

SEC. 4601. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	FY 2017 Request	Conference Authorized
Def-Wide	Rhine Ordnance Barracks	Medical Center Replacement Incr 6.	58,063	58,063
	Japan			
Def-Wide	Iwakuni	Construct Truck Offload & Loading Facilities.	6,664	6,664
Def-Wide	Kadena AB	Kadena Elementary School Re- placement.	84,918	84,918
Def-Wide	Kadena AB	Medical Materiel Warehouse	20,881	20,881
Def-Wide	Kadena AB	SOF Maintenance Hangar	42,823	42,823
Def-Wide	Kadena AB	SOF Simulator Facility (MC- 130).	12,602	12,602
Def-Wide	Yokota AB	Airfield Apron	41,294	41,294
Def-Wide	Yokota AB	Hangar/AMU	39,466	39,466
Def-Wide	Yokota AB	Operations and Warehouse Fa- cilities.	26,710	26,710
Def-Wide	Yokota AB	Simulator Facility	6,261	6,261
	Kwajalein			
Def-Wide	Kwajalein Atoll	Replace Fuel Storage Tanks	85,500	85,500
	Maine			
Def-Wide	Kittery	Medical/Dental Clinic Replace- ment.	27,100	27,100
	Maryland			
Def-Wide	Bethesda Naval Hos- pital	MEDCEN Addition/Alteration Incr 1.	50,000	50,000
Def-Wide	Fort Meade	Access Control Facility	21,000	21,000
Def-Wide	Fort Meade	NSAW Campus Feeders Phase 3.	17,000	17,000
Def-Wide	Fort Meade	NSAW Recapitalize Building #2 Incr 2.	195,000	195,000
	Missouri			
Def-Wide	St. Louis	Land Acquisition—Next NGA West Campus.	801	801
	North Carolina			
Def-Wide	Camp Lejeune	Dental Clinic Replacement	31,000	31,000
Def-Wide	Fort Bragg	SOF Combat Medic Training Facility.	10,905	10,905
Def-Wide	Fort Bragg	SOF Parachute Rigging Facil- ity.	21,420	21,420
Def-Wide	Fort Bragg	SOF Special Tactics Facility (Ph 3).	30,670	30,670
Def-Wide	Fort Bragg	SOF Tactical Equipment Main- tenance Facility.	23,598	23,598
	South Carolina			
Def-Wide	Joint Base Charleston	Construct Hydrant Fuel System	17,000	17,000
	Texas			
Def-Wide	Red River Army Depot	Construct Warehouse & Open Storage.	44,700	44,700
Def-Wide	Sheppard AFB	Medical/Dental Clinic Replace- ment.	91,910	91,910
	United King- dom			
Def-Wide	RAF Croughton	Croughton Elem/Middle/High School Replacement.	71,424	71,424
Def-Wide	RAF Lakenheath	Construct Hydrant Fuel System	13,500	13,500
	Virginia			

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Def-Wide	Pentagon	Pentagon Metro Entrance Facility.	12,111	12,111
Def-Wide	Pentagon	Upgrade IT Facilities Infrastructure—RRMC.	8,105	8,105
Def-Wide	Wake Island	Test Support Facility	11,670	11,670
Def-Wide	Worldwide Unspecified	Battalion Complex	0	0
Def-Wide	Worldwide Locations	Contingency Construction	10,000	0
Def-Wide	Worldwide Locations	Energy Conservation Investment Program Design.	10,000	0
Def-Wide	Worldwide Locations	Energy Conservation Investment Program.	150,000	150,000
Def-Wide	Worldwide Locations	Exercise Related Minor Construction.	8,631	8,631
Def-Wide	Worldwide Locations	Planning and Design, Defense Wide.	13,450	23,450
Def-Wide	Worldwide Locations	Planning and Design, DODEA	23,585	23,585
Def-Wide	Worldwide Locations	Planning and Design, NGA	71,647	36,000
Def-Wide	Worldwide Locations	Planning and Design, NSA	24,000	24,000
Def-Wide	Worldwide Locations	Planning and Design, WHS	3,427	3,427
Def-Wide	Worldwide Locations	Unspecified Minor Construction	3,000	3,000
Def-Wide	Worldwide Locations	Unspecified Minor Construction	3,000	3,000
Def-Wide	Worldwide Locations	Unspecified Minor Construction	5,994	5,994
Def-Wide	Worldwide Locations	Unspecified Minor Construction	8,500	8,500
Def-Wide	Worldwide Locations	Unspecified Minor Milcon	3,913	3,913
Def-Wide	Worldwide Locations	Worldwide Unspecified Minor Construction.	2,414	2,414
Def-Wide	Worldwide Locations	Planning & Design, DLA	27,660	27,660
Def-Wide	Worldwide Locations	Planning and Design, SOCOM	27,653	27,653

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Def-Wide	Worldwide Un- specified Lo- cations Unspecified Worldwide Locations	Planning & Design, MDA	0	15,000
Military Construction, Defense-Wide Total			2,056,091	2,025,444
NATO	Worldwide Un- specified NATO Secu- rity Invest- ment Pro- gram	NATO Security Investment Pro- gram.	177,932	177,932
NATO Security Investment Program Total			177,932	177,932
Army NG	Colorado Fort Carson	National Guard Readiness Cen- ter.	0	16,500
Army NG	Hawaii Hilo	Combined Support Mainte- nance Shop.	31,000	31,000
Army NG	Iowa Davenport	National Guard Readiness Cen- ter.	23,000	23,000
Army NG	Kansas Fort Leaven- worth	National Guard Readiness Cen- ter.	29,000	29,000
Army NG	New Hamp- shire Hooksett	National Guard Vehicle Main- tenance Shop.	11,000	11,000
Army NG	Rochester	National Guard Vehicle Main- tenance Shop.	8,900	8,900
Army NG	Oklahoma Ardmore	National Guard Readiness Cen- ter.	22,000	22,000
Army NG	Pennsylvania Fort Indiantown Gap	Access Control Buildings	0	20,000
Army NG	York	National Guard Readiness Cen- ter.	9,300	9,300
Army NG	Rhode Island East Green- wich	National Guard/Reserve Center Building (JFHQ).	20,000	20,000
Army NG	Utah Camp Wil- liams	National Guard Readiness Cen- ter.	37,000	37,000
Army NG	Worldwide Un- specified Unspecified Worldwide Locations	Planning and Design	8,729	8,729
Army NG	Unspecified Worldwide Locations	Unspecified Minor Construction	12,001	12,001
Army NG	Wyoming Camp Guern- sey	General Instruction Building ...	0	31,000

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Account	State/Country and Installa- tion	Project Title	FY 2017 Request	Conference Authorized
Army NG	Laramie	National Guard Readiness Cen- ter.	21,000	21,000
Military Construction, Army National Guard Total			232,930	300,430
Army Res	Arizona Phoenix	Army Reserve Center	0	30,000
Army Res	California Barstow	Equipment Concentration Site	0	0
Army Res	Camp Parks	Transient Training Barracks ...	19,000	19,000
Army Res	Fort Hunter Liggett	Emergency Services Center	21,500	21,500
Army Res	Virginia Dublin	Organizational Maintenance Shop/AMSA.	6,000	6,000
Army Res	Washington Joint Base Lewis- McChord	Army Reserve Center	0	0
Army Res	Wisconsin Fort McCoy	AT/MOB Dining Facility	11,400	11,400
Army Res	Worldwide Un- specified	Planning and Design	7,500	7,500
Army Res	Worldwide Locations	Unspecified Minor Construction	2,830	2,830
Military Construction, Army Reserve Total			68,230	98,230
N/MC Res	Louisiana New Orleans	Joint Reserve Intelligence Cen- ter.	11,207	11,207
N/MC Res	New York Brooklyn	Electric Feeder Ductbank	1,964	1,964
N/MC Res	Syracuse	Marine Corps Reserve Center ...	13,229	13,229
N/MC Res	Texas Galveston	Reserve Center Annex	8,414	8,414
N/MC Res	Worldwide Un- specified	MCNR Planning & Design	3,783	3,783
Military Construction, Naval Reserve Total			38,597	38,597
Air NG	Connecticut Bradley IAP	Construct Small Air Terminal	6,300	6,300
Air NG	Florida Jacksonville IAP	Replace Fire Crash/Rescue Sta- tion.	9,000	9,000
Air NG	Hawaii Joint Base Pearl Har- bor-Hickam	F-22 Composite Repair Facility	11,000	11,000
Air NG	Iowa Sioux Gate- way Air- port	Construct Consolidated Support Functions.	12,600	12,600
	Maryland			

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Air NG	Joint Base Andrews Minnesota	Munitions Load Crew Trng/ Corrosion Cntrl Facility.	0	5,000
Air NG	Duluth IAP New Hamp- shire	Load Crew Training/Weapon Shops.	7,600	7,600
Air NG	Pease Inter- national Trade Port North Carolina	KC-46A Install Fuselage Train- er Bldg 251.	1,500	1,500
Air NG	Charlotte/ Douglas IAP	C-17 Corrosion Control/Fuel Cell Hangar.	29,600	29,600
Air NG	Charlotte/ Douglas IAP	C-17 Type III Hydrant Refuel- ing System.	21,000	21,000
Air NG	Ohio Toledo Ex- press Air- port	Indoor Small Arms Range	0	6,000
Air NG	South Carolina McEntire ANGS	Replace Operations and Train- ing Facility.	8,400	8,400
Air NG	Texas Ellington Field	Consolidate Crew Readiness Facility.	4,500	4,500
Air NG	Vermont Burlington IAP	F-35 Beddown 4-Bay Flight Simulator.	4,500	4,500
Air NG	Worldwide Un- specified Unspecified Worldwide Locations	Unspecified Minor Construction	17,495	17,495
Air NG	Various Worldwide Locations	Planning and Design	10,462	10,462
Military Construction, Air National Guard Total			143,957	154,957
AF Res	Guam Andersen AFB	Reserve Medical Training Fa- cility.	0	0
AF Res	Massachusetts Westover ARB	Indoor Small Arms Range	0	0
AF Res	North Carolina Seymour Johnson AFB	KC-46A ADAL Bldg for AGE/ Fuselage Training.	5,700	5,700
AF Res	Seymour Johnson AFB	KC-46A ADAL Squadron Oper- ations Facilities.	2,250	2,250
AF Res	Seymour Johnson AFB	KC-46A Two Bay Corrosion/ Fuel Cell Hangar.	90,000	90,000
AF Res	Pennsylvania Pittsburgh IAP	C-17 ADAL Fuel Hydrant Sys- tem.	22,800	22,800
AF Res	Pittsburgh IAP	C-17 Const/Overlay/Taxiway and Apron.	8,200	8,200

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Account	State/Country and Installation	Project Title	FY 2017 Request	Conference Authorized
AF Res	Pittsburgh IAP	C-17 Construct Two Bay Corrosion / Fuel Hangar.	54,000	54,000
AF Res	Utah Hill AFB	ADAL Life Support Facility	0	0
AF Res	Worldwide Unspecified	Planning & Design	4,500	4,500
AF Res	Worldwide Locations	Unspecified Minor Construction	1,500	1,500
Military Construction, Air Force Reserve Total			188,950	188,950
FH Con Army	Korea Camp Humphreys	Family Housing New Construction, Incr 1.	143,563	100,000
FH Con Army	Camp Walker	Family Housing New Construction.	54,554	54,554
FH Con Army	Worldwide Unspecified	Planning & Design	2,618	2,618
Family Housing Construction, Army Total			200,735	157,172
FH Ops Army	Worldwide Unspecified	Furnishings	10,178	10,178
FH Ops Army	Worldwide Locations	Housing Privatization Support	19,146	19,146
FH Ops Army	Worldwide Locations	Leasing	131,761	131,761
FH Ops Army	Worldwide Locations	Maintenance	60,745	60,745
FH Ops Army	Worldwide Locations	Management	40,344	40,344
FH Ops Army	Worldwide Locations	Miscellaneous	400	400
FH Ops Army	Worldwide Locations	Services	7,993	7,993
FH Ops Army	Worldwide Locations	Utilities	55,428	55,428
Family Housing Operation And Maintenance, Army Total.			325,995	325,995
FH Con Navy	Mariana Islands Guam	Replace Andersen Housing Ph I	78,815	78,815

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Account	State/Country and Installa- tion	Project Title	FY 2017 Request	Conference Authorized
<i>FH Con Navy</i>	<i>Worldwide Un- specified Unspecified Worldwide Locations</i>	<i>Construction Improvements</i>	<i>11,047</i>	<i>11,047</i>
<i>FH Con Navy</i>	<i>Unspecified Worldwide Locations</i>	<i>Planning & Design</i>	<i>4,149</i>	<i>4,149</i>
Family Housing Construction, Navy And Marine Corps Total.			94,011	94,011
<i>FH Ops Navy</i>	<i>Worldwide Un- specified Unspecified Worldwide Locations</i>	<i>Furnishings</i>	<i>17,457</i>	<i>17,457</i>
<i>FH Ops Navy</i>	<i>Unspecified Worldwide Locations</i>	<i>Housing Privatization Support</i>	<i>26,320</i>	<i>26,320</i>
<i>FH Ops Navy</i>	<i>Unspecified Worldwide Locations</i>	<i>Leasing</i>	<i>54,689</i>	<i>54,689</i>
<i>FH Ops Navy</i>	<i>Unspecified Worldwide Locations</i>	<i>Maintenance</i>	<i>81,254</i>	<i>81,254</i>
<i>FH Ops Navy</i>	<i>Unspecified Worldwide Locations</i>	<i>Management</i>	<i>51,291</i>	<i>51,291</i>
<i>FH Ops Navy</i>	<i>Unspecified Worldwide Locations</i>	<i>Miscellaneous</i>	<i>364</i>	<i>364</i>
<i>FH Ops Navy</i>	<i>Unspecified Worldwide Locations</i>	<i>Services</i>	<i>12,855</i>	<i>12,855</i>
<i>FH Ops Navy</i>	<i>Unspecified Worldwide Locations</i>	<i>Utilities</i>	<i>56,685</i>	<i>56,685</i>
Family Housing Operation And Maintenance, Navy And Marine Corps Total.			300,915	300,915
<i>FH Con AF</i>	<i>Worldwide Un- specified Unspecified Worldwide Locations</i>	<i>Construction Improvements</i>	<i>56,984</i>	<i>56,984</i>
<i>FH Con AF</i>	<i>Unspecified Worldwide Locations</i>	<i>Planning & Design</i>	<i>4,368</i>	<i>4,368</i>
Family Housing Construction, Air Force Total			61,352	61,352
<i>FH Ops AF</i>	<i>Worldwide Un- specified Unspecified Worldwide Locations</i>	<i>Furnishings</i>	<i>31,690</i>	<i>31,690</i>
<i>FH Ops AF</i>	<i>Unspecified Worldwide Locations</i>	<i>Housing Privatization Support</i>	<i>41,809</i>	<i>41,809</i>

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Account	State/Country and Installa- tion	Project Title	FY 2017 Request	Conference Authorized
<i>FH Ops AF</i>	<i>Unspecified Worldwide Locations</i>	<i>Leasing</i>	<i>20,530</i>	<i>20,530</i>
<i>FH Ops AF</i>	<i>Unspecified Worldwide Locations</i>	<i>Maintenance</i>	<i>85,469</i>	<i>85,469</i>
<i>FH Ops AF</i>	<i>Unspecified Worldwide Locations</i>	<i>Management</i>	<i>42,919</i>	<i>42,919</i>
<i>FH Ops AF</i>	<i>Unspecified Worldwide Locations</i>	<i>Miscellaneous</i>	<i>1,745</i>	<i>1,745</i>
<i>FH Ops AF</i>	<i>Unspecified Worldwide Locations</i>	<i>Services</i>	<i>13,026</i>	<i>13,026</i>
<i>FH Ops AF</i>	<i>Unspecified Worldwide Locations</i>	<i>Utilities</i>	<i>37,241</i>	<i>37,241</i>
Family Housing Operation And Maintenance, Air Force Total.			274,429	274,429
<i>FH Ops DW</i>	<i>Worldwide Un- specified Unspecified Worldwide Locations</i>	<i>Furnishings</i>	<i>20</i>	<i>20</i>
<i>FH Ops DW</i>	<i>Unspecified Worldwide Locations</i>	<i>Furnishings</i>	<i>500</i>	<i>500</i>
<i>FH Ops DW</i>	<i>Unspecified Worldwide Locations</i>	<i>Furnishings</i>	<i>399</i>	<i>399</i>
<i>FH Ops DW</i>	<i>Unspecified Worldwide Locations</i>	<i>Leasing</i>	<i>40,984</i>	<i>40,984</i>
<i>FH Ops DW</i>	<i>Unspecified Worldwide Locations</i>	<i>Leasing</i>	<i>11,044</i>	<i>11,044</i>
<i>FH Ops DW</i>	<i>Unspecified Worldwide Locations</i>	<i>Maintenance</i>	<i>349</i>	<i>349</i>
<i>FH Ops DW</i>	<i>Unspecified Worldwide Locations</i>	<i>Maintenance</i>	<i>800</i>	<i>800</i>
<i>FH Ops DW</i>	<i>Unspecified Worldwide Locations</i>	<i>Management</i>	<i>388</i>	<i>388</i>
<i>FH Ops DW</i>	<i>Unspecified Worldwide Locations</i>	<i>Services</i>	<i>32</i>	<i>32</i>
<i>FH Ops DW</i>	<i>Unspecified Worldwide Locations</i>	<i>Utilities</i>	<i>4,100</i>	<i>4,100</i>
<i>FH Ops DW</i>	<i>Unspecified Worldwide Locations</i>	<i>Utilities</i>	<i>174</i>	<i>174</i>
<i>FH Ops DW</i>	<i>Unspecified Worldwide Locations</i>	<i>Utilities</i>	<i>367</i>	<i>367</i>

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(In Thousands of Dollars)				
Account	State/Country and Installa- tion	Project Title	FY 2017 Request	Conference Authorized
Family Housing Operation And Maintenance, De- fense-Wide Total.			59,157	59,157
FHIF	Worldwide Un- specified Unspecified Worldwide Locations	Program Expenses	3,258	3,258
DoD Family Housing Improvement Fund Total			3,258	3,258
BRAC	Worldwide Un- specified Base Realign- ment & Closure, Army	Base Realignment and Closure	14,499	24,499
Base Realignment and Closure—Army Total			14,499	24,499
BRAC	Worldwide Un- specified Base Realign- ment & Closure, Navy	Base Realignment & Closure	110,606	135,606
BRAC	Unspecified Worldwide Locations	DON-100: Planning, Design and Management.	4,604	4,604
BRAC	Unspecified Worldwide Locations	DON-101: Various Locations ...	10,461	10,461
BRAC	Unspecified Worldwide Locations	DON-138: NAS Brunswick, ME	557	557
BRAC	Unspecified Worldwide Locations	DON-157: MCSA Kansas City, MO.	100	100
BRAC	Unspecified Worldwide Locations	DON-172: NWS Seal Beach, Concord, CA.	4,648	4,648
BRAC	Unspecified Worldwide Locations	DON-84: JRB Willow Grove & Cambria Reg AP.	3,397	3,397
Base Realignment and Closure—Navy Total			134,373	159,373
BRAC	Worldwide Un- specified Unspecified Worldwide Locations	DoD BRAC Activities—Air Force.	56,365	56,365
Base Realignment and Closure—Air Force Total			56,365	56,365
PYS	Worldwide Un- specified Unspecified Worldwide Locations	Planning and Design, Defense Wide.	0	-30,000
PYS	Worldwide	Air Force	0	-51,460
PYS	Worldwide	Army	0	-29,602
PYS	Worldwide	Defense-Wide	0	-141,600

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installa- tion	Project Title	FY 2017 Request	Conference Authorized
PYS	Worldwide	Navy	0	0
	Worldwide Un- specified Lo- cations			
PYS	Worldwide	HAP	0	-25,000
PYS	Worldwide	NSIP	0	-30,000
Prior Year Savings Total			0	-307,662
Total, Military Construction			7,444,056	7,709,565
SEC. 4602. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS.				
SEC. 4602. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)				
Account	State/Country and Installa- tion	Project Title	FY 2017 Request	Conference Authorized
Army	Worldwide Un- specified Unspecified Worldwide Locations	ERI: Planning and Design	18,900	18,900
Military Construction, Army Total			18,900	18,900
Navy	Iceland			
	Keflavik	ERI: P-8A Aircraft Rinse Rack ...	5,000	5,000
Navy	Keflavik	ERI: P-8A Hangar Upgrade	14,600	14,600
	Worldwide Un- specified			
Navy	Unspecified Worldwide Locations	ERI: Planning and Design	1,800	1,800
Military Construction, Navy Total			21,400	21,400
	Bulgaria			
AF	Graf Ignatievo	ERI: Construct Sq Ops/Oper- ational Alert Fac.	3,800	3,800
AF	Graf Ignatievo	ERI: Fighter Ramp Extension	7,000	7,000
AF	Graf Ignatievo	ERI: Upgrade Munitions Storage Area.	2,600	2,600
	Djibouti			
AF	Chabelley Air- field	OCO: Construct Chabelley Access Road.	3,600	3,600
AF	Chabelley Air- field	OCO: Construct Parking Apron and Taxiway.	6,900	6,900
	Estonia			
AF	Amari AB	ERI: Construct Bulk Fuel Stor- age.	6,500	6,500
	Germany			
AF	Spangdahlem AB	ERI: Construct High Cap Trim Pad & Hush House.	1,000	1,000
AF	Spangdahlem AB	ERI: F/A-22 Low Observable/ Comp Repair Fac.	12,000	12,000
AF	Spangdahlem AB	ERI: F/A-22 Upgrade Infra- structure/Comm/Util.	1,600	1,600

SEC. 4602. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS
(In Thousands of Dollars)

<i>Account</i>	<i>State/Country and Installation</i>	<i>Project Title</i>	<i>FY 2017 Request</i>	<i>Conference Authorized</i>
AF	Spangdahlem AB	ERI: Upgrade Hardened Aircraft Shelters.	2,700	2,700
AF	Spangdahlem AB	ERI: Upgrade Munitions Storage Doors.	1,400	1,400
AF	Lithuania Siauliai	ERI: Munitions Storage	3,000	3,000
AF	Poland Lask AB	ERI: Construct Squadron Operations Facility.	4,100	4,100
AF	Powidz AB	ERI: Construct Squadron Operations Facility.	4,100	4,100
AF	Romania Campia Turzii	ERI: Construct Munitions Storage Area.	3,000	3,000
AF	Campia Turzii	ERI: Construct Squadron Operations Facility.	3,400	3,400
AF	Campia Turzii	ERI: Construct Two-Bay Hangar	6,100	6,100
AF	Campia Turzii	ERI: Extend Parking Aprons	6,000	6,000
AF	Worldwide Unspecified Unspecified Worldwide Locations	CTP: Planning and Design	9,000	8,551
AF	Unspecified Worldwide Locations	OCO: Planning and Design	940	940
Military Construction, Air Force Total			88,740	88,291
Def-Wide	Worldwide Unspecified Unspecified Worldwide Locations	ERI: Unspecified Minor Construction.	5,000	5,000
Military Construction, Defense-Wide Total			5,000	5,000
Total, Military Construction			134,040	133,591

SEC. 4603. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS FOR BASE REQUIREMENTS.

SEC. 4603. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS FOR BASE REQUIREMENTS
(In Thousands of Dollars)

<i>Service</i>	<i>State/Country and Installation</i>	<i>Project</i>	<i>FY 2017 Request</i>	<i>Conference Authorized</i>
Navy	Djibouti Camp Lemonier	OCO: Medical /Dental Facility	37,409	37,409
Navy	Worldwide Unspecified Unspecified Worldwide Locations	Planning and Design	1,000	1,000
Military Construction, Navy Total			38,409	38,409
Total, Military Construction			38,409	38,409

**TITLE XLVII—DEPARTMENT OF ENERGY NATIONAL
SECURITY PROGRAMS**

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS.

**SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS
(In Thousands of Dollars)**

<i>Program</i>	<i>FY 2017 Request</i>	<i>Conference Authorized</i>
Discretionary Summary By Appropriation		
Energy And Water Development, And Related Agencies		
Appropriation Summary:		
Energy Programs		
Nuclear Energy	151,876	136,616
Atomic Energy Defense Activities		
National nuclear security administration:		
Weapons activities	9,243,147	9,429,029
Defense nuclear nonproliferation	1,807,916	1,886,916
Naval reactors	1,420,120	1,417,620
Federal salaries and expenses	412,817	395,517
Total, National nuclear security administration	12,884,000	13,129,082
Environmental and other defense activities:		
Defense environmental cleanup	5,382,050	5,273,558
Other defense activities	791,552	789,552
Total, Environmental & other defense activities	6,173,602	6,063,110
Total, Atomic Energy Defense Activities	19,057,602	19,192,192
Total, Discretionary Funding	19,209,478	19,328,808
Nuclear Energy		
Idaho sitewide safeguards and security	129,303	129,303
Idaho operations and maintenance	7,313	7,313
Consent Based Siting	15,260	0
Denial of funds for defense-only repository		[-15,260]
Total, Nuclear Energy	151,876	136,616
Weapons Activities		
Directed stockpile work		
Life extension programs		
B61 Life extension program	616,079	616,079
W76 Life extension program	222,880	222,880
W88 Alt 370	281,129	281,129
W80-4 Life extension program	220,253	220,253
Total, Life extension programs	1,340,341	1,340,341
Stockpile systems		
B61 Stockpile systems	57,313	57,313
W76 Stockpile systems	38,604	38,604
W78 Stockpile systems	56,413	56,413
W80 Stockpile systems	64,631	64,631
B83 Stockpile systems	41,659	41,659
W87 Stockpile systems	81,982	81,982
W88 Stockpile systems	103,074	103,074
Total, Stockpile systems	443,676	443,676
Weapons dismantlement and disposition		
Operations and maintenance	68,984	56,000
Denial of dismantlement acceleration		[-12,984]
Stockpile services		
Production support	457,043	457,043
Research and development support	34,187	34,187
R&D certification and safety	156,481	156,481
Management, technology, and production	251,978	251,978
Total, Stockpile services	899,689	899,689

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS
(In Thousands of Dollars)

<i>Program</i>	<i>FY 2017 Request</i>	<i>Conference Authorized</i>
Nuclear material commodities		
Uranium sustainment	20,988	20,988
Plutonium sustainment	184,970	184,970
Tritium sustainment	109,787	109,787
Domestic uranium enrichment	50,000	50,000
Strategic materials sustainment	212,092	212,092
Total, Nuclear material commodities	577,837	577,837
Total, Directed stockpile work	3,330,527	3,317,543
Research, development, test and evaluation (RDT&E)		
Science		
Advanced certification	58,000	58,000
Primary assessment technologies	99,000	99,000
Dynamic materials properties	106,000	106,000
Advanced radiography	50,500	50,500
Secondary assessment technologies	76,000	76,000
Academic alliances and partnerships	52,484	52,484
Total, Science	441,984	441,984
Engineering		
Enhanced surety	37,196	37,196
Weapon systems engineering assessment technology ..	16,958	16,958
Nuclear survivability	43,105	43,105
Enhanced surveillance	42,228	42,228
Total, Engineering	139,487	139,487
Inertial confinement fusion ignition and high yield		
Ignition	75,432	75,432
Support of other stockpile programs	23,363	23,363
Diagnostics, cryogenics and experimental support	68,696	68,696
Pulsed power inertial confinement fusion	5,616	5,616
Joint program in high energy density laboratory plas- mas	9,492	9,492
Facility operations and target production	340,360	340,360
Total, Inertial confinement fusion and high yield ...	522,959	522,959
Advanced simulation and computing	663,184	656,184
Program decrease		[-7,000]
Stockpile Responsiveness Program	0	40,000
Program increase		[40,000]
Advanced manufacturing		
Additive manufacturing	12,000	12,000
Component manufacturing development	46,583	46,583
Processing technology development	28,522	28,522
Total, Advanced manufacturing	87,105	87,105
Total, RDT&E	1,854,719	1,887,719
Infrastructure and operations (formerly RTBF)		
Operating		
Operations of facilities		
Kansas City Plant	101,000	101,000
Lawrence Livermore National Laboratory	70,500	70,500
Los Alamos National Laboratory	196,500	196,500
Nevada Test Site	92,500	92,500
Pantex	55,000	55,000
Sandia National Laboratory	118,000	118,000
Savannah River Site	83,500	83,500
Y-12 National security complex	107,000	107,000
Total, Operations of facilities	824,000	824,000
Safety and environmental operations	110,000	110,000

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS
(In Thousands of Dollars)

Program	FY 2017 Request	Conference Authorized
Maintenance and repair of facilities	294,000	324,000
Address high-priority preventative maintenance		[30,000]
Recapitalization:		
Infrastructure and safety	554,643	630,509
Address high-priority deferred maintenance		[75,866]
Capability based investment	112,639	112,639
Total, Recapitalization	667,282	743,148
Construction:		
17-D-640 U1a Complex Enhancements Project, NNSS	11,500	11,500
17-D-630 Electrical Infrastructure Upgrades, LLNL	25,000	25,000
16-D-515 Albuquerque complex upgrades project	15,047	15,047
15-D-613 Emergency Operations Center, Y-12	2,000	2,000
15-D-302 TA-55 Reinvestment project, Phase 3, LANL	21,455	21,455
07-D-220-04 Transuranic liquid waste facility, LANL	17,053	17,053
06-D-141 PED/Construction, UPF Y-12, Oak Ridge, TN	575,000	575,000
04-D-125-04 RLUOB equipment installation	159,615	159,615
Total, Construction	826,670	826,670
Total, Infrastructure and operations	2,721,952	2,827,818
Secure transportation asset		
Operations and equipment	179,132	179,132
Program direction	103,600	103,600
Total, Secure transportation asset	282,732	282,732
Defense nuclear security		
Operations and maintenance	657,133	693,133
Support to physical security infrastructure recapital- ization and CSTART		[36,000]
Construction:		
14-D-710 Device assembly facility argus installation project, NV	13,000	13,000
17-D-710 West end protected area reduction project, Y-12	0	24,000
Total, Defense nuclear security	670,133	730,133
Information technology and cybersecurity	176,592	176,592
Legacy contractor pensions	248,492	248,492
Rescission of prior year balances	-42,000	-42,000
Total, Weapons Activities	9,243,147	9,429,029
Defense Nuclear Nonproliferation		
Defense Nuclear Nonproliferation Programs		
Defense Nuclear Nonproliferation R&D		
Global material security	337,108	337,108
Material management and minimization	341,094	321,094
Program decrease		[-20,000]
Nonproliferation and arms control	124,703	124,703
Defense Nuclear Nonproliferation R&D	393,922	417,922
Acceleration of low-yield detection experiments Nuclear detection technology and new challenges such as 3D printing		[4,000]
Low Enriched Uranium R&D for Naval Reactors	0	5,000
Low Enriched Uranium R&D for Naval Reactors		[5,000]
Nonproliferation Construction:		
99-D-143 Mixed Oxide (MOX) Fuel Fabrication Facility, SRS	270,000	340,000

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS
(In Thousands of Dollars)

Program	FY 2017 Request	Conference Authorized
Increase to support construction		[70,000]
Total, Nonproliferation construction	270,000	340,000
Total, Defense Nuclear Nonproliferation Programs	1,466,827	1,545,827
Legacy contractor pensions	83,208	83,208
Nuclear counterterrorism and incident response program	271,881	271,881
Rescission of prior year balances	-14,000	-14,000
Total, Defense Nuclear Nonproliferation	1,807,916	1,886,916
Naval Reactors		
Naval reactors operations and infrastructure	449,682	447,182
Naval reactors development	437,338	437,338
Ohio replacement reactor systems development	213,700	213,700
S5G Prototype refueling	124,000	124,000
Program direction	47,100	47,100
Construction:		
17-D-911, BL Fire System Upgrade	1,400	1,400
15-D-904 NRF Overpack Storage Expansion 3	700	700
15-D-902 KS Engineer room team trainer facility	33,300	33,300
14-D-901 Spent fuel handling recapitalization project, NRF	100,000	100,000
10-D-903, Security upgrades, KAPL	12,900	12,900
Total, Construction	148,300	148,300
Total, Naval Reactors	1,420,120	1,417,620
Federal Salaries And Expenses		
Program direction	412,817	395,517
Program decrease		[-17,300]
Total, Office Of The Administrator	412,817	395,517
Defense Environmental Cleanup		
Closure sites:		
Closure sites administration	9,389	9,389
Hanford site:		
River corridor and other cleanup operations	69,755	114,755
Acceleration of priority programs		[45,000]
Central plateau remediation	620,869	644,369
Acceleration of priority programs		[23,500]
Richland community and regulatory support	14,701	14,701
Construction:		
15-D-401 Containerized sludge removal annex, RL ...	11,486	11,486
Total, Hanford site	716,811	785,311
Idaho National Laboratory:		
Idaho cleanup and waste disposition	359,088	359,088
Idaho community and regulatory support	3,000	3,000
Total, Idaho National Laboratory	362,088	362,088
Los Alamos National Laboratory		
EMLA cleanup activities	185,606	195,606
Program Increase		[10,000]
EMLA community and regulatory support	3,394	3,394
Total, Los Alamos National Laboratory	189,000	199,000
NNSA sites		
Lawrence Livermore National Laboratory	1,396	1,396
Separations Process Research Unit	3,685	3,685
Nevada	62,176	62,176
Sandia National Laboratories	4,130	4,130
Total, NNSA sites and Nevada off-sites	71,387	71,387

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS
(In Thousands of Dollars)

<i>Program</i>	<i>FY 2017 Request</i>	<i>Conference Authorized</i>
Oak Ridge Reservation:		
OR Nuclear facility D & D		
OR Nuclear facility D & D	93,851	93,851
Construction:		
14-D-403 Outfall 200 Mercury Treatment Facility	5,100	5,100
Total, OR Nuclear facility D & D	98,951	98,951
U233 Disposition Program	37,311	37,311
OR cleanup and disposition	54,557	54,557
OR reservation community and regulatory support	4,400	4,400
Oak Ridge technology development	3,000	3,000
Total, Oak Ridge Reservation	198,219	198,219
Office of River Protection:		
Waste treatment and immobilization plant		
WTP operations	3,000	3,000
15-D-409 Low activity waste pretreatment system, ORP	73,000	73,000
01-D-416 A-D/ORP-0060 / Major construction	690,000	690,000
Total, Waste treatment and immobilization plant	766,000	766,000
Tank farm activities		
Rad liquid tank waste stabilization and disposition ...	721,456	721,456
Total, Tank farm activities	721,456	721,456
Total, Office of River protection	1,487,456	1,487,456
Savannah River sites:		
Nuclear Material Management	311,062	311,062
Environmental Cleanup	152,504	152,504
SR community and regulatory support	11,249	11,249
Radioactive liquid tank waste:		
Radioactive liquid tank waste stabilization and disposition	645,332	645,332
Construction:		
15-D-402—Saltstone Disposal Unit #6, SRS	7,577	7,577
17-D-401—Saltstone Disposal Unit #7	9,729	9,729
05-D-405 Salt waste processing facility, Savannah River Site	160,000	160,000
Total, Construction	177,306	177,306
Total, Radioactive liquid tank waste	822,638	822,638
Total, Savannah River site	1,297,453	1,297,453
Waste Isolation Pilot Plant		
Operations and maintenance	257,188	267,188
Program increase		[10,000]
Construction:		
15-D-411 Safety significant confinement ventilation system, WIPP	2,532	2,532
15-D-412 Exhaust shaft, WIPP	2,533	2,533
Total, Construction	5,065	5,065
Total, Waste Isolation Pilot Plant	262,253	272,253
Program direction	290,050	290,050
Program support	14,979	14,979
Safeguards and Security	255,973	255,973
Technology development	30,000	30,000
Infrastructure recapitalization	41,892	0
Defense Uranium enrichment D&D	155,100	0
Ahead of need		[-155,100]
Subtotal, Defense environmental cleanup	5,382,050	5,273,558

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS (In Thousands of Dollars)		
Program	FY 2017 Request	Conference Authorized
Total, Defense Environmental Cleanup	5,382,050	5,273,558
Other Defense Activities		
Environment, health, safety and security		
Environment, health, safety and security	130,693	128,693
Program direction	66,519	66,519
Total, Environment, health, safety and security	197,212	195,212
Independent enterprise assessments		
Independent enterprise assessments	24,580	24,580
Program direction	51,893	51,893
Total, Independent enterprise assessments	76,473	76,473
Specialized security activities	237,912	237,912
Office of Legacy Management		
Legacy management	140,306	140,306
Program direction	14,014	14,014
Total, Office of Legacy Management	154,320	154,320
Defense-related activities		
Defense related administrative support		
Chief financial officer	23,642	23,642
Chief information officer	93,074	93,074
Project management oversight and assessments	3,000	3,000
Total, Defense related administrative support	119,716	116,716
Office of hearings and appeals	5,919	5,919
Subtotal, Other defense activities	791,552	789,552
Total, Other Defense Activities	791,552	789,552

DIVISION E—UNIFORM CODE OF MILITARY JUSTICE REFORM

SEC. 5001. SHORT TITLE.

This division may be cited as the “Military Justice Act of 2016”.

TITLE LI—GENERAL PROVISIONS

Sec. 5101. Definitions.

Sec. 5102. Clarification of persons subject to UCMJ while on inactive-duty training.

Sec. 5103. Staff judge advocate disqualification due to prior involvement in case.

Sec. 5104. Conforming amendment relating to military magistrates.

Sec. 5105. Rights of victim.

SEC. 5101. DEFINITIONS.

(a) **MILITARY JUDGE.**—Paragraph (10) of section 801 of title 10, United States Code (article 1 of the Uniform Code of Military Justice), is amended to read as follows:

“(10) The term ‘military judge’ means a judge advocate designated under section 826(c) of this title (article 26(c)) who is detailed under section 826(a) or section 830a of this title (article 26(a) or 30a).”

(b) **JUDGE ADVOCATE.**—Paragraph (13) of such section (article) is amended—

(1) in subparagraph (A), by striking “the Army or the Navy” and inserting “the Army, the Navy, or the Air Force”; and

(2) in subparagraph (B), by striking “the Air Force or”.

SEC. 5102. CLARIFICATION OF PERSONS SUBJECT TO UCMJ WHILE ON INACTIVE-DUTY TRAINING.

Paragraph (3) of section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), is amended to read as follows:

“(3)(A) While on inactive-duty training and during any of the periods specified in subparagraph (B)—

“(i) members of a reserve component; and

“(ii) members of the Army National Guard of the United States or the Air National Guard of the United States, but only when in Federal service.

“(B) The periods referred to in subparagraph (A) are the following:

“(i) Travel to and from the inactive-duty training site of the member, pursuant to orders or regulations.

“(ii) Intervals between consecutive periods of inactive-duty training on the same day, pursuant to orders or regulations.

“(iii) Intervals between inactive-duty training on consecutive days, pursuant to orders or regulations.”.

SEC. 5103. STAFF JUDGE ADVOCATE DISQUALIFICATION DUE TO PRIOR INVOLVEMENT IN CASE.

Subsection (c) of section 806 of title 10, United States Code (article 6 of the Uniform Code of Military Justice), is amended to read as follows:

“(c)(1) No person who, with respect to a case, serves in a capacity specified in paragraph (2) may later serve as a staff judge advocate or legal officer to any reviewing or convening authority upon the same case.

“(2) The capacities referred to in paragraph (1) are, with respect to the case involved, any of the following:

“(A) Preliminary hearing officer, court member, military judge, military magistrate, or appellate judge.

“(B) Counsel who have acted in the same case or appeared in any proceeding before a military judge, military magistrate, preliminary hearing officer, or appellate court.”.

SEC. 5104. CONFORMING AMENDMENT RELATING TO MILITARY MAGISTRATES.

The first sentence of section 806a(a) of title 10, United States Code (article 6a(a) of the Uniform Code of Military Justice), is amended by striking “military judge” and all that follows through the end of the sentence and inserting “military appellate judge, military judge, or military magistrate to perform the duties of the position involved.”.

SEC. 5105. RIGHTS OF VICTIM.

(a) **DESIGNATION OF REPRESENTATIVE.**—Subsection (c) of section 806b of title 10, United States Code (article 6b of the Uniform Code of Military Justice), is amended in the first sentence by striking “the military judge” and all that follows through the end of the sentence and inserting the following: “the legal guardians of the victim or the representatives of the victim’s estate, family members, or any other person designated as suitable by the military judge, may assume the rights of the victim under this section.”.

(b) **RULE OF CONSTRUCTION.**—Subsection (d) of such section (article) is amended—

- (1) in paragraph (1), by striking “or” at the end;
 (2) in paragraph (2), by striking the period at the end and inserting “; or”; and
 (3) by adding at the end the following new paragraph:
 “(3) to impair the exercise of discretion under sections 830 and 834 of this title (articles 30 and 34).”.

(c) INTERVIEW OF VICTIM.—Such section (article) is amended by adding at the end the following new subsection:

“(f) COUNSEL FOR ACCUSED INTERVIEW OF VICTIM OF ALLEGED OFFENSE.—(1) Upon notice by counsel for the Government to counsel for the accused of the name of an alleged victim of an offense under this chapter who counsel for the Government intends to call as a witness at a proceeding under this chapter, counsel for the accused shall make any request to interview the victim through the Special Victims’ Counsel or other counsel for the victim, if applicable.

“(2) If requested by an alleged victim who is subject to a request for interview under paragraph (1), any interview of the victim by counsel for the accused shall take place only in the presence of the counsel for the Government, a counsel for the victim, or, if applicable, a victim advocate.”.

TITLE LII—APPREHENSION AND RESTRAINT

Sec. 5121. Restraint of persons charged.

Sec. 5122. Modification of prohibition of confinement of members of the Armed Forces with enemy prisoners and certain others.

SEC. 5121. RESTRAINT OF PERSONS CHARGED.

Section 810 of title 10, United States Code (article 10 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 810. Art. 10. Restraint of persons charged

“(a) IN GENERAL.—(1) Subject to paragraph (2), any person subject to this chapter who is charged with an offense under this chapter may be ordered into arrest or confinement as the circumstances require.

“(2) When a person subject to this chapter is charged only with an offense that is normally tried by summary court-martial, the person ordinarily shall not be ordered into confinement.

“(b) NOTIFICATION TO ACCUSED AND RELATED PROCEDURES.—(1) When a person subject to this chapter is ordered into arrest or confinement before trial, immediate steps shall be taken—

“(A) to inform the person of the specific offense of which the person is accused; and

“(B) to try the person or to dismiss the charges and release the person.

“(2) To facilitate compliance with paragraph (1), the President shall prescribe regulations setting forth procedures relating to referral for trial, including procedures for prompt forwarding of the charges and specifications and, if applicable, the preliminary hearing report submitted under section 832 of this title (article 32).”.

SEC. 5122. MODIFICATION OF PROHIBITION OF CONFINEMENT OF MEMBERS OF THE ARMED FORCES WITH ENEMY PRISONERS AND CERTAIN OTHERS.

Section 812 of title 10, United States Code (article 12 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 812. Art. 12. Prohibition of confinement of members of the armed forces with enemy prisoners and certain others

“No member of the armed forces may be placed in confinement in immediate association with—

“(1) enemy prisoners; or

“(2) other individuals—

“(A) who are detained under the law of war and are foreign nationals; and

“(B) who are not members of the armed forces.”

TITLE LIII—NON-JUDICIAL PUNISHMENT

Sec. 5141. *Modification of confinement as non-judicial punishment.*

SEC. 5141. MODIFICATION OF CONFINEMENT AS NON-JUDICIAL PUNISHMENT.

Section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice), is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A), by striking “on bread and water or diminished rations”; and

(B) in the undesignated matter after paragraph (2), by striking “on bread and water or diminished rations” in the sentence beginning “No two or more”; and

(2) in subsection (d), by striking “on bread and water or diminished rations” in paragraphs (2) and (3).

TITLE LIV—COURT-MARTIAL JURISDICTION

Sec. 5161. *Courts-martial classified.*

Sec. 5162. *Jurisdiction of general courts-martial.*

Sec. 5163. *Jurisdiction of special courts-martial.*

Sec. 5164. *Summary court-martial as non-criminal forum.*

SEC. 5161. COURTS-MARTIAL CLASSIFIED.

Section 816 of title 10, United States Code (article 16 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 816. Art 16. Courts-martial classified

“(a) *IN GENERAL.*—The three kinds of courts-martial in each of the armed forces are the following:

“(1) General courts-martial, as described in subsection (b).

“(2) Special courts-martial, as described in subsection (c).

“(3) Summary courts-martial, as described in subsection (d).

“(b) *GENERAL COURTS-MARTIAL.*—General courts-martial are of the following three types:

“(1) A general court-martial consisting of a military judge and eight members, subject to sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29).

“(2) In a capital case, a general court-martial consisting of a military judge and the number of members determined under section 825a of this title (article 25a), subject to sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29).

“(3) A general court-martial consisting of a military judge alone, if, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests, orally on the record or in writing, a

court composed of a military judge alone and the military judge approves the request.

“(c) SPECIAL COURTS-MARTIAL.—Special courts-martial are of the following two types:

“(1) A special court-martial consisting of a military judge and four members, subject to sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29).

“(2) A special court-martial consisting of a military judge alone—

“(A) if the case is so referred by the convening authority, subject to section 819 of this title (article 19) and such limitations as the President may prescribe by regulation; or

“(B) if the case is referred under paragraph (1) and, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests, orally on the record or in writing, a court composed of a military judge alone and the military judge approves the request.

“(d) SUMMARY COURT-MARTIAL.—A summary court-martial consists of one commissioned officer.”.

SEC. 5162. JURISDICTION OF GENERAL COURTS-MARTIAL.

Section 818 of title 10, United States Code (article 18 of the Uniform Code of Military Justice), is amended—

(1) in subsection (b), by striking “section 816(1)(B) of this title (article 16(1)(B))” and inserting “section 816(b)(3) of this title (article 16(b)(3))”; and

(2) by striking subsection (c) and inserting the following new subsection (c):

“(c) Consistent with sections 819 and 820 of this title (articles 19 and 20), only general courts-martial have jurisdiction over the following offenses:

“(1) A violation of subsection (a) or (b) of section 920 of this title (article 120).

“(2) A violation of subsection (a) or (b) of section 920b of this title (article 120b).

“(3) An attempt to commit an offense specified in paragraph (1) or (2) that is punishable under section 880 of this title (article 80).”.

SEC. 5163. JURISDICTION OF SPECIAL COURTS-MARTIAL.

Section 819 of title 10, United States Code (article 19 of the Uniform Code of Military Justice), is amended—

(1) by striking “Subject to” in the first sentence and inserting the following:

“(a) IN GENERAL.—Subject to”;

(2) by striking “A bad-conduct discharge” and all that follows through the end; and

(3) by adding after subsection (a), as designated by paragraph (1), the following new subsections:

“(b) ADDITIONAL LIMITATION.—Neither a bad-conduct discharge, nor confinement for more than six months, nor forfeiture of pay for more than six months may be adjudged if charges and specifications are referred to a special court-martial consisting of a military judge alone under section 816(c)(2)(A) of this title (article 16(c)(2)(A)).

“(c) **MILITARY MAGISTRATE.**—If charges and specifications are referred to a special court-martial consisting of a military judge alone under section 816(c)(2)(A) of this title (article 16(c)(2)(A)), the military judge, with the consent of the parties, may designate a military magistrate to preside over the special court-martial.”.

SEC. 5164. SUMMARY COURT-MARTIAL AS NON-CRIMINAL FORUM.

Section 820 of title 10, United States Code (article 20 of the Uniform Code of Military Justice), is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “Subject to”; and

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

“(b) **NON-CRIMINAL FORUM.**—A summary court-martial is a non-criminal forum. A finding of guilty at a summary court-martial does not constitute a criminal conviction.”.

TITLE LV—COMPOSITION OF COURTS-MARTIAL

Sec. 5181. Technical amendment relating to persons authorized to convene general courts-martial.

Sec. 5182. Who may serve on courts-martial and related matters.

Sec. 5183. Number of court-martial members in capital cases.

Sec. 5184. Detailing, qualifications, and other matters relating to military judges.

Sec. 5185. Military magistrates.

Sec. 5186. Qualifications of trial counsel and defense counsel.

Sec. 5187. Assembly and impaneling of members and related matters.

SEC. 5181. TECHNICAL AMENDMENT RELATING TO PERSONS AUTHORIZED TO CONVENE GENERAL COURTS-MARTIAL.

Section 822(a)(6) of title 10, United States Code (article 22(a)(6) of the Uniform Code of Military Justice), is amended by striking “in chief”.

SEC. 5182. WHO MAY SERVE ON COURTS-MARTIAL AND RELATED MATTERS.

(a) **WHO MAY SERVE ON COURTS-MARTIAL.**—Subsection (c) of section 825 of title 10, United States Code (article 25 of the Uniform Code of Military Justice), is amended to read as follows:

“(c)(1) Any enlisted member on active duty is eligible to serve on a general or special court-martial for the trial of any other enlisted member.

“(2) Before a court-martial with a military judge and members is assembled for trial, an enlisted member who is an accused may personally request, orally on the record or in writing, that—

“(A) the membership of the court-martial be comprised entirely of officers; or

“(B) enlisted members comprise at least one-third of the membership of the court-martial, regardless of whether enlisted members have been detailed to the court-martial.

“(3) Except as provided in paragraph (4), after such a request, the accused may not be tried by a general or special court-martial if the membership of the court-martial is inconsistent with the request.

“(4) If, because of physical conditions or military exigencies, a sufficient number of eligible officers or enlisted members, as the case may be, is not available to carry out paragraph (2), the trial may nevertheless be held. In that event, the convening authority shall make a detailed written statement of the reasons for nonavailability. The statement shall be appended to the record.”.

(b) *WHO MAY SENTENCE.*—Such section (article) is further amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

“(d)(1) Except as provided in paragraph (2) for capital offenses, the accused in a court-martial with a military judge and members may, after the findings are announced and before any matter is presented in the sentencing phase, request, orally on the record or in writing, sentencing by members.

“(2) In a capital case, the accused shall be sentenced by the members for all offenses for which the court-martial may sentence the accused to death in accordance with section 853(c) of this title (article 53(c)).

“(3) In a capital case, if the accused is convicted of a non-capital offense, the accused shall be sentenced for such non-capital offense in accordance with section 853(b) of this title (article 53(b)), regardless of whether the accused is convicted of an offense for which the court-martial may sentence the accused to death.”

(c) *DETAIL OF MEMBERS.*—Subsection (e) of such section (article), as redesignated by subsection (b)(1) of this section, is amended by adding at the end the following new paragraph:

“(3) The convening authority shall detail not less than the number of members necessary to impanel the court-martial under section 829 of this title (article 29).”

SEC. 5183. NUMBER OF COURT-MARTIAL MEMBERS IN CAPITAL CASES.

Section 825a of title 10, United States Code (article 25a of the Uniform Code of Military Justice), is amended to read as follows:

“§825a. Art. 25a. Number of court-martial members in capital cases

“(a) *IN GENERAL.*—In a case in which the accused may be sentenced to death, the number of members shall be 12.

“(b) *CASE NO LONGER CAPITAL.*—Subject to section 829 of this title (article 29)—

“(1) if a case is referred for trial as a capital case and, before the members are impaneled, the accused may no longer be sentenced to death, the number of members shall be eight; and

“(2) if a case is referred for trial as a capital case and, after the members are impaneled, the accused may no longer be sentenced to death, the number of members shall remain 12.”

SEC. 5184. DETAILING, QUALIFICATIONS, AND OTHER MATTERS RELATING TO MILITARY JUDGES.

(a) *DETAIL TO SPECIAL COURTS-MARTIAL.*—Subsection (a) of section 826 of title 10, United States Code (article 26 of the Uniform Code of Military Justice), is amended—

(1) in the first sentence, by inserting after “each general” the following: “and special”; and

(2) by striking the second sentence.

(b) *QUALIFICATIONS.*—Subsection (b) of such section (article) is amended by striking “qualified for duty” and inserting “qualified, by reason of education, training, experience, and judicial temperament, for duty”.

(c) *DETAIL AND ASSIGNMENT.*—Subsection (c) of such section (article) is amended to read as follows:

“(c)(1) In accordance with regulations prescribed under subsection (a), a military judge of a general or special court-martial shall be designated for detail by the Judge Advocate General of the armed force of which the military judge is a member.

“(2) Neither the convening authority nor any member of the staff of the convening authority shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed, which relates to the military judge’s performance of duty as a military judge.

“(3) A commissioned officer who is certified to be qualified for duty as a military judge of a general court-martial—

“(A) may perform such duties only when the officer is assigned and directly responsible to the Judge Advocate General of the armed force of which the military judge is a member; and

“(B) may perform duties of a judicial or nonjudicial nature other than those relating to the officer’s primary duty as a military judge of a general court-martial when such duties are assigned to the officer by or with the approval of that Judge Advocate General.

“(4) In accordance with regulations prescribed by the President, assignments of military judges under this section (article) shall be for appropriate minimum periods, subject to such exceptions as may be authorized in the regulations.”.

(d) *DETAIL TO A DIFFERENT ARMED FORCE.*—Such section (article) is further amended by adding at the end the following new subsection:

“(f) A military judge may be detailed under subsection (a) to a court-martial or a proceeding under section 830a of this title (article 30a) that is convened in a different armed force, when so permitted by the Judge Advocate General of the armed force of which the military judge is a member.”.

(e) *CHIEF TRIAL JUDGES.*—Such section (article), as amended by subsection (d), is further amended by adding at the end the following new subsection:

“(g) In accordance with regulations prescribed by the President, each Judge Advocate General shall designate a chief trial judge from among the members of the applicable trial judiciary.”.

SEC. 5185. MILITARY MAGISTRATES.

Subchapter V of chapter 47 of title 10, United States Code, is amended by inserting after section 826 (article 26 of the Uniform Code of Military Justice) the following new section (article):

“§ 826a. Art. 26a. Military magistrates

“(a) *QUALIFICATIONS.*—A military magistrate shall be a commissioned officer of the armed forces who—

“(1) is a member of the bar of a Federal court or a member of the bar of the highest court of a State; and

“(2) is certified to be qualified, by reason of education, training, experience, and judicial temperament, for duty as a military magistrate by the Judge Advocate General of the armed force of which the officer is a member.

“(b) *DUTIES.*—In accordance with regulations prescribed by the Secretary concerned, in addition to duties when designated under

section 819 or 830a of this title (article 19 or 30a), a military magistrate may be assigned to perform other duties of a nonjudicial nature.”.

SEC. 5186. QUALIFICATIONS OF TRIAL COUNSEL AND DEFENSE COUNSEL.

Section 827 of title 10, United States Code (article 27 of the Uniform Code of Military Justice), is amended—

(1) in the first sentence of paragraph (2) of subsection (a), by striking “No person” and all that follows through “trial counsel,” the first place it appears and inserting “No person who, with respect to a case, has served as a preliminary hearing officer, court member, military judge, military magistrate, or appellate judge, may later serve as trial counsel.”;

(2) in the first sentence of subsection (b), by striking “Trial counsel or defense counsel” and inserting “Trial counsel, defense counsel, or assistant defense counsel”; and

(3) by striking subsection (c) and inserting the following new subsections:

“(c)(1) Defense counsel and assistant defense counsel detailed for a special court-martial shall have the qualifications set forth in subsection (b).

“(2) Trial counsel and assistant trial counsel detailed for a special court-martial and assistant trial counsel detailed for a general court-martial must be determined to be competent to perform such duties by the Judge Advocate General, under such rules as the President may prescribe.

“(d) To the greatest extent practicable, in any capital case, at least one defense counsel shall, as determined by the Judge Advocate General, be learned in the law applicable to such cases. If necessary, this counsel may be a civilian and, if so, may be compensated in accordance with regulations prescribed by the Secretary of Defense.”.

SEC. 5187. ASSEMBLY AND IMPANELING OF MEMBERS AND RELATED MATTERS.

Section 829 of title 10, United States Code (article 29 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 829. Art 29. Assembly and impaneling of members; detail of new members and military judges

“(a) ASSEMBLY.—The military judge shall announce the assembly of a general or special court-martial with members. After such a court-martial is assembled, no member may be absent, unless the member is excused—

“(1) as a result of a challenge;

“(2) under subsection (b)(1)(B); or

“(3) by order of the military judge or the convening authority for disability or other good cause.

“(b) IMPANELING.—(1) Under rules prescribed by the President, the military judge of a general or special court-martial with members shall—

“(A) after determination of challenges, impanel the court-martial; and

“(B) excuse the members who, having been assembled, are not impaneled.

“(2) In a general court-martial, the military judge shall impanel—

“(A) 12 members in a capital case; and

“(B) eight members in a noncapital case.

“(3) In a special court-martial, the military judge shall impanel four members.

“(c) *ALTERNATE MEMBERS.*—In addition to members under subsection (b), the military judge shall impanel alternate members, if the convening authority authorizes alternate members.

“(d) *DETAIL OF NEW MEMBERS.*—(1) If, after members are impaneled, the membership of the court-martial is reduced to—

“(A) fewer than 12 members with respect to a general court-martial in a capital case;

“(B) fewer than six members with respect to a general court-martial in a noncapital case; or

“(C) fewer than four members with respect to a special court-martial;

the trial may not proceed unless the convening authority details new members and, from among the members so detailed, the military judge impanels new members sufficient in number to provide the membership specified in paragraph (2).

“(2) The membership referred to in paragraph (1) is as follows:

“(A) 12 members with respect to a general court-martial in a capital case.

“(B) At least six but not more than eight members with respect to a general court-martial in a noncapital case.

“(C) Four members with respect to a special court-martial.

“(e) *DETAIL OF NEW MILITARY JUDGE.*—If the military judge is unable to proceed with the trial because of disability or otherwise, a new military judge shall be detailed to the court-martial.

“(f) *EVIDENCE.*—(1) In the case of new members under subsection (d), the trial may proceed with the new members present after the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new members, the military judge, the accused, and counsel for both sides.

“(2) In the case of a new military judge under subsection (e), the trial shall proceed as if no evidence had been introduced, unless the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new military judge, the accused, and counsel for both sides.”.

TITLE LVI—PRE-TRIAL PROCEDURE

Sec. 5201. Charges and specifications.

Sec. 5202. Certain proceedings conducted before referral.

Sec. 5203. Preliminary hearing required before referral to general court-martial.

Sec. 5204. Disposition guidance.

Sec. 5205. Advice to convening authority before referral for trial.

Sec. 5206. Service of charges and commencement of trial.

SEC. 5201. CHARGES AND SPECIFICATIONS.

Section 830 of title 10, United States Code (article 30 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 830. Art 30. Charges and specifications

“(a) *IN GENERAL.*—Charges and specifications—

“(1) may be preferred only by a person subject to this chapter; and

“(2) shall be preferred by presentment in writing, signed under oath before a commissioned officer of the armed forces who is authorized to administer oaths.

“(b) **REQUIRED CONTENT.**—The writing under subsection (a) shall state that—

“(1) the signer has personal knowledge of, or has investigated, the matters set forth in the charges and specifications; and

“(2) the matters set forth in the charges and specifications are true, to the best of the knowledge and belief of the signer.

“(c) **DUTY OF PROPER AUTHORITY.**—When charges and specifications are preferred under subsection (a), the proper authority shall, as soon as practicable—

“(1) inform the person accused of the charges and specifications; and

“(2) determine what disposition should be made of the charges and specifications in the interest of justice and discipline.”.

SEC. 5202. CERTAIN PROCEEDINGS CONDUCTED BEFORE REFERRAL.

Subchapter VI of chapter 47 of title 10, United States Code, is amended by inserting after section 830 (article 30 of the Uniform Code of Military Justice) the following new section (article):

“§ 830a. Art. 30a. Certain proceedings conducted before referral

“(a) **IN GENERAL.**—(1) Proceedings may be conducted to review the following matters before referral of charges and specifications to court-martial for trial in accordance with regulations prescribed by the President:

“(A) Pre-referral investigative subpoenas.

“(B) Pre-referral warrants or orders for electronic communications.

“(C) Pre-referral matters referred by an appellate court.

“(2) The regulations prescribed under paragraph (1) shall—

“(A) include procedures for the review of such rulings that may be ordered under this section as the President considers appropriate; and

“(B) provide such limitations on the relief that may be ordered under this section as the President considers appropriate.

“(3) If any matter in a proceeding under this section becomes a subject at issue with respect to charges that have been referred to a general or special court-martial, the matter shall be transferred to the military judge detailed to the court-martial.

“(b) **DETAIL OF MILITARY JUDGE.**—The Secretary concerned shall prescribe regulations providing for the manner in which military judges are detailed to proceedings under subsection (a)(1).

“(c) **DISCRETION TO DESIGNATE MAGISTRATE TO PRESIDE.**—In accordance with regulations prescribed by the Secretary concerned, a military judge detailed to a proceeding under subsection (a)(1), other than a proceeding described in subparagraph (B) of that subsection, may designate a military magistrate to preside over the proceeding.”.

SEC. 5203. PRELIMINARY HEARING REQUIRED BEFORE REFERRAL TO GENERAL COURT-MARTIAL.

(a) *IN GENERAL.*—Section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice), is amended by striking the section heading and subsections (a), (b), and (c) and inserting the following:

“§ 832. Art. 32. Preliminary hearing required before referral to general court-martial

“(a) *IN GENERAL.*—(1)(A) Except as provided in subparagraph (B), a preliminary hearing shall be held before referral of charges and specifications for trial by general court-martial. The preliminary hearing shall be conducted by an impartial hearing officer, detailed by the convening authority in accordance with subsection (b).

“(B) Under regulations prescribed by the President, a preliminary hearing need not be held if the accused submits a written waiver to the convening authority and the convening authority determines that a hearing is not required.

“(2) The purpose of the preliminary hearing shall be limited to determining the following:

“(A) Whether or not the specification alleges an offense under this chapter.

“(B) Whether or not there is probable cause to believe that the accused committed the offense charged.

“(C) Whether or not the convening authority has court-martial jurisdiction over the accused and over the offense.

“(D) A recommendation as to the disposition that should be made of the case.

“(b) *HEARING OFFICER.*—(1) A preliminary hearing under this section shall be conducted by an impartial hearing officer, who—

“(A) whenever practicable, shall be a judge advocate who is certified under section 827(b)(2) of this title (article 27(b)(2)); or

“(B) when it is not practicable to appoint a judge advocate because of exceptional circumstances, is not a judge advocate so certified.

“(2) In the case of a hearing officer under paragraph (1)(B), a judge advocate who is certified under section 827(b)(2) of this title (article 27(b)(2)) shall be available to provide legal advice to the hearing officer.

“(3) Whenever practicable, the hearing officer shall be equal in grade or senior in grade to military counsel who are detailed to represent the accused or the Government at the preliminary hearing.

“(c) *REPORT TO CONVENING AUTHORITY.*—After a preliminary hearing under this section, the hearing officer shall submit to the convening authority a written report (accompanied by a recording of the preliminary hearing under subsection (e)) that includes the following:

“(1) For each specification, a statement of the reasoning and conclusions of the hearing officer with respect to determinations under subsection (a)(2), including a summary of relevant witness testimony and documentary evidence presented at the hearing and any observations of the hearing officer concerning the testimony of witnesses and the availability and admissibility of evidence at trial.

“(2) Recommendations for any necessary modifications to the form of the charges or specifications.

“(3) An analysis of any additional information submitted after the hearing by the parties or by a victim of an offense, that, under such rules as the President may prescribe, is relevant to disposition under sections 830 and 834 of this title (articles 30 and 34).

“(4) A statement of action taken on evidence adduced with respect to uncharged offenses, as described in subsection (f).”

(b) **SUNDRY AMENDMENTS.**—Subsection (d) of such section (article) is amended—

(1) in paragraph (1), by striking “subsection (a)” in the first sentence and inserting “this section”;

(2) in paragraph (2), by striking “in defense” and all that follows through the end and inserting “that is relevant to the issues for determination under subsection (a)(2).”;

(3) in paragraph (3), by adding at the end the following new sentence: “A declination under this paragraph shall not serve as the sole basis for ordering a deposition under section 849 of this title (article 49).”; and

(4) in paragraph (4), by striking “the limited purposes of the hearing, as provided in subsection (a)(2)” and inserting “determinations under subsection (a)(2)”.

(c) **REFERENCE TO MCM.**—Subsection (e) of such section (article) is amended by striking “as prescribed by the Manual for Courts-Martial” in the second sentence and inserting “under such rules as the President may prescribe”.

(d) **EFFECT OF VIOLATION.**—Subsection (g) of such section (article) is amended by adding at the end the following new sentence: “A defect in a report under subsection (c) is not a basis for relief if the report is in substantial compliance with that subsection.”.

(e) **CONFORMING AMENDMENTS.**—The following provisions are each amended by striking “investigating officer” and inserting “preliminary hearing officer”:

(1) Section 806b(a)(3) of title 10, United States Code (article 6b(a)(3) of the Uniform Code of Military Justice).

(2) Section 825(d)(2) of such title (article 25(d)(2) of the Uniform Code of Military Justice).

(3) Section 826(d) of such title (article 26(d) of the Uniform Code of Military Justice).

SEC. 5204. DISPOSITION GUIDANCE.

Section 833 of title 10, United States Code (article 33 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 833. Art 33. Disposition guidance

“The President shall direct the Secretary of Defense to issue, in consultation with the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy, non-binding guidance regarding factors that commanders, convening authorities, staff judge advocates, and judge advocates should take into account when exercising their duties with respect to disposition of charges and specifications in the interest of justice and discipline under sections 830 and 834 of this title (articles 30 and 34). Such guidance shall take into account, with appropriate consideration of military requirements, the principles

contained in official guidance of the Attorney General to attorneys for the Government with respect to disposition of Federal criminal cases in accordance with the principle of fair and evenhanded administration of Federal criminal law.”.

SEC. 5205. ADVICE TO CONVENING AUTHORITY BEFORE REFERRAL FOR TRIAL.

Section 834 of title 10, United States Code (article 34 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 834. Art. 34. Advice to convening authority before referral for trial

“(a) **GENERAL COURT-MARTIAL.**—

“(1) **STAFF JUDGE ADVOCATE ADVICE REQUIRED BEFORE REFERRAL.**—Before referral of charges and specifications to a general court-martial for trial, the convening authority shall submit the matter to the staff judge advocate for advice, which the staff judge advocate shall provide to the convening authority in writing. The convening authority may not refer a specification under a charge to a general court-martial unless the staff judge advocate advises the convening authority in writing that—

“(A) the specification alleges an offense under this chapter;

“(B) there is probable cause to believe that the accused committed the offense charged; and

“(C) a court-martial would have jurisdiction over the accused and the offense.

“(2) **STAFF JUDGE ADVOCATE RECOMMENDATION AS TO DISPOSITION.**—Together with the written advice provided under paragraph (1), the staff judge advocate shall provide a written recommendation to the convening authority as to the disposition that should be made of the specification in the interest of justice and discipline.

“(3) **STAFF JUDGE ADVOCATE ADVICE AND RECOMMENDATION TO ACCOMPANY REFERRAL.**—When a convening authority makes a referral for trial by general court-martial, the written advice of the staff judge advocate under paragraph (1) and the written recommendation of the staff judge advocate under paragraph (2) with respect to each specification shall accompany the referral.

“(b) **SPECIAL COURT-MARTIAL; CONVENING AUTHORITY CONSULTATION WITH JUDGE ADVOCATE.**—Before referral of charges and specifications to a special court-martial for trial, the convening authority shall consult a judge advocate on relevant legal issues.

“(c) **GENERAL AND SPECIAL COURTS-MARTIAL; CORRECTION OF CHARGES AND SPECIFICATIONS BEFORE REFERRAL.**—Before referral for trial by general court-martial or special court-martial, changes may be made to charges and specifications—

“(1) to correct errors in form; and

“(2) when applicable, to conform to the substance of the evidence contained in a report under section 832(c) of this title (article 32(c)).

“(d) **REFERRAL DEFINED.**—In this section, the term ‘referral’ means the order of a convening authority that charges and specifications against an accused be tried by a specified court-martial.”.

SEC. 5206. SERVICE OF CHARGES AND COMMENCEMENT OF TRIAL.

Section 835 of title 10, United States Code (article 35 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 835. Art. 35. Service of charges; commencement of trial

“(a) *IN GENERAL.*—Trial counsel detailed for a court-martial under section 827 of this title (article 27) shall cause to be served upon the accused a copy of the charges and specifications referred for trial.

“(b) *COMMENCEMENT OF TRIAL.*—(1) Subject to paragraphs (2) and (3), no trial or other proceeding of a general court-martial or a special court-martial (including any session under section 839(a) of this title (article 39(a)) may be held over the objection of the accused—

“(A) with respect to a general court-martial, from the time of service through the fifth day after the date of service; or

“(B) with respect to a special court-martial, from the time of service through the third day after the date of service.

“(2) An objection under paragraph (1) may be raised only at the first session of the trial or other proceeding and only if the first session occurs before the end of the applicable period under paragraph (1)(A) or (1)(B). If the first session occurs before the end of the applicable period, the military judge shall, at that session, inquire as to whether the defense objects under this subsection.

“(3) This subsection shall not apply in time of war.”.

TITLE LVII—TRIAL PROCEDURE

Sec. 5221. Duties of assistant defense counsel.

Sec. 5222. Sessions.

Sec. 5223. Technical amendment relating to continuances.

Sec. 5224. Conforming amendments relating to challenges.

Sec. 5225. Statute of limitations.

Sec. 5226. Former jeopardy.

Sec. 5227. Pleas of the accused.

Sec. 5228. Subpoena and other process.

Sec. 5229. Refusal of person not subject to UCMJ to appear, testify, or produce evidence.

Sec. 5230. Contempt.

Sec. 5231. Depositions.

Sec. 5232. Admissibility of sworn testimony by audiotape or videotape from records of courts of inquiry.

Sec. 5233. Conforming amendment relating to defense of lack of mental responsibility.

Sec. 5234. Voting and rulings.

Sec. 5235. Votes required for conviction, sentencing, and other matters.

Sec. 5236. Findings and sentencing.

Sec. 5237. Plea agreements.

Sec. 5238. Record of trial.

SEC. 5221. DUTIES OF ASSISTANT DEFENSE COUNSEL.

Section 838(e) of title 10, United States Code (article 38(e) of the Uniform Code of Military Justice), is amended by striking “, under the direction” and all that follows through “(article 27),”.

SEC. 5222. SESSIONS.

Section 839 of title 10, United States Code (article 39 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)—

(A) in paragraph (3)—

(i) by striking “if permitted by regulations of the Secretary concerned,”; and

(ii) by striking “and” at the end;
 (B) by redesignating paragraph (4) as paragraph (5);
 and

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

“(4) conducting a sentencing proceeding and sentencing the accused in non-capital cases unless the accused requests sentencing by members under section 825 of this title (article 25); and”; and

(2) in the second sentence of subsection (c), by striking “, in cases in which a military judge has been detailed to the court,”.

SEC. 5223. TECHNICAL AMENDMENT RELATING TO CONTINUANCES.

Section 840 of title 10, United States Code (article 40 of the Uniform Code of Military Justice), is amended by striking “court-martial without a military judge” and inserting “summary court-martial”.

SEC. 5224. CONFORMING AMENDMENTS RELATING TO CHALLENGES.

Section 841 of title 10, United States Code (article 41 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)(1), by striking “, or, if none, the court,” in the second sentence;

(2) in subsection (a)(2), by striking “minimum” in the first sentence; and

(3) in subsection (b)(2), by striking “minimum”.

SEC. 5225. STATUTE OF LIMITATIONS.

(a) **INCREASE IN PERIOD FOR CHILD ABUSE OFFENSES.**—Subsection (b)(2)(A) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended by striking “five years” and inserting “ten years”.

(b) **INCREASE IN PERIOD FOR FRAUDULENT ENLISTMENT OR APPOINTMENT OFFENSES.**—Such section (article) is further amended by adding at the end the following new subsection:

“(h) **FRAUDULENT ENLISTMENT OR APPOINTMENT.**—A person charged with fraudulent enlistment or fraudulent appointment under section 904a(1) of this title (article 104a(1)) may be tried by court-martial if the sworn charges and specifications are received by an officer exercising summary court-martial jurisdiction with respect to that person, as follows:

“(1) In the case of an enlisted member, during the period of the enlistment or five years, whichever provides a longer period.

“(2) In the case of an officer, during the period of the appointment or five years, whichever provides a longer period.”.

(c) **DNA EVIDENCE.**—Such section (article), as amended by subsection (b) of this section, is further amended by adding at the end the following new subsection:

“(i) **DNA EVIDENCE.**—If DNA testing implicates an identified person in the commission of an offense punishable by confinement for more than one year, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.”.

(d) *CONFORMING AMENDMENTS.*—Subsection (b)(2)(B) of such section (article) is amended by striking clauses (i) through (v) and inserting the following new clauses:

“(i) Any offense in violation of section 920, 920a, 920b, 920c, or 930 of this title (article 120, 120a, 120b, 120c, or 130), unless the offense is covered by subsection (a).

“(ii) Maiming in violation of section 928a of this title (article 128a).

“(iii) Aggravated assault, assault consummated by a battery, or assault with intent to commit specified offenses in violation of section 928 of this title (article 128).

“(iv) Kidnapping in violation of section 925 of this title (article 125).”.

(e) *SUBSECTION HEADING AMENDMENTS FOR STYLISTIC CONSISTENCY.*—Such section (article) is further amended—

(1) in subsection (a), by inserting “NO LIMITATION FOR CERTAIN OFFENSES.—” after “(a)”;

(2) in subsection (b), by inserting “FIVE-YEAR LIMITATION FOR TRIAL BY COURT-MARTIAL.—” after “(b)”;

(3) in subsection (c), by inserting “TOLLING FOR ABSENCE WITHOUT LEAVE OR FLIGHT FROM JUSTICE.—” after “(c)”;

(4) in subsection (d), by inserting “TOLLING FOR ABSENCE FROM US OR MILITARY JURISDICTION.—” after “(d)”;

(5) in subsection (e), by inserting “EXTENSION FOR OFFENSES IN TIME OF WAR DETRIMENTAL TO PROSECUTION OF WAR.—” after “(e)”;

(6) in subsection (f), by inserting “EXTENSION FOR OTHER OFFENSES IN TIME OF WAR.—” after “(f)”;

(7) in subsection (g), by inserting “DEFECTIVE OR INSUFFICIENT CHARGES.—” after “(g)”.

(f) *APPLICATION.*—The amendments made by subsections (a), (b), (c), and (d) shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this subsection if the applicable limitation period has not yet expired.

SEC. 5226. FORMER JEOPARDY.

Subsection (c) of section 844 of title 10, United States Code (article 44 of the Uniform Code of Military Justice), is amended to read as follows:

“(c)(1) A court-martial with a military judge alone is a trial in the sense of this section (article) if, without fault of the accused—

“(A) after introduction of evidence; and

“(B) before announcement of findings under section 853 of this title (article 53);

the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.

“(2) A court-martial with a military judge and members is a trial in the sense of this section (article) if, without fault of the accused—

“(A) after the members, having taken an oath as members under section 842 of this title (article 42) and after completion of challenges under section 841 of this title (article 41), are impaneled; and

“(B) before announcement of findings under section 853 of this title (article 53);

the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.”.

SEC. 5227. PLEAS OF THE ACCUSED.

(a) **PLEAS OF GUILTY.**—Subsection (b) of section 845 of title 10, United States Code (article 45 of the Uniform Code of Military Justice), is amended—

(1) in the first sentence, by striking “may be adjudged” and inserting “is mandatory”; and

(2) in the second sentence—

(A) by striking “or by a court-martial without a military judge”; and

(B) by striking “, if permitted by regulations of the Secretary concerned,”.

(b) **HARMLESS ERROR.**—Such section (article) is further amended by adding at the end the following new subsection:

“(c) **HARMLESS ERROR.**—A variance from the requirements of this article is harmless error if the variance does not materially prejudice the substantial rights of the accused.”.

(c) **SUBSECTION HEADING AMENDMENTS FOR STYLISTIC CONSISTENCY.**—Such section (article) is further amended—

(1) in subsection (a), by inserting “**IRREGULAR AND SIMILAR PLEAS.**—” after “(a)”; and

(2) in subsection (b), by inserting “**PLEAS OF GUILTY.**—” after “(b)”.

SEC. 5228. SUBPOENA AND OTHER PROCESS.

(a) **AMENDMENTS TO UCMJ ARTICLE.**—

(1) **IN GENERAL.**—Subsection (a) of section 846 of title 10, United States Code (article 46 of the Uniform Code of Military Justice), is amended by striking “The counsel for the Government, the counsel for the accused,” and inserting “In a case referred for trial by court-martial, the trial counsel, the defense counsel,”.

(2) **SUBPOENA AND OTHER PROCESS GENERALLY.**—Subsection (b) of such section (article) is amended to read as follows:

“(b) **SUBPOENA AND OTHER PROCESS GENERALLY.**—Any subpoena or other process issued under this section (article)—

“(1) shall be similar to that which courts of the United States having criminal jurisdiction may issue;

“(2) shall be executed in accordance with regulations prescribed by the President; and

“(3) shall run to any part of the United States and to the Commonwealths and possessions of the United States.”.

(3) **SUBPOENA AND OTHER PROCESS FOR WITNESSES.**—Subsection (c) of such section (article) is amended to read as follows:

“(c) **SUBPOENA AND OTHER PROCESS FOR WITNESSES.**—A subpoena or other process may be issued to compel a witness to appear and testify—

“(1) before a court-martial, military commission, or court of inquiry;

“(2) at a deposition under section 849 of this title (article 49); or

“(3) as otherwise authorized under this chapter.”.

(4) *OTHER MATTERS.*—Such section (article) is further amended by adding at the end the following new subsections:

“(d) *SUBPOENA AND OTHER PROCESS FOR EVIDENCE.*—

“(1) *IN GENERAL.*—A subpoena or other process may be issued to compel the production of evidence—

“(A) for a court-martial, military commission, or court of inquiry;

“(B) for a deposition under section 849 of this title (article 49);

“(C) for an investigation of an offense under this chapter; or

“(D) as otherwise authorized under this chapter.

“(2) *INVESTIGATIVE SUBPOENA.*—An investigative subpoena under paragraph (1)(C) may be issued before referral of charges to a court-martial only if a general court-martial convening authority has authorized counsel for the Government to issue such a subpoena or a military judge issues such a subpoena pursuant to section 830a of this title (article 30a).

“(3) *WARRANT OR ORDER FOR WIRE OR ELECTRONIC COMMUNICATIONS.*—With respect to an investigation of an offense under this chapter, a military judge detailed in accordance with section 826 or 830a of this title (article 26 or 30a) may issue warrants or court orders for the contents of, and records concerning, wire or electronic communications in the same manner as such warrants and orders may be issued by a district court of the United States under chapter 121 of title 18, subject to such limitations as the President may prescribe by regulation.

“(e) *REQUEST FOR RELIEF FROM SUBPOENA OR OTHER PROCESS.*—If a person requests relief from a subpoena or other process under this section (article) on grounds that compliance is unreasonable or oppressive or is prohibited by law, a military judge detailed in accordance with section 826 or 830a of this title (article 26 or 30a) shall review the request and shall—

“(1) order that the subpoena or other process be modified or withdrawn, as appropriate; or

“(2) order the person to comply with the subpoena or other process.”.

(5) *SECTION HEADING.*—The heading of such section (article) is amended to read as follows:

“§ 846. Art. 46. Opportunity to obtain witnesses and other evidence in trials by court-martial”.

(b) *CONFORMING AMENDMENTS TO TITLE 18, UNITED STATES CODE.*—

(1) Section 2703 of title 18, United States Code, is amended—

(A) in the first sentence of subsection (a);

(B) in subsection (b)(1)(A); and

(C) in subsection (c)(1)(A);

by inserting after “warrant procedures” the following: “and, in the case of a court-martial or other proceeding under chapter 47 of title 10 (the Uniform Code of Military Justice), issued under

section 846 of that title, in accordance with regulations prescribed by the President”.

(2) Section 2711(3) of title 18, United States Code, is amended—

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by striking “and” at the end and inserting “or”; and

(C) by adding at the end the following new subparagraph:

“(C) a court-martial or other proceeding under chapter 47 of title 10 (the Uniform Code of Military Justice) to which a military judge has been detailed; and”.

SEC. 5229. REFUSAL OF PERSON NOT SUBJECT TO UCMJ TO APPEAR, TESTIFY, OR PRODUCE EVIDENCE.

(a) *IN GENERAL.*—Subsection (a) of section 847 of title 10, United States Code (article 47 of the Uniform Code of Military Justice), is amended to read as follows:

“(a) *IN GENERAL.*—(1) Any person described in paragraph (2) who—

“(A) willfully neglects or refuses to appear; or

“(B) willfully refuses to qualify as a witness or to testify or to produce any evidence which that person is required to produce;

is guilty of an offense against the United States.

“(2) The persons referred to in paragraph (1) are the following:

“(A) Any person not subject to this chapter who—

“(i) is issued a subpoena or other process described in subsection (c) of section 846 of this title (article 46); and

“(ii) is provided a means for reimbursement from the Government for fees and mileage at the rates allowed to witnesses attending the courts of the United States or, in the case of extraordinary hardship, is advanced such fees and mileage.

“(B) Any person not subject to this chapter who is issued a subpoena or other process described in subsection (d) of section 846 of this title (article 46).”.

(b) *SECTION HEADING.*—The heading of such section (article) is amended to read as follows:

“§ 847. Art. 47. Refusal of person not subject to chapter to appear, testify, or produce evidence”.

SEC. 5230. CONTEMPT.

(a) *AUTHORITY TO PUNISH.*—Subsection (a) of section 848 of title 10, United States Code (article 48 of the Uniform Code of Military Justice), is amended to read as follows:

“(a) *AUTHORITY TO PUNISH.*—(1) With respect to any proceeding under this chapter, a judicial officer specified in paragraph (2) may punish for contempt any person who—

“(A) uses any menacing word, sign, or gesture in the presence of the judicial officer during the proceeding;

“(B) disturbs the proceeding by any riot or disorder; or

“(C) willfully disobeys a lawful writ, process, order, rule, decree, or command issued with respect to the proceeding.

“(2) A judicial officer referred to in paragraph (1) is any of the following:

“(A) Any judge of the Court of Appeals for the Armed Forces and any judge of a Court of Criminal Appeals under section 866 of this title (article 66).

“(B) Any military judge detailed to a court-martial, a provost court, a military commission, or any other proceeding under this chapter.

“(C) Any military magistrate designated to preside under section 819 of this title (article 19).

“(D) The president of a court of inquiry.”

(b) REVIEW.—Such section (article) is further amended—

(1) by redesignating subsection (c) as subsection (d); and

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

“(c) REVIEW.—A punishment under this section—

“(1) if imposed by a military judge or military magistrate, may be reviewed by the Court of Criminal Appeals in accordance with the uniform rules of procedure for the Courts of Criminal Appeals under section 866(g) of this title (article 66(g));

“(2) if imposed by a judge of the Court of Appeals for the Armed Forces or a judge of a Court of Criminal Appeals, shall constitute a judgment of the court, subject to review under the applicable provisions of section 867 or 867a of this title (article 67 or 67a); and

“(3) if imposed by a court of inquiry, shall be subject to review by the convening authority in accordance with rules prescribed by the President.”

(c) SECTION HEADING.—The heading of such section (article) is amended to read as follows:

“§ 848. Art. 48. Contempt”.

SEC. 5231. DEPOSITIONS.

Section 849 of title 10, United States Code (article 49 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 849. Art. 49. Depositions

“(a) IN GENERAL.—(1) Subject to paragraph (2), a convening authority or a military judge may order depositions at the request of any party.

“(2) A deposition may be ordered under paragraph (1) only if the requesting party demonstrates that, due to exceptional circumstances, it is in the interest of justice that the testimony of a prospective witness be preserved for use at a court-martial, military commission, court of inquiry, or other military court or board.

“(3) A party who requests a deposition under this section shall give to every other party reasonable written notice of the time and place for the deposition.

“(4) A deposition under this section shall be taken before, and authenticated by, an impartial officer, as follows:

“(A) Whenever practicable, by an impartial judge advocate certified under section 827(b) of this title (article 27(b)).

“(B) In exceptional circumstances, by an impartial military or civil officer authorized to administer oaths by (i) the laws of the United States or (ii) the laws of the place where the deposition is taken.

“(b) *REPRESENTATION BY COUNSEL.*—Representation of the parties with respect to a deposition shall be by counsel detailed in the same manner as trial counsel and defense counsel are detailed under section 827 of this title (article 27). In addition, the accused shall have the right to be represented by civilian or military counsel in the same manner as such counsel are provided for in section 838(b) of this title (article 38(b)).

“(c) *ADMISSIBILITY AND USE AS EVIDENCE.*—A deposition order under subsection (a) does not control the admissibility of the deposition in a court-martial or other proceeding under this chapter. Except as provided by subsection (d), a party may use all or part of a deposition as provided by the rules of evidence.

“(d) *CAPITAL CASES.*—Testimony by deposition may be presented in capital cases only by the defense.”

SEC. 5232. ADMISSIBILITY OF SWORN TESTIMONY BY AUDIOTAPE OR VIDEOTAPE FROM RECORDS OF COURTS OF INQUIRY.

(a) *IN GENERAL.*—Section 850 of title 10, United States Code (article 50 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

“(d) *AUDIOTAPE OR VIDEOTAPE.*—Sworn testimony that—

“(1) is recorded by audiotape, videotape, or similar method; and

“(2) is contained in the duly authenticated record of proceedings of a court of inquiry;

is admissible before a court-martial, military commission, court of inquiry, or military board, to the same extent as sworn testimony may be read in evidence before any such body under subsection (a), (b), or (c).”

(b) *SECTION HEADING.*—The heading of such section (article) is amended to read as follows:

“§ 850. Art. 50. Admissibility of sworn testimony from records of courts of inquiry”.

(c) *SUBSECTION HEADING AMENDMENTS FOR STYLISTIC CONSISTENCY.*—Such section (article) is further amended—

(1) in subsection (a), by inserting “*USE AS EVIDENCE BY ANY PARTY.*—” after “(a)”;

(2) in subsection (b), by inserting “*USE AS EVIDENCE BY DEFENSE.*—” after “(b)”; and

(3) in subsection (c), by inserting “*USE IN COURTS OF INQUIRY AND MILITARY BOARDS.*—” after “(c)”.

SEC. 5233. CONFORMING AMENDMENT RELATING TO DEFENSE OF LACK OF MENTAL RESPONSIBILITY.

Section 850a(c) of title 10, United States Code (article 50a(c) of the Uniform Code of Military Justice), is amended by striking “, or the president of a court-martial without a military judge,”

SEC. 5234. VOTING AND RULINGS.

Section 851 of title 10, United States Code (article 51 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a), by striking “, and by members of a court-martial without a military judge upon questions of challenge,” in the first sentence;

(2) in subsection (b)—

(A) in the first sentence, by striking “and, except for questions of challenge, the president of a court-martial without a military judge”; and

(B) in the second sentence, by striking “, or by the president” and all that follows through the end of the subsection and inserting “is final and constitutes the ruling of the court, except that the military judge may change a ruling at any time during trial.”; and

(3) in subsection (c), by striking “or the president of a court-martial without a military judge” in the matter before paragraph (1).

SEC. 5235. VOTES REQUIRED FOR CONVICTION, SENTENCING, AND OTHER MATTERS.

Section 852 of title 10, United States Code (article 52 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 852. Art. 52. Votes required for conviction, sentencing, and other matters

“(a) *IN GENERAL.*—No person may be convicted of an offense in a general or special court-martial, other than—

“(1) after a plea of guilty under section 845(b) of this title (article 45(b));

“(2) by a military judge in a court-martial with a military judge alone, under section 816 of this title (article 16); or

“(3) in a court-martial with members under section 816 of this title (article 16), by the concurrence of at least three-fourths of the members present when the vote is taken.

“(b) *LEVEL OF CONCURRENCE REQUIRED.*—

“(1) *IN GENERAL.*—Except as provided in subsection (a) and in paragraph (2), all matters to be decided by members of a general or special court-martial shall be determined by a majority vote, but a reconsideration of a finding of guilty or reconsideration of a sentence, with a view toward decreasing the sentence, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence.

“(2) *SENTENCING.*—A sentence of death requires (A) a unanimous finding of guilty of an offense in this chapter expressly made punishable by death and (B) a unanimous determination by the members that the sentence for that offense shall include death. All other sentences imposed by members shall be determined by the concurrence of at least three-fourths of the members present when the vote is taken.”.

SEC. 5236. FINDINGS AND SENTENCING.

Section 853 of title 10, United States Code (article 53 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 853. Art. 53. Findings and sentencing

“(a) *ANNOUNCEMENT.*—A court-martial shall announce its findings and sentence to the parties as soon as determined.

“(b) *SENTENCING GENERALLY.*—

“(1) *GENERAL AND SPECIAL COURTS-MARTIAL.*—

“(A) *SENTENCING BY MILITARY JUDGE.*—Except as provided in subparagraph (B), and in subsection (c) for capital

offenses, if the accused is convicted of an offense in a trial by general or special court-martial, the military judge shall sentence the accused.

“(B) SENTENCING BY MEMBERS.—If the accused is convicted of an offense in a trial by general or special court-martial consisting of a military judge and members and the accused elects sentencing by members under section 825 of this title (article 25), the members shall sentence the accused.

“(C) SENTENCE OF THE ACCUSED.—The sentence determined pursuant to this paragraph constitutes the sentence of the accused.

“(2) SUMMARY COURTS-MARTIAL.—If the accused is convicted of an offense in a trial by summary court-martial, the court-martial shall sentence the accused.

“(c) SENTENCING FOR CAPITAL OFFENSES.—

“(1) IN GENERAL.—In a capital case, if the accused is convicted of an offense for which the court-martial may sentence the accused to death, the members shall determine whether the sentence for that offense shall be death or a lesser authorized punishment.

“(2) LESSER AUTHORIZED PUNISHMENTS.—In accordance with regulations prescribed by the President, the court-martial may include in any sentence to death or life in prison without eligibility for parole other lesser punishments authorized under this chapter.

“(3) OTHER NON-CAPITAL OFFENSES.—In a capital case, if the accused is convicted of a non-capital offense, the accused shall be sentenced for such non-capital offense in accordance with subsection (b), regardless of whether the accused is convicted of an offense for which the court-martial may sentence the accused to death.”

SEC. 5237. PLEA AGREEMENTS.

Subchapter VII of chapter 47 of title 10, United States Code, is amended by inserting after section 853 (article 53 of the Uniform Code of Military Justice), as amended by section 5236 of this Act, the following new section (article):

“§ 853a. Art. 53a. Plea agreements

“(a) IN GENERAL.—(1) At any time before the announcement of findings under section 853 of this title (article 53), the convening authority and the accused may enter into a plea agreement with respect to such matters as—

“(A) the manner in which the convening authority will dispose of one or more charges and specifications; and

“(B) limitations on the sentence that may be adjudged for one or more charges and specifications.

“(2) The military judge of a general or special court-martial may not participate in discussions between the parties concerning prospective terms and conditions of a plea agreement.

“(b) LIMITATION ON ACCEPTANCE OF PLEA AGREEMENTS.—The military judge of a general or special court-martial shall reject a plea agreement that—

“(1) contains a provision that has not been accepted by both parties;

“(2) contains a provision that is not understood by the accused; or

“(3) except as provided in subsection (c), contains a provision for a sentence that is less than the mandatory minimum sentence applicable to an offense referred to in section 856(b)(2) of this title (article 56(b)(2)).

“(c) **LIMITED CONDITIONS FOR ACCEPTANCE OF PLEA AGREEMENT FOR SENTENCE BELOW MANDATORY MINIMUM FOR CERTAIN OFFENSES.**—With respect to an offense referred to in section 856(b)(2) of this title (article 56(b)(2))—

“(1) the military judge may accept a plea agreement that provides for a sentence of bad conduct discharge; and

“(2) upon recommendation of the trial counsel, in exchange for substantial assistance by the accused in the investigation or prosecution of another person who has committed an offense, the military judge may accept a plea agreement that provides for a sentence that is less than the mandatory minimum sentence for the offense charged.

“(d) **BINDING EFFECT OF PLEA AGREEMENT.**—Upon acceptance by the military judge of a general or special court-martial, a plea agreement shall bind the parties and the military judge.”.

SEC. 5238. RECORD OF TRIAL.

Section 854 of title 10, United States Code (article 54 of the Uniform Code of Military Justice), is amended—

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

“(a) **GENERAL AND SPECIAL COURTS-MARTIAL.**—Each general or special court-martial shall keep a separate record of the proceedings in each case brought before it. The record shall be certified by a court-reporter, except that in the case of death, disability, or absence of a court reporter, the record shall be certified by an official selected as the President may prescribe by regulation.”;

(2) in subsection (b)—

(A) by striking “(b) Each special and summary court-martial” and inserting “(b) **SUMMARY COURTS-MARTIAL.**—Each summary court-martial”; and

(B) by striking “authenticated” and inserting “certified”;

(3) by striking subsection (c) and inserting the following new subsection (c):

“(c) **CONTENTS OF RECORD.**—(1) Except as provided in paragraph (2), the record shall contain such matters as the President may prescribe by regulation.

“(2) In accordance with regulations prescribed by the President, a complete record of proceedings and testimony shall be prepared in any case of a sentence of death, dismissal, discharge, confinement for more than six months, or forfeiture of pay for more than six months.”;

(4) in subsection (d)—

(A) by striking “(d) A copy” and inserting “(d) **COPY TO ACCUSED.**—A copy”; and

(B) by striking “authenticated” and inserting “certified”; and

(5) in subsection (e)—

(A) by striking “(e) In the case” and inserting “(e) COPY TO VICTIM.—In the case”;

(B) by striking “involving a sexual assault or other offense covered by section 920 of this title (article 120),” in the first sentence and inserting “, upon request,”; and

(C) by striking “authenticated” in the second sentence and inserting “certified”.

TITLE LVIII—SENTENCES

Sec. 5301. Sentencing.

Sec. 5302. Effective date of sentences.

Sec. 5303. Sentence of reduction in enlisted grade.

SEC. 5301. SENTENCING.

(a) *IN GENERAL.*—Section 856 of title 10, United States Code (article 56 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 856. Art. 56. Sentencing

“(a) *SENTENCE MAXIMUMS.*—The punishment which a court-martial may direct for an offense may not exceed such limits as the President may prescribe for that offense.

“(b) *SENTENCE MINIMUMS FOR CERTAIN OFFENSES.*—(1) Except as provided in subsection (d) of section 853a of this title (article 53a), punishment for any offense specified in paragraph (2) shall include dismissal or dishonorable discharge, as applicable.

“(2) The offenses referred to in paragraph (1) are as follows:

“(A) Rape under subsection (a) of section 920 of this title (article 120).

“(B) Sexual assault under subsection (b) of such section (article).

“(C) Rape of a child under subsection (a) of section 920b of this title (article 120b).

“(D) Sexual assault of a child under subsection (b) of such section (article).

“(E) An attempt to commit an offense specified in subparagraph (A), (B), (C), or (D) that is punishable under section 880 of this title (article 80).

“(F) Conspiracy to commit an offense specified in subparagraph (A), (B), (C), or (D) that is punishable under section 881 of this title (article 81).

“(c) *IMPOSITION OF SENTENCE.*—

“(1) *IN GENERAL.*—In sentencing an accused under section 853 of this title (article 53), a court-martial shall impose punishment that is sufficient, but not greater than necessary, to promote justice and to maintain good order and discipline in the armed forces, taking into consideration—

“(A) the nature and circumstances of the offense and the history and characteristics of the accused;

“(B) the impact of the offense on—

“(i) the financial, social, psychological, or medical well-being of any victim of the offense; and

“(ii) the mission, discipline, or efficiency of the command of the accused and any victim of the offense;

“(C) the need for the sentence—

“(i) to reflect the seriousness of the offense;

“(ii) to promote respect for the law;

“(iii) to provide just punishment for the offense;

“(iv) to promote adequate deterrence of misconduct;

“(v) to protect others from further crimes by the accused;

“(vi) to rehabilitate the accused; and

“(vii) to provide, in appropriate cases, the opportunity for retraining and return to duty to meet the needs of the service; and

“(D) the sentences available under this chapter.

“(2) SENTENCING BY MILITARY JUDGE.—In announcing the sentence in a general or special court-martial in which the accused is sentenced by a military judge alone under section 853 of this title (article 53), the military judge shall, with respect to each offense of which the accused is found guilty, specify the term of confinement, if any, and the amount of the fine, if any. If the accused is sentenced to confinement for more than one offense, the military judge shall specify whether the terms of confinement are to run consecutively or concurrently.

“(3) SENTENCING BY MEMBERS.—In a general or special court-martial in which the accused has elected sentencing by members, the court-martial shall announce a single sentence for all of the offenses of which the accused was found guilty.

“(4) SENTENCE OF CONFINEMENT FOR LIFE WITHOUT ELIGIBILITY FOR PAROLE.—(A) If an offense is subject to a sentence of confinement for life, a court-martial may impose a sentence of confinement for life without eligibility for parole.

“(B) An accused who is sentenced to confinement for life without eligibility for parole shall be confined for the remainder of the accused’s life unless—

“(i) the sentence is set aside or otherwise modified as a result of—

“(I) action taken by the convening authority or the Secretary concerned; or

“(II) any other action taken during post-trial procedure and review under any other provision of subchapter IX of this chapter;

“(ii) the sentence is set aside or otherwise modified as a result of action taken by a Court of Criminal Appeals, the Court of Appeals for the Armed Forces, or the Supreme Court; or

“(iii) the accused is pardoned.

“(d) APPEAL OF SENTENCE BY THE UNITED STATES.—(1) With the approval of the Judge Advocate General concerned, the Government may appeal a sentence to the Court of Criminal Appeals, on the grounds that—

“(A) the sentence violates the law; or

“(B) the sentence is plainly unreasonable.

“(2) An appeal under this subsection must be filed within 60 days after the date on which the judgment of a court-martial is entered into the record under section 860c of this title (article 60c).”.

(b) CONFORMING AMENDMENT.—Section 856a of title 10, United States Code (article 56a of the Uniform Code of Military Justice), is repealed.

SEC. 5302. EFFECTIVE DATE OF SENTENCES.

(a) *IN GENERAL.*—Section 857 of title 10, United States Code (article 57 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 857. Art. 57. Effective date of sentences

“(a) *EXECUTION OF SENTENCES.*—A court-martial sentence shall be executed and take effect as follows:

“(1) *FORFEITURE AND REDUCTION.*—A forfeiture of pay or allowances shall be applicable to pay and allowances accruing on and after the date on which the sentence takes effect. Any forfeiture of pay or allowances or reduction in grade that is included in a sentence of a court-martial takes effect on the earlier of—

“(A) the date that is 14 days after the date on which the sentence is adjudged; or

“(B) in the case of a summary court-martial, the date on which the sentence is approved by the convening authority.

“(2) *CONFINEMENT.*—Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement.

“(3) *APPROVAL OF SENTENCE OF DEATH.*—If the sentence of the court-martial extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as the President sees fit. That part of the sentence providing for death may not be suspended.

“(4) *APPROVAL OF DISMISSAL.*—If in the case of a commissioned officer, cadet, or midshipman, the sentence of a court-martial extends to dismissal, that part of the sentence providing for dismissal may not be executed until approved by the Secretary concerned or such Under Secretary or Assistant Secretary as may be designated by the Secretary concerned. In such a case, the Secretary, Under Secretary, or Assistant Secretary, as the case may be, may commute, remit, or suspend the sentence, or any part of the sentence, as the Secretary sees fit. In time of war or national emergency he may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the duration of the war or emergency and six months thereafter.

“(5) *COMPLETION OF APPELLATE REVIEW.*—If a sentence extends to death, dismissal, or a dishonorable or bad-conduct discharge, that part of the sentence extending to death, dismissal, or a dishonorable or bad-conduct discharge may be executed, in accordance with service regulations, after completion of appellate review (and, with respect to death or dismissal, approval under paragraph (3) or (4), as appropriate).

“(6) *OTHER SENTENCES.*—Except as otherwise provided in this subsection, a general or special court-martial sentence is effective upon entry of judgment and a summary court-martial

sentence is effective when the convening authority acts on the sentence.

“(b) DEFERRAL OF SENTENCES.—

“(1) IN GENERAL.—On application by an accused, the convening authority or, if the accused is no longer under his or her jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may, in his or her sole discretion, defer the effective date of a sentence of confinement, reduction, or forfeiture. The deferment shall terminate upon entry of judgment or, in the case of a summary court-martial, when the convening authority acts on the sentence. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under his jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

“(2) DEFERRAL OF CERTAIN PERSONS SENTENCED TO CONFINEMENT.—In any case in which a court-martial sentences a person referred to in paragraph (3) to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the armed forces by a State or foreign country referred to in that paragraph.

“(3) COVERED PERSONS.—Paragraph (2) applies to a person subject to this chapter who—

“(A) while in the custody of a State or foreign country is temporarily returned by that State or foreign country to the armed forces for trial by court-martial; and

“(B) after the court-martial, is returned to that State or foreign country under the authority of a mutual agreement or treaty, as the case may be.

“(4) STATE DEFINED.—In this subsection, the term ‘State’ includes the District of Columbia and any Commonwealth, territory, or possession of the United States.

“(5) DEFERRAL WHILE REVIEW PENDING.—In any case in which a court-martial sentences a person to confinement, but in which review of the case under section 867(a)(2) of this title (article 67(a)(2)) is pending, the Secretary concerned may defer further service of the sentence to confinement while that review is pending.

“(c) APPELLATE REVIEW.—

“(1) COMPLETION OF APPELLATE REVIEW.—Appellate review is complete under this section when—

“(A) a review under section 865 of this title (article 65) is completed; or

“(B) a review under section 866 of this title (article 66) is completed by a Court of Criminal Appeals and—

“(i) the time for the accused to file a petition for review by the Court of Appeals for the Armed Forces has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court;

“(ii) such a petition is rejected by the Court of Appeals for the Armed Forces; or

“(iii) review is completed in accordance with the judgment of the Court of Appeals for the Armed Forces and—

“(I) a petition for a writ of certiorari is not filed within the time limits prescribed by the Supreme Court;

“(II) such a petition is rejected by the Supreme Court; or

“(III) review is otherwise completed in accordance with the judgment of the Supreme Court.

“(2) COMPLETION AS FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.—The completion of appellate review shall constitute a final judgment as to the legality of the proceedings.”.

(b) CONFORMING AMENDMENTS.—

(1) Subchapter VIII of chapter 47 of title 10, United States Code, is amended by striking section 857a (article 57a of the Uniform Code of Military Justice).

(2) Subchapter IX of chapter 47 of title 10, United States Code, is amended by striking section 871 (article 71 of the Uniform Code of Military Justice).

(3) The second sentence of subsection (a)(1) of section 858b of title 10, United States Code (article 58b of the Uniform Code of Military Justice), is amended by striking “section 857(a) of this title (article 57(a))” and inserting “section 857 of this title (article 57)”.

SEC. 5303. SENTENCE OF REDUCTION IN ENLISTED GRADE.

Section 858a of title 10, United States Code (article 58a of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)—

(A) by striking “Unless otherwise provided in regulations to be prescribed by the Secretary concerned, a” and inserting “A”;

(B) by striking “as approved by the convening authority” and inserting “as set forth in the judgment of the court-martial entered into the record under section 860c of this title (article 60c)”; and

(C) in the matter after paragraph (3), by striking “of that approval” and inserting “on which the judgment is so entered”; and

(2) in subsection (b), by striking “disapproved, or, as finally approved” and inserting “reduced, or, as finally affirmed”.

TITLE LIX—POST-TRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

Sec. 5321. Post-trial processing in general and special courts-martial.

Sec. 5322. Limited authority to act on sentence in specified post-trial circumstances.

Sec. 5323. Post-trial actions in summary courts-martial and certain general and special courts-martial.

Sec. 5324. Entry of judgment.

Sec. 5325. Waiver of right to appeal and withdrawal of appeal.

Sec. 5326. Appeal by the United States.

Sec. 5327. Rehearings.

Sec. 5328. Judge advocate review of finding of guilty in summary court-martial.

Sec. 5329. Transmittal and review of records.

Sec. 5330. Courts of Criminal Appeals.

Sec. 5331. Review by Court of Appeals for the Armed Forces.

Sec. 5332. Supreme Court review.

Sec. 5333. Review by Judge Advocate General.

- Sec. 5334. Appellate defense counsel in death penalty cases.
 Sec. 5335. Authority for hearing on vacation of suspension of sentence to be conducted by qualified judge advocate.
 Sec. 5336. Extension of time for petition for new trial.
 Sec. 5337. Restoration.
 Sec. 5338. Leave requirements pending review of certain court-martial convictions.

SEC. 5321. POST-TRIAL PROCESSING IN GENERAL AND SPECIAL COURTS-MARTIAL.

Section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 860. Art 60. Post-trial processing in general and special courts-martial

“(a) STATEMENT OF TRIAL RESULTS.—(1) The military judge of a general or special court-martial shall enter into the record of trial a document entitled ‘Statement of Trial Results’, which shall set forth—

“(A) each plea and finding;

“(B) the sentence, if any; and

“(C) such other information as the President may prescribe by regulation.

“(2) Copies of the Statement of Trial Results shall be provided promptly to the convening authority, the accused, and any victim of the offense.

“(b) POST-TRIAL MOTIONS.—In accordance with regulations prescribed by the President, the military judge in a general or special court-martial shall address all post-trial motions and other post-trial matters that—

“(1) may affect a plea, a finding, the sentence, the Statement of Trial Results, the record of trial, or any post-trial action by the convening authority; and

“(2) are subject to resolution by the military judge before entry of judgment.”.

SEC. 5322. LIMITED AUTHORITY TO ACT ON SENTENCE IN SPECIFIED POST-TRIAL CIRCUMSTANCES.

Subchapter IX of chapter 47 of title 10, United States Code, is amended by inserting after section 860 (article 60 of the Uniform Code of Military Justice), as amended by section 5321 of this Act, the following new section (article):

“§ 860a. Art. 60a. Limited authority to act on sentence in specified post-trial circumstances

“(a) IN GENERAL.—(1) The convening authority of a general or special court-martial described in paragraph (2)—

“(A) may act on the sentence of the court-martial only as provided in subsection (b), (c), or (d); and

“(B) may not act on the findings of the court-martial.

“(2) The courts-martial referred to in paragraph (1) are the following:

“(A) A general or special court-martial in which the maximum sentence of confinement established under subsection (a) of section 856 of this title (article 56) for any offense of which the accused is found guilty is more than two years.

“(B) A general or special court-martial in which the total of the sentences of confinement imposed, running consecutively, is more than six months.

“(C) A general or special court-martial in which the sentence imposed includes a dismissal, dishonorable discharge, or bad-conduct discharge.

“(D) A general or special court-martial in which the accused is found guilty of a violation of subsection (a) or (b) of section 920 of this title (article 120), section 920b of this title (article 120b), or such other offense as the Secretary of Defense may specify by regulation.

“(3) Except as provided in subsection (d), the convening authority may act under this section only before entry of judgment.

“(4) Under regulations prescribed by the Secretary concerned, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

“(b) REDUCTION, COMMUTATION, AND SUSPENSION OF SENTENCES GENERALLY.—(1) Except as provided in subsection (c) or (d), the convening authority may not reduce, commute, or suspend any of the following sentences:

“(A) A sentence of confinement, if the total period of confinement imposed for all offenses involved, running consecutively, is greater than six months.

“(B) A sentence of dismissal, dishonorable discharge, or bad-conduct discharge.

“(C) A sentence of death.

“(2) The convening authority may reduce, commute, or suspend any sentence not specified in paragraph (1).

“(c) SUSPENSION OF CERTAIN SENTENCES UPON RECOMMENDATION OF MILITARY JUDGE.—(1) Upon recommendation of the military judge, as included in the Statement of Trial Results, together with an explanation of the facts supporting the recommendation, the convening authority may suspend—

“(A) a sentence of confinement, in whole or in part; or

“(B) a sentence of dismissal, dishonorable discharge, or bad-conduct discharge.

“(2) The convening authority may not, under paragraph (1)—

“(A) suspend a mandatory minimum sentence; or

“(B) suspend a sentence to an extent in excess of the suspension recommended by the military judge.

“(d) REDUCTION OF SENTENCE FOR SUBSTANTIAL ASSISTANCE BY ACCUSED.—(1) Upon a recommendation by the trial counsel, if the accused, after sentencing and before entry of judgment, provides substantial assistance in the investigation or prosecution of another person, the convening authority may reduce, commute, or suspend a sentence, in whole or in part, including any mandatory minimum sentence.

“(2) Upon a recommendation by a trial counsel, designated in accordance with rules prescribed by the President, if the accused, after entry of judgment, provides substantial assistance in the investigation or prosecution of another person, a convening authority, designated under such regulations, may reduce, commute, or suspend a sentence, in whole or in part, including any mandatory minimum sentence.

“(3) In evaluating whether the accused has provided substantial assistance under this subsection, the convening authority may consider the presentence assistance of the accused.

“(e) *SUBMISSIONS BY ACCUSED AND VICTIM.*—(1) *In accordance with rules prescribed by the President, in determining whether to act under this section, the convening authority shall consider matters submitted in writing by the accused or any victim of an offense. Such rules shall include—*

“(A) *procedures for notice of the opportunity to make such submissions;*

“(B) *the deadlines for such submissions; and*

“(C) *procedures for providing the accused and any victim of an offense with a copy of the recording of any open sessions of the court-martial and copies of, or access to, any admitted, unsealed exhibits.*

“(2) *The convening authority shall not consider under this section any submitted matters that relate to the character of a victim unless such matters were presented as evidence at trial and not excluded at trial.*

“(f) *DECISION OF CONVENING AUTHORITY.*—(1) *The decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.*

“(2) *If, under this section, the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall include a written explanation of the reasons for such action.*

“(3) *If, under subsection (d)(2), the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall be forwarded to the chief trial judge for appropriate modification of the entry of judgment, which shall be transmitted to the Judge Advocate General for appropriate action.”.*

SEC. 5323. POST-TRIAL ACTIONS IN SUMMARY COURTS-MARTIAL AND CERTAIN GENERAL AND SPECIAL COURTS-MARTIAL.

Subchapter IX of chapter 47 of title 10, United States Code, is amended by inserting after section 860a (article 60a of the Uniform Code of Military Justice), as added by section 5322 of this Act, the following new section (article):

“§ 860b. Art. 60b. Post-trial actions in summary courts-martial and certain general and special courts-martial

“(a) *IN GENERAL.*—(1) *In a court-martial not specified in section 860a(a)(2) of this title (article 60a(a)(2)), the convening authority may—*

“(A) *dismiss any charge or specification by setting aside the finding of guilty;*

“(B) *change a finding of guilty to a charge or specification to a finding of guilty to a lesser included offense;*

“(C) *disapprove the findings and the sentence and dismiss the charges and specifications;*

“(D) *disapprove the findings and the sentence and order a rehearing as to the findings and the sentence;*

“(E) *disapprove, commute, or suspend the sentence, in whole or in part; or*

“(F) *disapprove the sentence and order a rehearing as to the sentence.*

“(2) In a summary court-martial, the convening authority shall approve the sentence or take other action on the sentence under paragraph (1).

“(3) Except as provided in paragraph (4), the convening authority may act under this section only before entry of judgment.

“(4) The convening authority may act under this section after entry of judgment in a general or special court-martial in the same manner as the convening authority may act under section 860a(d)(2) of this title (article 60a(d)(2)). Such action shall be forwarded to the chief trial judge, who shall ensure appropriate modification to the entry of judgment and shall transmit the entry of judgment to the Judge Advocate General for appropriate action.

“(5) Under regulations prescribed by the Secretary concerned, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

“(b) **LIMITATIONS ON REHEARINGS.**—The convening authority may not order a rehearing under this section—

“(1) as to the findings, if there is insufficient evidence in the record to support the findings;

“(2) to reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty; or

“(3) to reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this chapter.

“(c) **SUBMISSIONS BY ACCUSED AND VICTIM.**—In accordance with rules prescribed by the President, in determining whether to act under this section, the convening authority shall consider matters submitted in writing by the accused or any victim of the offense. Such rules shall include the matter required by section 860a(e) of this title (article 60a(e)).

“(d) **DECISION OF CONVENING AUTHORITY.**—(1) In a general or special court-martial, the decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

“(2) If the convening authority acts on the findings or the sentence under subsection (a)(1), the decision of the convening authority shall include a written explanation of the reasons for such action.”.

SEC. 5324. ENTRY OF JUDGMENT.

Subchapter IX of chapter 47 of title 10, United States Code, is amended by inserting after section 860b (article 60b of the Uniform Code of Military Justice), as added by section 5323 of this Act, the following new section (article):

“§ 860c. Art. 60c. Entry of judgment

“(a) **ENTRY OF JUDGMENT OF GENERAL OR SPECIAL COURT-MARTIAL.**—(1) In accordance with rules prescribed by the President, in a general or special court-martial, the military judge shall enter into the record of trial the judgment of the court. The judgment of the court shall consist of the following:

“(A) The Statement of Trial Results under section 860 of this title (article 60).

“(B) Any modifications of, or supplements to, the Statement of Trial Results by reason of—

“(i) any post-trial action by the convening authority; or
 “(ii) any ruling, order, or other determination of the military judge that affects a plea, a finding, or the sentence.

“(2) Under rules prescribed by the President, the judgment under paragraph (1) shall be—

“(A) provided to the accused and to any victim of the offense; and

“(B) made available to the public.

“(b) **SUMMARY COURT-MARTIAL JUDGMENT.**—The findings and sentence of a summary court-martial, as modified by any post-trial action by the convening authority under section 860b of this title (article 60b), constitutes the judgment of the court-martial and shall be recorded and distributed under rules prescribed by the President.”.

SEC. 5325. WAIVER OF RIGHT TO APPEAL AND WITHDRAWAL OF APPEAL.

Section 861 of title 10, United States Code (article 61 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 861. Art. 61. Waiver of right to appeal; withdrawal of appeal

“(a) **WAIVER OF RIGHT TO APPEAL.**—After entry of judgment in a general or special court-martial, under procedures prescribed by the Secretary concerned, the accused may waive the right to appellate review in each case subject to such review under section 866 of this title (article 66). Such a waiver shall be—

“(1) signed by the accused and by defense counsel; and

“(2) attached to the record of trial.

“(b) **WITHDRAWAL OF APPEAL.**—In a general or special court-martial, the accused may withdraw an appeal at any time.

“(c) **DEATH PENALTY CASE EXCEPTION.**—Notwithstanding subsections (a) and (b), an accused may not waive the right to appeal or withdraw an appeal with respect to a judgment that includes a sentence of death.

“(d) **WAIVER OR WITHDRAWAL AS BAR.**—A waiver or withdrawal under this section bars review under section 866 of this title (article 66).”.

SEC. 5326. APPEAL BY THE UNITED STATES.

Section 862 of title 10, United States Code (article 62 of the Uniform Code of Military Justice), is amended—

(1) in paragraph (1) of subsection (a)—

(A) in the matter before subparagraph (A), by striking “court-martial” and all that follows through the colon at the end and inserting “general or special court-martial, or in a pretrial proceeding under section 830a of this title (article 30a), the United States may appeal the following.”; and

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

“(G) An order or ruling of the military judge entering a finding of not guilty with respect to a charge or specification following the return of a finding of guilty by the members.”;

(2) in paragraph (2) of subsection (a)—

(A) by striking “(2)” and inserting “(2)(A)”; and

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

“(B) An appeal of an order or ruling may not be taken when prohibited by section 844 of this title (article 44).”; and

(3) by adding at the end the following:

“(d) The United States may appeal a ruling or order of a military magistrate in the same manner as had the ruling or order been made by a military judge, except that the issue shall first be presented to the military judge who designated the military magistrate or to a military judge detailed to hear the issue.

“(e) The provisions of this section shall be liberally construed to effect its purposes.”.

SEC. 5327. REHEARINGS.

Section 863 of title 10, United States Code (article 63 of the Uniform Code of Military Justice), is amended—

(1) by inserting “(a)” before “Each rehearing”;

(2) in the second sentence, by striking “may be approved” and inserting “may be adjudged”;

(3) by striking the third sentence; and

(4) by adding at the end the following new subsections:

“(b) If the sentence adjudged by the first court-martial was in accordance with a plea agreement under section 853a of this title (article 53a) and the accused at the rehearing does not comply with the agreement, or if a plea of guilty was entered for an offense at the first court-martial and a plea of not guilty was entered at the rehearing, the sentence as to those charges or specifications may include any punishment not in excess of that which could have been adjudged at the first court-martial.

“(c) If, after appeal by the Government under section 856(d) of this title (article 56(d)), the sentence adjudged is set aside and a rehearing on sentence is ordered by the Court of Criminal Appeals or Court of Appeals for the Armed Forces, the court-martial may impose any sentence that is in accordance with the order or ruling setting aside the adjudged sentence, subject to such limitations as the President may prescribe by regulation.”.

SEC. 5328. JUDGE ADVOCATE REVIEW OF FINDING OF GUILTY IN SUMMARY COURT-MARTIAL.

(a) *IN GENERAL.*—Subsection (a) of section 864 of title 10, United States Code (article 64 of the Uniform Code of Military Justice), is amended by striking the first two sentences and inserting the following:

“(a) *IN GENERAL.*—Under regulations prescribed by the Secretary concerned, each summary court-martial in which there is a finding of guilty shall be reviewed by a judge advocate. A judge advocate may not review a case under this subsection if the judge advocate has acted in the same case as an accuser, preliminary hearing officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense.”.

(b) *TECHNICAL AND CONFORMING AMENDMENTS.*—

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

“§ 864. Art. 64. Judge advocate review of finding of guilty in summary court-martial”.

- (2) Subsection (b) of such section (article) is amended—
 (A) by striking “(b) The record” and inserting “(b) RECORD.—The record”;
 (B) in paragraph (1), by adding “or” at the end;
 (C) by striking paragraph (2); and
 (D) by redesignating paragraph (3) as paragraph (2).
 (3) Subsection (c)(3) of such section (article) is amended by striking “section 869(b) of this title (article 69(b)).” and inserting “section 869 of this title (article 69).”.

SEC. 5329. TRANSMITTAL AND REVIEW OF RECORDS.

Section 865 of title 10, United States Code (article 65 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 865. Art. 65. Transmittal and review of records

“(a) TRANSMITTAL OF RECORDS.—

“(1) FINDING OF GUILTY IN GENERAL OR SPECIAL COURT-MARTIAL.—If the judgment of a general or special court-martial entered under section 860c of this title (article 60c) includes a finding of guilty, the record shall be transmitted to the Judge Advocate General.

“(2) OTHER CASES.—In all other cases, records of trial by court-martial and related documents shall be transmitted and disposed of as the Secretary concerned may prescribe by regulation.

“(b) CASES FOR DIRECT APPEAL.—

“(1) AUTOMATIC REVIEW.—If the judgment includes a sentence of death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable discharge or bad-conduct discharge, or confinement for 2 years or more, the Judge Advocate General shall forward the record of trial to the Court of Criminal Appeals for review under section 866(b)(2) of this title (article 66(b)(2)).

“(2) CASES ELIGIBLE FOR DIRECT APPEAL REVIEW.—

“(A) IN GENERAL.—If the case is eligible for direct review under section 866(b)(1) of this title (article 66(b)(1)), the Judge Advocate General shall—

“(i) forward a copy of the record of trial to an appellate defense counsel who shall be detailed to review the case and, upon request of the accused, to represent the accused before the Court of Criminal Appeals; and

“(ii) upon written request of the accused, forward a copy of the record of trial to civilian counsel provided by the accused.

“(B) INAPPLICABILITY.—Subparagraph (A) shall not apply if the accused—

“(i) waives the right to appeal under section 861 of this title (article 61); or

“(ii) declines in writing the detailing of appellate defense counsel under subparagraph (A)(i).

“(c) NOTICE OF RIGHT TO APPEAL.—

“(1) IN GENERAL.—The Judge Advocate General shall provide notice to the accused of the right to file an appeal under

section 866(b)(1) of this title (article 66(b)(1)) by means of depositing in the United States mails for delivery by first class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in the official service record of the accused.

“(2) *INAPPLICABILITY UPON WAIVER OF APPEAL.*—Paragraph (1) shall not apply if the accused waives the right to appeal under section 861 of this title (article 61).

“(d) *REVIEW BY JUDGE ADVOCATE GENERAL.*—

“(1) *BY WHOM.*—A review conducted under this subsection may be conducted by an attorney within the Office of the Judge Advocate General or another attorney designated under regulations prescribed by the Secretary concerned.

“(2) *REVIEW OF CASES NOT ELIGIBLE FOR DIRECT APPEAL.*—

“(A) *IN GENERAL.*—A review under subparagraph (B) shall be completed in each general and special court-martial that is not eligible for direct appeal under paragraph (1) or (3) of section 866(b) of this title (article 66(b)).

“(B) *SCOPE OF REVIEW.*—A review referred to in subparagraph (A) shall include a written decision providing each of the following:

“(i) A conclusion as to whether the court had jurisdiction over the accused and the offense.

“(ii) A conclusion as to whether the charge and specification stated an offense.

“(iii) A conclusion as to whether the sentence was within the limits prescribed as a matter of law.

“(iv) A response to each allegation of error made in writing by the accused.

“(3) *REVIEW WHEN DIRECT APPEAL IS WAIVED, WITHDRAWN, OR NOT FILED.*—

“(A) *IN GENERAL.*—A review under subparagraph (B) shall be completed in each general and special court-martial if—

“(i) the accused waives the right to appeal or withdraws appeal under section 861 of this title (article 61); or

“(ii) the accused does not file a timely appeal in a case eligible for direct appeal under subparagraph (A), (B), or (C) of section 866(b)(1) of this title (article 66(b)(1)).

“(B) *SCOPE OF REVIEW.*—A review referred to in subparagraph (A) shall include a written decision limited to providing conclusions on the matters specified in clauses (i), (ii), and (iii) of paragraph (2)(B).

“(e) *REMEDY.*—

“(1) *IN GENERAL.*—If after a review of a record under subsection (d), the attorney conducting the review believes corrective action may be required, the record shall be forwarded to the Judge Advocate General, who may set aside the findings or sentence, in whole or in part.

“(2) *REHEARING.*—In setting aside findings or sentence, the Judge Advocate General may order a rehearing, except that a

rehearing may not be ordered in violation of section 844 of this title (article 44).

“(3) REMEDY WITHOUT REHEARING.—

“(A) DISMISSAL WHEN NO REHEARING ORDERED.—If the Judge Advocate General sets aside findings and sentence and does not order a rehearing, the Judge Advocate General shall dismiss the charges.

“(B) DISMISSAL WHEN REHEARING IMPRACTICAL.—If the Judge Advocate General sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impractical, the convening authority shall dismiss the charges.”.

SEC. 5330. COURTS OF CRIMINAL APPEALS.

(a) APPELLATE MILITARY JUDGES.—Subsection (a) of section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), is amended—

(1) in the second sentence, by striking “subsection (f)” and inserting “subsection (h)”;

(2) in the fourth sentence, by inserting after “highest court of a State” the following: “and must be certified by the Judge Advocate General as qualified, by reason of education, training, experience, and judicial temperament, for duty as an appellate military judge”; and

(3) by adding at the end the following new sentence: “In accordance with regulations prescribed by the President, assignments of appellate military judges under this section (article) shall be for appropriate minimum periods, subject to such exceptions as may be authorized in the regulations.”.

(b) REVISION OF APPELLATE PROCEDURES.—Such section (article) is further amended—

(1) by redesignating subsections (e), (f), (g), and (h) as subsections (g), (h), (i), and (j), respectively; and

(2) by striking subsections (b), (c), and (d) and inserting the following new subsections:

“(b) REVIEW.—

“(1) APPEALS BY ACCUSED.—A Court of Criminal Appeals shall have jurisdiction over a timely appeal from the judgment of a court-martial, entered into the record under section 860c of this title (article 60c), as follows:

“(A) On appeal by the accused in a case in which the sentence extends to confinement for more than six months and the case is not subject to automatic review under paragraph (3).

“(B) On appeal by the accused in a case in which the Government previously filed an appeal under section 862 of this title (article 62).

“(C) On appeal by the accused in a case that the Judge Advocate General has sent to the Court of Criminal Appeals for review of the sentence under section 856(d) of this title (article 56(d)).

“(D) In a case in which the accused filed an application for review with the Court under section 869(d)(1)(B) of this title (article 69(d)(1)(B)) and the application has been granted by the Court.

“(2) *REVIEW OF CERTAIN SENTENCES.*—A Court of Criminal Appeals shall have jurisdiction over all cases that the Judge Advocate General orders sent to the Court for review under section 856(d) of this title (article 56(d)).

“(3) *AUTOMATIC REVIEW.*—A Court of Criminal Appeals shall have jurisdiction over a court-martial in which the judgment entered into the record under section 860c of this title (article 60c) includes a sentence of death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable discharge or bad-conduct discharge, or confinement for 2 years or more.

“(c) *TIMELINESS.*—An appeal under subsection (b)(1) is timely if it is filed as follows:

“(1) In the case of an appeal by the accused under subsection (b)(1)(A) or (b)(1)(B), if filed before the later of—

“(A) the end of the 90-day period beginning on the date the accused is provided notice of appellate rights under section 865(c) of this title (article 65(c)); or

“(B) the date set by the Court of Criminal Appeals by rule or order.

“(2) In the case of an appeal by the accused under subsection (b)(1)(C), if filed before the later of—

“(A) the end of the 90-day period beginning on the date the accused is notified that the application for review has been granted by letter placed in the United States mails for delivery by first class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record; or

“(B) the date set by the Court of Criminal Appeals by rule or order.

“(d) *DUTIES.*—

“(1) *CASES APPEALED BY ACCUSED.*—In any case before the Court of Criminal Appeals under subsection (b), the Court may act only with respect to the findings and sentence as entered into the record under section 860c of this title (article 60c). The Court may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as the Court finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, the Court may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses.

“(2) *ERROR OR EXCESSIVE DELAY.*—In any case before the Court of Criminal Appeals under subsection (b), the Court may provide appropriate relief if the accused demonstrates error or excessive delay in the processing of the court-martial after the judgment was entered into the record under section 860c of this title (article 60c).

“(e) *CONSIDERATION OF APPEAL OF SENTENCE BY THE UNITED STATES.*—

“(1) *IN GENERAL.*—In considering a sentence on appeal or review as provided in section 856(d) of this title (article 56(d)), the Court of Criminal Appeals may consider—

“(A) whether the sentence violates the law; and

“(B) whether the sentence is plainly unreasonable.

“(2) *RECORD ON APPEAL OR REVIEW.*—In an appeal or review under this subsection or section 856(d) of this title (article 56(d)), the record on appeal or review shall consist of—

“(A) any portion of the record in the case that is designated as pertinent by either of the parties;

“(B) the information submitted during the sentencing proceeding; and

“(C) any information required by rule or order of the Court of Criminal Appeals.

“(f) *LIMITS OF AUTHORITY.*—

“(1) *SET ASIDE OF FINDINGS.*—

“(A) *IN GENERAL.*—If the Court of Criminal Appeals sets aside the findings, the Court—

“(i) may affirm any lesser included offense; and

“(ii) may, except when prohibited by section 844 of this title (article 44), order a rehearing.

“(B) *DISMISSAL WHEN NO REHEARING ORDERED.*—If the Court of Criminal Appeals sets aside the findings and does not order a rehearing, the Court shall order that the charges be dismissed.

“(C) *DISMISSAL WHEN REHEARING IMPRACTICABLE.*—If the Court of Criminal Appeals orders a rehearing on a charge and the convening authority finds a rehearing impracticable, the convening authority may dismiss the charge.

“(2) *SET ASIDE OF SENTENCE.*—If the Court of Criminal Appeals sets aside the sentence, the Court may—

“(A) modify the sentence to a lesser sentence; or

“(B) order a rehearing.

“(3) *ADDITIONAL PROCEEDINGS.*—If the Court determines that additional proceedings are warranted, the Court may order a hearing as may be necessary to address a substantial issue, subject to such limitations as the Court may direct and under such regulations as the President may prescribe.”

(c) *ACTION WHEN REHEARING IMPRACTICABLE AFTER REHEARING ORDER.*—Subsection (g) of such section (article), as redesignated by subsection (b)(1) of this section, is amended—

(1) in the first sentence, by striking “convening authority” and inserting “appropriate authority”; and

(2) by striking the last sentence.

(d) *SECTION HEADING.*—The heading of such section (article) is amended to read as follows:

“§ 866. Art. 66. Courts of Criminal Appeals”.

(e) *SUBSECTION HEADING AMENDMENTS FOR STYLISTIC CONSISTENCY.*—Such section (article) is further amended—

(1) in subsection (a), by inserting “COURTS OF CRIMINAL APPEALS.—” after “(a)”;

(2) in subsection (g), as redesignated by subsection (b)(1) of this section, by inserting “ACTION IN ACCORDANCE WITH DECISIONS OF COURTS.—” after “(g)”;

(3) in subsection (h), as so redesignated, by inserting “RULES OF PROCEDURE.—” after “(h)”;

(4) in subsection (i), as so redesignated, by inserting “PROHIBITION ON EVALUATION OF OTHER MEMBERS OF COURTS.—” after “(i);” and

(5) in subsection (j), as so redesignated, by inserting “INELIGIBILITY OF MEMBERS OF COURTS TO REVIEW RECORDS OF CASES INVOLVING CERTAIN PRIOR MEMBER SERVICE.—” after “(j)”.

SEC. 5331. REVIEW BY COURT OF APPEALS FOR THE ARMED FORCES.

(a) **JAG NOTIFICATION.**—Subsection (a)(2) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by inserting after “the Judge Advocate General” the following: “, after appropriate notification to the other Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps,”.

(b) **BASIS FOR REVIEW.**—Subsection (c) of such section (article) is amended—

- (1) by inserting “(1)” after “(c)”;
- (2) by designating the second sentence as paragraph (2);
- (3) by designating the third sentence as paragraph (3);
- (4) by designating the fourth sentence as paragraph (4);

and

(5) in paragraph (1), as designated by paragraph (1) of this subsection, by striking “only with respect to” and all that follows through the end of the sentence and inserting “only with respect to—

“(A) the findings and sentence set forth in the entry of judgment, as affirmed or set aside as incorrect in law by the Court of Criminal Appeals; or

“(B) a decision, judgment, or order by a military judge, as affirmed or set aside as incorrect in law by the Court of Criminal Appeals.”.

SEC. 5332. SUPREME COURT REVIEW.

The second sentence of section 867a(a) of title 10, United States Code (article 67a(a) of the Uniform Code of Military Justice), is amended by inserting before “Court of Appeals” the following: “United States”.

SEC. 5333. REVIEW BY JUDGE ADVOCATE GENERAL.

Section 869 of title 10, United States Code (article 69 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 869. Art. 69. Review by Judge Advocate General

“(a) **IN GENERAL.**—Upon application by the accused and subject to subsections (b), (c), and (d), the Judge Advocate General may modify or set aside, in whole or in part, the findings and sentence in a court-martial that is not reviewed under section 866 of this title (article 66).

“(b) **TIMING.**—To qualify for consideration, an application under subsection (a) must be submitted to the Judge Advocate General not later than one year after the date of completion of review under section 864 or 865 of this title (article 64 or 65), as the case may be. The Judge Advocate General may, for good cause shown, extend the period for submission of an application, but may not consider an application submitted more than three years after such completion date.

“(c) SCOPE.—(1)(A) In a case reviewed under section 864 or 865(b) of this title (article 64 or 65(b)), the Judge Advocate General may set aside the findings or sentence, in whole or in part on the grounds of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, error prejudicial to the substantial rights of the accused, or the appropriateness of the sentence.

“(B) In setting aside findings or sentence, the Judge Advocate General may order a rehearing, except that a rehearing may not be ordered in violation of section 844 of this title (article 44).

“(C) If the Judge Advocate General sets aside findings and sentence and does not order a rehearing, the Judge Advocate General shall dismiss the charges.

“(D) If the Judge Advocate General sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impractical, the convening authority shall dismiss the charges.

“(2) In a case reviewed under section 865(b) of this title (article 65(b)), review under this section is limited to the issue of whether the waiver or withdrawal of an appeal was invalid under the law. If the Judge Advocate General determines that the waiver or withdrawal of an appeal was invalid, the Judge Advocate General shall order appropriate corrective action under rules prescribed by the President.

“(d) COURT OF CRIMINAL APPEALS.—(1) A Court of Criminal Appeals may review the action taken by the Judge Advocate General under subsection (c)—

“(A) in a case sent to the Court of Criminal Appeals by order of the Judge Advocate General; or

“(B) in a case submitted to the Court of Criminal Appeals by the accused in an application for review.

“(2) The Court of Criminal Appeals may grant an application under paragraph (1)(B) only if—

“(A) the application demonstrates a substantial basis for concluding that the action on review under subsection (c) constituted prejudicial error; and

“(B) the application is filed not later than the earlier of—

“(i) 60 days after the date on which the accused is notified of the decision of the Judge Advocate General; or

“(ii) 60 days after the date on which a copy of the decision of the Judge Advocate General is deposited in the United States mails for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record.

“(3) The submission of an application for review under this subsection does not constitute a proceeding before the Court of Criminal Appeals for purposes of section 870(c)(1) of this title (article 70(c)(1)).

“(e) ACTION ONLY ON MATTERS OF LAW.—Notwithstanding section 866 of this title (article 66), in any case reviewed by a Court of Criminal Appeals under subsection (d), the Court may take action only with respect to matters of law.”

SEC. 5334. APPELLATE DEFENSE COUNSEL IN DEATH PENALTY CASES.

Section 870 of title 10, United States Code (article 70 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

“(f) To the greatest extent practicable, in any capital case, at least one defense counsel under subsection (c) shall, as determined by the Judge Advocate General, be learned in the law applicable to such cases. If necessary, this counsel may be a civilian and, if so, may be compensated in accordance with regulations prescribed by the Secretary of Defense.”.

SEC. 5335. AUTHORITY FOR HEARING ON VACATION OF SUSPENSION OF SENTENCE TO BE CONDUCTED BY QUALIFIED JUDGE ADVOCATE.

(a) *IN GENERAL.*—Subsection (a) of section 872 of title 10, United States Code (article 72 of the Uniform Code of Military Justice), is amended by inserting after the first sentence the following new sentence: “The special court-martial convening authority may detail a judge advocate, who is certified under section 827(b) of this title (article 27(b)), to conduct the hearing.”.

(b) *TECHNICAL AMENDMENTS.*—Such section (article) is further amended—

(1) in the last sentence of subsection (a), by striking “if he so desires” and inserting “if the probationer so desires”; and

(2) in the second sentence of subsection (b)—

(A) by striking “If he” and inserting “If the officer exercising general court-martial jurisdiction”; and

(B) by striking “section 871(c) of this title (article 71(c))” and inserting “section 857 of this title (article 57)”.

SEC. 5336. EXTENSION OF TIME FOR PETITION FOR NEW TRIAL.

The first sentence of section 873 of title 10, United States Code (article 73 of the Uniform Code of Military Justice), is amended by striking “two years after approval by the convening authority of a court-martial sentence” and inserting “three years after the date of the entry of judgment under section 860c of this title (article 60c)”.

SEC. 5337. RESTORATION.

Section 875 of title 10, United States Code (article 75 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

“(d) The President shall prescribe regulations, with such limitations as the President considers appropriate, governing eligibility for pay and allowances for the period after the date on which an executed part of a court-martial sentence is set aside.”.

SEC. 5338. LEAVE REQUIREMENTS PENDING REVIEW OF CERTAIN COURT-MARTIAL CONVICTIONS.

Section 876a of title 10, United States Code (article 76a of the Uniform Code of Military Justice), is amended—

(1) in the first sentence, by striking “, as approved under section 860 of this title (article 60),”; and

(2) in the second sentence, by striking “on which the sentence is approved under section 860 of this title (article 60)” and inserting “of the entry of judgment under section 860c of this title (article 60c)”.

TITLE LX—PUNITIVE ARTICLES

Sec. 5401. Reorganization of punitive articles.

- Sec. 5402. Conviction of offense charged, lesser included offenses, and attempts.
 Sec. 5403. Soliciting commission of offenses.
 Sec. 5404. Malingering.
 Sec. 5405. Breach of medical quarantine.
 Sec. 5406. Missing movement; jumping from vessel.
 Sec. 5407. Offenses against correctional custody and restriction.
 Sec. 5408. Disrespect toward superior commissioned officer; assault of superior commissioned officer.
 Sec. 5409. Willfully disobeying superior commissioned officer.
 Sec. 5410. Prohibited activities with military recruit or trainee by person in position of special trust.
 Sec. 5411. Offenses by sentinel or lookout.
 Sec. 5412. Disrespect toward sentinel or lookout.
 Sec. 5413. Release of prisoner without authority; drinking with prisoner.
 Sec. 5414. Penalty for acting as a spy.
 Sec. 5415. Public records offenses.
 Sec. 5416. False or unauthorized pass offenses.
 Sec. 5417. Impersonation offenses.
 Sec. 5418. Insignia offenses.
 Sec. 5419. False official statements; false swearing.
 Sec. 5420. Parole violation.
 Sec. 5421. Wrongful taking, opening, etc. of mail matter.
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 Sec. 5423. Leaving scene of vehicle accident.
 Sec. 5424. Drunkenness and other incapacitation offenses.
 Sec. 5425. Lower blood alcohol content limits for conviction of drunken or reckless operation of vehicle, aircraft, or vessel.
 Sec. 5426. Endangerment offenses.
 Sec. 5427. Communicating threats.
 Sec. 5428. Technical amendment relating to murder.
 Sec. 5429. Child endangerment.
 Sec. 5430. Rape and sexual assault offenses.
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 Sec. 5433. False pretenses to obtain services.
 Sec. 5434. Robbery.
 Sec. 5435. Receiving stolen property.
 Sec. 5436. Offenses concerning Government computers.
 Sec. 5437. Bribery.
 Sec. 5438. Graft.
 Sec. 5439. Kidnapping.
 Sec. 5440. Arson; burning property with intent to defraud.
 Sec. 5441. Assault.
 Sec. 5442. Burglary and unlawful entry.
 Sec. 5443. Stalking.
 Sec. 5444. Subornation of perjury.
 Sec. 5445. Obstructing justice.
 Sec. 5446. Misprision of serious offense.
 Sec. 5447. Wrongful refusal to testify.
 Sec. 5448. Prevention of authorized seizure of property.
 Sec. 5449. Wrongful interference with adverse administrative proceeding.
 Sec. 5450. Retaliation.
 Sec. 5451. Extraterritorial application of certain offenses.
 Sec. 5452. Table of sections.

SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.

Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:

(1) ENLISTMENT AND SEPARATION.—Sections 883 and 884 (articles 83 and 84) are transferred so as to appear (in that order) after section 904 (article 104) and are redesignated as sections 904a and 904b (articles 104a and 104b), respectively.

(2) RESISTANCE, FLIGHT, BREACH OF ARREST, AND ESCAPE.—Section 895 (article 95) is transferred so as to appear after section 887 (article 87) and is redesignated as section 887a (article 87a).

(3) *NONCOMPLIANCE WITH PROCEDURAL RULES.*—Section 898 (article 98) is transferred so as to appear after section 931 (article 131) and is redesignated as section 931f (article 131f).

(4) *CAPTURED OR ABANDONED PROPERTY.*—Section 903 (article 103) is transferred so as to appear after section 908 (article 108) and is redesignated as section 908a (article 108a).

(5) *AIDING THE ENEMY.*—Section 904 (article 104) is redesignated as section 903b (article 103b).

(6) *MISCONDUCT AS PRISONER.*—Section 905 (article 105) is transferred so as to appear after section 897 (article 97) and is redesignated as section 898 (article 98).

(7) *SPIES; ESPIONAGE.*—Sections 906 and 906a (articles 106 and 106a) are transferred so as to appear (in that order) after section 902 (article 102) and are redesignated as sections 903 and 903a (articles 103 and 103a), respectively.

(8) *MISBEHAVIOR OF SENTINEL.*—Section 913 (article 113) is transferred so as to appear after section 894 (article 94) and is redesignated as section 895 (article 95).

(9) *DRUNKEN OR RECKLESS OPERATION OF A VEHICLE, AIRCRAFT, OR VESSEL.*—Section 911 (article 111) is transferred so as to appear after section 912a (article 912a) and is redesignated as section 913 (article 113).

(10) *HOUSEBREAKING.*—Section 930 (article 130) is redesignated as section 929a (article 129a).

(11) *STALKING.*—Section 920a (article 120a) is transferred so as to appear after section 929a (article 129a), as redesignated by paragraph (10), and is redesignated as section 930 (article 130).

(12) *FORGERY.*—Section 923 (article 123) is transferred so as to appear after section 904b (article 104b), as transferred and redesignated by paragraph (1), and is redesignated as section 905 (article 105).

(13) *MAIMING.*—

(A) *IN GENERAL.*—Section 924 (article 124) is transferred so as to appear after section 928 (article 128) and is redesignated as section 928a (article 128a).

(B) *CONFORMING AMENDMENTS.*—Section 919a(b) (article 919a(b)) is amended—

- (i) by striking “924,” and inserting “928a,”; and
- (ii) by striking “124,” and inserting “128a”.

(14) *FRAUDS AGAINST THE UNITED STATES.*—Section 932 of (article 132) is transferred so as to appear after section 923a (article 123a) and is redesignated as section 924 (article 124).

SEC. 5402. CONVICTION OF OFFENSE CHARGED, LESSER INCLUDED OFFENSES, AND ATTEMPTS.

Section 879 of title 10, United States Code (article 79 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 879. Art. 79. Conviction of offense charged, lesser included offenses, and attempts

“(a) *IN GENERAL.*—An accused may be found guilty of any of the following:

- “(1) The offense charged.
- “(2) A lesser included offense.
- “(3) An attempt to commit the offense charged.

“(4) An attempt to commit a lesser included offense, if the attempt is an offense in its own right.

“(b) **LESSER INCLUDED OFFENSE DEFINED.**—In this section (article), the term ‘lesser included offense’ means—

“(1) an offense that is necessarily included in the offense charged; and

“(2) any lesser included offense so designated by regulation prescribed by the President.

“(c) **REGULATORY AUTHORITY.**—Any designation of a lesser included offense in a regulation referred to in subsection (b) shall be reasonably included in the greater offense.”.

SEC. 5403. SOLICITING COMMISSION OF OFFENSES.

Section 882 of title 10, United States Code (article 82 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 882. Art. 82. Soliciting commission of offenses

“(a) **SOLICITING COMMISSION OF OFFENSES GENERALLY.**—Any person subject to this chapter who solicits or advises another to commit an offense under this chapter (other than an offense specified in subsection (b)) shall be punished as a court-martial may direct.

“(b) **SOLICITING DESERTION, MUTINY, SEDITION, OR MISBEHAVIOR BEFORE THE ENEMY.**—Any person subject to this chapter who solicits or advises another to violate section 885 of this title (article 85), section 894 of this title (article 94), or section 99 of this title (article 99)—

“(1) if the offense solicited or advised is attempted or is committed, shall be punished with the punishment provided for the commission of the offense; and

“(2) if the offense solicited or advised is not attempted or committed, shall be punished as a court-martial may direct.”.

SEC. 5404. MALINGERING.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 882 (article 82 of the Uniform Code of Military Justice), as amended by section 5403 of this Act, the following new section (article):

“§ 883. Art. 83. Malingering

“Any person subject to this chapter who, with the intent to avoid work, duty, or service—

“(1) feigns illness, physical disablement, mental lapse, or mental derangement; or

“(2) intentionally inflicts self-injury;
shall be punished as a court-martial may direct.”.

SEC. 5405. BREACH OF MEDICAL QUARANTINE.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 883 (article 83 of the Uniform Code of Military Justice), as added by section 5404 of this Act, the following new section (article):

“§ 884. Art. 84. Breach of medical quarantine

“Any person subject to this chapter—

“(1) who is ordered into medical quarantine by a person authorized to issue such order; and

“(2) who, with knowledge of the quarantine and the limits of the quarantine, goes beyond those limits before being released from the quarantine by proper authority; shall be punished as a court-martial may direct.”.

SEC. 5406. MISSING MOVEMENT; JUMPING FROM VESSEL.

Section 887 of title 10, United States Code (article 87 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 887. Art. 87. Missing movement; jumping from vessel

“(a) *MISSING MOVEMENT.*—Any person subject to this chapter who, through neglect or design, misses the movement of a ship, aircraft, or unit with which the person is required in the course of duty to move shall be punished as a court-martial may direct.

“(b) *JUMPING FROM VESSEL INTO THE WATER.*—Any person subject to this chapter who wrongfully and intentionally jumps into the water from a vessel in use by the armed forces shall be punished as a court-martial may direct.”.

SEC. 5407. OFFENSES AGAINST CORRECTIONAL CUSTODY AND RESTRICTION.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 887a (article 87a of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(2) of this Act, the following new section (article):

“§ 887b. Art. 87b. Offenses against correctional custody and restriction

“(a) *ESCAPE FROM CORRECTIONAL CUSTODY.*—Any person subject to this chapter—

“(1) who is placed in correctional custody by a person authorized to do so;

“(2) who, while in correctional custody, is under physical restraint; and

“(3) who escapes from the physical restraint before being released from the physical restraint by proper authority; shall be punished as a court-martial may direct.

“(b) *BREACH OF CORRECTIONAL CUSTODY.*—Any person subject to this chapter—

“(1) who is placed in correctional custody by a person authorized to do so;

“(2) who, while in correctional custody, is under restraint other than physical restraint; and

“(3) who goes beyond the limits of the restraint before being released from the correctional custody or relieved of the restraint by proper authority; shall be punished as a court-martial may direct.

“(c) *BREACH OF RESTRICTION.*—Any person subject to this chapter—

“(1) who is ordered to be restricted to certain limits by a person authorized to do so; and

“(2) who, with knowledge of the limits of the restriction, goes beyond those limits before being released by proper authority; shall be punished as a court-martial may direct.”.

SEC. 5408. DISRESPECT TOWARD SUPERIOR COMMISSIONED OFFICER; ASSAULT OF SUPERIOR COMMISSIONED OFFICER.

Section 889 of title 10, United States Code (article 89 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 889. Art. 89. Disrespect toward superior commissioned officer; assault of superior commissioned officer

“(a) *DISRESPECT.*—Any person subject to this chapter who behaves with disrespect toward that person’s superior commissioned officer shall be punished as a court-martial may direct.

“(b) *ASSAULT.*—Any person subject to this chapter who strikes that person’s superior commissioned officer or draws or lifts up any weapon or offers any violence against that officer while the officer is in the execution of the officer’s office shall be punished—

“(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and

“(2) if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.”.

SEC. 5409. WILLFULLY DISOBEYING SUPERIOR COMMISSIONED OFFICER.

Section 890 of title 10, United States Code (article 90 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 890. Art. 90. Willfully disobeying superior commissioned officer

“Any person subject to this chapter who willfully disobeys a lawful command of that person’s superior commissioned officer shall be punished—

“(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and

“(2) if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.”.

SEC. 5410. PROHIBITED ACTIVITIES WITH MILITARY RECRUIT OR TRAINEE BY PERSON IN POSITION OF SPECIAL TRUST.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 893 (article 93 of the Uniform Code of Military Justice), the following new section (article):

“§ 893a. Art. 93a. Prohibited activities with military recruit or trainee by person in position of special trust

“(a) *ABUSE OF TRAINING LEADERSHIP POSITION.*—Any person subject to this chapter—

“(1) who is an officer, a noncommissioned officer, or a petty officer;

“(2) who is in a training leadership position with respect to a specially protected junior member of the armed forces; and

“(3) who engages in prohibited sexual activity with such specially protected junior member of the armed forces;

shall be punished as a court-martial may direct.

“(b) *ABUSE OF POSITION AS MILITARY RECRUITER.*—Any person subject to this chapter—

“(1) who is a military recruiter and engages in prohibited sexual activity with an applicant for military service; or

“(2) who is a military recruiter and engages in prohibited sexual activity with a specially protected junior member of the armed forces who is enlisted under a delayed entry program; shall be punished as a court-martial may direct.

“(c) CONSENT.—Consent is not a defense for any conduct at issue in a prosecution under this section (article).

“(d) DEFINITIONS.—In this section (article):

“(1) SPECIALLY PROTECTED JUNIOR MEMBER OF THE ARMED FORCES.—The term ‘specially protected junior member of the armed forces’ means—

“(A) a member of the armed forces who is assigned to, or is awaiting assignment to, basic training or other initial active duty for training, including a member who is enlisted under a delayed entry program;

“(B) a member of the armed forces who is a cadet, a midshipman, an officer candidate, or a student in any other officer qualification program; and

“(C) a member of the armed forces in any program that, by regulation prescribed by the Secretary concerned, is identified as a training program for initial career qualification.

“(2) TRAINING LEADERSHIP POSITION.—The term ‘training leadership position’ means, with respect to a specially protected junior member of the armed forces, any of the following:

“(A) Any drill instructor position or other leadership position in a basic training program, an officer candidate school, a reserve officers’ training corps unit, a training program for entry into the armed forces, or any program that, by regulation prescribed by the Secretary concerned, is identified as a training program for initial career qualification.

“(B) Faculty and staff of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.

“(3) APPLICANT FOR MILITARY SERVICE.—The term ‘applicant for military service’ means a person who, under regulations prescribed by the Secretary concerned, is an applicant for original enlistment or appointment in the armed forces.

“(4) MILITARY RECRUITER.—The term ‘military recruiter’ means a person who, under regulations prescribed by the Secretary concerned, has the primary duty to recruit persons for military service.

“(5) PROHIBITED SEXUAL ACTIVITY.—The term ‘prohibited sexual activity’ means, as specified in regulations prescribed by the Secretary concerned, inappropriate physical intimacy under circumstances described in such regulations.”.

SEC. 5411. OFFENSES BY SENTINEL OR LOOKOUT.

Section 895 of title 10, United States Code (article 95 of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(8) of this Act, is amended to read as follows:

“§ 895. Art. 95. Offenses by sentinel or lookout

“(a) DRUNK OR SLEEPING ON POST, OR LEAVING POST BEFORE BEING RELIEVED.—Any sentinel or lookout who is drunk on post,

who sleeps on post, or who leaves post before being regularly relieved, shall be punished—

“(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and

“(2) if the offense is committed other than in time of war, by such punishment, other than death, as a court-martial may direct.

“(b) **LOITERING OR WRONGFULLY SITTING ON POST.**—Any sentinel or lookout who loiters or wrongfully sits down on post shall be punished as a court-martial may direct.”.

SEC. 5412. DISRESPECT TOWARD SENTINEL OR LOOKOUT.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 895 (article 95 of the Uniform Code of Military Justice), as amended by section 5411 of this Act, the following new section (article):

“§ 895a. Art. 95a. Disrespect toward sentinel or lookout

“(a) **DISRESPECTFUL LANGUAGE TOWARD SENTINEL OR LOOKOUT.**—Any person subject to this chapter who, knowing that another person is a sentinel or lookout, uses wrongful and disrespectful language that is directed toward and within the hearing of the sentinel or lookout, who is in the execution of duties as a sentinel or lookout, shall be punished as a court-martial may direct.

“(b) **DISRESPECTFUL BEHAVIOR TOWARD SENTINEL OR LOOKOUT.**—Any person subject to this chapter who, knowing that another person is a sentinel or lookout, behaves in a wrongful and disrespectful manner that is directed toward and within the sight of the sentinel or lookout, who is in the execution of duties as a sentinel or lookout, shall be punished as a court-martial may direct.”.

SEC. 5413. RELEASE OF PRISONER WITHOUT AUTHORITY; DRINKING WITH PRISONER.

Section 896 of title 10, United States Code (article 96 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 896. Art. 96. Release of prisoner without authority; drinking with prisoner

“(a) **RELEASE OF PRISONER WITHOUT AUTHORITY.**—Any person subject to this chapter—

“(1) who, without authority to do so, releases a prisoner; or

“(2) who, through neglect or design, allows a prisoner to escape;

shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with the law.

“(b) **DRINKING WITH PRISONER.**—Any person subject to this chapter who unlawfully drinks any alcoholic beverage with a prisoner shall be punished as a court-martial may direct.”.

SEC. 5414. PENALTY FOR ACTING AS A SPY.

Section 903 of title 10, United States Code (article 103 of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(7) of this Act, is amended by inserting before the period at the end of the first sentence the following: “or such other punishment as a court-martial or a military commission may direct”.

SEC. 5415. PUBLIC RECORDS OFFENSES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 903b (article 103b of the Uniform Code of Military Justice), as redesignated by section 5401(5) of this Act, the following new section (article):

“§ 904. Art. 104. Public records offenses

“Any person subject to this chapter who, willfully and unlawfully—

“(1) alters, conceals, removes, mutilates, obliterates, or destroys a public record; or

“(2) takes a public record with the intent to alter, conceal, remove, mutilate, obliterate, or destroy the public record; shall be punished as a court-martial may direct.”.

SEC. 5416. FALSE OR UNAUTHORIZED PASS OFFENSES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 905 (article 105 of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(12) of this Act, the following new section (article):

“§ 905a. Art. 105a. False or unauthorized pass offenses

“(a) WRONGFUL MAKING, ALTERING, ETC.—Any person subject to this chapter who, wrongfully and falsely, makes, alters, counterfeits, or tampers with a military or official pass, permit, discharge certificate, or identification card shall be punished as a court-martial may direct.

“(b) WRONGFUL SALE, ETC.—Any person subject to this chapter who wrongfully sells, gives, lends, or disposes of a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, shall be punished as a court-martial may direct.

“(c) WRONGFUL USE OR POSSESSION.—Any person subject to this chapter who wrongfully uses or possesses a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, shall be punished as a court-martial may direct.”.

SEC. 5417. IMPERSONATION OFFENSES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 905a (article 105a of the Uniform Code of Military Justice), as added by section 5416 of this Act, the following new section (article):

“§ 906. Art. 106. Impersonation of officer, noncommissioned or petty officer, or agent or official

“(a) IN GENERAL.—Any person subject to this chapter who, wrongfully and willfully, impersonates—

“(1) an officer, a noncommissioned officer, or a petty officer;

“(2) an agent of superior authority of one of the armed forces; or

“(3) an official of a government;

shall be punished as a court-martial may direct.

“(b) *IMPERSONATION WITH INTENT TO DEFRAUD.*—Any person subject to this chapter who, wrongfully, willfully, and with intent to defraud, impersonates any person referred to in paragraph (1), (2), or (3) of subsection (a) shall be punished as a court-martial may direct.

“(c) *IMPERSONATION OF GOVERNMENT OFFICIAL WITHOUT INTENT TO DEFRAUD.*—Any person subject to this chapter who, wrongfully, willfully, and without intent to defraud, impersonates an official of a government by committing an act that exercises or asserts the authority of the office that the person claims to have shall be punished as a court-martial may direct.”.

SEC. 5418. INSIGNIA OFFENSES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 906 (article 106 of the Uniform Code of Military Justice), as added by section 5417 of this Act, the following new section (article):

“§ 906a. Art. 106a. Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button

“Any person subject to this chapter—

“(1) who is not authorized to wear an insignia, decoration, badge, ribbon, device, or lapel button; and

“(2) who wrongfully wears such insignia, decoration, badge, ribbon, device, or lapel button upon the person’s uniform or civilian clothing;

shall be punished as a court-martial may direct.”.

SEC. 5419. FALSE OFFICIAL STATEMENTS; FALSE SWEARING.

Section 907 of title 10, United States Code (article 107 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 907. Art. 107. False official statements; false swearing

“(a) *FALSE OFFICIAL STATEMENTS.*—Any person subject to this chapter who, with intent to deceive—

“(1) signs any false record, return, regulation, order, or other official document, knowing it to be false; or

“(2) makes any other false official statement knowing it to be false;

shall be punished as a court-martial may direct.

“(b) *FALSE SWEARING.*—Any person subject to this chapter—

“(1) who takes an oath that—

“(A) is administered in a matter in which such oath is required or authorized by law; and

“(B) is administered by a person with authority to do so; and

“(2) who, upon such oath, makes or subscribes to a statement;

if the statement is false and at the time of taking the oath, the person does not believe the statement to be true, shall be punished as a court-martial may direct.”.

SEC. 5420. PAROLE VIOLATION.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 907 (article 107 of the Uniform Code of Military Justice), as amended by section 5419 of this Act, the following new section (article):

“§ 907a. Art. 107a. Parole violation

“Any person subject to this chapter—

“(1) who, having been a prisoner as the result of a court-martial conviction or other criminal proceeding, is on parole with conditions; and

“(2) who violates the conditions of parole;
shall be punished as a court-martial may direct.”.

SEC. 5421. WRONGFUL TAKING, OPENING, ETC. OF MAIL MATTER.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 909 (article 109 of the Uniform Code of Military Justice), the following new section (article):

“§ 909a. Art. 109a. Mail matter: wrongful taking, opening, etc.

“(a) **TAKING.**—Any person subject to this chapter who, with the intent to obstruct the correspondence of, or to pry into the business or secrets of, any person or organization, wrongfully takes mail matter before the mail matter is delivered to or received by the addressee shall be punished as a court-martial may direct.

“(b) **OPENING, SECRETING, DESTROYING, STEALING.**—Any person subject to this chapter who wrongfully opens, secretes, destroys, or steals mail matter before the mail matter is delivered to or received by the addressee shall be punished as a court-martial may direct.”.

SEC. 5422. IMPROPER HAZARDING OF VESSEL OR AIRCRAFT.

Section 910 of title 10, United States Code (article 110 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 910. Art. 110. Improper hazarding of vessel or aircraft

“(a) **WILLFUL AND WRONGFUL HAZARDING.**—Any person subject to this chapter who, willfully and wrongfully, hazards or suffers to be hazarded any vessel or aircraft of the armed forces shall be punished by death or such other punishment as a court-martial may direct.

“(b) **NEGLIGENT HAZARDING.**—Any person subject to this chapter who negligently hazards or suffers to be hazarded any vessel or aircraft of the armed forces shall be punished as a court-martial may direct.”.

SEC. 5423. LEAVING SCENE OF VEHICLE ACCIDENT.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 910 (article 110 of the Uniform Code of Military Justice), as amended by section 5422 of this Act, the following new section (article):

“§ 911. Art. 111. Leaving scene of vehicle accident

“(a) **DRIVER.**—Any person subject to this chapter—

“(1) who is the driver of a vehicle that is involved in an accident that results in personal injury or property damage; and

“(2) who wrongfully leaves the scene of the accident—

“(A) without providing assistance to an injured person;

or

“(B) without providing personal identification to others involved in the accident or to appropriate authorities;

shall be punished as a court-martial may direct.

“(b) **SENIOR PASSENGER.**—Any person subject to this chapter—

“(1) who is a passenger in a vehicle that is involved in an accident that results in personal injury or property damage;

“(2) who is the superior commissioned or noncommissioned officer of the driver of the vehicle or is the commander of the vehicle; and

“(3) who wrongfully and unlawfully orders, causes, or permits the driver to leave the scene of the accident—

“(A) without providing assistance to an injured person;

or

“(B) without providing personal identification to others involved in the accident or to appropriate authorities;

shall be punished as a court-martial may direct.”.

SEC. 5424. DRUNKENNESS AND OTHER INCAPACITATION OFFENSES.

Section 912 of title 10, United States Code (article 112 of the Uniform Code of Military Justice), is amended to read as follows:

“§912. Art. 112. Drunkenness and other incapacitation offenses

“(a) **DRUNK ON DUTY.**—Any person subject to this chapter who is drunk on duty shall be punished as a court-martial may direct.

“(b) **INCAPACITATION FOR DUTY FROM DRUNKENNESS OR DRUG USE.**—Any person subject to this chapter who, as a result of indulgence in any alcoholic beverage or any drug, is incapacitated for the proper performance of duty shall be punished as a court-martial may direct.

“(c) **DRUNK PRISONER.**—Any person subject to this chapter who is a prisoner and, while in such status, is drunk shall be punished as a court-martial may direct.”.

SEC. 5425. LOWER BLOOD ALCOHOL CONTENT LIMITS FOR CONVICTION OF DRUNKEN OR RECKLESS OPERATION OF VEHICLE, AIRCRAFT, OR VESSEL.

Subsection (b)(3) of section 913 of title 10, United States Code (article 113 of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(9) of this Act, is amended—

(1) by striking “0.10 grams” both places it appears and inserting “0.08 grams”; and

(2) by adding at the end the following new sentence: “The Secretary may by regulation prescribe limits that are lower than the limits specified in the preceding sentence, if such lower limits are based on scientific developments, as reflected in Federal law of general applicability.”.

SEC. 5426. ENDANGERMENT OFFENSES.

Section 914 of title 10, United States Code (article 114 of the Uniform Code of Military Justice), is amended to read as follows:

“§914. Art. 114. Endangerment offenses

“(a) **RECKLESS ENDANGERMENT.**—Any person subject to this chapter who engages in conduct that—

“(1) is wrongful and reckless or is wanton; and

“(2) is likely to produce death or grievous bodily harm to another person;

shall be punished as a court-martial may direct.

“(b) **DUELING.**—Any person subject to this chapter—

“(1) who fights or promotes, or is concerned in or connives at fighting, a duel; or

“(2) who, having knowledge of a challenge sent or about to be sent, fails to report the facts promptly to the proper authority;

shall be punished as a court-martial may direct.

“(c) **FIREARM DISCHARGE, ENDANGERING HUMAN LIFE.**—Any person subject to this chapter who, willfully and wrongly, discharges a firearm, under circumstances such as to endanger human life shall be punished as a court-martial may direct.

“(d) **CARRYING CONCEALED WEAPON.**—Any person subject to this chapter who unlawfully carries a dangerous weapon concealed on or about his person shall be punished as a court-martial may direct.”.

SEC. 5427. COMMUNICATING THREATS.

Section 915 of title 10, United States Code (article 115 of the Uniform Code of Military Justice), is amended to read as follows:

“§915. Art. 115. Communicating threats

“(a) **COMMUNICATING THREATS GENERALLY.**—Any person subject to this chapter who wrongfully communicates a threat to injure the person, property, or reputation of another shall be punished as a court-martial may direct.

“(b) **COMMUNICATING THREAT TO USE EXPLOSIVE, ETC.**—Any person subject to this chapter who wrongfully communicates a threat to injure the person or property of another by use of (1) an explosive, (2) a weapon of mass destruction, (3) a biological or chemical agent, substance, or weapon, or (4) a hazardous material, shall be punished as a court-martial may direct.

“(c) **COMMUNICATING FALSE THREAT CONCERNING USE OF EXPLOSIVE, ETC.**—Any person subject to this chapter who maliciously communicates a false threat concerning injury to the person or property of another by use of (1) an explosive, (2) a weapon of mass destruction, (3) a biological or chemical agent, substance, or weapon, or (4) a hazardous material, shall be punished as a court-martial may direct. As used in the preceding sentence, the term ‘false threat’ means a threat that, at the time the threat is communicated, is known to be false by the person communicating the threat.”.

SEC. 5428. TECHNICAL AMENDMENT RELATING TO MURDER.

Section 918(4) of title 10, United States Code (article 118(4) of the Uniform Code of Military Justice), is amended by striking “forcible sodomy,”.

SEC. 5429. CHILD ENDANGERMENT.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 919a (article 119a of the Uniform Code of Military Justice), the following new section (article):

“§919b. Art. 119b. Child endangerment

“Any person subject to this chapter—

“(1) who has a duty for the care of a child under the age of 16 years; and

“(2) who, through design or culpable negligence, endangers the child’s mental or physical health, safety, or welfare;

shall be punished as a court-martial may direct.”.

SEC. 5430. RAPE AND SEXUAL ASSAULT OFFENSES.

(a) *OFFENSE OF SEXUAL ASSAULT.*—Subsection (b) of section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(2) in paragraph (2)—

(A) by striking “another person when” and inserting “another person—

“(B) when”; and

(B) by inserting before subparagraph (B), as added by subparagraph (A) of this paragraph, the following new subparagraph:

“(A) without the consent of the other person; or”.

(b) *DEFINITIONS.*—

(1) *SEXUAL ACT.*—Paragraph (1) of subsection (g) of such section (article) is amended to read as follows:

“(1) *SEXUAL ACT.*—The term ‘sexual act’ means—

“(A) the penetration, however slight, of the penis into the vulva or anus or mouth;

“(B) contact between the mouth and the penis, vulva, scrotum, or anus; or

“(C) the penetration, however slight, of the vulva or penis or anus of another by any part of the body or any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.”.

(2) *SEXUAL CONTACT.*—Paragraph (2) of such subsection is amended to read as follows:

“(2) *SEXUAL CONTACT.*—The term ‘sexual contact’ means touching, or causing another person to touch, either directly or through the clothing, the vulva, penis, scrotum, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body or an object.”.

(3) *REPEAL OF DEFINITION OF BODILY HARM.*—Such subsection is further amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

(4) *CONSENT.*—Paragraph (7) of such subsection, as redesignated by paragraph (3)(B) of this subsection, is further amended—

(A) in subparagraph (A)—

(i) in the second sentence, by striking “or submission resulting from the use of force, threat of force, or placing another in fear”;

(ii) by inserting after the second sentence, as amended by clause (i) of this subparagraph the following new sentence: “Submission resulting from the use of force, threat of force, or placing another person in fear also does not constitute consent.”; and

(iii) in the last sentence, by striking “shall not” and inserting “does not”;

(B) in subparagraph (B), by striking “subparagraph (B) or (D)” and inserting “subparagraph (B) or (C)”; and

(C) in subparagraph (C)—

(i) by striking the first sentence; and

(ii) in the last sentence, by striking “, or whether” and all that follows and inserting a period.

(5) *INCAPABLE OF CONSENTING*.—Such subsection is further amended by adding at the end the following new paragraph (8):

“(8) *INCAPABLE OF CONSENTING*.—The term ‘incapable of consenting’ means the person is—

“(A) incapable of appraising the nature of the conduct at issue; or

“(B) physically incapable of declining participation in, or communicating unwillingness to engage in, the sexual act at issue.”.

(c) *RAPE AND SEXUAL ASSAULT OF A CHILD*.—Subsection (h)(1) of section 920b of title 10, United States Code (article 120b of the Uniform Code of Military Justice), is amended by inserting before the period at the end the following: “, except that the term ‘sexual act’ also includes the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person”.

SEC. 5431. DEPOSIT OF OBSCENE MATTER IN THE MAIL.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 920 (article 120 of the Uniform Code of Military Justice), the following new section (article):

“§ 920a. Art. 120a. Mails: deposit of obscene matter

“Any person subject to this chapter who, wrongfully and knowingly, deposits obscene matter for mailing and delivery shall be punished as a court-martial may direct.”.

SEC. 5432. FRAUDULENT USE OF CREDIT CARDS, DEBIT CARDS, AND OTHER ACCESS DEVICES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 921 (article 121 of the Uniform Code of Military Justice), the following new section (article):

“§ 921a. Art. 121a. Fraudulent use of credit cards, debit cards, and other access devices

“(a) *IN GENERAL*.—Any person subject to this chapter who, knowingly and with intent to defraud, uses—

“(1) a stolen credit card, debit card, or other access device;

“(2) a revoked, cancelled, or otherwise invalid credit card, debit card, or other access device; or

“(3) a credit card, debit card, or other access device without the authorization of a person whose authorization is required for such use;

to obtain money, property, services, or anything else of value shall be punished as a court-martial may direct.

“(b) *ACCESS DEVICE DEFINED.*—In this section (article), the term ‘access device’ has the meaning given that term in section 1029 of title 18.”

SEC. 5433. FALSE PRETENSES TO OBTAIN SERVICES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 921a (article 121a of the Uniform Code of Military Justice), as added by section 5432 of this Act, the following new section (article):

“§ 921b. Art. 121b. False pretenses to obtain services

“Any person subject to this chapter who, with intent to defraud, knowingly uses false pretenses to obtain services shall be punished as a court-martial may direct.”

SEC. 5434. ROBBERY.

Section 922 of title 10, United States Code (article 122 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 922. Art. 122. Robbery

“Any person subject to this chapter who takes anything of value from the person or in the presence of another, against his will, by means of force or violence or fear of immediate or future injury to his person or property or to the person or property of a relative or member of his family or of anyone in his company at the time of the robbery, is guilty of robbery and shall be punished as a court-martial may direct.”

SEC. 5435. RECEIVING STOLEN PROPERTY.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 922 (article 122 of the Uniform Code of Military Justice), as amended by section 5434 of this Act, the following new section (article):

“§ 922a. Art. 122a. Receiving stolen property

“Any person subject to this chapter who wrongfully receives, buys, or conceals stolen property, knowing the property to be stolen property, shall be punished as a court-martial may direct.”

SEC. 5436. OFFENSES CONCERNING GOVERNMENT COMPUTERS.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 922a (article 122a of the Uniform Code of Military Justice), as added by section 5435 of this Act, the following new section (article):

“§ 923. Art. 123. Offenses concerning Government computers

“(a) *IN GENERAL.*—Any person subject to this chapter who—

“(1) knowingly accesses a Government computer, with an unauthorized purpose, and by doing so obtains classified information, with reason to believe such information could be used to the injury of the United States, or to the advantage of any foreign nation, and intentionally communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted such information to any person not entitled to receive it;

“(2) intentionally accesses a Government computer, with an unauthorized purpose, and thereby obtains classified or other protected information from any Government computer; or

“(3) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization to a Government computer;
shall be punished as a court-martial may direct.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘computer’ has the meaning given that term in section 1030 of title 18.

“(2) The term ‘Government computer’ means a computer owned or operated by or on behalf of the United States Government.

“(3) The term ‘damage’ has the meaning given that term in section 1030 of title 18.”.

SEC. 5437. BRIBERY.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 924 (article 124 of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(14) of this Act, the following new section (article):

“§ 924a. Art. 124a. Bribery

“(a) ASKING, ACCEPTING, OR RECEIVING THING OF VALUE.—Any person subject to this chapter—

“(1) who occupies an official position or who has official duties; and

“(2) who wrongfully asks, accepts, or receives a thing of value with the intent to have the person’s decision or action influenced with respect to an official matter in which the United States is interested;

shall be punished as a court-martial may direct.

“(b) PROMISING, OFFERING, OR GIVING THING OF VALUE.—Any person subject to this chapter who wrongfully promises, offers, or gives a thing of value to another person, who occupies an official position or who has official duties, with the intent to influence the decision or action of the other person with respect to an official matter in which the United States is interested, shall be punished as a court-martial may direct.”.

SEC. 5438. GRAFT.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 924a (article 124a of the Uniform Code of Military Justice), as added by section 5437 of this Act, the following new section (article):

“§ 924b. Art. 124b. Graft

“(a) ASKING, ACCEPTING, OR RECEIVING THING OF VALUE.—Any person subject to this chapter—

“(1) who occupies an official position or who has official duties; and

“(2) who wrongfully asks, accepts, or receives a thing of value as compensation for or in recognition of services rendered or to be rendered by the person with respect to an official matter in which the United States is interested;

shall be punished as a court-martial may direct.

“(b) PROMISING, OFFERING, OR GIVING THING OF VALUE.—Any person subject to this chapter who wrongfully promises, offers, or

gives a thing of value to another person, who occupies an official position or who has official duties, as compensation for or in recognition of services rendered or to be rendered by the other person with respect to an official matter in which the United States is interested, shall be punished as a court-martial may direct.”.

SEC. 5439. KIDNAPPING.

Section 925 of title 10, United States Code (article 125 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 925. Art. 125. Kidnapping

“Any person subject to this chapter who wrongfully—

“(1) seizes, confines, inveigles, decoys, or carries away another person; and

“(2) holds the other person against that person’s will; shall be punished as a court-martial may direct.”.

SEC. 5440. ARSON; BURNING PROPERTY WITH INTENT TO DEFRAUD.

Section 926 of title 10, United States Code (article 126 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 926. Art. 126. Arson; burning property with intent to defraud

“(a) AGGRAVATED ARSON.—Any person subject to this chapter who, willfully and maliciously, burns or sets on fire an inhabited dwelling, or any other structure, movable or immovable, wherein, to the knowledge of that person, there is at the time a human being, is guilty of aggravated arson and shall be punished as a court-martial may direct.

“(b) SIMPLE ARSON.—Any person subject to this chapter who, willfully and maliciously, burns or sets fire to the property of another is guilty of simple arson and shall be punished as a court-martial may direct.

“(c) BURNING PROPERTY WITH INTENT TO DEFRAUD.—Any person subject to this chapter who, willfully, maliciously, and with intent to defraud, burns or sets fire to any property shall be punished as a court-martial may direct.”.

SEC. 5441. ASSAULT.

Section 928 of title 10, United States Code (article 128 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 928. Art. 128. Assault

“(a) ASSAULT.—Any person subject to this chapter who, unlawfully and with force or violence—

“(1) attempts to do bodily harm to another person;

“(2) offers to do bodily harm to another person; or

“(3) does bodily harm to another person;

is guilty of assault and shall be punished as a court-martial may direct.

“(b) AGGRAVATED ASSAULT.—Any person subject to this chapter—

“(1) who, with the intent to do bodily harm, offers to do bodily harm with a dangerous weapon; or

“(2) who, in committing an assault, inflicts substantial bodily harm, or grievous bodily harm on another person;

is guilty of aggravated assault and shall be punished as a court-martial may direct.

“(c) ASSAULT WITH INTENT TO COMMIT SPECIFIED OFFENSES.—

“(1) IN GENERAL.—Any person subject to this chapter who commits assault with intent to commit an offense specified in paragraph (2) shall be punished as a court-martial may direct.

“(2) OFFENSES SPECIFIED.—The offenses referred to in paragraph (1) are murder, voluntary manslaughter, rape, sexual assault, rape of a child, sexual assault of a child, robbery, arson, burglary, and kidnapping.”.

SEC. 5442. BURGLARY AND UNLAWFUL ENTRY.

Section 929 of title 10, United States Code (article 129 of the Uniform Code of Military Justice), and section 929a of such title (article 129a), as redesignated by section 5401(10) of this Act, are amended to read as follows:

“§ 929. Art. 129. Burglary; unlawful entry

“(a) BURGLARY.—Any person subject to this chapter who, with intent to commit an offense under this chapter, breaks and enters the building or structure of another shall be punished as a court-martial may direct.

“(b) UNLAWFUL ENTRY.—Any person subject to this chapter who unlawfully enters—

“(1) the real property of another; or

“(2) the personal property of another which amounts to a structure usually used for habitation or storage; shall be punished as a court-martial may direct.”.

SEC. 5443. STALKING.

Section 930 of title 10, United States Code (article 130 of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(11) of this Act, is amended to read as follows:

“§ 930. Art. 130. Stalking

“(a) IN GENERAL.—Any person subject to this chapter—

“(1) who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner;

“(2) who has knowledge, or should have knowledge, that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner; and

“(3) whose conduct induces reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner;

is guilty of stalking and shall be punished as a court-martial may direct.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘conduct’ means conduct of any kind, including use of surveillance, the mails, an interactive computer serv-

ice, an electronic communication service, or an electronic communication system.

“(2) The term ‘course of conduct’ means—

“(A) a repeated maintenance of visual or physical proximity to a specific person;

“(B) a repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person; or

“(C) a pattern of conduct composed of repeated acts evidencing a continuity of purpose.

“(3) The term ‘repeated’, with respect to conduct, means two or more occasions of such conduct.

“(4) The term ‘immediate family’, in the case of a specific person, means—

“(A) that person’s spouse, parent, brother or sister, child, or other person to whom he or she stands in loco parentis; or

“(B) any other person living in his or her household and related to him or her by blood or marriage.

“(5) The term ‘intimate partner’, in the case of a specific person, means—

“(A) a former spouse of the specific person, a person who shares a child in common with the specific person, or a person who cohabits with or has cohabited as a spouse with the specific person; or

“(B) a person who has been in a social relationship of a romantic or intimate nature with the specific person, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.”.

SEC. 5444. SUBORNATION OF PERJURY.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931 (article 131 of the Uniform Code of Military Justice), the following new section (article):

“§ 931a. Art. 131a. Subornation of perjury

“(a) *IN GENERAL.*—Any person subject to this chapter who induces and procures another person—

“(1) to take an oath; and

“(2) to falsely testify, depose, or state upon such oath; shall, if the conditions specified in subsection (b) are satisfied, be punished as a court-martial may direct.

“(b) *CONDITIONS.*—The conditions referred to in subsection (a) are the following:

“(1) The oath is administered with respect to a matter for which such oath is required or authorized by law.

“(2) The oath is administered by a person having authority to do so.

“(3) Upon the oath, the other person willfully makes or subscribes a statement.

“(4) The statement is material.

“(5) The statement is false.

“(6) When the statement is made or subscribed, the person subject to this chapter and the other person do not believe that the statement is true.”.

SEC. 5445. OBSTRUCTING JUSTICE.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931a (article 131a of the Uniform Code of Military Justice), as added by section 5444 of this Act, the following new section (article):

“§931b. Art. 131b. Obstructing justice

“Any person subject to this chapter who engages in conduct in the case of a certain person against whom the accused had reason to believe there were or would be criminal or disciplinary proceedings pending, with intent to influence, impede, or otherwise obstruct the due administration of justice shall be punished as a court-martial may direct.”.

SEC. 5446. MISPRISION OF SERIOUS OFFENSE.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931b (article 131b of the Uniform Code of Military Justice), as added by section 5445 of this Act, the following new section (article):

“§931c. Art. 131c. Misprision of serious offense

“Any person subject to this chapter—

“(1) who knows that another person has committed a serious offense; and

“(2) wrongfully conceals the commission of the offense and fails to make the commission of the offense known to civilian or military authorities as soon as possible;

shall be punished as a court-martial may direct.”.

SEC. 5447. WRONGFUL REFUSAL TO TESTIFY.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931c (article 131c of the Uniform Code of Military Justice), as added by section 5446 of this Act, the following new section (article):

“§931d. Art. 131d. Wrongful refusal to testify

“Any person subject to this chapter who, in the presence of a court-martial, a board of officers, a military commission, a court of inquiry, a preliminary hearing, or an officer taking a deposition, of or for the United States, wrongfully refuses to qualify as a witness or to answer a question after having been directed to do so by the person presiding shall be punished as a court-martial may direct.”.

SEC. 5448. PREVENTION OF AUTHORIZED SEIZURE OF PROPERTY.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931d (article 131d of the Uniform Code of Military Justice), as added by section 5447 of this Act, the following new section (article):

“§931e. Art. 131e. Prevention of authorized seizure of property

“Any person subject to this chapter who, knowing that one or more persons authorized to make searches and seizures are seizing, are about to seize, or are endeavoring to seize property, destroys, removes, or otherwise disposes of the property with intent to prevent the seizure thereof shall be punished as a court-martial may direct.”.

SEC. 5449. WRONGFUL INTERFERENCE WITH ADVERSE ADMINISTRATIVE PROCEEDING.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931f (article 131f of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(3) of this Act, the following new section (article):

“§931g. Art. 131g. Wrongful interference with adverse administrative proceeding

“Any person subject to this chapter who, having reason to believe that an adverse administrative proceeding is pending against any person subject to this chapter, wrongfully acts with the intent—

“(1) to influence, impede, or obstruct the conduct of the proceeding; or

“(2) otherwise to obstruct the due administration of justice; shall be punished as a court-martial may direct.”.

SEC. 5450. RETALIATION.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931g (article 131g of the Uniform Code of Military Justice), as added by section 5449 of this Act, the following new section (article):

“§932. Art. 132. Retaliation

“(a) IN GENERAL.—Any person subject to this chapter who, with the intent to retaliate against any person for reporting or planning to report a criminal offense, or making or planning to make a protected communication, or with the intent to discourage any person from reporting a criminal offense or making or planning to make a protected communication—

“(1) wrongfully takes or threatens to take an adverse personnel action against any person; or

“(2) wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person;

shall be punished as a court-martial may direct.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘protected communication’ means the following:

“(A) A lawful communication to a Member of Congress or an Inspector General.

“(B) A communication to a covered individual or organization in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of, any of the following:

“(i) A violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination.

“(ii) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

“(2) The term ‘Inspector General’ has the meaning given that term in section 1034(h) of this title.

“(3) The term ‘covered individual or organization’ means any recipient of a communication specified in clauses (i) through (v) of section 1034(b)(1)(B) of this title.

“(4) The term ‘unlawful discrimination’ means discrimination on the basis of race, color, religion, sex, or national origin.”.

SEC. 5451. EXTRATERRITORIAL APPLICATION OF CERTAIN OFFENSES.

Section 934 of title 10, United States Code (article 134 of the Uniform Code of Military Justice), is amended by adding at the end the following new sentence: “As used in the preceding sentence, the term ‘crimes and offenses not capital’ includes any conduct engaged in outside the United States, as defined in section 5 of title 18, that would constitute a crime or offense not capital if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18.”.

SEC. 5452. TABLE OF SECTIONS.

The table of sections at the beginning of subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended to read as follows:

“SUBCHAPTER X—PUNITIVE ARTICLES

- “Sec. Art.
 “877. Art. 77. Principals.
 “878. Art. 78. Accessory after the fact.
 “879. Art. 79. Conviction of offense charged, lesser included offenses, and attempts.
 “880. Art. 80. Attempts.
 “881. Art. 81. Conspiracy.
 “882. Art. 82. Soliciting commission of offenses.
 “883. Art. 83. Malingering.
 “884. Art. 84. Breach of medical quarantine.
 “885. Art. 85. Desertion.
 “886. Art. 86. Absence without leave.
 “887. Art. 87. Missing movement; jumping from vessel.
 “887a. Art. 87a. Resistance, flight, breach of arrest, and escape.
 “887b. Art. 87b. Offenses against correctional custody and restriction.
 “888. Art. 88. Contempt toward officials.
 “889. Art. 89. Disrespect toward superior commissioned officer; assault of superior commissioned officer.
 “890. Art. 90. Willfully disobeying superior commissioned officer.
 “891. Art. 91. Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer.
 “892. Art. 92. Failure to obey order or regulation.
 “893. Art. 93. Cruelty and maltreatment.
 “893a. Art. 93a. Prohibited activities with military recruit or trainee by person in position of special trust.
 “894. Art. 94. Mutiny or sedition.
 “895. Art. 95. Offenses by sentinel or lookout.
 “895a. Art. 95a. Disrespect toward sentinel or lookout.
 “896. Art. 96. Release of prisoner without authority; drinking with prisoner.
 “897. Art. 97. Unlawful detention.
 “898. Art. 98. Misconduct as prisoner.
 “899. Art. 99. Misbehavior before the enemy.
 “900. Art. 100. Subordinate compelling surrender.
 “901. Art. 101. Improper use of countersign.
 “902. Art. 102. Forcing a safeguard.
 “903. Art. 103. Spies.
 “903a. Art. 103a. Espionage.
 “903b. Art. 103b. Aiding the enemy.
 “904. Art. 104. Public records offenses.
 “904a. Art. 104a. Fraudulent enlistment, appointment, or separation.
 “904b. Art. 104b. Unlawful enlistment, appointment, or separation.
 “905. Art. 105. Forgery.
 “905a. Art. 105a. False or unauthorized pass offenses.
 “906. Art. 106. Impersonation of officer, noncommissioned or petty officer, or agent or official.
 “906a. Art. 106a. Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button.

- “907. Art. 107. *False official statements; false swearing.*
 “907a. Art. 107a. *Parole violation.*
 “908. Art. 108. *Military property of the United States—Loss damage, destruction, or wrongful disposition.*
 “908a. Art. 108a. *Captured or abandoned property.*
 “909. Art. 109. *Property other than military property of the United States—Waste, spoilage, or destruction.*
 “909a. Art. 109a. *Mail matter: wrongful taking, opening, etc..*
 “910. Art. 110. *Improper hazarding of vessel or aircraft.*
 “911. Art. 111. *Leaving scene of vehicle accident.*
 “912. Art. 112. *Drunkenness and other incapacitation offenses.*
 “912a. Art. 112a. *Wrongful use, possession, etc., of controlled substances.*
 “913. Art. 113. *Drunken or reckless operation of a vehicle, aircraft, or vessel.*
 “914. Art. 114. *Endangerment offenses.*
 “915. Art. 115. *Communicating threats.*
 “916. Art. 116. *Riot or breach of peace.*
 “917. Art. 117. *Provoking speeches or gestures.*
 “918. Art. 118. *Murder.*
 “919. Art. 119. *Manslaughter.*
 “919a. Art. 119a. *Death or injury of an unborn child.*
 “919b. Art. 119b. *Child endangerment.*
 “920. Art. 120. *Rape and sexual assault generally.*
 “920a. Art. 120a. *Mails: deposit of obscene matter.*
 “920b. Art. 120b. *Rape and sexual assault of a child.*
 “920c. Art. 120c. *Other sexual misconduct.*
 “921. Art. 121. *Larceny and wrongful appropriation.*
 “921a. Art. 121a. *Fraudulent use of credit cards, debit cards, and other access devices.*
 “921b. Art. 121b. *False pretenses to obtain services.*
 “922. Art. 122. *Robbery.*
 “922a. Art. 122a. *Receiving stolen property.*
 “923. Art. 123. *Offenses concerning Government computers.*
 “923a. Art. 123a. *Making, drawing, or uttering check, draft, or order without sufficient funds.*
 “924. Art. 124. *Frauds against the United States.*
 “924a. Art. 124a. *Bribery.*
 “924b. Art. 124b. *Graft.*
 “925. Art. 125. *Kidnapping.*
 “926. Art. 126. *Arson; burning property with intent to defraud.*
 “927. Art. 127. *Extortion.*
 “928. Art. 128. *Assault.*
 “928a. Art. 128a. *Maiming.*
 “929. Art. 129. *Burglary; unlawful entry.*
 “930. Art. 130. *Stalking.*
 “931. Art. 131. *Perjury.*
 “931a. Art. 131a. *Subornation of perjury.*
 “931b. Art. 131b. *Obstructing justice.*
 “931c. Art. 131c. *Misprision of serious offense.*
 “931d. Art. 131d. *Wrongful refusal to testify.*
 “931e. Art. 131e. *Prevention of authorized seizure of property.*
 “931f. Art. 131f. *Noncompliance with procedural rules.*
 “931g. Art. 131g. *Wrongful interference with adverse administrative proceeding.*
 “932. Art. 132. *Retaliation.*
 “933. Art. 133. *Conduct unbecoming an officer and a gentleman.*
 “934. Art. 134. *General article.*”

TITLE LXI—MISCELLANEOUS PROVISIONS

- Sec. 5501. *Technical amendments relating to courts of inquiry.*
 Sec. 5502. *Technical amendment to Article 136.*
 Sec. 5503. *Articles of Uniform Code of Military Justice to be explained to officers upon commissioning.*
 Sec. 5504. *Military justice case management; data collection and accessibility.*

SEC. 5501. TECHNICAL AMENDMENTS RELATING TO COURTS OF INQUIRY.

Section 935(c) of title 10, United States Code (article 135(c) of the Uniform Code of Military Justice), is amended—

(1) by striking “(c) Any person” and inserting “(c)(1) Any person”;

(2) by designating the second and third sentences as paragraphs (2) and (3), respectively; and

(3) in paragraph (2), as so designated, by striking “subject to this chapter or employed by the Department of Defense” and inserting “who is (A) subject to this chapter, (B) employed by the Department of Defense, or (C) with respect to the Coast Guard, employed by the department in which the Coast Guard is operating when it is not operating as a service in the Navy, and”.

SEC. 5502. TECHNICAL AMENDMENT TO ARTICLE 136.

Section 936 of title 10, United States Code (article 136 of the Uniform Code of Military Justice), is amended by striking the last five words in the section heading.

SEC. 5503. ARTICLES OF UNIFORM CODE OF MILITARY JUSTICE TO BE EXPLAINED TO OFFICERS UPON COMMISSIONING.

Section 937 of title 10, United States Code (article 137 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a), by striking “(a)(1) The sections of this title (articles of the Uniform Code of Military Justice)” and inserting “(a) ENLISTED MEMBERS.—(1) The sections (articles) of this chapter (the Uniform Code of Military Justice)”;

(2) by striking subsection (b); and

(3) by adding after subsection (a) the following new subsections:

“(b) OFFICERS.—(1) The sections (articles) of this chapter (the Uniform Code of Military Justice) specified in paragraph (2) shall be carefully explained to each officer at the time of (or within six months after)—

“(A) the initial entrance of the officer on active duty as an officer; or

“(B) the initial commissioning of the officer in a reserve component.

“(2) This subsection applies with respect to the sections (articles) specified in subsection (a)(3) and such other sections (articles) as the Secretary concerned may prescribe by regulation.

“(c) TRAINING FOR CERTAIN OFFICERS.—Under regulations prescribed by the Secretary concerned, officers with the authority to convene courts-martial or to impose non-judicial punishment shall receive periodic training regarding the purposes and administration of this chapter. Under regulations prescribed by the Secretary of Defense, officers assigned to duty in a joint command or a combatant command, who have such authority, shall receive additional specialized training regarding the purposes and administration of this chapter with respect to joint commands and the combatant commands.

“(d) AVAILABILITY AND MAINTENANCE OF TEXT.—The text of this chapter (the Uniform Code of Military Justice) and the text of the regulations prescribed by the President under this chapter shall be—

“(1) made available to a member on active duty or to a member of a reserve component, upon request by the member, for the member’s personal examination; and

“(2) maintained by the Secretary of Defense in electronic formats that are updated periodically and made available on the Internet.”.

SEC. 5504. MILITARY JUSTICE CASE MANAGEMENT; DATA COLLECTION AND ACCESSIBILITY.

(a) *IN GENERAL.*—Subchapter XI of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section (article):

“§ 940a. Art. 140a. Case management; data collection and accessibility

“The Secretary of Defense shall prescribe uniform standards and criteria for conduct of each of the following functions at all stages of the military justice system, including pretrial, trial, post-trial, and appellate processes, using, insofar as practicable, the best practices of Federal and State courts:

“(1) Collection and analysis of data concerning substantive offenses and procedural matters in a manner that facilitates case management and decision making within the military justice system, and that enhances the quality of periodic reviews under section 946 of this title (article 146).

“(2) Case processing and management.

“(3) Timely, efficient, and accurate production and distribution of records of trial within the military justice system.

“(4) Facilitation of access to docket information, filings, and records, taking into consideration restrictions appropriate to judicial proceedings and military records.”.

(b) *EFFECTIVE DATES.*—

(1) *IN GENERAL.*—Not later than 2 years after the date of the enactment of this Act, the Secretary of Defense shall carry out section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), as added by subsection (a).

(2) *STANDARDS AND CRITERIA.*—Not later than 4 years after the date of the enactment of this Act, the standards and criteria under section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), as added by subsection (a), shall take effect.

TITLE LXII—MILITARY JUSTICE REVIEW PANEL AND ANNUAL REPORTS

Sec. 5521. *Military Justice Review Panel.*

Sec. 5522. *Annual reports.*

SEC. 5521. MILITARY JUSTICE REVIEW PANEL.

Section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 946. Art. 146. Military Justice Review Panel

“(a) *ESTABLISHMENT.*—The Secretary of Defense shall establish a panel to conduct independent periodic reviews and assessments of the operation of this chapter. The panel shall be known as the ‘Military Justice Review Panel’ (in this section referred to as the ‘Panel’).

“(b) *MEMBERS.*—

“(1) *NUMBER OF MEMBERS.*—The Panel shall be composed of thirteen members.

“(2) *APPOINTMENT OF CERTAIN MEMBERS.*—Each of the following shall appoint one member of the Panel:

“(A) *The Secretary of Defense (in consultation with the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy).*

“(B) *The Attorney General.*

“(C) *The Judge Advocates General of the Army, Navy, Air Force, and Coast Guard, and the Staff Judge Advocate to the Commandant of the Marine Corps.*

“(3) *APPOINTMENT OF REMAINING MEMBERS BY SECRETARY OF DEFENSE.*—The Secretary of Defense shall appoint the remaining members of the Panel, taking into consideration recommendations made by each of the following:

“(A) *The chairman and ranking minority member of the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.*

“(B) *The Chief Justice of the United States.*

“(C) *The Chief Judge of the United States Court of Appeals for the Armed Forces.*

“(c) *QUALIFICATIONS OF MEMBERS.*—The members of the Panel shall be appointed from among private United States citizens with expertise in criminal law, as well as appropriate and diverse experience in investigation, prosecution, defense, victim representation, or adjudication with respect to courts-martial, Federal civilian courts, or State courts.

“(d) *CHAIR.*—The Secretary of Defense shall select the chair of the Panel from among the members.

“(e) *TERM; VACANCIES.*—Each member shall be appointed for a term of eight years, and no member may serve more than one term. Any vacancy shall be filled in the same manner as the original appointment.

“(f) *REVIEWS AND REPORTS.*—

“(1) *INITIAL REVIEW OF RECENT AMENDMENTS TO UCMJ.*—During fiscal year 2020, the Panel shall conduct an initial review and assessment of the implementation of the amendments made to this chapter during the preceding five years. In conducting the initial review and assessment, the Panel may review such other aspects of the operation of this chapter as the Panel considers appropriate.

“(2) *SENTENCING DATA COLLECTION AND REPORT.*—During fiscal year 2020, the Panel shall gather and analyze sentencing data collected from each of the armed forces from general and special courts-martial applying offense-based sentencing under section 856 of this title (article 56). The sentencing data shall include the number of accused who request member sentencing and the number who request sentencing by military judge alone, the offenses which the accused were convicted of, and the resulting sentence for each offense in each case. The Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall provide the sentencing data in the format and for the duration established by the chair of the Panel. Not later than October 31, 2020, the Panel shall submit to the Committees on Armed Services of the Senate and the House of Representatives through the Secretary of Defense a re-

port setting forth the Panel's findings and recommendations on the need for sentencing reform.

"(3) *PERIODIC COMPREHENSIVE REVIEWS.*—During fiscal year 2024 and every eight years thereafter, the Panel shall conduct a comprehensive review and assessment of the operation of this chapter.

"(4) *PERIODIC INTERIM REVIEWS.*—During fiscal year 2028 and every eight years thereafter, the Panel shall conduct an interim review and assessment of such other aspects of the operation of this chapter as the Panel considers appropriate. In addition, at the request of the Secretary of Defense, the Panel may, at any time, review and assess other specific matters relating to the operation of this chapter.

"(5) *REPORTS.*—Not later than December 31 of each year during which the Panel conducts a review and assessment under this subsection, the Panel shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the results of such review and assessment, including the Panel's findings and recommendations.

"(g) *HEARINGS.*—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers appropriate to carry out its duties under this section.

"(h) *INFORMATION FROM FEDERAL AGENCIES.*—Upon request of the chair of the Panel, a department or agency of the Federal Government shall provide information that the Panel considers necessary to carry out its duties under this section.

"(i) *ADMINISTRATIVE MATTERS.*—

"(1) *MEMBERS TO SERVE WITHOUT PAY.*—Members of the Panel shall serve without pay, but 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, while away from their homes or regular places of business in the performance of services for the Panel.

"(2) *STAFFING AND RESOURCES.*—The Secretary of Defense shall provide staffing and resources to support the Panel.

"(j) *FEDERAL ADVISORY COMMITTEE ACT.*—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel."

SEC. 5522. ANNUAL REPORTS.

Subchapter XII of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section (article):

"§ 946a. Art. 146a. Annual reports

"(a) *COURT OF APPEALS FOR THE ARMED FORCES.*—Not later than December 31 each year, the Court of Appeals for the Armed Forces shall submit a report that, with respect to the previous fiscal year, provides information on the number and status of completed and pending cases before the Court, and such other matters as the Court considers appropriate regarding the operation of this chapter.

"(b) *SERVICE REPORTS.*—Not later than December 31 each year, the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall each submit a report, with respect to the preceding fiscal year, containing the following:

"(1) Data on the number and status of pending cases.

“(2) Information on the appellate review process, including—

“(A) information on compliance with processing time goals;

“(B) descriptions of the circumstances surrounding cases in which general or special court-martial convictions were (i) reversed because of command influence or denial of the right to speedy review or (ii) otherwise remitted because of loss of records of trial or other administrative deficiencies; and

“(C) an analysis of each case in which a provision of this chapter was held unconstitutional.

“(3)(A) An explanation of measures implemented by the armed force concerned to ensure the ability of judge advocates—

“(i) to participate competently as trial counsel and defense counsel in cases under this chapter;

“(ii) to preside as military judges in cases under this chapter; and

“(iii) to perform the duties of Special Victims’ Counsel, when so designated under section 1044e of this title.

“(B) The explanation under subparagraph (A) shall specifically identify the measures that focus on capital cases, national security cases, sexual assault cases, and proceedings of military commissions.

“(4) The independent views of each Judge Advocate General and of the Staff Judge Advocate to the Commandant of the Marine Corps as to the sufficiency of resources available within the respective armed forces, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions.

“(5) Such other matters regarding the operation of this chapter as may be appropriate.

“(c) SUBMISSION.—Each report under this section shall be submitted—

“(1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

“(2) to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy.”.

TITLE LXIII—CONFORMING AMENDMENTS AND EFFECTIVE DATES

Sec. 5541. Amendments to UCMJ subchapter tables of sections.

Sec. 5542. Effective dates.

SEC. 5541. AMENDMENTS TO UCMJ SUBCHAPTER TABLES OF SECTIONS.

The tables of sections for the specified subchapters of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), are amended as follows:

(1) SUBCHAPTER II; APPREHENSION AND RESTRAINT.—The table of sections at the beginning of subchapter II is amended—

(A) by striking the item relating to section 810 (article 10) and inserting the following new item:

“810. Art. 10. Restraint of persons charged.”; and

- (B) by striking the item relating to section 812 (article 12) and inserting the following new item:
- “812. Art. 12. Prohibition of confinement of members of the armed forces with enemy prisoners and certain others.”.
- (2) SUBCHAPTER V; COMPOSITION OF COURTS-MARTIAL.—The table of sections at the beginning of subchapter V is amended—
- (A) by striking the item relating to section 825a (article 25a) and inserting the following new item:
- “825. Art. 25a. Number of court-martial members in capital cases.”;
- (B) by inserting after the item relating to section 826 (article 26) the following new item:
- “826a. Art. 26a. Military magistrates.”; and
- (C) by striking the item relating to section 829 (article 29) and inserting the following new item:
- “829. Art. 29. Assembly and impaneling of members; detail of new members and military judges.”.
- (3) SUBCHAPTER VI; PRE-TRIAL PROCEDURE.—The table of sections at the beginning of subchapter VI is amended—
- (A) by inserting after the item relating to section 830 (article 30) the following new item:
- “830. Art. 30a. Certain proceedings conducted before referral.”; and
- (B) by striking the items relating to sections 832 through 835 (articles 32 through 35) and inserting the following new items:
- “832. Art. 32. Preliminary hearing required before referral to general court-martial.
 “833. Art. 33. Disposition guidance.
 “834. Art. 34. Advice to convening authority before referral for trial.
 “835. Art. 35. Service of charges; commencement of trial.”.
- (4) SUBCHAPTER VII; TRIAL PROCEDURE.—The table of sections at the beginning of subchapter VII is amended—
- (A) by striking the items relating to sections 846 through 848 (articles 46 through 48) and inserting the following new items:
- “846. Art. 46. Opportunity to obtain witnesses and other evidence in trials by court-martial.
 “847. Art. 47. Refusal of person not subject to chapter to appear, testify, or produce evidence.
 “848. Art. 48. Contempt.”;
- (B) by striking the item relating to section 850 (article 50) and inserting the following new item:
- “850. Art. 50. Admissibility of sworn testimony from records of courts of inquiry.”;
- (C) by striking the items relating to section 852 (article 52) and inserting the following new item:
- “852. Art. 52. Votes required for conviction, sentencing, and other matters.”; and
- (D) by striking the item relating to section 853 (article 53) and inserting the following new items:
- “853. Art. 53. Findings and sentencing.
 “853a. Art. 53a. Plea agreements.”.
- (5) SUBCHAPTER VIII; SENTENCES.—The table of sections at the beginning of subchapter VIII is amended—
- (A) by striking the item relating to section 856 (article 56) and inserting the following new item:
- “856. Art. 56. Sentencing.”; and
- (B) by striking the items relating to sections 856a and 857a (articles 56a and 57a).
- (6) SUBCHAPTER IX; POST-TRIAL PROCEDURE.—The table of sections at the beginning of subchapter IX is amended—

(A) by striking the items relating to sections 860 and 61 (articles 60 and 61) and inserting the following new items:

“860. Art. 60. Post-trial processing in general and special courts-martial.

“860a. Art. 60a. Limited authority to act on sentence in specified post-trial circumstances.

“860b. Art. 60b. Post-trial actions in summary courts-martial and certain general and special courts-martial.

“860c. Art. 60c. Entry of judgment.

“861. Art. 61. Waiver of right to appeal; withdrawal of appeal.”;

(B) by striking the items relating to sections 864 through 866 (articles 64 through 66) and inserting the following new items:

“864. Art. 64. Judge advocate review of finding of guilty in summary court-martial.

“865. Art. 65. Transmittal and review of records.

“866. Art. 66. Courts of Criminal Appeals.”;

(C) by striking the item relating to section 869 (article 69) and inserting the following new item:

“869. Art. 69. Review by Judge Advocate General.”; and

(D) by striking the item relating to section 871 (article 71).

(7) SUBCHAPTER XI; MISCELLANEOUS PROVISIONS.—The table of sections at the beginning of subchapter XI is amended—

(A) by striking the item relating to section 936 (article 136) and inserting the following new item:

“936. Art. 136. Authority to administer oaths.”; and

(B) by inserting after the item relating to section 940 (article 140) the following new item:

“940a. Art. 140a. Case management; data collection and accessibility.”.

(8) SUBCHAPTER XII; UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—The table of sections at the beginning of subchapter XII is amended by striking the item relating to section 946 (article 146) and inserting the following new items:

“946. Art. 146. Military Justice Review Panel.

“946a. Art. 146a. Annual reports.”.

SEC. 5542. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this division, the amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act.

(b) IMPLEMENTING REGULATIONS.—The President shall prescribe regulations implementing this division and the amendments made by this division by not later than one year after the date of the enactment of this Act, except as otherwise provided in this division.

(c) APPLICABILITY.—

(1) IN GENERAL.—Subject to the provisions of this division and the amendments made by this division, the President shall prescribe in regulations whether, and to what extent, the amendments made by this division shall apply to a case in which one or more actions under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), have been taken before the effective date of such amendments.

(2) *INAPPLICABILITY TO CASES IN WHICH CHARGES ALREADY REFERRED TO TRIAL ON EFFECTIVE DATE.*—Except as otherwise provided in this division or the amendments made by this division, the amendments made by this division shall not apply to any case in which charges are referred to trial by court-martial before the effective date of such amendments. Proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.

(3) *PUNITIVE ARTICLE AMENDMENTS.*—

(A) *IN GENERAL.*—The amendments made by title LX shall not apply to any offense committed before the effective date of such amendments.

(B) *CONSTRUCTION.*—Nothing in subparagraph (A) shall be construed to invalidate the prosecution of any offense committed before the effective date of such amendments.

(4) *SENTENCING AMENDMENTS.*—The regulations prescribing the authorized punishments for any offense committed before the effective date of the amendments made by title LVIII shall apply to the authorized punishments for the offense, as in effect at the time the offense is committed.

And the House agree to the same.

From the Committee on Armed Services, for consideration of the Senate bill and the House amendment, and modifications committed to conference:

MAC THORNBERRY,
 J. RANDY FORBES,
 JEFF MILLER of Florida,
 JOE WILSON of South Carolina,
 FRANK A. LOBIONDO,
 MICHAEL R. TURNER,
 JOHN KLINE,
 MIKE ROGERS of Alabama,
 TRENT FRANKS of Arizona,
 K. MICHAEL CONAWAY,
 DOUG LAMBORN,
 ROBERT J. WITTMAN,
 CHRISTOPHER P. GIBSON,
 VICKY HARTZLER,
 JOSEPH J. HECK of Nevada,
 ELISE M. STEFANIK,
 ADAM SMITH of Washington,
 LORETTA SANCHEZ,
 SUSAN A. DAVIS of California,
 JAMES R. LANGEVIN,
 RICK LARSEN of Washington,
 JIM COOPER,
 MADELEINE Z. BORDALLO,
 JOE COURTNEY,
 NIKI TSONGAS,
 JOHN GARAMENDI,
 HENRY C. "HANK" JOHNSON, Jr.,
 JACKIE SPEIER,
 SCOTT H. PETERS,

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X:

DEVIN NUNES,
MIKE POMPEO,

From the Committee on Education and the Workforce, for consideration of secs. 571–74 and 578 of the Senate bill, and secs. 571, 573, 1098E, and 3512 of the House amendment, and modifications committed to conference:

TIM WALBERG,
BRETT GUTHRIE,
ROBERT C. “BOBBY” SCOTT,

From the Committee on Energy and Commerce, for consideration of secs. 3112 and 3123 of the Senate bill, and secs. 346, 601, 749, 1045, 1090, 1095, 1673, 3119A, and 3119C of the House amendment, and modifications committed to conference:

ROBERT E. LATTA,
BILL JOHNSON of Ohio,

From the Committee on Foreign Affairs, for consideration of secs. 828, 1006, 1007, 1050, 1056, 1089, 1204, 1211, 1221–23, 1231, 1232, 1242, 1243, 1247, 1252, 1253, 1255–58, 1260, 1263, 1264, 1271–73, 1276, 1283, 1301, 1302, 1531–33, and 1662 of the Senate bill, and secs. 926, 1011, 1013, 1083, 1084, 1098K, 1099B, 1099C, 1201, 1203, 1214, 1221–23, 1227, 1229, 1233, 1235, 1236, 1245, 1246, 1250, 1259A–59E, 1259J, 1259L, 1259P, 1259Q, 1259U, 1261, 1262, 1301–03, 1510, 1531–33, 1645, 1653, and 2804 of the House amendment, and modifications committed to conference:

EDWARD R. ROYCE,
LEE M. ZELDIN,

From the Committee on Homeland Security, for consideration of secs. 564 and 1091 of the Senate bill, and secs. 1097, 1869, 1869A, and 3510 of the House amendment, and modifications committed to conference:

MICHAEL T. MCCAUL,
DANIEL M. DONOVAN, Jr.,
BENNIE G. THOMPSON,

From the Committee on the Judiciary, for consideration of secs. 829J, 829K, 944, 963, 1006, 1023–25, 1053, 1093, 1283, 3303, and 3304 of the Senate bill, and secs. 598, 1090, 1098H, 1216, 1261, and 3608 of the House amendment, and modifications committed to conference:

BOB GOODLATTE,
DARRELL E. ISSA,

From the Committee on Natural Resources, for consideration of secs. 601, 2825, subtitle D of title XXVIII, and sec. 2852 of the Senate bill, and secs. 312, 601, 1090, 1098H, 2837, 2839, 2839A, subtitle E of title XXVIII, secs. 2852, 2854, 2855, 2864–66, title XXX, secs. 3508, 7005, and title LXXIII of the House amendment, and modifications committed to conference:

PAUL COOK,
CRESENT HARDY,

From the Committee on Oversight and Government Reform, for consideration of secs. 339, 703, 819, 821, 829H, 829I, 861, 944, 1048, 1054, 1097, 1103-07, 1109-13, 1121, 1124, 1131-33, 1135 and 1136 of the Senate bill, and secs. 574, 603, 807, 821, 1048, 1088, 1095, 1098L, 1101, 1102, 1104-06, 1108-11, 1113, 1259C, and 1631 of the House amendment, and modifications committed to conference:

JASON CHAFFETZ,
STEVE RUSSELL,

From the Committee on Science, Space, and Technology, for consideration of sec. 874 of the Senate bill and secs. 1605, 1673, and title XXXIII of the House amendment, and modifications committed to conference:

EDDIE BERNICE JOHNSON of
Texas,

From the Committee on Small Business, for consideration of secs. 818, 838, 874, and 898 of the Senate bill, and title XVIII of the House amendment, and modifications committed to conference:

STEVE CHABOT,
STEPHEN KNIGHT,

From the Committee on Transportation and Infrastructure, for consideration of secs. 541, 562, 601, 961, 3302-07, 3501, and 3502 of the Senate bill, and secs. 343, 601, 731, 835, 1043, 1671, 3119C, 3501, 3504, 3509, 3512, and title XXXVI of the House amendment, and modifications committed to conference:

DUNCAN HUNTER,
DAVID ROUZER,
SEAN PATRICK MALONEY of New
York,

From the Committee on Veterans' Affairs, for consideration of secs. 706, 755, and 1431 of the Senate bill, and secs. 741, 1421, and 1864 of the House amendment, and modifications committed to conference:

DAVID P. ROE of Tennessee,
MIKE BOST,

From the Committee on Ways and Means, for consideration of sec. 1271 of the Senate bill, and modifications committed to conference:

KEVIN BRADY of Texas,
DAVID G. REICHERT,

Managers on the Part of the House.

JOHN MCCAIN,
JAMES M. INHOFE,
JEFF SESSIONS,
ROGER F. WICKER,
KELLY AYOTTE,
DEB FISCHER,
TOM COTTON,
MIKE ROUNDS,
JONI ERNST,
THOM TILLIS,
DAN SULLIVAN,

LINDSEY GRAHAM,
TED CRUZ,
JACK REED,
BILL NELSON,
CLAIRE MCCASKILL,
JOE MANCHIN III,
JEANNE SHAHEEN,
RICHARD BLUMENTHAL,
JOE DONNELLY,
MAZIE K. HIRONO,
TIM KAINE,
ANGUS S. KING, Jr.,
MARTIN HEINRICH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF
CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2943), to authorize appropriations for fiscal year 2017 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Compliance with rules of the House of Representatives and Senate regarding earmarks and congressionally directed spending items

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives and Rule XLIV(3) of the Standing Rules of the Senate, neither this conference report nor the accompanying joint statement of managers contains any congressional earmarks, congressionally directed spending items, limited tax benefits, or limited tariff benefits, as defined in such rules.

Summary of discretionary authorizations and budget authority implication

The budget request for national defense discretionary programs within the jurisdiction of the Committees on Armed Services of the Senate and the House of Representatives for fiscal year 2017 was \$608.0 billion. Of this amount, \$524.0 billion was requested for base Department of Defense programs, \$64.6 billion was requested for overseas contingency operations of which \$5.1 billion was for base requirements, \$19.2 billion was requested for national security programs in the Department of Energy and the Defense Nuclear Facilities Safety Board, and \$0.2 billion for the Maritime Security Program.

The conference agreement would authorize \$611.2 billion in fiscal year 2017, including \$523.7 billion for base Department of Defense programs, \$67.8 billion for overseas contingency operations of

which \$8.3 billion was for base requirements, \$19.4 billion for national security programs in the Department of Energy and the Defense Nuclear Facilities Safety Board, and \$0.3 billion for the Maritime Security Program.

The two tables preceding the detailed program adjustments in Division D of the accompanying joint statement of managers summarize the discretionary authorizations in the agreement and the equivalent budget authority levels for fiscal year 2017 defense programs.

Budgetary effects of this Act (sec. 4)

The Senate bill contained a provision (sec. 4) that would require that the budgetary effects of this Act be determined in accordance with the procedures established in the Statutory Pay-As-You-Go Act of 2010 (title I of Public Law 111–139).

The House amendment contained no similar provision.

The House recedes.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Authorization of appropriations (sec. 101)

The Senate bill contained a provision (sec. 101) that would authorize appropriations for procurement at the levels identified in section 4101 of division D of this Act.

The House amendment contained an identical provision (sec. 101).

The conference agreement includes this provision.

Subtitle B—Army Programs

Multiyear procurement authority for AH–64E Apache helicopters (sec. 111)

The Senate bill contained a provision (sec. 113) that would authorize the Secretary of the Army to enter into a multiyear contract for AH–64E Apache helicopters for fiscal years 2017 through 2021.

The House amendment contained an identical provision (sec. 111).

The conference agreement includes this provision.

Multiyear procurement authority for UH–60M and HH–60M Black Hawk helicopters (sec. 112)

The Senate bill contained a provision (sec. 112) that would authorize the Secretary of the Army to enter into a multiyear contract for UH–60M/HH–60M Black Hawk helicopters for fiscal years 2017 through 2021.

The House amendment contained a similar provision (sec. 111) that would authorize the Secretary of the Army to enter into one or more multiyear contracts for UH–60M and HH–60M Black Hawk helicopters beginning in fiscal year 2017, in accordance with section 2306b of title 10, United States Code.

The Senate recedes.

Distributed Common Ground System—Army increment 1 (sec. 113)

The Senate bill contained a provision (sec. 111) that would require the Secretary of the Army to improve and tailor training for units equipped with the Distributed Common Ground System—Army Increment 1. The provision would also require the Secretary of the Army to rapidly identify and field a commercially available capability that meets tactical requirements, can integrate at the tactical unit level, is substantially easier for personnel to use, and requires less training.

The House amendment contained no similar provision.

The House recedes with an amendment that would allow the Secretary of Defense to waive limitations if any adversely affect ongoing operational activities.

Assessment of certain capabilities of the Department of the Army (sec. 114)

The House amendment contained a provision (Sec. 113) that would require the Secretary of Defense, in consultation with the Secretary of the Army and the Chief of Staff of the Army, to provide an assessment to the congressional defense committees by April 1, 2017, of the ways, and associated costs, to reduce or eliminate shortfalls in responsiveness and capacity of the following capabilities:

(1) AH-64-equipped Attack Reconnaissance Battalion capacity to meet future needs;

(2) Air defense artillery (ADA) capacity, responsiveness, and the capability of short range ADA to meet existing and emerging threats (including unmanned aerial systems, cruise missiles, and manned aircraft), including an assessment of the potential for commercial-off-the-shelf solutions;

(3) Chemical, biological, radiological, and nuclear capabilities and modernization;

(4) Field artillery capabilities and the changes in doctrine and war plans resulting from the memorandum of the Secretary of Defense dated June 19, 2008, regarding the Department of Defense policy on cluster munitions and unintended harm to civilians, as well as required modernization or munition inventory shortfalls;

(5) Fuel distribution and water purification capacity and responsiveness;

(6) Army watercraft and port opening capabilities and responsiveness;

(7) Transportation (fuel, water, and cargo) capacity and responsiveness;

(8) Military police capacity; and

(9) Tactical mobility and tactical wheeled vehicle capacity and capability, to include adequacy of heavy equipment prime movers.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle C—Navy Programs

Determination of vessel delivery dates (sec. 121)

The Senate bill contained a provision (sec. 123) that would require the Secretary of the Navy to deem ship delivery to occur at the completion of the final phase of construction.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify the determination of vessel delivery dates and include such determination in title 10, United States Code.

Incremental funding for detail design and construction of LHA replacement ship designated LHA 8 (sec. 122)

The Senate bill contained a provision (sec. 121) that would allow the Secretary of the Navy to enter into and incrementally fund a contract for detail design and construction of the LHA Replacement ship, designated LHA-8. Subject to the availability of appropriations, funds for payments under the contract may be provided from amounts authorized to be appropriated for the Department of Defense for Shipbuilding and Conversion, Navy, for fiscal years 2017 and 2018.

The House amendment contained a similar provision (sec. 123).

The House recedes.

Littoral Combat Ship (sec. 123)

The Senate bill contained a provision (sec. 122) that would require an annual report on Littoral Combat Ship (LCS) mission packages, a certification on the acquisition inventory objective of LCS mission packages, a limitation on the use of funds to revise or deviate from revision three of the LCS acquisition strategy, and a repeal of a reporting requirement related to LCS mission modules.

The House amendment contained a similar provision (sec. 126).

The House recedes with an amendment that would:

(1) Replace the limitation on the use of funds to revise or deviate from revision three of the LCS acquisition strategy with a requirement that the Secretary of Defense provide a certification to the congressional defense committees prior to a revision or deviation from revision three of the LCS acquisition strategy. The conferees' intent is this subsection be limited to those revisions or deviations that would result in a change to: the acquisition inventory objective of 40 ships, annual procurement quantities through fiscal year 2021, or the planned down-select to a single LCS prime contractor no later than fiscal year 2019; and

(2) Prohibit the Secretary of Defense from selecting a single contractor for the LCS or frigate program unless such selection is conducted using competitive procedures, performed for the purpose of constructing a frigate class ship, and occurs only after a frigate design has reached sufficient maturity and completeness.

Limitation on use of sole-source shipbuilding contracts for certain vessels (sec. 124)

The Senate bill contained a provision (sec. 124) that would prohibit funds from being used to enter into or prepare to enter into sole source contracts for one or more Joint High Speed Vessels (JHSV) or Expeditionary Fast Transports (EPF) unless the Secretary of the Navy submits to the congressional defense committees a certification and a report.

The House amendment contained no similar provision.

The House recedes.

Limitation on availability of funds for the Advanced Arresting Gear Program (sec. 125)

The Senate bill contained a provision (sec. 125) that would limit funds for the Advanced Arresting Gear (AAG) to be installed on USS Enterprise (CVN-80) until the Secretary of Defense submits to the congressional defense committees the report described under section 2433a(c)(2) of title 10, United States Code, for the AAG program.

The provision would also direct the Secretary of Defense to deem the 2009 AAG acquisition program baseline as the original baseline estimate and to execute the requirements of sections 2433 and 2433a of title 10, United States Code, as though the Department had submitted a Selected Acquisition Report with this baseline estimate included. This action would provide clarity on the original baseline estimate, which is a necessary element of a Nunn-McCurdy review.

The House amendment contained no similar provision.

The House recedes with an amendment that would:

(1) Require the Navy to report on the AAG program in accordance with section 2432 of title 10, United States Code, which deals with Selected Acquisition Reports, instead of reporting in accordance with section 2433a(c) (2) which deals with critical cost growth in major defense acquisition programs;

(2) Add a limitation of funds for the AAG to be installed on USS John F. Kennedy (CVN-79) unless the Milestone Decision Authority (MDA) determines that AAG should be installed on that ship, and the MDA submits notification of such determination to the congressional defense committees;

(3) Establish the original baseline estimate for the AAG program and require the Secretary of Defense to execute the requirements of sections 2433 and 2433a of title 10, United States Code, but exempt the Department from having to rescind the milestone decision approval for the AAG program during the review required by those provisions; and

(4) During the review required by section 2433a of title 10, United States Code, allow the Secretary of Defense to approve contract action or actions to enter a new contract, exercise an option under an existing contract, or otherwise extend the scope of an existing contract under the AAG program for CVN-80 only if the MDA, on a non-delegable basis, were to determine that such action would be needed to appropriately restructure the program as intended by the Secretary of Defense.

The conferees note that, although the AAG program is now being managed as a Major Defense Acquisition Program, it began more than 10 years ago as an Acquisition Category II program, which limited transparency and insight of the Navy's acquisition and contract management. In 2015, the Comptroller General reported that the Department of Defense needed a better approach to manage Acquisition Category II programs, particularly those programs that have the potential to become Major Defense Acquisition Programs.

Therefore, the conferees direct the Comptroller General to review no fewer than five Navy aircraft launch and recovery equipment (ALRE) Acquisition Category II programs to determine:

(1) The roles and responsibilities for acquiring ALRE systems for major ship programs, and the relationship of these programs to the Navy's overall acquisition of the ship platform;

(2) How the acquisition and contracting practices for these programs compare to guidance, regulations, and best practices for acquisition management;

(3) How the Navy manages cost, schedule, and performance to meet ship delivery schedules, and what mechanisms, if any, are in place to periodically reassess assignment of such programs to a particular acquisition category;

(4) Recommendations to improve the Navy's performance in managing ALRE and other Acquisition Category II programs; and

(5) Any other observations of the Comptroller General.

The conferees request a briefing to the congressional defense committees no later than June 1, 2017, to be followed by a report.

Limitation on availability of funds for procurement of U.S.S. Enterprise (CVN-80) (sec. 126)

The Senate bill contained a provision (sec. 126) that would limit more than 25 percent of funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2017 for advance procurement or procurement of USS John F. Kennedy (CVN-79) or USS Enterprise (CVN-80) from being obligated or expended until the Secretary of the Navy and Chief of Naval Operations submit a report to the congressional defense committees.

The House amendment contained no similar provision.

The House recedes with an amendment that would remove the limitation of funds on CVN-79 and terminate this section on September 30, 2021.

Sense of Congress on aircraft carrier procurement schedules (sec. 127)

The House amendment contained a provision (sec. 122) that would provide the sense of Congress that the Secretary of the Navy's schedule to procure 1 aircraft carrier every 5 years will reduce the overall aircraft carrier inventory to 10 aircraft carriers, a level insufficient to meet peacetime and war plan requirements. The section would also recommend that the Secretary begin construction for the Ford-class aircraft carrier designated CVN-81 in fiscal year 2022 and align advance procurement activities with this accelerated programming.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that would remove the reference to CVN-81.

Report on P-8 Poseidon aircraft (sec. 128)

The House amendment contained a provision that would require the Secretary of the Navy to submit to the congressional defense committees a report regarding future capabilities for the P-8 Poseidon aircraft.

The Senate bill contained no similar provision.

The Senate recesses.

Design and construction of replacement dock landing ship designated LX(R) or amphibious transport dock designated LPD-29 (sec. 129)

The House amendment contained a provision (sec. 124) that would authorize the Secretary of the Navy to enter into and incrementally fund a contract for design and construction of the replacement dock landing ship designated LX(R) or the amphibious transport dock designated LPD-29.

The Senate bill contained no similar provision.

The Senate recesses.

Subtitle D—Air Force Programs

EC-130H Compass Call recapitalization program (sec. 131)

The Senate bill contained a provision (Sec. 145) that would prohibit the availability of funds for the Air Force EC-130H Compass Call recapitalization program unless the Air Force conducts a full and open competition to acquire the replacement aircraft platform.

The House amendment contained no similar provision.

The House recesses with an amendment that strikes the full and open competition requirement, and authorizes the Secretary of the Air Force to obligate and expend fiscal year 2017 funds for the purpose of re-hosting the primary mission equipment of the current EC-130H Compass Call aircraft fleet on to a more operationally effective and survivable airborne platform to meet combatant commander requirements. The amendment limits procurement to the first two aircraft of the planned ten aircraft fleet until the Secretary determines there is a high likelihood the program will meet the requirements of the combatant commands.

The conferees agree the restructured EC-130H Compass Call program shall be implemented consistent with existing authorities, including Federal Acquisition Regulation Part 6.3 and Department of Defense Instruction 5000.02, "Operation of the Defense Acquisition System."

The conferees note the fiscal year 2017 funding adjustments to allow the Secretary of the Air Force to proceed with the program are outlined in Division D.

Repeal of requirement to preserve certain retired C-5 aircraft (sec. 132)

The Senate bill contained a provision (Sec. 143) that would repeal the requirement in Section 141 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239) for the Secretary of the Air Force to preserve certain retired C-5 aircraft.

The House amendment contained a similar provision (Sec. 132).

The Senate recesses.

Repeal of requirement to preserve F-117 aircraft in recallable condition (sec. 133)

The Senate bill contained a provision (Sec. 144) that would repeal the requirement in Section 136 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2114) to preserve F-117 aircraft in recallable condition.

The House amendment contained a similar provision (Sec. 133).

The House recesses.

Prohibition on availability of funds for retirement of A-10 aircraft (sec. 134)

The Senate bill contained a provision (Sec. 141) that would amend section 142 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92) by extending the prohibition on obligation or expenditure of funds to retire or prepare to retire A-10 aircraft until the Secretary of the Air Force and Chief of Staff of the Air Force submit a report to the congressional defense committees describing their views on the results of an F-35A initial operational test and evaluation (IOT&E). The provision would also ensure the F-35A IOT&E includes comparison tests and evaluation of the F-35A and A-10C in conducting close air support, combat search and rescue, and airborne forward air controller missions. The provision would also require the Comptroller General of the United States to provide an independent assessment of the report from the Secretary and Chief of Staff.

The House amendment contained a similar provision (Sec. 134) that would prevent retirements of A-10 aircraft, but would allow the Secretary of the Air Force to transition the A-10 unit at Fort Wayne Air National Guard Base, Indiana, to an F-16 unit in fiscal year 2018, as the Secretary had proposed in the budget of the President for fiscal year 2017.

The Senate recesses.

The conferees agree that section (f)(2) of the House provision explicitly prevents the divestment of any A-10 aircraft if the special rule were to be invoked.

The conferees also agree the Comptroller General of the United States shall assess the conclusions and assertions contained in the Secretary's and Chief of Staff's report on the F-35A IOT&E, and submit a report to the congressional defense committees of such assessment not later than 90 days after the Secretary's and Chief of Staff's report is submitted.

The conferees also agree the Comptroller General's report shall include the following:

(1) An assessment of whether the conclusions and assertions included in the report submitted by the Secretary and Chief of Staff are comprehensive, fully supported, and sufficiently detailed; and

(2) An identification of any shortcomings, limitations, or other matters that affect the quality of the report's findings or conclusions.

Limitation on availability of funds for destruction of A-10 aircraft in storage status (sec. 135)

The Senate bill contained a provision (Sec. 142) that would prohibit the availability of funds authorized to be appropriated by this Act or otherwise made available for the Air Force to be obligated for the purpose of scrapping, destroying, or otherwise disposing of any A-10 aircraft in any storage status in the Aerospace Maintenance and Regeneration Group (AMARG) that have serviceable wings or other components that could be used to prevent total active inventory A-10 aircraft from being permanently removed from flyable status due to unserviceable wings or other components.

The House amendment contained no similar provision.

The House recesses with minor technical corrections.

The conferees agree the provision does not prevent the Air Force from reclaiming any usable parts or components on A-10 aircraft in any storage status for the purpose of keeping active inventory A-10 aircraft in flyable and mission capable condition.

Prohibition on availability of funds for retirement of Joint Surveillance Target Attack Radar System aircraft (sec. 136)

The House amendment contained a provision (Sec. 135) that would prohibit the availability of funds for retirement of Joint Surveillance Target Attack Radar System aircraft in fiscal year 2018.

The Senate bill contained no similar provision.

The Senate recesses.

Elimination of annual report on aircraft inventory (sec. 137)

The House amendment contained a provision (Sec. 131) that would strike the requirement in Section 231a of title 10, United States Code, for the Secretary of Defense to deliver an annual report on the military services' aircraft inventory to the congressional defense committees.

The Senate bill contained no similar provision.

The Senate recesses.

Subtitle E—Defense-Wide, Joint, and Multiservice Matters

Standardization of 5.56mm rifle ammunition (sec. 141)

The House amendment contained a provision (sec. 146) that would require the Secretary of Defense to ensure that the Army and the Marine Corps are using in combat one standard type of enhanced 5.56mm rifle ammunition not later than one year after the date of the enactment of this Act with exceptions that require the

Secretary of Defense to certify to the congressional defense committees the reasons why there are different 5.56mm rounds being used in combat.

The Senate bill contained no similar provision.

The Senate recesses.

Fire suppressant and fuel containment standards for certain vehicles (sec. 142)

The House amendment contained a provision (Sec. 142) that would require the Secretary of the Army, or his designee, and the Secretary of the Navy, or his designee, to establish and maintain policy guidance regarding the establishment of, and updates to, fire suppressant and fuel containment standards that meet survivability requirements across various classes of vehicles, including light tactical vehicles, medium tactical vehicles, heavy tactical vehicles, and ground combat vehicles for the Army and Marine Corps. This section would also require the Secretary of the Army and the Secretary of the Navy to provide a report to the congressional defense committees, not later than 180 days after the date of the enactment of this Act, that contains policy guidance for each class of vehicle including armor, fire suppression systems, self-sealing material and containment technologies, and any other information as determined by the Secretaries.

The Senate bill contained no similar provision.

The Senate recesses.

Limitation on availability of funds for destruction of certain cluster munitions (sec. 143)

The Senate bill contained a provision (section 152) that would limit the funds available for the destruction of cluster munitions until the Secretary of Defense submits a report on the Department's policy on, and plan for, cluster munitions.

The House amendment contained no similar provision.

The House recesses with an amendment that would limit the funds for the destruction of serviceable cluster munitions, but would allow the demilitarization of cluster munitions determined to be unserviceable due to a significant failure to meet performance or logistics requirements. Cluster munitions categorized as unserviceable solely due to current or amended Department of Defense policy related to cluster munitions would not meet this definition of unserviceable and would be subject to the limitation in this provision.

Report on Department of Defense munitions strategy for the combatant commands (sec. 144)

The House amendment contained a provision that would require the Secretary of Defense to submit to the congressional defense committees a report on the munitions strategy of the combatant commands.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that would reduce the time horizon for the strategy and modify the elements of the required report.

Modifications to reporting on use of combat mission requirements funds (sec. 145)

The House amendment contained a provision (sec. 141) that would amend the quarterly report requirement in section 123 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383), to sunset the requirement for such reports on September 30, 2018.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that would change from quarterly to annually the requirement for the commander of U.S. Special Operations Command to submit a report on use of Combat Mission Requirements funds.

Report on alternative management structures for the F–35 joint strike fighter program (sec. 146)

The Senate bill contained a provision that would disestablish the F–35 Joint Program Office (JPO) and devolve relevant responsibilities to the Air Force and the Navy.

The House amendment contained no similar provision.

The House recesses with an amendment that would remove the requirement to disestablish the JPO and require the Secretary of Defense, no later than March 31, 2017, to submit to the congressional defense committees a report on potential options for the future management of the Joint Strike Fighter program.

Comptroller General review of F–35 Lightning II aircraft sustainment support (sec. 147)

The House amendment contained a provision (Sec. 144) that would direct the Comptroller General of the United States to conduct an analysis of the sustainment support strategy for the F–35 Joint Strike Fighter program.

The Senate bill contained no similar provision.

The Senate recesses.

Briefing on acquisition strategy for Ground Mobility Vehicle (sec. 148)

The House amendment contained a provision (Sec. 145) that would direct the Under Secretary of Defense for Acquisition, Technology, and Logistics, in consultation with the Secretary of the Army, to provide a briefing to the congressional defense committees on the acquisition strategy for the ground mobility vehicle.

The Senate bill contained no similar provision.

The Senate recesses.

Study and report on optimal mix of aircraft capabilities for the Armed Forces (sec. 149)

The Senate bill contained a provision (Sec. 151) that would direct the Secretary of Defense to obtain an independent study on the future mix of aircraft platforms for the Armed Forces.

The House amendment contained no similar provision.

The House recesses with an amendment changing the study to be conducted by the Secretary of Defense rather than by an independent entity, adds the congressional intelligence committees as

recipients of the study report, and includes other minor technical corrections.

LEGISLATIVE PROVISIONS NOT ADOPTED

Funding for surface-to-air missile system

The House amendment contained a provision (Section 114) that would authorize an increase in funding for Missile Procurement, Army line 002, MSE missile, by \$84.2 million and decrease funding for Defense Nuclear Nonproliferation Research and Development, material management and minimization, by an equal \$84.2 million.

The Senate bill contained no similar provision.

The House recesses.

The outcome is reflected in sections 4101 and 4701 of the Act.

Procurement authority for aircraft carrier programs

The House amendment contained a provision (sec. 121) that would provide economic order quantity authority for the construction of two Ford-class aircraft carriers and incremental funding authority for the nuclear refueling and complex overhaul of five *Nimitz*-class aircraft carriers.

The Senate bill contained no similar provision.

The House recesses.

Ship to shore connector program

The House amendment contained a provision (sec. 125) that would authorize the Secretary of the Navy to enter into a contract for the procurement of up to 45 Ship to Shore Connector vessels.

The Senate bill contained no similar provision.

The House recesses.

Limitation on availability of funds for Tactical Combat Training System Increment II

The Senate bill contained a provision (sec. 127) that would limit the obligation or expenditure of 25 percent of funds for the Tactical Combat Training Systems (TCTS) Increment II program until 60 days after the Secretary of the Navy submitted the report required by section 235 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92).

The House amendment contained a similar provision (sec. 218) that would limit the obligation or expenditure of 20 percent of the funds for TCTS Increment II until the Secretary of the Navy and Secretary of the Air Force provided the required report.

The conference agreement includes neither provision. Because the Secretary of the Navy submitted the required report in May 2016, the limitation on availability of funds within these provisions is no longer applicable.

However, the conferees remain concerned about training gaps, both in live and simulated environments, for pilots in fourth and fifth-generation aircraft. Pilots will have to operate these aircraft with advanced weapon systems in highly complex anti-access, area denial environments. The conferees recognize the importance of developing higher fidelity interoperable training for combat pilots

using live-virtual-constructive (LVC) exercises. Such exercises should allow the Department to simulate a broader range of threat system capabilities that enable training aircraft pilots under more realistic combat conditions.

Therefore, the conferees expect the Department of Defense to apply the necessary focus and resources to develop and support LVC training as soon as possible.

Prohibition on availability of funds for retirement of U-2 aircraft

The House amendment contained a provision (Sec. 137) that would prohibit the availability of funds for the retirement of U-2 aircraft.

The Senate bill contained no similar provision.

The House recedes. Section 133 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) prohibits the Secretary of the Air Force from taking any action that would prevent the Air Force from maintaining the U-2 aircraft fleet in its current configuration and capability beyond fiscal year 2016. The conferees agree that this provision remains in full force and effect.

Medium Altitude Intelligence, Surveillance, and Reconnaissance aircraft

The Senate bill contained a provision (sec. 153) that would prohibit the obligation or expenditure of funds for the acquisition of Medium Altitude Intelligence, Surveillance, and Reconnaissance (MAISR) aircraft in fiscal year 2017 until the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (ASD SOLIC), in consultation with the Commander of U.S. Special Operations Command (SOCOM), provides the congressional defense committees with a report on the manned ISR requirements of the command and how such an acquisition aligns with the SOCOM ISR Roadmap.

The House amendment contained no similar provision.

The Senate recedes.

The conferees understand that a SOCOM analysis determined that the cost avoidance of acquiring versus leasing MAISR aircraft is approximately \$1.3 million per month with a break even return on investment of approximately 11 months. However, the conferees believe that procurement of ISR aircraft should not be ad hoc, but instead be a deliberate acquisition informed by an analysis of alternatives that fully considers changing requirements, threats, capabilities, tactics, and resource constraints. Therefore, the conferees direct ASD SOLIC and SOCOM to provide an interim briefing on the scope, methodology and timeline for the Next Generation Manned ISR Study and Analysis of Alternatives no later than 90 days after enactment of this Act.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND
EVALUATION

Subtitle A—Authorization of Appropriations

Authorization of appropriations (sec. 201)

The Senate bill contained a provision (sec. 201) that would authorize appropriations for Research, Development, Test, and Evaluation at the levels identified in section 4201 of division D of this Act.

The House amendment contained an identical provision (sec. 201).

The conference agreement includes this provision.

Subtitle B—Program Requirements, Restrictions, and Limitations

Laboratory quality enhancement program (sec. 211)

The House amendment contained a provision (sec. 211) that would require the establishment of a Laboratory Quality Enhancement Program to support the analysis and implementation of current policies, as well as make recommendations for new initiatives to support the improvement and enhancement of the Department of Defense's Science and Technology Reinvention Laboratories. The House provision would also align management of the laboratory demonstration program with the Assistant Secretary of Defense for Research and Engineering.

The Senate bill contained a provision (sec. 1126) that would align management of the laboratory demonstration program with the Under Secretary of Defense for Acquisition, Technology, and Logistics.

The Senate recedes with an amendment to adjust the membership of the panel and to emphasize that the goal of the laboratory personnel system should be to support the efficient operations of those institutions.

Modification of mechanisms to provide funds for defense laboratories for research and development of technologies for military missions (sec. 212)

The Senate bill contained a provision (sec. 211) that would raise the limit of funds authorized under Section 219 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417) up to four percent of all funds available to a laboratory. The provision would also eliminate the sunset date for authorization of this authority.

The House amendment contained a similar provision (sec. 212) that would set the level of funding at three percent, eliminate the sunset date, and allow certain federally funded research and development centers to use this authority.

The House recedes with an amendment that would set the level of Section 219 funding at between two and four percent.

Making permanent authority for defense research and development rapid innovation program (sec. 213)

The Senate bill contained a provision (sec. 212) that would repeal the sunset provision of the Rapid Innovation Program and make the authorization of the program permanent.

The House amendment contained no similar provision.

The House recesses.

Authorization for National Defense University and Defense Acquisition University to enter into cooperative research and development agreements (sec. 214)

The Senate bill contained a provision (sec. 213) that would authorize the Defense Acquisition University and the National Defense University to enter into cooperative agreements, which involve the provision of grant money, and cooperative research and development agreements with universities, not-for-profit institutions, and other entities to support their designated missions.

The House amendment contained no similar provision.

The House recesses.

Manufacturing engineering education grant program (sec. 215)

The Senate bill contained a provision (sec. 214) that would allow the Department of Defense to provide grants to institutions of higher education, including technical and community colleges, for the purposes of enhancing education in manufacturing engineering.

The House amendment contained no similar provision.

The House recesses with technical amendments to clarify several aspects of the grant program.

Notification requirement for certain rapid prototyping, experimentation, and demonstration activities (sec. 216)

The House amendment contained a provision (sec. 213) that would require the Secretary of the Navy to provide written notification to the congressional defense committees within 10 days before initiating a rapid prototyping, experimentation, or demonstration activity using funds from PE 63382N (Navy Advanced Combat Systems Technology).

The Senate bill contained no similar provision.

The Senate recesses.

Increased micro-purchase threshold for research programs and entities (sec. 217)

The Senate bill contained a provision (sec. 215) that would increase the micro-purchase threshold in Department of Defense research and laboratories activities from \$3,000 to \$10,000. In raising the limit, this provision would allow appropriate organizations, such as universities, defense labs, and other performers, to facilitate easy and administratively efficient purchasing of small dollar items.

The House amendment contained no similar provision.

The House recesses with an amendment to extend the increase in micro-purchase threshold to all research activities government-wide.

Improved biosafety for handling of select agents and toxins (sec. 218)

The House amendment contained a provision (sec. 214) that would direct the Department of Defense to implement several improvements for handling of select agents and toxins, as recommended from an Army 15–6 investigative report on the individual and institutional accountability for the shipment of viable *Bacillus Anthracis* from Dugway Proving Ground. This section would require the Department to implement a quality assurance and quality control program for any facility producing biological select agents and toxins, and for the Secretary of Defense to submit a report to the congressional defense committees by February 1, 2017, on the potential consolidation of facilities that work with biological select agents and toxins. This section would also require the Comptroller General of the United States to submit a report to the congressional defense committees by September 1, 2017, on the effectiveness and completeness of the Department of Defense's actions taken to address the findings and recommendations of the Army 15–6 investigation.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Designation of Department of Defense senior official with principal responsibility for directed energy weapons (sec. 219)

The Senate bill contained a provision (sec. 216) that would grant rapid acquisition authorities for directed energy weapons systems to accelerate the development and fielding of directed energy technology and to help offset the gains of potential adversaries. The Senate provision would also establish a joint directed energy program office at the Department of Defense.

The House amendment contained a provision (sec. 220) that would require the Secretary of Defense to designate a senior official already serving within the Department of Defense as a senior official with principal responsibility for the development and demonstration of directed energy weapons for the Department.

The Senate recedes with an amendment that would require the senior designated official to develop a strategic roadmap for the development and fielding of directed energy technology and to accelerate such development and fielding. The amendment would also rename the joint technology office for high energy lasers to the joint directed energy transition office, and would expand its mission to work with the senior designated official to push the demonstration and transition of directed energy systems, as well as the development of key technologies.

The conferees expect and encourage the Department of Defense to use rapid acquisition authorities authorized to the department in Section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 10 U.S.C. 2302 note) to speed the development and deployment of operational directed energy capabilities. The committee believes that this provision allows the Secretary of Defense to better use the range of acquisition authorities already at the disposal of the department for the purposes of directed energy weapons system acquisition, including:

- (1) Rapid acquisition authority provided under Section 806;

- (2) Use of other transactions authority provided under section 2371 of Title 10, United States Code;
- (3) Simplified acquisition procedures for the acquisition of commercial items; and
- (4) Authority for procurement for experimental purposes provided under section 2373 of Title 10, United States Code.

Restructuring of the distributed common ground system of the Army (sec. 220)

The House amendment contained a provision (sec. 219) that would require the Secretary of the Army to restructure versions of the distributed common ground system of the Army after Increment 1. The Secretary of the Army shall discontinue development of new software code of any component of the system for which there is commercial, open source, or Government off the shelf software that is capable of fulfilling at least 80 percent of the system requirements; and conduct a review of the acquisition strategy for the program to ensure that procurement of commercial software is the preferred method of meeting program requirements. The Secretary of the Army shall not award any contract for the development of a new component software capability if such a capability is already a commercial item.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

The conferees expect the Secretary of the Army to rapidly execute this acquisition so as to quickly improve the field performance of the existing distributed common ground system for the Army, which we do not believe is adequately serving the needs of units at division, brigade and battalion levels.

Limitation on availability of funds for countering weapons of mass destruction system Constellation (sec. 221)

The House amendment contained a provision (sec. 216) that would prohibit the Department of Defense from obligating or expending any funds in fiscal year 2017 for research, development, and prototyping of the countering weapons of mass destruction situational awareness information system, known as "Constellation."

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would limit half the funds available for Constellation until the Secretary of Defense provides an independent review and assessment of the requirements and implementation plan for this system. In addition congressional defense committees shall receive periodic updates prior to the completion of the review.

Limitation on availability of funds for Defense Innovation Unit Experimental (sec. 222)

The House amendment contained a provision (sec. 217) that would limit the amount of authorized funds available to be obligated or expended for the Defense Innovation Unit Experimental (DIUx) to no more than 80 percent until the Secretary of Defense provides a report to the congressional defense committees on the charter for and the use of funds to establish and expand DIUx.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would alter the amount of funds subject to limitation and add additional specificity to the reporting requirement.

The conferees remain cautiously optimistic that the changes to the organizational structure and functions of DIUx could become important tools for the Department of Defense (DoD) to engage with new and non-traditional commercial sources of innovation, as well as rapidly identify and integrate new technologies into defense systems. The conferees believe that outreach to commercial companies, small businesses and other non-traditional defense contractors, in Silicon Valley and across the nation, will be a key element in all efforts at modernizing defense systems and pursuing offsetting technology strategies. However, the conferees are concerned that investments made by DIUx to-date were not focused on rapid delivery of much needed game-changing technologies. Additionally, DIUx's customer base is not as diverse as expected and includes organizations, such as U.S. Special Operations Command, with their own acquisition authority and entity established to leverage innovation. Although the conferees are not opposed to any organization partnering with DIUx, the conferees encourage DIUx to establish relationships with services and other Department of Defense organizations that do not have their own funding, authorities, and innovation hubs.

Additionally, the conferees remain concerned that in the Department's rush to try something new, defense leaders have not taken the time to determine how effective recent organizational and management changes are before seeking a rapid expansion of resources. Nor do the conferees believe that the Department has postured DIUx to be successful in the innovation ecosystem with partners across the Department, finding ways to multiply the effectiveness and networking potential of DIUx by leveraging the personnel, expertise, authorities, and resources of existing successful research, development, innovation, and tech transfer mechanisms. These existing mechanisms include the Small Business Innovative Research and Small Business Technology Transition programs, the Department of Defense research laboratories, and other entities that look at technology in classified settings.

Additionally, the conferees are concerned that the Department has found useful mechanisms to identify and engage with new commercial entities, without making demonstrable progress in reducing the acquisition and contractual barriers of entry for these non-traditional providers, as well as all commercial entities wishing to do business with the Department. Without such progress, the conferees are concerned that these non-traditional vendors will become frustrated over time, as has happened in the past, and will revert back to a posture that, at best, reluctantly partners in defense work, and at worst, actively rejects all work with the Department of Defense because the acquisition system is too burdensome and bureaucratic.

Limitation on availability of funds for Joint Surveillance Target Attack Radar System (JSTARS) recapitalization program (sec. 223)

The Senate bill contained a provision (Sec. 146) that would limit the availability of fiscal year 2017 and beyond funds for the Joint Surveillance Target Attack Radar System recapitalization program unless the contract for engineering and manufacturing development uses a firm fixed price contract structure.

The House amendment contained no similar provision.

The House recedes with an amendment that provides the Secretary of Defense with authority to waive the limitation in the provision if the Secretary determines the waiver is in the national security interests of the United States, and includes other minor technical corrections.

The conferees note that to ensure the integrity of the full and open competition nature of this program, they caution the Air Force to guard against the potential prejudicing of this source selection by other Air Force recapitalization programs.

Acquisition program baseline and annual reports on follow-on modernization program for F-35 Joint Strike Fighter (sec. 224)

The Senate bill contained a provision (sec. 1087) that would require the Department of Defense to treat the F-35 Follow-on Modernization program as a separate Major Defense Acquisition Program (MDAP).

The House amendment contained no similar provision.

The House recedes with an amendment that would remove the requirement to treat the Follow-on Modernization program as a separate MDAP and require the Secretary of Defense, not later than March 31, 2017, to submit to the congressional defense committees a report that contains the basic elements of an acquisition program baseline for Block 4 modernization.

Subtitle C—Reports and Other Matters

Strategy for assured access to trusted microelectronics (sec. 231)

The House amendment contained a provision (sec. 231) that would require the Secretary of Defense to develop and implement a strategy for developing and acquiring trusted microelectronics from various sources by 2020. The House provision would further require the Secretary of Defense to certify by September 30, 2020, that the Department has implemented the recommendations of the strategy, and has created an assured means of accessing sufficient supply of trusted microelectronics.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would add additional elements to the required strategy.

Pilot program on evaluation of commercial information technology (sec. 232)

The House amendment contained a provision (sec. 232) that would require the Defense Information Systems Agency to establish a pilot program to evaluate commercially available information technology tools to better understand and characterize their poten-

tial impact on Department of Defense networks and computing environments through prototyping, experimentation, operational demonstration, military user assessment, or other means to get quantitative and qualitative feedback on the commercial item.

The Senate bill contained no similar provision.

The Senate recesses with a clarifying amendment.

Pilot program for the enhancement of the research, development, test, and evaluation centers of the Department of Defense (sec. 233)

The Senate bill contained a provision (sec. 948) that would allow directors of Department of Defense research and development laboratories, as well as the director of the Defense Advanced Research Projects Agency to waive on a temporary basis regulations, instructions, publications, policies, and procedures of the Department of Defense as the director believes appropriate.

The House amendment contained a similar provision (sec. 233) that would allow the services to demonstrate methods for the more effective development of research, development, test, and evaluation functions.

The Senate recesses with an amendment that would combine features of both provisions and create a pilot program open to research and development laboratories, test and evaluation centers, and the Defense Advanced Research Projects Agency. The amended provision would allow directors of these entities to waive on a temporary basis any regulation, restriction, requirement, guidance, policy, procedure, or departmental instruction that would generate greater value and efficiencies in research and development activities, enable more efficient and effective operations, and enable more rapid deployment of warfighter capabilities.

In this provision, the conferees expect the secretaries of the services to ensure that participation in the program includes at least five science and technology reinvention laboratories and at least five test and evaluation centers from each service with the highest likelihood to use innovatively the authority for this new management flexibility to demonstrate the value for the entire Department.

In addition, the conferees expect that the assistant secretaries of the services will work with their appropriate counterparts within the services to complete evaluation of waiver requests in a timely and responsive manner.

Pilot program on modernization and fielding of electromagnetic spectrum warfare systems and electronic warfare capabilities (sec. 234)

The Senate bill contained a provision (sec. 897) that would stipulate that funds for electromagnetic spectrum warfare systems and EW systems may be used for the development and fielding of such systems. The provision would also amend section 806(c)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314) to add a new subparagraph addressing the rapid acquisition of electronic warfare capabilities.

The House amendment contained a provision (sec. 234) that would authorize the Secretary of Defense to carry out a pilot pro-

gram on the modernization of electromagnetic spectrum warfare systems and electronic warfare (EW) systems. The House provision would direct the Electronic Warfare Executive Committee (EWEC) to select a total of five such systems currently in sustainment for modernization under the pilot program.

The Senate recedes with an amendment that would including fielding of EW systems, increases the number of systems to be selected for the pilot program from 5 to 10, adds a termination date of September 30, 2023 to the pilot program, and authorizes appropriated electromagnetic spectrum warfare and electronic warfare funds to be used for the development and fielding of electromagnetic spectrum warfare systems and electronic warfare capabilities.

Pilot program on disclosure of certain sensitive information to federally funded research and development centers (sec. 235)

The Senate bill contained a provision (sec. 218) that would permit the Department of Defense to provide personnel of a Defense federally-funded research and development center with access to sensitive information necessary to carry out their assigned duties and functions.

The House amendment contained no similar provision.

The House recedes with an amendment to clarify certain elements of the program and further prevent any unauthorized disclosure of sensitive information.

Pilot program on enhanced interaction between the Defense Advanced Research Projects Agency and the service academies (sec. 236)

The Senate bill contained a provision (sec. 219) that would authorize the Secretary of Defense to establish a pilot program to assess the feasibility and advisability of enhanced interaction between the Defense Advanced Research Projects Agency and the military service academies.

The House amendment contained no similar provision.

The House recedes with technical amendments to streamline the pilot program.

Independent review of F/A-18 physiological episodes and corrective actions (sec. 237)

The House amendment contained a provision that would require the Secretary of the Navy to establish an independent review team to review the Navy's data on, and mitigation efforts related to, the increase in F/A-18 physiological events since January 1, 2009 and submit a report on the findings of said review team.

The Senate bill contained no similar provision.

The Senate recedes.

B-21 bomber development program accountability matrices (sec. 238)

The Senate bill contained a provision (Sec. 844) that would establish specific cost growth thresholds and cost controls for the Air Force's B-21 bomber program, directs the Secretary of the Air Force to provide quarterly program performance data to the Comp-

troller General of the United States, and directs the transfer of the difference between the Department of Defense's annual program budget funding amount and the contract award value to the Defense Rapid Prototyping Fund for each budget year submission.

The House amendment contained no similar provision.

The House recedes with an amendment that strikes the cost growth thresholds and cost controls, and strikes the requirement to transfer funds into the Defense Rapid Prototyping Fund. The amendment also changes the program performance data submission from a quarterly to semi-annual reporting frequency, and includes other minor technical corrections.

Study on helicopter crash prevention and mitigation technology (sec. 239)

The House amendment contained a provision (Sec. 236) that would require the Secretary of Defense to enter into a contract with a federally funded research and development center to conduct a study on technologies with the potential to prevent and mitigate helicopter crashes.

The Senate bill contained no similar provision.

The Senate recedes.

Strategy for improving electronic and electromagnetic spectrum warfare capabilities (sec. 240)

The House amendment contained a provision (sec. 237) that would require the Under Secretary of Defense for Acquisition, Technology, and Logistics, acting through the Electronic Warfare Executive Committee, to submit to the congressional defense committees a report by April 1, 2017, on future electronic warfare concepts and technologies.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require a strategy for improving electronic and electromagnetic spectrum warfare capabilities.

Sense of Congress on development and fielding of fifth generation airborne systems (sec. 241)

The Senate bill contained a provision (Sec. 1057) that would express the sense of the Senate on the definition of and need for continued prioritization, development, and fielding of fifth-generation airborne capabilities.

The House amendment contained no similar provision.

The House recedes with an amendment that replaces the term "the Senate" with "Congress" in each instance where it occurs in the title and body of the provision, and includes other minor technical corrections.

LEGISLATIVE PROVISIONS NOT ADOPTED

Report on cost of B-21 aircraft

The Senate bill contained a provision (Sec. 217) that would limit the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2017 to be made available for the B-21 Engineering and Manufacturing Development (EMD) pro-

gram until the Air Force releases the value of the B-21 EMD contract award made on October 27, 2015, to the congressional defense committees.

The House amendment contained a similar provision (Sec. 136) that would require the Secretary of Defense to submit to the congressional defense committees a report on the cost of the B-21 aircraft.

The Senate recesses.

The House recesses.

Neither provision was adopted.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Authorization of appropriations (sec. 301)

The Senate bill contained a provision (sec. 301) that would authorize appropriations for operation and maintenance activities at the levels identified in section 4301 of division D of this Act.

The House amendment contained an identical provision (sec. 301).

The conference agreement includes this provision.

Subtitle B—Energy and the Environment

Modified reporting requirement related to installations energy management (sec. 311)

The Senate bill contained a provision (sec. 302) that would amend subsection (a) of section 2925 of title 10, United States Code, by significantly reducing the contents of the Department of Defense's Annual Energy Management Report.

The House amendment contained a similar provision (sec. 331) that would modify subsection (a) and (b) of section 2925 of title 10, United States Code, to modify and extend, with a sunset date of January 31, 2021, the "Annual Report Related to Installations Energy Management" and the "Annual Report Related to Operational Energy."

The House recesses with a technical amendment.

Waiver authority for alternative fuel procurement requirement (sec. 312)

The House amendment contained a provision (sec. 311) that would amend section 526 of the Energy Independence and Security Act of 2007 (Public Law 110-140) to clarify that this section shall not be construed as a constraint on any conventional or unconventional fuel procurement necessary for military operations.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that would allow the Secretary of Defense to waive section 526 of the Energy Independence and Security Act of 2007 if in the interest of national security.

Utility data management for military facilities (sec. 313)

The Senate bill contained a provision (sec. 304) that would direct the Department of Defense, in consultation with the Department of Energy, to develop a pilot program to investigate the utili-

zation of utility data management services to perform utility bill aggregation, analysis, third-party payment, storage and distribution.

The House amendment contained no similar provision.

The House recedes with an amendment that would provide permissive authority to the Secretary of Defense to develop a utility data management program with a funding cap of \$250,000.

Alternative technologies for munitions disposal (sec. 314)

The House amendment contained a provision (sec. 313) that authorizes the Secretary of the Army to consider using cost-competitive technologies that minimize waste generation and air emissions as alternatives to disposal of conventional munitions by open burning, open detonation, direct contact combustion, and incineration.

The Senate bill contained no similar provision.

The Senate recedes.

Report on efforts to reduce high energy costs at military installations (sec. 315)

The Senate bill contained a provision (sec. 303) that would require the Under Secretary of Defense for Acquisition, Technology, and Logistics, in consultation with the assistant secretaries responsible for energy installations and environment for the military services and the Defense Logistics Agency, to conduct an assessment of the efforts to achieve cost savings at military installations with high energy costs.

The House amendment contained no similar provision.

The House recedes with an amendment to clarify the focus on installations with high levels of energy intensity.

Sense of Congress on funding decisions relating to climate change (sec. 316)

The House amendment contained a provision (sec. 315) that would prohibit the Department of Defense from obligating or expending any funds in fiscal year 2017 to carry out sections 2, 3, 4, 5, 6(b) (iii), and 6(c) of Executive Order 13653 and sections 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, and 15(b) of Executive Order 13693.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would provide the Sense of Congress that Fiscal Year 2017 funding decisions for the Department should be based on supporting and increasing combat capability, in addition to constantly seeking efficiency and efficacy. Additionally, the Department's programs should allocate funds in a manner that best serves our national security interests. Accordingly, the conferees believe that the collective issues regarding energy efficiency, energy use, and climate change should adhere to these principles.

Subtitle C—Logistics and Sustainment

Revision of deployability rating system and planning reform (sec. 321)

The Senate bill contained a provision (sec. 311) that would amend Chapter 1003 of title 10, United States Code, requiring the Secretary of the Army to maintain a system for identifying the priority of deployment for units of all components of the Army.

The House amendment contained an identical provision (sec. 523).

The conference agreement includes this provision.

Revision of guidance related to corrosion control and prevention executives (sec. 322)

The Senate bill contained a provision (sec. 312) that would require the Under Secretary of Defense for Acquisition, Technology, and Logistics, in coordination with the Director of Corrosion Policy and Oversight, to revise corrosion-related guidance to clearly define the role of the corrosion control and prevention executives of the military departments in assisting the Office of Corrosion Policy and Oversight.

The House amendment contained no similar provision.

The House recedes.

Pilot program for inclusion of certain industrial plants in the Armament Retooling and Manufacturing Support Initiative (sec. 323)

The House amendment contained a provision (sec. 321) that would establish a pilot program for a period of five years requiring the Secretary of Defense to treat all government-owned, contractor-operated (GOCO) industrial plants of the Department of the Army as an eligible facility under section 4551(2) of title 10, United States Code.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment that would provide permissive authority to the Secretary of Defense to consider all government-owned, contractor operated industrial plants for all military services within the Department of Defense as an eligible facility under section 4551(2) of title 10, United States Code, as part of a pilot program for a period of five years.

The conferees note this provision does not authorize GOCO industrial plants' use of Army Working Capital Funds.

Repair, recapitalization, and certification of dry docks at naval shipyards (sec. 324)

The Senate bill contained a provision (sec. 313) that would authorize amounts available as foreign currency fluctuation savings as specified in the funding table in section 4301 to be authorized to be appropriated for fiscal year 2017 by section 301 for operation and maintenance to be made available for the repair, recapitalization, and certification of dry docks at government-owned and government-operated naval shipyards.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would authorize the Secretary of Defense to transfer up to \$250 million of authorizations made available in this Act to the Department of Defense towards the repair, recapitalization, and certification of dry docks at government-owned and government-operated naval shipyards and if such a transfer occurs, the Secretary of Defense shall promptly notify Congress of the transfer.

Private sector port loading assessment (sec. 325)

The House amendment contained a provision (sec. 322) that would require the Secretary of the Navy to conduct quarterly assessments of naval ship maintenance and loading activities carried out by private sector entities at each covered port.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment that would remove the Sense of Congress.

Strategy on revitalizing Army organic industrial base (sec. 326)

The House amendment contained a provision (sec. 332) that would require the Secretary of Defense to provide a report on certain equipment purchased from foreign entities with an assessment of how that work could be performed by the Army arsenals and establish a pilot program for the period of two years to allow the Army arsenals to adjust their labor rates through the fiscal year.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment that would expand the report to include the Department of Defense organic industrial base in its entirety and strike the pilot program for adjustable labor rates.

Subtitle D—Reports

Modifications to Quarterly Readiness Report to Congress (sec. 331)

The Senate bill contained a provision (sec. 321) that would amend subsection (a) of section 482 of title 10, United States Code, modifying the Department of Defense's requirements for the Quarterly Readiness Report to Congress.

The House amendment contained no similar provision.

The House recedes.

Report on average travel costs of members of the reserve components (sec. 332)

The House amendment contained a provisions (sec. 333) that would require the Secretary of Defense to submit a report to the congressional defense committees on the travel expenses of members of the reserve components performing certain service, to include the average annual cost for all travel expenses for a member of a reserve component.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the report be executed by the Comptroller General of the United States.

Report on HH-60G sustainment and Combat Rescue Helicopter program (sec. 333)

The Senate bill contained a provision (sec. 322) that would require the Secretary of Defense to report to the congressional defense committees a plan to modernize, train, and maintain the HH-60 fleet.

The House amendment contained no similar provision.

The House recedes.

Subtitle E—Other Matters

Air navigation matters (sec. 341)

The Senate bill contained a provision (sec. 333) that would amend Section 358 of the National Defense Authorization Act for fiscal year 2011 (Public Law 111-383) to ensure that due diligence and proper assessment is given so energy projects do not interfere with operational training of the military services.

The House amendment contained a similar provision (sec. 343) that would amend section 44718 of title 49, United States Code, to authorize the Secretary of Transportation to include the interests of national security, as determined by the Secretary of Defense, in the Secretary's aeronautical studies and reports required under this statute.

The Senate recedes with an amendment that would include the due diligence and proper assessment to ensure energy projects do not interfere with operational training, and would amend title 49, United States Code, to require the Secretary of Transportation to review flight path changes at civilian airports to determine if recent adjustments have had an impact on local communities.

Contract working dogs (sec. 342)

The Senate bill contained a provision (sec. 337) that would amend Section 2583(h) of title 10, United States Code, and require each future contract with a provider of tactical explosive detection dogs to include a provision requiring the contractor to transfer the dog to the 341st Training Squadron after the animal's service life.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would include the terminology a working dog that is "trained and kenneled by an entity that provides such a dog pursuant to such a contract."

Plan, funding documents, and management review relating to explosive ordnance disposal (sec. 343)

The House amendment contained a provision (sec. 342) that would establish a joint Explosive Ordnance Disposal (EOD) program, with the Navy as executive agent for the Department of Defense, to coordinate and integrate research, development, and procurement for EOD defense programs. This section would also require the Secretary of Defense to conduct a review of the management structure of the program and to brief the results of the review to the Committees on Armed Services of the Senate and the House of Representatives by May 1, 2018.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that would direct the Secretary of Defense to develop a plan to create an EOD program, in addition to requiring the Secretary of Defense to identify EOD funding documents in all military services and to conduct an EOD management review. The amendment also requires the Secretary of Defense to brief both the results of the management review and the details of the plan to the Committees on Armed Services of the Senate and the House of Representatives by March 1, 2017.

Process for communicating availability of surplus ammunition (sec. 344)

The House amendment contained a provision (sec. 351) that would require the Secretary of Defense to implement a formal process for communicating to other Federal Government agencies the availability of surplus, serviceable ammunition from the Department of Defense.

The Senate bill contained no similar provision.
The Senate recesses.

Mitigation of risks posed by window coverings with accessible cords in certain military housing units (sec. 345)

The Senate bill contained a provision (sec. 336) that would direct the Secretary of Defense to remove and replace window coverings with accessible cords from military housing units in which children under the age of 9 reside and require housing contractors to phase out window coverings with accessible cords.

The House amendment contained no similar provision.

The House recesses with an amendment that would ensure that the requirement would be applied to contracts for housing units going forward and would not violate existing contract terms.

Access to military installations by transportation companies (sec. 346)

The Senate bill contained a provision (sec. 339) that would require the Secretary of Defense to establish policies, terms, and conditions under which online transportation networks and their drivers shall be permitted access to military installations to serve base personnel.

The House amendment contained no similar provision.

The House recesses with an amendment that would require the Secretary of Defense, within one year of enactment, to establish policies under which covered drivers may be authorized to access military installations.

Access to wireless high-speed Internet and network connections for certain members of the Armed Forces (sec. 347)

The House amendment contained a provision (sec. 350) that would encourage the Secretary of Defense to provide members of the Armed Forces who are deployed overseas at any United States military facility access to high-speed internet and network connections without charge.

The Senate bill contained no similar provision.
The Senate recesses.

Limitation on availability of funds for Office of the Under Secretary of Defense for Intelligence (sec. 348)

The House amendment contained a provision (sec. 347) that would limit the obligation or expenditure of 15 percent of the funds authorized to be appropriated for Operation and Maintenance, Defense-Wide, for the Office of the Under Secretary of Defense for Policy for fiscal year 2017, until the Secretary of Defense establishes and implements a process by which members of the Armed Forces may carry an appropriate firearm on a military installation, as required by section 526 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92).

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would limit the obligation or expenditure of 10 percent of the funds authorized to be appropriated for Operation and Maintenance, Defense-Wide, for the Office of the Under Secretary of Defense for Intelligence for fiscal year 2017, until the Secretary of Defense issues guidance on the process by which members of the Armed Forces may carry an appropriate firearm on a military installation, as required by section 526 of the National Defense Authorization Act for Fiscal Year 2016. The conferees note that the Under Secretary of Defense for Intelligence is the official responsible to provide the Secretary of Defense recommendations for the policy and regulations implementing the process required under section 526 of the National Defense Authorization Act for Fiscal Year 2016.

Limitation on development and fielding of new camouflage and utility uniforms (sec. 349)

The Senate bill contained a provision (sec. 332) that would restrict funds to be obligated or expended for the development or fielding of new camouflage or utility uniforms or families of uniforms until one year after the Secretary of Defense notifies the congressional defense committees of the proposed development or fielding.

The House amendment contained no similar provision.

The House recedes.

Plan for improved dedicated adversary air training enterprise of the Air Force (sec. 350)

The Senate bill contained a provision (Sec. 334) that would direct the Chief of Staff of the Air Force to submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 3, 2017, a resource ready and executable plan and briefing for developing and emplacing a modernized dedicated adversary air training enterprise to support the full spectrum air combat readiness of the United States Air Force.

The House amendment contained no similar provision.

The House recedes with minor technical corrections.

Independent review and assessment of the Ready Aircrew Program of the Air Force (sec. 351)

The Senate bill contained a provision (Sec. 335) that would direct the Secretary of the Air Force to commission an independent review and assessment of the assumptions underlying the Air

Force's annual continuation training requirements, and the efficacy of the overall Ready Aircrew Program in the management of the Air Force's aircrew training requirements.

The House amendment contained no similar provision.

The House recesses with minor technical corrections.

Study on space-available travel system of the Department of Defense (sec. 352)

The House amendment contained a provision (sec. 345) that would require the Secretary of Defense to conduct a study of the space-available travel system and to provide the result of the study to the congressional defense committees within 180 days after entering into a contract with a federally funded research and development center to conduct the study.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that would require the study to consider the feasibility and the impact on the space-available system of extending eligibility for space-available travel to members or former members of the armed forces with a disability rated as total, on the same basis as such transportation is provided to members of the Armed Forces entitled to retired or retainer pay.

Evaluation of motor carrier safety performance and safety technology (sec. 353)

The House amendment contained a provision (sec. 348) that would require the Secretary of Defense to evaluate the need for proven safety technology such as electronic logging devices, roll stability control, forward collision avoidance, lane departure warning systems, and speed limiters in vehicles transporting Transportation Protective Services shipments.

The Senate bill contained no similar position.

The Senate recesses with a clarifying amendment that would strike the Sense of Congress but still include the findings of the Government Accountability Office (GAO) report, GAO 16-82.

LEGISLATIVE PROVISIONS NOT ADOPTED

Increase in funding for civil military programs

The House amendment contained a provision (sec. 302) that would increase funding for the National Guard Youth Challenge Program by \$15.0 million by taking a reduction from Defense-wide Operations and Maintenance funding.

The Senate bill contained no similar provision.

The House recesses.

The conferees note that the National Guard Youth Challenge program is fully funded in the conference agreement at the President's budget request level.

Linear LED lamps

The Senate bill contained a provision (sec. 305) that would amend section 2-4.1.1.2 of the Department of Defense's Unified Facilities Criteria to allow linear light emitting diode lamps for facilities and installation retrofits.

The House amendment contained no similar provision.

The Senate recesses.

The conferees note that the Department of the Navy has safely adopted the use of linear light emitting diode lamps for facilities and installation retrofits. The conferees encourage all of the military services to do so in a safe and effective manner, in order to consume less energy and realize life-cycle cost savings.

Production and use of natural gas at Fort Knox

The House amendment contained a provision (sec. 312) that would amend chapter 449 of title 10, United States Code, to grant the Secretary of the Army authority to provide for the production and management of natural gas located under Fort Knox, Kentucky.

The Senate bill contained no similar provision.

The House recesses.

Sense of Congress on perfluorinated chemicals

The House amendment contained a provision (sec. 314) that would express the sense of Congress that the Department of Defense should work with State and local health officials to prevent human exposure to perfluorinated chemicals.

The Senate bill contained no similar provision.

The House recesses.

Limitation on availability of funds for Defense Contract Management Agency

The House amendment contained a provision (sec. 323) that would limit funding for the Defense Contract Management Agency (DCMA) until the DCMA Director provides a briefing to the Committees on Armed Services of the Senate and the House of Representatives on the agency's plan to foster the adoption, implementation, and verification of the Department of Defense's revised Item Unique Identification policy across the Department and the defense industrial base.

The Senate bill contained no similar provision.

The House recesses.

The conferees note the importance of use of Item Unique Identification within the Department of Defense and direct the Secretary of Defense to provide a briefing to the Committees on Armed Services of the Senate and the House of Representatives on the agency's plan to foster the adoption, implementation, and verification of the Department of Defense's revised Item Unique Identification policy no later than 45 days after enactment of this Act.

Repurposing and reuse of surplus military firearms

The Senate bill contained a provision (sec. 331) that would require the Secretary of the Army to transfer all excess firearms, related spare parts and components, small arms ammunition, and ammunition components currently stored at Defense Distribution Depot, Anniston, Alabama to Rock Island Arsenal to be melted and repurposed for military use for re-forging of new firearms or related components and force protection barriers and security bollards. The provision would also authorize the Secretary of the

Navy to transfer M-1 Garand and caliber .22 rimfire rifles held within the inventories of the United States Navy and the United States Marine Corps and stored at Defense Distribution Depot, Aniston, Alabama, or Naval Surface Warfare Center, Crane, Indiana to the Corporation for the Promotion of Rifle Practice and Firearms Safety to be used as awards for competitors in marksmanship competitions held by the United States Marine Corps or United States Navy.

The House amendment contained no similar provision.

The Senate recesses.

STARBASE Program

The Senate bill contained a provision (sec. 338) that would express a sense of Congress on the importance of the Starbase program.

The House amendment contained no similar provision.

The Senate recesses.

The conferees agree to continue funding for the Starbase program and to include an appropriate funding level in the budget tables of this bill.

Explosive Ordnance Disposal Corps

The House amendment contained a provision (sec. 341) that would amend section 3063 of title 10, United States Code, to add Explosive Ordnance Disposal Corps to the list of Army branches.

The Senate bill contained no similar provision.

The House recesses.

Development of personal protective equipment for female Marines and soldiers

The House amendment contained a provision (sec. 344) that would require the Secretary of the Navy and the Commandant of the Marine Corps to work in coordination with the Secretary of the Army to develop a joint acquisition strategy to provide more effective personal protective equipment and organizational clothing and equipment to meet the specific and unique requirements for female Marines and soldiers.

The Senate bill contained no similar provision.

The House recesses.

The conferees note that both the committee report (H. Rept. 114-537) accompanying the National Defense Authorization Act for Fiscal Year 2017 and the committee report (S. Rept. 114-255) accompanying the National Defense Authorization Act for Fiscal Year 2017 contained directive report language requiring the Secretary of Defense to report on the plans for programming, budgeting, requirements, and procurement of female specific equipment including helmets, combat clothing, body armor, footwear, and other critical safety item equipment categories. The conferees remained concerned that currently available items of personal protective equipment (PPE) and organizational clothing and individual equipment (OCIE) may not meet the specific and unique requirements for female combat troops. The conferees expect the Secretary of Defense to consider development and use of joint acquisition strategies for this equipment as part of the two reporting requirements.

Supply of specialty motors from certain manufacturers

The House amendment contained a provision (sec. 346) that would exempt certain small business manufacturers of specialty motors from the requirements of section 431.25 of title 10, Code of Federal Regulations, regarding energy conservation standards.

The Senate bill contained no similar provision.

The House recesses.

Briefing on well-drilling capabilities of active duty and reserve components

The House amendment contained a provision (sec. 349) that would require the Secretary of Defense to provide a briefing on the well-drilling capabilities of active and reserve components, including details on training requirements and locations.

The Senate bill contained no similar provision.

The House recesses.

The conferees direct the Secretary of Defense, not later than March 1, 2017, to provide the congressional defense committees with a briefing on the well drilling capabilities of active duty and reserve forces. The briefing should include a description of the training requirements of active and reserve units with well-drilling capabilities, the locations at which such units conduct training related to well-drilling, and the cost of feasibility of rotating training locations of such units to areas in the United States that are affected by drought conditions.

Increase in funding for National Guard counter-drug programs

The House amendment contained a provision (sec. 352) that would increase funding to support the National Guard counter-drug program by \$30 million.

The Senate bill contained no similar provision.

The House recesses.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

End strength for active forces (sec. 401)

The Senate bill contained a provision (sec. 401) that would authorize active-duty end strengths for fiscal year 2017 as follows: Army 460,000; Navy 322,900; Marine Corps 182,000; Air Force 317,000.

The House amendment contained a provision (sec. 401) that would authorize active-duty end strengths for fiscal year 2017 as follows: Army 480,000; Navy 324,615; Marine Corps 185,000; Air Force 321,000.

The Senate recesses with an amendment that would authorize active-duty end strengths for fiscal year 2017 as follows: Army 476,000; Navy 323,900; Marine Corps 185,000; Air Force 321,000.

The committee recommends a provision that would authorize active-duty end strengths for fiscal year 2017, as shown below:

Service	FY 2016 Authorized	FY 2017		Change from	
		Request	Recommendation	FY 2017 Request	FY 2016 Authorized
Army	475,000	460,000	476,000	+16,000	+1,000
Navy	329,200	322,900	323,900	+1,000	- 5,300
Marine Corps	184,000	182,000	185,000	+3,000	+1,000
Air Force	320,715	317,000	321,000	+4,000	+285
DOD Total	1,308,915	1,281,900	1,305,900	+24,000	- 3,015

Revisions in permanent active duty end strength minimum levels (sec. 402)

The House amendment contained a provision (sec. 402) that would establish new minimum active-duty end strengths for the Army, Navy, Marine Corps, and Air Force as of September 30, 2017.

The Senate bill contained no similar provision.
The Senate recedes.

Subtitle B—Reserve Forces

End strengths for Selected Reserve (sec. 411)

The Senate bill contained a provision (sec. 411) that would authorize the following end strengths for Selected Reserve personnel of the Armed Forces as of September 30, 2017: the Army National Guard, 335,000; the Army Reserve, 195,000; the Navy Reserve, 58,000; the Marine Corps Reserve, 38,500; the Air National Guard of the United States, 105,700; the Air Force Reserve, 69,000; and the Coast Guard Reserve, 7,000.

The House amendment contained a provision (sec. 411) that would authorize the following end strengths for Selected Reserve personnel of the Armed Forces as of September 30, 2017: the Army National Guard, 350,000; the Army Reserve, 205,000; the Navy Reserve, 58,000; the Marine Corps Reserve, 38,500; the Air National Guard of the United States, 105,700; the Air Force Reserve, 69,000; and the Coast Guard Reserve, 7,000.

The Senate recedes with an amendment that would authorize the following end strengths for Selected Reserve personnel of the Armed Forces as of September 30, 2017: the Army National Guard, 343,000; the Army Reserve, 199,000; the Navy Reserve, 58,000; the Marine Corps Reserve, 38,500; the Air National Guard of the United States, 105,700; the Air Force Reserve, 69,000; and the Coast Guard Reserve, 7,000.

The committee recommends a provision that would authorize Selected Reserve end strengths for fiscal year 2017, as shown below:

Service	FY 2016 Authorized	FY 2017		Change from	
		Request	Recommendation	FY 2017 Request	FY 2016 Authorized
Army National Guard	342,000	335,000	343,000	+8,000	+1,000
Army Reserve	198,000	195,000	199,000	+4,000	+1,000
Navy Reserve	57,400	58,000	58,000	0	+600
Marine Corps Reserve	38,900	38,500	38,500	0	- 400
Air National Guard	105,500	105,700	105,700	0	+200

Service	FY 2016 Authorized	FY 2017		Change from	
		Request	Recommendation	FY 2017 Request	FY 2016 Authorized
Air Force Reserve	69,200	69,000	69,000	0	-200
DOD Total	811,000	801,200	813,200	+12,000	+2,200
Coast Guard Reserve	7,000	7,000	7,000	0	0

End strengths for Reserves on active duty in support of the reserves (sec. 412)

The Senate bill contained a provision (sec. 412) that would authorize the following end strengths for Reserves on Active Duty in support of the reserve components as of September 30, 2017: the Army National Guard of the United States, 30,155; the Army Reserve, 16,261; The Navy Reserve, 9,955; the Marine Corps Reserve, 2,261; the Air National Guard of the United States, 14,764; and the Air Force Reserve, 2,955.

The House amendment contained an identical provision (sec. 412).

The conference agreement includes this provision.

End strength levels for the reserves on active duty in support of the reserves for fiscal year 2017 are set forth in the following table:

Service	FY 2016 Authorized	FY 2017		Change from	
		Request	Recommendation	FY 2017 Request	FY 2016 Authorized
Army National Guard	30,770	30,155	30,155	0	-615
Army Reserve	16,261	16,261	16,261	0	0
Navy Reserve	9,934	9,955	9,955	0	+21
Marine Corps Reserve	2,260	2,261	2,261	0	+1
Air National Guard	14,748	14,764	14,764	0	+16
Air Force Reserve	3,032	2,955	2,955	0	-77
DOD Total	77,005	76,351	76,351	0	-654

End strengths for military technicians (dual status) (sec. 413)

The House amendment contained a provision (sec. 413) that would authorize the following end strengths for military technicians (dual status) as of September 30, 2017: the Army National Guard of the United States, 25,507; the Army Reserve, 7,570; the Air National Guard of the United States, 22,103; and the Air Force Reserve, 10,061.

The Senate bill contained a similar provision (sec. 413) that would authorize variance from the end strengths described above in accordance with the variance authorities found in subsections (f)(1) and (g)(1)(B) of section 115 of title 10, United States Code.

The House recedes.

End strength levels for military technicians (dual status) for fiscal year 2017 are set forth in the following table:

Service	FY 2016 Authorized	FY 2017		Change from	
		Request	Recommendation	FY 2017 Request	FY 2016 Authorized
Army National Guard	26,099	25,507	25,507	0	-592
Army Reserve	7,395	7,570	7,570	0	+175

Service	FY 2016 Authorized	FY 2017		Change from	
		Request	Recommendation	FY 2017 Request	FY 2016 Authorized
Air National Guard	22,104	22,103	22,103	0	- 1
Air Force Reserve	9,814	10,061	10,061	0	+247
DOD Total	65,412	65,241	65,241	0	- 171

Fiscal year 2017 limitation on number of non-dual status technicians (sec. 414)

The Senate bill contained a provision (sec. 414) that would authorize the following personnel limits for the reserve components of the Army and Air Force for non-dual status technicians as of September 30, 2017: the Army National Guard of the United States, 1,600; the Air National Guard of the United States, 350; the Army Reserve, 595; and the Air Force Reserve, 90.

The House amendment contained an identical provision (sec. 414).

The conference agreement includes this provision.

End strength levels for the non-dual status technicians for fiscal year 2017 are set forth in the following table:

Service	FY 2016 Authorized	FY 2017		Change from	
		Request	Recommendation	FY 2017 Request	FY 2016 Authorized
Army National Guard	1,600	1,600	1,600	0	0
Air National Guard	350	350	350	0	0
Army Reserve	595	420	420	0	- 175
Air Force Reserve	90	90	90	0	0
DOD Total	2,635	2,460	2,460	0	- 175

Maximum number of reserve personnel authorized to be on active duty for operational support (sec. 415)

The Senate bill contained a provision (sec. 415) that would authorize the maximum number of reserve component personnel who may be on Active Duty or full-time National Guard duty under section 115(b) of title 10, United States Code, during fiscal year 2017 to provide operational support.

The House amendment contained an identical provision (sec. 415).

The conference agreement includes this provision.

End strength levels for reserve personnel authorized to be on Active Duty for operational support for fiscal year 2017 are set forth in the following table:

Service	FY 2016 Authorized	FY 2017		Change from	
		Request	Recommendation	FY 2017 Request	FY 2016 Authorized
Army National Guard	17,000	17,000	17,000	0	0
Army Reserve	13,000	13,000	13,000	0	0
Navy Reserve	6,200	6,200	6,200	0	0
Marine Corps Reserve	3,000	3,000	3,000	0	0
Air National Guard	16,000	16,000	16,000	0	0
Air Force Reserve	14,000	14,000	14,000	0	0

Service	FY 2016 Authorized	FY 2017		Change from	
		Request	Recommendation	FY 2017 Request	FY 2016 Authorized
DOD Total	69,200	69,200	69,200	0	0

Technical corrections to annual authorization for personnel strengths (sec. 416)

The Senate bill contained a provision (sec. 416) that would make a technical correction to section 115 of title 10, United States Code.

The House amendment contained an identical provision (sec. 521).

The conference agreement includes this provision.

Subtitle C—Authorization of Appropriations

Military personnel (sec. 421)

The Senate bill contained a provision (sec. 421) that would authorize appropriations for military personnel at the levels identified in the funding table in section 4401 of this Act.

The House amendment contained an identical provision (sec. 421).

The conference agreement includes this provision.

LEGISLATIVE PROVISIONS NOT ADOPTED

Sense of Congress on full-time support for the Army National Guard

The House amendment contained a provision (sec. 416) that would express a sense of Congress that an adequately supported, full-time support force consisting of active and reserve personnel and military technicians for the Army National Guard is essential to maintaining the readiness of the Army National Guard.

The Senate bill contained no similar provision.

The House recedes.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Reduction in number of general and flag officers on active duty and authorized end strength after December 31, 2022, of such general and flag officers (sec. 501)

The Senate bill contained a provision (sec. 501) that would add a new section 525a to title 10, United States Code, to establish the authorized distribution of general and flag officers for the Army, Navy, Marine Corps, and Air Force and to require a 25 percent reduction in the number of general and flag officers in the military departments. The provision would also sunset the authorized distribution of general and flag officers in section 525 of title 10, after December 31, 2017.

The amendment would add a new section 526a to title 10, United States Code, to limit the number of general and flag officers on Active Duty in the military departments and to exclude from those limits the specified number of general and flag officers serv-

ing in joint duty assignments and to require a 25 percent reduction in the number of general and flag officers in the military departments and the joint pool. The provision would also sunset the authorized distribution of general and flag officers in section 526 of title 10, after December 31, 2017.

The amendment would add a new section 12004a to title 10 United States Code, to require a 25 percent reduction in the number of general and flag officers in active status in the reserve component, including general officers of the National Guard of the States and territories and general officers serving in the National Guard Bureau, but excluding officers serving as adjutants general or assistant adjutants general of a state. The provision would also sunset the authorized distribution of general and flag officers in section 12004 of title 10, after December 31, 2017.

The House amendment included a provision (sec. 910) that would amend section 164(e) of title 10, United States Code, to specify that the grade of an officer serving as commander of a service or functional component command shall be no higher than lieutenant general or vice admiral. The provision would further require that the total number of officers in the grade of general or admiral on active duty be reduced by five positions, and to require a report to the congressional defense committees on the Department's plan to implement those reductions.

The House recedes with an amendment that would create a new section 526a of title 10, United States Code, to establish authorized end strength of general and flag officers, to reflect a reduction of 110 general and flag officers on active duty by not later than December 31, 2022, and to redistribute authorized general and flag officers across the military departments and the joint pool.

The amendment would require the Secretary of Defense to conduct a study of general and flag officer requirements with a goal of identifying and justifying each general or flag officer position in terms of overall force structure, scope of responsibility, command and control requirements, and force readiness execution and to identify an additional 10 percent reduction in the number of general and flag officers above the reduction of 110 billets. The results of the study shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives no later than April 1, 2017. If practicable, an interim report shall be submitted to the Committees on Armed Forces of the Senate and the House of Representatives on the progress of the completion of the study and recommendations for achieving the additional 10% reductions in the number of general and flag officer positions.

The provision would also require the Secretary of Defense to submit to Congress with the budget for the Department of Defense for fiscal year 2019 a plan to achieve the reduction of 110 general and flag officers and the proposed distribution of authorized general and flag officer positions to achieve prescribed levels by December 31, 2022. Progress reports on implementing the required plan for reductions would be required with the budget of the Department of Defense for fiscal years 2020, 2021, and 2022. The provision would require the Secretary of Defense to revise applicable guidance of the Department of Defense on general and flag officer authorizations not later than 120 days after completion of the plan

to ensure that the reductions required under this provision are incorporated into the planning for executing promotions by the military departments, to ensure that resulting grades for general and flag officers are uniformly applied to positions of similar duties and responsibilities across the military departments and the joint pool, and that planning achieves a reduction in headquarters functions and administrative and support activities and staff of the Department of Defense and the military departments.

The provision would provide for an orderly transition for officers recently assigned to positions that would be eliminated and to require notification to Congress for any affected officer who, by December 31, 2022, has not completed 24 months in a position to be eliminated who may be allowed to complete at least 24 months in such position. The provision would also require certification to accompany all nominations of officers to a grade above O-6, forwarded by the President to the Senate for appointment, by and with advice and consent of the Senate, that the appointment will not interfere with achieving the reduction of 110 general and flag officers required by the provision.

The conferees note that despite two decades of Congressional concern the Department of Defense and the military departments have not demonstrated the willingness to implement even the reduction in the number of general and flag officer positions directed by the Secretary of Defense's Track Four Efficiencies Initiatives decision of March 14, 2011. In the context of the Department of Defense's continued requests to reduce military end strength, especially in the Army and the Marine Corps, reductions that Congress has cautiously considered and authorized, the time has come for the Department to rigorously evaluate and validate every general and flag officer position. The conferees believe that an additional 10% reduction in the number of general and flag officer positions may be appropriate by downgrading or eliminating positions in addition to the 110 positions required to be eliminated under this provision are achieved. The conferees expect that the Department of Defense and the military departments will improve efficiency by eliminating bloated headquarters and staffs while preserving the necessary number and grades of positions for general and flag officers who are responsible to train and lead our Nation's forces in battle and to bring them safely home again. The conferees expect that the leadership of the Department of Defense and the military departments will approach this effort with the seriousness of conviction that our men and women in uniform, and the American people deserve.

Repeal of statutory specification of general or flag officer grade for various positions in the Armed Forces (sec. 502)

The Senate bill contained a provision (sec. 502) that would amend or repeal various statutory specifications in title 10, United States Code, to remove the requirement that an officer serving must hold a specified general or flag officer grade for certain positions in the Armed Forces.

The House amendment contained no similar provision.

The House recedes with an amendment that would remove the statutory general officer grade requirement associated with the

Surgeon General of the Navy and the Surgeon General of the Air Force to conform with the elimination of the grade requirements for the Surgeon General of the Army. The amendment would also remove the entitlement of the Assistant Judge Advocate Generals of the Navy to receive retired pay for the grade of rear admiral (lower half) unless the officer is authorized the pay under another provision of law.

The conferees note that the provision would not affect the grade of an officer currently serving in the positions and would not prohibit the positions from being filled by an officer with the same, or a higher, or lower grade than the law currently requires.

Number of Marine Corps general officers (sec. 503)

The House amendment contained a provision (sec. 501) that would amend sections 525 and 526 of title 10, United States Code, to authorize an increase in the number of general officers in the grade above major general from 15 to 17, decrease the number of general officers in the grade of major general from 23 to 22, and increase the number of deputy commandants within the Marine Corps from 6 to 7.

The Senate bill contained no similar provision.

The Senate recesses.

Promotion eligibility period for officers whose confirmation of appointment is delayed due to nonavailability to the Senate of probative information under control of non-Department of Defense agencies (sec. 504)

The Senate bill contained a provision (sec. 506) that would amend section 629(c) of title 10, United States Code, to provide that the period for promotion eligibility of an officer would not expire during the period when the Senate is unable to obtain information necessary to give its advice and consent to the appointment concerned because the information is under control of a department or agency of the Federal Government other than the Department of Defense.

The House amendment contained no similar provision.

The House recesses.

Continuation of certain officers on active duty without regard to requirement for retirement for years of service (sec. 505)

The Senate bill contained a provision (sec. 509) that would amend chapter 36 of title 10, United States Code, to authorize service secretaries to allow officers in a grade above O-4 who are serving in military occupational specialties designated by the secretary to remain on Active Duty for up to 40 years of active service.

The House amendment contained no similar provision.

The House recesses.

Equal consideration of officers for early retirement or discharge (sec. 506)

The House amendment contained a provision (sec. 502) that would amend section 638a of title 10, United States Code, to authorize the secretaries of the military departments to convene boards to consider officers for involuntary separation below the