106TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
106–624

PROVIDING FOR THE FURTHER CONSIDERATION OF H.R. 4205, THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

MAY 17, 2000.—Referred to the House Calendar and ordered to be printed

Mrs. MYRICK, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 504]

The Committee on Rules, having had under consideration House Resolution 504, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for further consideration of H.R. 4205, the National Defense Authorization Act for Fiscal Year 2001, under a structured rule.

The rule provides that no further amendment to the committee amendment in the nature of a substitute shall be in order except those printed in this report and pro forma amendments offered by the chairman or ranking minority member of the Committee on Armed Services for the purpose of debate. The rule further provides that, except as specified in section 4 of the resolution, each amendment printed in this report shall be considered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule provides that each amendment printed in this report shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent and shall not be subject to amendment (except as specified in this report and except that the chairman and ranking minority member of the Committee on Armed Services may each offer one pro forma amendment for the purpose of debate on any pending amendment).

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The rule waives all points of order against the amendments printed in this report. The rule allows the Chairman of the Committee of the Whole to postpone until a time during further consideration of the bill a request for a recorded vote on any amendment and to reduce voting time to five minutes on a postponed question if the vote follows a fifteen minute vote. The rule further allows the Chairman of the Committee of the Whole to recognize for the consideration of any amendment printed in this report out of the order printed, but not sooner than one hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect. Finally, the rule provides one motion to recommit with or without instructions.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 100

Date: May 17, 2000.
Measure: H.R. 4205, National Defense Authorization Act for Fiscal Year 2001.
Motion by: Mr. Moakley.
Summary of motion: To make in order the Allen/McGovern/Gejdenson amendment to give the Pentagon the flexibility to retire or dismantle strategic nuclear delivery systems that are in excess of the military requirements, contingent on a Presidential certification that such reductions do not undermine our nuclear deterrent or continued Russian dismantlement of strategic nuclear delivery systems. The amendment also extends the certification currently available to Trident submarines to other delivery systems.
Results: Defeated 1 to 6.
Votes by Members: Goss—Nay; Pryce—Nay; Hastings—Nay; Sessions—Nay; Reynolds—Nay; Moakley—Yea; Dreier—Nay.

Rules Committee record vote No. 101

Date: May 17, 2000.
Measure: H.R. 4205, National Defense Authorization Act for Fiscal Year 2001.
Motion by: Mr. Moakley.
Summary of motion: To make in order the Shows amendment which deletes language in the bill which would extend military retiree health care test programs and create a commission to study military retiree health care issues. The amendment includes providing the option of fully paid FEHBP coverage to military retirees who entered the service prior to June 7, 1956, and allows all military retirees the option of participating in FEHBP, or remaining in TRICARE after age 65. Participation is capped at 300,000 retirees with preference given to those who are Medicare eligible. The amendment also addresses cost and funding issues.
Results: Defeated 1 to 6.
Vote by Members: Goss—Nay; Pryce—Nay; Hastings—Nay; Sessions—Nay; Reynolds—Nay; Moakley—Yea; Dreier—Nay.

Rules Committee record vote No. 102

Date: May 17, 2000.
Measure: H.R. 4205, National Defense Authorization Act for FY 2001.
Motion by: Mr. Moakley.
Summary of motion: To make in order the McCarthy (NY) amendment which strikes Section 810 of the bill, which would prohibit DoD from making preferences of firearms vendors based on their decision to abide by a certain code of conduct.
Results: Defeated 1 to 6.
Vote by Members: Goss—Nay; Pryce—Nay; Hastings—Nay; Sessions—Nay; Reynolds—Nay; Moakley—Yea; Dreier—Nay.

Rules Committee record vote No. 103

Date: May 17, 2000.
Measure: H.R. 4205, National Defense Authorization Act for Fiscal Year 2001.
Motion by: Mr. Moakley.
Summary of motion: To make in order, en bloc, amendments by: Representative Berkley to compensate employees at DoE for occupational illnesses; Representative Hill to allow no cost economic development conveyances for non-BRAC military installations and to establish fair procedures for communities that may have lost installations; Representative Hoeffel to authorize a $1.5 million study to identify DoD technologies that could be used by civilians; Representative Rodriguez to authorize a DoD grant program for school construction; Representative Gonzalez to authorize a DoD loan program for school construction; Representative Berman to authorize $1 million for Middle East arms control dialogues; Representatives Andrews and Weldon (PA) to accelerate the tracking and identification of computer hackers; Representative Baca to mandate that Congressional Medals of Honor be made of at least ninety percent gold; and Representatives Frank and DeFazio expressing the Sense of Congress in support of our European Allies creating an integrated military force.
Results: Defeated 1 to 6.
Vote by Members: Goss—Nay; Pryce—Nay; Hastings—Nay; Sessions—Nay; Reynolds—Nay; Moakley—Yea; Dreier—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER UNDER THIS RULE

Sanchez/Morella/Lowey—Restores equal access to health services at overseas military hospitals to servicemen and women and their dependents stationed overseas (20 minutes)

Moakley/Campbell/McGovern/Scarborough—Repeals authority for the School of the Americas and authorizes a Congressional task force to critically assess training of Latin American soldiers by the U.S. and report its findings to Congress. (40 minutes)

Cox/Markey—Blocks any United States Government entity from entering into arrangements to accept liability or extend an indemnity for nuclear accidents occurring in North Korea. (30 minutes)

Skelton—Strikes Title XV of the bill as reported, and substitutes language which would authorize the conveyance of the land at the western end of the island of Vieques, with certain exceptions, and

in accordance with the President's negotiated position with the government of Puerto Rico. (30 minutes)

Whitfield/Strickland/Kanjorski/Wamp/Gibbons/Udall (CO)—Expresses the sense of Congress that workers at DoE nuclear weapons facilities and at vendor site were exposed to beryllium, radiation, silica and other toxic materials without their knowledge and that those same workers are now experiencing increased incidents of illness and death resulting from that exposure. (20 minutes)

Taylor (MS)/Abercrombie/Bartlett/Jones (NC)—Expands and makes permanent an existing DoD TRICARE Senior Prime demonstration program, more commonly known as Medicare Subvention (30 minutes)

Buyer—Substitute amendment to the Taylor (MS)/Abercrombie/Bartlett/Jones (NC) amendment. Expands the current Medicare subvention demonstration program to up to seven additional sites and up to 13 additional military treatment facilities. (30 minutes)

TEXT OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SANCHEZ OF CALIFORNIA, OR REPRESENTATIVE MORELLA OF MARYLAND, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

At the end of title VII (page 247, after line 9), insert the following new section:

SEC. 7___. RESTORATION OF PRIOR POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking out "(a) RESTRICTION ON USE OF FUNDS.—"; and

(2) by striking out subsection (b).

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MOAKLEY OF MASSACHUSETTS, OR REPRESENTATIVE CAMPBELL OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 40 MINUTES

Strike section 908 (page 285, line 6 through page 289, line 8) and insert the following:

SEC. 908. REPEAL OF AUTHORITY FOR UNITED STATES ARMY SCHOOL OF THE AMERICAS.

(a) CLOSURE OF SCHOOL OF THE AMERICAS.—The Secretary of the Army shall close the United States Army School of the Americas.

(b) REPEAL.—(1) Section 4415 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 407 of such title is amended by striking the item relating to section 4415.

(c) LIMITATION ON ESTABLISHMENT OF NEW EDUCATION AND TRAINING FACILITY.—No training or education facility may be established in the Department of Defense for Latin American military personnel (as a successor to the United States Army School of the Americas or otherwise) until the end of the ten-month period beginning on the date of the enactment of this Act.

(d) TASK FORCE.—(1) There is established a task force to conduct an assessment of the kind of education and training that is appro-

priate for the Department of Defense to provide to military personnel of Latin American nations.

(2) The task force shall be composed of eight Members of Congress, of whom two each shall be designated by the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.

(3) Not later than six months after the date of the enactment of this Act, the task force shall submit to Congress a report on its assessment as specified in paragraph (1). The report shall include—

(A) a critical assessment of courses, curriculum and procedures appropriate for such education and training; and

(B) an evaluation of the effect of such education and training on the performance of Latin American military personnel in the areas of human rights and adherence to democratic principles and the rule of law.

(4) In this subsection, the term "Member" includes a Delegate to, or Resident Commissioner, in the Congress.

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE COX OF CALIFORNIA, OR REPRESENTATIVE MARKEY OF MASSACHUSETTS, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

At the end of title XII (page 338, after line 13), insert the following new section:

SEC. 1205. PROHIBITION ON ASSUMPTION BY UNITED STATES GOVERNMENT OF LIABILITY FOR NUCLEAR ACCIDENTS IN NORTH KOREA.

Neither the President nor any department, agency, or instrumentality of the United States Government may use the authority of Public Law 85–804 (50 U.S.C. 1431) or any other provision of law to enter into any contract or other arrangement, or into any amendment or modification of a contract or other arrangement, the purpose or effect of which would be to impose liability on the United States Government, or otherwise require an indemnity by the United States Government, for nuclear accidents occurring in North Korea.

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SKELTON OF MISSOURI, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

Strike title XV (page 354, line 6, through page 359, line 16) and insert the following:

TITLE XV—LAND CONVEYANCE REGARDING VIEQUES ISLAND, PUERTO RICO

SEC. 1501. CONVEYANCE OF NAVAL AMMUNITION SUPPORT DETACHMENT, VIEQUES ISLAND.

(a) CONVEYANCE REQUIRED.—

(1) PROPERTY TO BE CONVEYED.—(1) Subject to subsection (b), the Secretary of the Navy shall convey, without consideration, to the Commonwealth of Puerto Rico all right, title, and interest of the United States in and to the land constituting the Naval Ammunition Support detachment located on the western end of Vieques Island, Puerto Rico.

(2) TIME FOR CONVEYANCE.—The Secretary of the Navy shall complete the conveyance required by paragraph (1) not later than December 31, 2000.

(3) PURPOSE OF CONVEYANCE.—The conveyance under paragraph (1) is being made for the benefit of the Municipality of Vieques, Puerto Rico, as determined by the Planning Board of the Commonwealth of Puerto Rico.

(b) RESERVED PROPERTY NOT SUBJECT TO CONVEYANCE.—

(1) RADAR AND COMMUNICATIONS FACILITIES.—The conveyance required by subsection (a) shall not include that portion of the Naval Ammunition Support detachment consisting of the following:

(A) Approximately 100 acres on which is located the Relocatable Over-the-Horizon Radar and the Mount Pirata telecommunications facilities.

(B) Such easements, rights-of-way, and other interests retained by the Secretary of the Navy as the Secretary considers necessary—

(i) to provide access to the property retained under subparagraph (A);

(ii) for the provision of utilities and security for the retained property; and

(iii) for the effective maintenance and operation of the retained property.

(2) OTHER SITES.—The United States may retain such other interests in the property conveyed under subsection (a) as—

(A) the Secretary of the Navy considers necessary, in the discharge of responsibilities under subsection (d), to protect human health and the environment; and

(B) the Secretary of the Interior considers necessary to discharge responsibilities under subsection (f), as provided in the co-management agreement referred to in such subsection.

(c) DESCRIPTION OF PROPERTY.—The Secretary of the Navy, in consultation with the Secretary of the Interior on issues relating to natural resource protection under subsection (f), shall determine the exact acreage and legal description of the property required to be conveyed pursuant to subsection (a), including the legal description of any easements, rights of way, and other interests that are retained pursuant to subsection (b).

(d) ENVIRONMENTAL RESTORATION.—

(1) OBJECTIVE OF CONVEYANCE.—An important objective of the conveyance required by this section is to promote timely redevelopment of the conveyed property in a manner that enhances employment opportunities and economic redevelopment, consistent with all applicable environmental requirements and in full consultation with the Governor of Puerto Rico, for the benefit of the residents of Vieques Island.

(2) CONVEYANCE DESPITE RESPONSE NEED.—If the Secretary of the Navy, by December 31, 2000, is unable to provide the covenant required by section 120(h)(3)(A)(ii)(I) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)(3)(A)(ii)(I)) with respect to the property to be conveyed, the Secretary shall still complete the conveyance by that date, as required by subsection (a)(2). The Secretary shall remain responsible for completing all response actions required under such Act. The completion of the response actions shall not be delayed on account of the conveyance.

(3) CONTINUED NAVY RESPONSIBILITY.—The Secretary of the Navy shall remain responsible for the environmental condition of the property, and the Commonwealth of Puerto Rico shall not be responsible for any condition existing at the time of the conveyance.

(4) SAVINGS CLAUSE.—All response actions with respect to the property to be conveyed shall take place in compliance with current law.

(e) INDEMNIFICATION.—

(1) ENTITIES AND PERSONS COVERED; EXTENT.—(A) Except as provided in subparagraph (C), and subject to paragraph (2), the Secretary of Defense shall hold harmless, defend, and indemnify in full the persons and entities described in subparagraph (B) from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of any hazardous substance or pollutant or contaminant as a result of Department of Defense activities at those parts of the Naval Ammunition Support detachment conveyed pursuant to subsection (a).

(B) The persons and entities described in this paragraph are the following:

(i) The Commonwealth of Puerto Rico (including any officer, agent, or employee of the Commonwealth of Puerto Rico), once Puerto Rico acquires ownership or control of the Naval Ammunition Support Detachment by the conveyance under subsection (a).

(ii) Any political subdivision of the Commonwealth of Puerto Rico (including any officer, agent, or employee of the Commonwealth of Puerto Rico) that acquires such ownership or control.

(iii) Any other person or entity that acquires such ownership or control.

(iv) Any successor, assignee, transferee, lender, or lessee of a person or entity described in clauses (i) through (iii).

(C) To the extent the persons and entities described in subparagraph (B) contributed to any such release or threatened release, subparagraph (A) shall not apply.

(2) CONDITIONS ON INDEMNIFICATION.—No indemnification may be afforded under this subsection unless the person or entity making a claim for indemnification—

(A) notifies the Secretary of Defense in writing within two years after such claim accrues or begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Secretary of Defense;

(B) furnishes to the Secretary of Defense copies of pertinent papers the entity receives;

(C) furnishes evidence of proof of any claim, loss, or damage covered by this subsection; and

(D) provides, upon request by the Secretary of Defense, access to the records and personnel of the entity for purposes of defending or settling the claim or action.

(3) RESPONSIBILITIES OF SECRETARY OF DEFENSE.—(A) In any case in which the Secretary of Defense determines that the Department of Defense may be required to make indemnification payments to a person under this subsection for any suit, claim, demand or action, liability, judgment, cost or other fee arising our of any claim for personal injury or property damage referred to in paragraph (1)(A), the Secretary may settle or defend, on behalf of that person, the claim for personal injury or property damage.

(B) In any case described in subparagraph (A), if the person to whom the Department of Defense may be required to make indemnification payments does not allow the Secretary of Defense to settle or defend the claim, the person may not be afforded indemnification with respect to that claim under this subsection.

(4) ACCRUAL OF ACTION.—For purposes of paragraph (2)(A), the date on which a claim accrues is the date on which the plaintiff knew (or reasonably should have known) that the personal injury or property damage referred to in paragraph (1) was caused or contributed to by the release or threatened release of a hazardous substance or pollutant or contaminant as a result of Department of Defense activities at any part of the Naval Ammunition Support Detachment conveyed pursuant to subsection (a).

(5) RELATIONSHIP TO OTHER LAWS.—Nothing in this subsection shall be construed as affecting or modifying in any way subsection 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(6) DEFINITIONS.—In this subsection, the terms "hazardous substance", "release", and "pollutant or contaminant" have the meanings given such terms under paragraphs (9), (14), (22), and (33) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(f) MANAGEMENT.—

(1) CO-MANAGEMENT OF CONSERVATION ZONES.—Those areas on the western end of the Vieques Island designated as Conservation Zones in section IV of the 1983 Memorandum of Understanding between the Commonwealth of Puerto Rico and the Secretary of the Navy shall be subject to a co-management agreement among the Commonwealth of Puerto Rico, the Puer-

to Rico Conservation Trust and the Secretary of the Interior. Areas adjacent to these Conservation Zones shall also be considered for inclusion under the co-management agreement. Adjacent areas to be included under the co-management agreement shall be mutually agreed to by the Commonwealth of Puerto Rico and the Secretary of the Interior. This determination of inclusion of lands shall be incorporated into the co-management agreement process as set forth in paragraph (2). In addition, the Sea Grass Area west of Mosquito Pier, as identified in the 1983 Memorandum of Understanding, shall be included in the co-management plan to be protected under the laws of the Commonwealth of Puerto Rico.

(2) CO-MANAGEMENT PURPOSES.—All lands covered by the co-management agreement shall be managed to protect and preserve the natural resources of these lands in perpetuity. The Commonwealth of Puerto Rico, the Puerto Rico Conservation Trust, and the Secretary of the Interior shall follow all applicable Federal environmental laws during the creation and any subsequent amendment of the co-management agreement, including the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the National Historic Preservation Act. The co-management agreement shall be completed prior to any conveyance of the property under subsection (a), but not later than December 31, 2000. The Commonwealth of Puerto Rico shall implement the terms and conditions of the co-management agreement, which can only be amended by agreement of the Commonwealth of Puerto Rico, the Puerto Rico Conservation Trust, and the Secretary of the Interior.

(3) ROLE OF NATIONAL FISH AND WILDLIFE FOUNDATION.—Contingent on funds being available specifically for the preservation and protection of natural resources on Vieques Island, amounts necessary to carry out the co-management agreement may be made available to the National Fish and Wildlife Foundation to establish and manage an endowment for the management of lands transferred to the Commonwealth of Puerto Rico and subject to the co-management agreement. The proceeds from investment of the endowment shall be available on an annual basis. The Foundation shall strive to leverage annual proceeds with non-Federal funds to the fullest extent possible.

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WHITFIELD OF KENTUCKY, OR REPRESENTATIVE STRICKLAND OF OHIO, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

At the end of title XXXI (page 467, after line 11), insert the following new section:

SEC. ___. SENSE OF CONGRESS REGARDING COMPENSATION AND HEALTH CARE FOR PERSONNEL OF THE DEPARTMENT OF ENERGY AND ITS CONTRACTORS AND VENDORS WHO HAVE SUSTAINED BERYLLIUM, SILICA, AND RADIATION-RELATED INJURY.

It is the sense of Congress that—

(1) Since World War II Federal nuclear activities have been explicitly recognized by the United States Government as an ultra-hazardous activity under Federal law. Nuclear weapons production and testing involved unique dangers, including potential catastrophic nuclear accidents that private insurance carriers would not cover, as well as chronic exposures to radioactive and hazardous substances, such as beryllium and silica, that even in small amounts could cause medical harm.

(2) Since the inception of the nuclear weapons program and for several decades afterwards, large numbers of nuclear weapons workers at Department of Energy and at vendor sites who supplied the Cold War effort were put at risk without their knowledge and consent for reasons that, documents reveal, were driven by fears of adverse publicity, liability, and employee demands for hazardous duty pay.

(3) Numerous previous secret records documented unmonitored radiation, beryllium, silica, heavy metals, and toxic substances' exposures and continuing problems at the Department of Energy and vendor sites across the country, where since World War II the Department of Energy and its predecessors have been self-regulating with respect to nuclear safety and occupational safety and health. No other hazardous Federal activity has been permitted to have such sweeping self-regulatory powers.

(4) The Department of Energy policy to litigate occupational illness claims has deterred workers from filing workers compensation claims and imposed major financial burdens for workers who sought compensation. Department of Energy contractors have been held harmless and the Department of Energy workers were denied workers compensation coverage for occupational disease.

(5) Over the past 20 years more than two dozen scientific findings have emerged that indicate that certain Department of Energy workers are experiencing increased risks of dying from cancer and non-malignant diseases at numerous facilities that provided for the nation's nuclear deterrent. Several of these studies also establish a correlation between excess diseases and exposure to radiation, beryllium, and silica.

(6) While linking exposure to occupational hazards with the development of occupational disease is sometimes difficult, scientific evidence supports the conclusion that occupational exposure to dust particles or vapor of beryllium, even where there was compliance with the standards in place at the time, can cause beryllium sensitivity and chronic beryllium disease. Furthermore, studies indicate than 98 percent of radiation induced cancers within the Department of Energy complex occur at dose levels below existing maximum safe thresholds. Further, that workers at Department of Energy sites were exposed to silica, heavy metals, and toxic substances at levels that will lead or contribute to illness and diseases.

(7) Existing information indicates that State workers' compensation programs are not a uniform means to provide adequate compensation for the types of occupational illnesses and diseases related to the prosecution of the Cold War effort.

(8) The civilian men and women who performed duties uniquely related to the Department of Energy's nuclear weapons production and testing programs over the last 50 years should have efficient, uniform, and adequate compensation for beryllium-related health conditions, radiation-related health conditions, and silica-related health conditions in order to assure fairness and equity.

(9) This situation is sufficiently unique to the Department of Energy's nuclear weapons production and testing programs that it is appropriate for Congressional review this year.

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TAYLOR OF MISSISSIPPI, OR REPRESENTATIVE ABERCROMBIE OF HAWAII, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

Amend section 725 (page 231, line 3, and all that follows through page 232, line 21) to read as follows:

SEC. 725. MEDICARE SUBVENTION PROJECT FOR MILITARY RETIREES AND DEPENDENTS.

(a) FUTURE REPEAL OF LIMITATION ON NUMBER OF SITES.—Effective January 1, 2001, paragraph (2) of section 1896(b) of the Social Security Act (42 U.S.C. 1395ggg(b)) is amended to read as follows:

"(2) LOCATION OF SITES; FACILITIES.—Subject to annual appropriations, the program shall be conducted in any site that provides a full range of comprehensive health care and that is designated jointly by the administering Secretaries. The program shall be conducted nationwide by January 1, 2006.".

(b) AUTHORITY TO MODIFY AGREEMENT.—Such section is further amended in paragraph (1)(A) by inserting ", which may be modified if necessary" before the closing parenthesis.

(c) MAKING PROJECT PERMANENT; CHANGES IN PROJECT REFERENCES.—

(1) ELIMINATION OF TIME LIMITATION.—Paragraph (4) of section 1896(b) of such Act is repealed.

(2) TREATMENT OF CAPS.—Subsection (i)(4) of section 1896 of such Act is amended by adding at the end the following:
"This paragraph shall not apply after calendar year 2001.".

(3) CONFORMING CHANGES OF REFERENCES TO DEMONSTRATION PROJECT.—Section 1896 of such Act is further amended—

(A) in the heading, by striking "DEMONSTRATION PROJECT" and inserting "PROGRAM";

(B) by amending subsection (a)(2) to read as follows:
"(2) PROGRAM.—The term 'program' means the program carried out under this section.";

(C) in the heading to subsection (b), by striking "DEMONSTRATION PROJECT" and inserting "PROGRAM";

(D) by striking "demonstration project" or "project" each place either appears and inserting "program";

(E) in subsection (k)(2)—

(i) by striking "EXTENSION AND EXPANSION OF DEMONSTRATION PROJECT" and inserting "PROGRAM"; and

(ii) by striking subparagraphs (A) through (C) and inserting the following:

"(A) whether there is a cost to the health care program under this title in conducting the program under this section; and

"(B) whether the terms and conditions of the program should be modified.".

(4) REPORTS.—Subsection (k)(1) of such section 1896 is amended in the second sentence—

(A) by striking "the demonstration project" and inserting "the program";

(B) by striking ", and the" and all that follows through "date";

(C) by redesignating subparagraph (O) as subparagraph (S); and

(D) by inserting after subparagraph (N) the following new subparagraphs:

"(O) Patient satisfaction with the program.

"(P) The ability of the Department of Defense to operate an effective and efficient managed care system for medicare beneficiaries.

"(Q) The ability of the Department of Defense to meet the managed care access and quality of care standards under medicare.

"(R) The adequacy of the data systems of the Department of Defense for providing timely, necessary, and accurate information required to properly manage the program.".

(5) ADDITIONAL CONFORMING AMENDMENTS.—Section 1896(b) of such Act is further amended—

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

(B) in such paragraph, by striking "At least 60 days" and all that follows through "agreement" and inserting "The administering Secretaries shall also submit on an annual basis the most current agreement".

(6) CONTINUATION OF PROVISION OF CARE.—Section 1896(b) of such Act is further amended by adding at the end the following new paragraph:

"(5) CONTINUATION OF PROVISION OF CARE.—With respect to any individual who receives health care benefits under this section before the date of the enactment of this paragraph, the administering Secretaries shall not terminate such benefits unless the individual ceases to fall within the definition of the term 'medicare-eligible military retiree or dependent' (as defined in subsection (a)).".

(d) PAYMENTS.—

(1) PERMITTING PAYMENTS ON A FEE-FOR-SERVICE BASIS.—Section 1896 of such Act is further amended by adding at the end the following new subsection:

"(l) PAYMENT ON A FEE-FOR-SERVICE BASIS.—Instead of the payment method described in subsection (i)(1) and in the case of individuals who are not enrolled in the program in the manner described in subsection (d)(1), the Secretary may reimburse the Secretary of Defense for services provided under the program at a rate that does not exceed the rate of payment that would otherwise be made under this title for such services if sections 1814(c) and

1835(d), and paragraphs (2) and (3) of section 1862(a), did not apply.".

(2) PAYMENTS TO MILITARY TREATMENT FACILITIES.—Such section is further amended by adding at the end the following new subsection:

"(m) PAYMENTS TO MILITARY TREATMENT FACILITIES.—The Secretary of Defense shall reimburse military treatment facilities for the provision of health care under this section.".

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

(A) in subsections (b)(1)(B)(v) and (b)(1)(B)(viii)(I), by inserting "or subsection (l)" after "subsection (i)";

(B) in subsection (b)(2), by adding at the end the following: "If feasible, at least one of the sites shall be conducted using the fee-for-service reimbursement method described in subsection (l).";

(C) in subsection (d)(1)(A), by inserting "(insofar as it provides for the enrollment of individuals and payment on the basis described in subsection (i))" before "shall meet";

(D) in subsection (d)(1)(A), by inserting "and the program (insofar as it provides for payment for facility services on the basis described in subsection (l)) shall meet all requirements for such facilities under this title" after "medicare payments";

(E) in subsection (d)(2), by inserting ", insofar as it provides for the enrollment of individuals and payment on the basis described in subsection (i)," before "shall comply";

(F) in subsection (g)(1), by inserting ", insofar as it provides for the enrollment of individuals and payment on the basis described in subsection (i)," before "the Secretary of Defense";

(G) in subsection (i)(1), by inserting "and subsection (l)" after "of this subsection"; and

(H) in subsection (j)(2)(B)(ii), by inserting "or subsection (l)" after "subsection (i)(1)".

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on January 1, 2001, and apply to services furnished on or after such date.

(e) ELIMINATION OF RESTRICTION ON ELIGIBILITY.—Section 1896(b)(1) of such Act is amended by adding at the end the following new subparagraph:

"(C) ELIMINATION OF RESTRICTIVE POLICY.—If the enrollment capacity in the program has been reached at a particular site designated under paragraph (2) and the Secretary therefore limits enrollment at the site to medicare-eligible military retirees and dependents who are enrolled in TRICARE Prime (as defined for purposes of chapter 55 of title 10, United States Code) at the site immediately before attaining 65 years of age, participation in the program by a retiree or dependent at such site shall not be restricted based on whether the retiree or dependent has a civilian primary care manager instead of a military primary care manager.".

(f) MEDIGAP PROTECTION FOR ENROLLEES.—Section 1896 of such Act is further amended by adding at the end the following new subsection:

"(m) MEDIGAP PROTECTION FOR ENROLLEES.—(1) Subject to paragraph (2), effective January 1, 2001, the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to any enrollment (and termination of enrollment) in the program (for which payment is made on the basis described in subsection (i)) in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

"(2) In applying paragraph (1)—

"(A) in the case of enrollments occurring before January 1, 2001, any reference in clause (v)(III) or (vi) of section 1882(s)(3)(B) of such Act to 'within the first 12 months of such enrollment' or 'by not later than 12 months after the effective date of such enrollment' is deemed a reference to during calendar year 2001; and

"(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Defense in consultation with the Secretary of Health and Human Services.".

(g) IMPLEMENTATION OF UTILIZATION REVIEW PROCEDURES.—Subsection (b) of such section is further amended by adding at the end the following:

"(6) UTILIZATION REVIEW PROCEDURES.—The Secretary of Defense shall develop and implement procedures to review utilization of health care services by medicare-eligible military retirees and dependents under this section in order to enable the Secretary of Defense to more effectively manage the use of military medical treatment facilities by such retirees and dependents.".

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7. A SUBSTITUTE AMENDMENT TO BE OFFERED BY REPRESENTATIVE BUYER OF INDIANA, OR A DESIGNEE TO THE AMENDMENT NUMBERED 6. THE AMENDMENT MAY BE OFFERED ONLY AFTER DEBATE HAS CONCLUDED ON THE AMENDMENT NUMBERED 6, AND SHALL BE DEBATABLE FOR 30 MINUTES

Amend section 725 (page 231, line 3, and all that follows through page 232, line 21) to read as follows:

SEC. 725. MEDICARE SUBVENTION PROJECT FOR MILITARY RETIREES AND DEPENDENTS.

(a) EXPANSION OF PROJECT.—Section 1896(b) of the Social Security Act (42 U.S.C. 1395ggg(b)) is amended—

(1) by amending paragraph (2), to read as follows:

"(2) EXPANSION; LOCATION OF SITES.—Not later than December 31, 2002, in addition to the sites at which the project is already being conducted before the date of the enactment of this paragraph and subject to annual appropriations, the project shall be conducted at any site that includes a military treatment facility that is considered by the Secretary of Defense to be a major medical center and that is designated jointly by the

administering Secretaries. The total number of sites at which the project may be carried out shall not exceed 14, and the total number of military treatment facilities at which the project may be carried out shall not exceed 24.";

(2) in paragraph (4), by striking "3-year period beginning on January 1, 1998" and inserting "period beginning on January 1, 1998, and ending on December 31, 2003"; and

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

"(6) ADMINISTRATION OF PROJECT.—Not later than September 30, 2002, the administering Secretaries shall undertake measures to ensure that the project under this section is being conducted, and reimbursements are being made, in accordance with subsection (i), including discussions regarding renegotiation of the agreement authorized under subsection (b)(1)(A).".

(b) AUTHORITY TO MODIFY AGREEMENT.—Such section is further amended—

(1) in paragraph (1)(A), by inserting ", which may be modified if necessary" before the closing parenthesis; and

(2) in paragraph (5), by striking "At least 60 days" and all that follows through "agreement" and inserting "The administering Secretaries shall also submit on an annual basis the most current agreement".

(c) CONTINUATION OF PROVISION OF CARE.—Section 1896(b) of such Act is further amended by adding at the end the following new paragraph:

"(7) CONTINUATION OF PROVISION OF CARE.—With respect to any individual who receives health care benefits under this section before the date of the enactment of this paragraph, the administering Secretaries shall not terminate such benefits unless the individual ceases to fall within the definition of the term 'medicare-eligible military retiree or dependent' (as defined in subsection (a)). Notwithstanding paragraph (2), the administering Secretaries shall continue to provide health care under the project at any military treatment center at which such care was provided before the date of the enactment of this paragraph.".

(d) PAYMENTS.—Section 1896 of such Act is further amended by adding at the end the following new subsection:

"(m) PAYMENTS TO MILITARY TREATMENT FACILITIES.—The Secretary of Defense shall reimburse military treatment facilities for the provision of health care under this section.".

(e) ELIMINATION OF RESTRICTION ON ELIGIBILITY.—Section 1896(b)(1) of such Act is amended by adding at the end the following new subparagraph:

"(C) ELIMINATION OF RESTRICTIVE POLICY.—If the enrollment capacity in the project has been reached at a particular site designated under paragraph (2) and the Secretary therefore limits enrollment at the site to medicare-eligible military retirees and dependents who are enrolled in TRICARE Prime (within the meaning of that term as used in chapter 55 of title 10, United States Code) at the site immediately before attaining 65 years of age, participation in the project by a retiree or dependent at such site shall not be restricted based on whether the retiree or de-

pendent has a civilian primary care manager instead of a military primary care manager.".

(f) MEDIGAP PROTECTION FOR ENROLLEES.—Section 1896 of such Act is further amended by adding at the end the following new subsection:

"(m) MEDIGAP PROTECTION FOR ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to any enrollment (and termination of enrollment) in the project (for which payment is made on the basis described in subsection (i)) in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

"(2) In applying paragraph (1)—

"(A) in the case of an enrollment that occurred before the date of the enactment of this subsection, the enrollment (or effective date of the enrollment) is deemed to have occurred on such date of enactment for purposes of applying clauses (v)(III) and (vi) of section 1882(s)(3)(B) of such Act; and

"(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Defense in consultation with the Secretary of Health and Human Services.".

(g) IMPLEMENTATION OF UTILIZATION REVIEW PROCEDURES.—Subsection (b) of such section is further amended by adding at the end the following:

"(8) UTILIZATION REVIEW PROCEDURES.—The Secretary of Defense shall develop and implement procedures to review utilization of health care services by medicare-eligible military retirees and dependents under this section in order to enable the Secretary of Defense to more effectively manage the use of military medical treatment facilities by such retirees and dependents.".

(h) REPORTS.—(1) Subsection (k)(1) of such section 1896 is amended—

(A) in the second sentence, by striking "3½ years" and inserting "4½ years"; and

(B) by redesignating subparagraph (O) as subparagraph (T); and

(C) by inserting after subparagraph (N) the following new subparagraphs:

"(O) Patient satisfaction with the project.

"(P) Which interagency funding mechanisms would be most appropriate if the project under this section is made permanent.

"(Q) The ability of the Department of Defense to operate an effective and efficient managed care system for medicare beneficiaries.

"(R) The ability of the Department of Defense to meet the managed care access and quality of care standards under medicare.

"(S) The adequacy of the data systems of the Department of Defense for providing timely, necessary, and accu-

rate information required to properly manage the demonstration project.".

(2) Section 724 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 10 U.S.C. 1108 note) is amended by inserting "the demonstration project conducted under section 1896 of the Social Security Act (42 U.S.C. 1395ggg)," after "section 722,".

(3) Not later than July 1, 2002, the Secretary of Defense shall submit to the independent advisory committee established in section 722(c) a report on the actions taken to provide that the project established under section 1896 of the Social Security Act (42 U.S.C. 1395ggg) is being conducted on a cost-neutral basis for the Department of Defense.

(4) Not later than December 31, 2002—

(A) the Secretary of Defense shall submit to Congress a report on such actions; and

(B) the General Accounting Office shall submit to Congress a report assessing the efforts of the Department regarding such actions.

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