' COMPENSATION.**

(a) IN GENERAL.—An individual who is eligible to receive compensation under this title because of a cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death and who is also entitled to receive benefits because of the same cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death from another Federal workers' compensation system shall elect which such benefits to receive.

(b) ELECTION.—The individual shall make the election within the time allowed by the Secretary of Labor. The election when made is irrevocable and binding on all survivors of that individual.

(c) COORDINATION.—An individual who has been awarded compensation under this title and who also has received benefits from another Federal workers' compensation system because of the same cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death, shall receive compensation as specified under this title reduced by the amount of any workers' compensation benefits that the individual has received under the other Federal workers compensation system as a result of the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death.

**SEC. 3536. RECEIPT OF BENEFITS—OTHER STATUTES.**

An individual may not receive compensation under this title for cancer and also receive compensation under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) or the Radiation-Exposed Veterans Compensation Act (38 U.S.C. 112(c)).

**SEC. 3537. DUAL COMPENSATION—FEDERAL EMPLOYEES.**

(A) LIMITATION.—While a federal employee is receiving compensation under this title, or such employee has been paid a lump sum in commutation of installment payments until the expiration of the period during which the installment payments would have continued, such employee may not receive salary, pay, or remuneration of any type from the United States, except—

(1) in return for service actually performed;

(2) pension for service in the Army, Navy or Air Force;

(3) other benefits administered by the Department of Veterans Affairs unless such benefits are payable for the same covered illness or the same death; and

(4) retired pay, retirement pay, retainer pay, or equivalent pay for service in the Armed Forces or other uniformed service.

However, eligibility for or receipt of benefits under subchapter III of chapter 83 of title 5, United States Code, or another retirement system for employees of the Government, does not impair the right of the employee to compensation for scheduled disabilities specified by section 8107 of title 5, United States Code.

**SEC. 3538. DUAL COMPENSATION—OTHER EMPLOYEES.**

An individual entitled to receive compensation under this title because of a cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death covered by this title of a covered employee, who also is entitled to receive from the United States under a provision of a statute other than this title payments or benefits for that injury, illness or death (except proceeds of an insurance policy), because of service by such employee (or in the case of death, by the deceased as an employee or in the armed forces, shall elect which benefits to receive. The individual shall make the election within the time allowed by the Secretary of Labor. The election when made is irrevocable, except as otherwise provided by statute

**SEC. 3539. EXCLUSIVITY OF REMEDY AGAINST THE UNITED STATES, CONTRACTORS, AND SUBCONTRACTORS.**

(a) IN GENERAL.—The liability of the United States or an instrumentality of the United States under this title with respect to a cancer (including a specified cancer), Chronic silicosis, covered beryllium illness, or death of a covered employee is exclusive and instead of all other liability—

(1) of—  
 (A) the United States;  
 (B) any instrumentality of the United States;

(C) a contractor that contracted with the Department of Energy to provide management and operation, management and integration, or environmental remediation of a Department of Energy facility (in its capacity as a contractor);

(D) a subcontractor that provided services, including construction, at a Department of Energy facility (in its capacity as a subcontractor); and

(E) an employee, agent, or assign of an entity specified in subparagraphs (A) through (D)—

(2) to—

(A) the covered employee;

(B) the covered employee's legal representative, spouse, dependents, survivors and next of kin, and

(C) any other person, including any third party as to whom the covered employee has a cause of action relating to the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death, otherwise entitled to recover damages from the United States, the instrumentality, the contractor, the subcontractor, or the employee, agent, or assign of one of them—

because of the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death in any proceeding or action including a direct judicial proceeding, a civil action, a proceeding in admiralty, or a proceeding under a tort liability statute or the common law.

(b) **APPLICABILITY.**—This section applies to all cases filed on after July 31, 2000.

(c) **WORKERS' COMPENSATION.**—This section does not apply to an administrative or judicial proceeding under a State or Federal workers' compensation statute subject to sections 3534 through 3538.

**SEC. 3540 ELECTION OF REMEDY AGAINST BERYLLIUM VENDORS AND ATOMIC WEAPONS EMPLOYERS.**

(a) **BERYLLIUM VENDORS.**—If an individual elects to accept payment under this title with respect to a covered beryllium illness or death of a covered employee, that acceptance of payment shall be in full settlement of all tort claims related to such covered beryllium illness or death—

(1) against—

(A) a beryllium vendor or a contractor or subcontractor of a beryllium vendor; and

(B) an employee, agent, or assign of a beryllium vendor or of a contractor or subcontractor of a beryllium vendor;

(2) by—

(A) that individual;

(B) that individual's legal representative, spouse, dependents, survivors, and next of kin; and

(C) any other person, including any third party as to whom a covered employee has a cause of action relating to the covered beryllium illness or death, otherwise entitled to recover damages from the beryllium vendor, the contractor or subcontractor of the beryllium vendor, or the employee, agent, or assign of the beryllium vendor, of the contractor or subcontractor of the beryllium vendor—

that arise out of the covered beryllium illness or death in any proceeding or action including a direct judicial proceeding, a civil action, a proceeding in admiralty, or proceeding under a tort liability statute or the common law.

(b) **ATOMIC WEAPONS EMPLOYER.**—If an individual elects to accept payment under this title with respect to a cancer (including a specified cancer) or death of a covered employee, that acceptance of payment shall be in full settlement of all tort claims—

(1) against—

(A) an atomic weapons employer; and

(C) an employee, agent, or assign of an atomic weapons employer;

(2) by—

(A) that individual;

(B) that individual's legal representative, spouse, dependents, survivors, and next of kin; and

(C) any other person, including any party as to whom a covered employee has a cause of action relating to the cancer (including a specified cancer) or death, otherwise entitled to recover damages from the atomic weapons employer, or the employee, agent, or assign of the atomic weapons employer—

that arise out of the cancer (including a specified cancer) or death in any proceeding or action including a direct judicial proceeding, a civil action, a proceeding in admiralty, or proceeding under a tort liability statute or the common law.

(c) **APPLICABILITY.**—

(1) **IN GENERAL.**—With respect to a case filed after the date of enactment of this title, alleging liability of—

(A) a beryllium vendor or a contractor or subcontractor of a beryllium vendor for a covered beryllium illness or death of a covered beryllium employee; or

(B) an atomic weapons employer for a cancer (including a specified cancer) or death of a covered employee—

the plaintiff shall not be eligible for benefits under this title unless the plaintiff files such case within the applicable time limits in paragraph (2).

(2) **TIME LIMITS.**—

(A) **SUITS AGAINST BERYLLIUM VENDORS.**—Except as provided in subparagraph (B), a case described in paragraph (1)(A) shall be filed not later than the later of—

(i) 180 days after the date of enactment of this title; or

(ii) 180 days after the date the plaintiff first becomes aware that a covered beryllium illness or death of a covered beryllium employee may be connected to the exposure of the covered employee to beryllium in the performance of duty.

(B) **NEW DIAGNOSES.**—A new period of limitation under subparagraph (A)(ii) shall commence with each new diagnosis of a covered beryllium illness that is different from a previously diagnosed covered beryllium illness.

(C) **SUITS AGAINST ATOMIC WEAPONS EMPLOYERS.**—Except as provided in subparagraph (D), a case described in paragraph (1)(B) shall be filed not later than the later of—

(i) 180 days after the date of enactment of this title; or

(ii) 180 days after the date the plaintiff first becomes aware that a cancer (including a specified cancer) or death of a covered employee may be connected to the exposure of the covered employee to radiation in the performance of duty.

(D) **NEW DIAGNOSES.**—A new period of limitation under subparagraph (C)(ii) shall commence with each new diagnosis of a cancer (including a specified cancer) that is different from a previously diagnosed cancer.

(c) **WORKERS' COMPENSATION.**—This section does not apply to an administrative or judicial proceeding under a State or Federal workers' compensation statute subject to sections 3534 through 3538.

**SEC. 3541. SUBROGATION OF THE UNITED STATES.**

(a) **IN GENERAL.**—If a cancer (including a specified cancer), covered beryllium illness, chronic silicosis, disability, or death for which compensation is payable under this title is caused under circumstances creating a legal liability in a person other than the United States to pay damages, sections 8131 and 8132 of title 5, United States Code, shall

apply, except to the extent specified in this title.

(b) **APPEARANCE OF EMPLOYEE.**—For the purposes of this title, the provision in section 8131 of title 5, United States Code, that provides that an employee required to appear as a party or witness in the prosecution of an action described in that section is in an active duty status while so engaged shall only apply to a Federal employee.

**SEC. 3542. ENERGY EMPLOYEES' OCCUPATIONAL ILLNESS COMPENSATION FUND.**

(a) **ESTABLISHMENT.**—There is hereby established on the books of the Treasury a fund to be known as the Energy Employees' Occupational Illness Compensation Fund. The Secretary of the Treasury shall transfer to the Fund from the general fund of the Treasury the amounts necessary to carry out the purposes of this title.

(b) **USE OF THE FUND.**—Amounts in the Fund shall be used for the payment of compensation under this title and other benefits and expenses authorized by this title or any extension or application thereof, and for payment of all expenses of the administration of this title.

(c) **COST DETERMINATIONS.**—(1) Within 45 days of the end of every quarter of every fiscal year, the Secretary of Labor shall determine the total costs of compensation, benefits, administrative expenses, and other payments made from the Fund during the quarter just ended; the end-of-quarter balance in the Fund; and the amount anticipated to be needed during the immediately succeeding two quarters for the payment of compensation, benefits, and administrative expenses under this title.

(2) In making the determination under paragraph (1), the Secretary of Labor shall include, without amendment, information provided by the Secretary of Energy and the Secretary of Health and Human Services on the total costs and amounts anticipated to be needed for their activities under this title.

(3) Each cost determination made in the last quarter of the fiscal year under paragraph (1) shall show, in addition, the total costs of compensation, benefits, administrative expenses, and other payments from the Fund during the preceding twelve-month expense period and an estimate of the expenditures from the Fund for the payment of compensation, benefits, administrative expenses, and other payments for each of the immediately succeeding two fiscal years.

(d) **ASSURING AVAILABLE BALANCE IN THE FUND.**—Upon application of the Secretary of Labor, the Secretary of Treasury shall advance such sums from the Treasury as are projected by the Secretary of Labor to be necessary, for the period of time equaling the date of a projected deficiency in the Fund through ninety days following the end of the fiscal year, for the payment of compensation and other benefits and expenses authorized by this title or any extension or application thereof, and for payment of all expenses of administering this title.

**SEC. 3543. EFFECTIVE DATE.**

This title is effective upon enactment, and applies to all claims, civil actions, and proceedings pending on, or filed on or after, the date of enactment of this title.

**SEC. 3544. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) Section 1920 of title 18 is amended by inserting in the title "or Energy employee's" after "Federal employee's" and by inserting "or the Energy Employees' Occupational Illness Compensation Act of 2000" after "title 5".

(b) Section 1921 of title 18 is amended by inserting in the title "or Energy employees" after "Federal employees" and by inserting "or the Energy Employees' Occupational Illness Compensation Act of 2000" after "title 5".

(c) Section 210(a)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)(1)) is amended by—

(1) in subparagraph (E), striking “or;” and inserting “;”;

(2) in subparagraph (F), striking the period and inserting “; or”;

(3) after subparagraph (F) inserting a new subparagraph as follows:

“(G) filed an application for benefits or assistance under the Energy Employees Occupational Illness Compensation Act of 2000”.

(d) Title II of the Department of Energy Organization Act (P.L. 95-91) is amended by adding at the end of the title the following:

“OFFICE OF WORKERS’ COMPENSATION  
ADVOCATE

“SEC. 217. (a) There shall be within the Department an Office of Workers’ Compensation Advocate. The Office shall be headed by a Director who shall be appointed by the Secretary. The Director shall be compensated at the rate provided for in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(b) The Director shall be responsible for providing information, research reports, and studies to support the implementation of the Energy Employees’ Occupational Illness Compensation Act of 2000. Not later than 90 days after the date of enactment of this section, the Director shall enter into memoranda of agreement to provide for coordination of the efforts of the office with the Department of Labor and the Department of Health and Human Services.

“(c) The Director shall coordinate efforts within the Department to collect and make available to present and former employees of the Department and its predecessor agencies, present and former employees of contractors and subcontractors to the Department and its predecessor agencies, and other individuals who are or were present at facilities owned or operated by the Department or its predecessor agencies information on occupational conditions and exposures to health hazards. Such information shall include information on substances and their chemical forms to which employees may have been exposed, records and studies relevant to determining occupational hazards, raw dosimetry and industrial hygiene data, results from medical screening programs, accident and other relevant occurrence reports, and reports, assessments, or reviews by contractors, consultants, or external entities relevant to assessing risk of occupational hazards or illness.

“(d) If the Director determines that—

(1) an entity within the Department or an entity that is the recipient of a Departmental grant, contract, or cooperative agreement possesses information necessary to carry out the provisions of the Energy Employees’ Occupational Illness Compensation Act of 2000, and

(2) the production and sharing of that information under the provisions of the Energy Employee’s Occupational Illness Compensation Act of 2000 is being unreasonably delayed—  
the Director shall have the authority, notwithstanding section 3213 of the National Nuclear Security Administration Act, to direct such entity to produce expeditiously such information in accordance with the provisions of this section and the Energy Employees’ Occupational Illness Compensation Act of 2000.

“(e) The Director shall take actions to inform and assist potential claimants under the Energy Employees’ Occupational Illness Compensation Act of 2000, pursuant to section 3515(e) of such Act.”.

LEVIN AMENDMENT NO. 3251

Mr. LEVIN proposed an amendment to the bill, S. 2549, supra; as follows:

Beginning on page 144, strike line 22 and all that follows through page 145, line 4, and insert the following:

may be, only if the court finds that recommendation or action was contrary to law or involved a material error of fact or a material administrative error.

On page 145, strike lines 8 through 12, and insert the following:

only if the court finds the decision to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law.

On page 148, line 24, strike “of Defense” and insert “concerned”.

MURRAY (AND SNOWE)  
AMENDMENT NO. 3252

(Ordered to lie on the table.)

Mrs. MURRAY (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

On page 270, between lines 16 and 17, insert the following:

**SEC. 743. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.**

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking “RESTRICTION ON USE OF FUNDS.—”.

DOMENICI (AND OTHERS)  
AMENDMENT NO. 3253

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mr. LEVIN, Mr. LUGAR, Mr. BIDEN, Mr. BINGAMAN, Mr. CRAIG, and Mr. THOMPSON) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

On page 610, between lines 13 and 14, insert the following:

**Subtitle F—Russian Nuclear Complex Conversion**

**SEC. 3191. SHORT TITLE.**

This subtitle may be cited as the “Russian Nuclear Weapons Complex Conversion Act of 2000”.

**SEC. 3192. FINDINGS.**

Congress makes the following findings:

(1) The Russian nuclear weapons complex has begun closure and complete reconfiguration of certain weapons complex plants and production lines. However, this work is at an early stage. The major impediments to downsizing have been economic and social conditions in Russia. Little information about this complex is shared, and 10 of its most sensitive cities remain closed. These cities house 750,000 people and employ approximately 150,000 people in nuclear military facilities. Although the Russian Federation Ministry of Atomic Energy has announced the need to significantly downsize its workforce, perhaps by as much as 50 percent, it has been very slow in accomplishing this goal. Information on the extent of any progress is very closely held.

(2) The United States, on the other hand, has significantly downsized its nuclear weapons complex in an open and transparent manner. As a result, an enormous asymmetry now exists between the United States and Russia in nuclear weapon production capacities and in transparency of such capacities. It is in the national security interest of the United States to assist the Russian Federation in accomplishing significant reductions in its nuclear military complex and in helping it to protect its nuclear weapons, nu-

clear materials, and nuclear secrets during such reductions. Such assistance will accomplish critical nonproliferation objectives and provide essential support towards future arms reduction agreements. The Russian Federation’s program to close and reconfigure weapons complex plants and production lines will address, if it is implemented in a significant and transparent manner, concerns about the Russian Federation’s ability to quickly reconstitute its arsenal.

(3) Several current programs address portions of the downsizing and nuclear security concerns. The Nuclear Cities Initiative was established to assist Russia in creating job opportunities for employees who are not required to support realistic Russian nuclear security requirements. Its focus has been on creating commercial ventures that can provide self-sustaining jobs in three of the closed cities. The current scope and funding of the program are not commensurate with the scale of the threats to the United States sought to be addressed by the program.

(4) To effectively address threats to United States national security interests, progress with respect to the nuclear cities must be expanded and accelerated. The Nuclear Cities Initiative has laid the groundwork for an immediate increase in investment which offers the potential for prompt risk reduction in the cities of Sarov, Snezhinsk, and Zheleznogorsk, which house four key Russian nuclear facilities. Furthermore, the Nuclear Cities Initiative has made considerable progress with the limited funding available. However, to gain sufficient advocacy for additional support, the program must demonstrate—

(A) rapid progress in conversion and restructuring; and

(B) an ability for the United States to track progress against verifiable milestones that support a Russian nuclear complex consistent with their future national security requirements.

(5) Reductions in the nuclear weapons-grade material stocks in the United States and Russia enhance prospects for future arms control agreements and reduce concerns that these materials could lead to proliferation risks. Confidence in both nations will be enhanced by knowledge of the extent of each nation’s stockpiles of weapons-grade materials. The United States already makes this information public.

(6) Many current programs contribute to the goals stated herein. However, the lack of programmatic coordination within and among United States Government agencies impedes the capability of the United States to make rapid progress. A formal single point of coordination is essential to ensure that all United States programs directed at cooperative threat reduction, nuclear materials reduction and protection, and the downsizing, transparency, and nonproliferation of the nuclear weapons complex effectively mitigate the risks inherent in the Russian Federation’s military complex.

(7) Specialists in the United States and the former Soviet Union trained in nonproliferation studies can significantly assist in the downsizing process while minimizing the threat presented by potential proliferation of weapons materials or expertise.

**SEC. 3193. EXPANSION AND ENHANCEMENT OF NUCLEAR CITIES INITIATIVE.**

(a) IN GENERAL.—The Secretary of Energy shall, in accordance with the provisions of this section, take appropriate actions to expand and enhance the activities under the Nuclear Cities Initiative in order to—

(1) assist the Russian Federation in the downsizing of the Russian Nuclear Complex; and

(2) coordinate the downsizing of the Russian Nuclear Complex under the Initiative

with other United States nonproliferation programs.

(b) ENHANCED USE OF MINATOM TECHNOLOGY AND RESEARCH AND DEVELOPMENT SERVICES.—In carrying out actions under this section, the Secretary shall facilitate the enhanced use of the technology, and the research and development services, of the Russia Ministry of Atomic Energy (MINATOM) by—

(1) fostering the commercialization of peaceful, non-threatening advanced technologies of the Ministry through the development of projects to commercialize research and development services for industry and industrial entities; and

(2) authorizing the Department of Energy, and encouraging other departments and agencies of the United States Government, to utilize such research and development services for activities appropriate to the mission of the Department, and such departments and agencies, including activities relating to—

(A) nonproliferation (including the detection and identification of weapons of mass destruction and verification of treaty compliance);

(B) global energy and environmental matters; and

(C) basic scientific research of benefit to the United States.

(c) ACCELERATION OF NUCLEAR CITIES INITIATIVE.—(1) In carrying out actions under this section, the Secretary shall accelerate the Nuclear Cities Initiative by implementing, as soon as practicable after the date of the enactment of this Act, programs at the nuclear cities referred to in paragraph (2) in order to convert significant portions of the activities carried out at such nuclear cities from military activities to civilian activities.

(2) The nuclear cities referred to in this paragraph are the following:

(A) Sarov (Arzamas-16).

(B) Snezhinsk (Chelyabinsk-70).

(C) Zheleznogorsk (Krasnoyarsk-26).

(3) To advance nonproliferation and arms control objectives, the Nuclear Cities Initiative is encouraged to begin planning for accelerated conversion, commensurate with available resources, in the remaining nuclear cities.

(4) Before implementing a program under paragraph (1), the Secretary shall establish appropriate, measurable milestones for the activities to be carried out in fiscal year 2001.

(d) PLAN FOR RESTRUCTURING THE RUSSIAN NUCLEAR COMPLEX.—(1) The President, acting through the Secretary of Energy, is urged to enter into negotiations with the Russian Federation for purposes of the development by the Russian Federation of a plan to restructure the Russian Nuclear Complex in order to meet changes in the national security requirements of Russia by 2010.

(2) The plan under paragraph (1) should include the following:

(A) Mechanisms to achieve a nuclear weapons production capacity in Russia that is consistent with the obligations of Russia under current and future arms control agreements.

(B) Mechanisms to increase transparency regarding the restructuring of the nuclear weapons complex and weapons-surplus nuclear materials inventories in Russia to the levels of transparency for such matters in the United States, including the participation of Department of Energy officials with expertise in transparency of such matters.

(C) Measurable milestones that will permit the United States and the Russian Federation to monitor progress under the plan.

(e) ENCOURAGEMENT OF CAREERS IN NON-PROLIFERATION.—(1) In carrying out actions

under this section, the Secretary shall carry out a program to encourage students in the United States and in the Russian Federation to pursue a career in an area relating to nonproliferation.

(2) Of the amounts under subsection (f), such amounts as may be appropriated for purpose of the program under paragraph (1) shall be available for purposes of the program.

(f) FUNDING FOR FISCAL YEAR 2001.—There is hereby authorized such funds as may be appropriated for the Department of Energy for fiscal year 2001 for purposes of the Nuclear Cities Initiative, including activities under this section.

(g) SENSE OF CONGRESS REGARDING FUNDING FOR FISCAL YEARS AFTER FISCAL YEAR 2001.—It is the sense of Congress that the availability of funds for the Nuclear Cities Initiative in fiscal years after fiscal year 2001 should be contingent upon—

(1) demonstrable progress in the programs carried out under subsection (c), as determined utilizing the milestones required under paragraph (4) of that subsection; and

(2) the development and implementation of the plan required by subsection (d).

**SEC. 3194. SENSE OF CONGRESS ON THE ESTABLISHMENT OF A NATIONAL COORDINATOR FOR NONPROLIFERATION MATTERS.**

It is the sense of Congress that—

(1) there should be a National Coordinator for Nonproliferation Matters to coordinate—

(A) the Nuclear Cities Initiative;

(B) the Initiatives for Proliferation Prevention program;

(C) the Cooperative Threat Reduction programs;

(D) the materials protection, control, and accounting programs; and

(E) the International Science and Technology Center; and

(2) the position of National Coordinator for Nonproliferation Matters should be similar, regarding nonproliferation matters, to the position filled by designation of the President under section 1441(a) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201; 110 Stat. 2727; 50 U.S.C. 2351(a)).

**SEC. 3195. DEFINITIONS.**

In this subtitle:

(1) NUCLEAR CITY.—The term “nuclear city” means any of the closed nuclear cities within the complex of the Russia Ministry of Atomic Energy (MINATOM) as follows:

(A) Sarov (Arzamas-16).

(B) Zarechnyy (Penza-19).

(C) Novoural'sk (Sverdlovsk-44).

(D) Lesnoy (Sverdlovsk-45).

(E) Ozersk (Chelyabinsk-65).

(F) Snezhinsk (Chelyabinsk-70).

(G) Trechgor'nyy (Zlatoust-36).

(H) Seversk (Tomsk-7).

(I) Zhelznogorsk (Krasnoyarsk-26).

(J) Zelenogorsk (Krasnoyarsk-45).

(2) RUSSIAN NUCLEAR COMPLEX.—The term “Russian Nuclear Complex” refers to all of the nuclear cities.

**DOMENICI AMENDMENTS NOS. 3254-3258**

(Ordered to lie on the table.)

Mr. DOMENICI submitted five amendments intended to be proposed by him to the bill, S. 2549, supra; as followed:

**AMENDMENT NO. 3254**

On page 48, between lines 20 and 21, insert the following:

**SEC. 222. INFORMATION WARFARE AND VULNERABILITY ANALYSIS.**

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by

section 201(1) for research, development, test, and evaluation for the Army, the amount available for Survivability/Lethality Analysis (PE605604A) is hereby increased by \$16,000,000.

(2) Of the amounts available under this Act for Survivability/Lethality Analysis, as increased by paragraph (1), \$16,000,000 shall be available for Information Warfare and Vulnerability Analysis in order to ensure the survivability of the digitized systems and networked decision-making structures of the Army against asymmetric threats.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, the amount available for EW Development (PE604270A) is hereby reduced by \$16,000,000.

**AMENDMENT NO. 3255**

On page 48, between lines 20 and 21, insert the following:

**SEC. 222. LASERSPARK COUNTERMEASURES PROGRAM.**

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for Advanced Technology (PE603605F) is hereby increased by \$5,000,000.

(2) Of the amounts available under this Act for Advanced Technology, as increased by paragraph (1), \$5,000,000 shall be available for the LaserSpark countermeasures program.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for the Joint Strike Fighter (PE603800F) is hereby reduced by \$5,000,000.

**AMENDMENT NO. 3256**

On page 48, between lines 20 and 21, insert the following:

**SEC. 222. GEOSYNCHRONOUS LASER IMAGING TESTBED PROGRAM.**

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for Advanced Technology (PE603605F) is hereby increased by \$5,000,000.

(2) Of the amounts available under this Act for Advanced Technology, as increased by paragraph (1), \$5,000,000 shall be available for the Geosynchronous Laser Imaging Testbed (GLINT) program for very high altitude and deep space object identification and capabilities analysis.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for the Joint Strike Fighter (PE603800F) is hereby reduced by \$5,000,000.

**AMENDMENT NO. 3257**

On page 48, between lines 20 and 21, insert the following:

**SEC. 222. RADIO FREQUENCY WEAPONS ANALYSIS.**

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by

section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for Intelligence Equipment (PE604750F) is hereby increased by \$5,300,000.

(2) Of the amounts available under this Act for Intelligence Equipment, as increased by paragraph (1), \$5,300,000 shall be available for analysis of the capabilities and characteristics of terrorist Radio Frequency weapons to evaluate the susceptibilities of United States systems to such weapons.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for the Joint Strike Fighter (PE603800F) is hereby reduced by \$5,300,000.

AMENDMENT NO. 3258

On page 48, between lines 20 and 21, insert the following:

**SEC. 222. SILICON-BASED NANOSTRUCTURES PROGRAM.**

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation Defense-wide, the amount available for Logistics Research and Development Technology Demonstration (PE603712S) is hereby increased by \$5,000,000.

(2) Of the amounts available under this Act for Logistics Research and Development Technology Demonstration, as increased by paragraph (1), \$5,000,000 shall be available for a Silicon-Based Nanostructures Program to facilitate the economic and efficient upgrade of mission critical systems through computer chip replacement.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation Defense-wide, the amount available for Extensible Information Systems (PE602302E) is hereby reduced by \$5,000,000.

DOMENICI (AND OTHERS)  
AMENDMENT NO. 3259

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mrs. HUTCHISON, and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

On page 353, between lines 15 and 16, insert the following:

**SEC. 914. COORDINATION AND FACILITATION OF DEVELOPMENT OF DIRECTED ENERGY TECHNOLOGIES, SYSTEMS, AND WEAPONS.**

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

(1) Directed energy systems are available to address many current challenges with respect to military weapons, including offensive weapons and defensive weapons.

(2) Directed energy weapons offer the potential to maintain an asymmetrical technological edge over adversaries of the United States for the foreseeable future.

(3) It is in the national interest that funding for directed energy science and technology programs be increased in order to support priority acquisition programs and to develop new technologies for future applications.

(4) It is in the national interest that the level of funding for directed energy science and technology programs correspond to the level of funding for large-scale demonstration programs in order to ensure the growth of directed energy science and technology programs and to ensure the successful development of other weapons systems utilizing directed energy systems.

(5) The industrial base for several critical directed energy technologies is in fragile condition and lacks appropriate incentives to make the large-scale investments that are necessary to address current and anticipated Department of Defense requirements for such technologies.

(6) It is in the national interest that the Department of Defense utilize and expand upon directed energy research currently being conducted by the Department of Energy, other Federal agencies, the private sector, and academia.

(7) It is increasingly difficult for the Federal Government to recruit and retain personnel with skills critical to directed energy technology development.

(8) The implementation of the recommendations contained in the High Energy Laser Master Plan of the Department of Defense is in the national interest.

(9) Implementation of the management structure outlined in the Master Plan will facilitate the development of revolutionary capabilities in directed energy weapons by achieving a coordinated and focused investment strategy under a new management structure featuring a joint technology office with senior-level oversight provided by a technology council and a board of directors.

(b) COORDINATION AND OVERSIGHT UNDER HIGH ENERGY LASER MASTER PLAN.—(1) Subchapter II of Chapter 8 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 204. Joint Technology Office**

“(a) ESTABLISHMENT.—(1) There is in the Department of Defense a Joint Technology Office (in this section referred to as the ‘Office’).

“(2) The Office shall be part of the National Directed Energy Center at Kirtland Air Force Base, New Mexico.

“(3) The Office shall be under the authority, direction, and control of the Deputy Under Secretary of Defense for Science and Technology.

“(b) STAFF.—(1) The head of the Office shall be a civilian employee of the Department of Defense in the Senior Executive Service who is designated by the Secretary of Defense for that purpose. The head of the Office shall be known as the ‘Director of the Joint Technology Office’.

“(2) The Secretary of Defense shall provide the Office such civilian and military personnel and other resources as are necessary to permit the Office to carry out its duties under this section.

“(c) DUTIES.—The duties of the Office shall be to—

“(1) develop and oversee the management of a Department of Defense-wide program of science and technology relating to directed energy technologies, systems, and weapons;

“(2) serve as a point of coordination for initiatives for science and technology relating to directed energy technologies, systems, and weapons from throughout the Department of Defense;

“(3) develop and promote a program (to be known as the ‘National Directed Energy Technology Alliance’) to foster the exchange of information and cooperative activities on directed energy technologies, systems, and weapons between and among the Department of Defense, other Federal agencies, institutions of higher education, and the private sector; and

“(4) carry out such other activities relating to directed energy technologies, systems, and weapons as the Deputy Under Secretary of Defense for Science and Technology considers appropriate.

“(d) COORDINATION WITHIN DEPARTMENT OF DEFENSE.—(1) The Director of the Office shall assign to appropriate personnel of the Office the performance of liaison functions with the other Defense Agencies and with the military departments.

“(2) The head of each military department and Defense Agency having an interest in the activities of the Office shall assign personnel of such department or Defense Agency to assist the Office in carrying out its duties. In providing such assistance, such personnel shall be known collectively as ‘Technology Area Working Groups’.

“(e) JOINT TECHNOLOGY BOARD OF DIRECTORS.—(1) There is established in the Department of Defense a board to be known as the ‘Joint Technology Board of Directors’ (in this section referred to as the ‘Board’).

“(2) The Board shall be composed of 8 members as follows:

“(A) The Under Secretary of Defense for Acquisition and Technology, who shall serve as chairperson of the Board.

“(B) The Director of Defense Research and Engineering, who shall serve as vice-chairperson of the Board.

“(C) The senior acquisition executive of the Department of the Army.

“(D) The senior acquisition executive of the Department of the Navy.

“(E) The senior acquisition executive of the Department of the Air Force.

“(F) The Director of the Defense Advanced Research Projects Agency.

“(G) The Director of the Ballistic Missile Defense Organization.

“(H) The Director of the Defense Threat Reduction Agency.

“(3) The duties of the Board shall be—

“(A) to review and comment on recommendations made and issues raised by the Council under this section; and

“(B) to review and oversee the activities of the Office under this section.

“(f) JOINT TECHNOLOGY COUNCIL.—(1) There is established in the Department of Defense a council to be known as the ‘Joint Technology Council’ (in this section referred to as the ‘Council’).

“(2) The Council shall be composed of 7 members as follows:

“(A) The Deputy Under Secretary of Defense for Science and Technology, who shall be chairperson of the Council.

“(B) The senior science and technology executive of the Department of the Army.

“(C) The senior science and technology executive of the Department of the Navy.

“(D) The senior science and technology executive of the Department of the Air Force.

“(E) The senior science and technology executive of the Defense Advanced Research Projects Agency.

“(F) The senior science and technology executive of the Ballistic Missile Defense Organization.

“(G) The senior science and technology executive of the Defense Threat Reduction Agency.

“(3) The duties of the Council shall be—

“(A) to review and recommend priorities among programs, projects, and activities proposed and evaluated by the Office under this section;

“(B) to make recommendations to the Board regarding funding for such programs, projects, and activities; and

“(C) to otherwise review and oversee the activities of the Office under this section.”.

(2) The table of sections at the beginning of subchapter II of chapter 8 of such title is

amended by adding at the end the following new section:

"204. Joint Technology Office."

(3) The Secretary of Defense shall locate the Joint Technology Office under section 204 of title 10, United States Code (as added by this subsection), at the National Directed Energy Center at Kirtland Air Force Base, New Mexico, not later than January 1, 2001.

(c) TECHNOLOGY AREA WORKING GROUPS UNDER HIGH ENERGY LASER MASTER PLAN.—(1) The Secretary of Defense shall provide for the implementation of the portion of the High Energy Laser Master Plan relating to technology area working groups.

(2) In carrying out activities under this subsection, the Secretary of Defense shall require the Secretary of the military department concerned to provide within such department technology area working groups as follows:

(A) Within the Department of the Army—(i) a technology area working group on solid state lasers; and

(ii) a technology area working group on advanced technology.

(B) Within the Department of the Navy, a technology area working group on free electron lasers.

(C) Within the Department of the Air Force—

(i) a technology area working group on chemical lasers;

(ii) a technology area working group on beam control;

(iii) a technology area working group on lethality/vulnerability; and

(iv) a technology area working group on high power microwaves.

(3) The military department concerned shall establish general direction concerning the technology to be addressed by each technology area working group under the department, with such direction to take into account the recommendations of all participants in such technology area working group.

(d) ENHANCEMENT OF INDUSTRIAL BASE.—(1) The Secretary of Defense shall develop and undertake initiatives, including investment initiatives, for purposes of enhancing the industrial base for directed energy technologies and systems.

(2) Initiatives under paragraph (1) shall be designed to—

(A) stimulate the development by institutions of higher education and the private sector of promising directed energy technologies and systems; and

(B) stimulate the development of a workforce skilled in such technologies and systems.

(3) Of the amounts authorized to be appropriated by subsection (h), \$20,000,000 shall be available for the initiation of development of the Advanced Tactical Laser (ATL). The Joint Non-Lethal Weapons Directorate shall assist the operational manager of the Advanced Tactical Laser program in establishing specifications for non-lethal operations of the Advanced Tactical Laser.

(e) ENHANCEMENT OF TEST AND EVALUATION CAPABILITIES.—(1) The Secretary of Defense shall evaluate and implement proposals for modernizing the High Energy Laser Test Facility at White Sands Missile Range, New Mexico, in order to enhance the test and evaluation capabilities of the Department of Defense with respect to directed energy weapons.

(2) Of the amounts authorized to be appropriated or otherwise made available to the Department of Defense for each of fiscal years 2001 and 2002, not more than \$2,000,000 shall be made available in each such fiscal year for purposes of the deployment and test at the High Energy Laser Test Facility at

White Sands Missile Range of free electron laser technologies under development at Los Alamos National Laboratory, New Mexico.

(f) COOPERATIVE PROGRAMS AND ACTIVITIES.—(1) The Secretary of Defense shall evaluate the feasibility and advisability of entering into cooperative programs or activities with other Federal agencies, institutions of higher education, and the private sector, including the national laboratories of the Department of Energy, for the purpose of enhancing the programs, projects, and activities of the Department of Defense relating to directed energy technologies, systems, and weapons. The Secretary shall carry out the evaluation in consultation with the Joint Technology Board of Directors established by section 204 of title 10, United States Code (as added by subsection (b) of this section).

(2) The Secretary shall enter into any cooperative program or activity determined under the evaluation under paragraph (1) to be feasible and advisable for the purpose set forth in that paragraph.

(3) Of the amounts authorized to be appropriated by subsection (h), \$50,000,000 shall be available for cooperative programs and activities entered into under paragraph (2).

(g) PARTICIPATION OF JOINT TECHNOLOGY COUNCIL IN ACTIVITIES.—The Secretary of Defense shall, to the maximum extent practicable, carry out activities under subsections (c), (d), (e), and (f), through the Joint Technology Council established pursuant to section 204 of title 10, United States Code.

(h) FUNDING FOR FISCAL YEAR 2001.—(1)(A) There is hereby authorized to be appropriated for the Department of Defense for fiscal year 2001, \$150,000,000 for science and technology activities relating to directed energy technologies, systems, and weapons.

(B) Amounts authorized to be appropriated for fiscal year 2001 by subparagraph (A) are in addition to any other amounts authorized to be appropriated for such fiscal year for the activities referred to in that subparagraph.

(2) The Director of the Joint Technology Office established pursuant to section 204 of title 10, United States Code, shall allocate amounts appropriated pursuant to the authorization of appropriations in paragraph (1) among appropriate program elements of the Department of Defense, and among cooperative programs and activities under this section, in accordance with such procedures as the Director shall establish.

(3) In establishing procedures for purposes of the allocation of funds under paragraph (2), the Director shall provide for the competitive selection of programs, projects, and activities to be the recipients of such funds.

(i) DIRECTED ENERGY DEFINED.—In this section, the term "directed energy", with respect to technologies, systems, or weapons, means technologies, systems, or weapons that provide for the directed transmission of energies across the energy and frequency spectrum, including high energy lasers and high power microwaves.

#### MURRAY AMENDMENT NO. 3260

(Ordered to lie on the table.)

Mrs. MURRAY submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 58, between lines 7 and 8, insert the following:

#### SEC. 313. DEMONSTRATION PROJECT FOR INTERNET ACCESS AND SERVICES IN RURAL COMMUNITIES.

(a) IN GENERAL.—The Secretary of the Army, acting through the Chief of the National Guard Bureau, shall carry out a dem-

onstration project to provide Internet access and services to rural communities that are unserved or underserved by the Internet.

(b) PROJECT ELEMENTS.—In carrying out the demonstration project, the Secretary shall—

(1) establish and operate distance learning classrooms in communities described in subsection (a), including any support systems required for such classrooms; and

(2) subject to subsection (c), provide Internet access and services in such classrooms through GuardNet, the telecommunications infrastructure of the National Guard.

(c) AVAILABILITY OF ACCESS AND SERVICES.—Under the demonstration project, Internet access and services shall be available to the following:

(1) Personnel and elements of governmental emergency management and response entities located in communities served by the demonstration project.

(2) Members and units of the Army National Guard located in such communities.

(3) Businesses located in such communities.

(4) Personnel and elements of local governments in such communities.

(5) Other appropriate individuals and entities located in such communities.

(d) REPORT.—Not later than \_\_\_\_\_, the Secretary shall submit to Congress a report on the demonstration project. The report shall describe the activities under the demonstration project and include any recommendations for the improvement or expansion of the demonstration project that the Secretary considers appropriate.

(e) FUNDING.—(1) The amount authorized to be appropriated by section 301(10) for operation and maintenance of the Army National Guard is hereby increased by \$15,000,000.

(2) Of the amount authorized to be appropriated by section 301(10), as increased by paragraph (1), \$15,000,000 shall be available for the demonstration project required by this section.

(3) It is the sense of Congress that requests of the President for funds for the National Guard for fiscal years after fiscal year 2001 should provide for sufficient funds for the continuation of the demonstration project required by this section.

#### DORGAN AMENDMENT NOS. 3261–3263

(Ordered to lie on the table.)

Mr. DORGAN submitted three amendments intended to be proposed by him to the bill, S. 2549, supra; as follows:

#### AMENDMENT NO. 3261

At the appropriate place, add the following:

#### SEC. . SENSE OF THE SENATE RESOLUTION ON THE MODERNIZATION OF AIR NATIONAL GUARD F-16A UNITS

(a) FINDINGS.—Congress finds that—

(1) Certain U.S. Air Force Air National Guard fighter units are flying some of the world's oldest and least capable F-16A aircraft.

(2) These aircraft have already been flown well beyond their designed service life and are suffering from major airframe cracks and other maintenance problems.

(3) The aircraft are generally incompatible with those flown by the active force and therefore cannot be effectively deployed to theaters of operation to support contingencies and to relieve the high operations tempo of active duty units.

(4) The Air Force has specified no plans to replace these obsolescent aircraft before the year 2007 at the earliest.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that in light of these findings—

(1) The Air Force should program the proper resources and take the necessary action to urgently replace aircraft of Air National Guard fighter units that are flying F-16A's.

AMENDMENT NO. 3262

At the appropriate place, add the following:

SEC. . Report on an electronic warfare version of the B-52.

(a) REPORT.—No later than May 1, 2001, the Secretary of the Air Force shall submit to the congressional defense committees a report on the potential role of an electronic warfare (EW) version of the B-52 bomber in meeting anticipated future shortfalls in airborne EW assets.

(b) CONTENT.—The report shall include the following:

(1) the anticipated near- and long-term requirement for and availability of airborne electronic warfare assets;

(2) the advantages and disadvantages of using the B-52 airframe's size, payload and endurance for standoff jamming;

(3) the impact on the weapons carrying capability of the B-52;

(4) the arms control implications of using certain B-52s as EW platforms;

(5) the impact on the ability of the B-52 fleet to meet operational power projection needs; and

(6) the estimated schedule for deploying interim and long term EW versions of the B-52, and the potential additive cost thereof, assuming prior completion of EW and situational awareness upgrades already scheduled for the B-52 fleet.

AMENDMENT NO. 3263

At the appropriate place in the bill, insert the following new title:

**TITLE \_\_\_\_—FOOD AND MEDICINE FOR THE WORLD ACT**

**SEC. \_\_\_\_01. SHORT TITLE.**

This title may be cited as the "Food and Medicine for the World Act".

**SEC. \_\_\_\_02. DEFINITIONS.**

In this title:

(1) AGRICULTURAL COMMODITY.—The term "agricultural commodity" has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) AGRICULTURAL PROGRAM.—The term "agricultural program" means—

(A) any program administered under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(B) any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) any program administered under the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.);

(D) the dairy export incentive program administered under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14);

(E) any commercial export sale of agricultural commodities; or

(F) any export financing (including credits or credit guarantees) provided by the United States Government for agricultural commodities.

(3) JOINT RESOLUTION.—The term "joint resolution" means—

(A) in the case of section \_\_\_\_03(a)(1), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under section \_\_\_\_03(a)(1) is received by Congress, the matter after the resolving clause of which is as follows: "That Congress approves the report of the President pursuant to section \_\_\_\_03(a)(1) of the Food and Medicine for the World Act, transmitted on \_\_\_\_\_", with the blank completed with the appropriate date; and

(B) in the case of section \_\_\_\_06(1), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under section \_\_\_\_06(2) is received by Congress, the matter after the resolving clause of which is as follows: "That Congress approves the report of the President pursuant to section \_\_\_\_06(1) of the Food and Medicine for the World Act, transmitted on \_\_\_\_\_", with the blank completed with the appropriate date.

(4) MEDICAL DEVICE.—The term "medical device" has the meaning given the term "device" in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(5) MEDICINE.—The term "medicine" has the meaning given the term "drug" in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(6) UNILATERAL AGRICULTURAL SANCTION.—The term "unilateral agricultural sanction" means any prohibition, restriction, or condition on carrying out an agricultural program with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

(7) UNILATERAL MEDICAL SANCTION.—The term "unilateral medical sanction" means any prohibition, restriction, or condition on exports of, or the provision of assistance consisting of, medicine or a medical device with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

**SEC. \_\_\_\_03. RESTRICTION.**

(a) NEW SANCTIONS.—Except as provided in sections \_\_\_\_04 and \_\_\_\_05 and notwithstanding any other provision of law, the President may not impose a unilateral agricultural sanction or unilateral medical sanction against a foreign country or foreign entity, unless—

(1) not later than 60 days before the sanction is proposed to be imposed, the President submits a report to Congress that—

(A) describes the activity proposed to be prohibited, restricted, or conditioned; and

(B) describes the actions by the foreign country or foreign entity that justify the sanction; and

(2) there is enacted into law a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

(b) EXISTING SANCTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the President shall terminate any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act.

(2) EXEMPTIONS.—Paragraph (1) shall not apply to a unilateral agricultural sanction or unilateral medical sanction imposed—

(A) with respect to any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(B) with respect to the Export Credit Guarantee Program (GSM-102) or the Intermediate Export Credit Guarantee Program (GSM-103) established under section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622); or

(C) with respect to the dairy export incentive program administered under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14).

**SEC. \_\_\_\_04. EXCEPTIONS.**

Section \_\_\_\_03 shall not affect any authority or requirement to impose (or continue to

impose) a sanction referred to in section \_\_\_\_03—

(1) against a foreign country or foreign entity—

(A) pursuant to a declaration of war against the country or entity;

(B) pursuant to specific statutory authorization for the use of the Armed Forces of the United States against the country or entity;

(C) against which the Armed Forces of the United States are involved in hostilities; or

(D) where imminent involvement by the Armed Forces of the United States in hostilities against the country or entity is clearly indicated by the circumstances; or

(2) to the extent that the sanction would prohibit, restrict, or condition the provision or use of any agricultural commodity, medicine, or medical device that is—

(A) controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778);

(B) controlled on any control list established under the Export Administration Act of 1979 or any successor statute (50 U.S.C. App. 2401 et seq.); or

(C) used to facilitate the development or production of a chemical or biological weapon or weapon of mass destruction.

**SEC. \_\_\_\_05. COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.**

Notwithstanding section \_\_\_\_03 and except as provided in section \_\_\_\_07, the prohibitions in effect on or after the date of the enactment of this Act under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) on providing, to the government of any country supporting international terrorism, United States Government assistance, including United States foreign assistance, United States export assistance, or any United States credits or credit guarantees, shall remain in effect for such period as the Secretary of State determines under such section 620A that the government of the country has repeatedly provided support for acts of international terrorism.

**SEC. \_\_\_\_06. TERMINATION OF SANCTIONS.**

Any unilateral agricultural sanction or unilateral medical sanction that is imposed pursuant to the procedures described in section \_\_\_\_03(a) shall terminate not later than 2 years after the date on which the sanction became effective unless—

(1) not later than 60 days before the date of termination of the sanction, the President submits to Congress a report containing—

(A) the recommendation of the President for the continuation of the sanction for an additional period of not to exceed 2 years; and

(B) the request of the President for approval by Congress of the recommendation; and

(2) there is enacted into law a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

**SEC. \_\_\_\_07. STATE SPONSORS OF INTERNATIONAL TERRORISM.**

(a) IN GENERAL.—Notwithstanding any other provision of this title, the export of agricultural commodities, medicine, or medical devices to the government of a country that has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) shall only be made—

(1) pursuant to one-year licenses issued by the United States Government for contracts entered into during the one-year period and completed with the 12-month period beginning on the date of the signing of the contract, except that, in the case of the export

of items used for food and for food production, such one-year licenses shall otherwise be no more restrictive than general licenses; and

(2) without benefit of Federal financing, direct export subsidies, Federal credit guarantees, or other Federal promotion assistance programs.

(b) QUARTERLY REPORTS.—The applicable department or agency of the Federal Government shall submit to the appropriate congressional committees on a quarterly basis a report on any activities undertaken under subsection (a)(1) during the preceding calendar quarter.

(c) BIENNIAL REPORTS.—Not later than two years after the date of enactment of this Act, and every two years thereafter, the applicable department or agency of the Federal Government shall submit a report to the appropriate congressional committees on the operation of the licensing system under this section for the preceding two-year period, including—

(1) the number and types of licenses applied for;

(2) the number and types of licenses approved;

(3) the average amount of time elapsed from the date of filing of a license application until the date of its approval;

(4) the extent to which the licensing procedures were effectively implemented; and

(5) a description of comments received from interested parties about the extent to which the licensing procedures were effective, after the applicable department or agency holds a public 30-day comment period.

**SEC. \_\_\_08. CONGRESSIONAL PRIORITY PROCEDURES.**

(a) REFERRAL OF REPORT.—A report described in section \_\_\_03(a)(1) or \_\_\_06(1) shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

(b) REFERRAL OF JOINT RESOLUTION.—

(1) IN GENERAL.—A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations, and a joint resolution introduced in the House of Representatives shall be referred to the Committee on International Relations.

(2) REPORTING DATE.—A joint resolution referred to in paragraph (1) may not be reported before the eighth session day of Congress after the introduction of the joint resolution.

(c) DISCHARGE OF COMMITTEE.—If the committee to which is referred a joint resolution has not reported the joint resolution (or an identical joint resolution) at the end of 30 session days of Congress after the date of introduction of the joint resolution—

(1) the committee shall be discharged from further consideration of the joint resolution; and

(2) the joint resolution shall be placed on the appropriate calendar of the House concerned.

(d) FLOOR CONSIDERATION.—

(1) MOTION TO PROCEED.—

(A) IN GENERAL.—When the committee to which a joint resolution is referred has reported, or when a committee is discharged under subsection (c) from further consideration of, a joint resolution—

(i) it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any member of the House concerned to move to proceed to the consideration of the joint resolution; and

(ii) all points of order against the joint resolution (and against consideration of the joint resolution) are waived.

(B) PRIVILEGE.—The motion to proceed to the consideration of the joint resolution—

(i) shall be highly privileged in the House of Representatives and privileged in the Senate; and

(ii) not debatable.

(C) AMENDMENTS AND MOTIONS NOT IN ORDER.—The motion to proceed to the consideration of the joint resolution shall not be subject to—

(i) amendment;

(ii) a motion to postpone; or

(iii) a motion to proceed to the consideration of other business.

(D) MOTION TO RECONSIDER NOT IN ORDER.—A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(E) BUSINESS UNTIL DISPOSITION.—If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the House concerned until disposed of.

(2) LIMITATIONS ON DEBATE.—

(A) IN GENERAL.—Debate on the joint resolution, and on all debatable motions and appeals in connection with the joint resolution, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution.

(B) FURTHER DEBATE LIMITATIONS.—A motion to limit debate shall be in order and shall not be debatable.

(C) AMENDMENTS AND MOTIONS NOT IN ORDER.—An amendment to, a motion to postpone, a motion to proceed to the consideration of other business, a motion to recommend the joint resolution, or a motion to reconsider the vote by which the joint resolution is agreed to or disagreed to shall not be in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the House concerned, the vote on final passage of the joint resolution shall occur.

(4) RULINGS OF THE CHAIR ON PROCEDURE.—An appeal from a decision of the Chair relating to the application of the rules of the Senate or House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(e) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, the following procedures shall apply:

(1) NO COMMITTEE REFERRAL.—The joint resolution of the other House shall not be referred to a committee.

(2) FLOOR PROCEDURE.—With respect to a joint resolution of the House receiving the joint resolution—

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

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

(3) DISPOSITION OF JOINT RESOLUTIONS OF RECEIVING HOUSE.—On disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution originated in the receiving House.

(f) PROCEDURES AFTER ACTION BY BOTH THE HOUSE AND SENATE.—If a House receives a joint resolution from the other House after the receiving House has disposed of a joint resolution originated in that House, the action of the receiving House with regard to the disposition of the joint resolution originated in that House shall be deemed to be the action of the receiving House with regard to the joint resolution originated in the other House.

(g) RULEMAKING POWER.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such this section—

(A) is deemed to be 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 joint resolution; and

(B) supersedes other rules only to the extent that this paragraph is inconsistent with those rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as the rules relate 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.

**SEC. \_\_\_09. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in subsection (b), this title takes effect on the date of enactment of this Act.

(b) EXISTING SANCTIONS.—In the case of any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act, this title takes effect 180 days after the date of enactment of this Act.

**WELLSTONE AMENDMENT NO. 3264**

Mr. WELLSTONE proposed an amendment to the bill, S. 2549, supra; as follows:

At the appropriate place add the following:

**SEC. \_\_\_. REPORT TO CONGRESS REGARDING EXTENT AND SEVERITY OF CHILD POVERTY.**

(a) IN GENERAL.—Not later than June 1, 2001 and prior to any reauthorization of the temporary assistance to needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) for any fiscal year after fiscal year 2002, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall report to Congress on the extent and severity of child poverty in the United States. Such report shall, at a minimum—

(1) determine for the period since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2105)—

(A) whether the rate of child poverty in the United States has increased;

(B) whether the children who live in poverty in the United States have gotten poorer; and

(C) how changes in the availability of cash and non-cash benefits to poor families have affected child poverty in the United States;

(2) identify alternative methods for defining child poverty that are based on consideration of factors other than family income and resources, including consideration of a family's work-related expenses; and

(3) contain multiple measures of child poverty in the United States that may include the child poverty gap and the extreme poverty rate.

(b) LEGISLATIVE PROPOSAL.—If the Secretary determines that during the period since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2105) the extent or severity of child poverty in the United States has increased to any extent, the Secretary shall include with the report to Congress required under subsection (a) a legislative proposal addressing the factors that led to such increase.

**BROWNBACK (AND MCAIN)  
AMENDMENT NO. 3265**

(Ordered to lie on the table.)

Mr. BOWNBACK (for himself and MCCAIN (submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

At the end of the bill, add the following:

**DIVISION D—AMATEUR SPORTS INTEGRITY**

**SEC. 4001. SHORT TITLE.**

This division may be cited as the "Amateur Sports Integrity Act".

**TITLE XLI—PERFORMANCE-ENHANCING DRUGS**

**SEC. 4101. SHORT TITLE.**

This title may be cited as the "Athletic Performance-Enhancing Drugs Research and Detection Act".

**SEC. 4102. RESEARCH AND DETECTION PROGRAM ESTABLISHED.**

(a) IN GENERAL.—The Director of the National Institute of Standards and Technology shall establish and administer a program under this title to support research into the use of performance-enhancing substances by athletes, and methods of detecting their use.

(b) GRANTS.—

(1) IN GENERAL.—The program shall include grants of financial assistance, awarded on a competitive basis, to support the advancement and improvement of research into the use of performance-enhancing substances by athletes, and methods of detecting their use.

(2) BANNED SUBSTANCES.—In carrying out the program the Director shall consider research proposals involving performance-enhancing substances banned from use by competitors in events sanctioned by organizations, such as the International Olympic Committee, the United States Olympic Committee, the National Collegiate Athletic Association, the National Football League, the National Basketball Association, and Major League Baseball.

(3) RESEARCH CONCENTRATION.—In carrying out the program, the Director shall—

(A) fund research on the detection of naturally-occurring steroids and other testosterone precursors (e.g., androstendione), such as testosterone, and other substances, such as human growth hormone and erythropoietin for which no tests are available but for which there is evidence of abuse or abuse potential;

(B) fund research that focuses on population studies to ensure that tests are accurate for men, women, all relevant age, and major ethnic groups; and

(C) not fund research on drugs of abuse, such as cocaine, phencyclidine, marijuana, morphine/codeine, and methamphetamine/amphetamine.

(c) TECHNICAL AND SCIENTIFIC PEER REVIEW.—

(1) IN GENERAL.—The Director shall establish appropriate technical and scientific peer review procedures for evaluating applications for grants under the program.

(2) IMPLEMENTATION.—The Director shall—

(A) ensure that grant applicants meet a set of minimum criteria before receiving consideration for an award under the program;

(B) give preference to laboratories with an established record of athletic drug testing analysis; and

(C) establish a minimum grant award of not less than \$500,000.

(3) CRITERIA.—The list of minimum criteria shall include requirements that each applicant—

(A) demonstrate a record of publication and research in the area of athletic drug testing;

(B) provide a plan detailing the direct transference of the research findings to lab applications in athletic drug testing; and

(C) certify that it is a not-for-profit research program.

(4) RESULTS.—The Director also shall establish appropriate technical and scientific peer review procedures for evaluating the results of research funded, in part or in whole by grants provided under the program. Each review conducted under this paragraph shall include a written report of findings and, if appropriate, recommendations prepared by the reviewer. The reviewer shall provide a copy of the report to the Director within 30 days after the conclusion of the review.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology \$4,000,000 per fiscal year to carry out this section for fiscal years 2001, 2002, 2003, 2004, and 2005.

**SEC. 4103. PREVENTION AND INTERVENTION PROGRAMS.**

(a) IN GENERAL.—The Director of the National Institute of Standards and Technology shall develop a grant program to fund educational substance abuse prevention and intervention programs related to the use of performance-enhancing substances described in section 4102(b)(2) by high school and college student athletes. The Director shall establish a set of minimum criteria for applicants to receive consideration for an award under the program. The list of minimum criteria shall include requirements that each applicant—

(1) propose an intervention and prevention program based on methodologically sound evaluation with evidence of drug prevention efficacy; and

(2) demonstrate a record of publication and research in the area of athletic drug use prevention.

(b) MINIMUM GRANT AWARD.—The Director shall establish a minimum grant award of not less than \$300,000 per recipient.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology \$3,000,000 per fiscal year to carry out this section for fiscal years 2001, 2002, 2003, 2004, and 2005.

**TITLE XLII—GAMBLING**

**SEC. 4201. PROHIBITION ON GAMBLING ON COMPETITIVE GAMES INVOLVING HIGH SCHOOL AND COLLEGE ATHLETES AND THE OLYMPICS.**

(a) IN GENERAL.—The Ted Stevens Olympic and Amateur Sports Act (chapter 2205 of title 36, United States Code) is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—MISCELLANEOUS  
"§220541. Unlawful sports gambling: Olympics; high school and college athletes

"(a) PROHIBITION.—It shall be unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly, on a competitive game or performance described in subsection (b).

"(b) COVERED GAMES AND PERFORMANCES.—A competitive game or performance described in this subsection is the following:

"(1) One or more competitive games at the Summer or Winter Olympics.

"(2) One or more competitive games in which high school or college athletes participate.

"(3) One or more performances of high school or college athletes in a competitive game.

"(c) APPLICABILITY.—The prohibition in subsection (a) applies to activity described in that subsection without regard to whether

the activity would otherwise be permitted under subsection (a) or (b) of section 3704 of title 28.

"(d) INJUNCTIONS.—A civil action to enjoin a violation of subsection (a) may be commenced in an appropriate district court of the United States by the Attorney General of the United States, a local educational agency, college, or sports organization, including an amateur sports organization or the corporation, whose competitive game is alleged to be the basis of such violation.

"(e) DEFINITIONS.—In this section:

"(1) The term 'high school' has the meaning given the term 'secondary school' in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(2) The term 'college' has the meaning given the term 'institution of higher education' in section 101 of the Higher Education Act of 1965 (20 U.S.C. 8801).

"(3) The term 'local educational agency' has the meaning given that term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that Act (chapter 2205 of title 36, United States Code) is amended by adding at the end the following:

"SUBCHAPTER III—MISCELLANEOUS  
"220541. Unlawful sports gambling: Olympics; high school and college athletes."

**GRAMS AMENDMENT NO. 3266**

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 130, strike lines 3 through 11 and insert the following:

**SEC. 423. EXCLUSION OF CERTAIN ARMY AND AIR FORCE OFFICERS FROM LIMITATION ON STRENGTHS OF RESERVE COMMISSIONED OFFICERS IN GRADES BELOW BRIGADIER GENERAL.**

Section 12005(a) of title 10, United States Code, is amended by adding at the end the following:

"(3) Medical officers, dental officers, judge advocate officers, nurse officers, and chaplains shall not be counted for purposes of this subsection."

**WARNER (AND DODD) AMENDMENT NO. 3267**

Mr. WARNER (for himself, Mr. DODD, and Mr. LEVIN) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 462, between lines 2 and 3, insert the following:

**SEC. \_\_\_\_ ESTABLISHMENT OF NATIONAL BIPARTISAN COMMISSION ON CUBA.**

(a) SHORT TITLE.—This section may be cited as the "National Bipartisan Commission on Cuba Act of 2000".

(b) PURPOSES.—The purposes of this section are to—

(1) address the serious long-term problems in the relations between the United States and Cuba; and

(2) help build the necessary national consensus on a comprehensive United States policy with respect to Cuba.

(c) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the National Bipartisan Commission on Cuba (in this section referred to as the "Commission").

(2) MEMBERSHIP.—The Commission shall be composed of 12 members, who shall be appointed as follows:

(A) Three individuals to be appointed by the President pro tempore of the Senate, of

whom two shall be appointed upon the recommendation of the Majority Leader of the Senate and of whom one shall be appointed upon the recommendation of the Minority Leader of the Senate.

(B) Three individuals to be appointed by the Speaker of the House of Representatives, of whom two shall be appointed upon the recommendation of the Majority Leader of the House of Representatives and of whom one shall be appointed upon the recommendation of the Minority Leader of the House of Representatives.

(C) Six individuals to be appointed by the President.

(3) SELECTION OF MEMBERS.—Members of the Commission shall be selected from among distinguished Americans in the private sector who are experienced in the field of international relations, especially Cuban affairs and United States-Cuban relations, and shall include representatives from a cross-section of United States interests, including human rights, religion, public health, military, business, and the Cuban-American community.

(4) DESIGNATION OF CHAIR.—The President shall designate a Chair from among the members of the Commission.

(5) MEETINGS.—The Commission shall meet at the call of the Chair.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum.

(7) VACANCIES.—Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(d) DUTIES AND POWERS OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall be responsible for an examination and documentation of the specific achievements of United States policy with respect to Cuba and an evaluation of—

(A) what national security risk Cuba poses to the United States and an assessment of any role the Cuban government may play in support of acts of international terrorism and the trafficking of illegal drugs;

(B) the indemnification of losses incurred by United States certified claimants with confiscated property in Cuba; and

(C) the domestic and international impacts of the 39-year-old United States economic, trade and travel embargo against Cuba on—

(i) the relations of the United States with allies of the United States;

(ii) the political strength of Fidel Castro;

(iii) the condition of human rights, religious freedom, and freedom of the press in Cuba;

(iv) the health and welfare of the Cuban people;

(v) the Cuban economy; and

(vi) the United States economy, business, and jobs.

(2) CONSULTATION RESPONSIBILITIES.—In carrying out its duties under paragraph (1), the Commission shall consult with governmental leaders of countries substantially impacted by the current state of United States-Cuban relations, particularly countries impacted by the United States trade embargo against Cuba, and with the leaders of nongovernmental organizations operating in those countries.

(3) POWERS OF THE COMMISSION.—The Commission may, for the purpose of carrying out its duties under this subsection, hold hearings, sit and act at times and places in the United States, take testimony, and receive evidence as the Commission considers advisable to carry out the provisions of this section.

(e) REPORT OF THE COMMISSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit a report to the

President, the Secretary of State, and Congress setting forth its recommendations for United States policy options based on its evaluations under subsection (d).

(2) CLASSIFIED FORM OF REPORT.—The report required by paragraph (1) shall be submitted in unclassified form, together with a classified annex, if necessary.

(3) INDIVIDUAL OR DISSENTING VIEWS.—Each member of the Commission may include the individual or dissenting views of the member in the report required by paragraph (1).

(f) ADMINISTRATION.—

(1) COOPERATION BY OTHER FEDERAL AGENCIES.—The heads of Executive agencies shall, to the extent permitted by law, provide the Commission such information as it may require for purposes of carrying out its functions.

(2) COMPENSATION.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

(3) ADMINISTRATIVE SUPPORT.—The Secretary of State shall, to the extent permitted by law, provide the Commission with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

(g) APPLICABILITY OF OTHER LAWS.—The Federal Advisory Committee Act shall not apply to the Commission to the extent that the provisions of this section are inconsistent with that Act.

(h) TERMINATION DATE.—The Commission shall terminate 60 days after submission of the report required by subsection (e).

#### DURBIN (AND OTHERS) AMENDMENT NO. 3268

Mr. DURBIN (for himself, Mr. AKAKA, and Mr. VOINOVICH) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

On page 415, between lines 2 and 3, insert the following:

#### SEC. 1061. STUDENT LOAN REPAYMENT PROGRAMS.

(a) STUDENT LOANS.—Section 5379(a)(1)(B) of title 5, United States Code, is amended—

(1) in clause (i), by inserting “(20 U.S.C. 1071 et seq.)” before the semicolon;

(2) in clause (ii), by striking “part E of title IV of the Higher Education Act of 1965” and inserting “part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.)”; and

(3) in clause (iii), by striking “part C of title VII of Public Health Service Act or under part B of title VIII of such Act” and inserting “part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.)”.

(b) PERSONNEL COVERED.—

(1) INELIGIBLE PERSONNEL.—Section 5379(a)(2) of title 5, United States Code, is amended to read as follows:

“(2) An employee shall be ineligible for benefits under this section if the employee occupies a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.”.

(2) PERSONNEL RECRUITED OR RETAINED.—Section 5379(b)(1) of title 5, United States Code, is amended by striking “professional, technical, or administrative”.

(c) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 60 days after the date of enactment of this

Act, the Director of the Office of Personnel Management (referred to in this section as the “Director”) shall issue proposed regulations under section 5379(g) of title 5, United States Code. The Director shall provide for a period of not less than 60 days for public comment on the regulations.

(2) FINAL REGULATIONS.—Not later than 240 days after the date of enactment of this Act, the Director shall issue final regulations described in paragraph (1).

(d) ANNUAL REPORTS.—Section 5379 of title 5, United States Code, is amended by adding at the end the following:

“(h)(1) Each head of an agency shall maintain, and annually submit to the Director of the Office of Personnel Management, information with respect to the agency on—

“(A) the number of Federal employees selected to receive benefits under this section;

“(B) the job classifications for the recipients; and

“(C) the cost to the Federal Government of providing the benefits.

“(2) The Director of the Office of Personnel Management shall prepare, and annually submit to Congress, a report containing the information submitted under paragraph (1), and information identifying the agencies that have provided the benefits described in paragraph (1).”.

#### BINGAMAN AMENDMENT NO. 3269

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 586, following line 20, add the following:

#### SEC. 3138. CONSTRUCTION OF NATIONAL NUCLEAR SECURITY ADMINISTRATION OFFICE COMPLEX AT KIRTLAND AIR FORCE BASE, NEW MEXICO.

(a) AUTHORITY FOR DESIGN AND CONSTRUCTION.—The Administrator of the National Nuclear Security Administration may provide for the design and construction of a new office complex for the National Nuclear Security Administration at the Department of Energy site located at the eastern boundary of Kirtland Air Force Base, New Mexico.

(b) BASIS OF AUTHORITY.—The design and construction of the office complex authorized by subsection (a) shall be carried out through one or more energy savings performance contracts entered into under this section and in accordance with the provisions of title VIII of the National Energy Policy Conservation Act (42 U.S.C. 8287 et seq.).

(c) PAYMENT OF COSTS.—Amounts for payments of costs associated with the construction of the office complex authorized by subsection (a) shall be derived from energy savings and ancillary operation and maintenance savings that result from the replacement of a current Department of Energy office complex in Albuquerque, New Mexico (as identified in a feasibility study conducted under the National Defense Authorization Act for Fiscal Year 2000), with the office complex authorized by subsection (a).

#### SCHUMER AMENDMENT NO. 3270

(Ordered to lie on the table.)

Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 613, after line 12, insert the following:

#### TITLE XXXV—FOREIGN MONEY LAUNDERING DETERRENCE

#### SEC. 3501. SHORT TITLE.

This title may be cited as the “Foreign Money Laundering Deterrence Act”.

**SEC. 3502. REQUIREMENTS RELATING TO TRANSACTIONS AND ACCOUNTS WITH OR ON BEHALF OF FOREIGN ENTITIES.**

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

**“§ 5331. Requirements relating to transactions and accounts with or on behalf of foreign entities**

“(a) PROHIBITION ON OPENING OR MAINTAINING CORRESPONDENT ACCOUNTS OR CORRESPONDENT BANK RELATIONSHIPS WITH CERTAIN FOREIGN BANKS.—A depository institution may not open or maintain a correspondent account in the United States for or on behalf of a foreign banking institution, or establish or maintain a correspondent bank relationship with a foreign banking institution, that—

“(1) is organized under the laws of a jurisdiction outside the United States but is not licensed or permitted to offer, or is not offering, any banking service to any resident of such jurisdiction; and

“(2) is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in such jurisdiction, as determined by the Secretary of the Treasury.

“(b) EXCEPTION.—Subsection (a) does not apply to a foreign banking institution if the institution is an affiliate of—

“(1) a depository institution; or

“(2) a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) that is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the foreign jurisdiction under whose laws it is organized, as determined by the Secretary of the Treasury.

“(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) CORRESPONDENT ACCOUNT.—The term ‘correspondent account’ means an account established to receive deposits from and make payments on behalf of a correspondent bank.

“(2) CORRESPONDENT BANK.—The term ‘correspondent bank’ means a depository institution that accepts deposits from another financial institution and provides services on behalf of such other financial institution.

“(3) DEPOSITORY INSTITUTION.—The term ‘depository institution’ has the same meaning as in section 19(b)(1)(A) of the Federal Reserve Act.

“(4) FOREIGN BANKING INSTITUTION.—The term ‘foreign banking institution’ means a foreign entity that engages in the business of banking, and includes foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities that are usual in connection with the business of banking in the countries in which they are organized or operating.”.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5330 the following new item:

“5331. Requirements relating to transactions and accounts with or on behalf of foreign entities.”.

**WARNER AMENDMENT NO. 3271**

Mr. WARNER submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ SENSE OF THE SENATE REGARDING DISCLOSURES BY TAX-EXEMPT ORGANIZATIONS.**

(a) FINDINGS.—The Senate finds that—

(1) disclosure of political campaign activities is among the most important political reforms;

(2) disclosure of political campaign activities enables citizens to make informed decisions about the political process; and

(3) certain tax-exempt organizations, including organizations organized under section 527 of the Internal Revenue Code of 1986, are not presently required to make meaningful public disclosures.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that all tax-exempt organizations engaging in political campaign activities, including organizations organized under section 527 of the Internal Revenue Code of 1986, should be held to the same standard and required to make meaningful public disclosure of their activities.

**MCCAIN AMENDMENT NO. 3272**

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 239, following line 22, add the following:

**SEC. 656. CLARIFICATION OF DEPARTMENT OF VETERANS AFFAIRS DUTY TO ASSIST.**

(a) IN GENERAL.—Section 5107 of title 38, United States Code, is amended to read as follows:

**“§ 5107 Assistance to claimants; benefit of the doubt; burden of proof**

“(a) The Secretary shall assist a claimant in developing all facts pertinent to a claim for benefits under this title. Such assistance shall include requesting information as described in section 5106 of this title. The Secretary shall provide a medical examination when such examination may substantiate entitlement to the benefits sought. The Secretary may decide a claim without providing assistance under this subsection when no reasonable possibility exists that such assistance will aid in the establishment of entitlement.

“(b) The Secretary shall consider all evidence and material of record in a case before the Department with respect to benefits under laws administered by the Secretary and shall give the claimant the benefit of the doubt when there is an approximate balance of positive and negative evidence regarding any issue material to the determination of the matter.

“(c) Except when otherwise provided by this title or by the Secretary in accordance with the provisions of this title, a person who submits a claim for benefits under a law administered by the Secretary shall have the burden of proof.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of that title is amended by striking the item relating to section 5017 and inserting the following new item:

“5107 Assistance to claimants; benefit of the doubt; burden of proof.”.

**DASCHLE (AND OTHERS)  
AMENDMENT NO. 3273**

Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. ROBB, and Mr. REED) proposed an amendment to the bill, S. 2549, supra; as follows:

At the appropriate place add the following:

**DIVISION D—BIPARTISAN CONSENSUS  
MANAGED CARE IMPROVEMENT ACT**

**SEC. 4001. SHORT TITLE.**

This division may be cited as the “Bipartisan Consensus Managed Care Improvement Act”.

**TITLE XLI—IMPROVING MANAGED CARE  
Subtitle A—Grievance and Appeals**

**SEC. 4101. UTILIZATION REVIEW ACTIVITIES.**

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms “utilization review” and “utilization review activities” mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for an evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—

(A) IN GENERAL.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the case, and in no event later than the deadline specified in subparagraph (B).

(B) DEADLINE.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for prior authorization.

(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a utilization review program—

(I) receives a request for a prior authorization;

(II) determines that additional information is necessary to complete the review and make the determination on the request; and

(III) notifies the requester, not later than five business days after the date of receiving the request, of the need for such specified additional information,

the deadline specified in this subparagraph is 14 days after the date the program receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the prior authorization. This clause shall not apply if the deadline is specified in clause (iii).

(iii) EXPEDITED CASES.—In the case of a situation described in section 102(c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for prior authorization.

(2) ONGOING CARE.—

(A) CONCURRENT REVIEW.—

(1) IN GENERAL.—Subject to subparagraph (B), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider as soon as possible in

accordance with the medical exigencies of the case, with sufficient time prior to the termination or reduction to allow for an appeal under section 102(c)(1)(A) to be completed before the termination or reduction takes effect.

(ii) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(B) EXCEPTION.—Subparagraph (A) shall not be interpreted as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination, but in no case later than 60 days after the date of receipt of the claim for benefits.

(4) FAILURE TO MEET DEADLINE.—In a case in which a group health plan or health insurance issuer fails to make a determination on a claim for benefit under paragraph (1), (2)(A), or (3) by the applicable deadline established under the respective paragraph, the failure shall be treated under this subtitle as a denial of the claim as of the date of the deadline.

(5) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section 4113, respectively.

(e) NOTICE OF DENIALS OF CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—Notice of a denial of claims for benefits under a utilization review program shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the reasons for the denial (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 4102; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such denial.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the denial in order to make a decision on such an appeal.

(f) CLAIM FOR BENEFITS AND DENIAL OF CLAIM FOR BENEFITS DEFINED.—For purposes of this subtitle:

(1) CLAIM FOR BENEFITS.—The term "claim for benefits" means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(2) DENIAL OF CLAIM FOR BENEFITS.—The term "denial" means, with respect to a claim for benefits, means a denial, or a failure to act on a timely basis upon, in whole or in part, the claim for benefits and includes a failure to provide benefits (includ-

ing items and services) required to be provided under this title.

SEC. 4102. INTERNAL APPEALS PROCEDURES.

(a) RIGHT OF REVIEW.—

(1) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage—

(A) shall provide adequate notice in writing to any participant or beneficiary under such plan, or enrollee under such coverage, whose claim for benefits under the plan or coverage has been denied (within the meaning of section 4101(f)(2)), setting forth the specific reasons for such denial of claim for benefits and rights to any further review or appeal, written in a manner calculated to be understood by the participant, beneficiary, or enrollee; and

(B) shall afford such a participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if the individual is medically unable to provide such consent) who is dissatisfied with such a denial of claim for benefits a reasonable opportunity (of not less than 180 days) to request and obtain a full and fair review by a named fiduciary (with respect to such plan) or named appropriate individual (with respect to such coverage) of the decision denying the claim.

(2) TREATMENT OF ORAL REQUESTS.—The request for review under paragraph (1)(B) may be made orally, but, in the case of an oral request, shall be followed by a request in writing.

(b) INTERNAL REVIEW PROCESS.—

(1) CONDUCT OF REVIEW.—

(A) IN GENERAL.—A review of a denial of claim under this section shall be made by an individual who—

(i) in a case involving medical judgment, shall be a physician or, in the case of limited scope coverage (as defined in subparagraph (B)), shall be an appropriate specialist;

(ii) has been selected by the plan or issuer; and

(iii) did not make the initial denial in the internally appealable decision.

(B) LIMITED SCOPE COVERAGE DEFINED.—For purposes of subparagraph (A), the term "limited scope coverage" means a group health plan or health insurance coverage the only benefits under which are for benefits described in section 2791(c)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg-91(c)(2)).

(2) TIME LIMITS FOR INTERNAL REVIEWS.—

(A) IN GENERAL.—Having received such a request for review of a denial of claim, the plan or issuer shall, in accordance with the medical exigencies of the case but not later than the deadline specified in subparagraph (B), complete the review on the denial and transmit to the participant, beneficiary, enrollee, or other person involved a decision that affirms, reverses, or modifies the denial. If the decision does not reverse the denial, the plan or issuer shall transmit, in printed form, a notice that sets forth the grounds for such decision and that includes a description of rights to any further appeal. Such decision shall be treated as the final decision of the plan. Failure to issue such a decision by such deadline shall be treated as a final decision affirming the denial of claim.

(B) DEADLINE.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for internal review.

(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a group health plan or health insurance issuer—

(I) receives a request for internal review;

(II) determines that additional information is necessary to complete the review and make the determination on the request; and

(III) notifies the requester, not later than five business days after the date of receiving the request, of the need for such specified additional information, the deadline specified in this subparagraph is 14 days after the date the plan or issuer receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the internal review. This clause shall not apply if the deadline is specified in clause (iii).

(iii) EXPEDITED CASES.—In the case of a situation described in subsection (c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for review.

(c) EXPEDITED REVIEW PROCESS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of requests for review under subsection (b) in situations—

(A) in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function; or

(B) described in section 4101(d)(2) (relating to requests for continuation of ongoing care which would otherwise be reduced or terminated).

(2) PROCESS.—Under such procedures—

(A) the request for expedited review may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the review;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the review in the case of any of the situations described in subparagraph (A) or (B) of paragraph (1).

(3) DEADLINE FOR DECISION.—The decision on the expedited review must be made and communicated to the parties as soon as possible in accordance with the medical exigencies of the case, and in no event later than 72 hours after the time of receipt of the request for expedited review, except that in a case described in paragraph (1)(B), the decision must be made before the end of the approved period of care.

(d) WAIVER OF PROCESS.—A plan or issuer may waive its rights for an internal review under subsection (b). In such case the participant, beneficiary, or enrollee involved (and any designee or provider involved) shall be relieved of any obligation to complete the review involved and may, at the option of such participant, beneficiary, enrollee, designee, or provider, proceed directly to seek further appeal through any applicable external appeals process.

#### SEC. 4103. EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2), for which a timely appeal is made either by the plan or issuer or by the participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if such an individual is medically unable to provide such consent). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—

(A) IN GENERAL.—For purposes of this section, the term "externally appealable decision" means a denial of claim for benefits (as defined in section 4101(f)(2))—

(i) that is based in whole or in part on a decision that the item or service is not medically necessary or appropriate or is investigational or experimental; or

(ii) in which the decision as to whether a benefit is covered involves a medical judgment.

(B) INCLUSION.—Such term also includes a failure to meet an applicable deadline for internal review under section 4102.

(C) EXCLUSIONS.—Such term does not include—

(i) specific exclusions or express limitations on the amount, duration, or scope of coverage that do not involve medical judgment; or

(ii) a decision regarding whether an individual is a participant, beneficiary, or enrollee under the plan or coverage.

(3) EXHAUSTION OF INTERNAL REVIEW PROCESS.—Except as provided under section 4102(d), a plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon a final decision in an internal review under section 4102, but only if the decision is made in a timely basis consistent with the deadlines provided under this subtitle.

(4) FILING FEE REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), a plan or issuer may condition the use of an external appeal process upon payment to the plan or issuer of a filing fee that does not exceed \$25.

(B) EXCEPTION FOR INDIGENCY.—The plan or issuer may not require payment of the filing fee in the case of an individual participant, beneficiary, or enrollee who certifies (in a form and manner specified in guidelines established by the Secretary of Health and Human Services) that the individual is indigent (as defined in such guidelines).

(C) REFUNDING FEE IN CASE OF SUCCESSFUL APPEALS.—The plan or issuer shall refund payment of the filing fee under this paragraph if the recommendation of the external appeal entity is to reverse or modify the denial of a claim for benefits which is the subject of the appeal.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Except as provided in subparagraph (D), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) LIMITATION ON PLAN OR ISSUER SELECTION.—The applicable authority shall implement procedures—

(i) to assure that the selection process among qualified external appeal entities will not create any incentives for external appeal entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that all costs of the process (except those incurred by the participant, beneficiary, enrollee, or treating professional in support of the appeal) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee. The previous sen-

tence shall not be construed as applying to the imposition of a filing fee under subsection (a)(4).

(D) STATE AUTHORITY WITH RESPECT QUALIFIED EXTERNAL APPEAL ENTITY FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR AND DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination. However, nothing in this paragraph shall be construed as providing for coverage of items and services for which benefits are specifically excluded under the plan or coverage.

(B) STANDARD OF REVIEW.—An external appeal entity shall determine whether the plan's or issuer's decision is in accordance with the medical needs of the patient involved (as determined by the entity) taking into account, as of the time of the entity's determination, the patient's medical condition and any relevant and reliable evidence the entity obtains under subparagraph (D). If the entity determines the decision is in accordance with such needs, the entity shall affirm the decision and to the extent that the entity determines the decision is not in accordance with such needs, the entity shall reverse or modify the decision.

(C) CONSIDERATION OF PLAN OR COVERAGE DEFINITIONS.—In making such determination, the external appeal entity shall consider (but not be bound by) any language in the plan or coverage document relating to the definitions of the terms medical necessity, medically necessary or appropriate, or experimental, investigational, or related terms.

(D) EVIDENCE.—

(i) IN GENERAL.—An external appeal entity shall include, among the evidence taken into consideration—

(I) the decision made by the plan or issuer upon internal review under section 4102 and any guidelines or standards used by the plan or issuer in reaching such decision;

(II) any personal health and medical information supplied with respect to the individual whose denial of claim for benefits has been appealed; and

(III) the opinion of the individual's treating physician or health care professional.

(ii) ADDITIONAL EVIDENCE.—Such entity may also take into consideration but not be limited to the following evidence (to the extent available):

(I) The results of studies that meet professionally recognized standards of validity and replicability or that have been published in peer-reviewed journals.

(II) The results of professional consensus conferences conducted or financed in whole or in part by one or more Government agencies.

(III) Practice and treatment guidelines prepared or financed in whole or in part by Government agencies.

(IV) Government-issued coverage and treatment policies.

(V) Community standard of care and generally accepted principles of professional medical practice.

(VI) To the extent that the entity determines it to be free of any conflict of interest, the opinions of individuals who are qualified as experts in one or more fields of health

care which are directly related to the matters under appeal.

(VII) To the extent that the entity determines it to be free of any conflict of interest, the results of peer reviews conducted by the plan or issuer involved.

(E) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine—

(i) whether a denial of claim for benefits is an externally appealable decision (within the meaning of subsection (a)(2));

(ii) whether an externally appealable decision involves an expedited appeal; and

(iii) for purposes of initiating an external review, whether the internal review process has been completed.

(F) OPPORTUNITY TO SUBMIT EVIDENCE.—Each party to an externally appealable decision may submit evidence related to the issues in dispute.

(G) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to the external appeal entity to information and to provisions of the plan or health insurance coverage relating to the matter of the externally appealable decision, as determined by the entity.

(H) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be made in accordance with the medical exigencies of the case involved, but in no event later than 21 days after the date (or, in the case of an expedited appeal, 72 hours after the time) of requesting an external appeal of the decision;

(iii) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(iv) inform the participant, beneficiary, or enrollee of the individual's rights (including any limitation on such rights) to seek further review by the courts (or other process) of the external appeal determination.

(I) COMPLIANCE WITH DETERMINATION.—If the external appeal entity reverses or modifies the denial of a claim for benefits, the plan or issuer shall—

(i) upon the receipt of the determination, authorize benefits in accordance with such determination;

(ii) take such actions as may be necessary to provide benefits (including items or services) in a timely manner consistent with such determination; and

(iii) submit information to the entity documenting compliance with the entity's determination and this subparagraph.

(C) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term "qualified external appeal entity" means, in relation to a plan or issuer, an entity that is certified under paragraph (2) as meeting the following requirements:

(A) The entity meets the independence requirements of paragraph (3).

(B) The entity conducts external appeal activities through a panel of not fewer than three clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(2)(G).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) INITIAL CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1)—

(I) by the Secretary of Labor;

(II) under a process recognized or approved by the Secretary of Labor; or

(III) to the extent provided in subparagraph (C)(i), by a qualified private standard-setting organization (certified under such subparagraph); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements—

(I) by the applicable State authority (or under a process recognized or approved by such authority); or

(II) if the State has not established a certification and recertification process for such entities, by the Secretary of Health and Human Services, under a process recognized or approved by such Secretary, or to the extent provided in subparagraph (C)(ii), by a qualified private standard-setting organization (certified under such subparagraph).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a review of—

(i) the number of cases reviewed;

(ii) a summary of the disposition of those cases;

(iii) the length of time in making determinations on those cases;

(iv) updated information of what was required to be submitted as a condition of certification for the entity's performance of external appeal activities; and

(v) such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted.

(C) CERTIFICATION OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—

(1) FOR EXTERNAL REVIEWS UNDER GROUP HEALTH PLANS.—For purposes of subparagraph (A)(i)(III), the Secretary of Labor may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(i)(I).

(2) FOR EXTERNAL REVIEWS OF HEALTH INSURANCE ISSUERS.—For purposes of subparagraph (A)(ii)(II), the Secretary of Health and Human Services may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(ii)(I).

(3) INDEPENDENCE REQUIREMENTS.—

(A) IN GENERAL.—A clinical peer or other entity meets the independence requirements of this paragraph if—

(i) the peer or entity does not have a familial, financial, or professional relationship with any related party;

(ii) any compensation received by such peer or entity in connection with the external review is reasonable and not contingent on any decision rendered by the peer or entity;

(iii) except as provided in paragraph (4), the plan and the issuer have no recourse

against the peer or entity in connection with the external review; and

(iv) the peer or entity does not otherwise have a conflict of interest with a related party as determined under any regulations which the Secretary may prescribe.

(B) RELATED PARTY.—For purposes of this paragraph, the term "related party" means—

(i) with respect to—

(I) a group health plan or health insurance coverage offered in connection with such a plan, the plan or the health insurance issuer offering such coverage; or

(II) individual health insurance coverage, the health insurance issuer offering such coverage, or any plan sponsor, fiduciary, officer, director, or management employee of such plan or issuer;

(ii) the health care professional that provided the health care involved in the coverage decision;

(iii) the institution at which the health care involved in the coverage decision is provided;

(iv) the manufacturer of any drug or other item that was included in the health care involved in the coverage decision; or

(v) any other party determined under any regulations which the Secretary may prescribe to have a substantial interest in the coverage decision.

(4) LIMITATION ON LIABILITY OF REVIEWERS.—No qualified external appeal entity having a contract with a plan or issuer under this part and no person who is employed by any such entity or who furnishes professional services to such entity, shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if due care was exercised in the performance of such duty, function, or activity and there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(d) EXTERNAL APPEAL DETERMINATION BINDING ON PLAN.—The determination by an external appeal entity under this section is binding on the plan and issuer involved in the determination.

(e) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(1) MONETARY PENALTIES.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion in a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to \$1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(2) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in paragraph (1) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such paragraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity in violation of such terms of the plan, coverage, or this subtitle, or has failed to take an action for which such person is responsible under the plan, coverage, or this title and which is necessary under the plan or coverage for authorizing a

benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(A) to cease and desist from the alleged action or failure to act; and

(B) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(3) **ADDITIONAL CIVIL PENALTIES.—**

(A) **IN GENERAL.—**In addition to any penalty imposed under paragraph (1) or (2), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(i) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity in violation of the terms of such a plan, coverage, or this title; or

(ii) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or plans or coverage.

(B) **STANDARD OF PROOF AND AMOUNT OF PENALTY.—**Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(i) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(ii) \$500,000.

(4) **REMOVAL AND DISQUALIFICATION.—**Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in paragraph (3)(A) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(f) **PROTECTION OF LEGAL RIGHTS.—**Nothing in this subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

**SEC. 4104. ESTABLISHMENT OF A GRIEVANCE PROCESS.**

(a) **ESTABLISHMENT OF GRIEVANCE SYSTEM.—**

(1) **IN GENERAL.—**A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent or without such consent if the individual is medically unable to provide such consent, regarding any aspect of the plan's or issuer's services.

(2) **GRIEVANCE DEFINED.—**In this section, the term "grievance" means any question, complaint, or concern brought by a participant, beneficiary or enrollee that is not a claim for benefits (as defined in section 4101(f)(1)).

(b) **GRIEVANCE SYSTEM.—**Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least three previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

Grievances are not subject to appeal under the previous provisions of this subtitle.

**Subtitle B—Access to Care**

**SEC. 4111. CONSUMER CHOICE OPTION.**

(a) **IN GENERAL.—**If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) **ADDITIONAL COSTS.—**The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) **OPEN SEASON.—**An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

**SEC. 4112. CHOICE OF HEALTH CARE PROFESSIONAL.**

(a) **PRIMARY CARE.—**If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) **SPECIALISTS.—**

(1) **IN GENERAL.—**Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or

appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) **LIMITATION.—**Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) **CONSTRUCTION.—**Nothing in this subsection shall be construed as affecting the application of section 4114 (relating to access to specialty care).

**SEC. 4113. ACCESS TO EMERGENCY CARE.**

(a) **COVERAGE OF EMERGENCY SERVICES.—**

(1) **IN GENERAL.—**If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization; or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) **DEFINITIONS.—**In this section:

(A) **EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—**The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) **EMERGENCY SERVICES.—**The term "emergency services" means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)); and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) **STABILIZE.—**The term "to stabilize" means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with the guidelines established under section 1852(d)(2) of the Social Security Act), if the services are maintenance care or post-stabilization care covered under such guidelines.

**SEC. 4114. ACCESS TO SPECIALTY CARE.**

(a) SPECIALTY CARE FOR COVERED SERVICES.—

(1) IN GENERAL.—If—

(A) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer;

(B) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist; and

(C) benefits for such treatment are provided under the plan or coverage, the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(2) SPECIALIST DEFINED.—For purposes of this subsection, the term “specialist” means, with respect to a condition, a health care practitioner, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(3) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under paragraph (1) be—

(A) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual’s designee); and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(4) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under paragraph (1) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual’s condition and that is a participating provider with respect to such treatment.

(5) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to paragraph (1), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(b) SPECIALISTS AS GATEKEEPER FOR TREATMENT OF ONGOING SPECIAL CONDITIONS.—

(1) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with

the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in paragraph (3)) may request and receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual’s care with respect to the condition. Under such procedures if such an individual’s care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(2) TREATMENT FOR RELATED REFERRALS.—Such specialists shall be permitted to treat the individual without a referral from the individual’s primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual’s primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment (referred to in subsection (a)(3)(A)) with respect to the ongoing special condition.

(3) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term “ongoing special condition” means a condition or disease that—

(A) is life-threatening, degenerative, or disabling; and

(B) requires specialized medical care over a prolonged period of time.

(4) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

(c) STANDING REFERRALS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist if the individual so desires.

(2) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

**SEC. 4115. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.**

(a) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care health care professional, the plan or issuer—

(1) may not require authorization or a referral by the individual’s primary care health care professional or otherwise for coverage of gynecological care (including preventive women’s health examinations) and pregnancy-related services provided by a participating health care professional, including a physician, who specializes in obstetrics and gynecology to the extent such care is otherwise covered; and

(2) shall treat the ordering of other obstetrical or gynecological care by such a participating professional as the authorization of the primary care health care professional with respect to such care under the plan or coverage.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

**SEC. 4116. ACCESS TO PEDIATRIC CARE.**

(a) PEDIATRIC CARE.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for an enrollee to designate a participating primary care provider for a child of such enrollee, the plan or issuer shall permit the enrollee to designate a physician who specializes in pediatrics as the child’s primary care provider.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms of the plan or health insurance coverage with respect to coverage of pediatric care.

**SEC. 4117. CONTINUITY OF CARE.**

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)(B)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing treatment from the provider for an ongoing special condition (as defined in paragraph (3)(A)) at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this section; and

(B) subject to subsection (c), permit the individual to elect to continue to be covered with respect to treatment by the provider of such condition during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

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

(A) ONGOING SPECIAL CONDITION.—The term “ongoing special condition” has the meaning given such term in section 4114(b)(3), and also includes pregnancy.

(B) TERMINATION.—The term “terminated” includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend up to 90 days (as determined by the treating health care professional) after the date of

the notice described in subsection (a)(1)(A) of the provider's termination.

(2) **SCHEDULED SURGERY AND ORGAN TRANSPLANTATION.**—If surgery or organ transplantation was scheduled for an individual before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such surgery or transplantation, the transitional period under this subsection with respect to the surgery or transplantation shall extend beyond the period under paragraph (1) and until the date of discharge of the individual after completion of the surgery or transplantation.

(3) **PREGNANCY.**—If—

(A) a participant, beneficiary, or enrollee was determined to be pregnant at the time of a provider's termination of participation; and

(B) the provider was treating the pregnancy before date of the termination, the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) **TERMINAL ILLNESS.**—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation; and

(B) the provider was treating the terminal illness before the date of termination, the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

(c) **PERMISSIBLE TERMS AND CONDITIONS.**—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) **CONSTRUCTION.**—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

**SEC. 4118. ACCESS TO NEEDED PRESCRIPTION DRUGS.**

If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits

to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section 4121(c)(5) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section 4101, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

**SEC. 4119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.**

(a) **COVERAGE.**—

(1) **IN GENERAL.**—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) **EXCLUSION OF CERTAIN COSTS.**—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) **USE OF IN-NETWORK PROVIDERS.**—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) **QUALIFIED INDIVIDUAL DEFINED.**—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) **Either—**

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) **PAYMENT.**—

(1) **IN GENERAL.**—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) **PAYMENT RATE.**—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) **APPROVED CLINICAL TRIAL DEFINED.**—

(1) **IN GENERAL.**—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) **CONDITIONS FOR DEPARTMENTS.**—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) **CONSTRUCTION.**—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

**Subtitle C—Access to Information**

**SEC. 4121. PATIENT ACCESS TO INFORMATION.**

(a) **DISCLOSURE REQUIREMENT.**—

(1) **GROUP HEALTH PLANS.**—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) **HEALTH INSURANCE ISSUERS.**—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) **INFORMATION PROVIDED.**—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 4112(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures

under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer.

(9) QUALITY ASSURANCE.—Any information made public by an accrediting organization in the process of accreditation of the plan or issuer or any additional quality indicators the plan or issuer makes available.

(10) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(11) NOTICE OF REQUIREMENTS.—Notice of the requirements of this title.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 4101, including under any drug formulary program under section 4118.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—A general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which a specified prospective or treating health care professional is (or would be) compensated in connection with the provision of health care under the plan or coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(6) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

#### Subtitle D—Protecting the Doctor-Patient Relationship

#### SEC. 4131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

#### SEC. 4132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

#### SEC. 4133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

#### SEC. 4134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner consistent with the provisions of sections 1816(c)(2) and 1842(c)(2) of the Social Security Act (42 U.S.C. 1395h(c)(2) and 42 U.S.C. 1395u(c)(2)), except that for purposes of this section, subparagraph (C) of section 1816(c)(2) of the Social Security Act shall be treated as applying to claims received from a participant, beneficiary, or enrollee as well as claims referred to in such subparagraph.

#### SEC. 4135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding

of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term “protected health care professional” means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

#### Subtitle E—Definitions

##### SEC. 4151. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term “appropriate Secretary” means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) ACTIVELY PRACTICING.—The term “actively practicing” means, with respect to a physician or other health care professional, such a physician or professional who pro-

vides professional services to individual patients on average at least two full days per week.

(2) APPLICABLE AUTHORITY.—The term “applicable authority” means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(3) CLINICAL PEER.—The term “clinical peer” means, with respect to a review or appeal, an actively practicing physician (allopathic or osteopathic) or other actively practicing health care professional who holds a nonrestricted license, and who is appropriately credentialed in the same or similar specialty or subspecialty (as appropriate) as typically handles the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician (allopathic or osteopathic) may be a clinical peer with respect to the review or appeal of treatment recommended or rendered by a physician.

(4) ENROLLEE.—The term “enrollee” means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(5) GROUP HEALTH PLAN.—The term “group health plan” has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974 and in section 2791(a)(1) of the Public Health Service Act.

(6) HEALTH CARE PROFESSIONAL.—The term “health care professional” means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(7) HEALTH CARE PROVIDER.—The term “health care provider” includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(8) NETWORK.—The term “network” means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(9) NONPARTICIPATING.—The term “nonparticipating” means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(10) PARTICIPATING.—The term “participating” means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(11) PRIOR AUTHORIZATION.—The term “prior authorization” means the process of

obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

**SEC. 4152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.**

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

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

(1) STATE LAW.—The term “State law” includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term “State” includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

**SEC. 4153. EXCLUSIONS.**

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those that are provided for under the terms of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEE-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 4111 through 4117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term “fee-for-service coverage” means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on the basis of a rate determined by the plan or issuer on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) does not restrict the selection of providers among those who are lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing coverage for any services.

**SEC. 4154. COVERAGE OF LIMITED SCOPE PLANS.**

Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act and section 714 of the Employee Retirement Income Security Act of 1974, section

2791(c)(2)(A), and section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974 shall be deemed not to apply.

**SEC. 4155. REGULATIONS.**

The Secretaries of Health and Human Services and Labor shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

**TITLE XLII—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT**

**SEC. 4201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.**

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

**“SEC. 2707. PATIENT PROTECTION STANDARDS.**

“(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under title XLI of the Patients’ Bill of Rights Act, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

“(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.”

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting “(other than section 2707)” after “requirements of such subparts”.

**SEC. 4202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.**

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

**“SEC. 2753. PATIENT PROTECTION STANDARDS.**

“(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under title XLI of the Patients’ Bill of Rights Act with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

“(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such title as if such section applied to such issuer and such issuer were a group health plan.”

**TITLE XLIII—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974**

**SEC. 4301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

**“SEC. 714. PATIENT PROTECTION STANDARDS.**

“(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insur-

ance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title XLI of the Patients’ Bill of Rights Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

“(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

“(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title XLI of the Patients’ Bill of Rights Act with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

“(A) Section 4112 (relating to choice of providers).

“(B) Section 4113 (relating to access to emergency care).

“(C) Section 4114 (relating to access to specialty care).

“(D) Section 4115 (relating to access to obstetrical and gynecological care).

“(E) Section 4116 (relating to access to pediatric care).

“(F) Section 4117(a)(1) (relating to continuity in case of termination of provider contract) and section 4117(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

“(G) Section 4118 (relating to access to needed prescription drugs).

“(H) Section 4119 (relating to coverage for individuals participating in approved clinical trials).

“(I) Section 4134 (relating to payment of claims).

“(2) INFORMATION.—With respect to information required to be provided or made available under section 4121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer’s failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

“(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the internal appeals process and the grievance system required to be established under sections 4102 and 4104, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer’s failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

“(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 4103, the plan shall be treated as meeting the requirement of such section and is not liable for the entity’s failure to meet any requirements under such section.

“(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan

and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

“(A) Section 4131 (relating to prohibition of interference with certain medical communications).

“(B) Section 4132 (relating to prohibition of discrimination against providers based on licensure).

“(C) Section 4133 (relating to prohibition against improper incentive arrangements).

“(D) Section 4135 (relating to protection for patient advocacy).

“(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

“(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 4135(b)(1) of the Patients’ Bill of Rights Act, for purposes of this subtitle the term ‘group health plan’ is deemed to include a reference to an institutional health care provider.

“(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

“(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 4135(b)(1) of the Patients’ Bill of Rights Act may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

“(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

“(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.”

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting “(a)” after “SEC. 503.” and by adding at the end the following new subsection:

“(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle A of title XLI of the Patients Bill of Rights Act in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.”

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking “section 711” and inserting “sections 711 and 714”.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

“Sec. 714. Patient protection standards.”

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting “(other than section 135(b))” after “part 7”.

**SEC. 4302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICY-HOLDERS.**

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) (as amended by section 301(b)) is amended further by adding at the end the following subsections:

“(f) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

“(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

“(A) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action by a participant or beneficiary (or the estate of a participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

“(i) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan as defined in section 733), or

“(ii) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

“(B) LIMITATION ON PUNITIVE DAMAGES.—

“(i) IN GENERAL.—No person shall be liable for any punitive, exemplary, or similar damages in the case of a cause of action brought under subparagraph (A) if—

“(I) it relates to an externally appealable decision (as defined in subsection (a)(2) of section 4103 of the Patients’ Bill of Rights Act);

“(II) an external appeal with respect to such decision was completed under such section 4103;

“(III) in the case such external appeal was initiated by the plan or issuer filing the request for the external appeal, the request was filed on a timely basis before the date the action was brought or, if later, within 30 days after the date the externally appealable decision was made; and

“(IV) the plan or issuer complied with the determination of the external appeal entity upon receipt of the determination of the external appeal entity.

The provisions of this clause supersede any State law or common law to the contrary.

“(ii) EXCEPTION.—Clause (i) shall not apply with respect to damages in the case of a cause of action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such a cause of action which are only punitive or exemplary in nature.

“(C) PERSONAL INJURY DEFINED.—For purposes of this subsection, the term ‘personal injury’ means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

“(2) EXCEPTION FOR GROUP HEALTH PLANS, EMPLOYERS, AND OTHER PLAN SPONSORS.—

“(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

“(i) any cause of action against a group health plan or an employer or other plan sponsor maintaining the plan (or against an employee of such a plan, employer, or sponsor acting within the scope of employment), or

“(ii) a right of recovery, indemnity, or contribution by a person against a group health plan or an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

“(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against group health plan or an employer or other plan sponsor (or against an employee of such a plan, employer, or sponsor acting within the scope of employment) if—

“(i) such action is based on the exercise by the plan, employer, or sponsor (or employee) of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

“(ii) the exercise by the plan, employer, or sponsor (or employee) of such authority resulted in personal injury or wrongful death.

“(C) EXCEPTION.—The exercise of discretionary authority described in subparagraph (B)(i) shall not be construed to include—

“(i) the decision to include or exclude from the plan any specific benefit;

“(ii) any decision to provide extra-contractual benefits; or

“(iii) any decision not to consider the provision of a benefit while internal or external review is being conducted.

“(3) FUTILITY OF EXHAUSTION.—An individual bringing an action under this subsection is required to exhaust administrative processes under sections 4102 and 4103 of the Patients’ Bill of Rights Act, unless the injury to or death of such individual has occurred before the completion of such processes.

“(4) CONSTRUCTION.—Nothing in this subsection shall be construed as—

“(A) permitting a cause of action under State law for the failure to provide an item or service which is specifically excluded under the group health plan involved;

“(B) as preempting a State law which requires an affidavit or certificate of merit in a civil action; or

“(C) permitting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A).

“(g) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

“(1) permitting the application of State laws that are otherwise superseded by this title and that mandate the provision of specific benefits by a group health plan (as defined in section 733(a)) or a multiple employer welfare arrangement (as defined in section 3(40)), or

“(2) affecting any State law which regulates the practice of medicine or provision of medical care, or affecting any action based upon such a State law.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of enactment of this Act, from which a cause of action arises.

**SEC. 4303. LIMITATIONS ON ACTIONS.**

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by section 304(b)) is amended further by adding at the end the following new subsection:

“(o)(1) Except as provided in this subsection, no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 4101, subtitle B, or subtitle D of title XLI of the Patients’ Bill of Rights Act (as incorporated under section 714).

“(2) An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section 4101, 4113, 4114, 4115, 4116, 4117, 4119, or 4118(3) of the Patients’ Bill of Rights Act (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

“(A) such an action may not be brought or maintained as a class action; and

“(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney’s fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

“(3) Nothing in this subsection shall be construed as affecting any action brought by the Secretary.”

**TITLE XLIV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986**

**SEC. 4401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.**

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

“Sec. 9813. Standard relating to patient freedom of choice.”;

and

(2) by inserting after section 9812 the following:

**“SEC. 9813. STANDARD RELATING TO PATIENTS’ BILL OF RIGHTS.**

“A group health plan shall comply with the requirements of title XLI of the Patients’ Bill of Rights Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.”.

**TITLE XLV—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION**

**SEC. 4501. EFFECTIVE DATES.**

(a) **GROUP HEALTH COVERAGE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the amendments made by sections 4201(a), 4301, 4303, and 4401 (and title XLI insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2002 (in this section referred to as the “general effective date”) and also shall apply to portions of plan years occurring on and after such date.

(2) **TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.**—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 4201(a), 4301, 4303, and 4401 (and title XLI insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this division shall not be treated as a termination of such collective bargaining agreement.

(b) **INDIVIDUAL HEALTH INSURANCE COVERAGE.**—The amendments made by section 4202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

**SEC. 4502. COORDINATION IN IMPLEMENTATION.**

The Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this division (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated

enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

**TITLE XLVI—MISCELLANEOUS PROVISIONS**

**SEC. 4601. HEALTH CARE PAPERWORK SIMPLIFICATION.**

(a) **ESTABLISHMENT OF PANEL.**—

(1) **ESTABLISHMENT.**—There is established a panel to be known as the Health Care Panel to Devise a Uniform Explanation of Benefits (in this section referred to as the “Panel”).

(2) **DUTIES OF PANEL.**—

(A) **IN GENERAL.**—The Panel shall devise a single form for use by third-party health care payers for the remittance of claims to providers.

(B) **DEFINITION.**—For purposes of this section, the term “third-party health care payer” means any entity that contractually pays health care bills for an individual.

(3) **MEMBERSHIP.**—

(A) **SIZE AND COMPOSITION.**—The Secretary of Health and Human Services shall determine the number of members and the composition of the Panel. Such Panel shall include equal numbers of representatives of private insurance organizations, consumer groups, State insurance commissioners, State medical societies, State hospital associations, and State medical specialty societies.

(B) **TERMS OF APPOINTMENT.**—The members of the Panel shall serve for the life of the Panel.

(C) **VACANCIES.**—A vacancy in the Panel shall not affect the power of the remaining members to execute the duties of the Panel, but any such vacancy shall be filled in the same manner in which the original appointment was made.

(4) **PROCEDURES.**—

(A) **MEETINGS.**—The Panel shall meet at the call of a majority of its members.

(B) **FIRST MEETING.**—The Panel shall convene not later than 60 days after the date of the enactment of the Bipartisan Consensus Managed Care Improvement Act of 1999.

(C) **QUORUM.**—A quorum shall consist of a majority of the members of the Panel.

(D) **HEARINGS.**—For the purpose of carrying out its duties, the Panel may hold such hearings and undertake such other activities as the Panel determines to be necessary to carry out its duties.

(5) **ADMINISTRATION.**—

(A) **COMPENSATION.**—Except as provided in subparagraph (B), members of the Panel shall receive no additional pay, allowances, or benefits by reason of their service on the Panel.

(B) **TRAVEL EXPENSES AND PER DIEM.**—Each member of the Panel who is not an officer or employee of the Federal Government shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(C) **CONTRACT AUTHORITY.**—The Panel may contract with and compensate Government and private agencies or persons for items and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) **USE OF MAILS.**—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(E) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Panel, the Secretary of Health and Human Services shall provide to the Panel on a reimbursable basis such administrative support services as the Panel may request.

(6) **SUBMISSION OF FORM.**—Not later than 2 years after the first meeting, the Panel shall

submit a form to the Secretary of Health and Human Services for use by third-party health care payers.

(7) **TERMINATION.**—The Panel shall terminate on the day after submitting the form under paragraph (6).

(b) **REQUIREMENT FOR USE OF FORM BY THIRD-PARTY CARE PAYERS.**—A third-party health care payer shall be required to use the form devised under subsection (a) for plan years beginning on or after 5 years following the date of the enactment of this Act.

**SEC. 4602. NO IMPACT ON SOCIAL SECURITY TRUST FUND.**

(a) **IN GENERAL.**—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) **TRANSFERS.**—

(1) **ESTIMATE OF SECRETARY.**—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) **TRANSFER OF FUNDS.**—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

**SEC. 4603. CUSTOMS USER FEES.**

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking “2003” and inserting “2010”.

**BINGAMAN (AND DOMENICI)  
AMENDMENT NO. 3274**

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

At the appropriate place, insert the following:

**Sec. . Maverick Missile upgrades.**

**AVAILABILITY OF FUNDS.**—(1) Of the amount authorized to be appropriated by section XXX for missile procurement for the Air Force, the amount available for Maverick modifications is hereby increased by \$5,000,000.

(2) Of the amounts available under this Act for In-Service Missile Modifications, as increased by paragraph (1), \$5,000,000 shall be available for conversion of AGM-65B and AGM-65G missiles to both the AGM-65H and K configurations, of which an appropriate quantity will be procured for Air National Guard pilot training.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

**EDWARDS (AND TORRICELLI)  
AMENDMENT NO. 3275**

(Ordered to lie on the table.)

Mr. EDWARDS (for himself and Mr. TORRICELLI) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

At the appropriate place, insert the following:

**SEC. \_\_. SENSE OF THE SENATE.**

(a) FINDINGS.—The Senate finds that—

(1) during September 1999, Hurricane Floyd ran a path of destruction along the entire eastern seaboard from Florida to Maine;

(2) Hurricane Floyd was the most destructive natural disaster in the history of the State of North Carolina and most costly natural disaster in the history of the State of New Jersey;

(3) the Federal Emergency Management Agency declared Hurricane Floyd the eighth worst natural disaster of the past decade;

(4) although the Federal Emergency Management Agency coordinates the Federal response to natural disasters that exceed the capabilities of State and local governments and assists communities to recover from those disasters, the Federal Emergency Management Agency is not equipped to provide long-term economic recovery assistance;

(5) it has been 9 months since Hurricane Floyd and the Nation has hundreds of communities that have yet to recover from the devastation caused by that disaster;

(6) in the past, Congress has responded to natural disasters by providing additional economic community development assistance to communities recovering from those disasters, including \$250,000,000 for Hurricane Georges in 1998, \$552,000,000 for Red River Valley Floods in North Dakota in 1997, \$25,000,000 for Hurricanes Fran and Hortense in 1996, and \$725,000,000 for the Northridge Earthquake in California in 1994;

(7) additional assistance provided by Congress to communities recovering from natural disasters has been in the form of community development block grants administered by the Department of Housing and Urban Development and grants administered by the Economic Development Administration;

(8) communities affected by Hurricane Floyd are facing similar recovery needs as have victims of other natural disasters and will need long-term economic recovery plans to make them strong again; and

(9) on April 7, 2000, the Senate passed amendment number 3001 to S. Con. Res. 101, which amendment would allocate \$250,000,000 in long-term economic development aid to assist communities rebuilding from Hurricane Floyd, including \$150,000,000 in community development block grant funding and \$50,000,000 in rural facilities grant funding.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) communities devastated by Hurricane Floyd should know that, in the past, Congress has responded to natural disasters by demonstrating a commitment to helping affected States and communities to recover;

(2) the Federal response to natural disasters has traditionally been quick, supportive, and appropriate;

(3) recognizing that communities devastated by Hurricane Floyd are facing tremendous challenges as they begin their recovery, the Federal agencies that administer community and regional development programs should expect an increase in applications and other requests from these communities;

(4) community development block grants administered by the Department of Housing and Urban Development, grant programs administered by the Economic Development Administration, and the Community Facilities Grant Program administered by the Department of Agriculture are resources that communities have used to accomplish revitalization and economic development following natural disasters; and

(5) additional community and regional development funding, as provided for in amendment number 3001 to S. Con. Res. 101, as passed by the Senate on April 7, 2000, should

be appropriated to assist communities in need of long-term economic development aid as a result of damage suffered by Hurricane Floyd.

**EDWARDS AMENDMENT NO. 3276**

(Ordered to lie on the table.)

Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill, S. 2549; supra; as follows:

At the appropriate place, insert the following:

**SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF MEMBERS RECEIVING SPECIAL PAY.**

It is the sense of the Senate that members of the Armed Forces who receive special pay for duty subject to hostile fire or imminent danger (37 U.S.C. 310) should receive the same tax treatment as members serving in combat zones.

**BINGAMAN AMENDMENT NO. 3277**

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, S. 2549; supra; as follows:

On page 462, between lines 2 and 3, insert the following:

**SEC. 1210. CONTROLS ON EXPORTS OF SATELLITES AND RELATED EQUIPMENT.**

Section 1513(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2174; 22 U.S.C. 2778 note) is amended to read as follows:

“(b) RELATIONSHIP TO OTHER LAWS.—The satellites and related equipment on the United States Munitions List under subsection (a) shall not be considered as being defense articles or defense services for the purpose of any provision of law other than section 38 of the Arms Export Control Act except as may be specifically provided in that other provision of law.”.

**DEPARTMENT OF DEFENSE APPROPRIATIONS ACT 2001****STEVENS (AND INOUE) AMENDMENT NO. 3278**

Mr. STEVENS (for himself and Mr. INOUE) proposed an amendment to the bill (H.R. 4576) making appropriations for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, for military functions administered by the Department of Defense, and for other purposes, namely:

**TITLE I****MILITARY PERSONNEL****MILITARY PERSONNEL, ARMY**

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402

note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, \$22,173,929,000.

**MILITARY PERSONNEL, NAVY**

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, \$17,877,215,000.

**MILITARY PERSONNEL, MARINE CORPS**

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, \$6,831,373,000.

**MILITARY PERSONNEL, AIR FORCE**

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, \$18,110,764,000.

**RESERVE PERSONNEL, ARMY**

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,458,961,000.

**RESERVE PERSONNEL, NAVY**

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,539,490,000.

## RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$446,586,000.

## RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$963,752,000.

## NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$3,781,236,000.

## NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,634,181,000.

## TITLE II

## OPERATION AND MAINTENANCE

## OPERATION AND MAINTENANCE, ARMY

## (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$10,616,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, \$19,049,881,000 and, in addition, \$50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided*, That of the

funds appropriated in this paragraph, not less than \$355,000,000 shall be made available only for conventional ammunition care and maintenance.

## OPERATION AND MAINTENANCE, NAVY

## (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$5,146,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, \$23,398,254,000 and, in addition, \$50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund.

## OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, \$2,729,758,000.

## OPERATION AND MAINTENANCE, AIR FORCE

## (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$7,878,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, \$22,268,977,000 and, in addition, \$50,000,000, shall be derived by transfer from the National Defense Stockpile Transaction Fund.

## OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, \$11,991,688,000, of which not to exceed \$25,000,000 may be available for the CINC initiative fund account; and of which not to exceed \$30,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes.

## OPERATION AND MAINTENANCE, ARMY

## RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,529,418,000.

## OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$968,946,000.

## OPERATION AND MAINTENANCE, MARINE CORPS

## RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$141,159,000.

OPERATION AND MAINTENANCE, AIR FORCE  
RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,893,859,000.

## OPERATION AND MAINTENANCE, ARMY

## NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), \$3,330,535,000.

## OPERATION AND MAINTENANCE, AIR NATIONAL

## GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, \$3,481,775,000.

## OVERSEAS CONTINGENCY OPERATIONS

## TRANSFER FUND

## (INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces, \$4,100,577,000, to remain available until expended: *Provided*, That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title, the Defense Health Program appropriation, and to working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

UNITED STATES COURTS OF APPEALS FOR THE  
ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, \$8,574,000, of which not to exceed \$2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY  
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$389,932,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY  
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, \$294,038,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE  
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, \$376,300,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE  
(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, \$21,412,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by

this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY  
USED DEFENSE SITES  
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$231,499,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND  
CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code), \$55,900,000, to remain available until September 30, 2002.

## FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, \$458,400,000, to remain available until September 30, 2003: *Provided*, That of the amounts provided under this heading, \$25,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

TITLE III  
PROCUREMENT

## AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,532,862,000, to remain available for obligation until September 30, 2003.

## MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,329,781,000, to remain available for obligation until September 30, 2003.

PROCUREMENT OF WEAPONS AND TRACKED  
COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,166,574,000, to remain available for obligation until September 30, 2003.

## PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,212,149,000, to remain available for obligation until September 30, 2003.

## OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 35 passenger motor vehicles for replacement only; and the purchase of 12 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$200,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$4,060,728,000, to remain available for obligation until September 30, 2003.

## AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$8,426,499,000, to remain available for obligation until September 30, 2003.

## WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$1,571,650,000, to remain available for obligation until September 30, 2003.

## PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$471,749,000, to remain available for obligation until September 30, 2003.

## SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

|   |                   |
|---|-------------------|
| Carrier Replacement Program,            | \$4,053,653,000;  |
| Carrier Replacement Program (AP),       | \$21,869,000;     |
| NSSN,                                   | \$1,203,012,000;  |
| NSSM (AP),                              | \$508,222,000;    |
| CVN Refuelings,                         | \$703,441,000;    |
| CVN Refuelings (AP),                    | \$25,000,000;     |
| Submarine Refuelings,                   | \$210,414,000;    |
| Submarine Refuelings (AP),              | \$72,277,000;     |
| DDG-51 destroyer program,               | \$2,713,559,000;  |
| DDG-51 destroyer program (AP),          | \$500,000,000;    |
| LPD-17 Program Cost Growth,             | \$285,000,000;    |
| LPD-17 (AP),                            | \$200,000,000;    |
| LHD-8 (AP),                             | \$460,000,000;    |
| ADC(X),                                 | \$338,951,000;    |
| LCAC landing craft air cushion program, | \$15,615,000; and |

For craft, outfitting, post delivery, conversions, and first destination transformation transportation, \$301,077,000;

In all: \$11,612,090,000, to remain available for obligation until September 30, 2005: *Provided*, That additional obligations may be incurred after September 30, 2005, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards: *Provided further*, That the Secretary of the Navy is hereby granted the authority to enter into contracts for an LHD-1 Amphibious Assault Ship and LPD-17 Class Ships which shall be funded on an incremental basis.

## OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 63 passenger motor vehicles for replacement only, and the purchase of one vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$200,000; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$3,400,180,000, to remain available for obligation until September 30, 2003.

## PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 33 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, \$1,196,368,000, to remain available for obligation until September 30, 2003.

## AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$7,289,934,000, to remain available for obligation until September 30, 2003.

## MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and

related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$2,920,815,000, to remain available for obligation until September 30, 2003.

## PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$654,808,000, to remain available for obligation until September 30, 2003.

## OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 173, passenger motor vehicles for replacement only, and the purchase of one vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$200,000; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$7,605,027,000, to remain available for obligation until September 30, 2003.

PROCUREMENT, DEFENSE-WIDE  
(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 115 passenger motor vehicles for replacement only; the purchase of 10 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$2,294,908,000, to remain available for obligation until September 30, 2003.

## NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other

weapons, and other procurement for the reserve components of the Armed Forces, \$150,000,000, to remain available for obligation until September 30, 2003: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

TITLE IV  
RESEARCH, DEVELOPMENT, TEST AND  
EVALUATION

RESEARCH, DEVELOPMENT, TEST AND  
EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$5,683,675,000, to remain available for obligation until September 30, 2002.

RESEARCH, DEVELOPMENT, TEST AND  
EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$8,812,070,000, to remain available for obligation until September 30, 2002: *Provided*, That funds appropriated in this paragraph which are available for the V-22 may be used to meet unique requirements of the Special Operation Forces.

RESEARCH, DEVELOPMENT, TEST AND  
EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$13,931,145,000, to remain available for obligation until September 30, 2002.

RESEARCH, DEVELOPMENT, TEST AND  
EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, \$10,952,039,000, to remain available for obligation until September 30, 2002.

OPERATIONAL TEST AND EVALUATION,  
DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, \$218,560,000, to remain available for obligation until September 30, 2002.

TITLE V  
REVOLVING AND MANAGEMENT FUNDS  
DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds; \$916,276,000: *Provided*, That during fiscal year 2001, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 330 passenger carrying motor vehicles for replacement only for the Defense Security Service.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for ex-

penses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), \$388,158,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

NATIONAL DEFENSE AIRLIFT FUND

For National Defense Airlift Fund programs, projects, and activities, \$2,890,923,000, to remain available until expended: *Provided*, That these funds shall only be available for transfer to the appropriate C-17 program P-1 line items of Titles III of this Act for the purposes specified in this section: *Provided further*, That the funds transferred under the authority provided within this section shall be merged with and shall be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority contained elsewhere in this Act.

TITLE VI  
OTHER DEPARTMENT OF DEFENSE  
PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, \$12,130,179,000, of which \$11,437,293,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2002; of which \$290,006,000, to remain available for obligation until September 30, 2003, shall be for Procurement; of which \$402,880,000, to remain available for obligation until September 30, 2002, shall be for Research, development, test and evaluation; and of which \$10,000,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted in African nations.

CHEMICAL AGENTS AND MUNITIONS  
DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, \$979,400,000, of which \$600,000,000 shall be for Operation and maintenance to remain available until September 30, 2002, \$105,000,000 shall be for Procurement to remain available until September 30, 2003, and \$274,400,000 shall be for

Research, development, test and evaluation to remain available until September 30, 2002: *Provided*, That of the funds available under this heading, \$1,000,000 shall be available until expended each year only for a Johnston Atoll off-island leave program: *Provided further*, That the Secretaries concerned shall, pursuant to uniform regulations, prescribe travel and transportation allowances for travel by participants in the off-island leave program.

DRUG INTERDICTION AND COUNTER-DRUG  
ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, \$933,700,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this heading is in addition to any transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$147,545,000, of which \$144,245,000 shall be for Operation and maintenance, of which not to exceed \$700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which \$3,300,000 to remain available until September 30, 2003, shall be for Procurement.

TITLE VII  
RELATED AGENCIES  
CENTRAL INTELLIGENCE AGENCY  
CENTRAL INTELLIGENCE AGENCY RETIREMENT  
AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, \$216,000,000.

INTELLIGENCE COMMUNITY  
MANAGEMENT ACCOUNT

INTELLIGENCE COMMUNITY MANAGEMENT  
ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, \$177,331,000, of which \$22,557,000 for the Advanced Research and Development Committee shall remain available until September 30, 2002: *Provided*, That of the funds appropriated under this heading, \$27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, \$1,500,000 for Procurement shall remain available until September 30, 2002, and \$1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2002.

PAYMENT TO KAHO'OLAWA

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, \$60,000,000, to remain available until expended.

## NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102-183, \$6,950,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

## TITLE VIII

## GENERAL PROVISIONS—DEPARTMENT OF DEFENSE

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

## (TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$2,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

## (TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of \$20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed \$500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

M2A3 Bradley fighting vehicle; DDG-51 destroyer; C-17; and UH-60/CH-60 aircraft.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to the Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in

the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2001, 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.

(b) The fiscal year 2002 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2002 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2002.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further*, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 3015(d) of title 38, United States Code, for any member of the armed services who, on or after the date of the enactment of this Act, enlists in the armed services for a period of active duty of less than 3 years, nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than 19 noncombat arms skills approved in advance by the Secretary of Defense: *Provided further*, That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and

allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Serv-

ices (CHAMPUS) or Tricare shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 2002 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

SEC. 8021. No more than \$500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8022. In addition to the funds provided elsewhere in this Act, \$8,000,000 is appro-

riated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That contractors participating in the test program established by section 854 of Public Law 101-189 (15 U.S.C. 637 note) shall be eligible for the program established by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

SEC. 8023. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32, United States Code;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, United States Code, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, United States Code, if such employee is otherwise entitled to such annual leave:

*Provided*, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, United States Code, and such leave shall be considered leave under section 6323(b) of title 5, United States Code.

SEC. 8024. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8025. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8026. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8027. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC-130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 8028. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a

military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48).

SEC. 8029. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8030. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed \$350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8031. Of the funds made available in this Act, not less than \$21,417,000 shall be available for the Civil Air Patrol Corporation, of which \$19,417,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes \$2,000,000 for the Civil Air Patrol counterdrug program: *Provided*, That funds identified for "Civil Air Patrol" under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8032. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2001 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department

during fiscal year 2001, not more than 6,227 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,009 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2002 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

SEC. 8033. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8034. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8035. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8036. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of

Department of Defense purchases from foreign entities in fiscal year 2001. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8037. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8039. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8040. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

SEC. 8041. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act: *Provided*, That none of the funds made available for expenditure under this section may be transferred or obligated until 30 days after the Secretary of Defense submits a report which details the balance available in the Overseas Military Facility Investment Recovery Account, all projected income into the account during fiscal years 2001 and 2002, and the specific expenditures to be made using funds transferred from this account during fiscal year 2001.

SEC. 8042. Of the funds appropriated or otherwise made available by this Act, not more than \$119,200,000 shall be available for payment of the operating costs of NATO Headquarters: *Provided*, That the Secretary of Defense may waive this section for Department of Defense support provided to NATO forces in and around the former Yugoslavia.

SEC. 8043. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than \$100,000.

SEC. 8044. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2002 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2002 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2000 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8045. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2002: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended.

SEC. 8046. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8047. Of the funds appropriated by the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than \$10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8048. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

SEC. 8049. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8050. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

*Provided*, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8051. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8052. Funds appropriated by this Act, or made available by the transfer of funds in this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2001 until the enactment of the Intelligence Authorization Act for Fiscal Year 2001.

SEC. 8053. Notwithstanding section 303 of Public Law 96-487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: *Provided*, That notwith-

standing any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8054. Of the funds provided in Department of Defense Acts, the following funds are hereby rescinded as of the date of the enactment of this Act or October 1, 2000, whichever is later, from the following accounts and programs in the specified amounts:

"Weapons and Tracked Combat Vehicles, 2000/2002", \$59,000,000;

"Aircraft Procurement, Air Force, 2000/2002", \$24,000,000;

"Other Procurement, Army, 2000/2002", \$29,300,000;

"Missile Procurement, Air Force, 2000/2002", \$30,000,000; and

"Research, Development, Test and Evaluation, Army, 2000/2001", \$27,000,000.

SEC. 8055. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8056. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8057. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: *Provided*, That during the performance of such duty, the members of the National Guard shall be under State command and control: *Provided further*, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8058. Funds appropriated in this Act for operation and maintenance of the Military Departments, Unified and Specified Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Unified and Specified Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8059. None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, unless the Secretary of Defense certifies that the total cost for the planning, design, construction and installation of equipment for the renovation of the Pentagon Reservation will not exceed \$1,222,000,000.

SEC. 8060. (a) None of the funds available to the Department of Defense for any fiscal

year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8061. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8062. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8063. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a non-reimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8064. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8065. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8066. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may

waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8067. During the current fiscal year, the Army shall use the former George Air Force Base as the airhead for the National Training Center at Fort Irwin: *Provided*, That none of the funds in this Act shall be obligated or expended to transport Army personnel into Edwards Air Force Base for training rotations at the National Training Center.

SEC. 8068. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8069. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: *Provided*, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed \$15,000,000,000: *Provided further*, That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further*, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: *Provided further*, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8070. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a con-

tractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8071. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8072. None of the funds provided in title II of this Act for "Former Soviet Union Threat Reduction" may be obligated or expended to finance housing for any individual who was a member of the military forces of the Soviet Union or for any individual who is or was a member of the military forces of the Russian Federation.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8073. During the current fiscal year, no more than \$30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8074. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8075. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and

recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

## (TRANSFER OF FUNDS)

SEC. 8076. Upon the enactment of this Act, the Secretary of Defense shall make the following transfers of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: *Provided further*, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

SSN-21 attack submarine program, \$74,000,000;

To:

Under the heading, "Research, Development, Test and Evaluation, Navy, 2001/2002":  
For SSN-21 development, \$74,000,000.

SEC. 8077. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 2001, a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 2002 budget request was reduced because the Congress appropriated funds above the President's budget request for that specific activity for fiscal year 2001.

SEC. 8078. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8079. During the current fiscal year, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided*, That costs for which reimbursement is waived pursuant to this subsection shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8080. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8081. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Pro-*

*vided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8082. Notwithstanding 31 U.S.C. 3902, during the current fiscal year, interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

## (RESCISSIONS)

SEC. 8083. Of the funds provided in the Department of Defense Appropriations Act, 1999 (Public Law 105-262), \$319,688,000, to reflect savings from revised economic assumptions, is hereby rescinded as of the date of the enactment of this Act, or October 1, 2000, whichever is later, from the following accounts in the specified amounts:

"Aircraft Procurement, Army", \$7,000,000;  
"Missile Procurement, Army", \$6,000,000;  
"Procurement of Weapons and Tracked Combat Vehicles, Army", \$7,000,000;  
"Procurement of Ammunition, Army", \$5,000,000;

"Other Procurement, Army", \$16,000,000;  
"Aircraft Procurement, Navy", \$24,125,000;  
"Weapons Procurement, Navy", \$3,853,000;  
"Procurement of Ammunition, Navy and Marine Corps", \$1,463,000;

"Shipbuilding and Conversion, Navy", \$19,644,000;

"Other Procurement, Navy", \$12,032,000;  
"Procurement, Marine Corps", \$3,623,000;  
"Aircraft Procurement, Air Force", \$32,743,000;

"Missile Procurement, Air Force", \$5,500,000;

"Procurement of Ammunition, Air Force", \$1,232,000;

"Other Procurement, Air Force", \$19,902,000;

"Procurement, Defense-Wide", \$6,683,000;

"Chemical Agents and Munitions Destruction, Army", \$1,103,000;

"Defense Health Program", \$808,000;

"Research, Development, Test and Evaluation, Army", \$20,592,000;

"Research, Development, Test and Evaluation, Navy", \$35,621,000;

"Research, Development, Test and Evaluation, Air Force", \$53,467,000; and

"Research, Development, Test and Evaluation, Defense-Wide", \$36,297,000;

*Provided*, That these reductions shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within each appropriation account.

SEC. 8084. The budget of the President for fiscal year 2002 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include budget activity groups (known as "subactivities") in all appropriations accounts provided in this Act, as may be necessary, to separately identify all costs incurred by the Department of Defense to support the North Atlantic Treaty Organization and all Partnership For Peace programs and initiatives. The budget justification materials submitted to the Congress in support of the budget of the Department of Defense for fiscal year 2002, and subsequent fiscal years, shall provide complete, detailed estimates for all such costs.

SEC. 8085. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on

the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—  
(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50-65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8086. Funds made available to the Civil Air Patrol in this Act under the heading "Drug Interdiction and Counter-Drug Activities, Defense" may be used for the Civil Air Patrol Corporation's counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State, and local government agencies; for administrative costs, including the hiring of Civil Air Patrol Corporation employees; for travel and per diem expenses of Civil Air Patrol Corporation personnel in support of those missions; and for equipment needed for mission support or performance: *Provided*, That the Department of the Air Force should waive reimbursement from the Federal, State, and local government agencies for the use of these funds.

SEC. 8087. Notwithstanding any other provision of law, the TRICARE managed care support contracts in effect, or in final stages of acquisition as of September 30, 2000, may be extended for 2 years: *Provided*, That any such extension may only take place if the Secretary of Defense determines that it is in the best interest of the Government: *Provided further*, That any contract extension shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the Government: *Provided further*, That notwithstanding any other provision of law, all future TRICARE managed care support contracts replacing contracts in effect, or in the final stages of acquisition as of September 30, 2000, may include a base contract period for transition and up to seven 1-year option periods.

SEC. 8088. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all

credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8089. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8090. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$56,200,000 to reflect savings from the pay of civilian personnel, to be distributed as follows:

“Operation and Maintenance, Army”, \$4,600,000;

“Operation and Maintenance, Navy”, \$49,600,000; and

“Operation and Maintenance, Defense-Wide”, \$2,000,000.

SEC. 8091. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$769,700,000 to reflect savings from favorable foreign currency fluctuations, to be distributed as follows:

“Military Personnel, Army”, \$60,500,000;

“Military Personnel, Navy”, \$32,000,000;

“Military Personnel, Marine Corps”, \$9,700,000;

“Military Personnel, Air Force”, \$53,000,000;

“Operation and Maintenance, Army”, \$292,100,000;

“Operation and Maintenance, Navy”, \$105,100,000;

“Operation and Maintenance, Marine Corps”, \$25,800,000;

“Operation and Maintenance, Air Force”, \$157,600,000;

“Operation and Maintenance, Defense-Wide”, \$27,200,000; and

“Defense Health Program”, \$6,700,000.

SEC. 8092. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the ADC(X) class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8093. Of the funds made available in this Act, not less than \$65,200,000 shall be available to maintain an attrition reserve force of 18 B-52 aircraft, of which \$3,200,000 shall be available from “Military Personnel, Air Force”, \$36,900,000 shall be available from

“Operation and Maintenance, Air Force”, and \$25,100,000 shall be available from “Aircraft Procurement, Air Force”: *Provided*, That the Secretary of the Air Force shall maintain a total force of 94 B-52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2001: *Provided further*, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2002 amounts sufficient to maintain a B-52 force totaling 94 aircraft.

SEC. 8094. The budget of the President for fiscal year 2001 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States Armed Forces’ participation in contingency operations for the Military Personnel accounts, the Overseas Contingency Operations Transfer Fund, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these budget justification documents shall include a description of the funding requested for each anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency.

SEC. 8095. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8096. Notwithstanding any other provision of law, for the purpose of establishing all Department of Defense policies governing the provision of care provided by and financed under the military health care system’s case management program under 10 U.S.C. 1079(a)(17), the term “custodial care” shall be defined as care designed essentially to assist an individual in meeting the activities of daily living and which does not require the supervision of trained medical, nursing, paramedical or other specially trained individuals: *Provided*, That the case management program shall provide that members and retired members of the military services, and their dependents and survivors, have access to all medically necessary health care through the health care delivery system of the military services regardless of the health care status of the person seeking the health care: *Provided further*, That the case management program shall be the primary obligor for payment of medically necessary services and shall not be considered as secondarily liable to title XIX of the Social Security Act, other welfare programs or charity based care.

SEC. 8097. During the current fiscal year—

- (1) refunds attributable to the use of the Government travel card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received; and

- (2) refunds attributable to the use of the Government Purchase Card by military personnel and civilian employees of the Department of Defense may be credited to accounts

of the Department of Defense that are current when the refunds are received and that are available for the same purposes as the accounts originally charged.

SEC. 8098. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8099. None of the funds provided in this Act may be used to transfer to any non-governmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of “armor penetrator”, “armor piercing (AP)”, “armor piercing incendiary (API)”, or “armor-piercing incendiary-tracer (API-T)”, except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8100. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8101. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act, may be obligated for environmental remediation under indefinite delivery/indefinite quantity contracts with a total contract value of \$130,000,000 or higher.

SEC. 8102. Of the funds made available under the heading “Operation and Maintenance, Air Force”, \$10,000,000 shall be transferred to the Department of Transportation to enable the Secretary of Transportation to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

SEC. 8103. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more

than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8104. During the current fiscal year, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance: *Provided*, That not later than April 1, 2001, the Secretary of Defense shall submit to the congressional defense committees a report regarding the training of foreign personnel conducted under this authority during the preceding fiscal year for which expenses were paid under the section: *Provided further*, That the report shall specify the countries in which the training was conducted, the type of training conducted, and the foreign personnel trained.

SEC. 8105. (a) The Department of Defense is authorized to enter into agreements with the Veterans Administration and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8106. None of the funds appropriated or otherwise made available by this Act or any other Act may be made available for reconstruction activities in the Republic of Serbia (excluding the province of Kosovo) as long as Slobodan Milosevic remains the President of the Federal Republic of Yugoslavia (Serbia and Montenegro).

SEC. 8107. In addition to the amounts provided elsewhere in this Act, the amount of \$10,000,000 is hereby appropriated for "Operation and Maintenance, Defense-Wide", to be available, notwithstanding any other provision of law, only for a grant to the United Service Organizations Incorporated, a federally chartered corporation under chapter 2201 of title 36, United States Code. The grant provided for by this section is in addition to any grant provided for under any other provision of law.

SEC. 8108. Of the funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide", up to \$5,000,000

shall be available to provide assistance, by grant or otherwise, to public school systems that have unusually high concentrations of special needs military dependents enrolled: *Provided*, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments.

SEC. 8109. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among request of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under paragraph (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103-454; 108 Stat. 4792; 25 U.S.C. 479a-1).

SEC. 8110. Of the amounts appropriated in the Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", \$85,849,000 shall be available for the purpose of adjusting the cost-share of the parties under the Agreement between the Department of Defense and the Ministry of Defence of Israel for the Arrow Deployability Program.

SEC. 8111. The Secretary of Defense shall fully identify and determine the validity of healthcare contract additional liabilities, requests for equitable adjustment, and claims for unanticipated healthcare contract costs: *Provided*, That the Secretary of Defense shall establish an equitable and timely process for the adjudication of claims, and recognize actual liabilities during the Department's planning, programming and budgeting process: *Provided further*, That not later than March 1, 2001, the Secretary of Defense shall submit a report to the congressional defense committees on the scope and extent of healthcare contract claims, and on the action taken to implement the provisions of this section: *Provided further*, That nothing in this section should be construed as congressional direction to liquidate or pay any claims that otherwise would not have been adjudicated in favor of the claimant.

SEC. 8112. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

SEC. 8113. Of the amounts appropriated in this Act under the heading, "Operation and Maintenance, Defense-Wide," \$115,000,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

SEC. 8114. OPERATIONAL SUPPORT AIRCRAFT LEASING AUTHORITY. (a) The Secretary of the

Army and the Secretary of the Navy may establish a multi-year pilot program for leasing aircraft for utility and operational support airlift purposes on such terms and conditions as the respective Secretaries may deem appropriate, consistent with this section.

(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

(c) Under the aircraft lease program authorized by this section:

(1) The Secretary of the Army and the Secretary of the Navy may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee.

(2) The term of any individual lease agreement into which a service Secretary enters under this section shall not exceed 10 years.

(3) The Secretary of the Army and the Secretary of the Navy may provide for special payments to a lessor if either the respective Secretary terminates or cancels the lease prior to the expiration of its term or aircraft are damaged or destroyed prior to the expiration of the term of the lease. Such special payments shall not exceed an amount equal to the value of one year's lease payment under the lease. The amount of special payments shall be subject to negotiation between the Army or Navy and lessors.

(4) Notwithstanding any other provision of law, any payments required under a lease under this section, and any payments made pursuant to subsection (3) above may be made from:

(A) appropriations available for the performance of the lease at the time the lease takes effect;

(B) appropriations for the operation and maintenance available at the time which the payment is due; and

(C) funds appropriated for those payments.

(5) The Secretary of the Army and the Secretary of the Navy may lease aircraft, on such terms and conditions as they may deem appropriate, consistent with this section, through an operating lease consistent with OMB Circular A-11.

(6) The Secretary of the Army and the Secretary of the Navy may exchange or sell existing aircraft and apply the exchange allowance or sale proceeds in whole or in part toward the cost of leasing replacement aircraft under this section.

(7) No lease of operational support aircraft may be entered into under this section after September 30, 2004.

(d) The authority granted to the Secretary of the Army and the Secretary of the Navy by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the respective Secretaries to procure transportation or enter into leases under a provision of law other than this section.

(e) The authority provided under this section may be used to lease not more than a total of three (3) Army aircraft, three (3) Navy aircraft, and three (3) Marine Corps aircraft for the purposes of providing operational support.

SEC. 8115. Notwithstanding any other provision in this Act, the total amount appropriated in this Act under Title IV for the Ballistic Missile Defense Organization (BMDO) is hereby reduced by \$26,154,000 to reflect a reduction in system engineering, program management, and other support costs.

SEC. 8116. The Ballistic Missile Defense Organization and its subordinate offices and associated contractors, including the Lead Systems Integrator, shall notify the congressional defense committees 30 days prior to issuing any type of information or proposal solicitation under the NMD program.

SEC. 8117. Up to \$3,000,000 of the funds appropriated under the heading, "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems critical to base operations.

SEC. 8118. In addition to amounts appropriated elsewhere in the Act, \$20,000,000 is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make a grant in the amount of \$20,000,000 to the National Center for the Preservation of Democracy.

SEC. 8119. Of the funds made available under the heading "Operation and Maintenance, Air Force", not less than \$7,000,000 shall be made available by grant or otherwise, to the North Slope Borough, to provide assistance for health care, monitoring and related issues associated with research conducted from 1955 to 1957 by the former Arctic Aeromedical Laboratory.

SEC. 8120. None of the funds appropriated in this Act under the heading "Overseas Contingency Operations Transfer Fund" may be transferred or obligated for expenses not directly related to the conduct of overseas contingencies: *Provided*, That the Secretary of Defense shall submit a report no later than thirty days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the "Overseas Contingency Operations Transfer Fund": *Provided further*, That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

SEC. 8121. In addition to amounts made available elsewhere in this Act, \$1,000,000 is hereby appropriated to the Department of Defense to be available for payment to members of the uniformed services for reimbursement for mandatory pet quarantines as authorized by law.

SEC. 8122. The Secretary of the Navy may transfer from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary ship cost changes for previous ship construction programs appropriated in law: *Provided*, That the Secretary may transfer no more than \$300,000,000 under the authority provided within this section: *Provided further*, That the funding transferred shall be available for the same time period as the appropriation from which transferred: *Provided further*, That the Secretary may not transfer any funding until 30 days after the proposed transfer has been reported to the House and Senate Committees on Appropriations: *Provided further*, That the transfer authority provided within this section is in addition to any other transfer authority contained elsewhere in this Act.

SEC. 8123. In addition to amounts appropriated elsewhere in the Act, \$2,100,000 is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make a grant in the amount of \$2,100,000 to the National D-Day Museum.

SEC. 8124. In addition to amounts appropriated elsewhere in this Act, \$5,000,000 is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of the Army shall make available a grant of \$5,000,000 only to the Chicago Public Schools for conversion and expansion of the former Eighth Regiment National Guard Armory (Bronzeville).

SEC. 8125. In addition to the amounts provided elsewhere in this Act, the amount of \$10,000,000 is hereby appropriated for "Operation and Maintenance, Navy", to accelerate

the disposal and scrapping of ships of the Navy Inactive Fleet and Maritime Administration National Defense Reserve Fleet: *Provided*, That the Secretary of the Navy and the Secretary of Transportation shall develop criteria for selecting ships for scrapping or disposal based on their potential for causing pollution, creating an environmental hazard and cost of storage: *Provided further*, That the Secretary of the Navy and the Secretary of Transportation shall report to the congressional defense committees no later than June 1, 2001 regarding the total number of vessels currently designated for scrapping, and the schedule and costs for scrapping these vessels.

This Act may be cited as the "Department of Defense Appropriations Act, 2001".

#### GRASSLEY AMENDMENT NO. 3279

Mr. GRASSLEY proposed an amendment to the bill, H.R. 4576, *supra*; as follows:

At the appropriate place, insert the following

SEC. \_\_\_\_ Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111, 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2001.

#### AUTHORITY FOR COMMITTEES TO MEET

##### SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on International Trade and Finance be authorized to meet during the session of the Senate on Thursday, June 8, 2000, to conduct a hearing on multilateral development institutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Gender Wage Discrimination during the session of the Senate on Thursday, June 8, 2000, at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 8, 2000, at 10:00 a.m. The markup will take place in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs be authorized to meet during the session of the Senate on Thursday, June 8, 2000 at 10:00 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection it is so ordered.

##### SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee

on Forests and Public lands be authorized to meet during the session of the Senate on Thursday, June 8, at 9:30 a.m. to conduct a hearing. The subcommittee will receive testimony on H.R. 359, an act to clarify the intent of Congress in Public Law 93-632 to require the Secretary of Agriculture to continue to provide for the maintenance and operation to certain water impoundment structures that were located in the Emigrant Wilderness at the time the wilderness area was designated in that Public Law; H.R. 468, an act to establish the Saint Helena Island National Scenic Area; H.R. 1680, an act to provide for the conveyance of Forest Service property in Kern County California, in exchange for county lands suitable for inclusion in Sequoia National Forest; S. 1817, a bill to validate a conveyance of certain lands located in Carlton County, Minnesota and to provide for the compensation of certain original heirs; S. 1972, a bill to direct the Secretary of Agriculture to convey to the town of Dolores, Colorado, the current site of the Joe Rowell Park; and S. 2111, a bill to direct the Secretary of Agriculture to convey for fair market value 1.06 acres of land in the San Bernardino national Forest, California, to KATY 101.3 FM, a California corporation.

The PRESIDING OFFICER. Without objection. It is so ordered.

##### SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on National parks, Historic Preservation and Recreation be authorized to meet during the session of the Senate on Thursday, June 8, at 2:30 p.m. to conduct an oversight hearing. The subcommittee will review the final rules and regulations issued by the National Park Service relating to title IV of the National Parks Omnibus management act of 1998.

The PRESIDING OFFICE. Without objection, it is so ordered.

#### PRIVILEGE OF THE FLOOR

Ms. SNOWE. Mr. President, I ask unanimous consent to grant floor privileges to two defense legislative fellows in my office, Jennifer Ogilvie and Sam Horton, for the duration of our consideration of S. 2549, the National Defense Authorization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I ask unanimous consent that Martin Siegel, a Judiciary Committee staffer in my office, be granted full floor privileges for the remainder of the 106th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that Howard Krawitz of my office be granted privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.