

grade of lieutenant colonel or commander as a single, consolidated year group without distinctions based on retirement eligibility and to align separation boards for such officers with the practices for promotion selection boards.

The Senate bill contained no similar provision.

The Senate recesses.

Modification of authority to drop from rolls a commissioned officer (sec. 507)

The House amendment contained a provision (sec. 503) that would amend section 1161(b) of title 10, United States Code, to authorize the Secretary of Defense, or the Secretary of the department in which the Coast Guard is operating when it is not operating in the Navy, to drop from the rolls of any armed force any commissioned officer (1) who has been absent without authority for at least three months, (2) who may be separated under section 1167 of title 10, United States Code, by reason of a sentence to confinement adjudged by a court-martial, or (3) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

The Senate bill contained no similar provision.

The Senate recesses.

Extension of force management authorities allowing enhanced flexibility for officer personnel management (sec. 508)

The Senate bill contained a provision (sec. 510) that would:

(a) amend section 4403(i) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484) to extend Temporary Early Retirement Authority through December 31, 2025;

(b) amend section 638a(a)(2) of title 10, United States Code, to extend through December 31, 2025 authority for service secretaries to manage authorized officer personnel strength by shortening the period of continuation of service by officers on Active Duty, to authorize involuntary early retirement for certain officers on Active Duty, and to consider officers for involuntary discharge who are not eligible for retirement;

(c) amend section 1175a(k)(1) of title 10, United States Code to extend through December 31, 2025 authority to provide voluntary separation pay and benefits; and

(d) amend section 1370(a)(2)(F) of title 10, United States Code to extend through fiscal year 2025, authority for early retirement of up to 4 percent of the authorized Active-Duty strength of officers in the grades of O-5 and O-6 without reduction in grade in each fiscal year.

The House amendment contained no similar provision.

The House recesses.

Pilot programs on direct commissions to cyber positions (sec. 509)

The House amendment contained a provision (sec. 1635) that would require the Secretaries of the Army and the Air Force to

carry out a pilot program to improve the ability of the Army and Air Force to recruit cyber professionals.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the secretaries of the military departments to conduct pilot programs to recruit and confer original appointments to qualified individuals as commissioned officers in a cyber specialty. Pilot programs established under this provision may commence on or after January 1, 2017, and shall terminate no later than December 31, 2022. Each Secretary of a military department who conducts a pilot program under this provision shall provide a report to the Committees on Armed Services of the Senate and of the House of Representatives, not later than January 1, 2020, evaluating the success of the program in obtaining skilled cyber personnel for the Armed Forces.

Length of joint duty assignments (sec. 510)

The Senate bill contained a provision (sec. 507) that would amend section 664 of title 10, United States Code, to modify the qualifying period for joint duty assignments from 3 years to not less than 2 years. The proposal would repeal the average tour length requirement and repeal the authority for shorter tour lengths for officers initially assigned to critical occupational specialties.

The House amendment contained a similar provision (sec. 912).
The House recedes.

Revision of definitions used for joint officer management (sec. 510A)

The Senate bill contained a provision (sec. 508) that would amend section 668 of title 10, United States Code, to update the definitions of joint matters and joint duty assignment for the purpose of joint officer management. The provision would also repeal the definition of critical occupational specialty.

The House amendment contained a similar provision (sec. 913).
The Senate recedes.

Subtitle B—Reserve Component Management

Authority for temporary waiver of limitation on term of service of Vice Chief of the National Guard Bureau (sec. 511)

The Senate bill contained a provision (sec. 521) that would amend section 10505(a)(4) of title 10, United States Code, to authorize the Secretary of Defense to extend the term of office of the Vice Chief of the National Guard Bureau for up to 90 days to provide for the orderly transition of officers appointed to the positions of the Chief and the Vice Chief of the National Guard Bureau.

The House amendment contained no similar provision.
The House recedes.

Rights and protections available to military technicians (sec. 512)

The Senate bill contained a provision (sec. 523) that would amend section 709 of title 32, United States Code, to clarify the employment rights and protections of military technicians.

The House amendment contained no such provision.

The House recesses with an amendment that would clarify that military technicians, under certain conditions, may appeal adverse employment actions to the Merit Systems Protection Board and Equal Employment Opportunity Commission.

Inapplicability of certain laws to National Guard technicians performing Active Guard and Reserve duty (sec. 513)

The Senate bill contained a provision (sec. 525) that would amend section 709 of title 32, United States Code, to clarify that the provision that grants military leave to individuals appointed to the civil service does not apply to members of the Active Guard and Reserve, just as it does not apply to members on Active Duty.

The House amendment contained no similar provision.

The House recesses.

Extension of removal of restrictions on the transfer of officers between the active and inactive National Guard (sec. 514)

The House amendment contained a provision (sec. 511) that would extend through December 31, 2019, the temporary authority for the Secretary of the Army and Secretary of the Air Force to transfer officers of the Army and Air National Guard from the Selected Reserve to the inactive National Guard and from the inactive National Guard to the Selected reserve.

The Senate bill contained no similar provision.

The Senate recesses.

Extension of temporary authority to use Air Force reserve component personnel to provide training and instruction regarding pilot training (sec. 515)

The House amendment contained a provision (sec. 512) that would amend section 514(a)(1) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) to extend for 1 year the current temporary authority for the Air Force to allow no more than 50 Active Guard and Reserve (AGR) personnel and dual status military technicians to instruct and train Active Duty and members of foreign military forces in the United States, the Commonwealth of Puerto Rico, or possessions of the United States as a primary duty.

The Senate bill contained no similar provision.

The Senate recesses.

The conferees expect the Air Force to devise a solution to this issue that does not include amending the underlying statutory authorities for AGRs and technicians. The conferees urge the Air Force to consider solutions as part of the ongoing duty status review.

Expansion of eligibility for deputy commander of combatant command having United States among geographic area of responsibility to include officers of the Reserves (sec. 516)

The Senate bill contained a provision (sec. 925) that would amend section 164 of title 10, United States Code, to require that at least one deputy commander of the combatant command of the geographic area of responsibility which includes the United States be a member of a reserve component of the Armed Forces, unless

a reserve component officer is serving as commander of that combatant command.

The House amendment contained no similar provision.

The House recesses.

Subtitle C—General Service Authorities

Matters relating to provision of leave for members of the Armed Forces, including prohibition on leave not expressly authorized by law (sec. 521)

The Senate bill contained a provision (sec. 532) that would modify section 701 of title 10, United States Code, to authorize up to 12 weeks of leave to be allowed in the case of a servicemember who is the primary caregiver in the case of the birth of a child or the adoption of a child. In the case of leave taken following the birth of a child, the availability of primary caregiver leave would commence after completion of medical convalescent leave resulting from the birth of such child. The provision would also increase the amount of uncharged leave authorized for a secondary caregiver in the case of the birth of a child or the adoption of child. The provision would authorize 21 days of uncharged leave for a birth parent or an adoptive parent who is the secondary caregiver. The provision would repeal subsections of section 701 relating to spouse and adoption leave as obsolete. The provision would require the Secretary of Defense to prescribe in regulation definitions of eligible primary and secondary caregivers for the purposes of this benefit, and to establish regulations for requesting and approving uncharged leave associated with births to a military family, and with adoptions by a military family, and would allow a military member to accept a 1-week extension of a servicemember's military service obligation for every week of such leave approved and taken. The implementing regulations would authorize the secretary concerned to waive service obligation extensions related to this leave as an incentive for re-enlistments.

The provision would also create a new section 704a of title 10, United States Code, which would prohibit leave to be authorized, granted or assigned, including uncharged leave, unless expressly authorized by law. The committee considers this provision necessary to clarify that military leave is established by law and may not be created without express congressional authority.

The House amendment contained a provision (sec. 529) that would amend chapter 40 of title 10, United States Code, by adding a new section 701a which would authorize 14 days of leave to a member of the Armed Forces who becomes a parent when that member's spouse gives birth. The provision would also amend section 701 of title 10, United States Code, to authorize 36 days of leave, to be shared between two members of the Armed Forces who are married to each other and adopt a child.

The House amendment contained a provision (sec. 522) that would amend section 701(i) of title 10, United States Code, to provide one servicemember up to 21 days of leave and another servicemember up to 14 days of leave for the adoption of a child for dual-military couples of the Armed Forces.

The House recedes with an amendment that would authorize up to 12 weeks of total leave, including up to six weeks of medical convalescent leave, to be used by a servicemember who is the primary caregiver in connection with the birth of a child. The provision would authorize additional medical convalescent leave when specifically recommended, in writing, by the medical provider of the servicemember to address a diagnosed medical condition and when approved by the servicemember's commander. The provision would authorize up to six weeks of leave for the primary caregiver in the case of the adoption of a child, to be used in connection with the adoption. The provision would authorize up to 21 days of leave for the secondary caregiver in the case of the birth of a child or adoption. The provision would require the Secretary of Defense to prescribe in regulation definitions of eligible primary and secondary caregivers for the purposes of this benefit, and to establish regulations for requesting and approving uncharged leave associated with births to a military family, and with adoptions by a military family, and would allow a military member to accept a 1-week extension of a servicemember's military service obligation for every week of such leave approved and taken. The implementing regulations would authorize the secretary concerned to waive service obligation extensions related to this leave as an incentive for re-enlistments. The provision would also create a new section 704a of title 10, United States Code, that would prohibit leave to be authorized, granted, or assigned, including uncharged leave, unless expressly authorized by law.

Transfer of provision relating to expenses incurred in connection with leave canceled due to contingency operations (sec. 522)

The Senate bill contained a provision (sec. 533) that would relocate the authority to reimburse members of the Armed Forces for expenses incurred in connection with leave cancelled due to contingency operations from section 453 of title 37, United States Code, to title 10, United States Code.

The House amendment contained no similar provision.

The House recedes.

Expansion of authority to execute certain military instruments (sec. 523)

The Senate bill contained a provision (sec. 552) that would amend section 1044d of title 10, United States Code, to authorize a person authorized to act as a notary under section 1044a of title 10, United States Code, or a state-licensed notary employed by a military department or the Coast Guard, who is supervised by a military legal assistance counsel, to notarize military testamentary instruments. The provision would also amend section 1044a(b) to authorize all civilian paralegals serving at military legal assistance offices, supervised by a military legal assistance counsel, to act as a notary.

The House amendment contained a similar provision (sec. 524).

The House recedes with a technical amendment.

Medical examination before administrative separation for members with post-traumatic stress disorder or traumatic brain injury in connection with sexual assault (sec. 524)

The Senate bill contained a provision (sec. 554) that would amend section 1177(a)(1) of title 10, United States Code, to require that a member of the Armed Forces who was sexually assaulted within 24 months prior to a proposed administrative separation under conditions other than honorable, including an administrative separation in lieu of court-martial, and who is diagnosed with post-traumatic stress disorder or traumatic brain injury by a physician, clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse as experiencing post-traumatic stress disorder or traumatic brain injury or who otherwise reasonably alleges, based on the service of the member sexually assaulted, the influence of such a condition, may not be separated until the results of the medical examination have been reviewed by appropriate authorities responsible for evaluating, reviewing, and approving the separation case, as determined by the Secretary concerned.

The House amendment contained no similar provision.

The House recesses.

Reduction of tenure on the temporary disability retired list (sec. 525)

The Senate bill contained a provision (sec. 534) that would amend section 1210 of title 10, United States Code, to reduce the maximum tenure for servicemembers placed on the Temporary Disability Retired List (TDRL), due to an injury or illness eligible for disability retirement, from 5 years to 3 years. The committee notes that this provision addresses a recommendation from the Government Accountability Office in 2009 for Congress to shorten the maximum tenure for placement on the TDRL.

The House amendment contained no similar provision.

The House recesses.

Technical correction to voluntary separation pay and benefits (sec. 526)

The House amendment contained a provision (sec. 525) that would amend section 1175a of title 10, United States Code, by updating the references to section 502(f) of title 32, United States Code, and the list of involuntary mobilization authorities.

The Senate bill contained no similar provision.

The Senate recesses.

Consolidation of Army marketing and pilot program on consolidated Army recruiting (sec. 527)

The Senate bill contained a provision (sec. 1092) that would require the Secretary of the Army to consolidate within the Army Marketing Research Group all functions relating to the marketing of the Army and each of the components of the Army in order to assure unity of effort and cost effectiveness in the marketing of the Army and each of the components of the Army.

The House amendment contained a related provision (sec. 527) that would require the Secretary of the Army to establish a pilot program to consolidate the recruiting efforts of the Regular Army,

Army Reserve, and Army National Guard under which a recruiter in one of the components participating in the pilot program may recruit individuals to enlist in any of the components regardless of the funding source of the recruiting activity.

The Senate recedes with a clarifying amendment that would combine both provisions.

Subtitle D—Member Whistleblower Protections and Correction of Military Records

Improvements to whistleblower protection procedures (sec. 531)

The Senate bill contained a provision (sec. 961) that would make numerous amendments to section 1034 of title 10, United States Code, to clarify and expand the types of adverse personnel actions prohibited under the military whistleblower protection program, to include retaliatory investigations and failures of superiors to respond to retaliatory actions in certain circumstances, as prohibited personnel actions reviewable under that statute. The provision would also require inspectors general (IG) to notify the secretary concerned if, during the IG's preliminary investigation, the IG determined there were reasonable grounds to believe that a prohibited personnel action occurred, and that the action would result in an immediate hardship to the service member, and would authorize the secretary concerned to take action, as appropriate, in such cases. The provision would require an IG to provide periodic updates to whistleblowers on the progress of investigations, to include an estimate of the time remaining until an investigation was complete. Finally, the provision would require the Department of Defense Inspector General, within 1 year of enactment of this Act, to prescribe uniform standards for the conduct of military whistleblower investigations and for the training of staffs conducting such investigations.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Modification of whistleblower protection authorities to restrict contrary findings of prohibited personnel action by the Secretary concerned (sec. 532)

The Senate bill contained a provision (sec. 962) that would amend section 1034 of title 10, United States Code, to clarify that when the secretary of the military department concerned receives a report from an inspector general that substantiates that a prohibited personnel action occurred, the secretary may consider whether to take corrective action but may not make a determination in such cases that a prohibited personnel action did not occur.

The House amendment contained no similar provision.

The House recedes.

Availability of certain correction of military records and discharge review board information through the Internet (sec. 533)

The Senate bill contained a provision (sec. 536) that would amend section 1552 of title 10, United States Code, to require that a board convened to consider a claim for correction of military records by a former servicemember (1) who had been deployed in

support of contingency operation and who was subsequently diagnosed as experiencing post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI), or (2) who was diagnosed while serving in the military as experiencing a mental health disorder include a clinical psychologist or psychiatrist, or a physician with training on mental health issues connected with PTSD or TBI. The proposal would require the military department concerned, or the Department of Homeland Security, to make available to the public on an Internet website information regarding claims considered by the service board for correction of military records in a calendar quarter.

The Senate bill would also modify section 1553 of title 10, United States Code, to require similar information be made available to the public on an Internet website information regarding claims considered by the service discharge review boards in a calendar quarter.

The House amendment contained no similar provision.

The House recedes with an amendment that would remove the requirement that boards for correction of military records considering dismissal or discharge of an individual who was diagnosed while serving in the military as experiencing a mental health disorder include a clinical psychologist or psychiatrist, or a physician with training on mental health issues connected with PTSD or TBI, and would modify the information required to be made available to the public on an Internet website.

The conferees note that section 1552(g) of title 10, United States Code, already requires that any medical advisory opinion issued with respect to a member or former member of the armed forces who was diagnosed while serving in the armed forces as experiencing a mental health disorder shall include the opinion of a clinical psychologist or psychiatrist if the request for correction of records concerned relates to a mental health disorder.

Improvements to authorities and procedures for the correction of military records (sec. 534)

The Senate bill contained a provision (sec. 963) that would amend section 1552(a) of title 10, United States Code, to require that boards for correction of military records (BCMRs) notify claimants of what specific information or documents are needed to make their claim reviewable by the board, if such information or documents are missing, and would require the BCMR to make reasonable efforts to obtain missing records when they cannot be obtained by a claimant. The provision would require the BCMR to consider any request for reconsideration of a determination of a BCMR when new information is provided by a claimant, not previously considered. The provision would reaffirm that claimants may seek judicial review of BCMR decisions, and would require BCMRs to publish final decisions with personally identifiable information redacted. The provision would require each secretary concerned to develop, within 1 year of enactment of this Act, a comprehensive training curriculum for members of BCMRs, and would require the Secretary of Defense and Secretary of Homeland Security to ensure such curricula are uniform. Finally, the provision would require each secretary concerned to submit to Congress within 18 months

of enactment a report setting forth the training curriculum established under this section.

The House amendment contained no similar provision.

The House recedes with an amendment that does not include the provision on judicial review of BCMR decisions.

Treatment by discharge review boards of claims asserting post-traumatic stress disorder or traumatic brain injury in connection with combat or sexual trauma as a basis for review of discharge (sec. 535)

The Senate bill contained a provision (sec. 536A) that would amend section 1553(d) of title 10, United States Code, to require discharge review boards to review medical evidence of the Secretary of Veterans Affairs or a civilian health care provider presented by a former member of the Armed Forces, and to grant liberal consideration to claims by a former member of the Armed Forces that post-traumatic stress disorder or traumatic brain injury potentially contributed to the circumstances resulting in a less favorable characterization of discharge. An application for relief that may be reviewed under this provision includes matters relating to post-traumatic stress disorder or traumatic brain injury related to combat or military sexual trauma, as determined by the Secretary concerned.

The House amendment contained no similar provision.

The House recedes.

Comptroller General of the United States review of integrity of Department of Defense whistleblower program (sec. 536)

The Senate bill contained a provision (sec. 964) that would require the Comptroller General of the United States to conduct an assessment of the integrity of the Department of Defense (DOD) whistleblower program, to include an assessment of the extent to which the DOD whistleblower program meets executive branch policies and goals for whistleblower protections, the adequacy of procedures to address whistleblower complaints submitted by employees of the Office of the Inspector General of the Department of Defense (OIG), the extent to which there have been violations of confidentiality standards, the extent to which there have been retaliatory investigations within OIG, the extent to which whistleblower complaints against Senate-confirmed civilian officials of DOD have been substantiated and reported to Congress in the past 10 years, and the ability of the inspectors general of DOD and the military services to access agency information necessary to the execution of their duties, including classified and other sensitive information, and of the adequacy of security procedures to safeguard such information. The provision would require the Comptroller General to report to the Committees on Armed Services of the Senate and House of Representatives within 1 year of enactment of this Act on the results of this review.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Comptroller General to submit the report within 18 months from enactment of this Act.

Subtitle E—Military Justice and Legal Assistance Matters

United States Court of Appeals for the Armed Forces (sec. 541)

The Senate bill contained a provision (sec. 553) that would amend sections 942 and 936 of title 10, United States Code (Articles 142 and 136 of the Uniform Code of Military Justice) to modify the terms of two civilian judges of the United States Court of Appeals for the Armed Forces (“the court”) to avoid disruption that may occur to the operations of the court when two judicial vacancies occur simultaneously. The provision would modify the daily rate of compensation for senior judges performing judicial duties with the court so that they would be paid the difference between the pay of a judge of the court and their federal retired pay, consistent with the process employed by the United States Court of Appeals for the District of Columbia and the United States Bankruptcy Courts. The provision would authorize the judges of the court to administer oaths in a similar manner as other federal judges. The provision would repeal the provision in article 142(b)(3) that precludes more than three judges of the court from being from the same political party.

The House amendment contained no similar provision.

The House recedes with technical and clarifying amendments.

Effective prosecution and defense in courts-martial and pilot programs on professional military justice development for judge advocates (sec. 542)

The Senate bill contained a provision (sec. 548) that would require the service secretaries to carry out a program to ensure that trial and defense counsel detailed to prosecute or defend a court-martial have sufficient experience and knowledge to effectively prosecute or defend the case, or that there is adequate supervision and oversight of the trial counsel and the defense counsel to ensure effective prosecution and defense in the court-martial. The provision would also require service secretaries to establish and use a system of skill identifiers to identify judge advocates with skill and experience in military justice proceedings to identify judge advocates to provide supervision and oversight of less experienced judge advocates prosecuting and defending in military courts-martial.

The Senate bill also contained a provision (sec. 549) that would require the secretary of each military department to conduct a 5 year pilot program to assess the feasibility and advisability of a career military justice litigation track for judge advocates in the Armed Forces. The pilot programs would include a military justice career track that leads to senior judge advocates with military justice expertise in prosecuting and defending complex cases in military courts-martial. The provision would use authority provided elsewhere in this Act to suspend limitations on the number of certain senior commissioned officers on active duty, under section 532(a) of title 10, United States Code. The provision would require the use of skill identifiers to identify judge advocates participating in the pilot programs. The provision would also require promotion boards to give the same opportunity for promotion as all other judge advocates being considered for promotion. The provision would require the Secretary of Defense to submit reports on the

pilot programs not later than 4 years after the date of enactment of this Act.

The House amendment contained a provision (sec. 547) that would require the secretary of each military department to establish a career military justice litigation track for judge advocates. The military justice career litigation track would provide for assignment and advancement of qualified judge advocates to serve in specified billets in military justice trial and defense counsel, as military trial and appellate judges, military justice instructors, positions in the criminal law offices or divisions of the Armed Forces, Special Victims Prosecutors, Victims' Legal Counsel, Special Victims' Counsel, and other positions as the secretary of the military department shall specify. The provision would prohibit a judge advocate participating in the military justice litigation career track from serving more than four years of duty outside of the litigation track. The provision would prohibit any adverse assessment of a judge advocate by reason of participating in the litigation track. The provision would require the secretary of each military department to implement the career litigation track not later than 18 months after enactment. It would require a report from the secretaries of the military departments to the Committees on Armed Services of the Senate and the House of Representatives on the progress in implementing the career litigation track.

The House receded with an amendment that would require the service secretaries to establish programs for deliberate professional developmental programs to ensure effective prosecution and defense in all courts-martial. The amendment requires the service secretaries to establish and use a system of military justice experience designators or skill identifiers. The amendment requires the service secretaries to carry out a pilot program to assess the feasibility and advisability of establishing a deliberate professional development process for judge advocates that leads to military justice practitioners capable of prosecuting and defending complex cases in military courts-martial. Pilot programs established under this provision would be for a period of five years. Not later than four years after the date of enactment of this Act, the secretaries concerned shall submit a report to the Committees on Armed Services of the Senate and of the House of Representatives providing a description and assessment of the pilot programs and providing such recommendations as the secretary considers appropriate.

Inclusion in annual reports on sexual assault prevention and response efforts of the Armed Forces of information on complaints of retaliation in connection with reports of sexual assault in the Armed Forces (sec. 543)

The Senate bill contained a provision (sec. 543) that would amend section 1631(b) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 1561 note) to require the annual report on sexual assault and response efforts to include information on complaints of retaliation in connection with reports of sexual assault in the Armed Forces.

The House amendment contained no similar provision.
The House recedes.

Extension of the requirement for annual report regarding sexual assaults and coordination with release of Family Advocacy Program report (sec. 544)

The Senate bill contained a provision (sec. 551) that would amend section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383) that would extend the requirement for the annual report on sexual assault in the military under that section through February, 2025, and require the reports to be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than March 31 each year. The provision would also clarify the scope of sexual assaults covered by the report to include all reported sexual assaults, regardless of the age of the offender or victim or the relationship status between the offender and victim, including, at a minimum, all sexual assault reports received by the Sexual Assault Prevention and Response Program, or equivalent, and the Family Advocacy Program, or equivalent, of each Armed Force.

The House amendment contained a provision (sec. 542) that would extend the requirement for the annual report through January 31, 2021. The provision would also require release of the report to coincide with the release of the Family Advocacy Program report, as required elsewhere in this Act.

The Senate recedes with an amendment that would establish the date by which the annual report would be provided to be not later than April 30th.

Metrics for evaluating the efforts of the Armed Forces to prevent and respond to retaliation in connection with reports of sexual assault in the Armed Forces (sec. 545)

The Senate bill contained a provision (sec. 544) that would require the Sexual Assault Prevention and Response Office of the Department of Defense to establish and issue metrics to be used by the military departments to evaluate the efforts of the Armed Forces to prevent and respond to retaliation in connection with reports of sexual assault in the Armed Forces.

The House amendment contained no similar provision.
The House recedes.

Training for Department of Defense personnel who investigate claims of retaliation (sec. 546)

The Senate bill contained a provision (sec. 542) that would require the Secretary of Defense to prescribe training to individuals in the Department of Defense who investigate claims of retaliation on the nature and consequences of retaliation and, in cases involving reports of sexual assault, the nature and consequences of sexual assault trauma.

The House amendment contained a similar provision (sec. 546).
The House recedes with a clarifying amendment.

Notification to complainants of resolution of investigations into retaliation (sec. 547)

The Senate bill contained a provision (sec. 541) that would require the Secretary of Defense to prescribe regulations that would require that the results of an investigation of a retaliation com-

plaint by a member of the Armed Forces be reported to the member who initiated the complaint. The report would inform the member whether the complaint was substantiated, unsubstantiated, or dismissed. The provision would also require the Secretary of Homeland Security to prescribe similar regulations to report on retaliation complaints by a member of the Coast Guard.

The House amendment contained no similar provision.

The House recedes with an amendment that would require that the results of the investigation be reported in writing to the member who initiated the complaint.

Modification of definition of sexual harassment for purposes of investigations by commanding officers of complaints of harassment (sec. 548)

The Senate bill contained a provision (sec. 550) that would amend section 1561(i) of title 10, United States Code, to modify the definition of sexual harassment. The committee is concerned that the existing definition of sexual harassment has caused the military services to consider sexual harassment as a violation of equal opportunity policy instead of an adverse behavior that data have demonstrated is on the spectrum of behavior that can contribute to an increase in the incidence of sexual assault.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would clarify that the provision would amend section 1561(e) of title 10, United States Code.

Improved Department of Defense prevention and response to hazing in the Armed Forces (sec. 549)

The House amendment contained a provision (sec. 544) that would require the Secretary of Defense to establish a system for collection of reports of hazing involving a member of the Armed Forces. The provision would also require the secretaries of the military departments, in consultation with the Chief of Staff of each armed force, to improve training to assist members to better recognize, prevent, and respond to hazing. The amendment would also require an annual survey on hazing and annual reports on hazing that include a description of efforts to prevent and respond to hazing incidents, to track and encourage reporting hazing incidents, and to ensure consistent implementation of anti-hazing policies. The reports required under this section would also address elements prescribed for anti-hazing reports in section 534 of the national Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239).

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would remove the requirement that service secretaries conduct an annual survey on hazing.

The conferees are concerned that the extent of hazing incidents in the armed forces is not fully known. Therefore, the conferees direct that the Department of Defense include questions in existing surveys of members of the Armed Forces to assist in determining the prevalence of hazing incidents in the Armed Forces, to assess the effectiveness of training in recognizing and preventing hazing,

and to determine the extent to which members of the Armed Forces are aware of options to report hazing incidents, including anonymous report options.

Subtitle F—National Commission on Military, National, and Public Service

Purpose, scope, and definitions (sec. 551)

The Senate bill contained a series of provisions (sec. 1066–1073) that would create an independent National Commission on Military, National, and Public Service, including a provision (sec. 1066) to establish the purpose and scope of this Commission to consider: (1) the need for a military selective service process, including a continuing need for a mechanism to draft large numbers of replacement combat troops; (2) the means by which to foster a greater attitude and ethos of service among United States youth, including an increased propensity for military service; (3) the feasibility of modifying the military selective service process to obtain for military, national, and public service individuals with skills for which the Nation has a critical need, without regard to age or gender; and (4) the feasibility of including in the military selective service process, as so modified, an eligibility for one or more Federal benefits to incentivize the necessary education, training, and service to fulfill such critical needs.

The House amendment contained no similar provision.

The House recesses.

Preliminary report on purpose and utility of registration system under Military Selective Service Act (sec. 552)

The House amendment contained a provision (sec. 528) that would require the Secretary of Defense to submit, not later than July 1, 2017, a report to the Committees on Armed Services of the Senate and the House of Representatives, on the current and future need for a centralized registration system under the Military Selective Service Act, chapter 49 of title 50, United States Code, and provide a briefing on the results of the report not later than July 1, 2017.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that would require the report to also be provided to the National Commission on Military, National, and Public Service created under this Act.

National Commission on Military, National, and Public Service (sec. 553)

The Senate bill contained a provision (sec. 1067) that would establish the National Commission on Military, National, and Public Service as an independent commission. The provision would prescribe the manner and timing in which the Commission would be appointed, its composition, pay rates for members and staff, and would provide sundry other authorities attending to the operation of the Commission as an independent entity.

The Senate bill contained a provision (sec. 1073) that would require that of the amounts authorized to be appropriated for the Department of Defense for fiscal year 2017, \$15.0 million be available

to the National Commission on Military, National, and Public Service until expended to carry out its duties under this subtitle.

The House amendment contained no similar provisions.
The House recesses.

Commission hearings and meetings (sec. 554)

The Senate bill contained a provision (sec. 1068) that would require the National Commission on Military, National, and Public Service to conduct public hearings (except classified hearings) on recommendations under consideration, and that such hearings be noticed on a public website at least 14 days in advance. The provision would require the Commission to hold its first meeting within 30 days after all members have been appointment.

The House amendment contained no similar provision.
The House recesses.

Principles and procedure for Commission recommendations (sec. 555)

The Senate bill contained a provision (sec. 1069) that would require the President, within 3 months after the establishment date of the National Commission on Military, National, and Public Service, to establish and transmit to the Commission and Congress principles for reform of the military selective service process, including the means by which to best acquire skills to meet the military, national, and public service requirements of the country. The provision would require these Presidential principles to address: (1) whether, in light of the current global security environment, there continues to be a need for a selective service process designed to produce large quantities of combat troops, and if so, whether that system should include mandatory registration by citizens and residents regardless of gender; (2) the need, and how best to meet the need, of the Nation, the military, the Federal civilian sector, and the private sector (including the non-profit sector) for individuals possessing certain critical skills and abilities, and how to best employ individuals with those skills and abilities; (3) how to foster within the nation, particularly among the nation's youth, an increased sense of service and civic responsibility to enhance the acquisition of critically needed skills through education and training, and how best to acquire those skills for military, national, and public service; (4) how to increase propensity among the nation's youth for service in the military, or alternatively in national or public service, including how to increase the pool of qualified applicants for military service; (5) the need in government to increase interest, education, and employment in certain critical fields, including particularly science, technology, engineering, and mathematics, national security, cyber, linguistics and foreign language, education, health care, and the medical professions; and (6) how military national, and public service may be incentivized, including through educational benefits, grants, Federally-insured loans, Federal or State hiring preferences, or other mechanisms the President considers appropriate. The provision would require certain cabinet officials and other officials or experts to transmit to the Commission and Congress recommendations for the reform of the military selec-

tive service process, and military, national, and public service in connection with that process.

The Senate bill contained a provision (sec. 1071) that would preclude the actions of the President, cabinet officials and other individuals required to provide recommendations under this subtitle, and the Commission on Military, National, and Public Service from judicial review of their actions taken under this subtitle.

The House amendment contained no similar provisions.

The House recesses.

Executive Director and staff (sec. 556)

The Senate bill contained a provision (sec. 1070) that would authorize the National Commission on Military, National, and Public Service to appoint, and fix the rate of pay of, an Executive Director and staff. The provision would limit detailees from Executive Branch agencies to no more than one-third of the personnel employed by the Commission, and would prohibit the detail of executive branch employees to the Commission who in the year prior to the detail were substantially involved with the development of recommendations provided to the Commission.

The House amendment contained no similar provision.

The House recesses.

Termination of Commission (sec. 557)

The Senate bill contained a provision (sec. 1072) that would provide for the termination of the National Commission on Military, National, and Public Service no later than 36 months after the Commission establishment date.

The House amendment contained no similar provision.

The House recesses.

Subtitle G—Member Education, Training, Resilience, and
Transition

Modification of program to assist members of the Armed Forces in obtaining professional credentials (sec. 561)

The Senate bill contained a provision (sec. 562) that would amend section 2015 of title 10, United States Code, to include within the program to assist members in obtaining professional credentials those credentials that were acquired during military service but which were not necessarily obtained incident to the performance of their military duties. The provision would also eliminate the requirement that credentialing programs be accredited by third party accreditation bodies, and instead would require that credentialing programs meet certain other quality assurance benchmarks.

The House amendment contained a similar provision (sec. 561).

The House recesses with a technical amendment.

Inclusion of alcohol, prescription drug, opioid, and other substance abuse counseling as part of required pre-separation counseling (sec. 562)

The House amendment contained a provision (sec. 569) that would amend section 1142(b)(11) of title 10, United States Code, to

include alcohol, prescription drug, opioid, and other substance abuse counseling as part of required preseparation counseling.

The Senate bill contained no similar provision.

The Senate recesses.

Inclusion of information in Transition Assistance Program regarding effect of receipt of both veteran disability compensation and voluntary separation pay (sec. 563)

The House amendment contained a provision (sec. 569A) that would amend section 1144(b) of title 10, United States Code, to require information be provided in the course of the Transition Assistance Program regarding the required deduction of disability compensation paid by the Secretary of Veterans Affairs by the amount of voluntary separation pay received by the member.

The Senate bill contained no similar provision.

The Senate recesses with a technical amendment.

Training under Transition Assistance Program on employment opportunities associated with transportation security cards (sec. 564)

The House amendment contained a provision (sec. 3511) that would require the Transition Assistance Program to provide information on career opportunities for employment available to members with transportation security cards issued under section 70105 of title 46, United States Code, within 180 days after the date of enactment.

The Senate bill contained no similar provision.

The Senate recesses with a technical amendment.

Extension of suicide prevention and resilience program (sec. 565)

The Senate bill contained a provision (sec. 524) that would amend section 10219(g) of title 10, United States Code, to extend the authority for suicide prevention and resilience programs for the National Guard and Reserves until October 1, 2022.

The House amendment contained a provision (sec. 599G) that would amend section 10219(g) of title 10, United States Code, to extend the authority for suicide prevention and resilience programs for the National Guard and Reserves until October 1, 2018.

The Senate recesses.

Congressional notification in advance of appointments to service academies (sec. 566)

The House amendment contained a provision (sec. 569C) that would amend sections 4342, 6954, and 9342 of title 10, United States Code, and section 51302 of title 46, United States Code, to require the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Merchant Marine Academy to notify a Senator, Representative, or Delegate of the appointment of a cadet or midshipman nominated by that member of Congress at least 48 hours in advance of the official notification or announcement of the appointment. The advance notification requirement would be effective for classes entering these service academies after January 1, 2018.

The Senate bill contained no similar provision.

The Senate recesses.

Report and guidance regarding Job Training, Employment Skills Training, Apprenticeships, and Internships and SkillBridge initiatives for members of the Armed Forces who are being separated (sec. 567)

The House amendment contained a provision (sec. 569B) that would require the Under Secretary of Defense for Personnel and Readiness to submit to the Committees on Armed Services of the Senate and the House of Representatives a detailed report evaluating the success of the Job Training, Employment Skills Training, Apprenticeships, and Internships (known as JTEST-AI) and SkillBridge initiatives.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that would extend the completion date for the report from 90 days to 180 days and narrow the scope of the report.

Military-to-mariner transition (sec. 568)

The House amendment contained a provision (sec. 563) that would require a report from the Secretary of Defense and the Secretary of Homeland Security to the Committees on Armed Services of the Senate and House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate on the efforts to ensure military service, training and qualifications are creditable towards merchant marine licenses and certifications.

The Senate bill contained no similar provision.

The Senate recesses.

Subtitle H—Defense Dependents' Education and Military Family Readiness Matters

Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees (sec. 571)

The Senate bill contained a provision (sec. 571) that would authorize \$25.0 million in Operation and Maintenance, Defense-wide, for continuation of the Department of Defense (DOD) assistance program to local educational agencies impacted by enrollment of dependent children of military members and DOD civilian employees.

The Senate bill also contained a provision (sec. 572) that would authorize \$5.0 million in Operation and Maintenance, Defense-wide, for impact aid payments for children with disabilities (as enacted by Public Law 106-398; 114 Stat. 1654A-77; 20 U.S.C. 7703a) using the formula set forth in section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398), for continuation of Department of Defense assistance to local educational agencies that benefit eligible dependents with severe disabilities.

The House amendment contained a provision (sec. 571) that would authorize \$30.0 million in Operation and Maintenance, De-

fense-wide, for continuation of the DOD assistance program to local educational agencies impacted by enrollment of dependent children of military members and DOD civilian employees.

The Senate recedes with an amendment that would authorize \$30.0 million in supplemental impact aid, and \$5.0 million for impact aid for children with severe disabilities.

One-year extension of authorities relating to the transition and support of military dependent students to local educational agencies (sec. 572)

The Senate bill contained a provision (sec. 574) that would amend section 547(c)(3) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (20 U.S.C. 7703b note) to extend the authorities relating to transition and support of military dependent students to local educational agencies from September 30, 2016, to September 30, 2017. The provision would also require the administration to submit detailed budget justification information with any annual budget request that includes a request for the future extension of these authorities.

The House amendment contained no similar provision.

The House recedes with a technical amendment to correct the statutory citation of the amended section.

Annual notice to members of the Armed Forces regarding child custody protections guaranteed by the Servicemembers Civil Relief Act (sec. 573)

The House amendment contained a provision (sec. 526) that would require the secretaries of the military departments to ensure that each member of the Armed Forces with dependents receives annually, and prior to each deployment, notice of the child custody protections afforded to members of the Armed Forces under the Servicemembers Civil Relief Act (50 U.S.C. 3901 et seq.).

The Senate bill contained no similar provision.

The Senate recedes.

Requirement for annual Family Advocacy Program report regarding child abuse and domestic violence (sec. 574)

The House amendment contained a provision (sec. 543) that would require the Secretary of Defense to provide to the Committees on Armed Services of the Senate and of the House of Representatives an annual report, beginning not later than January 31, 2017 and continuing through January 31, 2021, on the child abuse and domestic abuse incident data contained in the Department of Defense Family Advocacy Program central registry for the previous year, and an analysis of the effectiveness of the Family Advocacy Program.

The Senate bill amendment contained no similar provision.

The Senate recedes with an amendment that would establish the date by which the annual report would be provided to be not later than April 30, 2017, and annually thereafter through April 30, 2021.

Reporting on allegations of child abuse in military families and homes (sec. 575)

The Senate bill contained a provision (sec. 577) that would require the Secretary of Defense and the Secretary of Homeland Security to prescribe regulations to ensure that the family advocacy program office at a military installation to which a member of the Armed Forces is assigned is provided an immediate report of credible information obtained by any individual in the chain of command of the servicemember, that a child in the family or home of the servicemember has suffered an incident of child abuse. The provision would require a similar report by any member of the Armed Forces in a profession described by subsection 226(b) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13031) who has reason to suspect that a child in the family or home of a servicemember has suffered an incident of child abuse.

The House amendment contained a similar provision (sec. 541).
The House recedes with a technical amendment.

Repeal of Advisory Council on Dependents' Education (sec. 576)

The Senate bill contained a provision (sec. 581) that would repeal section 1411 of the Defense Dependents' Education Act of 1978 to abolish the Advisory Council on Dependents' Education.

The House amendment contained no similar provision.
The House recedes.

Support for programs providing camp experience for children of military families (sec. 577)

The Senate bill contained a provision (sec. 579) that would authorize the Secretary of Defense to provide financial or non-monetary support to qualified non-profit organizations to assist those organizations in carrying out programs to support attendance at a camp or camp-like setting for children of military families.

The House amendment contained a similar provision (sec. 572).

The Senate recedes with an amendment that would remove the requirement that the Secretary accord a preference in the approval of applications submitted by certain organizations.

Comptroller General of the United States assessment and report on Exceptional Family Member Programs (sec. 578)

The Senate bill contained a provision (sec. 580) that would require the Comptroller General of the United States to submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the effectiveness of each Exceptional Family Member Program of the Armed Forces.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Comptroller General of the United States to conduct an assessment on the effectiveness of each Exceptional Family Member Program of the Armed Forces and to provide a report to the Committees on Armed Services of the Senate and the House of Representatives by December 31, 2017.

Impact aid amendments (sec. 579)

The Senate bill contained a provision (sec. 573) that would amend sections 7003(b)(2)(B)(i)(I), 7003(b)(2)(B)(i)(II)(bb), and 7003(b)(2)(B)(i)(IV) of the Elementary and Secondary Education Act of 1965 (most recently amended by Public Law 114–95) to: 1) make a technical correction to the current statute to prevent the inadvertent disqualification of some local school districts from the Impact Aid heavily impacted program whose boundaries are within the perimeter of military installations; 2) provide additional time to collect data on the effects to the Impact Aid heavily impacted program; and 3) adjust eligibility criteria to meet congressional intent.

The House amendment contained a provision (sec. 573) that would amend section 8003(a)(5)(A) of the Elementary and Secondary Education Act of 1965 (most recently amended by Public Law 114–95) to authorize a provision that counts all military-connected students living in military housing equally to take effect immediately.

The Senate recedes with an amendment that would combine these provisions.

The conferees intend that if a local educational agency is eligible to receive a basic support payment under subclause (IV) of section 7003(b)(2)(B)(i) as amended by this section and the Every Student Succeeds Act then subclause (IV) takes priority over other subclauses. The conferees further intend that if a local educational agency is not eligible for a basic support payment under subclause (IV) of section 7003(b)(2)(B)(i) as amended by this section and the Every Student Succeeds Act but is eligible under section 7003(b)(2) then the local educational agency may apply under that section.

Subtitle I—Decorations and Awards

Posthumous advancement of Colonel George E. “Bud” Day, United States Air Force, on the retired list (sec. 581)

The Senate bill contained a provision (sec. 589) that would posthumously advance Colonel George E. “Bud” Day, United States Air Force, to the rank of brigadier general on the retired list of the United States Air Force. Colonel Day’s benefits would not be affected by this action.

The House amendment contained no similar provision.

The House recedes.

Authorization for award of medals for acts of valor during certain contingency operations (sec. 582)

The House amendment contained a provision (section 582) that would waive the time limitations prescribed in various sections of title 10, United States Code, to authorize the President to award certain valor awards, including the Congressional Medal of Honor, to a member or former member of the Armed Forces for service in Operation Enduring Freedom, Operation Iraqi Freedom, Operation New Dawn, Operation Freedom’s Sentinel, and Operation Inherent Resolve, resulting from a review of valor award nominations directed by the Secretary of Defense on January 7, 2016. The time

waiver provided under the House amendment would expire on December 31, 2019.

The Senate bill had no similar provision.

The Senate recedes with a technical amendment.

Authorization for award of the Medal of Honor to Gary M. Rose and James C. McCloughan for acts of valor during the Vietnam War (sec. 583)

The Senate bill contained a provision (sec. 587) that would waive the time limitations specified in section 3744 of title 10, United States Code, to authorize the President to award the Medal of Honor to Gary M. Rose for acts of valor from September 11 through 14, 1970, during the Vietnam War, while a member of the United States Army, Military Assistance Command Vietnam—Studies and Observation Group (MACVSOG).

The House amendment contained an identical provision (sec. 583).

The conference agreement includes the provision with an amendment that would waive the time limitations specified in section 3744 of title 10, United States Code, to authorize the President to award the Medal of Honor to James C. McCloughan for acts of valor during combat operations between May 13, 1969 and May 15, 1969, during the Vietnam War, while serving as a combat medic with Company C, 3d Battalion, 21st Infantry, 196th Light Infantry Brigade, American Division, Republic of Vietnam.

Authorization for award of Distinguished Service Cross to First Lieutenant Melvin M. Spruiell for acts of valor during World War II (sec. 584)

The House amendment contained a provision (sec. 585) that would authorize the Secretary of the Army to award the Distinguished Service Cross to First Lieutenant Melvin M. Spruiell for acts of valor while a member of the Army serving in France with the 377th Parachute Field Artillery, 101st Airborne Division, from June 10 to 11, 1944.

The Senate bill contained no similar provision.

The Senate recedes.

Authorization for award of the Distinguished Service Cross to Chaplain (First Lieutenant) Joseph Verbis LaFleur for acts of valor during World War II (sec. 585)

The Senate bill contained a provision (sec. 588) that would authorize the Secretary of the Army to award the Distinguished Service Cross to Chaplain (First Lieutenant) Joseph Verbis LaFleur for acts of valor while interned as a prisoner of war by Japan, from December 30, 1941 to September 7, 1944.

The House amendment contained no similar provision.

The House recedes.

Review regarding award of Medal of Honor to certain Asian American and Native American Pacific Islander War Veterans (sec. 586)

The House amendment contained a provision (sec. 581) that would require the Secretaries of the military departments to review

the service records of certain Asian American and Native American Pacific Islander veterans from the Korean war and Vietnam war veterans to determine if the award of the Medal of Honor is appropriate. The House provision would require the services to review the records of veterans who were previously awarded the Distinguished Service Cross, the Navy Cross, and the Air Force Cross, and in those cases where the Secretary concerned determines that the service records of those veterans support the award of the Medal of Honor, this section would also waive the statutory time limitations for award of the Medal of Honor.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretaries of the military departments to review the service records of former members of the Armed Forces whose service records identify them as an Asian American or Native American Pacific Islander war veteran who was previously awarded the Distinguished Service Cross, the Navy Cross, and the Air Force Cross and in those cases where the Secretary concerned determines that the service records of those veterans support the award of the Medal of Honor, this section would also waive the statutory time limitations for award of the Medal of Honor.

Subtitle J—Miscellaneous Reports and Other Matters

Repeal of requirement for a chaplain at the United States Air Force Academy appointed by the President (sec. 591)

The Senate bill contained a provision (sec. 595) that would repeal section 9337 of title 10, United States Code, that requires a chaplain at the United States Air Force Academy appointed by the President. The section is not required because the Air Force and the other military departments already assign chaplains to the service academies under existing service personnel assignment procedures.

The House amendment contained no similar provision.

The House recedes.

Extension of limitation on reduction in number of military and civilian personnel assigned to duty with service review agencies (sec. 592)

The Senate bill contained a provision (sec. 596) that would amend section 1559 of title 10, United States Code, to extend the limitation on reducing the number of military and civilian personnel assigned to duty with the service review agencies through December 31, 2019.

The House amendment contained no similar provision.

The House recedes.

Annual reports on progress of the Army and the Marine Corps in integrating women into military occupational specialties and units recently opened to women (sec. 593)

The Senate bill contained a provision (sec. 593) that would require a report to be delivered to the Committees on Armed Services of the Senate and the House of Representatives by the Chief of Staff of the Army, the Commandant of the Marine Corps, and the

Commander of the United States Special Operations Command annually on April 1, 2017, and each year thereafter through 2021 on the progress of integrating women into military occupational specialties and units recently opened to women.

The House amendment contained no similar provision.

The House recesses with an amendment that would narrow the scope of the report and change the final report date to 2020.

Report on feasibility of electronic tracking of operational active-duty service performed by members of the Ready Reserve of the Armed Forces (sec. 594)

The House amendment contained a provision (sec. 515) that would require the Secretary of Defense to establish electronic means for reserve component members to track qualifying operational active-duty service that would enable early receipt of reserve retired pay under section 12731(f) of title 10, United States Code.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that would require the Secretary to assess the feasibility of such an electronic tracking system, and to provide a report to the Committees on Armed Services of the Senate and House of Representatives by no later than May 1, 2017.

Report on discharge by warrant officers of pilot and other flight officer positions in the Navy, Marine Corps, and Air Force currently discharged by commissioned officers (sec. 595)

The Senate bill contained a provision (sec. 597) that would require the secretaries of the Navy and the Air Force to submit a report to the Committees on Armed Services of the Senate and of the House of Representatives, not later than 180 days after enactment, on the feasibility and advisability of having warrant officers discharge the duties of pilots and other flight officer positions currently discharged by commissioned officers.

The House amendment contained no similar provision.

The House recesses.

Body mass index test (sec. 596)

The House amendment contained a provision (sec. 593) that would require the Secretary of Defense to review the current body mass index test procedure used by the Armed Forces and to determine the best methods to assess body fat percentages to improve the accuracy of body fat measurements.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that would require the service secretaries to conduct the review of current body mass index test procedures and other methods to measure body fat with a more holistic health and wellness approach.

Report on career progression tracks of the Armed Forces for women in combat arms units (sec. 597)

The Senate bill contained a provision (sec. 594) that would require the Secretary of Defense to submit a description of the career progression track for entry level and laterally moved female service

members, both officer and enlisted, of each Armed Force for positions that have been opened as a result of the December 3, 2015, decision by the Secretary to open all previously closed military occupations to women.

The House amendment contained no similar provision.

The House recesses.

LEGISLATIVE PROVISIONS NOT ADOPTED

Temporary suspension of officer grade strength tables

The Senate bill contained a provision (sec. 503) that would amend sections 523(a) and 12011(a) of title 10, United States Code, to remove the limitations on the total number of commissioned officers authorized to serve on Active Duty or on full-time reserve component duty in the pay grades of O-4 through O-6 as of the end of the fiscal year for fiscal years 2017 through 2021.

The House amendment contained no similar provision.

The Senate recesses.

The conferees believe that providing relief from statutory caps on the numbers of officers of the active and reserve components serving in pay grades from O-4 to O-6, for an appropriate trial period, may allow the secretaries of the military departments to adjust the shape of their officer corps to affect talent management-based promotion systems and more quickly adapt to changing war fighting requirements and available talent supply. The conferees are concerned that such statutory flexibility must be exercised in a manner that would promote lean, efficient, and highly effective officer corps and must not result in bloated senior officer ranks that impede the proper administration of the officer personnel management system. Therefore, the conferees modify the reporting requirement directed in the Senate report accompanying section 503 of S. 2943 (S. Rept. 114-255) to require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 1, 2017, describing how the military departments would propose to use the authority described in section 503 of the Senate-passed bill, a description of the specific categories of adjustments in control grades and the number and percentages of such adjustments desired, and an assessment of the impact of the authority, if implemented, on the desired officer grade composition of the military departments. The report shall specifically address the proposed use of this authority for military intelligence officers, foreign area specialists, judge advocates with a military justice skill identifier, and officers with expertise in cyber matters.

Enhanced authority for service credit for experience or advanced education upon original appointment as a commissioned officer

The Senate bill contained a provision (sec. 504) that would amend section 533 of title 10, United States Code, to authorize service secretaries to credit an applicant for an original appointment in a commissioned grade with an amount of constructive credit limited to the amount required for an original appointment in the grade of colonel in the Army, Air Force, or Marine Corps, or in the grade of captain in the Navy. The provision would author-

ize the secretary concerned to award constructive credit for leadership experience, professional credentials, and technical expertise to directly commission officers up to the grade of O-6.

The House amendment contained no similar provision.

The Senate recesses.

The conferees note that another provision of this Act would authorize the military departments to conduct pilot programs to commission cyber professionals. The conferees recognize that the use of similar authorities to commission professionals such as doctors, lawyers, and chaplains continues to have great utility in providing trained professionals for the military departments. It may be useful to extend such authorities to branches, career fields, and occupational specialties that may be designated by the services as having technical or warfighter status. The conferees encourage the Department of Defense to provide detailed information to the Committees on Armed Services of the Senate and of the House of Representatives on how the expanded use of such authorities may be utilized.

Authority of promotion boards to recommend officers of particular merit be placed at the top of the promotion list

The Senate bill contained a provision (sec. 505) that would amend section 616 of title 10, United States Code, to authorize an officer promotion board to recommend Active-Duty officers of particular merit to be placed at the top of the promotion list.

The House amendment contained no similar provision.

The Senate recesses.

The conferees remind the Department of Defense that the Joint Explanatory Statement accompanying the National Defense Authorization Act for Fiscal Year 2016 (P.L. 114-92) identified the need to review and modernize procedures to select officers for promotion. The Department of Defense was encouraged to develop recommendations to enhance the flexibility of selection boards to identify and select officers of particular merit for early promotion, using procedures that all stakeholders would view as objective and fair. Despite the Department's much-touted Force of the Future studies, the last year saw no recommendations to Congress that would provide the flexibility the Department claims to need to recruit, commission, promote, and retain the high quality all-volunteer force the Nation requires.

Limitations on ordering selected reserve to active duty for preplanned missions in support of the combatant commands

The House amendment contained a provision (sec. 513) that would amend section 12304(b) of title 10, United States Code, to authorize the Secretary of Defense to order any unit of the Selected Reserve to Active Duty during the year of execution if the Secretary identifies manpower and associated costs as an emerging requirement in the year of execution and provides a 30-day notice to the congressional defense committees.

The Senate bill contained no similar provision.

The House recesses.

The conferees note that the authority to order Selected Reserve units to Active Duty under section 12304(b) of title 10, United States Code, is designed to incentivize deliberate planning for the

use of the Selective Reserve as part of the operational force by requiring missions to be planned in advance and included in annual budget submissions. Other provisions of title 10, United States Code, provide authority to order members and units of the reserve components to Active Duty to address emerging requirements arising during the year of execution.

Exemption of military technicians (dual status) from civilian employee furloughs

The House amendment contained a provision (sec. 514) that would amend section 10216(b)(3) of title 10, United States Code, to exempt military dual-status technicians from civilian employee furloughs.

The Senate bill contained no similar provision.

The House recesses.

Authority to designate certain Reserve officers as not to be considered for selection for promotion

The Senate bill contained a provision (sec. 522) that would amend section 14301 of title 10, United States Code, to authorize the secretaries of the military departments to defer promotion consideration for reserve component officers in a non-participatory (membership points only) status.

The House amendment contained no similar provision.

The Senate recesses.

Responsibility of Chiefs of Staff of the Armed Forces for standards and qualifications for military specialties within the Armed Forces

The Senate bill contained a provision (sec. 531) that would vest in the Chief of Staff of each of the Armed Forces the responsibility for establishing, approving, and modifying the criteria, standards, and qualifications for military specialty codes within that Armed Force. The Secretary of Defense would retain oversight authority.

The House amendment contained no similar provision.

The Senate recesses.

The conferees expect service secretaries to consult with and receive the advice of the Chiefs of Staff of each of the Armed Forces when making decisions on military standards and qualifications.

Reconciliation of contradictory provisions relating to qualifications for enlistment in the reserve components of the Armed Forces

The Senate bill contained a provision (sec. 537) that would amend section 12102(b) of title 10, United States Code, to align the requirements for enlistment in the reserve components of the Armed Forces with the requirements for enlistment in the active components.

The House amendment contained no similar provision.

The Senate recesses.

Burdens of proof applicable to investigations and reviews related to protected communications of members of the armed forces and prohibited retaliatory actions

The House amendment contained a provision (sec. 545) that would amend section 1034 of title 10, United States Code, to establish the burden of proof under this section for military retaliation investigations to be the same as the burden of proof applicable to retaliation investigations under section 1221(e) of title 5, United States Code.

The Senate bill contained no similar provision.

The House recedes.

The conferees included a number of provisions in this Act that will provide necessary tools to allow military victims of retaliation to be provided full, fair, and expeditious investigation and relief, when appropriate, in response to alleged retaliation. The conferees are mindful however that the requirements, hardships, and sacrifices of military service are unique and unlike those of the federal civilian workplace that section 1221(e) of title 5 is intended to address. We consider the burden of proof standards under section 1221(e) to be properly tailored to the federal civilian workforce. However, the conferees concluded that the burden of proof standards that properly apply in a civilian context are not amenable to the unique demands of military service. The conferees remain concerned about reports from military personnel who indicate they have been subjected to retaliation after making protected communications. The conferees intend to remain seized of this issue and will assess the impact of the provisions in this bill to reducing the prevalence of retaliation in the military.

Discretionary authority for military judges to designate an individual to assume the rights of the victim of an offense under the Uniform Code of Military Justice when the victim is a minor, incompetent, incapacitated, or deceased

The Senate bill contained a provision (sec. 546) that would amend section 806b(c) of title 10, United States Code (Article 6b(c), Uniform Code of Military Justice (UCMJ)) to authorize military judges to decide on a case-by-case basis whether it is appropriate to appoint an individual to assume the victim's rights in all cases under the UCMJ in which the victim of an offense is under 18 years of age (unless the victim is a member of the Armed Forces) or is incompetent, incapacitated, or deceased.

The House amendment contained no similar provision.

The Senate recedes.

The conferees note that a similar provision is included in the Military Justice Act of 2016 which is enacted elsewhere in this Act.

Appellate standing of victims in enforcing rights of victims under the Uniform Code of Military Justice

The Senate bill contained a provision (sec. 547) that would amend section 806b of title 10, United States Code (article 6b of the Uniform Code of Military Justice (UCMJ)) to authorize victims to file pleadings as a real party in interest when the Government files appellate pleadings implicating the victim's rights relating to Military Rule of Evidence (MRE) 412, relating to the admission of

evidence regarding a victim's sexual background; MRE 513, relating to the psychotherapist-patient privilege; or MRE 514, relating to the victim advocate-patient privilege. The provision would also amend section 806b of title 10, United States Code (article 6b of the UCMJ) to afford a victim with the right to reasonable, accurate, and timely notice of any appellate matters.

The House contained no similar provision.

The Senate recesses.

The conferees understand that the Judicial Proceedings Panel (JPP) established by section 576 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239) will receive testimony and address this issue in future public meetings of the JPP. The conferees will reconsider this issue after receipt of the JPP recommendations.

Limitation on tuition assistance for off-duty training or education

The Senate bill contained a provision (sec. 561) that would amend section 2007 of title 10, United States Code, to limit the tuition assistance program for off-duty training and education to education programs likely to contribute to the professional development of the servicemember.

The House amendment contained no similar provision.

The Senate recesses.

The conferees support Department of Defense and military service efforts over the past several years to ensure the integrity of the tuition assistance program, and the educational success of servicemembers utilizing the benefit, through implementation of common-sense restrictions on premature use by servicemembers still adjusting to military life and who are still learning their military occupations, as well as restrictions on those who would inappropriately use the benefit to acquire additional degrees at the same level of attainment.

Establishment of ROTC cyber institutes at senior military colleges

The House amendment contained a provision (sec. 562) that would amend chapter 103 of title 10, United States Code, to authorize the Secretary of Defense to carry out a program to establish ROTC Cyber Institutes at the six Senior Military Colleges for purposes of accelerating the development of foundational expertise in critical cyber operational skills for future military and civilian leaders of the Armed Forces and Department of Defense, to include such leaders of the Reserve Components.

The Senate bill contained no similar provision.

The House recesses.

The conferees note that many ROTC programs are beginning to implement cyber training for critical cyber operational skills. The conferees encourage these and other ROTC programs to continue building and teaching a cyber framework for future military and civilian leaders of the Armed Forces and Department of Defense.

Access to Department of Defense installations of institutions of higher education providing certain advising and student support services

The Senate bill contained a provision (sec. 563) that would amend chapter 101 of title 10, United States Code, to require the Secretary of Defense to grant access to all Department of Defense installations any institution of higher education that has a Voluntary Education Partnership Memorandum of Understanding with the Department for the purposes of student advising and support services.

The House amendment contained no similar provision.

The Senate recesses.

Employment authority for civilian faculty at certain military department schools

The House amendment contained a provision (sec. 564) that would amend section 4021 of title 10, United States Code, to authorize the Secretary concerned to hire staff for professional military education courses regardless of course length.

The Senate bill contained no similar provision.

The House recesses.

Revision of name on military service record to reflect change in name of a member of the Army, Navy, Air Force, or Marine Corps, after separation from the Armed Forces

The House amendment contained a provision (sec. 565) that would amend section 1551 of title 10, United States Code, to allow persons who legally change their name to reflect their gender identity after separation from the Armed Forces to receive a new certificate of discharge or acceptance of resignation order under that new name.

The Senate bill contained no similar provision.

The House recesses.

The conferees note that former service members currently have a process to request their name be changed on official service discharge documents to reflect a legal name change, by submitting a request to the appropriate service board for correction of military or naval records. Effective October 1, 2016, the Department of Defense (DoD) and the Military Departments will implement DoD Instruction 1300.28, that requires the services to provide servicemembers a process by which, while serving, they may change their gender. The conferees expect the Department to make the necessary changes to regulations to provide former members a simplified process to reflect a name change in military personnel records due to change in gender identity or other lawful purpose.

Direct employment pilot program for members of the National Guard and Reserve

The House amendment contained a provision (sec. 566) that would authorize the Secretary of Defense to carry out a pilot program to enhance efforts of the Department of Defense to provide job placement assistance and related employment services directly to members of the National Guard and Reserves. This section would also require the Secretary to submit a report on the program

to the Committees on Armed Services of the Senate and the House of Representatives by January 31, 2021.

The Senate bill contained no similar provision.

The House recesses.

The conferees note that the South Carolina and California National Guards conduct state employment programs that have seen success in recent years and serve as a model for other states and territories to set up similar state employment programs. The conferees note the numerous employment assistance programs for transitioning servicemembers coordinated by the military services, the Department of Defense, the Department of Labor, and the Department of Veterans Affairs, such as the Department of Labor's Veterans' Employment and Training Service and the Department of Veterans Affairs' VA for Vets program and Feds Hire Vets employment tool. The conferees encourage the Chief of the National Guard Bureau to work with the Secretary of Defense to coordinate with the Secretary of Labor and the Secretary of Veterans Affairs to leverage these preexisting Federal employment programs.

Prohibition on establishment, maintenance, or support of Senior Reserve Officers' Training Corps units at educational institutions that display the Confederate battle flag

The House amendment contained a provision (sec. 567) that would amend section 2102 of title 10, United States Code, to prohibit the secretary concerned from establishing, maintaining, or supporting a Senior Reserve Officers' Training Corps unit at an educational institution that displays the Confederate battle flag except where the board of visitors has voted to take down the flag described.

The Senate bill contained no similar provision.

The House recesses.

Report on composition of service academies

The House amendment contained a provision (sec. 568) that would require the Comptroller General of the United States to submit a report on the demographic composition of the service academies.

The Senate bill contained no similar provision.

The House recesses.

Enhanced flexibility in provision of relocation assistance to members of the Armed Forces and their families

The Senate bill contained a provision (sec. 576) that would amend section 1056 of title 10, United States Code, to permit enhanced flexibility in giving relocation assistance to members of the Armed Forces and their families. The provision would allow the Department of Defense to adapt the delivery of relocation assistance to meet the evolving needs of military servicemembers and their families by leveraging technology to improve access, efficiency, and responsiveness of the relocation assistance program, especially in situations where servicemembers reside overseas or away from a military installation with a relocation assistance program. Finally, the provision would establish the position of Program Manager of

Military Relocation Assistance in the office of the Assistant Secretary of Defense for Manpower and Reserve Affairs.

The House amendment contained no similar provision.

The Senate recesses.

Background checks for employees of agencies and schools providing elementary and secondary education for Department of Defense dependents

The Senate bill contained a provision (sec. 578) that would require certain local educational agencies receiving impact aid under subchapter VII of chapter 70 of title 20, United States Code, and each Department of Defense (DOD) domestic dependent elementary and secondary school, within 2 years of enactment of this Act, to establish policies and procedures requiring a criminal background check for each school employee of the agency or school.

The House amendment contained no similar provision.

The Senate recesses.

The conferees believe the protection of school children from would-be predators is of paramount importance. Children of military personnel, who by virtue of a parent's military service are more transient with fewer community ties and relationships, may be more vulnerable to such predators. The conferees believe it is important that appropriate criminal background checks be conducted of school employees in Department of Defense (DOD) schools and local educational activities that educate military family members. Despite the requirement in every state that background checks be conducted, and recently-enacted prohibitions in the Every Student Succeeds Act that restrict the movement and reemployment of predators in other states, there were still 496 arrests of school employees in the United States last year for sexual misconduct with children, according to press reports. Clearly, the problem of child predation and abuse remains in our local school systems. The conferees note that DOD schools conduct thorough criminal background checks on their employees, and the conferees are committed to subjecting DOD schools to the oversight required to ensure that they conduct thorough criminal background checks on their employees. Given the critical importance of this issue and the defense authorizing committees' continuing concern that children at risk are adequately protected, the conferees strongly urge DOD to work as closely as possible with local school districts that educate military family members to share best practices to help those districts develop and improve comprehensive employment screening policies to ensure the safety of military children. The conferees direct the Department to provide a report to the Committees on Armed Services of the Senate and the House of Representatives, not later than 1 year after the date of enactment of this Act, on the Department's efforts to: 1) identify, to the extent practicable, any shortfalls in employee screening processes in local school districts educating military family members; and 2) provide recommendations to help address those shortfalls in the future.

Authorization for award of the Medal of Honor to Charles S. Kettles for acts of valor during the Vietnam war

The Senate bill contained a provision (sec. 586) that would waive the time limitations specified in section 3744 of title 10, United States Code, to authorize the President to award the Medal of Honor to Charles S. Kettles, for acts of valor on May 15, 1967, during the Vietnam War, while serving as Flight Commander in the United States Army, 176th Aviation Company, 14th Aviation Battalion, Task Force Oregon, Republic of Vietnam.

The House amendment contained a similar provision (sec. 584).

The conference agreement does not include this provision.

The conferees note the authority to waive the time limitations for award of the Medal of Honor were included in the Consolidated Appropriations Act of 2016 (P.L. 114–113). The President awarded Mr. Kettles the Medal of Honor in a ceremony at the White House on July 18, 2016.

Burial of cremated remains in Arlington National Cemetery of certain persons whose service is deemed to be active service.

The House amendment contained a provision (sec. 591) that would amend section 2410 of title 38, United States Code, to require the Secretary of the Army to ensure that the cremated remains of certain individuals whose service has been determined to be active duty service are eligible for inurnment with military honors in Arlington National Cemetery.

The Senate bill contained no similar provision.

The House recedes.

The conferees note that on May 20, 2016 the President signed into law the Women Airforce Service Pilot Arlington Inurnment Restoration Act (P.L. 114–158), which provided the authority contained in section 591 of the House amendment.

Applicability of Military Selective Service Act to female citizens and persons

The Senate bill contained a provision (sec. 591) that would amend the Selective Service Act (Public Law 65–12) to include women in the requirement to register for selective service, to the same extent men are currently required, beginning January 1, 2018.

The House amendment contained no similar provision.

The Senate recedes.

Representation from member of the Armed Forces on boards, councils, and committees making recommendations relating to military personnel issues

The House amendment contained a provision (sec. 592) that would require that enlisted or retired enlisted members of the armed forces be represented on all boards, panels, commissions, or task forces established under chapter 7 of title 10, United States Code, to render a recommendation on any aspect of personnel policy directly affecting enlisted personnel.

The Senate bill contained no similar provision.

The House recedes.

The conferees believe it is essential that the views of enlisted members must be considered by boards charged with developing informed and effective military personnel policy. The conferees expect that the Secretary of Defense, the secretaries of the military departments, the Chairman of the Joint Chiefs of Staff, the service chiefs, and their senior enlisted advisers will ensure that enlisted representation is included in such boards to the maximum extent practicable.

Preseparation counseling regarding options for donating brain tissue at time of death for research

The House amendment contained a provision (sec. 594) that would require servicemembers to receive information during transition separation counseling concerning options for donating brain tissue at the time of death of the servicemember for chronic traumatic encephalopathy research.

The Senate bill contained no similar provision.
The House recedes.

Recognition of the expanded service opportunities available to female members of the Armed Forces and the long service of women in the Armed Forces

The House amendment contained a provision (sec. 595) that would express Congress' recognition of women who have served and are currently serving in the Armed Forces.

The Senate bill contained no similar provision.
The House recedes.

The conferees note that female members of the Armed Forces are invaluable and integral to the Armed Forces and that the United States must continue to encourage and support female members of the Armed Forces as they serve our Nation.

Sense of Congress regarding plight of male victims of military sexual assault

The House amendment contained a provision (sec. 596) that would express the sense of Congress that the Secretary of Defense should enhance access to intensive medical and mental health treatment of male victims of sexual assault, look for opportunities to use male victims as presenters at prevention training, and ensure medical and mental health providers are trained to meet the needs of male victims.

The Senate bill contained no similar provision.
The House recedes.

The conferees remain concerned that more must be done to address the unique issues and concerns affecting male victims of sexual assault. For that reason, section 538 of the National Defense Authorization Act for Fiscal Year 2016 (P.L. 114-92) requires the Secretary of Defense, in collaboration with the secretaries of the military departments, to develop a comprehensive plan to improve Department of Defense prevention and response to sexual assaults in which the victim is a male member of the armed forces. The conferees look forward to receiving the plan from the Secretary of Defense and intend to monitor the efficacy of the plan.

Sense of Congress regarding section 504 of title 10, United States Code, on existing authority of the Department of Defense to enlist individuals, not otherwise eligible for enlistment, whose enlistment is vital to the national interest

The House amendment contained a provision (sec. 597) that would express the sense of Congress that section 504 of title 10, United States Code, authorizes the Department of Defense to enlist individuals, not otherwise eligible for enlistment, whose enlistment is vital to the national interest.

The Senate bill contained no similar provision.

The House recesses.

Protection of Second Amendment rights of military families

The House amendment contained a provision (sec. 598) that would amend section 921(b) of title 18, United States Code, to provide that the residence of the spouse of a military member for the purpose of federal firearms laws, is the State of the permanent duty station of the member.

The Senate bill contained no similar provision.

The House recesses.

The conferees note that the residence of a spouse of a military member is the State in which that spouse resides, which is the State of the permanent duty station of the member, or such other State as the spouse may reside.

Pilot program on advanced technology for alcohol abuse prevention

The House amendment contained a provision (sec. 599) that would require the Secretary of Defense, within 90 days of enactment of this Act, to consult with the service secretaries and establish a pilot program to demonstrate the feasibility of using portable, disposable alcohol breathalyzers and a cloud-based server platform to collect data and monitor the progress of alcohol abuse programs through digital applications. The provision would require the Secretary to conduct the pilot program for a minimum of 6 months, and the program would terminate by September 30, 2018. The Secretary would submit a report to the Committees on Armed Services of the Senate and the House of Representatives on implementation of the program within 120 days after implementation and then submit a final report to the committees within 1 year of implementation.

The Senate bill contained no similar provision.

The House recesses.

Report on availability of college credit for skills acquired during military service

The House amendment contained a provision (sec. 599A) that would require the Secretary of Defense, in consultation with the Secretaries of Veterans Affairs, Education, and Labor, to submit a report on the transfer of skills into equivalent college credits or technical certifications for members of the Armed Forces leaving the military.

The Senate bill contained no similar provision.

The House recesses.

Atomic veterans service medal

The House amendment contained a provision (sec. 599B) that would require the Secretary of Defense to design, produce, and distribute a military service medal to honor retired and former members of the Armed Forces who are radiation-exposed veterans.

The Senate bill contained no similar provision.

The House recesses.

Report on extending protections for student loans for active duty borrowers

The House amendment contained a provision (sec. 599C) that would require the Secretary of Defense, in consultation with the Secretary of Education, to submit a report detailing the information, assistance, and efforts to support and inform active duty members of the Armed Forces with respect to the rights and resources available under the Servicemembers Civil Relief Act.

The Senate bill contained no similar provision.

The House recesses.

Exclusion of certain reimbursements of medical expenses and other payments from determination of annual income with respect to pensions for veterans and surviving spouses and children of veterans

The House amendment contained a provision (sec. 599D) that would amend section 1503(a) of title 38, United States Code, to exclude payments regarding reimbursements of medical expenses from the determination of annual income with respect to pensions.

The Senate bill contained no similar provision.

The House recesses.

Sense of Congress on desirability of service-wide adoption of Gold Star installation access card

The House amendment contained a provision (sec. 599E) that would express the sense of Congress that the secretaries of the military departments and the Secretary of the department in which the Coast Guard is operating should work jointly to develop, issue, and ensure acceptance of a Gold Star installation access card for family members who are the survivors of deceased members of the Armed Forces in order to expedite the ability of a Gold Star family member to gain unescorted access to military installations for the purpose of obtaining on-base services and benefits for which the Gold Star family member is entitled or eligible.

The Senate bill contained no similar provision.

The House recesses.

Servicemembers' Group Life Insurance

The House amendment contained a provision (sec. 599F) that would amend section 1967(f)(4) of title 38, United States Code, by striking the second sentence.

The Senate bill contained no similar provision.

The House recesses.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Fiscal year 2017 increase in military basic pay (sec. 601)

The Senate bill contained a provision (sec. 601) that would authorize a pay raise of 1.6 percent for all members of the uniformed services effective January 1, 2017.

The House amendment contained a provision (sec. 601) that would direct that the rates of basic pay under section 203(a) of title 37, United States Code, be increased in accordance with section 1009 of title 37, United States Code, notwithstanding a determination made by the President under subsection (e) of such section 1009.

The Senate recedes.

Publication by Department of Defense of actual rates of basic pay payable to members of the Armed Forces by pay grade for annual or other pay periods (sec. 602)

The Senate bill contained a provision (sec. 602) that would direct the Department of Defense to ensure that pay tables of basic pay for members of the uniformed services published by the Department reflect the operation of the pay cap contained in section 203(a)(2) of title 37, United States Code, to more accurately reflect the rates of basic pay that may actually be received by service members whose basic pay is affected by that cap.

The House amendment contained no similar provision.

The House recedes.

Extension of authority to provide temporary increase in rates of basic allowance for housing under certain circumstances (sec. 603)

The Senate bill contained a provision (sec. 603) that would extend for 1 year the authority of the Secretary of Defense to temporarily increase the rate of basic allowance for housing in areas impacted by natural disasters or experiencing a sudden influx of personnel.

The House amendment contained an identical provision (sec. 602).

The conference agreement includes this provision.

Reports on a new single-salary pay system for members of the Armed Forces (sec. 604)

The Senate bill contained a provision (sec. 604) that would reform the basic allowance for housing (BAH) benefit for members of the uniformed services, applicable January 1, 2018. The provision would require a system that utilizes actual costs up to a maximum allowable amount. No service member will see a change in their allowance until such time as they undergo a permanent change of duty station outside their military housing area after January 1, 2018.

The House amendment contained no similar provision.

The Senate recedes with an amendment that would require the Department of Defense to report back with revised pay tables and

a plan to transition to a salary system by no later than January 1, 2018. An initial assessment and progress report will be due to the Committees on Armed Services of the Senate and the House of Representatives no later than March 1, 2017, to contain the military pay tables as of January 1, 2017, that reflect the Regular Military Compensation of members of the Armed Forces as of that date in the range of grades, dependency statuses, and assignment locations.

The conferees note that the BAH, as an entitlement, and the perception of BAH among servicemembers, has evolved over the past 20 years. BAH, and the iterations of the benefit that came before, was intended to provide a housing benefit for service members to offset the cost of housing in high cost housing areas where adequate government-provided quarters was not available and in recognition of the transient nature of military service and the impact it has on military members and their families. Indeed, that the housing allowance was and is intended as primarily a housing benefit is demonstrated by its tax-free nature, the differentiation based on dependency status, and the fact that junior enlisted personnel required to reside in barracks or on a ship are ineligible to receive BAH. Accordingly, the conferees direct the Secretary of Defense to begin planning for a transition to a salary system that better aligns the payment of the allowance with the Department's use of the housing allowance as compensation rather than its intended purpose as an allowance.

Subtitle B—Bonuses and Special and Incentive Pays

One-year extension of certain bonus and special pay authorities for reserve forces (sec. 611)

The Senate bill contained a provision (sec. 611) that would extend for 1 year the authority to pay the Selected Reserve reenlistment bonus, the Selected Reserve affiliation or enlistment bonus, special pay for enlisted members assigned to certain high-priority units, the Ready Reserve enlistment bonus for persons without prior service, the Ready Reserve enlistment and reenlistment bonus for persons with prior service, the Selected Reserve enlistment and reenlistment bonus for persons with prior service, travel expenses for certain inactive-duty training, and income replacement for reserve component members experiencing extended and frequent mobilization for Active-Duty service.

The House amendment contained an identical provision (sec. 611).

The conference agreement includes this provision.

One-year extension of certain bonus and special pay authorities for health care professionals (sec. 612)

The Senate bill contained a provision (sec. 612) that would extend for 1 year the authority to pay the nurse officer candidate accession bonus, education loan repayment for certain health professionals who serve in the Selected Reserve, accession and retention bonuses for psychologists, the accession bonus for registered nurses, incentive special pay for nurse anesthetists, special pay for Selected Reserve health professionals in critically short wartime

specialties, the accession bonus for dental officers, the accession bonus for pharmacy officers, the accession bonus for medical officers in critically short wartime specialties, and the accession bonus for dental specialist officers in critically short wartime specialties.

The House amendment contained an identical provision (sec. 612).

The conference agreement includes this provision.

One-year extension of special pay and bonus authorities for nuclear officers (sec. 613)

The Senate bill contained a provision (sec. 613) that would extend for 1 year the authority to pay the special pay for nuclear-qualified officers extending period of active service, the nuclear career accession bonus, and the nuclear career annual incentive bonus.

The House amendment contained an identical provision (sec. 613).

The conference agreement includes this provision.

One-year extension of authorities relating to title 37 consolidated special pay, incentive pay, and bonus authorities (sec. 614)

The Senate bill contained a provision (sec. 614) that would extend for 1 year the general bonus authority for enlisted members, the general bonus authority for officers, special bonus and incentive pay authorities for nuclear officers, special aviation incentive pay and bonus authorities for officers, and special bonus and incentive pay authorities for officers in health professions, and contracting bonus for cadets and midshipmen enrolled in the Senior Officers' Training Corps. The provision would also extend for 1 year the authority to pay hazardous duty pay, assignment or special duty pay, skill incentive pay or proficiency bonus, and retention incentives for members qualified in critical military skills or assigned to high priority units.

The House amendment contained an identical provision (sec. 614).

The conference agreement includes this provision.

One-year extension of authorities relating to payment of other title 37 bonuses and special pays (sec. 615)

The Senate bill contained a provision (sec. 615) that would extend for 1 year the authority to pay the aviation officer retention bonus, assignment incentive pay, the reenlistment bonus for active members, the enlistment bonus, precommissioning incentive pay for foreign language proficiency, the accession bonus for new officers in critical skills, the incentive bonus for conversion to military occupational specialty to ease personnel shortage, the incentive bonus for transfer between Armed Forces, and the accession bonus for officer candidates.

The House amendment contained an identical provision (sec. 615).

The conference agreement includes this provision.

Aviation incentive pay and bonus matters (sec. 616)

The House amendment contained a provision (sec. 616) that would amend section 334(c)(1) of title 37, United States Code, to increase the statutory limits for the aviation incentive pay and retention bonus to \$1,000 per month and \$60,000 per year, respectively, and would allow the Secretary concerned the flexibility to increase the aviation incentive pay limit set forth in regulations issued by the Secretary of Defense under section 374 of title 37, United States Code.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize a maximum aviation bonus of \$35,000 for each 12-month period of obligated service, and requires the appropriate Service Secretary to submit a justification with each fiscal year's budget request for the aviation bonus amounts by aircraft type category, the business case supporting the amount requested, and a description by the Secretary concerned on how they will address manning shortfalls by non-monetary means.

The conferees note the current Chief of Staff of the Air Force stated in response to advance policy questions in preparation for his confirmation hearing, "We will tailor any potential bonus based upon specific platform and overall Air Force requirements. The requested increase is not a set amount. If approved, this will give us the flexibility to tailor bonus amounts and contract terms by platform." The conferees strongly agree with targeting aviation bonuses toward the most critical manning shortfalls by aircraft type category as a way to incentivize retention behavior, and strongly support this method for use across the Department of Defense.

The conferees also expect the Services to continue developing and implementing policies to tackle non-monetary reasons for low aviator retention rates, and to use these incentive and bonus authorities to incentivize needed retention levels using a business case rather than as a reward or entitlement, to correct both the undermanning of certain aircraft type categories and the overmanning of others.

Conforming amendment to consolidation of special pay, incentive pay, and bonus authorities (sec. 617)

The Senate bill contained a provision (sec. 616) that would amend section 332 of title 10, United States Code, to correct an inequity that will exist when the Department transitions to a general bonus authority on October 1, 2017. This amendment will increase the maximum bonus authority under the new general bonus authority to \$20,000 to match the maximum bonus level under the old authority. Maintaining the current bonus level will enable the Services to retain the ability to recruit and retain reserve component officers.

The House amendment contained an identical provision (sec. 617).

The conference agreement includes this provision.

Technical amendments relating to 2008 consolidation of certain special pay authorities (sec. 618)

The House amendment contained a provision (sec. 618) that would make technical and clerical corrections to titles 10, 20, 24, 36, 37, and 42, United States Code, as well as section 586 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181), section 362 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364), and section 112(c)(5)(B) of the Internal Revenue Code of 1986, as part of the Department of Defense’s transition to the consolidated authorities in sections 661 and 662 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181), which consolidated statutory special and incentive pay authorities for members of the uniformed services. This section is consistent with the purpose and intent of the consolidated special and incentive pay reform contained in the 2008 defense bill.

The Senate bill contained no similar provision.

The Senate recesses.

Subtitle C—Travel and Transportation Allowances

Maximum reimbursement amount for travel expenses of members of the Reserves attending inactive duty training outside of normal commuting distances (sec. 621)

The House amendment contained a provision (sec. 641) that would amend section 478a(c) of title 37, United States Code, to allow for a higher reimbursement amount on a case-by-case basis for certain members of the Reserve component traveling to attend inactive duty training outside of normal commuting distances.

The Senate bill contained a similar provision (sec. 621).

The Senate recesses.

Subtitle D—Disability Pay, Retired Pay, and Survivor Benefits

Part I—Amendments in Connection With Retired Pay Reform

Election period for members in the service academies and inactive Reserves to participate in the modernized retirement system (sec. 631)

The Senate bill contained a provision (sec. 631) that would amend section 1409 of title 10, United States Code, to clarify the timing for cadets and midshipmen at the service academies to opt-in to the new military retirement system enacted in the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92). The provision would also clarify the timing of such elections for reservists who are on Inactive Duty during the election period otherwise provided for under the new retirement system.

The House amendment contained no similar provision.

The House recesses.

Effect of separation of members from the uniformed services on participation in the Thrift Savings Plan (sec. 632)

The Senate bill contained a provision (sec. 632) that would repeal paragraph (2) of section 632(c) of the National Defense Au-

thorization Act for Fiscal Year 2016 (Public Law 114–92). This amendment makes a technical correction for the new military retirement plan enacted in that Act relative to defining separation from service under the Thrift Savings Plan.

The House amendment contained a similar provision (sec. 621).
The House recesses.

Continuation pay for full Thrift Savings Plan members who have completed 8 to 12 years of service (sec. 633)

The House amendment contained a provision (sec. 622) that would amend section 356 of title 37, United States Code, to modify the continuation pay for members under the new military retirement system enacted in the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) to provide the Secretary of Defense with the flexibility to offer continuation pay in the window between 8 and 12 years of service in exchange for a 3 years of service or greater commitment as the Secretary deems appropriate for retention.

The Senate bill contained a similar provision (sec. 633).
The Senate recesses with a technical amendment.

Combat-related special compensation coordinating amendment (sec. 634)

The House amendment contained a provision (sec. 619) that would amend section 1413a of title 10, United States Code, to make a technical and conforming amendment to Combat-Related Special Compensation, to bring that authority in line with the new military retirement system enacted in the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92).

The Senate bill contained a similar provision (sec. 634).
The House recesses.

Part II—Other Matters

Use of member's current pay grade and years of service and retired pay cost-of-living adjustments, rather than final retirement pay grade and years of service, in a division of property involving disposable retired pay (sec. 641)

The Senate bill contained a provision (sec. 642) that would amend section 1408 of title 10, United States Code, to modify the division of military retired pay in a divorce decree to the amount the member would be entitled based upon the member's pay grade and years of service at the time of the divorce rather than at the time of retirement with the spousal share of the retired pay computed on the retired pay as adjusted by the annual increases in military pay.

The House amendment contained a similar provision (sec. 625) that would amend section 1408 of title 10, United States Code, to modify the division of military retired pay in a divorce decree to the amount the member would be entitled based upon the member's pay grade and years of service at the time of the divorce.

The House recesses with an amendment that would modify the division of military retired pay in a divorce decree to the amount the member would be entitled based upon the member's pay grade

and years of service at the time of the divorce as adjusted by the annual retired pay cost-of-living adjustments between the date of the divorce decree and the date of retirement. The conferees note that this provision is prospective only and would not affect existing divorce settlements.

Equal benefits under Survivor Benefit Plan for survivors of reserve component members who die in the line of duty during inactive-duty training (sec. 642)

The House amendment contained a provision (sec. 624) that would amend section 1451(c)(1)(A) of title 10, United States Code, to eliminate the different treatment under the Survivor Benefit Plan accorded members of the reserve component who die from an injury or illness incurred or aggravated in the line of duty during inactive-duty training, as compared to the treatment of members of the Armed Forces who die in the line of duty while on Active Duty.

The Senate bill contained no similar provision.

The Senate recesses.

Authority to deduct Survivor Benefit Plan premiums from combat-related special compensation when retired pay not sufficient (sec. 643)

The Senate bill contained a provision (sec. 644) that would amend section 1452 of title 10, United States Code, to authorize the deduction of Survivor Benefit Plan (SBP) premiums from monthly combat related special compensation (CRSC) when retired pay is insufficient to cover the premiums.

The House amendment contained no similar provision.

The House recesses.

Extension of allowance covering monthly premium for Servicemembers' Group Life Insurance while in certain overseas areas to cover members in any combat zone or overseas direct support area (sec. 644)

The Senate bill contained a provision (sec. 641) that would amend section 437 of title 37, United States Code, to expand the areas eligible for the allowance for covering monthly premiums for the Servicemembers' Group Life Insurance to include any designated combat zone or an area directly supporting a designated combat zone.

The House amendment contained no similar provision.

The House recesses.

Authority for payment of pay and allowances and retired and retainer pay pursuant to power of attorney (sec. 645)

The Senate bill contained a provision (sec. 672) that would amend section 602 of title 37, United States Code, to authorize payment of certain pay and allowances of a servicemember or retired servicemember to an individual to whom the member has granted authority to manage these funds pursuant to a valid and legally executed durable power of attorney. This proposal would enable members to responsibly and proactively plan their personal affairs in the event of their incapacitation, and to allow those durable powers

of attorney to be recognized by the military departments and the Department of Defense.

The House amendment contained no similar provision.

The House recesses.

Extension of authority to pay special survivor indemnity allowance under Survivor Benefit Plan (sec. 646)

The Senate bill contained a provision (sec. 643) that would amend section 1450 of title 10, United States Code, to permanently extend the authority to pay the Special Survivor Indemnity Allowance (SSIA).

The House amendment contained a provision (sec. 623) that would extend the authority to pay the SSIA for one year.

The Senate recesses with an amendment that would extend the authority to pay the SSIA until May 31, 2018.

Repeal of obsolete authority for combat-related injury rehabilitation pay (sec. 647)

The Senate bill contained a provision (sec. 605) that would repeal section 328 of title 10, United States Code, relating to an obsolete authority for combat-related injury rehabilitation pay.

The House amendment contained no similar provision.

The House recesses.

Independent assessment of the Survivor Benefit Plan (sec. 648)

The Senate bill contained a provision (sec. 646) that would require the Secretary of Defense to provide for an independent assessment of the Department of Defense Survivor Benefit Plan (SBP) by a federally-funded research and development center (FFRDC).

The House amendment contained no similar provision.

The House recesses.

Subtitle E—Commissary and Non-Appropriated Fund
Instrumentality Benefits and Operations

Protection and enhancement of access to and savings at commissaries and exchanges (sec. 661)

The Senate bill contained a provision (sec. 661) that would amend sections 2481, 2483, 2484, and 2487 of title 10, United States Code, to require the Secretary of Defense to develop and implement a comprehensive strategy to optimize management practices across the defense commissary system and the exchange system that reduces their reliance on appropriated funding without reducing benefits to commissary patrons or revenues generated by non-appropriated fund entities. This provision would authorize the Secretary to carry out an alternative pricing program, evaluated against specific, measurable benchmarks and a documented baseline level of savings, within the defense commissary system to establish prices for goods and services in response to market conditions and customer demand. Furthermore, the provision would authorize the Secretary to convert the commissary system to a non-appropriated fund entity or instrumentality if the Secretary determines that the alternative pricing program met established bench-

marks for success for a period of at least 6 months. If conversion to a non-appropriated fund entity or instrumentality occurs, the Secretary would ensure that no employee of the defense commissary system, as of the date of enactment of this Act, would incur a loss or decrease in pay resulting from the conversion. This provision would also authorize the Secretary of Defense to establish common business processes, practices, and systems to optimize the operations of the entire defense resale system, including authorizing the use of appropriated and non-appropriated funds on contracts or agreements for the acquisition of common systems. Finally, the provision would authorize the Secretary to supplement appropriated funds for defense commissary system operations with additional funds derived from improved management practices and the alternative pricing program.

The House amendment contained a provision (sec. 631) that would amend sections 2481(a) and (c), 2483(c), 2484, 2485, and 2487 of title 10, United States Code, to authorize the Secretary of Defense to develop and implement a comprehensive strategy to: 1) optimize practices across the commissary and exchange systems to reduce the reliance of those systems on appropriated funds without reducing benefits to patrons or any revenues generated by non-appropriated fund entities or instrumentalities of the Department for the morale, welfare, and recreation of servicemembers; 2) authorize use of additional funds derived from improved management practices to supplement appropriated funds for commissary operations; 3) authorize a variable pricing program whereby commissary prices may be established in response to market conditions and customer demand; 4) authorize conversion of the commissary system to a non-appropriated fund entity or instrumentality if the Secretary determines that the variable pricing program meets established benchmarks for success for a period of at least 6 months; and 5) authorize the Secretary to contract with an entity to obtain expert commercial advice, assistance, or other services not otherwise carried out by the Defense Commissary Agency.

The Senate recedes.

The conferees believe this provision will significantly improve the business operations of the commissary system and lead to greater efficiency in the delivery of high quality grocery products and services to commissary patrons without diminishing the current level of patron savings. The conferees remain concerned, however, that the current senior management of the Defense Commissary Agency may lack the necessary talent and skills to transform the commissary system into an efficient, high-performing purveyor of grocery products and services. The conferees strongly urge the Department to engage experts in the commercial grocery industry to assist the Defense Commissary Agency in the transformation of the commissary system into a high-performing grocery operation.

Acceptance of Military Star Card at commissaries (sec. 662)

The House amendment contained a provision (sec. 632) that would require the Secretary of Defense to ensure that commissary stores accept the Military Star Card as payment for goods and services. Under this provision, the Army and Air Force Exchange Service would assume any financial liability of the United States

relating to acceptance of the Military Star Card as payment for goods and services at commissary stores.

The Senate bill contained no similar provision.

The Senate recesses.

Subtitle F—Other Matters

Recovery of amounts owed to the United States by members of the uniformed services (sec. 671)

The House amendment contained a provision (sec. 642) that would amend section 1007(c)(3) of title 37, United States Code, to establish a 10-year statute of limitations on the authority of the government to collect an indebtedness to the government owed by a servicemember if the indebtedness occurred through no fault of the member. The statute of limitations established under this provision would apply to indebtedness incurred on or after October 1, 2027. The provision would require the Director of the Defense Finance and Accounting Service to provide an annual report, commencing on January 1, 2017 and each year through 2027, on cases in which recovery of indebtedness commenced after the end of the 10-year period beginning on the date when the indebtedness was incurred, or in which the member was not notified of the indebtedness during such 10-year period.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that would direct the Secretary of Defense to conduct a review of all bonus pays, special pays, student loan repayments, and similar special payments paid to members of the California National Guard between January 1, 2004 and December 31, 2015. The review is required to be completed by July 30, 2017. The provision requires a board of review designated by the Secretary of Defense to determine whether the special pay to these members and former members was unwarranted and, if so, to recommend to the Secretary concerned whether to recoup the payment, waive the recoupment, or in the case of recoupments that were previously collected but were unwarranted by the evidence, to recommend whether the payments should be repaid to the member or former member. The provision would authorize the Secretary concerned to waive collection of overpayments or to repay previously recouped payments that were unwarranted. The provision would require the Secretary concerned to notify consumer credit reporting agencies if the review determines that an indebtedness previously reported to the credit reporting agency was invalid. The funding for activities associated with the review, including repayments to members and former members, shall be paid from amounts available for the National Guard of the United States for the State of California. The provision requires the Secretary of Defense to submit a report on the results of the review to the Committees on Armed Services of the Senate and of the House of Representatives not later than August 1, 2017. The provision also requires the Comptroller General of the United States to report, not later than one year after the date of enactment of this Act, on the actions of the National Guard of the State of California related to the bonus pays, special pays, student loan repayments, and other special pays from 2004 through 2015.

Modification of flat rate per diem requirement for personnel on long-term temporary duty assignments (sec. 672)

The Senate bill contained a provision (sec. 1151) that would require the Secretary of Defense to take such action as may be necessary to provide that, to the extent that regulations implementing travel and transportation authorities for military and civilian personnel of the Department of Defense impose a flat rate per diem for meals and incidental expenses for authorized travelers on long term temporary duty (TDY) assignments that is at a reduced rate compared to the per diem rate otherwise applicable, the Service Secretary concerned may waive the applicability of such reduced rate and pay such travelers actual expenses up to the full per diem rate for such travel in any case when the Secretary concerned determines that the reduced flat rate per diem for meals and incidental expenses is not sufficient under the circumstances of the TDY assignment.

The House amendment contained a provision (sec. 603) that would prohibit the Secretary concerned from altering the per diem allowance for the duration of a temporary duty assignment of a member of the Armed Forces or an employee of the Department of Defense.

The House recedes with a clarifying amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Sense of the Congress on Roth contributions as default contributions of members of the Armed Forces participating in the Thrift Savings Plan under retired pay reform

The Senate bill contained a provision (sec. 635) that would state the sense of the Congress that the Department of Defense should explore making the default contributions of a full Thrift Savings Plan member under the new military retirement plan enacted in the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) to be designated as Roth contributions until the member elects not to designate such contributions as Roth contributions.

The House amendment contained no similar provision.

The Senate recedes.

Sense of the Congress on options for members of the Armed Forces to designate payment of the death gratuity to a trust for a special needs individual

The Senate bill contained a provision (sec. 645) that would express the Sense of the Congress that the Department of Defense should explore options to allow servicemembers to designate that, upon their death, the death gratuity may be paid to a trust that is legally established under any federal, state, or territorial law.

The House amendment contained no similar provision.

The Senate recedes.

Period for relocation of spouses and dependents of certain members of the Armed Forces undergoing a permanent change of station

The Senate bill contained a provision (sec. 622) that would add a new section 1784b of title 10, United States Code, to provide

greater flexibility for families to determine the sequencing of permanent change of station moves under certain circumstances.

The House amendment contained no similar provision.

The Senate recesses.

The conferees direct the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and the House of Representatives no later than six months after the date of enactment of this Act on actions taken by the Department of Defense to enhance the stability of military families undergoing a permanent change of station (PCS). The report shall include an analysis of the current extent of family disruption associated with PCS moves of members of the Armed Forces, a description of the actions taken by the Department of Defense to minimize such disruptions, and further actions recommended by the Secretary of Defense to alleviate family disruption associated with a PCS move.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Reform of Tricare and Military Health System

TRICARE Select and other TRICARE Reform (sec. 701)

The Senate bill contained a provision (sec. 701) that would amend chapter 55 of title 10, United States Code, to reform health care plans available under the TRICARE program. The provision would establish three health plan choices for families of Active-Duty servicemembers, and retired military members and their families: 1) TRICARE Prime, a managed care option; 2) TRICARE Choice, a self-managed option; and 3) TRICARE Supplemental, an option for retired members and their families, other than TRICARE-For-Life beneficiaries, who have other health insurance. Beneficiaries would be required to enroll in one of the TRICARE options during an annual open enrollment period in order to obtain care through the TRICARE Program.

Under this provision, the Department would offer TRICARE Prime in areas near military treatment facilities (MTFs). Active-Duty family members would be authorized to enroll in TRICARE Prime, and there would be no cost shares. Retirees and their family members would be authorized to enroll in TRICARE Prime in areas where an MTF has a significant number of health care providers, including specialty providers, and sufficient capability to support efficient operations of the MTF. A TRICARE Prime enrollee would be required to obtain a referral for care from a designated primary care manager prior to obtaining care under the TRICARE program. A referral to network providers for specialty care services would not require a beneficiary to obtain a pre-authorization. The provision would require the Secretary to ensure that beneficiaries have the same level of access to care within timelines that meet or exceed those of high-performing health systems in the private sector. The provision would establish TRICARE Choice in other locations in the country, and beneficiaries may receive care from any health care provider selected by the member subject to any restrictions established by the Secretary.

This provision would include a cost-share table for calendar year 2018 for both TRICARE Prime and TRICARE Choice that

would establish rates for annual enrollment fees, annual deductibles, annual catastrophic caps, and co-payments for inpatient visits, outpatient visits, and other services. The provision would gradually increase the annual enrollment fee for military retirees and their families under TRICARE Choice over a period of 5 years through 2023. Subsequently, annual enrollment fees for military retirees and their families in TRICARE Choice after 2023, and for military retirees and their families under TRICARE Prime after 2018, would increase by the annual percent of the Consumer Price Index for Health Care Services, published by the Bureau of Labor Statistics. Additionally, the provision would increase the deductible, co-payment, and annual catastrophic cap amounts after 2018, by the annual cost of living adjustment for military retired pay. The provision would authorize the Secretary to adopt special coverage and reimbursement methods, amounts, and procedures to encourage the use of high-value services and products and to discourage the use of low-value services and products.

Under this provision, retirees and their family members with other health insurance would be authorized to enroll in the TRICARE Supplemental option. The provision would establish an annual enrollment fee that would be one-half of the fee for the TRICARE Choice option. Under TRICARE Supplemental, TRICARE would pay the deductible and co-payment amounts under the beneficiary's primary health plan, not to exceed the amount TRICARE would have paid as primary payer to an out-of-network provider.

A number of existing TRICARE programs would remain unchanged under this provision: 1) Extended Health Care Option Program; 2) TRICARE Reserve Select; 3) TRICARE Retired Reserve; 4) TRICARE Dental Program; and 5) the Continued Health Care Benefits Program. This provision would not affect the required cost-shares under the TRICARE Pharmacy Benefits Program, but the annual enrollment fee, annual deductible, and annual catastrophic cap established in this section would apply to the pharmacy program. With this provision, the cost-share requirements for remote area dependents would be the same as those established under the TRICARE Prime Option but without a referral requirement.

The House amendment contained a provision (sec. 701) that would amend chapter 55 of title 10, United States Code, to establish TRICARE Preferred as the self-managed, preferred provider option in the TRICARE program, replacing TRICARE Standard and Extra. The provision would establish annual enrollment fees and fixed dollar co-payments for Active-Duty family members and retirees who join the Armed Services on or after January 1, 2018, and enroll in TRICARE Preferred or TRICARE Prime, the managed care option. In addition, the provision would authorize an annual enrollment fee for TRICARE Preferred for beneficiaries who were in either the Active-Duty or retired beneficiary categories prior to January 1, 2018. However, the provision would prohibit the Secretary from establishing this annual enrollment fee until 90 days after the Comptroller General of the United States submits a report, not later than February 1, 2020, to the Committees on Armed Services of the Senate and the House of Representatives on

access to care, network adequacy, and beneficiary satisfaction under TRICARE Preferred. The provision would also require the Comptroller General, not later than September 1, 2017, to submit to the committees a report on the assessment of network adequacy and beneficiaries' access to care under the TRICARE health care provider network. Finally, the provision would require the Secretary to submit an implementation plan, not later than June 1, 2017, to the committees to improve access for TRICARE beneficiaries. The Comptroller General would be required to submit to the committees, not later than December 1, 2017, a review of the implementation plan submitted by the Secretary.

The Senate recedes with an amendment that would: 1) rename the TRICARE Preferred health plan option to TRICARE Select; 2) modify the tables prescribing enrollment fees, deductibles, catastrophic caps, and co-payments for beneficiaries in the retired category who join the military on or after January 1, 2018, and to establish a calendar year enrollment period for those fees; 3) require the Secretary to establish an open enrollment period, with a grace period during the first year of open enrollment, and to allow enrollment for qualifying events for annual participation in either TRICARE Prime or TRICARE Select; 4) prescribe certain requirements for pre-authorization for referrals under TRICARE Prime; and 5) require a pilot program on incorporation of value-based health care methodology in the purchased care component of the TRICARE program.

Reform of administration of the Defense Health Agency and military medical treatment facilities (sec. 702)

The Senate bill contained a provision (sec. 721) that would require the Secretary of Defense to disestablish the medical departments of the Armed Forces and consolidate all activities of those departments into the Defense Health Agency. The Secretary could not undertake this action until 60 days after submission of the Department's consolidation plan to the Committees on Armed Services of the Senate and the House of Representatives. The provision would also require the Comptroller General of the United States to review the consolidation plan and submit that review to the Committees on Armed Services of the Senate and the House of Representatives within 180 days after the Secretary submits the plan to the committees. Under this provision, the Defense Health Agency would be led by an officer of the Armed Forces holding the grade of lieutenant general or vice admiral and be responsible for the medical operations of the Department of Defense. The resultant Defense Health Agency would consist of four subordinate organizations: 1) an organization responsible for all military medical treatment facilities (MTFs); 2) an organization responsible for medical professional recruitment and retention activities, medical education and training, research and development activities, and executive agencies for medical operations or activities; 3) an organization responsible for activities and duties of the current Defense Health Agency; and 4) an organization responsible for activities and duties to improve and maintain operational medical force readiness capabilities and to ensure sustainment of combat casualty care and trauma readiness of military health care providers. A major gen-

eral or rear admiral upper half would serve as head of each subordinate organization. The provision would give broad authorities to the Director of the Defense Health Agency, under the supervision and control of the Assistant Secretary of Defense for Health Affairs, to conduct the medical operations functions of the Department. In addition, the provision would amend sections 3036, 5137, and 8036 of title 10, United States Code, to establish the duties and responsibilities of the Surgeons General of the Services as principal adviser to the service secretary and service chief as well as chief medical adviser of that service to the Defense Health Agency. Finally, the provision would require the Secretary of Defense to submit a report on consolidation, by January 1, 2017, to the Committees on Armed Services of the Senate and the House of Representatives.

The House amendment contained a provision (sec. 702) that would amend chapter 55 of title 10, United States Code, to require the Defense Health Agency to become responsible for management of MTFs throughout the Department of Defense, while preserving the responsibility of MTF commanders for ensuring the readiness of members of the Armed Forces and civilian employees at MTFs and for providing health care services at MTFs. In carrying out this provision, the Defense Health Agency would establish an executive-level management office consisting of professional health care administrators to manage health care operations, finance and budget, information technology, and medical affairs across all MTFs. This provision would direct the Secretary of Defense to submit an interim report to the congressional defense committees by March 1, 2017, on the preliminary plan to implement these changes, and a final report by March 1, 2018. Finally, this provision would require the Comptroller General of the United States to review each of the Department's plans and to submit an assessment of those plans to the congressional defense committees by September 1, 2017, and September 1, 2018, respectively.

The Senate recedes with an amendment that would require the Director of the Defense Health Agency, beginning October 1, 2018, to take responsibility for the administration of each MTF, including all matters with respect to: 1) budget; 2) information technology; 3) health care administration and management; 4) administrative policy and procedure; 5) military medical construction and 6) any other matters the Secretary determines appropriate. The amendment would require the establishment of a professional staff within the Defense Health Agency to provide policy, oversight, and direction of all matters related to the administration of MTFs. In addition, the amendment would codify the roles and responsibilities of the Services' Surgeons General. The amendment would require the Secretary to develop an implementation plan and to submit: 1) an interim report providing a preliminary draft of the plan to the Committees on Armed Services of the Senate and the House of Representatives by March 1, 2017; and 2) a final report to the committees by March 1, 2018, containing a final version of the plan. Finally, the amendment would require the Comptroller General of the United States to submit to the committees a review of the Department's preliminary draft of the plan by September 1, 2017, and a review of the final version of the plan by September 1, 2018.

After careful study and deliberation, the conferees conclude that a single agency responsible for the administration of all MTFs would best improve and sustain operational medical force readiness and the medical readiness of the Armed Forces, improve beneficiaries' access to care and the experience of care, improve health outcomes, and lower the total management cost of the military health system. The conferees believe that the current organizational structure of the military health system—essentially three separate health systems each managed by one of the three Services—paralyzes rapid decision-making and stifles innovation in producing a modern health care delivery system that would better serve all beneficiaries. A streamlined military health system management structure would eliminate redundancy and generate greater efficiency, yielding monetary savings to the Department while leading to true reform of the military health system and improving the experience of care for beneficiaries.

Military medical treatment facilities (sec. 703)

The Senate bill contained a provision (sec. 725) that would authorize the secretary of a military department to realign the infrastructure of or modify the health care services provided by a military treatment facility (MTF) if a realignment or modification would better: 1) ensure the delivery of safe, high quality health care services; 2) adapt the delivery of health care in a facility to rapid changes in private sector health care delivery models; or 3) maintain the medical force readiness skills and core competencies of health care providers in a facility. Before taking any action under this provision, the Secretary of Defense would be required to submit a report to the Committees on Armed Services of the Senate and the House of Representatives on proposed realignments of infrastructure or modifications of health care services at MTFs. Within 60 days after the Secretary submits a report under this provision, the Comptroller General of the United States would submit a review of such report to the Committees on Armed Services of the Senate and the House of Representatives.

The Senate bill also contained a provision (sec. 729) that would require the Secretary of Defense to establish regional centers of excellence for the provision of specialty care to covered beneficiaries at major medical centers of the Department of Defense. The provision would authorize the Secretary to establish satellite centers, when and where appropriate, particularly to provide specialty care for post-traumatic stress and traumatic brain injury. Furthermore, the provision would specify the types of centers of excellence that the Secretary could establish while allowing for the establishment of additional centers when appropriate. The centers of excellence established under this provision would serve as the primary sources for specialty care within the direct care health system, and health care providers throughout the system would refer beneficiaries to those facilities. The provision would require the Secretary to submit a report to the Committees on Armed Services of the Senate and the House of Representatives, within 180 days of the date of enactment of this Act, which provides a plan to establish specialty care centers of excellence in the military health system.

The House amendment contained a provision (sec. 703) that would amend chapter 55 of title 10, United States Code, to establish the requirements for the types of MTFs needed to support the medical readiness of the Armed Forces and the readiness of medical personnel. The provision would require the Secretary of Defense, in collaboration with the secretaries of the military departments, to submit an updated Military Health System Modernization Study report to the congressional defense committees within 270 days after the date of enactment of this Act. In addition, the provision would require the Secretary to submit, within 2 years after the date of enactment of this Act, an implementation plan to restructure or realign the MTFs in accordance with section 1079d of title 10, United States Code.

The Senate recedes with an amendment that would combine these provisions.

Access to urgent and primary care under TRICARE program (sec. 704)

The House amendment contained a provision (sec. 704) that would amend chapter 55 of title 10, United States Code, to require the Secretary of Defense, within 1 year of the date of enactment of this Act, to improve access to urgent care services in both military medical treatment facilities (MTFs) and the private sector. The provision would ensure that covered beneficiaries have access to urgent care services through the health care provider network under the TRICARE program, without the need for preauthorization, in areas where no MTFs exist for those services. Finally, this provision would require the Secretary of Defense to ensure that the nurse advice line of the Department directs covered beneficiaries seeking access to health care services to the most appropriate level of care required to treat medical conditions of beneficiaries, including urgent care services.

The House amendment also contained a provision (sec. 705) that would amend section 1077a of title 10, United States Code, to require the Secretary of Defense, within 180 days of the date of enactment of this Act, to ensure the availability of primary care services for members of the Armed Forces and covered beneficiaries during expanded business hours on weekdays and weekends, based on the needs of the MTF to meet access standards under the TRICARE Prime program and the primary care utilization patterns at the MTF.

The Senate bill contained no similar provisions.

The Senate recedes with an amendment that would combine these provisions.

Value-based purchasing and acquisition of managed care support contracts for TRICARE program (sec. 705)

The Senate bill contained a provision (sec. 726) that would require the Secretary of Defense to conduct a new competition of all medical support contracts, except the overseas medical support contract, with private sector entities under the TRICARE program by January 1, 2018, upon expiration of each such contract. New contracts would be competitively procured and automatically renewable for a period of not more than 10 years unless notice for termi-

nation is provided by either party not later than 180 days before contract termination. The Department would award contracts with a combination of local, regional and national private sector entities to develop individual and institutional networks of high-performing health care providers. The Secretary could not exercise an option to extend an existing medical support contract with a private sector entity that would delay the award of a new contract. Within 1 year of the award of new medical support contracts, the Secretary would be required to issue an open broad agency announcement to allow potential contractors to propose innovative ideas and solutions to meet the medical support contract needs of the Department. A medical support contract awarded through the open broad agency announcement would be deemed to meet the requirements under section 2304 of title 10, United States Code, relating to use of competitive procedures to procure services. For new medical support contracts, the Department would be required to include, to the extent practicable: 1) maximum flexibility in network design and development; 2) integrated medical management between military medical treatment facilities and network providers; 3) maximum use of the full range of telehealth services; 4) use of value-based reimbursement methods that transfer financial risk to health care providers and medical support contractors; 5) use of prevention and wellness incentives to encourage beneficiaries to seek health care services from high-value providers; 6) a streamlined enrollment process and timely assignment of primary care managers; 7) elimination of the requirement to seek authorization of referrals for specialty care services; 8) the use of incentives to encourage certain beneficiaries to engage in medical and lifestyle intervention programs; and 9) the use of financial incentives for contractors and health care providers to receive an equitable share in cost savings resulting from improvement in health outcomes and the experience of care for beneficiaries. In establishing new medical support contracts, the provision would require the Secretary to: 1) assess the unique characteristics of providing health care services in rural, remote, or isolated locations, such as Alaska, Hawaii, and locations in the contiguous 48 states; 2) consider the various challenges inherent in developing robust provider networks in those locations; and 3) develop a provider reimbursement rate structure in those locations that ensures timely access to care, high quality primary and specialty care, and improvement in health outcomes. Additionally, the Secretary could not modify existing medical support contracts or enter into new contracts in rural, remote, or isolated locations until the Secretary certifies to the Committees on Armed Services of the Senate and the House of Representatives that those contracts would ensure timely access to care, high quality care, better health outcomes, and a better experience of care. The provision would also require the Comptroller General of the United States to submit a report, by January 1, 2019, that assesses the compliance of the Secretary with the requirements of this section.

The Senate bill contained another provision (sec. 727) that would authorize the Secretary of Defense to enter into contracts to provide health care, including behavioral health care, to covered beneficiaries under the TRICARE program with any of the following: 1) the Department of Veterans Affairs; 2) an Indian tribe

or tribal organization that is party to the Alaska Native Health Compact with the Indian Health Service; and 3) an Indian tribe or tribal organization that has entered into a contract with the Indian Health Service to provide health care in rural Alaska or other locations in the United States.

The House amendment contained a provision (sec. 706) that would authorize the Secretary of Defense to develop and implement value-based incentive programs as part of TRICARE contracts to encourage health care providers under the TRICARE program to improve the quality of care and the experience of care for covered beneficiaries. The provision would require the Secretary to brief the Committees on Armed Services of the Senate and the House of Representatives on the implementation plan not later than 60 days before the Secretary modifies a TRICARE contract to implement a value-based incentive program. Furthermore, the provision would require the Secretary to brief the committees, and any other appropriate congressional committees, within 1 year after implementation and annually through 2022, on the quality performance metrics and expenditures related to the incentive program.

The House recesses with an amendment that would require the Secretary of Defense to develop and implement value-based incentive programs as part of any contract awarded under chapter 55 of title 10, United States Code, for the provision of health care services to covered beneficiaries. The amendment would transfer contracting responsibility for the acquisition of managed care support contracts under the TRICARE program, initiated after the date of enactment of this Act, from the Defense Health Agency to the Under Secretary of Defense for Acquisition, Technology, and Logistics. The amendment would require the Secretary to develop and implement, by January 1, 2018, a new acquisition strategy for managed care support contracts under the TRICARE program and to modify contracts existing prior to implementation of this strategy to ensure consistency with the strategy.

The conferees remain concerned about the current acquisition strategy for managed care support contracts under the TRICARE program. The Department's current contract strategy results in routine bid protests, implementation delays, high management costs, and costly contract extensions. Under those contracts, the Department remains solely at risk for the cost of all healthcare services provided, and the adherence to fee-for-service provider reimbursement fails to encourage individual and institutional network providers to provide higher quality care, better access to care, and higher patient satisfaction at lower costs to the Department. As a result, the conferees believe it is necessary to transfer contracting responsibility for the acquisition of managed care support contracts under the TRICARE program to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

Establishment of high performance military-civilian integrated health delivery systems (sec. 706)

The Senate bill contained a provision (sec. 736) that would require the Secretary of Defense, by January 1, 2018, to establish high performance military-civilian integrated health delivery systems through partnerships with other health systems, including

local or regional health systems in the private sector, and the Veterans Health Administration. The Department of Defense would accomplish these partnerships either through memoranda of understanding or contracts between military treatment facilities and private sector health systems, such as health maintenance organizations, regional health organizations, integrated health systems, and health care centers of excellence, or the Veterans Health Administration. Under this provision, covered beneficiaries would be eligible to enroll in and receive medical services in the private sector component of established military-civilian integrated health networks. The Secretary of Defense would be required to incorporate value-based reimbursement methodologies into any memoranda of understanding or contracts to reimburse private sector entities for medical services provided to covered beneficiaries.

The House amendment contained a provision (sec. 707) that would amend section 1096 of title 10, United States Code, to authorize the Secretary of Defense to enter into partnership agreements between military treatment facilities and local or regional health care systems to deliver health care to beneficiaries in a more effective, efficient, or economical manner and provide members of the Armed Forces with additional training opportunities to maintain operational medical force readiness.

The House recesses with a clarifying amendment.

Joint Trauma System (sec. 707)

The House amendment contained a provision (sec. 708) that would require the Secretary of Defense to submit an implementation plan, within 180 days of enactment of this Act, to the Committees on Armed Services of the Senate and the House of Representatives to establish a Joint Trauma System within the Defense Health Agency that promotes improved trauma care to members of the Armed Forces and other individuals eligible for trauma care at a military medical treatment facility (MTF). The Secretary would not implement this plan until a 90-day period has elapsed following the date that the Comptroller General of the United States provides a review of the plan to the committees. The Comptroller General would have 120 days to review the plan. Under this provision, the Joint Trauma System would: 1) serve as the reference body for all trauma care provided across the military health system; 2) establish standards of care for trauma services provided at MTFs; 3) coordinate the translation of research from centers of excellence of the Department into clinical trauma care standards; and 4) coordinate the incorporation of lessons learned from military-civilian trauma education and training partnerships into clinical practice. The provision would also authorize the Secretary to seek to enter into an agreement with a nongovernmental entity to conduct a system-wide review of the military trauma system.

The Senate bill contained no similar provision.

The Senate recesses with a clarifying amendment.

Joint Trauma Education and Training Directorate (sec. 708)

The Senate bill contained a provision (sec. 734) that would require the Secretary of Defense to implement measures to improve and maintain the combat casualty care and trauma care skills for

health care providers of the Department of Defense by January 1, 2018. The provision would require the Secretary to: 1) conduct a comprehensive review of combat casualty care and wartime trauma systems from January 1, 2001, to the present time; 2) expand military-civilian trauma training sites to provide enhanced training for integrated combat trauma teams; 3) establish a personnel management plan for important wartime medical specialties; 4) develop standardized tactical combat casualty care instructions and training for all servicemembers; 5) develop a comprehensive trauma care registry; 6) develop quality of care outcome measures for combat casualty care; and 7) conduct research to understand better the causes of morbidity and mortality of servicemembers in combat.

The House amendment contained a provision (Sec. 709) that would require the Secretary of Defense to establish a Joint Trauma Education and Training Directorate to ensure military traumatologists maintain readiness skills and can be rapidly deployed in future armed conflicts. Under this provision, the Secretary would establish enduring partnerships with civilian academic medical centers and large metropolitan teaching hospitals with level one trauma centers to embed combat casualty care teams, led by military traumatologists, within trauma centers of medical centers and hospitals. The provision would require the Secretary to conduct an analysis to determine the number of military traumatologists, by specialty, that the Department of Defense needs to meet combatant commander requirements. Finally, this provision would require the Secretary to submit an implementation plan to the Committees on Armed Services of the Senate and the House of Representatives by July 1, 2017.

The Senate recedes with an amendment that would combine these two provisions.

Standardized system for scheduling medical appointments at military treatment facilities (sec. 709)

The Senate bill contained a provision (sec. 732) that would require the Secretary of Defense to implement, by January 1, 2018, a standardized medical appointment scheduling system at military treatment facilities (MTFs) throughout the military health system. Under this provision, no MTF would have the authority to use an appointment scheduling system other than the standardized system. Each MTF would make available a centralized appointment system that allows beneficiaries to make appointments, either by telephone or by an internet-connected device, including by smartphone application, through an online scheduling system available 24 hours per day, 7 days per week. The online appointment system would be able to send automated email and text message reminders to patients.

The House amendment contained a provision (sec. 710) that would require the Secretary of Defense to ensure that military treatment facilities implement: 1) first call resolution for beneficiaries contacting the facility by telephone; 2) standardized appointment scheduling that includes capabilities to schedule follow-up appointments within a 6-month period or longer from the date of the appointment request and to remind beneficiaries of future appointments; 3) increased provider productivity standards to im-

prove access to care and medical readiness requirements; and 4) maximum use of telehealth and secure messaging between beneficiaries and health care providers. This provision would require the Secretary to implement the requirements by February 1, 2017, and provide a briefing on implementation to the Committees on Armed Services of the Senate and the House of Representatives by March 1, 2017.

The House recesses with an amendment that would require the Secretary of Defense to: 1) implement a standardized appointment system in the military health system by January 1, 2018, and provide to the Committees on Armed Services of the Senate and the House of Representatives, by January 1, 2017, a comprehensive plan to implement the system; 2) implement standards for productivity of health care providers at MTFs; and 3) submit a report to the committees, by March 1 of each year, on the total number of missed appointments at MTFs for which a covered beneficiary failed to appear without prior notification during the 1-year period preceding the submission of the report. Additionally, the provision would require the Secretary to brief the committees on implementation of the standardized appointment system and health care provider productivity standards by February 1, 2018.

Subtitle B—Other Health Care Benefits

Extended TRICARE program coverage for certain members of the National Guard and dependents during certain disaster response duty (sec. 711)

The House amendment contained a provision (sec. 722) that would amend chapter 55 of title 10, United States Code, to extend TRICARE program coverage for certain members of the National Guard and dependents performing certain disaster response duty if the period immediately follows a period of full-time National Guard duty. Under this provision, a member would not receive extended TRICARE program coverage if a governor of a state or the mayor of the District of Columbia (DC) determines that such coverage is not in the best interest of the member, state, or DC. This provision would authorize the Secretary of Defense to charge a state or DC for the costs of providing extended TRICARE program coverage to members of the National Guard and their dependents.

The Senate bill contained no similar provision.

The Senate recesses with an amendment that provides discretionary authority to extend TRICARE program coverage for certain members of the National Guard and dependents performing certain disaster response duty if the period immediately follows a period of full-time National Guard duty. Additionally, the amendment would require the Secretary of Defense to charge a state or DC for the costs of providing extended TRICARE program coverage to members of the National Guard and their dependents if such coverage is extended.

Continuity of health care coverage for reserve components (sec. 712)

The Senate bill contained a provision (sec. 707) that would authorize the Secretary of Defense to carry out a pilot program jointly with the Director of the Office of Personnel Management (Director),

of at least 5 years duration, to provide commercial health insurance coverage to eligible reserve component members who enroll for either individual, self plus one, or self and family coverage. If the Secretary and the Director determine that a pilot program is feasible, the Director would contract with qualified health insurance carriers to provide eligible beneficiaries with a variety of high quality health benefits plans, which could vary by plan design, covered benefits, geography, and price. Reserve component members and their family members would not be eligible to enroll in a health plan in the pilot program if they are eligible to enroll in a health benefits plan under the Federal Employees Health Benefits Program.

Under the pilot program, the Secretary could contract with qualified health insurance carriers to provide coverage for health care services provided at military treatment facilities to pilot program participants, and the Department would receive payment from those carriers for any services provided at those facilities. Family members of an eligible reserve component member could remain covered under the pilot program even when the reserve component member became ineligible for coverage while serving on Active Duty for a period greater than 30 days.

In addition, an eligible reserve component member would be responsible for payment of all cost sharing amounts applicable to the health benefits plan plus an annual premium amount equal to 28 percent of the total annual amount of the premium under the plan. During a period in which a reserve component member served on Active Duty for more than 30 days, the premium amount and cost shares would be zero for eligible family members.

In consultation with the Secretary of Homeland Security, the Secretary would provide recommendations and data to the Director on matters regarding military treatment facilities, matters unique to eligible reserve component members and their families, and any other guidance necessary to administer the pilot program. The Secretary and the Director would jointly establish a funding mechanism for the pilot program, and the Secretary would make funds available to the Director, without fiscal year limitation, for payment of health plan costs and administrative expenses.

The House amendment contained a provision (sec. 712) that would require the Secretary of Defense to study options for providing health care coverage to certain current and former members of the Selected Reserve and to submit a report of the findings and recommendations to the congressional defense committees within 180 days of the date of enactment of this Act.

The Senate recedes with an amendment that would combine these provisions. The resultant provision would require the Director to submit to the Secretary of Defense, on an annual basis during each year the pilot program may be conducted, information on the use of health care benefits under the pilot program. The provision would also require the Secretary to submit an initial and a final report on the pilot program to the Committees on Armed Services of the Senate and the House of Representatives. Finally, the provision would clarify the elements required in the study of options for providing health care coverage that improves the con-

tinuity of health care provided to certain current and former members of the Selected Reserve.

Provision of hearing aids to dependents of retired members (sec. 713)

The House amendment contained a provision (sec. 721) that would amend section 1077 of title 10, United States Code, to authorize the Secretary of Defense to sell hearing aids to dependents of retired members of the uniformed services.

The Senate bill contained no similar provision.

The Senate recesses.

Coverage of medically necessary food and vitamins for certain conditions under the TRICARE program (sec. 714)

The Senate bill contained a provision (sec. 704) that would amend section 1077 of title 10, United States Code, to provide TRICARE program coverage for medically necessary food, including the equipment and supplies necessary to administer that food, and vitamins for digestive disorders and inherited metabolic disorders.

The House amendment contained no similar provision.

The House recesses with a clarifying amendment.

Eligibility of certain beneficiaries under the TRICARE program for participation in the Federal Employees Dental and Vision Insurance Program (sec. 715)

The Senate bill contained a provision (sec. 703) that would amend sections 8951 and 8981 of title 5, United States Code, to require the Secretary of Defense to enter into an agreement with the Director of the Office of Personnel Management to offer eligible beneficiaries the opportunity to purchase dental and vision insurance currently available to federal employees under the Federal Employees Dental and Vision Insurance Program.

The House amendment contained no similar provision.

The House recesses with an amendment that would make this provision effective on or after January 1, 2018.

Applied behavior analysis (sec. 716)

The Senate bill contained a provision (sec. 758) that would require the Secretary of Defense, on the date of enactment of this Act, to reinstate the reimbursement rates in effect on March 1, 2016, for the provision of applied behavior analysis therapy and to preserve those rates throughout the duration of the Comprehensive Autism Care Demonstration program conducted under section 705 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 10 U.S.C. 1092 note), as extended and modified by the Secretary.

The House amendment contained a provision (sec. 734) that would require the Secretary to ensure that the reimbursement rates for providers of applied behavior analysis are not less than the rates in effect on March 31, 2016. The provision would require the Assistant Secretary of Defense for Health Affairs, upon completion of the demonstration, to conduct an analysis of the program and to submit a report to the Committees on Armed Services of the Senate and the House of Representatives.

The Senate recedes with an amendment that would require the analysis to include a determination of whether the use of applied behavioral analysis under the demonstration improved outcomes for beneficiaries with autism spectrum disorder.

Evaluation and treatment of veterans and civilians at military treatment facilities (sec. 717)

The Senate bill contained a provision (sec. 706) that would authorize a veteran or civilian to be evaluated and treated at a military treatment facility (MTF) if the Secretary of Defense determines that: 1) the evaluation and treatment of the individual is necessary to maintain the medical readiness skills and competencies of health care providers at the facility; 2) health care providers at the facility have the competencies, skills, and abilities to treat the individual; and 3) the facility has available space, equipment, and materials. The provision would authorize an MTF to bill and accept reimbursement for services provided to a civilian patient. Under this provision, the Secretary of Defense would be required to enter into a memorandum of understanding with the Secretary of Veterans Affairs whereby the Secretary of Veterans Affairs would reimburse an MTF for the costs of any health care services provided to individuals eligible for health care services from the Department of Veterans Affairs (VA).

The House amendment contained no similar provision.

The House recedes with an amendment that would: 1) prioritize the evaluation and treatment of covered beneficiaries in MTFs ahead of the evaluation and treatment of veterans and civilians in those facilities; 2) require an MTF to bill and to accept reimbursement from a civilian or a third-party payer on behalf of the individual for the costs of health care services provided to the individual; and 3) require the Secretary of Defense to enter into a memorandum of agreement with the Secretary of Veterans Affairs under which the Secretary of Veterans Affairs would reimburse an MTF, using a prospective payment methodology, for the costs of any health care services provided to an individual eligible for health care services from the VA.

Enhancement of use of telehealth services in military health system (sec. 718)

The Senate bill contained a provision (sec. 705) that would require the Secretary of Defense, within 1 year of the date of enactment of this Act, to incorporate the use of telehealth services throughout the direct and purchased care components of the military health system. The provision would require the Department to make telehealth services available to: 1) improve access to primary care, urgent care, behavioral health care, and specialty care; 2) perform health assessments; 3) provide diagnoses, treatments, interventions, and supervision; 4) monitor individual health outcomes of covered beneficiaries with chronic diseases or conditions; 5) improve communication between health care providers and patients; and 6) reduce health care costs for beneficiaries and the Department of Defense.

The provision would require the Secretary to establish standardized payment methods to reimburse health care providers for

telehealth services provided to covered beneficiaries in the purchased care component of the TRICARE program to incentivize the provision of telehealth services. The provision would also require the Secretary to reduce or eliminate co-payments or cost-shares for covered beneficiaries for receipt of telehealth services.

The provision would require the Secretary to submit an initial report, within 180 days of the date of enactment of this Act, to the Committees on Armed Services of the Senate and the House of Representatives, describing the full range of telehealth services to be available in the direct and purchased care components of the military health system. Within 3 years after the date of incorporation of telehealth services throughout the military health system, the Secretary would be required to submit a final report to the committees describing the impact made by use of telehealth services in the direct and purchased care components of the military health system.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment that would require the implementation of the use of telehealth services throughout the direct and purchased care components of the military health system not later than 18 months after the date of enactment of this Act and would delete the requirement that the location of the provider be considered to be the location of care.

Authorization of reimbursement by Department of Defense to entities carrying out state vaccination programs for costs of vaccines provided to covered beneficiaries (sec. 719)

The Senate bill contained a provision (sec. 757) that would authorize the Secretary of Defense to reimburse an entity carrying out a state vaccination program for the cost of providing vaccines to covered beneficiaries. Under this provision, the amount of reimbursement could not exceed the amount that the Department would reimburse an entity for providing vaccines to covered beneficiaries under the TRICARE program.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Subtitle C—Health Care Administration

Authority to convert military medical and dental positions to civilian medical and dental positions (sec. 721)

The Senate bill contained a provision (sec. 724) that would amend chapter 49 of title 10, United States Code, to authorize the Department of Defense to convert military medical and dental positions to civilian positions if: 1) conversion would not result in a loss of a military-essential position; 2) conversion would not result in degradation of medical care or the medical readiness of the Armed Forces; and 3) conversion to a civilian position would be more cost effective.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense, in collaboration with the service secretaries, to establish a process to define military medical and dental personnel requirements necessary to meet operational medical force

readiness requirements. The amendment would authorize conversion of a military medical or dental position to a civilian medical or dental position if the Secretary determines that the position is unnecessary to meet operational medical force readiness requirements. Additionally, the amendment would require the Secretary to convert an applicable military position to a civilian position with a level of compensation commensurate with the skills and experience necessary to conduct the duties of the civilian position. The Secretary would not be authorized to place any limitation on the grade or level to which the military position would be converted. Finally, the amendment would require the Secretary to submit a report, within 90 days of enactment of this Act, to the Committees on Armed Services of the Senate and the House of Representatives that: 1) describes the process established to define military medical and dental personnel requirements necessary to meet operational medical force readiness requirements; and 2) provides a complete list, by position, of the military medical and dental requirements necessary to meet operational medical force readiness requirements. The amendment would not authorize conversions of military medical or dental positions to civilian positions until 180 days after the date on which the Secretary submits the report to the committees.

Prospective payment of funds necessary to provide medical care for the Coast Guard (sec. 722)

The House amendment contained a provision (sec. 731) that would amend chapter 13 of title 14, United States Code, to require the Secretary of Homeland Security to make a prospective payment to the Secretary of Defense of an amount that represents the actuarial valuation of medical treatment or care provided to members of the Coast Guard, former members of the Coast Guard, and their dependents at facilities under the jurisdiction of the Department of Defense except during any period in which the Coast Guard operates as a service in the Navy.

The Senate bill contained no similar provision.

The Senate recesses.

Reduction of administrative requirements relating to automatic renewal of enrollments in TRICARE Prime (sec. 723)

The Senate bill contained a provision (sec. 739) that would eliminate an annual requirement that the managed care support contractors under the TRICARE program generate and mail an enrollment renewal letter to all beneficiaries enrolled in TRICARE Prime.

The House amendment contained no similar provision.

The House recesses.

Modification of authority of Uniformed Services University of the Health Sciences to include undergraduate and other medical education and training programs (sec. 724)

The Senate bill contained a provision (sec. 753) that would amend sections 2112(a) and 2113 of title 10, United States Code, to authorize the Uniformed Services University of the Health

Sciences to grant certificates, certification, and undergraduate degree programs in addition to advanced degrees.

The House amendment contained no similar provision.

The House recesses.

Adjustment of medical services, personnel authorized strengths, and infrastructure in military health system to maintain readiness and core competencies of health care providers (sec. 725)

The Senate bill contained a provision (sec. 735) that would require the Secretary of Defense to implement measures, within 180 days of the date of enactment of this Act, to maintain the critical wartime medical readiness skills and core competencies of health care providers within the Armed Forces. The provision would require the Secretary to implement a measure to ensure the Services do not substitute a medical specialty required for medical force readiness with another medical specialty. Additionally, the provision would require the Secretary to: 1) modify medical services; 2) reduce authorized strengths of military and civilian personnel; and 3) reduce or eliminate unnecessary infrastructure in the military health system such that military treatment facilities would provide only those services required to maintain the critical wartime medical skills and core competencies of health care providers and to ensure the medical readiness of the Armed Forces. Moreover, this provision would require the Comptroller General of the United States to provide a report, within 18 months of the date of enactment of this Act, which assesses the Department's implementation of this provision, to the Committees on Armed Services of the Senate and the House of Representatives.

The House amendment contained no similar provision.

The House recesses with an amendment that would require the Secretary to implement measures, within 1 year of the date of enactment of this Act, to maintain the critical wartime medical readiness skills and core competencies of health care providers within the Armed Forces. In implementing those measures, the Secretary must ensure that the medical services provided in military medical treatment facilities (MTFs), the authorized strengths of military and civilian personnel working in MTFs, and the infrastructure of MTFs maintain the critical wartime medical readiness skills and core competencies of health care providers within the Armed Forces. The amendment would not require the Secretary to implement any of these measures at MTFs located in a foreign country if the Secretary determines that beneficiaries in that country would not have access to medical services in that country similar to access to medical services for covered beneficiaries in the United States.

Program to eliminate variability in health outcomes and improve quality of health care services delivered in military medical treatment facilities (sec. 726)

The Senate bill contained a provision (sec. 730) that would require the Secretary of Defense to conduct a program, beginning not later than January 1, 2018, to: 1) establish best practices for the delivery of health care services for certain diseases or conditions at military treatment facilities (MTFs); 2) incorporate those best prac-

tices into the daily operations of MTFs participating in the program; and 3) eliminate variability in health outcomes and improve the quality of health care services delivered at MTFs. Under this provision, the Secretary would conduct the program in three phases and be required to complete each phase within 180 days following initiation of that phase. The initiation of phases two and three would immediately follow completion of the previous phase. The provision would require the Secretary, during the conduct of the program, to continuously monitor and adjust the health care services delivered at MTFs and the number of patients enrolled at those facilities to ensure: 1) a high degree of safety and quality in the delivery of health care at those facilities; and 2) the delivery of only those health care services critical for maintaining operational medical force readiness and the medical readiness of the Armed Forces.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary, by January 1, 2018, to implement a program to establish best practices for the delivery of health care services for certain diseases or conditions at MTFs, as selected by the Secretary, and to incorporate those best practices into the daily operations of MTFs to eliminate variability in health outcomes and to improve the quality of care at MTFs. In conducting this program, the Secretary shall develop, implement, monitor, and update clinical practice guidelines reflecting best practices for the delivery of health care services. The amendment would require the Secretary to monitor the implementation of the clinical practice guidelines and to update those guidelines periodically through a process of continual assessment of evidence-based best practices within the direct care component of the military health system and the private sector.

Acquisition strategy for health care professional staffing services
(sec. 727)

The Senate bill contained a provision (sec. 738) that would amend section 725(a) of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291), to require the Department of Defense to implement a performance-based, strategic sourcing contract for acquiring health care professional staffing services for the military health system. The provision would require all components of the military health system to use the contract, and the Department would be required to develop a process for obtaining a waiver, based on documented rationale, to use another contract or acquisition approach.

The Senate bill also contained a provision (sec. 737) that would require the Secretary of Defense to enter into centrally-managed, performance-based contracts with private sector entities to augment the delivery of health care services at military treatment facilities (MTFs) with limited or restricted ability to provide services such as primary care or expanded-hours urgent care. Under this provision, contracts would be designed to purchase improvement in health outcomes for covered beneficiaries seeking health care services in MTFs. This provision would require the Secretary to submit a plan to the Committees on Armed Services of the Senate and the

House of Representatives, within 180 days of enactment of this Act, that includes: 1) a description of the number and types of contracts the Secretary intends to procure; and 2) a description of the performance measures used in procuring performance-based contracts.

The House amendment contained no similar provisions.

The House recedes with an amendment that would combine these provisions. The amendment would require the Secretary of Defense to develop and carry out a performance-based, strategic sourcing acquisition strategy for health care professional services at MTFs located in a state. The new acquisition strategy, as developed by the Secretary, would require all MTFs to use the contracts awarded under the strategy, but it would provide a process for an MTF to obtain a waiver of this requirement to use another acquisition strategy. The amendment would require the Secretary to submit a report to the Committees on Armed Services of the Senate and the House of Representatives, by July 1, 2017, on the status of implementing the new acquisition strategy. Finally, the amendment would repeal section 725 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 10 U.S.C. 1091 note).

Adoption of core quality performance metrics (sec. 728)

The House amendment contained a provision (sec. 711) that would require the Secretary of Defense to adopt the core quality performance measures agreed upon by a collaborative group of federal agencies, private sector health insurance plans, national physician organizations, employers, and health care consumers. These core quality performance measures would be used to evaluate the performance of the direct care and purchased care components of the military health system.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would include in the core quality metrics such other sets of core quality performance metrics released by the Core Quality Measures Collaborative as the Secretary considers appropriate. The amendment would amend section 1073b of title 10, United States Code, to require the Secretary to include the core quality performance metrics mandated under this section in those metrics publicly available on an Internet website of the Department of Defense.

Improvement of health outcomes and control of costs of health care under TRICARE program through programs to involve covered beneficiaries (sec. 729)

The Senate bill contained a provision (sec. 728) that would require the Secretary of Defense, by January 1, 2018, to implement programs to increase involvement of covered beneficiaries in making health care decisions and to encourage beneficiaries to share more responsibility for the improvement in their health outcomes through participation in medical and lifestyle intervention programs. This provision would incentivize those beneficiaries with chronic diseases or conditions, such as diabetes, asthma, or depression, or those exhibiting unhealthy behaviors, such as tobacco use or obesity, to participate in comprehensive medical or lifestyle intervention programs designed to improve beneficiaries' health

outcomes and functional status while controlling health care costs for those beneficiaries and the Department. This provision would also authorize the Secretary to charge and collect a fee from a covered beneficiary, other than an Active-Duty servicemember, for failure to notify a military treatment facility, within 24 hours of a scheduled appointment with a health care provider, that the beneficiary will be unable to attend the appointment. The Secretary of Defense would be required to submit a report to the Committees on Armed Services of the Senate and the House of Representatives, by January 1, 2020, that describes implementation of the programs mandated under this provision.

The House amendment contained no similar provision.

The House recedes with an amendment that would also require the Secretary to establish a program to incentivize the maintenance of a healthy lifestyle, such as exercise and weight management, among covered beneficiaries. The amendment would not authorize the Secretary to charge and collect a fee from a covered beneficiary, other than an Active-Duty servicemember, for failure to notify a military treatment facility, within 24 hours of a scheduled appointment with a health care provider, that the beneficiary will be unable to attend the appointment.

The conferees are concerned, however, about the high number of failed medical appointments in the military health system. From October 2014 through September 2015, there were over 1.6 million scheduled appointments missed by all categories of beneficiaries. The large number of failed appointments negatively affects access to care for all beneficiaries. The conferees strongly urge the Secretary to implement programs to minimize the number of failed appointments in military hospitals and clinics.

Accountability for the performance of the military health system of certain leaders within the system (sec. 730)

The Senate bill contained a provision (sec. 722) that would require the Secretary of Defense and the secretaries of the military departments, within 180 days of the date of enactment of this Act, to incorporate performance accountability measures into the annual performance reviews of certain leadership positions in the military health care system. The provision would prohibit payment of a performance bonus to a civilian employee of the Department of Defense occupying a position, specified in the provision, unless the operations of the military health care system met or exceeded performance measures during the period of the employee's annual performance review. The Secretary of Defense would submit a report to the Committees on Armed Services of the Senate and the House of Representatives, within 180 days of enactment of this Act, which describes the incorporation of performance accountability measures in the annual performance reviews of leadership positions in the military health care system.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to determine which military and civilian leaders in the military health system would be required to have measures of accountability incorporated into their performance reviews

and would delete the prohibition on performance bonuses for civilian employees who do not meet or exceed performance measures.

Establishment of advisory committees for military treatment facilities (sec. 731)

The Senate bill contained a provision (sec. 731) that would require the Secretary of Defense to establish an advisory committee for each military medical treatment facility (MTF). Each advisory committee would include six beneficiaries eligible for health care services in the military health system: 1) two Active-Duty servicemembers; 2) two Active-Duty family members; and 3) two military retirees.

The House amendment contained no similar provision.

The House recedes with an amendment that would not prescribe the composition of members of an advisory committee established by the Secretary. The amendment would also clarify that each advisory committee shall provide advice to the commanding officer or director of a MTF on the administration and activities of the facility as it relates to the experience of care for beneficiaries.

Subtitle D—Reports and Other Matters

Extension of authority for joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund and report on implementation of information technology capabilities (sec. 741)

The Senate bill contained a provision (sec. 755) that would extend the authority for the joint Department of Defense-Department of Veterans Affairs demonstration fund from September 30, 2017, to September 30, 2018.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to submit a report, not later than March 30, 2017, to the Committees on Armed Services of the Senate and the House of Representatives on plans to implement all information technology capabilities required by the executive agreement entered into under section 1701(a) of the National Defense Authorization Act for fiscal year 2010 (Public Law 111–84) that remain unimplemented as of the date of the report.

Pilot program on expansion of use of physician assistants to provide mental health care to members of the Armed Forces (sec. 742)

The Senate bill contained a provision (sec. 751) that would require the Secretary of Defense to commence a physician assistant psychiatric fellowship pilot program, within 1 year of the date of enactment of this Act, to assess the feasibility and advisability of expanding the use of physician assistants specializing in psychiatric medicine. The pilot program would consist of two rounds with each round taking a maximum of 2 years to complete. Under this provision, the Secretary would select a least five individuals to participate in the pilot program for each round. Within 180 days after the date the Secretary completes the first round of the psychiatric fellowship pilot program, the Secretary would submit an initial report to the Committees on Armed Services of the Senate

and the House of Representatives on the program. Subsequently, the Secretary would submit a final report that updates the initial report within 90 days after termination of the pilot program. The authority for the pilot program would terminate upon completion of the second round of the psychiatric fellowship program.

The House amendment contained no similar provision.

The House recedes with an amendment that would authorize the Secretary to conduct a pilot program to assess the feasibility and advisability of expanding the use of physician assistants specializing in psychiatric medicine at medical facilities of the Department of Defense. If the Secretary conducts the pilot program, the Secretary would submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the pilot program within 90 days of completion of the program.

Pilot program for prescription drug acquisition cost parity in the TRICARE pharmacy benefits program (sec. 743)

The House amendment contained a provision (sec. 745) that would authorize the Secretary of Defense to conduct a pilot program to evaluate whether extending additional discounts for prescription drugs filled at TRICARE retail network pharmacies would either maintain or reduce prescription drug costs for the Department of Defense. If the Secretary decides to conduct the pilot program, the Secretary would submit to the congressional defense committees: 1) an initial report, within 90 days of enactment of this Act, containing an implementation plan for the pilot program; 2) an interim report within 180 days after the pilot program begins; and 3) a final report, within 90 days of the end of the pilot program, describing the results of the program.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the Secretary, in conducting the pilot program, to allow any TRICARE beneficiaries, other than Medicare-eligible beneficiaries, to participate in the pilot program.

The amendment would also modify the requirements for the final report.

Pilot program on display of wait times at urgent care clinics and pharmacies of military medical treatment facilities (sec. 744)

The Senate bill contained a provision (sec. 733) that would require the commander or director of a military treatment facility, by January 1, 2018, to display in a conspicuous location at each urgent care clinic, emergency department, and pharmacy in a military treatment facility (MTF) an electronic sign that displays the current average wait time either to be seen by a qualified medical provider or to receive a filled prescription of a pharmaceutical agent. The provision would prescribe how the commander or director should determine the average wait times for beneficiaries at urgent care clinics, emergency departments, and pharmacies in military treatment facilities.

The House amendment contained a provision (sec. 746) that would require the Secretary of Defense to study the feasibility of displaying average wait times at urgent care clinics, pharmacies, and emergency departments of MTFs and to submit a report, which

includes the estimated costs for displaying wait times, to the Committees on Armed Services of the Senate and the House of Representatives by March 1, 2017.

The Senate recedes with an amendment that would require the Secretary of Defense to conduct a pilot program, not later than 1 year after the date of enactment of this Act, for the display of wait times in urgent care clinics and pharmacies of MTFs. The provision would require the Secretary to submit a report to the Committees on Armed Services of the Senate and the House of Representatives within 90 days of completion of the pilot program that would include, among the report elements, a determination of the feasibility of expanding the posting of wait times in emergency departments in MTFs.

Requirement to review and monitor prescribing practices at military treatment facilities of pharmaceutical agents for treatment of post-traumatic stress (sec. 745)

The Senate bill contained a provision (sec. 761) that would require the Secretary of Defense, within 180 days of enactment of this Act, to: 1) conduct a comprehensive review of the prescribing practices at military treatment facilities of pharmaceutical agents for the treatment of post-traumatic stress (PTS); 2) implement a process or processes to monitor the prescribing practices at military treatment facilities of pharmaceutical agents discouraged from use under the clinical practice guideline for management for PTS published by the Department of Defense (DOD) and the Department of Veterans Affairs (VA); 3) implement a plan to address any deviations from that guideline in the prescribing practices of pharmaceutical agents for management of PTS; and 4) implement a plan to address any instances where benzodiazepines and opioids are concurrently prescribed.

The House amendment contained a similar provision (sec. 732).
The Senate recedes.

Department of Defense study on preventing the diversion of opioid medications (sec. 746)

The House amendment contained a provision (sec. 750) that would require the Secretary of Defense to conduct a study on the feasibility and effectiveness in preventing the diversion of opioid medications by requiring opioid medications to be dispensed in vials designed to prevent unauthorized access to those medications and by educating patients and family members, with special emphasis on adolescents, on the risks associated with opioid medications.

The Senate bill contained no similar provision.
The Senate recedes with a clarifying amendment.

Incorporation into survey by Department of Defense of questions on experiences of members of the Armed Forces with family planning services and counseling (sec. 747)

The Senate bill contained a provision (sec. 759) that would require the Secretary of Defense, within 90 days after the date of enactment of this Act, to begin action to integrate into certain surveys administered by the Department of Defense questions de-

signed to obtain information on the experiences of service women with family planning and counseling.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense, within 90 days of enactment of this Act, to initiate action to integrate into the the Health Related Behavior Survey of Active-Duty Military Personnel questions designed to obtain information on the experiences of servicemembers with family planning and counseling.

Assessment of transition to TRICARE program by families of members of reserve components called to Active Duty and elimination of certain charges for such families (sec. 748)

The Senate bill contained a provision (sec. 760) that would require the Secretary of Defense, within 180 days of enactment of this Act, to complete an assessment of the extent to which families of members of the reserve components of the Armed Forces serving on Active Duty, pursuant to a call to or order to Active Duty for a period of more than 30 days, experience difficulties in transitioning from health care arrangements relied upon when the member is not in such an Active-Duty status to health benefits under the TRICARE program. Within 180 days after completing the assessment, the Secretary shall submit a report detailing the results of the assessment to the Committees on Armed Services of the Senate and the House of Representatives. This provision would also amend section 1079(h)(4)(C)(ii) of title 10, United States Code, to expand the authority of the Secretary to eliminate balance billing for families of members of the reserve components of the Armed Forces serving on Active Duty.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Oversight of graduate medical education programs of military departments (sec. 749)

The Senate bill contained a provision (sec. 752) that would require the Secretary of Defense to implement a phased plan, within 1 year of the date of enactment of this Act, to eliminate those graduate medical education programs of the Department that do not directly support the medical force readiness requirements for health care providers within the Armed Forces. The Secretary would provide a report, within 180 days of the date of enactment of this Act, which provides the Department's plan to eliminate graduate medical education programs non-essential for medical force readiness.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense, within 1 year of the date of enactment of this Act, to establish and implement a process to provide oversight of the graduate medical education programs of the military departments to ensure that those programs fully support the operational medical force readiness requirements for health care providers of the Armed Forces and the medical readiness of the Armed Forces. The amendment would require the Secretary, within 30 days of the establishment of the oversight process, to submit a report to the Committees on Armed Services of the Senate and the House of

Representatives that describes the process. In addition, the amendment would require the Comptroller General of the United States to conduct a review of the oversight process and to provide a report to the committees within 180 days after the date that the Secretary submits the Department's report to the committees.

Study on health of helicopter and tiltrotor pilots (sec. 750)

The House amendment contained a provision (sec. 744) that would require the Secretary of Defense to conduct a long-term study of helicopter and tiltrotor pilots to assess the acute and chronic medical conditions of those pilots. The provision would also require the Secretary to brief the Committees on Armed Services of the Senate and the House of Representatives on the results of the study.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to submit a report to the Committees on Armed Services of the Senate and the House of Representatives not later than 30 days after completion of the study.

Comptroller General reports on health care delivery and waste in military health system (sec. 751)

The Senate bill contained a provision (sec. 763) that would require the Comptroller General of the United States, within 1 year after the date of enactment of this Act, and at least annually thereafter for 4 years, to submit to the Committees on Armed Services of the Senate and the House of Representatives, a report assessing and identifying potential waste and inefficiency relating to the delivery of health care within the military health system.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Modifications of cost-sharing requirements for the TRICARE pharmacy benefits program and treatment of certain pharmaceutical agents

The Senate bill contained a provision (sec. 702) that would modify cost-sharing amounts for the TRICARE pharmacy benefits program for years 2017 through 2025. After 2025, the Department could establish cost-sharing amounts equal to the cost-sharing amounts for the previous year adjusted by an amount, if any, to reflect increases in costs of pharmaceutical agents and pharmacy dispensing fees. With this provision, beneficiaries would continue to receive pharmaceuticals at no cost in military medical treatment facilities. Under this provision, there would be no changes to cost-sharing amounts for survivors of members who died on Active Duty or for disabled retirees and their family members. The provision would authorize the Secretary of Defense, upon recommendation from the Pharmacy and Therapeutics Committee and review by the Uniform Formulary Beneficiary Advisory Panel, to exclude from the pharmacy benefits program any pharmaceutical agent that the Secretary determines provides little or no value to covered beneficiaries and the Department. Additionally, the Secretary would

give preferential status to any non-generic pharmaceutical agent on the uniform formulary by treating it, for the purposes of cost-sharing, as a generic product under the TRICARE retail pharmacy and mail order programs. Finally, the provision would authorize the Secretary to adopt special reimbursement methods, amounts, and procedures in medical contracts to encourage physicians to use high-value pharmaceutical agents and to discourage use of low-value agents.

The House amendment contained no similar provision.

The Senate recesses.

Pilot program on treatment of members of the Armed Forces for post-traumatic stress disorder related to military sexual trauma

The Senate bill contained a provision (sec. 708) that would authorize the Secretary of Defense to conduct a pilot program, of not more than 3 years duration, to award competitive grants to community partners to provide intensive outpatient programs to treat members of the Armed Forces suffering from post-traumatic stress disorder resulting from military sexual trauma, including treatment for substance use disorder, depression, and other issues related to those conditions.

The House amendment contained no similar provision.

The Senate recesses.

Selection of commanders and directors of military treatment facilities and tours of duty of commanders of such facilities

The Senate bill contained a provision (sec. 723) that would require the Secretary of Defense to develop common qualifications and core competencies required for selection of commanders or directors of military medical treatment facilities. The provision would also establish a minimum length of 4 years for tours of duty, with limited exceptions, for those commanders or directors to ensure greater stability in health system executive management at each facility and throughout the military health system.

The House amendment contained no similar provision.

The Senate recesses.

Use of mefloquine for malaria

The House amendment contained a provision (sec. 733) that would: 1) limit the use of mefloquine for malaria prophylaxis to servicemembers with intolerance or contraindications to other chemoprophylaxis agents; 2) require licensed medical providers to prescribe mefloquine on an individual basis; and 3) require medical providers to counsel servicemembers on the potential side effects of the drug and to provide written patient information required by the Food and Drug Administration.

The Senate bill contained no similar provision.

The House recesses.

The conferees note that mefloquine is one of several drugs recommended by the Centers for Disease Control to prevent malaria and to treat certain forms of the disease. The conferees are concerned, however, that mefloquine may produce serious neuropsychiatric side effects such as depression, auditory and visual hallucinations, anxiety, and suicidal ideation. The conferees

urge the Department of Defense to limit the prescription of mefloquine to those servicemembers who may be unable to take other first-line anti-malarial drugs. If medical providers must prescribe mefloquine to certain servicemembers, providers must ensure that those servicemembers understand the potential adverse effects of the drug.

Mental health resources for members of the military services at high risk of suicide

The House amendment contained a provision (sec. 741) that would require the Secretary of Defense to: 1) develop a methodology that identifies servicemembers and military units at high risk of suicide; and 2) provide additional preventative and mental health treatment resources for servicemembers.

The Senate bill contained no similar provision.

The House recesses.

Research of chronic traumatic encephalopathy

The House amendment contained a provision (sec. 742) that would provide that not more than \$25 million of the funds available for advanced development for research, development, test, and evaluation for the Defense Health Program for fiscal year 2017 may be used to award grants to medical researchers and universities to support research into early detection of chronic traumatic encephalopathy.

The Senate bill contained no similar provision.

The House recesses.

Active oscillating negative pressure treatment

The House amendment contained a provision (sec. 743) that would require the Secretary of Defense to consider using non-invasive technologies, such as active oscillating negative pressure, to treat servicemembers who have incurred injuries from blast-related events.

The Senate bill contained no similar provision.

The House recesses.

Report on feasibility of including acupuncture and chiropractic services for retirees under TRICARE program

The House amendment contained a provision (sec. 747) that would require the Secretary of Defense to submit a report to the congressional defense committees on the feasibility of providing acupuncture and chiropractic services under the TRICARE program to beneficiaries who are retired members of the uniformed Services.

The Senate bill contained no similar provision.

The House recesses.

Clarification of submission of reports on longitudinal study on traumatic brain injury

The House amendment contained a provision (sec. 748) that would clarify that section 1080 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 1000; 10 U.S.C. 111 note) should not apply to reports submitted by the

Secretary of Defense to Congress under section 721 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2294).

The Senate bill contained no similar provision.

The House recesses.

Increased collaboration with NIH to combat triple negative breast cancer

The House amendment contained a provision (sec. 749) that would require the Department of Defense to: 1) collaborate with the National Institutes of Health to identify genetic and molecular targets and biomarkers for triple negative breast cancer; and 2) provide information in biomarker selection, drug discovery, and clinical trials design to enable early identification of this form of breast cancer and development of multiple targeted therapies for the disease.

The Senate bill contained no similar provision.

The House recesses.

Memoranda of agreement with institutions of higher education that offer degrees in allopathic or osteopathic medicine

The Senate bill contained a provision (sec. 754) that would require the Secretary of Defense to enter into memoranda of agreement with local or regional allopathic or osteopathic schools of medicine to establish military treatment facilities as affiliate teaching hospitals.

The House amendment contained no similar provision.

The Senate recesses.

The conferees note that the Department of Defense has existing authority to enter into agreements with medical schools to establish military treatment facilities as affiliate teaching hospitals, and the conferees strongly urge the Department to expand those affiliations. By sharing training facilities, staffing, and material resources, the conferees believe these new academic affiliations could help improve and sustain operational medical force readiness and serve as productive recruiting grounds for new military physicians.

Prohibition on conduct of certain medical research and development projects

The Senate bill contained a provision (sec. 756) that would prohibit the Secretary of Defense and each service secretary from funding or conducting a medical research and development project unless the secretary concerned determines that the project would protect, enhance, or restore the health and safety of members of the Armed Forces.

The House amendment contained no similar provision.

The Senate recesses.

The conferees express concern regarding the amount of congressional funding for medical research in the Department of Defense's (DOD) Congressionally Directed Medical Research Program. Since 1992, Congress has appropriated almost \$10 billion for medical research—most of it outside of DOD's core medical research mission and not requested in the Department's annual budget requests.

Report on plan to improve pediatric care and related services for children of members of the Armed Forces

The Senate bill contained a provision (sec. 762) that would require the Secretary of Defense to submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth a plan of the Department to improve pediatric care and related services for children of members of the Armed Forces.

The House amendment contained no similar provision.

The Senate recesses.

Treatment of certain provisions relating to limitations, transparency, and oversight regarding medical research conducted by the Department of Defense

The Senate bill contained a provision (sec. 764) that would require sections 756 and 898 of the Senate bill relating to limitations, transparency, and oversight regarding medical research conducted by the Department of Defense to have no force or effect.

The House amendment contained no similar provision.

The Senate recesses.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Policy and Management

Rapid acquisition authority amendments (sec. 801)

The Senate bill contained a provision (sec. 801) that would amend section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) to better integrate and conform the provision with the rapid acquisition authorities established in section 804 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92).

The House amendment contained no similar provision.

The House recesses.

Authority for temporary service of Principal Military Deputies to the Assistant Secretaries of the military departments for acquisition as Acting Assistant Secretaries (sec. 802)

The Senate bill contained a provision (sec. 802) that would amend sections 3016(b)(5)(B), 5016(b)(4)(B), and 8016(b)(4)(B) of title 10, United States Code, to allow Principal Military Deputies to serve in an acting capacity if there is a vacancy in the position of the Service Acquisition Executive.

The House amendment contained no similar provision.

The House recesses.

Modernization of services acquisition (sec. 803)

The Senate bill contained a provision (sec. 804) that would require the Secretary of Defense to revise the Department of Defense Instruction 5000.74, dated January 6, 2016.

The House amendment contained no similar provision.

The House recesses with an amendment that would require the Secretary of Defense to review and, if necessary, revise Department

of Defense Instruction 5000.74, dated January 5, 2016, and other guidance pertaining to the acquisition of services not later than 180 days after the date of the enactment of this Act. The amendment also would expand, from the acquisition workforce to all Department of Defense employees engaged in the procurement of services, the workforce to be developed and trained on the acquisition of services.

Defense Modernization Account amendments (sec. 804)

The Senate bill contained a provision (sec. 899B) that would amend section 2216 of title 10, United States Code, to clarify authorizations for the Defense Modernization Account.

The House amendment contained no similar provision.

The House recedes with an amendment that would exclude the transfer of funds that support installations and facilities to the Defense Modernization Account. The amendment would set a \$1.0 billion limit on the total balance of the account and require that an acquisition program milestone decision authority approve the use of funds in the account. The amendment would also require that subaccounts be established for each of the military departments and defense agencies that deposit and use funds in the account.

Subtitle B—Department of Defense Acquisition Agility

Modular open system approach in development of major weapon systems (sec. 805)

The House amendment contained a provision (sec. 1701) that would require all major defense acquisition programs (MDAPs) initiated after January 1, 2019, to be designed and developed with a modular open system approach (MOSA), to the maximum extent practicable.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify when programs are required to start using MOSA. The amendment also would modify the definition of a major system interface to include characterization of the form, function, and content that flows across the interface. The amendment would require the acquisition strategy for a program that uses MOSA to also describe the approach to systems integration and configuration management.

Development, prototyping, and deployment of weapon system components or technology (sec. 806)

The House amendment contained a provision (sec. 1702) that would require a major defense acquisition program (MDAP) initiated after January 1, 2019, to include only technical development that the milestone decision authority determines, with a high degree of confidence, would not delay fielding target for the program. Concurrent technology maturation and system development would remain authorized, but only for technologies for which there is high confidence that concurrency would not postpone fielding. For higher risk technologies, the milestone decision authority would use the new authorities provided in this section, or other available authorities, to mature and demonstrate technologies prior to initiating or separate from a program of record. This section also would provide

the military services with new funding and acquisition flexibility to experiment with, prototype, and rapidly deploy weapon system components and other technologies.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would expand the considerations for planning and conducting prototype projects to include existing commercial technologies and opportunities to reduce operation and support costs of major weapon systems. The amendment would clarify that the military services can use an existing oversight board, if one exists, to carry out the prototyping oversight requirements of this provision. The amendment would require prototyping projects to develop a plan for transition into a fielded system or operational use. The amendment also would reduce the duration of a project to 2 years and would clarify that the rapid prototyping process established by section 804 of the Fiscal Year 2016 National Defense Authorization Act (Public Law 114–92) should be pursued if projects exceed the duration and funding limits of this provision.

Cost, schedule, and performance of major defense acquisition programs (sec. 807)

The House amendment contained a provision (sec. 1703) that would require the Secretary of Defense, or his designee, to assign program cost and fielding targets when major defense acquisition programs (MDAPs) are initiated.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify that cost and fielding targets should be established before funds are obligated for technology development, system development, or production of a major defense acquisition program. The amendment would modify the definition of the cost target to include the program procurement unit cost and sustainment cost. The amendment would remove the list of elements that should be considered in establishing the program goals because such elements are generally known and are included in existing acquisition policy guidance. The amendment would modify the delegation of authority for establishing program targets only to the Deputy Secretary of Defense. The amendment also would clarify that the required independent technical risk assessments conducted prior to program milestone approvals should identify any manufacturing processes that need to be matured.

Transparency in major defense acquisition programs (sec. 808)

The House amendment contained a provision (sec. 1704) that would require the milestone decision authority for a major defense acquisition program to provide a new “acquisition scorecard” report to the congressional defense committees and, when appropriate, to congressional intelligence committees at each milestone decision point of each program.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would modify the information required in the program summary reports, to include the major cost contributors identified at Milestone A that could affect the life-cycle costs of the program and any manufacturing risks

identified at Milestone A or B that are associated with the program.

Amendments relating to technical data rights (sec. 809)

The House amendment contained a provision (sec. 1705) that would make several amendments to technical data rights conferred in section 2320 of title 10, United States Code. Among other things, the provision would delineate types of interfaces and specify the rights provided to the U.S. Government in such interfaces. It would require the U.S. Government and Department of Defense contractors to negotiate for data rights when items or processes are developed with a mix of Federal and private funds. The provision also would limit deferred ordering of technical data to 6 years after delivery of the last item on a contract and to technical data generated, not utilized, in the performance of the contract.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would allow the Secretary of Defense to negotiate for rights other than government purpose rights for technical data relating to major system interfaces if it would be in the best interest of the United States. The amendment would require the Department of Defense to identify major system interfaces in contract solicitations and contracts. For major system interfaces developed exclusively at private expense, the amendment would clarify that the Secretary shall negotiate with the developer appropriate compensation for the technical data. The conferees understand that section 2320 sets forth various rights in technical data, and that the price for acquiring technical data to which the U.S. Government is entitled is determined through negotiations between the Department and contractors. The conferees believe that in the case of privately funded major system interfaces for which the Department asserts government purpose rights it is necessary to explicitly require negotiation for compensation. Notwithstanding this amendment, the conferees expect the standard practice of negotiating prices for technical data to continue for all other categories of rights and circumstances set forth in section 2320.

The amendment also would specify the U.S. Government's rights to technical data pertaining to privately funded general interfaces necessary for the segregation and reintegration of an item or process. Finally, the amendment would extend the duration of the government-industry advisory panel established in section 813 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92) and require the advisory panel to consider the technical data rights necessary to support the modular open system approach (MOSA) required elsewhere in this Act. The conferees are aware that the advisory panel has not yet completed its review of sections 2320 and 2321 of title 10, United States Code. The conferees recognize there are many issues in technical data rights that this conference agreement does not address, and are encouraged that the panel's comprehensive and thoughtful analysis thus far will yield promising recommendations.

Additionally, the conferees understand that successful implementation of MOSA necessitates the allocation of technical data rights in major system interfaces, a new concept under MOSA. The

use of MOSA relies upon the ability of major system components to be added, removed, or replaced as needed throughout the life cycle of the major weapon system due to evolving technology, threats, sustainment, and other factors. Therefore, major system interfaces that share a boundary between major system components and major system platforms are critical, and it is imperative that the government have appropriate access to the technical data of such interfaces. The conferees understand the importance of technical precision in establishing clear delineation of major system platforms, major system interfaces, and major system components. As such, the conferees urge the Department to carefully consider and take input from the advisory panel and industry on the meanings and implications of these key terms. The conferees expect the Department to include this consideration in its review of the MOSA authorities and its briefing on the implementation of MOSA required in the House report accompanying H.R. 4909 (H. Rept. 114–537) of the National Defense Authorization Act for Fiscal Year 2017.

The conferees also note that the Department recently issued a proposed rule that would implement amendments to section 2320 of title 10, United States Code, enacted in section 815 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81). Various representatives of industry have expressed concern about the effects on defense acquisition of the amendments made in Public Law 112–81 and the Department’s implementation of such amendments. Therefore, the conferees believe the amendments to technical data rights included in this conference agreement are necessary at this time.

Subtitle C—Amendments to General Contracting Authorities,
Procedures, and Limitations

Modified restrictions on undefinitized contractual actions (sec. 811)

The Senate bill contained a provision (sec. 816) that would amend section 2326 of title 10, United States Code, to revise policies regarding undefinitized contractual actions (UCAs). Over the past decade the use of UCAs by the services and defense agencies has grown significantly while the speed at which these UCAs are definitized has lagged. To address this situation, the provision would: (1) require a written determination by senior officials to extend a UCA beyond 90 days; (2) require UCAs to be awarded on a fixed-price level-of-effort basis; and (3) extend the 180 day definitization requirement to contracts in support of Foreign Military Sales cases.

The House amendment contained a similar provision (sec. 802).

The House recedes with an amendment that would eliminate the requirement that undefinitized contractual actions be awarded on a fixed-price basis, ensure that allowable profit reflects the cost risk at the time that a contractor submits a qualifying proposal to definitize a contract, and specify that such a proposal contain the information necessary to conduct a meaningful audit of the proposal.

Amendments relating to inventory and tracking of purchases of services (sec. 812)

The Senate bill contained a provision (sec. 820) that would amend section 2330a of title 10, United States Code, to clarify the applicability of the contractor inventory requirement to staff augmentation contracts and to reduce data collection and unnecessary reporting requirements.

The House amendment contained a provision (sec. 803) that would amend section 2330a of title 10, United States Code, to revise the current requirement related to how the Department of Defense accounts for and reports contracts for services.

The Senate recedes with an amendment that would set the inventory collection threshold at contracts for services in excess of \$3.0 million and would narrow the focus of the inventory collection requirement to staff augmentation contracts as informed by the specified Service Acquisition Portfolio Groups. Rather than providing the inventory itself to the Congress, the amendment would require the Secretary of Defense to provide to Congress an annual summary of the inventory activities performed during the past year pursuant to staff augmentation contracts as defined in the amendment. Additionally, the amendment removes the Department of Defense Office of the Inspector General reporting requirement and reduces the annual Comptroller General reporting requirement to a one-time review in 2018 that would cover the changes implemented by this Act.

In performing the review and planning requirements in (d), the conferees direct the Secretary of the military department or the head of the Defense Agency to focus on the 17 Product Service Codes identified by the Office of Federal Procurement Policy and the Government Accountability Office in report GAO-16-46 as high risk for including services that are closely associated with inherently governmental functions.

The conferees direct the Secretary of Defense to brief the Committees on Armed Services of the Senate and House of Representatives, no later than February 1, 2017, on the plan to implement the inventory and reporting changes required by this Act, particularly implementation of the inventory of Product Service Codes and staff augmentation contracts. The briefing shall include information on differences in the number and value of contracts captured before and after the changes made by this Act.

Use of lowest price technically acceptable source selection process (sec. 813)

The Senate bill contained a provision (sec. 825) that would require the Department of Defense to revise the Defense Federal Acquisition Regulation Supplement (DFARS) to limit the use of lowest price technically acceptable (LPTA) source selection criteria in circumstances that would potentially deny the Department the benefits of cost and technical tradeoffs in the source selection process. The Department would be required to only use LPTA criteria in specified circumstances and avoid them to the maximum extent practicable for the procurement of knowledge-based professional services such as information technology services.

The House amendment contained a similar provision (sec. 847).

The House recedes with an amendment that would require justification of LPTA evaluation methodologies in each contract file, require determination that lowest price reflects full life-cycle costs, and expand restrictions on the use of LPTA evaluation methodologies to include advanced electronic testing and knowledge-based, training, or logistics services in overseas contingency operations. The amendment would also limit LPTA reporting to only contracts that exceed \$10.0 million.

Procurement of personal protective equipment (sec. 814)

The Senate bill contained a provision (sec. 829D) that would prohibit the use of reverse auctions and lowest price technically acceptable (LPTA) contracting methods for the procurement of personal protective equipment where the level of quality needed or the failure of the item could result in combat casualties.

The House amendment contained a similar provision (sec. 804) that would amend section 884 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) to clarify source selection criteria to be used in the procurement of personal protective equipment or critical safety items.

The House recedes.

The conferees understand that, in some cases, both LPTA and reverse auctions are appropriate contracting methods and price discovery methods. However, the conferees do not believe that such methods are appropriate for equipment that provides personal protection to members of the Armed Services.

Amendments related to detection and avoidance of counterfeit electronic parts (sec. 815)

The House amendment contained a provision (sec. 806) that would modify section 818 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81) by replacing the term “trusted suppliers” with the term “suppliers that meet anticounterfeiting requirements”, as well as related conforming amendments. This provision would clear up confusion about the term, which refers to the specific category of microelectronics supplies that have been accredited by the Defense Microelectronics Activity.

The Senate bill contained no similar provision.

The Senate recedes.

Amendments to special emergency procurement authority (sec. 816)

The House amendment contained a provision (sec. 807) that would amend section 1903 of title 41, United States Code, to expand the permissible uses of special emergency procurement authorities to include support of international disaster assistance and support of a national emergency or natural disaster relief efforts in the United States as defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

The Senate recedes.

The conferees direct the Comptroller General, not later than 4 years after the date of enactment of this Act, to submit to the Committees on Armed Services of the Senate and House of Representa-

tives a review of all procurement activities conducted under the authorities provided by this provision.

The conferees direct any agency making use of this expanded authority to closely consult with the Congress on its use, especially its use over extended periods of time; the establishment of mechanisms to ensure proper oversight over its use; and the monitoring of its impact on industry, especially small and disadvantaged businesses.

Compliance with domestic source requirements for footwear furnished to enlisted members of the Armed Forces upon their initial entry into the Armed Forces (sec. 817)

The Senate bill contained a provision (sec. 671) that would require the Secretary of Defense to furnish athletic footwear directly to members of the Army, Navy, Air Force, and Marine Corps instead of providing a cash allowance. Such footwear must comply with section 2533a of title 10, United States Code.

The House amendment contained a similar provision (sec. 808).

The House recedes with an amendment that would authorize the Department of Defense, for two years, to purchase additional footwear that is necessary to provide sufficient choices to minimize the incidence of athletic injuries in initial entry training. During those two years, the conferees expect the Secretary, to the maximum extent practicable, to furnish footwear from domestic sources while taking appropriate steps to minimize the incidence of athletic injuries. The conferees direct the Secretary of Defense to develop a plan and schedule to fully implement this provision, and brief that plan and schedule to the Committees on Armed Services of the Senate and the House of Representatives no later than six months following the date of enactment of this Act.

The conferees are aware that a number of scientific studies have been and are being conducted to evaluate variances in foot structures, related causes of athletic foot injuries, and appropriate footwear to reduce the incidence of such injuries. The conferees direct the Secretary of Defense to brief the results of those studies to the Committees on Armed Services of the Senate and the House of Representatives no later than 18 months following the date of enactment of this Act. The briefing shall include recommendations for reducing injuries in recruits, including modifying initial entry training methods, medically evaluating the foot types of members of the Armed Forces in initial entry training, furnishing appropriate footwear to such members in initial entry training, and domestic sourcing of such footwear.

Extension of authority for enhanced transfer of technology developed at Department of Defense laboratories (sec. 818)

The Senate bill contained a provision (sec. 899) that would extend until 2020 the authorization granted to the Secretary of Defense and military service secretaries to license Department of Defense-owned intellectual property.

The House amendment contained a similar provision (sec. 809B) to extend the authorization until 2021.

The Senate recedes.

Modified notification requirement for exercise of waiver authority to acquire vital national security capabilities (sec. 819)

The Senate bill contained a provision (sec. 805) that would amend subsection (d) of section 806 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) to provide for a notification to Congress not later than ten days after the use of the waiver authority to acquire vital national security capabilities outlined earlier in section 806.

The House amendment contained no similar provision.

The House recedes.

Defense cost accounting standards (sec. 820)

The Senate bill contained a provision (sec. 811) that would amend chapter 7 of title 10, United States Code, and establish an independent board chaired by the Chief Financial Officer of the Department of Defense to prescribe, amend, and rescind cost accounting standards as they affect operations at the Department of Defense. The provision also requires that cost accounting standards developed shall to the maximum extent practicable align with Generally Accepted Accounting Principles (GAAP), thereby minimizing the requirement for government-unique cost accounting systems. The provision would also ensure that managerial cost accounting and activity-based accounting structures derived from cost accounting standards are applied to the financial operations of the Department of Defense.

The House amendment contained no similar provision.

The House recedes with an amendment that would modify sections 1501 and 1502 of title 41, United States Code, to improve the government-wide Cost Accounting Standards Board (CASB) and require that Federal Cost Accounting Standards (CAS) be reconciled, to the extent possible, with U.S. Generally Accepted Accounting Principles. The amendment also would require the CASB to hire an executive director and meet at least quarterly to reduce inconsistencies between CAS and GAAP, as well as address problems identified by cases presented to the Armed Services Board of Contract Appeals and Civilian Board of Contract Appeals. Additionally, the amendment would allow the head of a Federal agency to waive the application of the CAS for contracts valued at less than \$100.0 million. The amendment also would retain the Senate proposal to create a Defense Cost Accounting Standards Board, but would authorize the new board to advise the CASB, oversee implementation of CAS within the Department of Defense, and ensure that managerial cost accounting is appropriately implemented for commercial functions performed by employees of the Department. The conferees also encourage the Director, Defense Contract Audit Agency (DCAA) to examine the potential for electronic quality management systems to improve the ability of DCAA to conduct thorough and timely audits.

Increased micro-purchase threshold applicable to Department of Defense procurements (sec. 821)

The Senate bill contained a provision (sec. 812) that would amend chapter 137 of title 10, United States Code, to establish the

micro-purchase threshold for Department of Defense activities at \$5,000.

The House amendment contained no similar provision.

The House recesses.

Enhanced competition requirements (sec. 822)

The Senate bill contained a provision (sec. 813) that would amend section 2306a of title 10, United States Code, to clarify the definition of competition and the role of the prime contractor in determining whether a subcontract meets the competitive or commercial test under the section.

The House amendment contained no similar provision.

The House recesses.

The conferees recognize that the government retains the right to review determinations made by prime contractors.

Revision to effective date of senior executive benchmark compensation for allowable cost limitations (sec. 823)

The House amendment contained a provision (sec. 805) that would remove the retroactive application requirement of section 803 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81), which implemented a cap on the allowable compensation of contractor employees. As a result of this revision, section 803 would apply to compensation costs incurred after January 1, 2012, under contracts entered into on or after December 31, 2011.

The Senate bill contained no similar provision.

The Senate recesses.

Treatment of independent research and development costs on certain contracts (sec. 824)

The Senate bill contained a provision (sec. 814) that would amend section 2372 of title 10, United States Code, to clarify in what circumstances independent research and development costs are considered fair, reasonable, and allowable expenses on Department of Defense contracts.

The House amendment contained no similar provision.

The House recesses with an amendment that would create a new section 2372a of title 10, United States Code, that would specify that bid and proposal expenses considered as allowable indirect costs on cost-reimbursement contracts should be reported independently of independent research and development costs under section 2372 of title 10, United States Code. The amendment would establish for the Department of Defense a goal that Department-wide bid and proposal costs should not exceed one percent of the amount of contractor sales to the Department. The conferees do not intend for the Department to achieve this goal by arbitrarily limiting the amount of bid and proposal costs contractors may have reimbursed, but to instead address the factors driving bid and proposal costs. The amendment would also require the Department to contract with an outside, independent entity to study the laws, regulations, and practices driving bid and proposal costs and provide recommendations to the Department on how to reduce these costs. If, in any year the Department fails to meet the one percent goal, the

amendment would require that an advisory panel pursuant to the Federal Advisory Committees Act (5 U.S.C. app) be established to provide recommendations on changes to statute, regulation, and practice to reduce bid and proposal costs. The amendment also would require the Department to report on bid and proposal costs and independent research and development costs as part of the report required under 2313a of title 10, United States Code.

Exception to requirement to include cost or price to the Government as a factor in the evaluation of proposals for certain multiple-award task or delivery order contracts (sec. 825)

The Senate bill contained a provision (sec. 815) that would amend section 2305(a)(3) of title 10, United States Code, to provide an exception to the existing statutory requirement to include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals for all contracts. The provision would only apply to multiple award task or delivery order contracts to buy services and the Department would then appropriately focus on price when individual task orders are issued and competed.

The House amendment contained no similar provision.

The House recedes with an amendment that would allow task or delivery orders to be awarded on a sole-source basis when a standalone contract could be awarded on a sole-source basis. The amendment also would preclude the award of multiple award contracts without cost or pricing data in cases where task orders are expected to be awarded as sole source contracts to small businesses under section 8(a) of the Small Business Act (Public Law 85-536) because price competition at the time of task or delivery order award would not be expected.

Extension of program for comprehensive small business contracting plans (sec. 826)

The Senate bill contained a provision (sec. 818) that would amend chapter 137 of title 10, United States Code, to add a new section that would codify the authority to conduct small business subcontracting plans. The Government Accountability Office (GAO) recently reported to the committee that the Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans has resulted in the avoidance of millions of dollars in administrative costs and recommended that the program be made permanent. This provision would implement GAO's recommendation.

The House amendment contained no similar provision.

The House recedes with an amendment that would extend the current pilot program through the end of fiscal year 2027.

Treatment of side-by-side testing of certain equipment, munitions, and technologies manufactured and developed under cooperative research and development agreements as use of competitive procedures (sec. 827)

The Senate bill contained a provision (sec. 823) that would amend section 2350a(g) of title 10, United States Code, to add a new paragraph to clarify that the general solicitation and testing

competitive procedures used under the program are competitive procedures under chapter 137 of title 10, United States Code.

The House amendment contained no similar provision.

The House recedes with an amendment that would make discretionary the use of side-by-side testing to fulfill competitive procedures for follow-on procurements and that would set a time limit within which such follow-on procurements could be conducted. The conferees expect that, prior to procuring any items under this provision, market research will be conducted to determine that comparable items are not available.

Defense Acquisition Challenge Program amendments (sec. 828)

The Senate bill contained a provision (sec. 824) that would amend section 2359b(a)(2) of title 10, United States Code, to expand the scope of the defense acquisition challenge program to include alternatives to existing acquisition programs and to clarify that the general solicitation competitive procedures used under the program are competitive procedures under chapter 137 of title 10, United States Code.

The House amendment contained no similar provision.

The House recedes.

Preference for fixed-price contracts (sec. 829)

The Senate bill contained a provision (sec. 827) that would revise the Defense Federal Acquisition Regulation Supplement to establish a preference for fixed-price contracts, including fixed-price incentive fee contracts, in the determination of contract type and establish an approval mechanism for the use of cost-type contracts over \$5.0 million in value.

The House amendment contained no similar provision.

The House recedes with an amendment that would expand the number of Department of Defense officials who can approve a cost-type contract and that would increase the contractual dollar threshold that require such approvals.

Requirement to use firm fixed-price contracts for foreign military sales (sec. 830)

The Senate bill contained a provision (sec. 828) that would require the Secretary of Defense to prescribe regulations to require the use of firm fixed-price contracts for foreign military sales not later than 180 days after the enactment of this Act. Additionally, this provision would grant the Secretary waiver authority if the Secretary determines that a different type of contract is in the best interest of the United States taxpayers.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify that foreign countries that are counterparties to foreign military sales may select a contracting vehicle that is not firm fixed-price. The conferees direct the Secretary of Defense to develop a process to determine the contracting preferences of foreign counterparties and to brief the Committees on Armed Services of the Senate and House of Representatives on the elements of the process no later than 6 months after enactment of this Act. The conferees further expect that the Secretary shall waive the requirement for firm fixed-price

contracts only in exceptional cases. The conferees expect that the Department of Defense will not interfere in the process of the host nation selecting a contract type. If a contract type other than firm fixed-price is selected at the request of a country, the Secretary of Defense shall be prepared to notify Congress that the Department of Defense did not encourage the country in the decision to pursue that contract type. The amendment also would establish a pilot program to accelerate contracting of foreign military sales by allowing the Department of Defense to base price reasonableness determinations on actual cost and pricing data for purchases of the same product for the Department.

Preference for performance-based contractual payments (sec. 831)

The Senate bill contained a provision (sec. 829) that would amend section 2307(b) of title 10, United States Code, to establish a preference for performance-based payments to contractors and would re-establish the policy objective laid out in Federal Acquisition Regulation 32.1001, which established performance-based payments as the preferred Government financing mechanism.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify that nothing in the provision authorizes the Defense Contract Audit Agency to perform audits of a contractor's compliance with Generally Accepted Accounting Principles.

Contractor incentives to achieve savings and improve mission performance (sec. 832)

The Senate bill contained a provision (sec. 829A) that would amend section 2332 of title 10, United States Code, to require the Defense Acquisition University to develop and implement a training program for Department of Defense acquisition personnel on share-in-savings contracts not later than 180 days after the enactment of this Act.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Defense Acquisition University to provide training on the use of contracting authorities that incentivize contractors to deliver additional savings to the government.

Sunset and repeal of certain contracting provisions (sec. 833)

The Senate bill contained a provision (sec. 829F) that would: (1) amend title 10, United States Code, to sunset sections 2212, 2220, 2228, 2304e, 2421 by September 30, 2018; (2) amend title 10, United States Code, to sunset section 1706 by September 30, 2019; and (3) repeal sections 2245a, 2225, 2302c, 2378, 2387 of title 10, United States Code.

The House amendment contained no similar provision.

The House recedes with an amendment that would retain the reporting requirement in section 2212 of title 10, United States Code, which provides budget information on service contracting, as well as section 1706 of title 10, United States Code, which provides the Department of Defense with a list of acquisition positions considered inherently governmental.

Flexibility in contracting award program (sec. 834)

The Senate bill contained a provision (sec. 829G) that would establish an award to recognize defense acquisition programs and acquisition professionals that make the best use of flexibilities and those authorities granted in the Federal Acquisition Regulation and Department of Defense Instruction 5000.02 (Operation of the Defense Acquisition System) meant to increase the efficiency of programs.

The House amendment contained no similar provision.

The House recedes with an amendment that would reduce the administrative burdens associated with the awards program.

Protection of task order competition (sec. 835)

The Senate bill contained a provision (sec. 819) that would amend section 2304c(e) of title 10, United States Code, that would prohibit task and delivery order protests if the Secretary of Defense has appointed an ombudsman in accordance with section 2304c(f) of title 10, United States Code, to review complaints related to task and delivery order contracts.

The House amendment contained a similar provision (sec. 1862) that would amend section 4106(f) of title 41, United States Code, to maintain a consistent approach to task-order protests between civilian and defense agencies.

The House recedes with an amendment that would permanently authorize protests of task and delivery orders with values exceeding \$10.0 million at civilian agencies. For protests of task and delivery orders of the Department of Defense, the amendment modifies section 2304c(e)(1)(B) of title 10, United States Code, to increase the minimum value of a task or delivery order that may be protested from \$10.0 million to \$25.0 million.

Contract closeout authority (sec. 836)

The Senate bill contained a provision (sec. 829J) that would grant the Secretary of Defense the authority to close out contracts entered into prior to fiscal year 2000 without completing further reconciliation audits other than those described in this section.

The House amendment contained no similar provision.

The House recedes with an amendment that would make a series of technical corrections to conform the language of this provision to similar provisions in this bill.

Closeout of old Department of the Navy contracts (sec. 837)

The Senate bill contained a provision (sec. 829K) that would grant the Secretary of the Navy authority to close out contracts entered into between fiscal years 1974 and 1998 to design, construct, repair, or support the construction or repair of Navy submarines without completing further reconciliation audits other than those described in this section.

The House amendment contained a similar provision (sec. 837).

The House recedes with an amendment that would make a series of technical corrections to conform the language of this provision to similar provisions in this bill.

Subtitle D—Provisions Relating to Major Defense Acquisition Programs

Change in date of submission to Congress of Selected Acquisition Reports (sec. 841)

The House amendment contained a provision (sec. 811) that would amend section 2342(f) of title 10, United States Code, by changing, from 45 to 10, the number of days after the President's budget request transmittal that comprehensive annual Selected Acquisition Reports are due to Congress.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would modify the date when Selected Acquisition Reports are due to Congress.

Amendments relating to independent cost estimation and cost analysis (sec. 842)

The Senate bill contained a provision (sec. 803) that would amend section 2334 of title 10, United States Code, and would repeal section 2434 of title 10, United States Code, in order to remove the ambiguity concerning the roles and responsibilities for the conduct of independent cost estimates (ICEs) by designating the Director of Cost Assessment and Program Evaluation (CAPE) to ensure standards are met. The Senate bill also contained a provision (sec. 836) that would amend subsection (d) of section 2334 of title 10, United States Code, to remove the requirement for disclosure of confidence levels for baseline estimates of major defense acquisition programs.

The House amendment contained a similar provision (sec. 812) that would amend sections 2334 and 2434 of title 10, United States Code, to make clear that CAPE conducts or approves ICEs for all major defense acquisition programs and major automated information systems.

The Senate recedes with an amendment that would require an ICE for the technology maturation and risk reduction phase of a major defense acquisition program or major subprogram that identifies the key contributors to the life-cycle costs of the program or subprogram. The conferees expect that the procedures to be developed for collecting cost data from acquisition program contractors are cost effective and make use of existing sources of data, to the best extent practicable.

Revisions to Milestone B determinations (sec. 843)

The Senate bill contained a provision (sec. 835) that would amend section 2366b(a)(3) of title 10, United States Code to eliminate the need for waivers that are regularly submitted to the committee for programs that are executed at the beginning of the fiscal year but before the Future Years Defense Program (FYDP) has been submitted, and should receive Milestone B certification as long as there is funding in the current FYDP. This provision would reduce the number of required waivers and therefore reduce unnecessary staff burden.

The House amendment contained a similar provision (sec. 813). The Senate recedes.

Review and report on sustainment planning in the acquisition process (sec. 844)

The House amendment contained a provision (sec. 814) that would require the Secretary of Defense to enter into a contract with an independent entity with appropriate expertise to conduct an assessment of the extent to which sustainment matters are considered in decisions related to requirements, acquisition, cost estimating, and programming and budgeting for major defense acquisition programs.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would extend and include additional elements in the review, such as an evaluation of how well life-cycle sustainment strategies required under section 2337 of title 10, United States Code, are incorporated into the acquisition strategy required by section 2431a of title 10, United States Code, and other acquisition planning.

Revision to distribution of annual report on operational test and evaluation (sec. 845)

The House amendment contained a provision (sec. 815) that would amend section 139 of title 10, United States Code, by including the Secretaries of the military departments in the list of people who receive the annual report of the Director of Operational Test and Evaluation (DOTE). The section would also extend the annual report through January 31, 2021.

The Senate bill contained no similar provision.

The Senate recedes.

The conferees recognize the importance in having an independent report each year on operational test and evaluation activities in the Department of Defense, but encourage the Director of Operational Test and Evaluation to seek and consider input from other Department test organizations in developing such reports. Further, the conferees believe that more rigorous developmental testing, realistic requirements, and disciplined systems engineering will likely improve operational test outcomes. The conferees expect program offices to take the necessary steps to improve operational test outcomes and adopt lessons learned and best practices that are identified in the DOTE annual report. The conferees note that these reports are public documents and available electronically to all interested parties.

Repeal of major automated information systems provisions (sec. 846)

The Senate bill contained a provision (sec. 831) that would repeal chapter 144A of title 10, United States Code.

The House amendment contained no similar provision.

The House recedes with an amendment that would sunset the requirements chapter 144A of title 10, United States Code, on September 30, 2017.

Revisions to definition of major defense acquisition program (sec. 847)

The Senate bill contained a provision (sec. 832) that would amend section 2430 of title 10, United States Code, and revise the

definition of a major defense acquisition program to exclude fixed-price prototypes not planned as part of an existing major defense acquisition program and those programs or projects developed under the rapid fielding or rapid prototyping acquisition pathway authorized under section 804 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92).

The House amendment contained no similar provision.

The House recedes with an amendment that would specify that major defense acquisition program costs exclude acquisition programs or projects that are carried out using the rapid fielding or rapid prototyping acquisition pathway under section 804 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92).

Acquisition strategy (sec. 848)

The Senate bill contained a provision (sec. 833) that would amend section 2431a of title 10, United States Code, to make technical changes and require that the acquisition strategy for each major defense acquisition program must also consider a comprehensive sustainment strategy that includes all aspects of the total life-cycle management of the weapon system, including product support, logistics, product support engineering, supply chain integration, maintenance, acquisition logistics, and all aspects of software sustainment.

The House amendment contained no similar provision.

The House recedes with an amendment that would remove the requirement to include a sustainment strategy within the acquisition strategy required under section 2431a of title 10, United States Code. The conferees note that section 2431a of title 10, United States Code, requires logistics, maintenance, and sustainment issues to be considered in acquisition strategies, and that a life-cycle sustainment strategy is mandated under section 2337 of title 10, United States Code. Another provision in this Act requires an evaluation of the existing life-cycle sustainment strategy and an assessment of how well its elements are incorporated into the acquisition strategy in section 2431a of title 10, United States Code.

Improved life-cycle cost control (sec. 849)

The Senate bill contained a provision (sec. 834) that would make several amendments to improve life-cycle cost controls. First, this provision would amend section 804(c)(3) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92), to require rapid fielding guidance from the Under Secretary of Defense for Acquisition, Technology, and Logistics to include direction on a process for identifying and exploiting opportunities to use the rapid fielding pathway to reduce total ownership costs. Secondly, this provision would amend section 805(2) of the National Defense Authorization Act for Fiscal Year 2016 (NDAA) to include life-cycle cost management as a procedure that the Secretary of Defense should establish for alternative acquisition pathways to meet national security needs. Thirdly, this provision would amend section 833(e) of the NDAA for Fiscal Year 2016 to require the Secretary to also issue guidance on policies to maximize the use of fixed-price

contracts and the ability to implement tradeoffs in total cost of ownership, schedule, and performance. Fourthly, this provision would add a new section to chapter 144 of title 10, United States Code, which would require sustainment reviews of acquisition programs 5 years after initial operational capability—unless the program has failed to maintain its availability or reliability threshold or has breached its affordability cap before that time. Additionally, this provision would require the Secretary of Defense to establish a commercial operational and support savings initiative to insert existing commercial items or technology into military legacy programs through rapid development and fielding of prototypes in order to improve readiness and reduce operations and support costs.

The House amendment contained no similar provision.

The House recesses with an amendment that would require the military departments to conduct a sustainment review five years after declaration of initial operational capability of a major defense acquisition program and throughout the system's life cycle, using availability and reliability thresholds and cost estimates as the triggers that prompt such a review. The amendment also would clarify that sustainment reviews would be conducted in coordination with the requirements of section 2337 of title 10, United States Code, and section 832 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81). The amendment also would authorize a commercial operational and support savings initiative.

Authority to designate increments or blocks of items delivered under major defense acquisition programs as major subprograms for purposes of acquisition reporting (sec. 850)

The Senate bill contained a provision (sec. 837) that would amend section 2430a(1)(B) of title 10, United States Code, to expand the authority to designate increments or blocks of items delivered under major defense acquisition programs as major subprograms.

The House amendment contained no similar provision.

The House recesses.

Reporting of small business participation on Department of Defense programs (sec. 851)

The Senate bill contained a provision (sec. 838) that would amend chapter 137 of title 10, United States Code, to include a new section to include first and second tier subcontracts awarded by the Department of Defense under major defense acquisition programs in the Department's overall count of small business goals.

The House amendment contained no similar provision.

The House recesses with an amendment that would require the Department of Defense to annually report on its attainment of the small business prime contracting goals and subcontracting goals as required by section 15(h) of the Small Business Act (15 United States Code 644(h)) and to report separately on its small business use after excluding certain types of contracts that may not be suitable for award to small businesses.

Waiver of congressional notification for acquisition of tactical missiles and munitions greater than quantity specified in law (sec. 852)

The Senate bill contained a provision (sec. 840) that would amend section 2308(c) of title 10, United States Code, to waive the requirement for the head of an agency to notify congressional defense committees of the decision to acquire a higher quantity of an end item for tactical missiles and munitions annual procurements.

The House amendment contained a similar provision (sec. 836) that would waive the requirement for the Secretary of Defense to notify the congressional defense committees of a decision, not later than 30 days after the date of the decision, to acquire a higher quantity of an end item (for tactical missiles and munitions annual procurements only) than is specified in law.

The Senate recedes.

Multiple program multiyear contract pilot demonstration program (sec. 853)

The Senate bill contained a provision (sec. 841) that would grant the Secretary of Defense the authority to conduct a multiyear contract for multiple defense programs that are produced at common facilities at a high rate, and which maximize commonality, efficiencies, and quality, in order to provide maximum benefit and significant savings to the Department of Defense.

The House amendment contained no similar provision.

The House recedes.

Key performance parameter reduction pilot program (sec. 854)

The Senate bill contained a provision (sec. 842) that would require the Secretary of Defense to enact a pilot program aimed at decreasing the number of Key Performance Parameters (KPPs) on acquisition programs. The Secretary would be required to select one acquisition program from each of the services to determine if limiting the number of KPPs to three, at the most, leads to operational or programmatic improvements of outcomes.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify the types of key performance parameters that may be reduced in the pilot program.

Mission integration management (sec. 855)

The Senate bill contained a provision (sec. 843) that would further enhance the Department of Defense's (DOD) efforts to adopt an open systems approach to defense acquisition. The provision would require the Secretary of Defense to implement modular open systems architecture in acquisition programs in specified mission areas when implementing section 801 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291). The provision would require each multi-service and multi-program mission outlined in the provision to have a mission integration manager to act as the principal substantive advisor to the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff for all aspects of capability integration for the mission area.

The House amendment contained no similar provision.

The House recedes with an amendment that would incorporate into another section of this Act the requirement of the Senate provision (sec. 843) for the Department to ensure that external facing interfaces are identified and clearly and publicly characterized in terms of form, function, and the content that flows across to enable the creation of interoperable “systems of systems.” The conferees urge the Department to ensure that the standards bodies and processes, which are established to support modular open systems approaches, promote interfaces that are dynamically managed, flexible, and extensible to enable technological innovation and performance growth.

The amendment also would modify the Senate provision to provide flexibility to the Department of Defense in implementing mission integration activities, and to provide an alternative funding source for mission integration activities. The conferees urge the Department of Defense to propose its own funding mechanism in future budget requests.

Subtitle E—Provisions Relating to Acquisition Workforce

Project management (sec. 861)

The Senate bill contained a provision (sec. 851) that would outline the responsibilities of the Department of Defense under chapter 87 of title 10, United States Code, for improving program and project management. This provision would require that not later than 1 year after the enactment of this Act that the Secretary of Defense develop Department-wide standards, policies, and guidelines for program and project management.

The Senate bill also contained a provision (sec. 1097) that would amend section 503 of title 31, United States Code, and Chapter 11 of title 31, United States Code, to improve Federal program and project management in the Department of Defense.

The House amendment contained a similar provision (sec. 1098L).

The Senate recedes with an amendment that would clarify that all members of the Program Management Policy Council must be officers or employees of the Federal government or the armed services. This obviates the need to address the application of the Federal Advisory Committee (5 U.S.C. App.).

Authority to waive tenure requirement for program managers for program definition and program execution periods (sec. 862)

The Senate bill contained a provision (sec. 852) that would amend sections 826(e) and 827(e) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) to harmonize the waiver authorities granted in these sections to the Service Acquisition Executive or the Under Secretary of Defense for Acquisition, Technology, and Logistics.

The House amendment contained no similar provision.

The House recedes.

Purposes for which the Department of Defense Acquisition Workforce Development Fund may be used; advisory panel amendments (sec. 863)

The Senate bill contained a provision (sec. 854) that would amend section 1705 of title 10, United States Code, to expand the use of the Department of Defense Acquisition Workforce Development Fund. The provision would clarify that the fund could be used for the development of acquisition tools and methodologies and the undertaking of research and development of activities that could lead to acquisition policies and practices that will improve the efficiency and effectiveness of defense acquisition efforts.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify that the advisory panel on streamlining and codifying acquisition regulations that was established in section 809 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) is an independent advisory panel to be supported by the Defense Acquisition University and the National Defense University. The amendment would further clarify that, as an independent advisory panel, the panel has the hiring authorities provided in section 3161 of title 5, United States Code. The amendment also would limit the amount of funds that may be used in fiscal year 2017 for acquisition tools and methodologies and the undertaking of research and development to \$35.0 million.

Department of Defense Acquisition Workforce Development Fund determination adjustment (sec. 864)

The House amendment contained a provision (sec. 839) that would amend section 1705 of title 10, United States Code, to allow the Secretary of Defense to reduce the threshold amount that must be credited to the Defense Acquisition Workforce Development Fund during fiscal year 2017 from \$400.0 million to \$0. This section addresses an overfunding of the fund that has resulted from carryovers from prior years.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Department of Defense to transfer \$225.0 million from the Defense Acquisition Workforce Development Fund (DAWDF) in fiscal year 2017 to the Department's Rapid Prototyping Fund. The conferees also direct the Secretary of Defense to brief the Committees on Armed Services of the Senate and the House of Representatives, not later than March 15, 2017, on the extent to which DAWDF funding is sufficient to meet acquisition workforce development requirements and on steps the Department has taken to improve the management and implementation of the DAWDF to avoid carry-over funding. The conferees encourage the Department to make use of the expanded authorities for the use of the DAWDF to address workforce training and development of acquisition tools and practices to improve acquisition practice and outcomes.

It is the opinion of the conferees per section 1705 of title 10, United States Code, that the amounts transferred into the DAWDF from unobligated balances, as described in subsection 3, does not have a maximum limit each year. The \$500,000,000 limitation only applies to subsection 2 relating to credits for contract services. The

conferees direct the Secretary of Defense to establish waivers to procedures regarding obligation and expenditure rates, applicability of standard financial management regulations, and other financial management procedures, as necessary, to ensure the most efficient and effective execution of projects supported by the Rapid Prototyping Fund. Specifically, the conferees direct the Secretary to establish procedures that provide relief from strict obligation and expenditure benchmarks and flexibility in using amounts in the Fund consistent with a broad range of efforts under research, development, test and evaluation budget activities. The conferees believe that strict adherence to standard Department financial management procedures may negatively impact program execution and not enable the program to achieve its goals. The conferees direct the Secretary to notify the congressional defense committees within 30 days after any such procedures are waived.

Limitations on funds used for staff augmentation contracts at management headquarters of the Department of Defense and the military departments (sec. 865)

The Senate bill contained a provision (sec. 905) that would limit the amount of funds available for staff augmentation contracts at the Office of the Secretary of Defense and the headquarters of the military departments for fiscal years 2017 and 2018 to not more than the amount expended for those contracts in fiscal year 2016. The provision would further require a 25 percent reduction to the fiscal year 2016 funding for those contracts after fiscal year 2018.

The House amendment contained a provision (sec. 809A) that would extend the limitation on the aggregate annual amount available to the Department of Defense for contract services through fiscal year 2017.

The House recedes with an amendment that would limit the amount of funds available for staff augmentation contracts, as defined in the amendment, at the Office of the Secretary of Defense and the headquarters of the military departments for fiscal years 2017 and 2018 to not more than the amount expended for those contracts in fiscal year 2016 and would further require a 25 percent reduction to the fiscal year 2016 funding for those contracts in fiscal years 2018 through fiscal year 2022.

The conferees direct the Secretary of Defense to brief the Committees on Armed Services of the Senate and the House of Representatives, no later than February 1, 2017, on the plan to implement the requirements of this provision.

Senior Military Acquisition Advisors in the Defense Acquisition Corps (sec. 866)

The Senate bill contained a provision (sec. 592) that would add a new section 1725 to title 10, United States Code, to authorize the Secretary of Defense to establish in the Defense Acquisition Corps positions to be known as "Senior Military Acquisition Advisors". Senior Military Acquisition Advisors would be appointed by the President, by and with the advice and consent of the Senate. Eligible officers include officers in the grade of colonel or captain in the Navy, with extensive defense acquisition experience, and who are

eligible for retirement. Senior Military Acquisition Advisors would be authorized to remain in service in support of their Service Acquisition Executive and be assigned as an adjunct professor at the Defense Acquisition University.

Senior Military Acquisition Advisors would be competitively selected and would provide senior level acquisition expertise to the Service Acquisition Executive of their military department for the remainder of their career. An officer who is continued on active duty under this program is not eligible for consideration for selection for promotion. A Senior Military Acquisition Advisor will serve no longer than a 5-year term. When a Senior Military Acquisition Advisor retires with a minimum of 3 years of service, the officer may, at the discretion of the President, be retired as a brigadier general or rear admiral (lower half), but without increase in retired pay or other compensation by reason of retirement of an officer in the grade of brigadier general or rear admiral (lower half).

The House amendment contained no similar provision.

The House recedes.

Authority of the Secretary of Defense under the acquisition demonstration project (sec. 867)

The Senate bill contained a provision (sec. 1104) that would repeal section 1762 of title 10, United States Code, and create a new section 1763 of title 10, United States Code, to provide a permanent authority that would allow the Secretary of Defense to establish and adjust a special system of personnel programs for employees in the Department of Defense civilian acquisition workforce and supporting personnel assigned to work directly with that workforce.

The House amendment contained no similar provision.

The House recedes with an amendment that moves the administration of the Department of Defense acquisition workforce demonstration project from the Office of Personnel Management to the Department of Defense.

Subtitle F—Provisions Related to Commercial Items

Market research for determination of price reasonableness in acquisition of commercial items (sec. 871)

The House amendment contained a provision (sec. 822) that would amend section 2377 of title 10, United States Code, relating to the preference for acquisition of commercial items by adding a new subsection that would require procurement officials of the Department of Defense to conduct or obtain market research when determining price reasonableness for commercial items.

The Senate bill contained no similar provision.

The Senate recedes.

Value analysis for the determination of price reasonableness (sec. 872)

The House amendment contained a provision (sec. 823) that would amend section 2379(d) of title 10, United States Code, by adding a new paragraph that would allow contractors to submit information or analysis pertaining to the value of a commercial item when responding to solicitations. This section would also allow con-

tracting officers to consider value analysis, in addition to historic pricing data, when determining price reasonableness for commercial items.

The Senate bill contained no similar provision.

The Senate recesses.

Clarification of requirements relating to commercial item determinations (sec. 873)

The House amendment contained a provision (sec. 824) that would amend section 2380 of title 10, United States Code, to expand Department of Defense centralized records relating to commercial item determinations to include market research and price reasonableness analysis. This section would also eliminate the requirement that such records be publicly accessible.

The Senate bill contained no similar provision.

The Senate recesses.

Inapplicability of certain laws and regulations to the acquisition of commercial items and commercially available off-the-shelf items (sec. 874)

The Senate bill contained a provision (sec. 861) that would amend section 2375 of title 10, United States Code, to require the establishment of a list in the Defense Federal Acquisition Regulation Supplement of inapplicable defense-unique statutes applicable to contracts for commercial items and commercially available off-the-shelf items.

The House amendment contained no similar provision.

The House recesses with an amendment that would exclude sections 2533a and 2533b of title 10, United States Code, from the applicability of this section.

Use of commercial or non-Government standards in lieu of military specifications and standards (sec. 875)

The Senate bill contained a provision (sec. 863) that would require the Secretary of Defense to ensure that the Department of Defense uses performance and commercial specifications and standards in lieu of military specifications and standards, including for procuring new systems, major modifications, upgrades to current systems, non-developmental and commercial items, and programs in all acquisition categories, unless no practical alternative exists to meet user needs.

The House amendment contained no similar provision.

The House recesses with an amendment that would clarify that commercial or non-governmental specifications and standards should be used in lieu of military specifications and standards. The amendment also would require the Department of Defense to maintain an inventory of commercial and non-governmental standards licenses.

Preference for commercial services (sec. 876)

The Senate bill contained a provision (sec. 864) that would require the Secretary of Defense to issue guidance pursuant to section 855 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92). This provision would ensure that no

head of an agency would enter into a contract in excess of the simplified acquisition threshold for specified services that are not commercial services unless the head of the agency determines in writing that no commercial services are suitable to meet the agency's needs as provided in section 2377(c)(2) of title 10, United States Code.

The House amendment contained no similar provision.

The House recedes with an amendment that would require written determination that market research has been conducted prior to awarding a contract for facilities-related services, knowledge-based services (except engineering services), construction services, medical services, or transportation services that are not commercial services. For contracts over \$10 million, the service acquisition executive, the head of a defense agency, the combatant commander, or the Under Secretary of Defense for Acquisition, Technology, and Logistics shall provide the written determination. For contracts valued between the simplified acquisition threshold and \$10 million, the contracting officer shall provide the written determination.

The conferees direct the contracting officer to retain a copy of each written determination required by this provision in the relevant contract file.

Treatment of commingled items purchased by contractors as commercial items (sec. 877)

The Senate bill contained a provision (sec. 865) that would add a new section to chapter 140 of title 10, United States Code, to treat the purchase of items valued at less than \$10,000 prior to the release of a government request for proposal as a commercial item.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify that items procured by any contractor for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract should be treated as commercial items.

Treatment of services provided by nontraditional contractors as commercial items (sec. 878)

The Senate bill contained a provision (sec. 866) that would amend section 2380A of title 10, United States Code, to treat business units of nontraditional contractors that offer services as a commercial item, if the business unit uses the same personnel and similar pricing as offered to commercial customers.

The House amendment contained no similar provision.

The House recedes.

Defense pilot program for authority to acquire innovative commercial items, technologies, and services using general solicitation competitive procedures (sec. 879)

The Senate bill contained a provision (sec. 868) that would grant the Secretary of Defense the authority to carry out a pilot program to acquire innovative commercial items on a fixed-price basis using general solicitation competitive procedures and a peer review of such proposals.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to issue public guidance for the implementation of the pilot provision, requires congressional notification for the award of any contract exceeding \$100.0 million using the authority, and modifies the definition of “innovative”.

Pilot programs for authority to acquire innovative commercial items using general solicitation competitive procedures (sec. 880)

The House amendment contained a provision (sec. 825) that would allow the Secretary of Defense to carry out a pilot program under which innovative commercial items may be acquired through a competitive selection of proposals, resulting from a general solicitation and the peer review of such proposals.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would change the authority to apply to the Department of Homeland Security and the General Services Administration, add a total annual limitation to the authority, reduce the reporting required to the congressional committees, modifies the definition of “innovative”, and extends the termination date of the authority to September 30, 2022.

Subtitle G—Industrial Base Matters

Greater integration of the national technology industrial base (sec. 881)

The Senate bill contained a provision (sec. 871) that would require the Secretary of Defense to develop a plan to reduce the barriers to the seamless integration between the persons and organizations that comprise the National Technology Industrial Base and expand the definition in section 2500(1) of title 10, United States Code to include the United Kingdom and Australia.

The House amendment contained no similar provision.

The House recedes with an amendment that would make technical changes.

Integration of civil and military roles in attaining national technology and industrial base objectives (sec. 882)

The Senate bill contained a provision (sec. 872) that would amend section 2501(b) of title 10, United States Code, to ensure that the Secretary of Defense when meeting the national security strategy for the national technology and industrial base shall engage in acquisition reform efforts that: (1) rely, to the maximum extent practicable, upon the commercial national technology and industrial base that is required to meet the national security needs of the United States; (2) reduce the reliance of the Department of Defense on technology and industrial base sectors that are economically dependent on Department of Defense business; and (3) reduce Federal Government barriers to the use of commercial products, processes, and standards.

The House amendment contained no similar provision.

The House recedes.

Pilot program for distribution support and services for weapon systems contractors (sec. 883)

The Senate bill contained a provision (sec. 873) that would grant permissive authority to the Secretary of Defense to make available storage and distribution services support to a contractor in support of the performance by the contractor of a contract for the production, modification, maintenance, or repair of a weapon system that is entered into by an official of the Department of Defense.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment that would remove the permanent authority and grant permissive authority to the Secretary of Defense to establish a six-year pilot program with a report to be delivered in the fourth year of the pilot program outlining the cost effectiveness for both government and industry as well as any performance enhancements, and recommendations on whether to make the authority permanent, and a review to be conducted by the Comptroller General of the United States during the fifth year to inform the potential extension or permanent authorization of the program.

Nontraditional and small contractor innovation prototyping program (sec. 884)

The Senate bill contained a provision (sec. 876) that would establish a pilot program for nontraditional contractors and small businesses to prototype disruptive solutions that demonstrate new capabilities that could provide alternatives to existing acquisition programs and assets.

The House amendment contained no similar provision.

The House recedes with an amendment that would add the Missile Defense Agency and protection against hypersonic weapons to the pilot program.

Subtitle H—Other Matters

Report on bid protests (sec. 885)

The Senate bill contained a provision (sec. 821) that would amend chapter 137 of title 10, United States Code, to add a new section to outline the role of the Government Accountability Office (GAO) in bid protests on certain contracts with the Department of Defense. The provision would require a large contractor filing a bid protest on a defense contract with GAO to cover the cost of processing the protest if all of the elements in the protest are denied in an opinion issued by GAO. The provision would also impose a withhold on payments above incurred costs on any bridge or temporary contract to an incumbent contractor who submits a protest and that protest results in the issuance of a bridge or temporary contract. The distribution of this withhold would be dependent on the outcome of the protest.

The House amendment contained a similar provision (sec. 831) that would require the Secretary of Defense to enter into a contract with an independent entity with appropriate expertise to conduct a review of the bid protest process related to major defense acquisition programs.

The Senate recedes with an amendment that expands the scope of the report to look at ways that the possibility of bid protests may influence behavior by contracting officers and by contractors. The report shall be due 1 year after the date of enactment of this Act.

Review and report on indefinite delivery contracts (sec. 886)

The House amendment contained a provision (sec. 832) that would require the Comptroller General of the United States to review the use of indefinite delivery type contracts by the Department of Defense during fiscal years 2015, 2016, and 2017.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the review to include an assessment of Department of Defense guidance for entering into indefinite delivery contracts and for the number of vendors that should receive multiple award contracts, as well as the number and value of indefinite delivery contracts entered into with a single vendor.

Review and report on contractual flow-down provisions (sec. 887)

The House amendment contained a provision (sec. 833) that would require the Secretary of Defense to enter into a contract with an independent entity with appropriate expertise to conduct a review of contractual flow-down provisions related to major defense acquisition programs.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would expand the types of contractors and suppliers to be included in the required review. The conferees direct the Secretary of Defense or his designee to brief the Committees on Armed Services of the Senate and the House of Representatives on the interim findings and initial recommendations from the review not later than April 1, 2017.

Requirement and review relating to use of brand names or brand-name or equivalent descriptions in solicitations (sec. 888)

The Senate bill contained a provision (sec. 829E) that would require the Secretary of Defense to ensure that Department of Defense contract language does not specify a brand name in solicitations unless justification for such a specification is provided and approved in accordance with section 2304(f) of title 10, United States Code.

The House amendment contained a similar provision (sec. 834) that would require a review of specifications in information technology acquisitions to increase competition and a review of brand names and specifications for acquisitions of goods and services.

The House recedes with an amendment that would add a review of the policy, guidance, regulations, and training related to specifications included in information technology acquisitions to ensure current policies eliminate the unjustified use of potentially anti-competitive specifications.

Inclusion of information on common grounds for sustaining bid protests in annual Government Accountability Office reports to Congress (sec. 889)

The House amendment contained a provision (sec. 845) that would require the Comptroller General of the United States to include in his annual report to Congress on the Government Accountability Office each year a list of the most common grounds for sustaining protests relating to bids for contracts during the preceding year.

The Senate bill contained no similar provision.
The Senate recesses.

Study and report on contracts awarded to minority-owned and women-owned businesses (sec. 890)

The House amendment contained a provision (sec. 848) that would require the Comptroller General of the United States to perform a study on the number and types of contracts for the procurement of goods or services for the Department of Defense awarded to minority-owned and women-owned businesses during fiscal years 2010 through 2015. The report would be due to the congressional defense committees no later than 1 year after the enactment date of this Act.

The Senate bill contained no similar provision.
The Senate recesses.

Authority to provide reimbursable auditing services to certain non-Defense Agencies (sec. 891)

The Senate bill contained a provision (sec. 892) that would amend section 893 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114—92) to provide an exception for the Defense Contract Audit Agency to provide audit support to the National Nuclear Security Administration on a reimbursable basis.

The House amendment contained a similar provision (sec. 840).
The House recesses.

Selection of service providers for auditing services and audit readiness services (sec. 892)

The House amendment contained a provision that would require the Department of Defense to select service providers for auditing services and audit readiness services based on the best value to the Department rather than based on the lowest price technically acceptable service provider.

The Senate bill contained no similar provision.
The Senate recesses.

Amendments to contractor business system requirements (sec. 893)

The Senate bill contained a provision (sec. 891) that would amend chapter 137 of title 10, United States Code, to add a new section that would require the Secretary of Defense to develop and initiate a program to improve contractor business systems. The provision would clarify that this program would only apply to those contractors that do more than 30 percent of their business with the federal government and more than 1 percent of their business under cost-type contracts.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Department of Defense to identify and make public clear business system requirements, allow contractors to submit certification from their third-party independent auditors that their business systems conform to the Department's business system requirements, and allow a milestone decision authority to require further auditing of business systems to manage contractual risk. The amendment would also specify that business system requirements only apply to contractors that have covered contracts with the United States Government accounting for greater than 1 percent of their total gross revenue and that are not subject to full cost accounting standards pursuant to either section 1502 of title 41, United States Code, or regulations implementing section 1502 of title 41, United States Code.

Improved management practices to reduce cost and improve performance of certain Department of Defense organizations (sec. 894)

The Senate bill contained a provision (sec. 893) that would require all Department of Defense entities, with the exception of the Centers of Industrial and Technical Excellence designated pursuant to section 2474 of title 10, United States Code, which conduct commercial or non-inherently governmental work to establish cost baselines for their operations and begin to adopt best commercial and business management practices to reduce costs and improve the performance of such organizations.

The House amendment contained no similar provision.

The House recedes.

Exemption from requirement for capital planning and investment control for information technology equipment included as integral part of a weapon or weapon system (sec. 895)

The Senate bill contained a provision (sec. 895) that would require that the milestone decision authority shall only apply the requirements of paragraphs (2) through (5) of section 11312(b) of title 40, United States Code, to national security systems upon a written determination that the application of these requirements is appropriate and in the best interests of the Department of Defense.

The House amendment contained no similar provision.

The House recedes.

Modifications to pilot program for streamlining awards for innovative technology projects (sec. 896)

The Senate bill contained a provision (sec. 896) that would amend section 873 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92) to clarify that the use of a technical, merit-based selection procedure or the Small Business Innovation Research Program or Small Business Technology Transfer Program for the pilot program under this section are competitive procedures for the purposes of chapter 137 of title 10, United States Code. The provision would also direct the Secretary of Defense to establish procedures under which a small business or a nontraditional contractor may engage an independent certified pub-

lic accountant for the review and certification of its accounting system for the purposes of any audits required by this section.

The House amendment contained no similar provision.

The House recedes with an amendment that would include auditing officials in the list of personnel who are provided guidance and training on the flexible use and tailoring of authorities under the pilot program.

Rapid prototyping funds for the military departments (sec. 897)

The Senate bill contained a provision (sec. 899A) that would amend section 804(d) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) to authorize the Secretary of the Army, Navy, and Air Force each to establish service-specific funds for acquisition programs under the rapid fielding and prototyping pathways established in this section.

The House amendment contained no similar provision.

The House recedes.

Establishment of Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity; Defense Acquisition University training (sec. 898)

The Senate bill contained a provision (sec. 829H) that would prohibit the Secretary of Defense from arranging contracts through AbilityOne, or its central non-profit agency, SourceAmerica, and instead require the Secretary to contract directly with qualified non-profit agencies for the severely disabled until the Department of Defense (DOD) Inspector General conducted a review and certified the effectiveness of the internal controls and financial management of AbilityOne and SourceAmerica.

The House amendment contained no similar provision.

The House recedes with an amendment that would establish a panel on DOD and AbilityOne contracting oversight, accountability, and integrity to review and address the effectiveness and internal controls of the program related to DOD contracts.

Coast Guard major acquisition programs (sec. 899)

The House amendment contained a provision (sec. 835) that would amend section 56(c) of title 14, United States Code, to direct the Chief Acquisitions Officer of the Coast Guard to inform the Commandant of developments in major acquisition programs that have new or revisited trade-offs between costs, scheduling, feasibility, and performance. This section also would amend chapter 15 of title 14, United States Code, to clarify the role of the Acquisition Directorate in ensuring that the needs of customers in major acquisition programs are met in the most cost-effective manner practicable. The Vice Commandant of the Coast Guard would be responsible for representing the operating field units and would serve an advisory role to the Commandant for major acquisition programs. The customer of a major acquisition program would be specified as the operating field unit that would field the acquired system and “major acquisition program” would be defined as a program with a life-cycle cost estimate of \$300.0 million or more.

This section also would prohibit the Commandant of the Coast Guard from awarding a contract for the design of an unmanned

aerial system (UAS) for use by the Coast Guard, and would require the Commandant to use and operate only UASs that have already been acquired by either the Department of Defense or the Department of Homeland Security.

This section also would allow the Coast Guard to extend major acquisition program contracts if the Comptroller General of the United States finds that extending a current contract would be more cost effective than awarding a new contract. The Comptroller General would determine the costs for acquiring additional vessels under an existing contract, as well as the incurred costs due to schedule delays and asset design changes that would result from awarding a new contract.

This section also would require the Commandant to review all authorities provided under chapter 15 of title 14, United States Code, and other relevant statutes and deliver a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on how the Commandant can play a more appropriate role in the acquisition process with regard to policies, requirements, and implementing a more customer-oriented acquisition system.

This section also would require the Secretary for the department in which the Coast Guard is operating to submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on an analysis of multiyear procurement authorities for the procurement of at least five Fast Response Cutters (beginning with hull 43) and Offshore Patrol Cutters (beginning with hull 5). The report would include an assessment of costs and benefits, impact on delivery times, and whether acquisitions would meet the four-part test under section 2306b of title 10, United States Code.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would allow the Coast Guard to acquire unmanned aerial systems that have been previously funded by the Departments of Defense or Homeland Security. The amendment would also require the Cost Analysis Division of the Department of Homeland Security to determine if contracts for procurement of additional units under an existing Coast Guard major acquisition program contract would be cost effective.

Enhanced authority to acquire products and services produced in Africa in support of covered activities (sec. 899A)

The Senate bill contained a provision (sec. 885) that would grant the Secretary of Defense authority to make a determination to limit competition or provide a preference for products and services produced in areas where the United States has long-term agreements with host nations in the African region.

The House amendment contained no similar provision.

The House recedes with an amendment that would provide for an exemption from preferred local procurement for items included on the procurement list described in section 8503(a) of title 41, United States Code, if such a good can be produced and delivered by a qualified non-profit agency for the blind or a non-profit agency

for other severely disabled in a timely fashion to support mission requirements.

LEGISLATIVE PROVISIONS NOT ADOPTED

Revision to authorities relating to Department of Defense Test Resource Management Center

The House amendment contained a provision (sec. 801) that would limit application of existing law to the Major Range and Test Facility Base and those test and evaluation facilities that are used to support the acquisition programs of the Department of Defense. The provision would align the statute to the original enactment of the law and would prevent reporting requirements from being broadened to small laboratory and educational test and evaluation facilities. The provision would also define the term “significant change” in test and evaluation facilities.

The Senate bill contained no similar provision.
The House recesses.

Repeal of temporary suspension of public-private competitions for conversion of Department of Defense functions to performance by contractors

The Senate bill contained a provision (sec. 806) that would repeal section 325 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84).

The House amendment contained no similar provision.
The Senate recesses.

Requirement for policies and standard checklist in procurement of services

The House amendment contained a provision (sec. 809) that would establish a procurement policy checklist to ensure accountability in the acquisition of services.

The Senate bill contained no similar provision.
The House recesses.

Non-traditional contractor definition

The Senate bill contained a provision (sec. 817) that would amend section 2302(9) of title 10, United States Code, to clarify the definition of a non-traditional contractor.

The House amendment contained no similar provision.
The Senate recesses.

Revision to definition of commercial item

The House amendment contained a provision (sec. 821) that would amend section 103 of title 41, United States Code, to expand the types of nondevelopmental items that may be considered commercial items to include items that the procuring agency determines were developed at private expense and sold in substantial quantities on a competitive basis to foreign governments.

The Senate bill contained no similar provision.
The House recesses.

Government Accountability Office bid protest reforms

The Senate bill contained a provision (sec. 821) that would amend chapter 137 of title 10, United States Code, to add a new section to outline the role of the Government Accountability Office in bid protests on certain contracts with the Department of Defense.

The House amendment contained no similar provision.

The Senate recedes.

Penalties for the use of cost-type contracts

The Senate bill contained a provision (sec. 826) that would require the secretary of each military department and the head of each of the defense agencies to pay a penalty for the use of cost-type contracts in certain cases that are awarded in fiscal year 2018 through fiscal year 2021.

The House amendment contained no similar provision.

The Senate recedes.

Nonapplicability of certain executive order to Department of Defense and National Nuclear Security Administration

The Senate bill contained a provision (sec. 829I) that would limit the application of the acquisition regulations mandated by Executive Order 13673 to contractors or subcontractors of the Department of Defense that have been suspended or debarred as a result of the federal labor law violations referenced in the Executive Order in effect on May 28, 2015.

The House amendment contained a similar provision (sec. 1095) that would exempt the Department of Defense and the National Nuclear Security Administration from implementation of Executive Order 13673.

The conference agreement does not include either provision.

Requirement that certain ship components be manufactured in the national technology and industrial base

The House amendment contained a provision (sec. 838) that would amend section 2534 of title 10, United States Code, and would require certain auxiliary ship components to be procured from a manufacturer in the national technology and industrial base.

The Senate bill contained no similar provision.

The House recedes.

Use of economy-wide inflation index to calculate percentage increase in unit costs

The Senate bill contained a provision (sec. 839) that would amend section 2433(f) of title 10, United States Code, to require that unit costs be calculated in constant dollars with an economy-wide inflation index, such as the Gross Domestic Product Price Index.

The House amendment contained no similar provision.

The Senate recedes.

Modifications to the justification and approval process for certain sole-source contracts for small business concerns

The House amendment contained a provision (sec. 842) that would repeal section 811 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84) and establish a standard justification and approval process for sole-source contracts valued at \$20.0 million or greater.

The Senate bill contained no similar provision.

The House recesses.

Briefing on design-build construction process for defense contracts

The House amendment contained a provision (sec. 843) that would require the Secretary of Defense to provide the Committee on Armed Services of the House of Representatives with a briefing on the use and implementation of the two-phase design-build selection procedures. The briefing would include: plans to implement the updates to the Federal Acquisition Regulation that amended section 2305a, title 10, United States Code; a list of awards for design-build contracts pursuant to 2305a of title 10, United States Code, that had more than five finalists; feedback from industry; and any challenges to the implementation of this amended statute.

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 use and implementation of the two-phase design-build selection procedures. The briefing should include how the Department of Defense continues to implement the updates to the Federal Acquisition Regulation that implemented the 2015 amendments to section 2305a, title 10, United States Code, a list of instances in which the Department awarded a design-build contract pursuant to section 2305a of title 10, United States Code, that had more than five finalists for phase-two requests for proposals during fiscal year 2016, and the list of design-build requests for proposals that used a one-step process, any feedback the Department has received from industry on the Department's design-build selection procedure, and any challenges to the implementation of the statute.

Assessment of outreach for small business concerns owned and controlled by women and minorities required before conversion of certain functions to contractor performance

The House amendment contained a provision (sec. 844) that would prohibit any Department of Defense functions performed by civilian employees tied to a military base to be converted to performance by contractors until an assessment is conducted to determine if the Department has sufficiently carried out outreach programs to assist small business concerns owned and controlled by women or socially and economically disadvantaged individuals located near a military base.

The Senate bill contained no similar provision.

The House recesses.

Enhanced use of data analytics to improve acquisition program outcomes

The Senate bill contained a provision (sec. 853) that that would mandate the establishment of activities to promote the use of data analytics and other evaluation-related methods to support acquisition decision-making and enhance organizational learning.

The House amendment contained no similar provision.

The Senate recesses.

The conferees note a widespread recognition that the Department of Defense (DOD) does not sufficiently incorporate data into its acquisition-related learning and decision-making. Many major policy decisions are made without the benefit of being informed by substantive data. These policies are sometimes based on assumptions, and program reviews do not always sufficiently incorporate relevant data against which to evaluate success. The conferees note that the Government Accountability Office reported in 2015 that DOD officials responsible for acquisitions and developing requirements lacked access to data and the analytical tools necessary to conduct effective reviews.

The conferees believe that data analysis and other evaluation-related methods are a critical element in making well-informed acquisition decisions and managing programs. As the Congressional Research Service noted, a lack of data or effective data analyses can lead to incorrect or misleading conclusions. The result may be policies that squander resources, waste taxpayer dollars, and undermine the effectiveness of government programs or military operations.

The conferees believe that one important aspect of enhancing the use of data analytics in acquisitions is for DOD to improve data sharing both within its programs and organizations, and where appropriate outside the Department. Sharing data externally includes publishing, to the maximum extent practicable, and in a manner that protects classified and proprietary information, data collected by the Department that is related to acquisition program costs and activities. Effectively sharing such data would allow industry, academia, think tanks, and the public to develop analyses of trends, lessons learned, best practices, and new analytical methods and tools for decision-making. To this end, the conferees encourage the Department to fund intramural and extramural research and development activities to develop and implement data analytics capabilities in support of improved acquisition outcomes, possibly through leveraging the authorities of the Defense Acquisition Workforce Development Fund.

Therefore, the conferees direct the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Deputy Chief Management Officer, and the Chief Information Officer, and in coordination with the military services, to assess the effectiveness of current activities and policies related to the use of data analysis, measurement, and other evaluation-related methods to the planning, implementation, and management of acquisition programs and the improvement of acquisition outcomes in the Department of Defense. The activities to be assessed should include data analytics capabilities and organizations within the military services; capabilities in Department of De-

fense laboratories, test centers, and Federally Funded Research and Development Centers to provide technical support for data analytics; and the use of existing analytical capabilities available to acquisition programs and offices to support improved acquisition outcomes.

Further, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall conduct a review of the curriculum taught at the National Defense University, the Defense Acquisition University, and appropriate private-sector academic institutions to determine the extent to which the curricula includes appropriate courses on data analytics and other evaluation-related methods and their application to defense acquisitions, and how these efforts can be used by the acquisition workforce to perform their missions.

The conferees direct the Secretary of Defense, not later than 1 year after the date of the enactment of this Act, to brief the Armed Services Committees of the Senate and House of Representatives on the use of data analysis, measurement, and other evaluation-related methods in DOD acquisition programs. The briefing shall address the extent to which data analytics capabilities have been implemented within the military services, DOD laboratories, test centers, and Federally Funded Research and Development Centers to provide technical support for acquisition program management; the potential to increase the use of analytical capabilities for acquisition programs and offices to improve acquisition outcomes; the amount of funding for intramural and extramural research and development activities to develop and implement data analytics capabilities in support of improved acquisition outcomes; any potential improvements, based on private-sector best practices, in the efficiency of current data collection and analysis processes that could minimize collection and delivery of data by, from, and to government organizations; steps being taken to appropriately expose acquisition data in an anonymized fashion to researchers and analysts; and an assessment of whether the curriculum at the National Defense University, the Defense Acquisition University, and appropriate private-sector academic institutions includes appropriate courses on data analytics and other evaluation-related methods and their application to defense acquisitions.

Department of Defense exemptions from certain regulations

The Senate bill contained a provision (sec. 862) that would exempt purchases of commercial off-the-shelf items by the Department of Defense from certain Executive Orders and give the Secretary of Defense waiver authority for other purchases.

The House amendment contained no similar provision.

The Senate recedes.

Use of non-cost type contracts to acquire commercial items

The Senate bill contained a provision (sec. 867) that would amend section 2377 of title 10, United States Code, to require that the Defense Federal Acquisition Regulation Supplement include guidance that firm fixed-priced contracts, fixed-price incentive contracts, or fixed-price with economic price adjustment contracts be used to the maximum extent practicable for the acquisition of com-

mercial items. Additionally, this provision would prohibit the use of cost-type contracts for commercial items.

The House amendment contained no similar provision.
The Senate recesses.

Modified requirements for distribution of assistance under procurement technical assistance cooperative agreements

The Senate bill contained a provision (sec. 875) that would amend section 2413(c) of title 10, United States Code, to conform the Procurement Technical Assistance Program with the Defense Logistics Agency current practice of using states as the geographic basis for cooperative agreement awards.

The House amendment contained no similar provision.
The Senate recesses.

The conferees agree that the current formula for distribution of grants to procurement technical assistance centers (PTACs) should be adjusted to address that the Department of Defense has consolidated its contract administration services districts, which are currently the basis for grant distribution pursuant to section 2413 of title 10, United States Code. However, the conferees believe that a successful funding formula should consider factors such as avoiding the discontinuation of services to existing clients of PTACs, the desirability of adding new PTACs or expanding the client base of existing PTACs, the population density, geographic accessibility of PTACs, duplication of services, the level of success obtained by particular grant recipients, the availability of funds, and other possible factors. Therefore, the conferees direct the Department to provide recommendations on appropriate factors and a funding formula. To develop these recommendations, the Department shall, at a minimum, work in consultation with current grantees and their representatives and examine comparable grant programs operated by other agencies. Such programs could include the Small Business Development Centers, Women's Business Centers, and Veterans Business Outreach Centers of the Small Business Administration or the Business Centers of the Minority Business Development Agency of the Department of Commerce. The Department's recommendations shall be provided no later than March 1, 2017.

Working capital fund for precision guided munitions exports in support of contingency operations

The Senate bill contained a provision (sec. 882) that would authorize the Secretary of Defense to establish a working capital fund to finance inventories of supplies of precision guided munitions in advance of partner and allied forces requirements to enhance the effectiveness of overseas contingency operations conducted or supported by the United States.

The House amendment contained no similar provision.
The Senate recesses.

Director of Developmental Test and Evaluation

The Senate bill contained a provision (sec. 894) that would amend section 139 of title 10, United States Code, and section

196(g) of title 10, United States Code, that would refine the role of the Director of Operational Test and Evaluation.

The House amendment contained no similar provision.

The Senate recedes.

The conferees note that Congress re-established a developmental test and evaluation organization within the defense research and engineering enterprise in 2009. Since that time, the conferees have become concerned that the Department has not established a reasonable balance of investment between developmental and operational test activities. The conferees believe it is necessary to examine the functions and resources of the organizations of the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation (DT&E) and the Director of Operational Test and Evaluation to better understand if the Department has struck the right balance between these activities. To improve test and evaluation results for the Department's acquisition programs in the most efficient manner, the Department's leadership must ensure sufficient resources to support testing and oversight activities.

The conferees note that, over time, the resources and influence of the Office of the Secretary of Defense and the Service developmental test and evaluation organizations have declined, adversely impacting the successful outcomes of acquisition efforts. However, the conferees believe that this decline should be re-examined in light of the need for stronger developmental test organizations to support department-wide efforts to promote technical innovation and re-establish battlefield technological superiority. As a result, the conferees believe it would be useful for the Department of Defense to review the resources allocated to developmental and operational test and evaluation organizations to address a number of issues and questions.

The conferees direct the Secretary of Defense to form an independent study panel, unaffiliated with a Federally Funded Research and Development Center, to review the appropriate roles, responsibilities, and level of resources for both developmental and operational test and evaluation activities required to execute statutory and regulatory responsibilities within the Office of the Secretary of Defense. The panel will develop such recommendations as it believes appropriate for optimal resources and authorities to support developmental and operational test missions. The review and report should be completed no later than 1 year after the enactment of this Act.

The committee recommends that the panel address the following questions:

(a) How can the Director of Operational Test and Evaluation and the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation (DASD DT&E) at the Office of the Secretary of Defense approach oversight within the system development cycle to avoid overlap but be mutually supporting without sacrificing the independence of either organization?

(b) Does participation with and assessment of program progress during phases prior to operational test and evaluation bias the independent objectivity of the operational test and evaluation organization?

(c) Are there specific test and evaluation activities that should be realigned for management within OSD or the services to promote effectiveness and efficiency of those programs?

(d) Overall are the developmental and operational test and evaluation organizations effectively carrying out the missions as described in title 10, United States Code, and are there impediments to meeting those responsibilities? In addition, are they engaged in activities outside their mission areas?

(e) Are the activities of the test and evaluation organizations constructive, not duplicative or disruptive, to support the acquisition goals of the military departments and defense agencies?

(f) What staffing authorities and other resources are needed to support effective and efficient oversight of both the developmental and operational phases of testing commensurate with the effort to each relative to the portion of the programs that their oversight entails?

Improved transparency and oversight over Department of Defense research, development, test, and evaluation efforts and procurement activities related to medical research

The Senate bill contained a provision (sec. 898) that would prohibit the Secretary of Defense from entering into a contract, grant, or cooperative agreement for congressional special interest medical research programs under the congressionally directed medical research program of the Department of Defense unless additional cost accounting and other specified requirements were implemented.

The House amendment contained no similar provision.
The Senate recedes.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND
MANAGEMENT

Subtitle A—Office of the Secretary of Defense and Related Matters
Organization of the Office of the Secretary of Defense (sec. 901)

The Senate bill contained a provision (sec. 901) that would amend section 133 of title 10, United States Code, to establish the position of the Under Secretary of Defense for Research and Engineering, amend section 138 of title 10, United States Code, to establish and consolidate certain Assistant Secretary of Defense positions, and make other conforming changes. The provision would also amend section 132a of title 10, United States Code, to redesignate the Under Secretary of Defense for Business Management and Information as the Under Secretary of Defense for Management and Support.

The House amendment contained a provision (sec. 846) that would revise the effective date for amendments relating to the conversion of the position of the Deputy Chief Management Officer to the position of the Under Secretary of Defense for Business Management and Information.

The House recedes with an amendment that would amend chapter 4 of title 10, United States Code, to establish an Under

Secretary of Defense for Research and Engineering, an Under Secretary of Defense for Acquisition and Sustainment, and a chief management officer within the Department of Defense, effective on February 1, 2018. The amendment would make other modifying and conforming changes, and require the Secretary of Defense to conduct a review and submit a report to the congressional defense committees on the organizational and management structure for the Department.

Three broad priorities framed the conference discussions: (1) elevate the mission of advancing technology and innovation within the Department; (2) foster distinct technology and acquisition cultures to better deliver superior capabilities for the armed forces; and (3) provide greater oversight and management of the Department's Fourth Estate. The conferees believe that separating the "chief technology officer" and "chief acquisition officer" responsibilities currently residing with the Under Secretary of Defense for Acquisition, Technology, and Logistics, as well as establishing a "chief management officer" within the Department, addresses these priorities and better postures the Office of the Secretary of Defense organizationally to meet future national security challenges.

The conferees believe the technology and acquisition missions and cultures are distinct. The conferees expect that the Under Secretary of Defense for Research and Engineering would take risks, press the technology envelope, test and experiment, and have the latitude to fail, as appropriate. Whereas the conferees would expect the Under Secretary of Defense for Acquisition and Sustainment to focus on timely, cost-effective delivery and sustainment of products and services, and thus seek to minimize any risks to that objective.

Some will argue that the agreement exacerbates the technology "valley of death." The conferees acknowledge that there will be seams in any organizational construct, but also believe that this seam creates a healthy tension that can be mitigated through effective leadership and management. As an Under Secretary, third in precedence, the conferees expect that the "chief technology officer" would have the stature and resources to drive innovation throughout the Department, including as needed through development and implementation of innovative policies and practices. At the same time, the conferees would expect the Under Secretary of Defense for Acquisition and Sustainment to challenge any advanced technology ideas that the Under Secretary cannot confidently deliver on within cost, schedule, and performance objectives, and shape those efforts appropriately.

The conferees recognize that the implementation of this provision will require further examination and analysis, to include a deeper review of authorities, responsibilities, resource implications, and the appropriate allocation of subordinate positions and organizations. As such, the provision provides policy guidance on roles and responsibilities for each of the three senior leadership positions and repeals requirements in statute for specific subordinate assistant and deputy assistant secretaries of defense to provide flexibility to the Department to allocate such subordinate positions to best meet congressional policy guidance.

The conferees believe a review of authorities is particularly important, especially as they relate to any direction and supervisory

authorities vested in the three senior leadership positions, to allow those senior leaders to effectively oversee and manage activities and resources within their portfolios at the direction of the Secretary of Defense. Similarly, the conferees believe an in-depth examination of the placement within the Department and the responsibilities of the chief management officer is also warranted, as they believe such an officer could provide greater oversight and management of the non-homogenous organizations that comprise the Department's Fourth Estate. The conferees also believe an examination of the potential for the establishment of a Chief Innovation Officer position, informed by best private sector practices, is warranted.

The conferees set a date of February 1, 2018, for the implementation of the three senior leadership positions, to provide the Department with time to conduct the required review, to engage the congressional defense committees, and to provide its recommendations on an organization and management structure for the Department. However, the conferees encourage the President to move out earlier on nominations for these senior leadership positions.

Lastly, while the focus of this provision is on the Office of the Secretary of Defense, the conferees also recognize that the Department as a whole must be examined to provide the organizational and management agility and adaptability necessary to address longer-term national security challenges.

Responsibilities and reporting of the Chief Information Officer of the Department of Defense (sec. 902)

The Senate bill contained a provision (sec. 903) that would amend paragraph 8 of section 132(b) of title 10, United States Code, to establish the position of the Assistant Secretary of Defense for Information.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify in sections 131 and 142 of title 10, United States Code, the responsibilities of the Chief Information Officer of the Department of Defense.

The conferees direct the Secretary of Defense to develop a plan within 180 days after the enactment of this Act to implement a more optimized organizational structure and processes to support information management and cyber operations to include the policy, direction, oversight and acquisition functions performed by the Deputy Chief Management Officer, the Chief Information Officer, the Under Secretary of Defense for Acquisition, Technology and Logistics, the Under Secretary for Policy, and the Under Secretary for Intelligence and any other relevant entity in the Department of Defense. This plan should include both business systems and national security systems and explore the responsibilities for cyber and space policy, information network defense, and the development of policies and standards governing information technology systems and related information security activities of the Department. This plan should also assess the effectiveness and utility of the cross functional team supporting the Principal Cyber Advisor established

by section 932(c)(3) of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66).

Maximum number of personnel in Office of the Secretary of Defense and other Department of Defense headquarters offices (sec. 903)

The Senate bill contained a provision (sec. 904) that would:

(1) amend section 143 of title 10, United States Code, to limit the number of civilian and detailed individuals authorized to be assigned to the Office of the Secretary of Defense to 3,767;

(2) amend section 155 of title 10, to limit the number of personnel on the Joint Staff to 1,930 including not more than 1,500 Active-Duty service members;

(3) amend section 3014 of title 10, to limit the total number of members of the Armed Forces and civilian employees of the Department of the Army assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army staff to 3,105; and to reduce the total number of general officers assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army staff from 67 to 50.

(4) amend section 5014 of title 10, to limit the total number of members of the Armed Forces and civilian employees of the Department of the Navy assigned or detailed to permanent duty in the Office of the Secretary of the Navy and on the Navy staff to 2,866; and to reduce the total number of flag officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy and on the Navy staff from 67 to 50.

(5) amend section 8014 of title 10, to limit the total number of members of the Armed Forces and civilian employees of the Department of the Air Force assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Force staff to 2,639; and to reduce the total number of general officers assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Force staff from 60 to 45.

The provision would further clarify the exceptions to the personnel limits. It would allow the limits to be increased by 15 percent during a national emergency.

The House amendment contained no similar provision.

The House recedes with an amendment that would limit the number of civilians assigned or detailed to the headquarters operations, establish a 2,069 personnel limit for the Joint Staff, and clarify that the exceptions to the personnel limits allow an additional 15 percent during national emergencies.

Repeal of Financial Management Modernization Executive Committee (sec. 904)

The Senate bill contained a provision that would repeal section 185 of title 10, United States Code, regarding the Department of Defense Financial Management Modernization Executive Committee.

The House amendment contained no similar provision.

The House recedes.

Subtitle B—Organization and Management of the Department of
Defense Generally

Organizational Strategy for the Department of Defense (sec. 911)

The Senate bill contained a provision (sec. 941) that would require the Secretary of Defense to develop and implement an organizational strategy for the Department of Defense (DOD).

The House bill contained no similar provision.

The House recedes with an amendment that would: (1) streamline and condense the organizational strategy required from the Secretary; (2) substantially enhance the requirement for an independent study of private sector and government experience with cross-functional teams (CFTs), and the use of cross-functional groups by the Department of Defense, to inform the Secretary's implementation of CFTs and the cultural changes needed for their success; (3) lengthen and rationalize the timelines for the next Secretary of Defense to accomplish the changes mandated by the Senate provision; and (4) provide additional discretion to the Secretary regarding the number, characteristics, and application of mandated CFTs.

The intention of the conferees in adopting this provision is to provide the Secretary of Defense with a valuable tool for improving the performance of even the most elite organizations. Recognizing that the civilian and military employees of the Department of Defense are committed to the mission of protecting and defending the United States, the conferees believe that CFTs will provide the Secretary, and therefore the DOD workforce, a tool to more-effectively achieve their shared mission. The conferees believe that CFTs will enable the Secretary to more rapidly and effectively develop solutions and strategies for complex critical objectives and other organizational outputs of the Department of Defense by harnessing and integrating the expertise and ingenuity resident in the Department's functional organizations.

Successful CFTs require that DOD develop a more collaborative culture, just as the Goldwater-Nichols Act reforms required a cultural change to instill "jointness" among the military services to better support integrated operations for the combatant commands. The conferees recognize that it is difficult to legislate cultural change, but note that cultural change mandated by Goldwater-Nichols was achieved, and that this section promotes a more collaborative culture by such practical steps as training, directives and guidance, and performance reviews. However, the views and expectations of the Secretary and his principal staff advisers will be critical to success.

DOD officials have expressed the concern that the CFTs mandated under this section will undermine the authority of the Secretary of Defense and confuse lines of responsibility. The conferees emphasize that the authority of the CFTs, which will be established and directed by the Secretary and will support the Secretary, derives from the authority of the Secretary. Any authority being exercised is the delegated authority of the Secretary and is to be applied to cross-cutting objectives and other organizational issues that are not under the authority of any officials other than the Secretary and Deputy Secretary of Defense.

The conferees note that DOD has established CFTs in the past that were highly effective, including teams to improve care for wounded warriors, dramatically increase intelligence support to counter-terrorism forces, and rapidly build thousands of life-saving armored vehicles to protect forces facing dire threats from improvised explosive devices. The attributes of these successful teams, and the manner in which they were managed, as well as the collective experience of the private sector and other government organizations, are reflected in the provision adopted by the conferees.

The conferees hope and expect that the good-faith implementation of this provision will demonstrate the value of properly constructed CFTs, which will spur the use of such teams across the Department, supporting officials and decision-making at all levels of the enterprise.

Policy, organization, and management goals and priorities of the Secretary of Defense for the Department of Defense (sec. 912)

The Senate bill contained a provision (sec. 942) that would require a series of management directives for the next Secretary of Defense.

The House amendment contained no similar provision.

The House recedes with an amendment that would scope the management overview to focus on policy goals, organizational management, and delayering of Department of Defense organizations and require updates in the form of a briefing on February 1 of each year through 2022 after the initial written report is submitted by April 1, 2017.

The Conferees note that the Secretary of Defense is expected to utilize the delivery unit authorized in this Act to assist with the execution and tracking of goals set under this provision.

Secretary of Defense delivery unit (sec. 913)

The Senate bill contained a provision (sec. 906) that would provide the Secretary of Defense with the authority to establish a delivery unit that would report directly to the Secretary in order to provide expertise and support on key reform and business transformation priorities across the Department for no more than four years beginning February 1, 2017. Such delivery unit may utilize the public-private talent exchange authorities available to the Secretary and consist of no more than 30 professionals with deep experience in management consulting, organization transformation, and data analytics.

The House amendment contained no similar provision.

The House recedes with an amendment that would expand the role of the delivery unit beyond the business transformation process to also include the authority to identify and recommend resolutions to obstacles impeding the implementation of the Secretary's policies. The amendment also moves the establishment date of the delivery unit to March 1, 2017.

Performance of civilian functions by military personnel (sec. 914)

The House amendment contained a provision (H. 923) that would prohibit the conversion of positions performed by civilian personnel to performance by military personnel in most cases.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would further clarify that functions performed by civilian personnel should not be performed by military personnel except to meet mission requirements, as determined by the Secretary of a military department, or to address critical staffing needs for no more than one year resulting from congressional reductions in personnel or budgetary resources.

Repeal of requirements relating to efficiencies plan for the civilian personnel workforce and service contractor workforce of the Department of Defense (sec. 915)

The Senate bill contained a provision (sec. 1084) that would repeal section 955 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239).

The House amendment contained no similar provision.

The House recedes.

Subtitle C—Joint Chiefs of Staff and Combatant Command Matters

Joint Chiefs of Staff and related combatant command matters (sec. 921)

The Senate bill contained a provision (sec. 921) that would amend sections 151 and 153 of title 10, United States Code, to clarify the role of the Chairman of the Joint Chiefs of Staff and the key duties that this officer must perform on behalf of the joint force, specifically: providing advice on the military elements of defense strategy and the global integration of military activities; advocating for the joint warfighter of today and tomorrow, especially with respect to developing joint capabilities; ensuring comprehensive joint readiness; and fostering joint force development. This provision seeks to clarify the role of the Chairman and thereby set an expectation that the preponderance of any Chairman's time should be devoted to the key strategic, global, and joint duties that are the Chairman's unique purview within the military.

The provision would also enhance the role of the other members of the Joint Chiefs, and the Joint Chiefs of Staff as a corporate body, to provide military advice to civilian leaders, including on the military elements of strategy. Current law provides the Chairman discretion with regard to how much to consult with the other Joint Chiefs and whether to inform civilian leaders of alternative military advice. This provision would seek to better enable the Chairman to act as the principal military adviser to civilian leaders.

The House amendment contained two similar provisions (sec. 907 and sec. 908). The first provision in the House amendment (sec. 907) would amend section 152(a) of title 10, United States Code, to extend the term of office of the Chairman of the Joint Chiefs of Staff from 2 years to 4 years. This section would also limit the reappointment of the Chairman to additional terms only in a time of war, and limit the combined period of service of an officer serving as Chairman or Vice Chairman of the Joint Chiefs of Staff to 8 years.

The second provision (sec. 908) in the House amendment would amend section 153(a) of title 10, United States Code, which sets

forth the functions of the Chairman of the Joint Chiefs of Staff, by codifying the Chairman's responsibility to provide advice to the President and the Secretary of Defense on ongoing military operations and to provide advice to the Secretary on the allocation and transfer of forces among combatant commands.

The House recedes with an amendment that would make certain changes to enhance the position of the other members of the Joint Chiefs as military advisors, extend the terms of the Chairman and the Vice Chairman to 4 years and ensure that such terms are staggered, outline the Chairman's role in planning, advice, global military integration, and ensure open communication between the combatant commands and the Chairman.

Organization of the Department of Defense for management of special operations forces and special operations (sec. 922)

The Senate bill contained a provision (sec. 923) that would amend sections 138 and 167 of title 10, United States Code, to modify the roles and responsibilities of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (ASD SOLIC) and the Commander of U.S. Special Operations Command (SOCOM).

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

The conferees note that in recent years SOCOM has undergone significant change and the capabilities of special operations forces (SOF) have taken on critical importance for addressing the threat posed by violent extremist groups and other security challenges facing our nation. Since 2001, SOCOM's personnel numbers (civilian and military) have nearly doubled, its budget nearly tripled, and overseas deployments of SOF nearly quadrupled.

Under provisions included in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), commonly referred to as the "Nunn-Cohen Amendment," the ASD SOLIC is tasked with the responsibility to provide "the overall supervision (including oversight of policy and resources) of special operations activities" and is identified as "the principal civilian advisor to the Secretary of Defense on special operations and low intensity conflict matters."

The provisions described above were intended to empower the ASD SOLIC to serve a hybrid role as: 1) the Department's lead civilian policy official for matters related to special operations and low intensity conflict; and 2) the "service secretary-like" civilian with responsibility for the oversight and advocacy of SOCOM and the organization, training, and equipping of SOF. However, the conferees believe the ASD SOLIC has been challenged in fulfilling their "service secretary-like" responsibilities for a number of reasons. For example, the ASD SOLIC's organizational location within the office of the Undersecretary of Defense for Policy (USD(P)) has resulted in the ASD SOLIC dedicating a preponderance of their time and resources to policy and operational issues, at the expense of their "service secretary-like" responsibilities. Additionally, other civilian offices with greater seniority within the Department exercise related and, at times, overlapping responsibilities for aspects

of SOF oversight, thereby complicating the ASD SOLIC's primacy in such matters. Furthermore, the conferees understand that studies directed by the Department when the ASD SOLIC was created determined that appropriate staffing levels for the organization would require between 95 and 110 personnel. However, the office of the ASD SOLIC is currently only staffed by approximately 60 military and civilian personnel, only 6 of whom are focused on tasks related to the oversight and advocacy of the organization, training, and equipping of SOF. Furthermore, the addition of responsibilities for the counter-narcotics programs, building partner capacity initiatives, and humanitarian and disaster relief efforts of the DOD have further stretched the resources available to the office since its creation.

The conferees intend for this provision to clarify and strengthen the original mandate provided by the Nunn-Cohen Amendment that established the ASD SOLIC. The provision is intended to facilitate the unique "service secretary-like" responsibilities of the ASD SOLIC by mirroring the administrative chain of command relationship between the service secretaries and the military services for issues impacting the special operations-peculiar (commonly referred to as Major Force Program-11) administration and support of SOCOM, including the readiness and organization of SOF, resources (including program planning, allocation, and execution) and equipment, and relevant civilian personnel matters. The provision shall not impact the operational chain of command for SOF activities or the "service-common" responsibilities of the military services including personnel and other matters that are not special operations-peculiar.

The conferees are mindful of the congressionally-directed reductions to headquarters staff, but believe that the "service secretary-like" mission of the ASD SOLIC should be more robustly resourced in order to rebalance the ASD SOLIC's lines of effort and fulfill its mandate under title 10, United States Code. The conferees also expect the codification of the Special Operations Policy and Oversight Council under this provision to improve the oversight and advocacy of SOF by integrating the efforts of the various functional offices with direct or tangential responsibilities for SOF issues, thereby partially mitigating the need for significant numbers of additional personnel.

Additionally, the conferees note that the President approved the transfer of the mission for synchronizing global Department of Defense operations for countering weapons of mass destruction (CWMD) from United States Strategic Command (STRATCOM) to United States Special Operations Command on August 4, 2016. According to the Secretary of Defense "Expediting the transfer of CWMD responsibilities will allow USSOCOM to assume leadership for synchronization of Department of Defense (DoD) efforts in this critical mission, which will include updating the DoD CWMD Campaign Plan and instituting a comprehensive mission assessment process. I recommend this course of action to best ensure consistent, focused, and strengthened CWMD efforts across the Department and with our interagency and international partners." The conferees support the transfer of the CWMD global synchronization mission to SOCOM because it may ensure appropriate DOD

and interagency attention for this critical mission, facilitate synchronization with counterterrorism and other transregional efforts, and strengthen the preparedness of U.S. Special Operations Forces to counter these threats. However, the conferees are concerned that the requirements to successfully implement this mission change may not be fully defined and understood at this time. The conferees believe that it is important to clearly define requirements for this mission transfer to ensure that resources needed by SOCOM to adequately carry out this mission are appropriately transferred and provided for across the future years defense program.

Therefore, not later than 90 days after enactment of this Act, the conferees direct the Secretary of Defense to submit to the congressional defense committees the implementation plan for the transfer of the CWMD global synchronization mission. The report should include: an identification of resources, authorities, personnel or capabilities needed for this mission, and plans to implement those in the future years defense program; identification of the responsibilities, organizations, personnel and capabilities to be transferred from Strategic Command, including those at the Defense Threat Reduction Agency, to SOCOM to support the mission; oversight responsibilities within the Office of the Secretary of Defense; dates and criteria for the initial operating capability and full operating capability milestones.

Establishment of Unified Combatant Command for Cyber Operations (sec. 923)

The House amendment contained a provision (sec. 911) that would establish a unified combatant command for cyber operations with the primary function to prepare cyber operations forces to carry out assigned missions.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

The conferees note transparency of U.S. Cyber Command operations, forces, and other activities is critical to oversight of the command by Congress. The conferees expect the quarterly cyber operations briefings, mandated by Title 10, United States Code, Section 484, to continue to serve as a forum for providing information to Congress on all offensive and significant defensive military operations in cyberspace carried out by the unified combatant command in the preceding quarter and serve as mechanism for informing Congress of other activities of the command.

In establishing the unified combatant command for cyber operations, the conferees also expect the Secretary of Defense, in conjunction with the relevant agencies and entities within the Department of Defense, to establish formal procedures for notification to Congress of significant operations in cyberspace on a timely basis. The conferees also expect the Secretary to establish formal procedures for notification to Congress of other significant command activities, such as delegation of new authorities to the United States Cyber Command Commander for cyberspace operations by the Secretary of Defense and relevant policy and internal oversight decisions affecting activities of the command.

Assigned forces of the combatant commands (sec. 924)

The Senate bill contained a provision (sec. 1041) that would amend section 162 of title 10, United States Code, to require the secretaries of the military departments, at the direction of the Secretary of Defense, to assign forces under the jurisdiction of the secretaries concerned to the combatant commands to perform missions assigned to the combatant commands. Forces that are not so assigned shall remain under the direction and control of the respective military department secretaries for purposes of carrying out the secretaries' responsibilities under sections 3013, 5013, and 8013 including organizing, training, and mobilizing of all United States military forces.

The House amendment contained a similar provision (sec. 909).
The House recedes.

Modifications to the requirements process (sec. 925)

The Senate bill contained a provision (sec. 943) that would amend Section 181 of title 10, United States Code, to clarify and modify the joint and service-specific requirements process. This provision would ensure that the service chief of the relevant military service is responsible for all service-specific requirements, and Joint Requirements Oversight Council (JROC) validation is not required before commencing a service-specific acquisition program, except for a major defense acquisition program or a service-specific program designated for JROC oversight by the Chairman of the Joint Chiefs of Staff. Additionally, this provision would require the Chairman to determine whether a major defense acquisition program meets joint requirements before the program or subprogram receives Milestone A approval or is otherwise initiated prior to Milestone B. The provision also would make the Vice Chairman of the Joint Chiefs of Staff the principal adviser to the Chairman on requirements.

The House amendment contained no similar provision.

The House recedes with an amendment that would modify the responsibilities of the JROC to focus on critical joint warfighting needs by: (1) determining gaps in joint military capabilities; (2) validating that proposed capabilities fulfill a gap; and (3) approving only joint performance requirements, such as interoperability or those involving more than one military service. The amendment would retain language from section 181 of title 10, United States Code, to clarify that the mission of the JROC shall include other matters assigned to it by the President or Secretary of Defense, and that the Chairman of the Joint Chiefs of Staff shall appoint members to the JROC who are recommended by the Secretaries of the military departments. The amendment would retain the Under Secretary of Defense (Comptroller) as an advisor to the JROC and broaden the base of analytic support that shall assist the JROC to include organizations within the Department that have operations research, systems analysis, and cost estimation expertise. The amendment also would modify definitions of joint military capabilities and performance requirements.

The amendment also would provide the JROC with authority to review performance requirements for other proposed or existing capabilities that the Chairman determines should be reviewed by

the JROC. The conferees expect that this authority would be used only in limited situations, such as the review of proposed capabilities that may affect the joint force or an existing materiel capability solution that may no longer satisfy a previously identified gap. This authority should not supersede any other existing statutory or regulatory authority that pertains to the review and approval of requirements by other entities, such as the Missile Defense Agency or the authority to validate requirements provided to the Special Operations Command in Section 167 of title 10, United States Code.

Additionally, the amendment requires that the Secretary of Defense establish an investment review process, to be co-chaired by the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff, to establish cost and fielding targets for new programs pursuant to section 2448a of this Act. To support establishment of cost and fielding targets, the amendment transfers from the JROC to the new investment review process the review of trade-offs among life-cycle cost, schedule, and performance objectives. The conferees direct the Secretary to develop a plan for implementing this investment review process and to brief the defense committees on the elements of the plan no later than 6 months after enactment of the Act. In developing the plan, the conferees direct the Secretary to evaluate the Department's Analysis of Alternatives process for determining trade-offs and weapon system solutions in acquisition programs.

Assessments of combatant command structure (sec. 926)

The Senate bill contained a provision (sec. 924) that would direct the Secretary of Defense to initiate a pilot program on the organization of a unified combatant command by organizing the subordinate commands of such unified combatant command in the form of joint task forces.

The House amendment contained a similar provision (sec. 914) that would require the Secretary of Defense to enter into a contract with an independent entity to conduct an assessment on the combatant command structure and to provide recommendations for improving the overall effectiveness of combatant command structures.

The Senate recedes with an amendment clarifying that the Secretary of Defense shall conduct an assessment of the organization of the combatant commands and provide recommendations for changes to improve the effectiveness of such commands as well as enter into a contract for an independent assessment of the organization of the combatant commands.

The conferees expect the assessments to address any deficiencies in the current organization of the combatant commands; to review the growth in the size of staffs of the unified combatant commands and whether such growth inhibits an effective and efficient performance; to determine whether the combatant commands are best aligned to address persistent, trans-regional, cross-functional, and multi-domain threats; and to assess whether the current structure encourages the unified combatant commands to be overly focused on mission support activities and not sufficiently focused on operational missions of the combatant commands.

Subtitle D—Organization and Management of Other Department of
Defense Offices and Elements

Qualifications for appointment of the Secretaries of the military departments (sec. 931)

The Senate bill contained a provision (sec. 902) that would amend sections 3013, 5013, 8013 of title 10, United States Code, to prescribe management experience of large and complex organizations as qualification required for individuals to serve as the Secretaries of the Army, Navy, and Air Force, respectively.

The House amendment contained no similar provision.

The House recedes with an amendment that would establish that service secretaries shall, to the greatest extent practicable, be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management or leadership experience.

Enhanced personnel management authorities for the Chief of the National Guard Bureau (sec. 932)

The Senate bill contained a provision (sec. 944) that would amend section 1058 of title 10, United States Code, to enhance the personnel management authority of the Chief of the National Guard Bureau by authorizing the Chief to program for, appoint, employ, administer, detail, and assign federal civilian employees to provide full-time support to the non-federalized National Guard. This provision clarifies that state adjutants general will continue to exercise their authority to hire, employ, and supervise the federal civilian employees providing full-time support to their state.

The House amendment contained no similar provision.

The House recedes.

Reorganization and redesignation of Office of Family Policy and Office of Community Support for Military Families with Special Needs (sec. 933)

The Senate bill contained a provision (sec. 947) that would amend sections 1781(a) and 1781(c) of title 10, United States Code, to reorganize and redesignate the Office of Family Policy into the Office of Military Family Readiness Policy and the Office of Community Support for Military Families with Special Needs into the Office of Special Needs. The provision would reorganize the Office of Special Needs under the Office of Military Family Readiness Policy. The provision would also require the director of the Office of Military Family Readiness Policy to be a member of the Senior Executive Service or a general or flag officer.

The House amendment contained no similar provision.

The House recedes with an amendment that would repeal the requirement for the head of the office to be a member of the Senior Executive Service or a general or flag officer.

Redesignation of Assistant Secretary of the Air Force for Acquisition as Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics (sec. 934)

The Senate bill contained a provision (sec. 949) that would amend section 8016(b)(4)(A) of title 10, United States Code, to re-

designate the title of “Assistant Secretary of the Air Force for Acquisition” to read “Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics” in this and all other laws.

The House amendment contained no similar provision.
The House recesses.

Subtitle E—Strategies, Reports, and Related Matters

National Defense Strategy (sec. 941)

The Senate bill contained a provision (sec. 1096) that would require the Secretary of Defense to provide the congressional defense committees a national defense strategy that addresses the highest priority missions for the Department of Defense, the most critical and enduring threats to the national security of the United States and its allies, and the strategies that the Department will use to counter those threats.

The House amendment contained a similar provision (sec. 904).

The House recesses with amendments clarifying the form and frequency of the national defense strategy and making other technical changes.

Commission on the National Defense Strategy for the United States (sec. 942)

The House amendment contained a provision (sec. 903) that would establish a commission to be known as the “Commission on the National Defense Strategy for the United States” to examine and make recommendations with respect to national defense strategy for the United States.

The Senate bill contained a similar provision (sec. 1078).

The Senate recesses with amendments addressing threat assessments and force structure and making other technical changes.

The commission would replace the National Defense Panel and precede the development of the National Defense Strategy, required elsewhere in this Act. The conferees believe that such an independent effort to provide recommendations and identify key issues and areas of focus, would improve the Secretary’s development of strategy. Furthermore, the conferees believe that such a bipartisan effort could help build national consensus on how to address complex and challenging national security issues.

Reform of the national military strategy (sec. 943)

The Senate bill contained a provision (sec. 921(c)) that would revise the requirements of the national military strategy.

The House amendment contained a similar provision (sec. 905).

The Senate recesses with technical amendments that include language from the Senate provision.

Form of annual national security strategy report (sec. 944)

The Senate bill contained a provision (Sec. 1090) that would amend Section 108(c) of the National Security Act of 1947 (50 U.S.C. 3043(c)) by requiring the national security strategy report to be delivered in classified form, but it may include an unclassified summary.

The House amendment contained no similar provision.

The Senate recedes with technical amendment that clarifies the report should be delivered to Congress.

Modification to independent study of national security strategy formulation process (sec. 945)

The House amendment contained a provision (sec. 906) that would amend section 1064 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92), which requires an independent study of the national security strategy formulation process, by adding a requirement for the study to address the workforce responsible for conducting strategic planning and to examine how Congress fits into the strategy formulation process.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle F—Other Matters

Enhanced security programs for Department of Defense personnel and innovation initiatives (sec. 951)

The Senate bill contained a provision (sec. 973) that would require the Secretary of Defense to take actions to allow the Defense Security Service to conduct before October 1, 2017, all personnel background and security investigations adjudicated by the Consolidated Adjudication Facility of the Department of Defense. This provision would also strengthen insider threat detection programs by streamlining requirements for the collection, storage, and retention of information and would allow the Department to seek solutions from commercial companies and improve the process for the reciprocity of security clearances.

The House amendment contained a similar provision (sec. 215) that would require the Secretary of Defense to develop and sustain a new security clearance information technology architecture to replace the legacy system of the Office of Personnel Management. Further, this section would require the Secretary of Defense, Director of National Intelligence, and Director of the Office of Personnel Management to issue a governance charter to delineate responsibilities between organizations, as well as to review and revise as necessary the executive orders, statutes, and other authorities related to personnel security. This section would also require quarterly notifications to designated congressional committees until September 30, 2019.

The House recedes with an amendment that would require the Department to prepare a plan to potentially transfer personal background and security clearance investigations back to the Department of Defense, include requirements for developing the information technology systems to support background investigations, and provide authority to waive some statutory deadlines related to the timelines for background investigations.

Modification of authority of the Secretary of Defense relating to protection of the Pentagon Reservation and other Department of Defense facilities in the National Capital Region (sec. 952)

The Senate bill contained a provision (S. 972) that would amend section 2674 of title 10, United States Code, to update the

authority of the Secretary of Defense to appoint law enforcement personnel to protect the Pentagon reservation and Department of Defense activities in the National Capital Region, and to set the rates of basic pay for law enforcement and security personnel whose permanent duty station is the Pentagon reservation.

The House amendment contained no similar provision.

The House recesses.

Modifications to requirements for accounting for members of the Armed Forces and Department of Defense civilian employees listed as missing (sec. 953)

The Senate bill contained a provision (sec. 971) that would amend sections 1501, 1505, and 1513 of title 10, United States Code, to elevate oversight of recovery policy and operations for current conflicts from the Defense POW/MIA Accounting Agency (DPAA) to the Secretary of Defense, and to clarify that the DPAA director retains authority to establish policy and execute recovery operations for missing persons from past conflicts. In addition, this provision would clarify that the Department is required to account for missing persons only to the extent practicable upon discovery of remains of missing personnel.

The House amendment contained a similar provision (sec. 925).

The Senate recesses.

Modifications to corrosion report (sec. 954)

The House amendment contained a provision (sec. 921) that would amend section 2228(e)(1) of title 10, United States Code, to modify Department of Defense corrosion reporting requirements.

The Senate bill contained no similar provision.

The Senate recesses.

LEGISLATIVE PROVISIONS NOT ADOPTED

Sense of Congress on Goldwater-Nichols Reform

The House amendment contained a provision (sec. 901) that would express the sense of Congress that certain principles should be adhered to in any reform of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

The Senate bill contained no similar provision.

The House recesses.

Authority to employ civilian faculty members at Joint Special Operations University

The House amendment contained a provisions (sec. 922) that would amend section 1595(c) of title 10, United States Code, to provide the Joint Special Operations University the flexibility to hire civilians as professors, instructors, and lecturers.

The Senate bill contained no similar provision.

The House recesses.

Public release by inspectors general of reports of misconduct

The House amendment contained a provision (sec. 924) that would amend sections 141, 3020, 5020, and 8020 of title 10, United States Code, to require the Department of Defense Inspector Gen-

eral and the service inspectors general to publicly release reports of administrative investigations that substantiate misconduct of members of the Senior Executive Service, schedule C employees, or commissioned officers in pay grade O-6 promotable and above.

The Senate bill contained no similar provision.

The House recedes.

The conferees believe the public is entitled to appropriate access to investigations that substantiate misconduct by senior officials of the Department of Defense and the military departments. The conferees note that the Department of Defense Inspector General's on-line FOIA Reading Room currently includes reports concerning those senior officials.

Redesignation of the Department of the Navy as the Department of the Navy and Marine Corps

The House amendment contained a provision (sec. 931) that would redesignate the Department of the Navy as the Department of the Navy and Marine Corps. The House amendment contained additional provisions (sections 932, 933, and 934) that would provide technical and conforming amendments to other provisions of the law consistent with the redesignation proposed under section 931.

The Senate bill contained no similar provision.

The House recedes.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

General transfer authority (sec. 1001)

The Senate bill contained a provision (sec. 1001) that would allow the Secretary of Defense to transfer up to \$4.0 billion of fiscal year 2017 funds authorized in division A of this Act to unforeseen higher priority needs in accordance with normal reprogramming procedures. Transfers of funds between military personnel authorizations would not be counted toward the dollar limitation in this provision.

The House amendment contained a similar provision (sec. 1001) that would allow the Secretary of Defense, with certain limitations, to make transfers between amounts authorized for fiscal year 2017 in division A of this Act. This section would limit the total amount transferred under this authority to \$5.0 billion. This section would also require prompt notification to Congress of each transfer made.

The Senate recedes with an amendment that would that would allow the Secretary of Defense to transfer up to \$4.5 billion of fiscal year 2017 funds authorized in division A of this Act to unforeseen higher priority needs in accordance with normal reprogramming procedures.

Report on auditable financial statements (sec. 1002)

The House amendment contained a provision that would require the Secretary of Defense to submit to the congressional defense committees, not later than 30 days after enactment, a report

ranking all military departments and Defense Agencies in order of how advanced they are in achieving auditable financial statements as required by law.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would change the deadline for the report to 90 days after enactment.

Increased use of commercial data integration and analysis products for the purpose of preparing financial statement audits (sec. 1003)

The Senate bill contained a provision that would require the Department of Defense to procure information technology services, data analysis, and data integration platforms to improve the preparation of Department of Defense financial statements.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Sense of Congress on sequestration (sec. 1004)

The Senate bill contained a provision (sec. 1003) that would express the sense of the Senate that the statutory budget caps imposed by the Budget Control Act of 2011 (BCA) remain an unreasonable and inadequate budgeting tool to address the Nation's fiscal challenges. The Senate remains concerned about the harmful impacts of sequestration on our national defense, to include non-defense agencies that contribute to our national security. This provision acknowledges that relief from the BCA should include both defense and non-defense spending.

The House amendment contained no similar provision.

The House recedes with an amendment that would express the sense of the congress that sequestration is an unreasonable and inadequate budgeting tool, imposes unacceptable limitations on the budget and increased risk to national security, and that the caps in the budget control act should be modified through a bipartisan legislative agreement.

Requirement to transfer funds from Department of Defense Acquisition Workforce Development Fund to the Treasury (sec. 1005)

The House amendment contained a provision (sec. 1002) that would reduce the unobligated balance of the Defense Acquisition Workforce Development Fund by \$475.0 million due to excess funds.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle B—Counter-Drug Activities

Codification and modification of authority to provide support for counter-drug activities and activities to counter transnational organized crime of civilian law enforcement agencies (sec. 1011)

The Senate bill contained a provision (sec. 1006) that would establish a new section in title 10, United States Code, to codify section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510), as most recently amended by section 1012 of the Carl Levin and Howard P. ‘Buck’ McKeon National De-