EC–740. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on community development programs; to the Committee on Banking, Housing, and Urban Affairs.

EC–741. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to a transaction involving exports to the People's Republic of China; to the Committee on Banking, Housing and Urban Affairs.

EC–742. A communication from the Acting Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report on the preservation of minority savings associations; to the Committee on Banking, Housing, and Urban Affairs.

EC–743. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled ''The National Defense Authorization Act for Fiscal Year 1996''; to the Committee on Armed Services.

EC–744. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within 5 days of enactment; to the Committee on the Budget.

EC–745. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within 5 days of enactment; to the Committee on the Budget.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 225. A bill to amend the Federal Power Act to remove the jurisdiction of the Federal Energy Regulatory Commission to license projects on fresh waters in the State of Hawaii (Rept. No. 104–70).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 359. A bill to provide for the extension of certain hydroelectric projects located in the State of West Virginia (Rept. No. 104–71).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 421. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes (Rept. No. 104–72).

S. 461. A bill to authorize extension of time limitation for a FERC-issued hydroelectric license (Rept. No. 104–73).

S. 522. A bill to provide for a limited exemption to the hydroelectric licensing provisions of part I of the Federal Power Act for certain transmission facilities associated with the El Vado Hydroelectric Project in New Mexico. (Rept. No. 104–74).

S. 538. A bill to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, and for other purposes (Rept. No. 104–75).

S. 549. A bill to extend the deadline under the Federal Power Act applicable to the construction of three hydroelectric projects in the State of Arkansas (Rept. No. 104–76).

S. 737. An original bill to extend the deadlines applicable to certain hydroelectric projects, and for other purposes (Rept. No. 104–77).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 395. A bill to authorize and direct the Secretary of Energy to sell the Alaska Power Marketing Administration, and for other purposes (Rept. No. 104–78).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 727. A bill to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes; to the Committee on Armed Services.

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 728. A bill to authorize certain construction at military installations for fiscal year 1996, and for other purposes; to the Committee on Armed Services.

By Mr. BAUCUS (for himself and Mr. LOTT):

S. 729. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one Committee reports, then the other Committee have 30 days to report or be discharged.

By Mr. CHAFEE:

S. 730. A bill to amend title 38, United States Code, to provide that receipt of disability compensation for dependents not depend upon the waiver of receipt of an equal amount of retired pay; to the Committee on Veterans Affairs.

S. 731. A bill to amend title 38, United States Code, to provide that the reduction by waiver of retired pay due to reciept of compensation or pension not apply to retired pay attributable to pay for extraordinary heroism; to the Committee on Veterans Affairs.

By Mrs. BOXER:

S. 732. A bill to amend chapter 81 of title 5, United States Code, to prohibit Members of Congress from receiving Federal workers' compensation benefits for injuries caused by stress or any other emotional condition, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROTH (for himself, Mr. BIDEN, Mr. JEFFORDS, Mr. LEAHY, Mr. MOYNIHAN, Mrs. MURRAY, Mr. CHAFEE, Mrs. BOXER, Mr. COHEN, and Mr. LAUTENBERG):

S. 733. A bill to amend title 23, United States Code, to permit States to use Federal highway funds for capital improvements to, and operating support for, intercity passenger rail service, and for other purposes; to the Committee on Environment and Public Works.

By Mr. REID (for himself and Mr. BRYAN):

S. 734. A bill to designate the United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, as the ''Bruce R. Thompson United States Courthouse and Federal Building'', and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOLE (for himself, Mr. HATCH, Mr. NICKLES, Mr. THURMOND, Mr. SIMPSON, Mr. BROWN, Mr. KYL, and Mr. GRAMM):

S. 735. A bill to prevent and punish acts of terrorism, and for other purposes; read the first time.

By Mr. HARKIN (for himself and Mr. BOND):

S. 736. A bill to amend title IV of the Social Security Act by reforming the aid to families with dependent children program, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 737. An original bill to extend the deadlines applicable to certain hydroelectric projects, and for other purposes; from the Committee on Energy and Natural Resources; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 112. A resolution commending the Senate Enrolling Clerk upon his retirement; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. NUNN) (be request):

S. 727. A bill to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes; to the Committee on Armed Services.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, a bill to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strength for fiscal year 1996, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and a section-by-section analysis explaining its purpose be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, April 20, 1995.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The Department of Defense proposes the enclosed draft of legislation, ''To authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes.''

This legislative proposal is part of the Department of Defense legislative program for the 104th Congress and is needed to carry out

the President's budget plans for fiscal year 1996. The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

This bill provides management authority for the Department of Defense in fiscal year 1996 and makes several changes to the authorities under which we operate. These changes are designed to permit a more efficient operation of the Department of Defense.

Enactment of this legislation is of great importance to the Department of Defense and the Department urges its speedy and favorable consideration.

Sincerely,

JUDITH A. MILLER.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

SECTION-BY-SECTION ANALYSIS

Title I—Procurement

Authorization of Appropriations

Section 101. Army
Section 102. Navy and Marine Corps
Section 103. Air Force
Section 104. Defense-wide activities
Section 105. Defense Inspector General
Section 106. Chemical demilitarization program
Section 107. Defense health program

Sections 101 through 107 provide procurement authorization for the Military Departments and for Defense-wide appropriations in amounts equal to the budget authority included in the President's budget for fiscal years 1996 and 1997.

Section 108. Repeal of requirement for separate budget request for procurement of reserve equipment

Section 108 repeals the provisions of section 114(e) of title 10, United States Code, requiring a separate budget request for the procurement of Reserve equipment.

Title II—Research, Development, Test, and Evaluation

Section 201. Authorization of appropriations

Section 201 provides for the authorization of each of the research, development, test, and evaluation appropriations for the Military Departments and Defense Agencies in amounts equal to the budget authority included in the President's budget for fiscal years 1996 and 1997.

Title III—Operation and Maintenance

Subtitle A—Authorization of Appropriations

Section 301. Operation and maintenance funding

Section 301 provides for authorization of the operation and maintenance appropriations of the Military Departments and Defense-wide appropriations in amounts equal to the budget authority included in the President's budget for fiscal years 1996 and 1997.

Section 302. Working capital funds

Section 302 authorizes appropriations for the Defense Business Operations Fund and the National Defense Salified Fund in amounts equal to the budget authority included in the President's budget for fiscal years 1996 and 1997.

Section 303. Civilian Marksmanship Program fund

Section 303 amends the provisions of section 4308 and 4313 of title 10, United States Code, relating to the Civilian Marksmanship Program, to reflect the President's Budget proposal that the Program be funded exclusively from reimbursements received in the execution of the program.

Section 304. Repeal of limitations on activities of Defense Business Operations Fund

Section 304 amends section 316(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 to repeal limitations on the activities of the Defense Business Operations Fund

Section 305. Amendments relating to the Ready Reserve Force Component of the Ready Reserve Fleet

Section 305 amends the provisions of section 2218 of title 10, United States Code, relating to the National Defense Sealift Fund, to reflect the funding for the Ready Reserve Component of the Fleet by the Department of Defense as requested in the President's budget.

Subtitle B—Reserve Component

Section 321. Reimbursement of pay and allowances and accountability of Reservists supporting cooperative threat reduction with States of the Former Soviet Union.

This section amends section 1206 of the National Defense Authorization Act for Fiscal Year 1995, which authorizes funds for the execution of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160) by adding two new subsections.

New subsection (c) would permit funds appropriated to execute programs authorized by the Cooperative Threat Reduction Act to be utilized to reimburse the military personnel appropriations accounts for the pay and allowances paid to reserve component personnel for service while engaged in any program authorized by this Act. The utilization of Reserve component personnel, particularly in expansion of military-to-military and defense contacts, is particularly advantageous.

Permitting these funds to be used to reimburse the active military appropriations accounts removes a significant resource impediment to increasing the opportunities for ordering individual reserves to active duty with their consent as specified in section 513 of the National Defense Authorization Act for Fiscal Year 1995. A similar provision was passed by the 103rd Congress in section 1316 (a) of the National Defense Authorization Act for Fiscal Year 1995 for Military-to-Military Contracts and Comparable Activities.

New subsection (d) would exempt members of a reserve component participating in activities or programs specified in the Cooperative Threat Reduction Act of 1993 who served over 180 days from counting against the authorized end strength for members of the armed forces on active duty under section 115(a)(1) of title 10 and against the senior grade strength limitations of sections 517 and 523 of title 10. Approval of this exemption from end strength and senior grade strength limitations removes an impediment to increasing the opportunities for ordering individual reserves to active duty with their consent as specified in section 513 of the National Defense Authorization Act for Fiscal Year 1995. A similar provision was passed by the 103rd Congress in section 1316 (c) of the National Defense Authorization Act for Fiscal Year 1995 for Military-to-Military Contacts and Comparable Activities.

There are no additional costs associated with enacting this legislation.

Section 322. Authority for Department of Defense funding for National Guard participation in joint exercises with the Army and Air Force for disaster and emergency assistance

This section would authorize the Secretary of the Army and the Secretary of the Air Force to provide for personnel of the National Guard, using funds appropriated for National Guard training exercises, to participate in joint exercises with the Army and Air Force to train for disaster and emergency response, and would thus allow these personnel to participate in such exercises in a Federally paid (title 32) status under state authority.

Under current law, Department of Defense funding for the National Guard may not be used for training the National Guard for disaster and emergency response. Funding for this training is the responsibility of the states and FEMA, and such training must be done in a state active duty status. This provision would authorize a limited exception to this allocation of responsibility by permitting use of Department of Defense funds and title 32 status for the Guard when engaged in joint exercises with the Army or Air Force for disaster and emergency response training. Disaster and emergency response training and exercises of the National Guard when not conducted in conjunction with the Army or the Air Force would continue to be a state and FEMA responsibility.

This amendment will ensure that National Guard personnel participating in joint exercises with members of the other components of their armed forces are eligible for the same protections and benefits as their counterparts from the Army Reserve, Air Force Reserve, and Regular components with whom they are participating. It will also avoid situations where lack of state or FEMA funds preclude participation by Guard units in joint exercises and thereby undermine the efficacy of those exercises.

Subtitle C—Other Matters

Section 331. Aviation and vessel war risk insurance

The purpose of this legislation is to provide a means for rapid payment of claims and the rapid reimbursement of the insurance funds to protect commercial carriers assisting the Executive Branch from catastrophic losses associated with the destruction or damage to aircraft or ships while supporting the national interests of the United States. Allowing the Department of Defense to transfer any and all available funds will allow the United States, in these two vital reinsurance programs, to match standard commercial insurance practice for the timely payment required by financial arrangements common in the transportation industry today. Reporting and the requirements for supplemental appropriations, if any, ensures Congressional oversight at all stages.

Subsections (a) and (b) of the proposed legislation set forth the short title and the findings and purposes, respectively.

Subsection (c) of the proposed legislation amends section 44305 of title 49, United States Code, by adding a new subsection (c).

Subsection (c)(1) allows transfer of any funds available to the Department of Defense, regardless of the purpose of those funds. Although other authorities may exist to transfer funds, limitations as to amounts and priorities make these authorities insufficient to rapidly respond to the obligations of the Department of Defense under the current law, especially if contingencies or war-time conditions exist. Proposed language would not distinguish between types of insurance or risk, so long as the Federal Aviation Administration had issued a policy covering the risk. The language would not limit the authority to a specific fiscal year, but would be ongoing without need for reenactment periodically by Congress. Such Congressional oversight is already in place through the reauthorization of the Aviation Insurance Program, next scheduled to take place in 1997.

Subsection (c)(2) provides specific time limits with which the Secretary of Defense must pay claims and reimburse the Federal Aviation Administration. Notification to Congress and the 30 day delay before transfer

required in other statutes is waived. The most important issue for the air carriers is the replacement of the hull so that they may continue operations, including supporting the requesting agency, without idling crews or having to lay off personnel due to the lack of airframes. A longer time frame is provided for other claims, such as liability to third parties, as normal claims procedures can adequately protect their interests.

Subsection (c)(3) requires reports to Congress within 30 days of loss for amounts in excess of one million dollars, with periodic updates to ensure Congress is aware of amounts being transferred and paid out under the chapter 443 program. As supplemental appropriations may be necessary, Congress will have sufficient information on which to base a decision regarding the supplemental appropriations.

Subsection (d) of the proposed legislation amends section 1205 of the Merchant Marine Act, 1936, (46 App. U.S.C. §1285) by adding a new subsection 9c).

Subsection (c)(1) authorizes the Secretary of Defense to transfer funds available to the Department to pay claims by contractors, for the damage or loss of vessels and death or injury to personnel, insured pursuant to Title XII of the Merchant Marine Act, 1936, or loss or damage associated therewith. Proposed language would not distinguish between types of insurance or risk, so long as the Maritime Administration had issued a policy covering the risk. The language would not limit the authority to a specific fiscal year, but would be ongoing without need for reenactment periodically by Congress. Such Congressional oversight is already in place through the reauthorization of the Vessel War Risk Insurance Program, next scheduled to take place before the 30 June 1995 expiration (46 App. U.S.C. §1294).

Subsection (c)(2) provides specific time limits within which the Secretary of Defense must reimburse the Secretary of Transportation.

Subsection (c)(3) requires reports to Congress on a periodic basis for claims paid in amounts in excess of one million dollars to ensure Congress is aware of amounts being transferred and paid out under the Title XII program. As supplemental appropriations may be necessary, Congress will have sufficient information on which to base a decision regarding the supplemental appropriations.

The addition of subsection (c) to section 44305 of title 49, United States Code, and subsection (c) to section 1205 of the Merchant Marine Act, 1936, (46 App. U.S.C. §1285) would allow the Department of Defense to rapidly pay claims resulting from damages or injuries caused by risks covered by the respective programs as a consequence of providing transportation to the United States when commercial insurance companies refuse to cover such risks on reasonable terms and conditions. The requirement to reimburse the Federal Aviation Administration or the Maritime Administration already exists; however, the only method for payment currently available may involve requesting supplemental appropriations from Congress. Such a process historically has taken six months or longer. Many air carriers have indicated their financial obligations may not allow them to continue to support the United States if rapid payment for losses cannot be made. Commercial aircraft insurance policies and practice require payment in less than 30 days when cause is not an issue, usually within 72 hours.

If enacted, this legislation would not result in an increase in the budgetary requirements of the Department of Defense.

Section 332. Testing of theater missile defense interceptors

The purpose of this legislation is to eliminate the requirement to attempt complex, multi-shot-engagement scenarios with relatively immature Engineering Manufacturing Development hardware when these same scenarios must be performed with production-representative hardware during the Initial Operational Test and Evaluation (IOT&E) phase.

The requirement to demonstrate interceptor performance under operationally realistic conditions with production-representative hardware already exists. The premature duplication of this testing will only add greater technical complexity, cost, and risk to the program and provide little if any technical value.

Theater Missile Defense (TMD) interceptor performance will be performed during the Initial Operational Test and Evaluation (IOT&E) phase and results reported to Congress prior to the system being allowed to enter production. The Director of Operational Test and Evaluation, Office of the Secretary of Defense, will prepare and submit a Beyond Low-Rate Initial Production Report. This report will confirm that adequate testing, including multi-shot scenarios, has been completed. This testing must be conducted in operational environments and scenarios, consistent with conditions that the interceptor will be expected to operate in when fielded.

Section 333. Authority to assign overseas school personnel to domestic schools and vice versa

This section would authorize the Secretary of Defense to assign personnel of either the school system established under section 2164 of title 10 or the school system established by the Defense Dependents' Education Act of 1968 (title XIV of the Education Amendments of 1978; 20 U.S.C. 921 *et seq.*) to provide administrative, logistical, personnel, and other support services to the other system, either in addition to, or in place of, their normal duties. Such assignments may be for the period prescribed by the Secretary.

Section 334. Authorization for expenditure of O&M and procurement funds for the accelerated architecture acquisition initiative

This section amends title 10 by adding a new section 2395a the purpose of which is to allow the Central Imagery Office (CIO), as a Combat Support Agency, to expend currently-programmed O&M and Procurement funds to establish, implement, and deploy a worldwide imagery architecture. Having flexibility to use these funds will provide the Central Imagery Office the ability to meet changing imagery requirements, ensure readiness, and provide timely support to military operations.

In the past, numerous studies and evaluations have indicated that the United States imagery system was unable to provide required imagery support in a timely manner. The experience of Desert Shield/Desert Storm reinforced those evaluations. The Central Imagery Office was created and assigned responsibility for enhancing the ability of the military departments, Unified Commands, their components, Joint Task Forces, tactical units, and other activities to make use of all imagery assets in a timely manner. The Accelerated Architecture Acquisition Initiative is a key program through which the Central Imagery Office will develop and field systems to provide real-time access to and dissemination from existing and planned imagery collection systems (national and theater) to defend and national users worldwide, real-time access to distributed digital imagery and imagery-product archives, and enhancements to and increases in the capacity of existing Department of Defense data networks to accommodate increased requirements from the imagery assets.

Critical to the success of the Accelerated Architecture Acquisition Initiative is centralized management and oversight to balance requirements to ensure successful development, procurement, and development of necessary hardware, software, communications, and services. Central Imagery Office must ensure the standardization, compatibility, and interoperability of equipment and processes to provide a worldwide system for required, timely imagery support. A key element the Accelerated Architecture Acquisition Initiative is the near-term provision to JCS-selected users of that equipment necessary to receive and use digital imagery products.

The Central Imagery Office's proposal provides the express language needed in the 1996 Appropriations Act for authority to purchase and deploy hardware, software, and communications, using Central Imagery Office funds, for activities funded in the Department of Defense-funded portion of the NFIP. Without this special provision, 31 U.S.C. section 1301A would prevent the Central Imagery Office from using funds appropriated to it in the defense-wide appropriation in this manner. The Central Imagery Office will be unable to carry out its intended emission to deliver Accelerated Architecture Acquisition Initiative capabilities to the organizations that require them and to establish successfully the Accelerated Architecture Acquisition Initiative architecture worldwide. This legislation will allow for an efficient and highly flexible way for the Central Imagery Office to deploy needed capabilities during crisis and emergencies, to meet changing imagery requirements, ensure readiness, and provide timely support to military operations.

Enactment of this proposal will not increase the budgetary requirement of the Department of Defense.

Section 335. Establishment of a Department of Defense Laboratory Revitalization Demonstration Program

The authority would establish a test program to allow the heads of selected defense laboratories greater flexibility to undertake facilities modernization without the requirement to seek approval from higher levels. The purpose of the program is to reduce the amount of time required to upgrade research and development capabilities at Department of Defense laboratories. The provision would recognize that facilities construction in support of research and development is historically more expensive than similar-sized projects in other construction categories. For test program laboratories, the provision would raise the threshold from $1.5 million to $3.0 million for minor military construction projects that the Secretary of Defense may carry out without specific authorization in law. The provision would also raise the threshold for minor military construction projects requiring prior Secretary of Defense approval from $500,000 to $1.5 million. Finally, the provision would raise for selected laboratories the threshold from $300,000 to $1.0 million for the value of any unspecified military construction project for which operation and maintenance funds may be used.

The test authority would expire on September 30, 2000. It would also require the Secretary of Defense to designate participating laboratories before the test may begin and to report to Congress on the lessons learned from the test program one year before it is terminated.

Subsection (a). A healthy and responsive defense laboratory system is essential to the

national defense and security, and to foster the growth and development of new technologies having both military and civilian applications. A strong and flexible defense laboratory system, staffed by top quality scientists, technicians, and engineers, with state-of-the-art equipment and facilities is critical to meeting new and changing world threats, as well as maintaining America's technological military leadership.

The ability of defense laboratories to rapidly introduce technological innovation into military systems, and to respond to technological exigencies has been significantly degraded by requirements that the laboratories conduct their facilities modernization functions under a set of complex and time consuming procedures inappropriate to laboratory operations. The inability of our laboratories and centers to modernize antiquated facilities in a prompt fashion has resulted in an ineffective and inefficient use of tax dollars.

The Secretary of Defense has determined that many of the problems in the defense laboratory system stem from the application of procedures and processes to the laboratories that are inappropriate to the research and development community. The Secretary anticipates that the elimination of certain unnecessary and cumbersome restrictions would result in much more efficient and effective laboratories. The Secretary has already selected laboratories from each of the military departments to participate in a demonstration program to substantiate the hypothesis. Currently, internal procedures and regulations are being updated, streamlined, or abolished for the purpose of the demonstration program. This proposal is intended to make those legislative changes identified by the Secretary of Defense as necessary to partially implement the Demonstration Program.

In implementing any authorizations in this Act that are waivers or exceptions to existing law or laws, the Secretary will assure that the basic purposes and interests of the original laws will be carried out and protected in a manner most appropriate to the research and development community.

The Secretary will review and evaluate the findings of the demonstration program, and make appropriate recommendations as to the applicability of legislative changes to all Department of Defense laboratories.

Subsection (b). This section is aimed at improving the research and development facility based by enhancing the process for upgrading the facilities including built-in equipment necessary for performing state-of-the-art research and development.

The inherently complex nature of conducting modern research requires facilities, equipment and support infrastructure that are simply more expensive, on a unit basis, than other types of military support activity. For example, representative examples of minor facilities construction obtained from each of the three Services from their fiscal year 1993 minor military construction (MILCON) requests, show laboratory construction, expansion or reconfiguration costing, on a square foot basis, about three times what a similarly sized office building cost.

Aside from meeting and responding to military crises such as Desert Storm, the very nature of the experimental process requires a rapid response to a scientific discovery. Often significant new information can be acquired by building on an existing experiment if that ''add on'' experiment can be put in place in a coherent fashion. Time is of the essence if experimental opportunities are to be maximized and efficiently exploited.

Operating and maintaining a government owned research and development facility base is in the best interests of the nation for the following reasons;

The Department of Defense research and development operations perform research and development activities quickly in response to operational needs. Examples of government scientists involved in the Desert Storm operation attest to the efficacy of the Department of Defense laboratory programs. Having Federal employees dedicated to defense research and development assists in assuring accurate communications and continuity of research and development assistance.

The cadre of government scientists with contemporary facilities assures that government managers have knowledgeable unbiased advisors on research and development, i.e., the ''smart buyer'' model. To stay current, scientists must not only continue their academic education, but need to be actively involved in contemporary research and development.

There are certain types of research and development that the government needs to maintain, due to their sensitive nature. Specific examples include chemical and biological agents, and nuclear effects.

There are some types of research and development that are not accomplished in private institutions, but are necessary for military operations. Specific examples include fuzing, communications network defense, special sensors, special military related medical research, and night vision equipment.

There are certain types of generic research in exotic or speculative areas which may have significant future military impact. Our laboratories, at least on a limited and selective basis, must have the ability to promptly pursue such research as opportunity dictates.

Subsection (b)(1). Sections 2805 (a) and (b) (1) of title 10 were established under Public Law 97–214 and were effective October 1, 1982. This provision is available to the agency to perform minor construction which was not specified in the Military Construction requests. The dollar limitations contained in 2805 (a) and (b) of title 10 were last revised in 1991.

The construction of laboratory and supporting facilities in direct support of state-of-the-art research and development historically is more expensive than similar sized projects in other construction categories. Specifically, there are unique safety, security, and operational requirements which inherently increase the cost for laboratory facilities. Increasing the limit of unspecified minor military construction to $3,000,000 for facilities in support of research, development, test, and evaluation (RDT&E) would allow the head of the laboratory the same relative latitude as the commander of other military programs.

Subsection (b)(2). The provisions contained in section 2805(b)(2) were intended to insure proper Congressional control and oversight of the minor military construction flexibility granted to the Service Secretaries. While the provisions of this Bill would modify the dollar threshold level at which such notification to the Congress would be required for this demonstration program, an effective evaluation of this demonstration program does require an appropriate reporting function. Consequently the Department of Defense, through already existing internal mechanisms, intends to identify the scope, nature and dollar amount of the use of this authority. The Services will report to the Director of the Defense Research and Engineering at the end of each fiscal year on how this authority was utilized describing dollar amounts, sources of funds and projects undertaken. This data could be made available to the Congress as part of the evaluation of the program.

Subsection (b)(3). The current provision found at section 2805(c)(1) setting a limit of $300,000 operation and maintenance funds for minor modifications and construction is appropriate for typical government office buildings, such as establishing walls and electrical outlets for an office. However, this dollar amount has been unduly restrictive for accomplishing laboratory modifications. To establish a state-of-the-art research and development environment, there are often special needs such as special ''clean room'' requirements, and special plumbing or ventilation requirements for safety equipment that cannot be met for $300,000. Raising the amount to $1,000,000 would allow the type of minor work available to most Commands but precluded to most Heads of Laboratories.

Subsection (c). It is the intention of the legislation to conduct an experiment to determine the effectiveness and benefits of granting this authority. Consequently, some baseline participation must be established for comparative purposes to permit effective evaluation of the program.

Subsection (d). The Department intends to document the performance and results of this program in order to effectively recommend to the Congress whether and with what changes this initiative should be made permanent.

Subsection (e). This section is included to assure that the language of this Act does not limit any existing authority that may have been granted to one or more of the laboratories under this Program.

Subsection (f). This section provides the definitions common to this Act.

Subsection (g). This section is included to insure that appropriate recommendations are made to the Congress.

Section 336. Repeal of certain depot-level maintenance provisions

This section repeals sections 2466 and 2469 of chapter 146, title 10, United States Code. These sections impose limitations on the amount of depot-level maintenance of materiel that can be performed by non-federal government employees and place restrictions on changing the performance of maintenance workloads currently performed in depot level activities of the Department of Defense to other depots and to private industry.

Section 2466 provides that not more than 40 percent of the funds made available in a Fiscal Year to a military department or a Defense Agency, for depot-level maintenance and repair workload may be used to contract for performance by non-Federal Government personnel of such workload for the military department or the Defense Agency. Repeal of Section 2466 will provide the Department of Defense and the military departments the needed flexibility to accomplish more than 40 percent of their depot maintenance workload by non-Federal Government employees when needed to achieve the best balance between the public and private sectors of the Defense industrial base. The repeal of Section 2466 will not increase the budgetary requirements of the Department of Defense.

Section 2469 prohibits the Secretary of Defense or the Secretary of a Military Department from changing the performance of a depot-level maintenance workload that has a value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense unless, prior to any such change, the Secretary uses competitive procedures to make the change. The Department has suspended cost competitions for depot maintenance workloads because the data and cost accounting systems of the Department are not capable of determining actual costs for accomplishing specific depot

maintenance workloads in the depots. Repeal of Section 2469 will permit the Department of Defense and the military departments to shift workloads from one depot to another or to private industry as required to resize the depot maintenance infrastructure to support a smaller force structure. The repeal of section 2469 will not increase the budgetary requirements of the Department of Defense.

This legislation will enable the Department to structure its organic Defense depot maintenance activities consistent with satisfying core logistics capability requirements that are based on providing effective support for national defense contingency situations and other emergencies.

The proposed repeal of sections 2466 and 2469 will permit the Department of Defense to accomplish depot maintenance for weapon systems and equipment in the most cost effective and efficient manner. The Department is establishing core depot maintenance centers of excellence to retain the best quality products and services to support its combat forces. The Department's core depot maintenance concept promotes sharing of workload between Defense depots and private industry to accommodate teaming efforts and supports the best application of modern technology for accomplishing depot maintenance.

The repeal of sections 2466 and 2469 will allow the Department to shift workloads from current depots to other Defense depots and to compete workloads in the private sector to achieve the lowest costs and best efficiency in support of the core depot maintenance concept. It will also enable the Department to size its depot maintenance infrastructure to best support emergency and contingency scenarios with the required levels of weapon systems readiness.

The enactment of this proposal will not increase the budgetary requirements of the Department of Defense.

Title IV—Military Personnel Authorizations

Subtitle A—Active Forces

Section 401. End strengths for Active Forces

Section 401 prescribes the personnel strengths for the Active Forces in the numbers provided for by the budget authority and appropriations requested for the Department of Defense in the President's budget for fiscal years 1996 and 1997.

Subtitle B—Reserve Forces

Section 411. End strengths for Selected Reserve

Section 411 prescribes the strengths for the selected Reserve of each reserve component of the Armed Forces in the numbers provided for by the budget authority and appropriations requested for the Department of Defense in the President's budget for fiscal years 1996 and 1997.

Section 412. End strengths for Reserves on active duty in support of the Reserves

Section 412 prescribes the end strengths for reserve component members on full-time active duty or full-time National Guard duty for the purpose of administering the reserve forces.

Subtitle C—Military Training Student Loads

Section 421. Authorization of training student loads

Section 421 provides for the average military training student loads in the numbers provided for this purpose in the President's amended budget for fiscal years 1996 and 1997.

Title V—Military Personnel Policy

Subtitle A—Officer Personnel Policy

Section 501. Equalization of accrual of service credit for officers and enlisted members of the Armed Forces

Subsection (a) amends section 972 of title 10 by combining and redrafting paragraphs (3) and (4) and by replacing ''liable'' with ''required''. These changes are intended to clarify the provision and do not make substantive change to the current law. Section 972 states that enlisted members must make up lost under certain circumstances before that time can be counted toward service for retirement.

Subsection (b) amends title 10 by adding a new section 972a. The purpose of this new section is to prevent accrual of service credit to an officer of the armed forces under the following circumstances: (1) while in a deserter status; (2) while absent from duty, station, or organization for more than one day without proper authority; (3) while confined by military or civilian authorities for more than one day before, during or after trial; or (4) while unable for more than one day to perform duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from an officer's misconduct. These circumstances are the same as those under which an enlisted member is required to make up time lost under section 972 of title 10. Such time would not count in computing the officer's length of service for any purpose except the computation of basic pay under section 205 of title 37, including, but not limited to, voluntary retirement for length of service under chapters 367, 571, or 867 of title 10.

Sections 3925 and 8925 of title 10 address computation of years of service for voluntary retirement by regular enlisted members of the Army and the Air Force, subject to the provisions of section 972. As noted above, section 972 states that enlisted members must make up time lost under certain circumstances before that time can be counted toward service for retirement. This made-up time ensures that the Army and the Air Force receive a full commitment based on an enlistment or induction contract. Comparable provisions relating to the Navy in chapter 571 of title 10, do not reference section 972 and do not have a provision comparable to sections 3925 and 8925.

Sections 3929 and 8926 of title 10 address computation of years of service for voluntary retirement by regular and reserve commissioned officers of the Army and the Air Force. Comparable provisions relating to the Navy in chapter 571 of title 10, do not have a provision comparable to sections 3929 and 8926. Presently, there are no limitations placed on officers for actions similar to those in section 972. Officers continue to receive service credit towards retirement eligibility, higher longevity pay, and increased multiplier for retired pay purposes. At the same time, highly-qualified officers selected for early retirement cannot be extended past their mandatory retirement date to reach a pay increase point. This proposal will rectify these inequities.

Subsections (c) and (e) amend sections 3926 and 8926 of title 10 to make reference to new section 972a in the same fashion that section 972 is referenced in sections 3925 and 8925 of title 10. Subsection (d) amends title 10 by adding a new section 6328 in chapter 571 to make reference to both sections 972 and 972a.

The enactment of this proposal will not increase the budgetary requirements of the Department of Defense.

Section 502. Changes in general officer billet titles resulting from the reorganization of headquarters, Marine Corps

The purpose of this legislation is to replace the current Sections 5041(b), 5044 and 5045 of Chapter 506 of title 10, United States Code, with language to reflect reorganization of Headquarters Marine Corps to more efficiently support the Commandant in his two roles as a member of the Joint Chiefs of Staff and as a Service Chief.

Based on a Headquarters Marine Corps Reorganization Study, proposed changes were recommended to establish a viable organization that incorporates coherent, timely and forceful resource management and advocacy; General Officer efficiencies; and the ability to respond rapidly to emerging issues in a coordinated and comprehensive method.

The following changes in general officer billet titles were proposed to more efficiently accomplish support to the Commandant:

The Assistant Commandant of the Marine Corps to Vice Commandant of the Marine Corps;

Deputy Chiefs of Staff of the Marine Corps to Deputy Commandants of the Marine Corps;

Assistant Deputy Chiefs of Staff of the Marine Corps to Assistant Deputy Commandants of the Marine Corps;

Assistant Chiefs of Staff of the Marine Corps to Assistant Commandants of the Marine Corps.

This proposal will be effected at no cost to the Department of Defense or the Department of the Navy

Section 503. Increase in the transition period for officers selected for early retirement

Paragraphs (1) of subsections (a) and (b) would amend sections 581 and 638 of title 10, United States Code, to extend the transition period for officers selected for early retirement by three months. Under subsections 581(b) and 638(b)(1)(A) of title 10, an officer must be retired ''not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement.'' Subsections (a) and (b) of this proposal would require officers selected for early retirement to be retired not later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement.

Paragraphs (2) of subsections (a) and (b) would authorize the Secretary concerned to defer the retirement of an officer otherwise approved for early retirement under section 581, 638 or 638a of title 10 for not more than 90 days, in order to prevent a personal hardship for the officer or for other humanitarian reasons.

Subsection (c) would exclude from counting for the purpose of determining authorized end strength under section 115 of title 10, those officers selected for early retirement whose mandatory retirement date has been deferred, for up to 90 days, by the Service Secretary for reason of personal hardship or other humanitarian reasons.

Under current law, officers selected for early retirement have six months and some fraction of a seventh month to prepare for an involuntary transition to civilian life. In most cases, these officers have career expectations which are limited only by statutory restrictions on years of commissioned service and, therefore, are not prepared to make this sudden, unwanted transition. Many of the officers selected for early retirement must seek and attain post-military service employment, move families to retirement locations, meet current financial obligations such as mortgage payments and college tuition costs for older children and work around secondary and elementary education school schedules for younger children.

Compressing these major events into a six month period is difficult, particularly if the officer is deployed or stationed overseas. Extending the transition period by three months would not only permit officers selected for early retirement to plan a more

orderly transition to civilian life while still performing in their military positions, but would also provide the Services more time in which to identify and detail reliefs for these officers while still meeting fiscal year officer end strength requirements.

This proposal to increase the transition period for officers selected for early retirement by three months is a modest, but necessary change which will positively affect one of the military's most negative personnel reduction processes. While this change will not eliminate an officer's shock of being forcibly retired early from a Service, it will soften the impact for affected officers and their families who have dedicated 20 or more years of faithful and professional military service to the United States.

There is no cost associated with this proposal. Selective Early Retirement Boards could be convened three months earlier to offset any net increase in total pay and allowances expended as a result of the three month extension in the transition period.

Section 504. Revision in the authorized strength limitations for Air Force commissioned officers on active duty in the grade of major

This section would authorize the Secretary of the Air Force to raise temporarily the ceiling on the number of majors on active duty in the Air Force by 1,100. Such statutory authority would allow the Air Force to accelerate promotion timing to meet congressional intent as expressed through the Defense Officer Personnel Management Act. This proposal will not increase the total number of commissioned officers authorized by the Air Force and will not impede planned reductions in the officer force.

Section 505. Revision in the authorized strength limitations for Navy commissioned officers on active duty in grades of lieutenant commander, commander, and captain

This section temporarily and uniformly raises the ceilings on the numbers of lieutenant commanders, commanders and captains on active duty in Navy by 910, 722 and 300, respectively. This temporary increase in ceilings is necessary to provide sufficient grade authorizations to maintain Unrestricted and Nurse promotion flow and opportunity within Defense Officer Personnel Management Act (DOPMA) guidelines. This temporary authority would expire on the 30th of September, 1997, by which time Navy post-draw down officer requirements and end strength will have stabilized, and a more precise determination of permanent grade table relief requirements can be made. For the long term, Navy requires permanent grade table relief to maintain officer career progression within Defense Officer Personnel Management Act guidelines. Navy will pursue this permanent relief as part of a joint Service effort coordinated by the Department of Defense.

Navy's Unrestricted Line O–4 flow point will exceed the Defense Officer Personnel Management Act guideline of 11 years in fiscal year 1999, and peak at 13 years and 6 months in fiscal year 2003, despite the use of forced attrition programs to control this increase. As the significant career milestone of promotion to O–4 slips further off into the future, Navy will find it increasingly more difficult to attract high-caliber officers and retain its best junior officers, particularly in the current climate of declining strength, increased forced attrition and reduced retirement benefits.

To provide Nurse Corps officers with comparable promotion opportunity and, Navy has had to provide substantial internal compensation to the Nurse Corps. Without this ''compensation'' Nurse Corps promotion opportunity and timing would remain outside of the Defense Officer Personnel Management Act promotion system guidelines indefinitely at the grades of commander and captain. In the current environment of declining strength this compensation is becoming increasingly more difficult to provide.

The proposed temporary change to the grade table will provide sufficient grade relief to maintain Unrestricted Line and Nurse Corps promotion opportunity and timing within Defense Officer Personnel Management Act guidelines and ensure Navy's ability to attract and retain the high-caliber officers it requires.

The approximate cost to implement this initiative is estimated as follows (in millions): Fiscal Year 1996: 00.00; Fiscal Year 1997: 10.00.

These amounts have not been included in any estimates for appropriations submitted through budget channels by the Department of Defense.

Section 506. Authorization of general or flag officer promotion zones

This section amends section 645 of title 10 to clarify the definitions of promotion zones which are applicable to Chapter 36 of title 10. The modified definitions will not require executive level officers (grades 0–6 and above) to be placed in a promotion eligibility category (above the zone) for officers who have failed of selection for promotion. Executive level officers become eligible to be selected for promotion when they have one year service in grade, and remain eligible unless selected for promotion or retired.

In part, the Defense Officer Personnel Management Act (DOPMA) was enacted to make uniform the provisions of law relating to promotion of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps. The Defense Officer Personnel Management Act was, however, enacted primarily for the purpose of field grade officer management.

At the time of the Defense Officer Personnel Management Act's enactment, it was apparent that executive level officers were not intended to be subject to all of the provisions of the Defense Officer Personnel Management Act. The House of Representatives Report of the Committee on Armed Services which accompanied Senate bill 1918 states ''this category of executives is in many ways unique and can and should be managed accordingly. The small numbers involved permit this, and the importance of the resource demands this.'' The House report further states that ''the concept of failing selection for promotion does not apply when officers are not selected for promotion to the flag and general officer grades.''

Given that executive level officers do not fail selection for promotion and, therefore, should not be placed in an ''above the promotion zone'' category, it is proposed that the definition of ''promotion zone'' be modified to include executive level officers considered previously for promotion. The proposed amendment would, therefore, clarify that such officers are not above the zone, and thereby eliminate any stigma of failing of selection, bringing the statute squarely within the apparent intent of Congress. There are no other provisions of the Defense Officer Personnel Management Act which are affected by the proposed modifications.

There are no costs associated with this legislation.

Subtitle B—Reserve Component Matters

Section 511. Repeal of requirement for physical examination on calling militia into Federal service

This section repeals section 12408 of title 10, United States Code, which requires that each member of the National Guard receive a physical examination when called into, and again when mustered out of, Federal service as militia. For short periods of such service, this requires two complete physical examinations during a period of days or weeks. In view of other statutory and regulatory requirements for periodic medical examinations and physical condition certifications for members of the National Guard, this additional examination requirement is unnecessary, administratively burdensome, and expensive, and could impede the rapid and efficient mobilization of the National Guard for civil emergencies.

There is no corresponding statutory requirement for physical examinations when members of the National Guard or other reserve components are ordered to active duty as reserves.

Section 512. Military leave for public safety duty performed by members of the Reserve components of the Armed Forces

This section amends section 6323(b) of title 5 by permitting employees to elect, when performing duties described in that section, either military leave under that subsection or annual leave or compensatory time to which they are otherwise entitled. This amendment would not permit use of sick leave for the performance of military duty described in section 6323(b).

Section 513. Change to Reserve Officers' Training Corps advanced course admission requirements

This section amends section 2104(b)(6)(A)(ii) of title 10 to permit the Secretary of the military department to prescribe the length of the field training or practice cruise that persons who have not participated in the first two years of Reserve Officers' Training Corps must complete to be enrolled in the Reserve Officers' Training Corps Advanced Course. Currently, the preliminary training must last at least six weeks.

This proposal authorizes the Secretary concerned to prescribe the length of the field training or practice cruise required for admission to the Reserve Officers' Training Corps Advanced Course.

Section 514. Clarifying use of military morale, welfare, and recreation facilities by Retired Reservists

This section amends section 1065(a) of title 10, United States Code, to give members of the Retired Reserve who would be eligible for retired pay but for the fact that they are under 60 years of age (gray area reservists) the same priority for use of morale, welfare, and recreation (MWR) facilities of the military services as members who retired after active-duty careers.

Currently, section 1065(a), enacted in 1990, gives the retired reservists the same priority as active-duty members. They, therefore, have preference over retirees from active duty. This section amends the current section 1065(a) by revising the last sentence to correct this inequity.

Enactment of this section will not result in an increase in the budgetary requirements of the Department of Defense.

Section 515. Objective to increase percentage of prior active duty personnel in the Selected Reserve

Section 1111(a) of the National Defense Authorization Act for Fiscal Year 1993 provides that the Secretary of the Army shall have an objective of increasing the percentage of prior active duty personnel in the Army National Guard to 65 percent in the case of officers and 50 percent in the case of enlisted members. This change would amend section 1111 and eliminate from the law what may be seen as essentially an arbitrary percentage as a target. It will also facilitate increasing

the active duty percentage of the career officer and enlisted leadership under Department objectives established by the Army's Section 1111 Congressional Plan submitted to Congress in January, 1994. The plan, developed after months of extensive modeling and analysis by the Deputy Chief of Staff for Personnel, supports objectives of 65 percent for warrant officers and commissioned officers in the grades above first lieutenant and below brigadier general. It also limited the grades for enlisted members to sergeants and above and increased the objective from 50 to 60 percent.

Section 516. Wear of military uniform by National Guard technicians

This section would amend section 709 of title 32, United States Code to provide that National Guard technicians who are required as a condition of such civilian employment to be members of the National Guard are also required to wear military uniforms in the course of performing their duties as technicians. These technicians are currently required to wear uniforms in their civilian jobs, and this requirement has been upheld by the Federal Labor Relations Authority and the courts. Recent decisions by the Federal Labor Relations Authority and the FSIP have required state National Guard organizations to negotiate with employee unions on the civilian clothing allowance under 5 U.S.C. 5901. These decisions may result in state Guard organizations being required to provide monetary civilian clothing allowances to compensate technicians that have already been furnished the required military uniforms under the military wear and tear replacement provisions of 37 U.S.C. 418.

Subsection (b) would allow a period of service as a technician by a person who is an officer in the National Guard to be considered active duty for the purposes of uniform allowances for officers under title 37. This would place technician officers on the same footing as AGRs as to eligibility for uniform allowances. This subsection would also provide that these allowances are exclusive of civilian uniform allowances authorized under titles 5 and 10.

Subsection (c) would authorize more frequent issuance of military uniforms to members of the National Guard who are technicians, as a result of wear and tear from wear during the course of their civilian employment. It would also provide that the issuance of uniforms or provision of a uniform allowance to these technicians under 37 U.S.C. 418 would be exclusive of authority to provide civilian uniforms or allowances under 5 U.S.C. 5901 or 10 U.S.C. 1593.

Section 517. Active duty retirement sanctuary for reservists

This section amends sections 1163(d) of title 10 to provide for an exception to the active duty retirement sanctuary provision for a member of a reserve component, who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system. This proposal would provide authority for the Secretaries of the military departments to issue regulations requiring that the length of active duty be at least 180 days before members of a reserve component could request retention on active duty until they become eligible for active duty retired pay. Such regulations would require reservists with 18 or more years of qualifying service for active duty retired pay to serve on active duty for special work for a period of 180 consecutive days or longer in order to request active duty retirement sanctuary. Certain reservists involuntarily recalled to active duty would be exempt from the 180-day requirement. There are no costs associated with the provision.

Section 518. Involuntarily separated military reserve technicians

This section amends section 3329 of title 5 which requires that certain eligible Department of Defense military reserve technicians who were involuntarily separated from their positions are given competitive service job offers in the Department of Defense within 6 months of application. Eligibility consisted of those who:

Separated on or after October 23, 1992, with 15 years technician and 20 years of service creditable for non-regular retirement under title 10, United States Code, section 1332;

Lost military membership not due to misconduct or delinquency;

Are not eligible for immediate or early retirement; and

Apply within one year of separation.

This would eliminate the requirement that separated technicians receive a job offer giving them placement rights above other separated Department of Defense civilian employees (including veterans). It also eliminates the requirement that a vacancy be artificially created. The proposed amendment would accord eligible technicians the same priority placement consideration as other displaced Department of Defense employees.

Subtitle C—Amendments to the Uniform Code of Military Justice

The legislative proposals in this subtitle are the result of an annual review of the Uniform Code of Military Justice by the Joint Service Committee on Military Justice. The Joint Service Committee on Military Justice was established in response to Executive Order 12473, as amended by Executive Orders 12484, 12550, and 12708, and consists of representatives from each of the five services and from The United States Court of Appeals for the Armed Forces. The purpose of the Joint Service Committee is to assist the President in his responsibilities under article 36 of the Uniform Code of Military Justice (10 U.S.C. 836) to ensure that the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States District Courts are applied, so far as practicable, to cases triable by court-martial. The enactment of this proposed legislation would result in no additional cost to the Government.

Section 551. Definitions

This section amends article 1 of the Uniform Code of Military Justice (10 U.S.C. 801) by providing definitions of the terms ''classified information'' and ''national security''. These definitions are identical to those used in the Classified Information Procedures Act (18 App. U.S.C. 1). The section also provides a definition of the term ''armed conflict''. This definition is similar to the definition of ''contingency operation'' found in section 101(a)(13) of title 10, United States Code.

Section 552. Jurisdiction over civilians accompanying the forces in the field of time of armed conflict

This section amends article 2(a)(10) of the Uniform Code of Military Justice (10 U.S.C. 802(a)(10)) by extending jurisdiction over civilians accompanying the forces in the field to situations of armed conflict. This amendment recognizes that armed conflict may exist without a declaration of war and overturns *United States v. Averette*, 41 C.M.R. 363 (C.M.A. 1970). Determining whether an armed conflict exists in the absence of a formal declaration of war is a factual determination based on the totality of the circumstances, including: the nature of the conflict (whether it involves armed hostilities against an organized enemy); the movement to and the numbers of United States forces in the combat area; the casualties involved and the sacrifices required; the maintenance of large numbers of active duty personnel; legislation by Congress recognizing or providing for the hostilities; executive orders and proclamations concerning the hostilities; and expenditures in the war effort.

Section 553. Investigations

This section amends article 32 of the Uniform Code of Military Justice (10 U.S.C. 832) by adding a new subsection which authorizes an article 32 investigating officer to investigate uncharged offenses when, during the course of a hearing under this article, the evidence indicates that the accused may have committed such offenses. An article 32 proceeding frequently eliminates weak or baseless charges saving the government the time and expense of having to address them at trial. It also serves the defense as a valuable discovery tool permitting it to cross-examine government witnesses under oath before trial. The investigation's swift completion saves the accused from the anxiety and uncertainty of what charges, if any, he will have to defend against and assures his right to a speedy resolution of the issues. Authorizing an investigating officer to broaden the scope of the investigation beyond those offenses charged benefits both the government and the accused. Under current procedure, the investigating officer would at a minimum, have to delay the proceeding in order to allow the Government time to prepare and serve additional charges should a basis for such charges arise during the investigation. Such delays are contrary to the interests of both the accused and the government in ensuring the swift and efficient administration of justice.

The proposed legislation should allow the investigating officer to investigate the uncharged allegation of allegations without having to delay the proceeding, but still insure that the accused's due process rights were protected. The investigating officer would be required to advise the accused of the nature of the uncharged offense or offenses and that the offense or offenses will be investigated during the current investigation. The accused would retain the same rights with regard to the uncharged offenses as existed with regard to the charged offenses, i.e., the right to be present and represented by counsel, to confront and cross-examine available witnesses, to examine real and documentary evidence, to examine statements of unavailable witnesses, to request that the investigating officer call witnesses, and to present evidence in defense or remain silent. After hearing all the evidence, the investigating officer may then recommend the preferral and referral of additional charges in the formal report on finding that a sufficient factual basis for doing so exists.

Section 554. Refusal to testify before court-martial

This section amends article 47(b) of the Uniform Code of Military Justice (10 U.S.C. 847(b)) by removing the limitations on punishment which may be imposed by a Federal District Court for a civilian witness's refusal, after being subpoenaed, to appear or testify before a court-martial. Under the present statute, the Federal District Court may only impose ''a fine of not more than $500.00, or imprisonment for not more than six months, or both'' on a recalcitrant witness. This proposal leaves the amount of confinement or fine to the discretion of the Federal Court having jurisdiction over the case and is based on 18 U.S.C. 401–402. This approach provides the court greater flexibility in determining a punishment more appropriately designed to elicit cooperation from a recalcitrant witness.

Section 555. Records of trial

This section amends article 54(c)(1)(A) of the Uniform Code of Military Justice (10 U.S.C. 854(c)(1)(A)) by changing the triggering factors which require a verbatim record of trial in general courts-martial. It eliminates verbatim records of trial in general courts-martial where the adjudged sentence does not require mandatory review by a Court of Criminal Appeals under article 66(b)(1) of the Uniform Code of Military Justice, i.e., a sentence which does not extend to death, dismissal, discharge, or confinement for one year or more. As a result, staff judge advocates would have the option of preparing the records for such cases in either summarized or verbatim format, as their available resources dictate. Courts-martial affected by this legislation are examined under article 69(a) of the Uniform Code of Military Justice (10 U.S.C. 869(a)) in the Service office of The Judge Advocate General and can be fairly and efficiently examined through use of a summarized record of trial, as is currently the case with records of special courts-marital in which no punitive discharge is adjudged.

Section 556. Effective date of punishments

This section amends article 57(a) of the Uniform Code of Military Justice (10 U.S.C. 857(a)) by making forfeitures of pay and allowances and reductions in grade effective immediately upon being adjudged by a court-martial. It discontinues the current practice of allowing a convicted member to retain the privileges of his rank until the record of trial has been prepared, the accused presents matters for the convening authority's consideration (up to ten days from service of the record upon the accused), and the convening authority reviews the record and takes action on the sentence. This situation can last from several weeks to months depending upon the length and complexity of the trial. The immediate application of forfeitures and reduction in grade would not only have the desired punitive and rehabilitative impact upon the accused, but would also impress upon other members the costs of misconduct, thus engendering an enhanced deterrence to future criminal behavior by military members.

Section 557. Deferment of confinement

This section adds a new article 57a of the Uniform Code of Military Justice (10 U.S.C. 857a) which combines the existing provision authorizing deferment of confinement, *i.e.*, article 57(d) of the Uniform Code of Military Justice, with two new provisions describing additional circumstances under which such action is authorized.

The first of the new provisions, article 57a(b), permits the Secretary concerned, or his designee, to defer the service of an accused's confinement when a Judge Advocate General orders a case reversed by a Court of Military Review to be sent to the United States Court of Military Appeals for further review under article 67(a)(2). The latter court has directed that, when the government appeals a court of military review's reversal of the findings or sentence to confinement, the accused must be released from confinement pending the government's appeal unless it can be shown that the accused is a flight risk or a potential threat to the community should release be granted. See *Moore v. Adkins,* 30 M.J. 249 (C.M.A. 1990). Since current law only allows deferment prior to ordering the execution of the sentence to confinement, this legislation is necessary for the purpose of establishing procedures to satisfy the mandate of the court.

The second of the new provisions, article 57a(c) allows the convening authority to defer the running of a sentence to confinement when a state or foreign country has temporarily released the accused from its custody to allow the military to try the accused before a court-martial and the military is then obligated by agreement such as the Interstate Agreement on Detainers Act, 18 App. U.S.C., or a treaty to return the accused to the sender state's custody after the court-martial is completed. Since article 57(b) provides that an accused's sentence to confinement begins to run upon the date it is adjudged, any sentence of confinement imposed by the court-martial would have to run concurrently with the accused's confinement by the sender state in the absence of this legislation. This would be the case regardless of the fact that the court-martial conviction was based on different crimes than those prosecuted by the sender state. The military courts have been determined to be federal courts for the purpose of complying with the Interstate Agreement on Detainers Act. See *United States* v. *Greer,* 21 M.J. 338 (C.M.A. 1986).

Section 558. Submission of matters to the convening authority for consideration

This section amends article 60(b)(1) of the Uniform Code of Military Justice (10 U.S.C. 860(b)(1)) by inserting the word ''written'' in the first sentence. The amendment requires matters submitted by an accused for consideration by a convening authority with respect to the findings and sentence of a court-martial to be limited to written matters.

Section 559. Proceedings in revision

This section amends article 60 of the Uniform Code of Military Justice (10 U.S.C. 860) by adding a new paragraph (3) to subsection (e). It provides that a proceeding in revision may be ordered, prior to authentication of the record of trial by the Military Judge, to correct an erroneously announced sentence. The sentence may be corrected even if, in doing so, the severity of the sentence is increased. The amendment applies only to correction of an erroneously announced sentence and does not authorize reconsideration. The amendment overrules *United States v. Baker,* 32 M.J. 290 (C.M.A. 1991). The previously designated subsection (e)(3) is redesignated as subsection (e)(4).

Section 560. Post-trial review of courts-martial

Subsection (a) of this section amends article 61(c) of the Uniform Code of Military Justice (10 U.S.C. 861(c)) by adding the phrase ''or an application for relief under section 869(b) of this title (article 69(b))''. Subsection (b) amends article 69(b) of the Uniform Code of Military Justice (10 U.S.C. 969(b)) by adding the phrase ''Unless the accused has waived or withdrawn the right to appellate review under section 861 of this title (article 61)''. These amendments address a statutory loophole which permits an accused to formally waive or withdraw appellate review under the provisions of article 66 or 69(a) and up to two years later submit an Application for Relief under the provisions of article 69(b). The proposed change limits an accused to a single avenue of post-trial review.

When an accused formally waives or withdraws appellate review, he or she knowingly waives the right to bring issues to the attention of a Court of Criminal Appeals or the Office of The Judge Advocate General. Most legal issues are best resolved through the normal appellate review process. Permitting an accused who has waived or withdrawn appellate review much later to submit an Application for Relief to The Judge Advocate General allows that accused to equivocate at the expense of judicial efficiency and economy and in effect to ''shop'' for the most effective forum.

Section 561. Appeal by the United States

This section amends article 62 of the Uniform Code of Military Justice (10 U.S.C. 862) by allowing the Government to file an interlocutory appeal of rulings or orders issued by the military judge which direct the government to disclose classified information, impose sanctions for nondisclosure of classified information, or refuse a protective order sought to prevent the disclosure of classified information. It makes applicable to courts-martial the same protections with regard to classified information as apply to orders or rulings issued on Federal District Courts under the Classified Information Procedures Act (18 App. U.S.C. 7).

Section 562. Flight from apprehension

This section amends article 95 of the Uniform Code of Military Justice (10 U.S.C. 895.) to proscribe fleeing from apprehension without regard to whether the accused otherwise resisted apprehension.

The proposed change responds to the United States Court of Military Appeals decisions in *United States* v. *Harris,* 29 M.J. 169 (C.M.A. 1989), and *United States* v. *Burgess,* 32 M.J. 446 (C.M.A. 1991). In both cases, the Court held that resisting apprehension does not include fleeing from apprehension, despite the explanation in Part IV, paragraph 19c(1), MCM, 1984, of the nature of the resistance required for resisting apprehension: ''The resistance must be active, such as assaulting the person attempting to apprehend or flight'' (emphasis added). The 1951 and 1969 Manuals for Courts-Martial also explained that flight could constitute resisting apprehension under article 95, an interpretation affirmed in the only early military case on point, *United States* v. *Mercer,*11 C.M.R. 812 (A.F.B.R. 1953).

Flight from apprehension should be expressly deterred and punished under military law. Contrary to civilian jurisdictions, military personnel are specially trained and routinely expected to submit to lawful authority. Rather than being a merely incidental or reflexive action, flight from apprehension in the context of the armed forces may have a distinct and cognizable impact on military discipline. The present alternatives for reaching and punishing flight from apprehension are unsatisfactory, in that they lack uniformity and are potentially unfair. Reliance on local regulations (*e.g.,* installation traffic regulations requiring drivers to stop for a police vehicle with its lights and siren on), or assimilation of state statutes makes prosecution dependent upon the vagaries of inconsistent and sometimes nonexistent law. Punishing a fleeing suspect for disobedience of a law enforcement officer's order is both problematic (it requires that the suspect receive an order, which is often not the case or is impossible to prove) and unfair to the accused (the maximum punishment for disobedience far exceeds the misdemeanor-type nature of fleeing apprehension). Finally, proceeding under article 134 as the Court suggested in *Harris,* typically would raise several difficult legal issues, including preemption and notice.

The Uniform Code of Military Justice must be amended in order to uniformly proscribe fleeing apprehension under military law; the *Harris* and *Burgess* decisions are premised upon statutory interpretation, not Manual provisions. The proposed Manual changes will be included in the Joint Service Committee's 1994 Annual Review after the legislation passes.

Section 563. Carnal knowledge

Subsection (a) of this section amends article 120(b) of the Uniform Code of Military Justice (10 U.S.C. 920(b)) by making the crime of carnal knowledge gender neutral,

bringing article 120 of the Uniform Code of Military Justice into conformity with the spirit of the Sexual Abuse Act of 1986 (16 U.S.C. 2241–2245).

Subsection (b) of this section amends article 120 of the Uniform Code of Military Justice (10 U.S.C. 920) by adding a new subsection (d) permitting an affirmative defense of mistake of fact for alleged carnal knowledge, regarding the age of the person with whom the accused committed the act of sexual intercourse. It allows the accused to defend against a charge of carnal knowledge on the basis that he or she lacked a criminal intent while protecting children under 12 years of age from sexual abuse and, thus causes the military offense of carnal knowledge to more closely conform to its federal civilian counterpart (18 U.S.C. 2243).

Section 564. Instruction in the Uniform Code of Military Justice

This section amends article 137(a)(1) of the Uniform Code of Military Justice (10 U.S.C. 937(a)(1)) by lengthening the period of time in which training in certain provisions of the Uniform Code of Military Justice is provided to new enlistees from six to fourteen days.

Subtitle D—Other Matters

Section 571. Indefinite reenlistments for career enlisted members

Currently, section 505(d) of title 10, United States Code, authorizes the Secretaries of the military departments to accept reenlistments in regular components for a period of at least two but not more than six years. Accordingly, even senior enlisted members of the armed forces who have made military service a career must periodically reenlist. This proposal would eliminate the administrative efforts and associated costs that occur as a consequence of the requirement to reenlist continually senior enlisted members.

Under this section, the Secretaries of the military departments could accept indefinite reenlistments from enlisted members who have at least ten years of service on active duty and who are serving in the pay grade of E–6 or above. The vast majority of enlisted members with these characteristics will make military service a career. Thus, an enlisted member who serves 30 years would avoid the necessity of continually reenlisting over a 20-year period. The paperwork for reenlistment and its processing is not burdensome, but it is not insignificant. Savings should result. The proposal would also increase the prestige of the noncommissioned officer corps.

Section 572. Chief Warrant Officer promotions

This section amends sections 574(e) and 575(b) of title 10 to reduce the minimum time in grade necessary for promotion to two years rather than three, and to authorize the below-zone selection for promotion to the grade of chief warrant officer, W–3.

Reduction of the minimum time in grade required for promotion would result in actual promotion after three years in grade. It is not now possible for below zone consideration, even to chief warrant officer, W–4. This legislation would also authorize chief warrant officer, W–3, below-zone selection opportunity. This change will permit recognition of the small number of chief warrant officers, W–3, deserving of promotion ahead of their peers. The average chief warrant officer, W–2, has almost eighteen years enlisted service when commissioned in that grade.

Prior to 1 February 1992 when the Warrant Officer Management Act became effective, temporary warrant officer promotions were made under such regulations as the service secretary prescribed, as authorized by section 602 of title 10. Under this section, repealed by the Warrant Officer Management Act, warrant officers were temporarily promoted well ahead of the criteria for permanent regular warrant officer promotions under section 559 of title 10, also repealed, and it was also possible for a limited number of outstanding individuals to be selected early from among below-zone candidates for the grade of chief warrant officer, W–3.

Under section 574(e) of title 10, a chief warrant officer is not eligible to be considered for promotion to the next higher grade until he or she has completed three years of service in current grade.

Additionally, section 575(b)(1) of title 10 limits below-zone selection opportunity to those being considered for promotion to chief warrant officer, W–4, and chief warrant officer, W–5.

This legislation is intended to improve the management of the Services' chief warrant officer communities by reducing the minimum time in grade required for chief warrant officers to be considered for promotion to the next higher grade from three years to two years, thereby allowing the opportunity for early selection, and to authorize below-zone selection opportunity for promotion to the grade of chief warrant officer, W–3, similar to that currently authorized for promotion to the grades of chief warrant officer, W–4, and chief warrant officer, W–5.

With due-course promotions occurring after four years' time in grade, as they now occur in the Department of the Navy, the requirement for chief warrant officers to have three years in grade to be considered for promotion has the effect of not permitting any early selections. Reducing the minimum time in grade for promotion consideration to two years would allow for a small number of individuals to be selected from among below-zone candidates, and to be promoted one year early after actually serving three years in grade. Additionally, authorizing early selection to chief warrant officer, W–3, would permit recognition as appropriate of the experience and competence of these individuals. For example, the average Navy chief warrant officer, W–2, has almost 18 years enlisted service when commissioned in that grade.

Chief warrant officers provide the services with commissioned officers who possess invaluable technical expertise, leadership and managerial skills developed during enlisted service and through formal education. This legislation is needed to identify and reward the small number of exceptionally talented chief warrant officers whose demonstrated performance and strong leadership are deserving of special recognition by being selected for promotion ahead of their peers, thereby enhancing morale and maintaining the vitality of the entire community.

This proposal would not result in any increased cost to the Department of the Navy, other services, or the Department of Defense.

Section 573. Retirement of Director of Admissions, United States Military Academy, for years of service

This section would amend section 3920 of title 10 to authorize the Secretary of the Army to retire the Director of Admissions, United States Military Academy, after 30 years of service as a commissioned officer. Currently, under section 1251(a) of title 10, the permanent professors at the Academy and the Director of Admissions can serve until the age of 64. Under section 3920, however, the Secretary of the Army may direct the retirement of a permanent professor after 30 years of service. This section would provide the Secretary of the Army with the same retirement authority over the Director of Admissions.

Title VI—Compensation and Other Personnel Benefits

Subtitle A—Pay and Allowances

Section 601. Military pay raise for fiscal year 1995

The purpose of this section is to obtain one-time relief from the provisions of 37 U.S.C. 1009 and, thereby, permit an adjustment to monthly Basic Allowance for Quarters (BAQ) rates that exceeds the overall average percentage increase permitted in subsection (b)(3) without recourse to Presidential action authorized in subsection (c). With regard to January 1, 1996, the annualization of the General Schedule rates by statute would result in a basic allowance for quarters average rate increase of 2.4 percent to those rates in force on January 1, 1995. As the result of the recent Department of Defense study addressing military quality-of-life issues, the Secretary of Defense, in consultation with the Chairman, Joint Chiefs of Staff agreed to the programming and budgeting of an additional $43 Million in Fiscal Year 1996 and equivalent out-year Basic Allowance for Quarters funding through Fiscal Year 2001 to improve service member reimbursement and living accommodations. Execution of the Fiscal Year 1996 program at this funding level, as an augment to annualization of the General Schedule rates, will result in an overall Basic Allowance for Quarters rate increase of 3.4 percent to those rates in force on January 1, 1995.

As noted by the joint House-Senate Conference Committee that considered the 1988/1989 Defense Authorization Act, ''in 1985 the basic allowance for quarters rates [were] restructured so that they would cover 65 percent of national median housing costs in each pay grade.'' Since the 1985 restructuring, BAQ rates have declined to under 59 percent of the national housing median. Combined with funding caps to the variable housing allowance program, service members now absorb over 21 percent of their housing costs instead of the congressional intent of 15 percent. Support for the use of this additional funding and establishment of the 3.4 percent increase in basic allowance for quarters for Fiscal Year 1996 is executed to reduce the percent of out-of-pocket housing costs service members pay by one percent through Fiscal Year 2001.

This improvement of quality-of-life initiative will help defray the cost of off-base housing for military members, improve the adequacy of these quarters and, as result, contribute to force readiness via improved morale, individual readiness and retention of personnel.

The following amounts are included in the President's Fiscal Year 1996 budget submission to reflect enactment of this legislation:

[In millions of dollars]

Fiscal year 1996	43.0
Fiscal year 1997	43.8
Fiscal year 1998	44.6
Fiscal year 1999	45.6
Fiscal year 2000	46.9
Fiscal year 2001	48.2

Section 602. Evacuation allowances that permits equal treatment of military dependents to civilians and their dependents

Subsection (a) amends section 405a(a) of title 37 by changing ''ordered'' each place it appears to ''officially authorized or ordered'' in each instance. The purpose for this change is to equalize evacuation allowances to ensure that treatment of dependents of military personnel is equal to that of civilian dependents.

The Foreign Service Act of 1980 (Public Law 96–465) broadened section 5522 of title 5 to allow advance pay along with travel and transportation allowances to civilians and

their dependents whenever they are officially authorized or ordered to leave an overseas area due to unsettled conditions. Congress believed this change was in the best interest of the Government and the individual by providing flexible requirements in this area and by allowing the Government to more easily order departures of dependents and nonessential personnel without ordering a full scale evacuation. Similar treatment for military dependents is required as a matter of equity since military dependents are evacuated from an overseas location along with civilian employees and their dependents. This small change will allow the Chief of Diplomatic Mission authority to treat military dependents identical to civilians and their dependents by ''authorizing'' as well as ''ordering'' military dependents to evacuate and ensure our policies are consistent with the Department of State's evacuation procedures.

Enactment of this legislative proposal will not cause an increase in the budgetary requirements of the Department of Defense.

Section 603. Continuous entitlement to career sea pay for crewmembers of ships designated as tenders

The purpose of this section is to modify current law by specifying duty on board submarine and destroyer tenders as qualifying for career sea pay, removing the requirement for the tender to be away from homeport in order to support career sea pay eligibility.

Title 37 distinguishes between ships with a primary mission accomplished underway (continuous career sea pay entitlement) and ships with a primary mission accomplished in port (non-continuous career sea pay entitlement).

In 1980, when the Secretary of the Navy Hidalgo presented to Congress the proposal that led to the current career sea pay legislation, he explained that tenders were the most representative class of ships that met non-continuous career sea criteria because their primary mission, at that time, was accomplished in port.

In 1988, the fact that assignment to tender duty involved the same intensive, arduous operational environment as other shipboard duty (with accompanying continuous career sea pay entitlement) was recognized by Congress when section 305a(d)(2) of title 37 was amended by Public Law 100–456 to credit tender crewmembers with all time performed (both underway and in port) aboard those ships as cumulative day-for-day longevity for sea service time. Before that time, both sea service time (longevity) *and* the actual entitlement to career sea pay for non-continuous entitlement ships accrued only after the ship was underway for more than 30 consecutive days.

Navy's drawdown in recent years has added to the demands on tender crews, making them unquestionably deserving of continuous career sea pay entitlement. This considerable increase in operational tempo has resulted from continuing demands preparing deploying units for overseas duty, as well as being required to assist in the numerous decommissioning as a result of Navy's ship drawdown.

These demands on the crews of our tenders are further exacerbated by the drawdown of the tenders themselves. By October 1, 1995, the tender fleet will have been reduced from 17 to 4 ships (two homeported overseas (La Maddalena, Sardinia and Guam) and the remaining two in the United States (one per coast)).

Today, tender crews, on fewer ships, are experiencing more underway time and, when in port, are facing the same or more rigorous demands and working hours as the crews of the continuous career sea pay ships they support. The proposed legislation would remove the significant pay inequity that currently exists for crewmembers assigned to those submarine and destroyer tenders.

Enactment of this proposed legislation would result in the following expenditures by the Department of Defense (Dollars in Millions):

	Fiscal year 1996	Fiscal year 1997	Fiscal year 1998	Fiscal year 1999	Fiscal year 2000
Army N/A	.....	.....	.....	.....	.....
Air Force	N/A	.....	.....	.....	.....
Navy	10.0	10.0	10.0	10.0	10.0
Marine Corps [1]	.....	.....	.....	.....	.....

[1] Negligible (<50K/yr)

Section 604. Increase in the subsistence allowance payable to a member of the Senior Reserve Officers' Training Corps

This section would increase the monthly subsistence allowance for Senior Reserve Officers' Training Corps cadets/midshipmen to $200 per month, effective August 1, 1996 (start of 1996–97 school year). The current stipend, using cumulative increases in the Consumer Price Index, CPI–Food component, and subsistence allowances of active duty members, is worth only $25 to $28 in 1994 dollars. The increase would be in addition to the $50 monthly increase authorized in section 603 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2782), and is necessary to reverse a growing shortage in Reserve Officers' Training Corps enrollment. Currently, the Army and the Air Force are operating approximately 20 percent short of enrollment goals. Navy is meeting overall enrollment objectives, but the mix of academic disciplines does not fully match its objectives.

Section 605. Dislocation allowance (DLA) for base realignment and closure (BRAC) moves

This section would authorize the current dislocation allowance entitlement to Service members who must relocate in a base realignment and closure location when their mission has not changed. Current law requires that a Service member must change jobs (receive orders) and have a government funded movement of household goods to be entitled to dislocation allowance. The requirement to change jobs to be authorized this entitlement places a financial strain on some Service members at base realignment and closure locations. Most members move to a new duty station with base realignment and closure but some (recruiters, ROTC instructors, etc.) must remain in the area because their mission has not changed. Although most of these members move locally, the costs (security and utility deposits) incurred during preparation for and during the move require an outlay of funds that should be defrayed by a dislocation allowance.

Section 606. Family separation allowance (FSA–II)

This section would continue the authorization for entitlement to FSA–II for members embarked on board a ship (away from their home port) or on temporary duty (away from their permanent duty station) for 30 consecutive days, whose dependents were authorized under 37 U.S.C. 406 (permanent change of station (PCS)) to accompany the member to the homeport or permanent duty station, but voluntarily chose not to do so. Although this allowance historically has been paid to continental United States (CONUS) geographic bachelors, and continued payment is funded in Service budgets, the Defense Finance and Accounting Service has advised that recent legal interpretations prohibit continued payments unless the statute is amended. This would apply needed corrections. Since this action simply sustains the status quo, there are no new funding demands associated with enactment.

Section 607. Authorization of payment of basic allowance for quarters to certain members of the uniformed services assigned to sea duty

This section would provide the entitlement of basic allowance for quarters (BAQ) and variable housing allowance (VHA) (or overseas housing allowance (OHA) if assigned to ship homeported overseas) to single E–6 (Petty Officer First Class) personnel assigned to shipboard sea duty. Currently only pay grades E–7 (Chief Petty Officer) and above are entitled to BAQ–VHA (or OHA) based on section 403 of title 37 while assigned to shipboard sea duty. This proposal would provide quality of life/compensation relief to a small-but-senior leadership group (ages 26–40+; 4,000 people) whose 60 month-at-sea/24-to-36-month-ashore assignment rotations prevent them from establishing and maintaining permanent residence ashore commensurate with their leadership position.

Subtitle B—Income Tax Matters

Section 611. Exclusion of combat pay from withholding limited to amount excludable from gross income

There is no income tax withholding under section 3401(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 3401(a)(1)) with respect to military pay for a month in which a member of the Armed Forces of the United States is entitled to the benefits of section 112 of the Internal Revenue Code of 1986 (26 U.S.C. 112) (sec. 3401(a)(1)). With respect to enlisted personnel, this income tax withholding rule parallels the exclusion from income under section 112; there is total exemption from income tax withholding and total exclusion from income. With respect to officers, however, the withholding rule is not parallel; there is total exemption from income tax withholding, although the exclusion from income is limited to $500 per month. The bill makes the income tax withholding exemption rules parallel to the rules providing an exclusion from income for combat pay.

Subtitle C—Bonuses and Special and Incentive Pays

Section 621. Aviation career incentive pay (ACIP) gates

This section would reduce the initial ACIP operational flying requirement (known as the ''flight gate'') from 9 of the first 12 years to instead stipulate 8 of the first 12 years. As a result of the drawdown, the loss of flying billets, the increased time to promotion, and the increased emphasis on non-flying duty (Washington, joint duty, graduate education), nearly 30% of Naval aviators in year groups '86, '87, and '88 will fail to meet their initial flight gate. Similar patterns are found in other Services. This proposal would provide a more reasonable (based on prevailing career patterns) way for aviators to ''make their gates'' and continue to receive ACIP, while still generating a tougher standard than that which existed immediately prior to enactment of the current (9/12) gate. There are no new costs associated with enactment, because affected Services have budgeted under the assumption that waivers (which currently are authorized under law) would continue to be Service-approved. This change adjusts the standard, to recognize the current density of career-enhancing (non-flying) duty demands, while reducing the overhead associated with processing of those waivers.

Section 622. Expiring authorities

Subsections (a) through (e) amend sections 308b(f), 308c(e), 308e(e), 308h(g) and 308i(I) of title 37, United States Code, to extend the authority to pay bonuses for (1) enlistment, reenlistment or affiliation with the Selective

Reserve, (2) enlistment, reenlistment or extension of an enlistment in the Ready Reserve other than the Selected Reserve, and (3) enlistment in the Selected Reserve of individuals with prior service. These authorities currently expire on September 30, 1996. Termination of these Reserve bonus programs would adversely impact the readiness of Reserve component units by limiting the ability to recruit individuals possessing critical skills or qualified to train for critical skills and to ensure necessary manning levels in specific critical units.

Subsections (f) through (h) amend section 2130a(a)(1) of title 10, United States Code, and sections 302d(a)(1) and 302e(a)(1) of title 37, United States Code, to extend the authority to pay (a) a nurse officer candidate accession bonus, (b) an accession bonus for registered nurses, and (c) incentive Special pay to military Certified Registered Nurse Anesthetists. The original legislation was effective November 29, 1989 as part of the National Defense Authorization Act for Fiscal Year 1990. Under current legislation, the authority for these programs will expire on September 30, 1996. Each of these valuable programs has been successful in helping the Military Departments obtain needed numbers of professional nurses on active duty. Shortages of nurses with a qualifying degree continue to make recruiting of nurses difficult in light of intense competition with the private sector. The Department believes that the nurse accession bonus is necessary to attract new graduates from colleges and universities that award a Bachelor's of Science in Nursing.

Subsection (i) amends section 308(g) of title 37, United States Code, to extend the authority to pay reenlistment bonus to active duty service members who reenlist or who extend their enlistment in a regular component of the service concerned for at least three years. This authority currently expires on September 30, 1996.

Subsection (j) amends section 308(c) of title 37, United States Code, to extend the authority to pay enlistment bonus to a person who enlists in an armed force for at least four years in a skill designated as critical, or who extends his initial period of active duty in that armed force to a total of at least four years in a skill designated as critical. This authority currently expires on September 30, 1996.

Subsection (k) amends section 308f(c) of title 37, United States Code, to extend the authority to pay enlistment bonus to a person who, among other qualifications, enlists in the Army for at least three years in a skill designated as critical. This authority currently expires on September 30, 1996.

Subsection (1) amends section 308d(c) of title 37, United States Code, to extend the authority to which permits the payment of additional compensation to enlisted members of the Selected Reserve assigned to high priority units, so designated by the Secretary concerned because that unit has experienced or reasonably might be expected to experience, critical personnel shortages. This authority currently expires on September 30, 1996.

Subsection (m) amends section 2172(d) of title 10, United States Code, to extend the authority which permits the repayment by the Secretary concerned of educational loans of health professionals who serve in the Selected Reserve and who possess professional qualifications in a health profession that the Secretary of Defense has determined to be needed critically in order to meet identified wartime combat medical skill shortages. This authority currently expires on October 1, 1996. Termination of Reserve health professional incentive programs would limit the ability of the Reserve components to fill shortages in the designated health professionals.

Subsection (n) amends section 613(d) of the National Defense Authorization Act for Fiscal Year 1989 (37 U.S.C. 302 note) to extend the authority which permits payment of special pay to a health care professional who is qualified in a specialty designated by regulation as a critically short wartime specialty and who agrees to serve in the Selected Reserve for at least one year. This authority currently expires on September 30, 1996. Extension of this authority will allow the Department of Defense to conclude a test program of a reserve medical bonus.

Subsections (o) through (q) amend sections 312(e), 312b(c), and 312c(d) of title 37, United States Code, to extend the authority to pay certain bonuses to attract and retain top quality nuclear career officers. These authorities currently expires on September 30, 1996 or October 1, 1996. Nuclear officer shortfalls still exist, and the Department of the Navy is experiencing a climate of particularly law retention among junior nuclear trained officers. Submarine junior officer retention is at a 15-year low. Historically, the special pay for nuclear qualified officers extending period of active service and the nuclear career annual incentive bonus have been instrumental in correcting these shortfalls. The Department of the Navy continues also to come short of nuclear officer accession goals (92% of goal reached in fiscal year 1994). The nuclear career accession bonus is a tool that allows the Department of the Navy to attract top junior officers into the nuclear program.

Subsections (r) through (t) amend sections 3359(b), 8359(b), 3380(d) and 8380(d) of title 10, United States Code, and section 1016(d) of the Department of Defense Authorization Act, 1984, to extend certain reserve officer management authorities extended by section 514 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1649). These authorities currently expire on September 30, 1995. No further extension will be necessary; the Reserve Officer Personnel Management Act, which takes effect on October 1, 1996, provides permanent fixes for the problems addressed by the extension of these expiring authorities.

Subsection (u) amends section 1214 of the Merchant Marine Act, 1936, to extend the authority to provide war risk insurance. This authority currently expires on June 30, 1995. Use of the self-insurance authority saved $500 million during Operation Desert Shield and Operation Desert Storm.

Subsection (v) amends section 301b(a) of title 37, United States Code, to make permanent the aviation officer retention bonus. This authority currently expires on September 30, 1996. Making this authority permanent is necessary to counter a decade-long problem in aviator retention that has not been solved, and will not be solved by the time the current authority expires in September 1996. This bonus represents a vital component of aviation readiness since it keeps seasoned aviators in the military, assuring a higher level of performance and safety. Moreover, the cost of this bonus represents a fraction of the costs associated with training new aviators to overcome retention deficits that would worsen if this authority were allowed to lapse.

Aviation continuation pay is a Congressionally authorized incentive program paid to eligible aviators who, upon completion of their minimum service requirement, agree to remain on active duty in a flying status through their fourteenth year of commissioned service. The sole purpose of aviation continuation pay is to ensure adequate inventories of pilots and other flight officers to meet each aviation sub-community's department head requirements.

Despite the drawdown in the Department of Defense, aviation continuation pay is still used as a valuable tool to ensure critically manned aviation sub-communities maintained enough aviators to fill department head billets. For example, Naval Aviation has sub-communities that did not downsize. As a matter of fact, the FA–18 community continued to grow through the downsizing years.

As aviation forces begin to stabilize, retention of qualified and well trained aviators will continue to be an issue. For example, the numbers of aviators accessed into the Navy in the 1990's is considerably less than what was brought in the 1980's. Although the Navy is paying aviation continuation pay to only 6 to 14 aviation sub-communities today, that number is predicted to increase in the out years because of the need to keep a higher percentage of the smaller force throughout Naval Aviation. In addition, the airline industry will have 20,000 of 57,000 pilots that will reach retirement age between 1994 and 2004, opening up employment opportunities for military pilots. The Navy will have a tougher job keeping qualified aviators in the service, and aviation continuation pay is the one tool the Navy has to ensure enough aviators remain in the service to meet requirements. The Army and the Air Force are similarly situated.

Pilot retention in the military departments is not a temporary problem; the effect of airline hiring and the persistent strength of the economy of the United States is likely to exert a steady demand for military trained pilots in the commercial airline industry for the foreseeable future. Additionally, a need exist; to provide permanent and increased bonus authority in order to have the flexibility to solve critical skill shortages as they manifest themselves in projections, rather than incur losses in critical skills and lose the time and experience levels that would result while training replacement aviators.

Subsection (w) amends section 5721 of title 10 to make permanent the authority for temporary promotions of certain Navy lieutenants.

The Navy has a shortage of available qualified officers to fill key engineering billets. To counter this shortage, some exceptional lieutenants are assigned to lieutenant commander engineering related assignments. These are extremely difficult and challenging assignments that include Engineer Officer on nuclear powered submarines, Engineer Officer on Nuclear powered cruisers, Engineer Officer on Ticonderoga class cruisers, Engineer Officer on CLF ships, Members of the fleet Commander-in-Chief's Nuclear Propulsion Examining Board or Propulsion Examining Board.

SPOT promotion authority provides a flexible *low cost solution* to precisely target the shortfall of skilled engineering officers. It is limited by the Secretary of the Navy's policy to only key engineering billets for which a shortage of available *qualified officers exists.* SPOT promotions occur within statutory lieutenant commander ceilings with a 1:1 reduction of regular promotions to lieutenant commander. Officers are promoted only while serving in a qualifying billet. The program accounts for 100–120 SPOT promotions a year.

An absolute shortage of permanent lieutenant commanders exists within those line communities that fill Lieutenant Commander SPOT billets. The table below summarizes the specific shortages of permanent Lieutenant Commanders by community.

Designator	Total inventory	Community specific billets	Shortfall
1110	1,317	1,406	89
1120	635	819	184
6400	62	67	5
6130	55	73	18
6230	25	24	−1
Total	2,094	2,389	295

The shortfall becomes significantly more pronounced if the inventory is limited to those permanent Lieutenant Commanders with the skills required for SPOT promotion billets.

Designator	Total inventory	Community specific billets	Shortfall
1110	1,095	1,406	311
1120	436	819	383
6400	62	67	5
6130	55	73	18
6230	25	24	−1
Total	1,673	2,389	716

The qualified lieutenant commander inventory includes those officers who are Engineering Officer of the Watch qualified (for conventional assignments) or have current nuclear engineer qualifications (for nuclear assignments).

The number of community specific billets actually understates the billet fill requirements in the case of unrestricted line officers who must also fill a fair share of 1000/1050 billets.

The following table summarizes the distribution of SPOT promotions that have helped correct some of the depicted shortfalls:

Designator	Total SPOT billets	Filled by lieutenant [1]	Filled by SPOT promoted LCDR	Filled by permanent LCDR
1110	171	37	49	85
1120	187	33	8a1	73
6400,6130,6230	62	15	322	15
Total	420	85	162	173

[1] These lieutenants have not met the three month evaluation time in billet requirement to be recommended and approved for SPOT promotion.

The continued use of SPOT promotions remain necessary due to the critical shortage of officers qualified to fill engineer officer, engineering departmental principal assistants, engineering material officer and engineering staff billets directly supporting fleet engineering readiness. Originally enacted in 1965, SPOT promotion has proven its value as a strong incentive and retention tool for our top officers. It remains a very effective management tool to ensure our ability to fill extremely demanding billets with the best officers.

Subsection (x) amends section 1105 of title 10, United States Code, as enacted by the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160, Nov. 30, 1993; 107 Stat. 1691) by repealing subsection (h) which is a sunset clause for the provision to expire as of September 30, 1995.

The specialized treatment services program (STS) established new requirements for CHAMPUS beneficiaries to obtain certain highly specialized health care services from selected sources, either military or civilian. The program will not be fully implemented by its expiration date. Full implementation is necessary for managed care within the Department of Defense. This program will provide for DOD beneficiaries quality care while assuring for appropriate utilization of specialized medical health care services at the most reasonable cost.

Certain military and civilian treatment facilities, based on demonstrated capability, are being designated as Specialized Treatment Services Facilities for some highly specialized types of medical care. The mechanism for requiring CHAMPUS beneficiaries to use the STS Facilities is similar to the familiar Non-availability Statement but with either a nationwide or 200-mile catchment area instead of the normal 40-mile catchment area. Criteria for demonstrated capability for STS designation have been developed by the Assistant Secretary of Defense for Health Affairs and provided to the military departments. Nationwide STS designations have been approved for bone marrow transplantation and liver transplantation. The Regional Lead Agents are in the process of developing mechanisms for approving STS designation within their respective regions. STS authority should be extended to allow completion of this program.

Subtitle D—Travel and Transportation Allowances

Section 631. Authority to expend appropriated funds to pay certain actual expenses of Reservists

This section amends section 404(j) of title 37 (as added by section 622 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2784)) by authorizing the expenditure of appropriated funds to pay for contract quarters as lodging in kind when on-base quarters are not available during annual training or inactive duty training for Reservists who are otherwise entitled to travel and transportation allowances in conjunction with their duty. The Department of Defense Appropriations Acts for Fiscal Years 1993, 1994 and 1995 have included a provision which authorizes such expenditures. This recurring provision also provides that ''if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid directly from funds appropriated for operation and maintenance of the reserve component of the member concerned.'' The recurring provision in the Appropriations Act reaffirms actual practice over more than two decades which has provided cost-efficient accommodations to Reservists who travel at their own expense to components for skilled and trained manpower.

Section 632. Flexibility when authorizing shipment of a motor vehicle incident to permanent change of station orders

Subsection (a) of this section amends section 2634(a)(4) of title 10 to authorize the shipment of privately owned motor vehicles for a member of the armed forces by the most economical means. Current statute only authorizes shipment by surface means. In some underdeveloped or remote areas of the world, shipment by air is oftentimes more economical than shipment by surface transportation.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense. By amending this section, the permanent change of station (PCS) funding would not increase, and should actually decrease. Significant numbers of privately owned vehicles would not be shipped by air; however, cost savings would be realized. Personnel quality of life improvements would also be realized since surface transportation in these areas often take many months in addition to being an expensive mode of transportation.

Section 633. Authorization of return to United States of formerly dependent children who attain age overseas

This section would authorize the return of certain formerly-dependent children to the United States. By law, a child 21 or 22 years of age who is a full-time student may travel at government expense to a member's overseas duty station. However, if the child loses that dependent status while in the overseas area, the government will not return the child to the United States until the member receives subsequent permanent change of station (PCS) orders. This proposal would expand the entitlement to include those dependents over 21 who are full-time students and subsequently lose their dependency eligibility by either turning 23 or because they are no longer enrolled full-time in school. In other words, this simply would permit acceleration of the final-authorized trip to the continental United States (CONUS). This is a no-cost initiative.

Subtitle E—Retired Pay, Insurance, and Survivor Benefits

Section 641. Retired pay for non-regular service

This section amends section 1331 of title 10, United States Code, by inserting a new subsection (d), and by redesignating the existing sections (d) and (e) as (e) and (f), respectively. The new subsection (d) provides that a non-regular member is not eligible for retired pay if he or she is convicted by court-martial of an offense under the Uniform Code of Military Justice, and the executed sentence includes death, dishonorable discharge, a bad-conduct discharge, or dismissal from the service. The new subsection conforms a nonregular members's eligibility for retired pay with that of a regular member who is convicted by court-martial, and whose executed sentence includes death, dishonorable discharge, a bad conduct discharge or dismissal from the service. See generally, 44 Comp. Gen. 51 (1964); 44 Comp. Gen. 227 (1964). See also 5 U.S.C. 8312–8322 concerning forfeiture of annuities and retired pay.

Section 642. Fiscal Year 1996 cost-of-living adjustment for military retirees

This section makes the military retired pay cost-of-living adjustment payable for March 1996 rather than September 1996.

Section 643. Automatic servicemember's group life insurance (SGLI)

This section would automatically enroll members at the maximum insurance level of $200,000 instead of the $100,000 level currently in law. Members may now increase their coverage up to $200,000 by making an election for such coverage. However, sometimes such elections are not passed to the finance offices for immediate collection of premiums, and survivors have complained that their member did not have the proper opportunity to elect the highest benefit level. Having automatic coverage at the maximum would ensure coverage is no less than desired. Coverage could be declined or reduced if the member does not want the maximum. Those who currently are insured and who have not made elections and are in receipt of coverage of $100,000 would automatically have their coverage increased to $200,000.

Section 644. Improved death and disability benefits for Reservists

This section amends sections 1074a and 1481 of title 10 and sections 204 and 206 of title 37 by providing reservists performing inactive duty training the same death and disability benefits as active duty members. Although previous authorization bills have corrected some of the inequities, there are still instances when a reservist is not covered for certain disability or death benefits if the occurrence happens after sign-out between successive training periods.This proposal would

extend death and disability benefits to all reservists from the time they depart to perform authorized inactive duty training until the reservist returns from that duty. Reservists who return home between successive inactive duty training days would be covered portal to portal only. There are no additional costs associated with this provision.

Subtitle F—Separation Pay

Section 651. Transitional compensation for dependents of members of the Armed Forces separated for dependent abuse

This section would amend authorization to include transitional compensation for dependents whose sponsor forfeited all pay and allowances, but was not separated from the Service (e.g., members court-martialed). Current language of section 1059 of title 10, as added by section 554(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1663) and redesignated and amended by sections 535 and 1070(a)(5) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2762 and 2855) does not allow this payment. This appears to be an administrative oversight. This change would allow payment as apparently intended by Congress. No additional cost would result, since costs associated with this technical amendment would previously have been recognized in the course of enactment of the National Defense Authorization Act for Fiscal Year 1995.

Subtitle G—Other Matters

Section 661. Military clothing sales stores, replacement sales

This section amends title 10, United States Code, to add new section 7606. The purpose of this amendment is to provide the Navy and Marine Corps the same statutory authority currently granted to the Army and Air Force under title 10, United States Code, section 4621 and section 9621 respectively.

Based on a variety of studies and tests, the Marine Corps has determined that it is most cost effective to conduct in-kind replacement sales through the Military Clothing Sales Stores managed by the Marine Corps Exchange system. These in-kind replacement sales are lost, damaged, or destroyed individual equipment for which individual Marines and sailors are responsible to the Government.

Unlike the authority granted to the Army and Air Force under title 10, United States Code, section 4621 and section 9621 respectively, there is no specific statutory authority allowing the Navy or Marine Corps to sell individual equipment. This legislation will create parity throughout the Department of Defense.

This proposal will be effected at no additional cost to the Department of Defense or the Department of the Navy.

Title VII—Civilian Employees

Subtitle A—Civilian Personnel Policy

Section 701. Holidays and alternative work schedules

This section would amend title 5 to change the designation of holidays for employees on alternative work schedules. When Monday holidays fall on an employee's day off, under section 6103 of title 5, he or she must take the preceding Friday off. This creates a severe staffing shortage on Fridays before holiday weekends. The proposed language would make Tuesday the employee's day off rather than the preceding Friday.

Section 702. Elimination of 120-day limit on details

This section amends section 3341 of title 5 to eliminate the requirement that temporary assignments (details) of employees be made in 120-day increments and allows details to be documented and authorized up to the time required (within the limits specified in other statutory, regulatory and administrative provisions).

Section 703. Elimination of part-time employment reports

This section strikes section 3407 of title 5 which requires that agencies report progress on the part-time career employment program to the Office of Personnel Management twice yearly. Information for reports is available through the Central Personnel Data File and agencies can monitor the program through personnel management evaluation programs.

Subtitle B—Compensation and Other Personnel Benefits

Section 711. Repeal of prohibition on payment of lodging expenses when adequate Government quarters are available

The purpose of the proposed legislation is to repeal section 1589 of title 10, which prohibits the Department of Defense from paying a lodging expense to a civilian employee who does not use adequate available Government lodgings while on temporary duty. Although the purpose of section 1589 is to reduce the Department of Defense travel costs, the law can increase travel costs because it considers only lodging costs, not overall travel costs. Deleting the provision would enable Department of Defense travelers, supervisors and commanders to make more efficient lodgings decisions, with potential cost savings for the trip as a whole.

The title 10 provision (added in 1985 to codify similar provisions in the Department of Defense Appropriations Acts from 1977) prohibits payment of a lodging expense to civilian employees who don't use adequate available Government quarters. The Fiscal Year 1978 Committee Report on Department of Defense Appropriations (H. Rep. No. 95–451) notes that if employees on temporary duty at military installations for school, training and other work assignments were directed to use available Government quarters, ''many thousands of dollars could be saved.''

When a temporary duty trip involves business on and off-base, the cost-effective business decision, considering factors such as rental car costs, must be made on a case-by-case basis. The current law allows no flexibility for the cost-conscious resource manager. To be reimbursed for lodging, the traveler must stay on-base whether it is efficient or not. Further, in temporary travel when team integrity is essential, the mission may preclude employees staying in available government lodgings. To maintain team integrity under current law when quarters are adequate for only the less senior members of the team, quarters must be determined ''not available'' for each member of the team, imposing an unnecessary administrative cost.

The Department is committed to improving the efficiency of the temporary duty travel system to enhance mission accomplishment, reduce costs, and improve customer service. The proposal would be a significant step in this direction.

Enactment of the legislative proposal will not cause an increase in the budgetary requirements of the Department.

Section 712. Overtime exemption for nonappropriated fund (NAF) employees

This section amends section 6121(2) of title 5 so that nonexempt NAF employees may be put on a compressed schedule without the entitlement to overtime for hours worked in excess of 40 hours a week.

Subtitle C—Separation Provisions

Section 721. Continued health insurance coverage

Section 8905a of title 5, as amended by this proposal, extends continued health insurance coverage and payment of employer portion of the premium plus administrative fee for surplus employees who voluntarily resign in response to realignments, installation closures, and downsizing of the Department of Defense. This proposal will help avoid reduction-in-force (RIF) by increasing the number of surplus employees voluntarily resigning. Currently, employees must wait to receive a RIF notice to qualify for this benefit. Increased cost would be more than offset by the savings generated by earlier separation of 120 days or more. This benefit would only apply to employees who have been designated as surplus by the Department of Defense.

Section 722. Lump sum severance payments

This section concerns lump sum payment of severance pay. Currently severance pay is paid on a bi-weekly basis for up to one year based on years of service and age of the employee. This proposal would permit, at the discretion of the agency, lump sum payment of the severance pay credit to the employee upon request. Many eligible employees would prefer to receive the total amount in order to start new businesses or relocate.

Section 723. Civilian Voluntary Release Program

This section would allow employees who are not affected by a reduction-in-force (RIF) to volunteer to be RIF separated in place of other employees who are scheduled for RIF separation. Some employees (e.g., retirement eligible, employees with their own businesses, employees with good prospects for employment elsewhere), whose RIF retention standing them from RIF, can afford to volunteer to be RIF separated in place of other employees who are scheduled for RIF separation. The proposal would permit these more senior employees to volunteer to be RIF separated. Management would be tasked to publish implementing regulations.

Title VIII—Health Care Provisions

Subtitle A—Health Care Management

Section 801. Codification of CHAMPUS Physician Payment Reform Program.

This section would codify a provision of the Department of Defense Appropriations Act for 1995, section 8009, which establishes a process for gradually reducing CHAMPUS maximum payments amounts down toward the limits for similar services under Medicare, with special consideration given to preserving access to care and limiting balance billing by providers. The payment limits in use for Medicare are the product of long-term efforts to achieve a rational payment system for physicians, using resource-based relative values to determine appropriate payments rather than basing payment on the historical charges submitted by providers. The Medicare payment limits represent a determination by the largest Federal payer of what is fair and reasonable payment for health care services; as such, they provide appropriate target values for CHAMPUS. Additionally, this provision includes special authority to exceed the allowable amounts in cases where managed care plan enrollees obtain emergency care from non-network providers, to enhance the benefits of enrollment.

Additionally, this provision would build on the successful example set for inpatient hospital reimbursement: the CHAMPUS DRG-Based Payment System is modeled closely on the Medicare Prospective Payment System, with modifications as necessary to reflect the differences in the programs and the beneficiaries they serve. The Department of Defense Authorization Act, 1984 (Public Law 98–94), provided CHAMPUS with statutory authority to reimburse institutional providers following Medicare reimbursement rules.

Under the authority proposed in this section, the Department would make a transition from its current system of prevailing charges for professional services to payment limits similar to the Medicare Fee Schedule. CHAMPUS allowable payment limits for physicians are approximately 30 percent higher than those under Medicare, so there is room for constraint without unduly penalizing providers or limiting beneficiary access to high quality care. Exceptions to the Fee Schedule limits would be made to maintain higher payments when needed to assure adequate access to care for our beneficiaries. In order to assure a smooth transition to the new payment limits, reductions in payments for specific procedures would be restricted to no more than 15 percent per year.

In order to protect beneficiaries, limitations on balance billing for CHAMPUS would be established similar to those in effect for Medicare, which limits balance billing to 15 percent above the allowable amount. This step will complement the Congress' action in the Department of Defense Authorization Act for 1992 to require providers generally to file claims for beneficiaries.

This section amends Section 1079(h) of title 10, United States Code, to limit CHAMPUS payments to the amounts payable under Medicare for similar procedures, and provides for a gradual transition of CHAMPUS payment amounts to Medicare levels. Additionally, it provides for exceptions if needed to protect beneficiary access to care, and limits beneficiary liability for excess charges (balance billing) to the limits established for Medicare. It also includes a provision to permit payment of amounts greater than allowable amounts when needed to protect managed care plan enrollees from balance billing when they obtain emergency care from nonparticipating providers.

Because CHAMPUS payment limits were substantially higher than Medicare's, implementing this approach for individual professional providers should produce cost avoidance of approximately $500 million over the next five years. These estimates of cost avoidance have been incorporated into Department of Defense budget projections, which assume continuation of the current Appropriations Act provisions for physician payment reforms.

Section 802. Repeal of certain limitations on reductions of medical personnel

This purpose of this section is to repeal the following provisions of law:

Section 711 of the National Defense Authorization Act for Fiscal Year 1991, as amended by section 718(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993;

Section 718(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993; and

Section 518 of the National Defense Authorization Act for Fiscal Year 1993, as amended by section 716 of the National Defense Authorization Act for Fiscal Year 1995.

Section 711 prohibits reductions in military and civilian health care personnel below the number of such personnel serving on September 30, 1989, unless the Department of Defense certifies to Congress that the number of personnel being reduced is excess to current and projected needs of the Services and that the reduction will not increase Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) costs.

Section 718(b) requires that effective fiscal year 1992, the total number of Navy officers serving on active duty in health professions specialties be not less than 12,510, unless Department of Defense certification is accomplished.

Section 518, as amended by section 716 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2803), requires certification for any reduction in Reserve Component medical personnel. Any Reserve reduction must be excess to the current and projected needs of the military department and be consistent with the wartime requirements identified in the final report on the comprehensive study of the military medical care system pursuant to section 733 of the National Defense Authorization Act for Fiscal Years 1992 and 1993.

With the implementation of TRICARE, the adoption of capitation based financing, and the completion of the ''733 Study'', the Department has in place the tools necessary to size and shape the Military Health Services System, without increasing CHAMPUS costs. The Department will maintain sufficient active duty and Reserve Component medical personnel to meet all wartime requirements (consistent with the ''733 Study''), and using military treatment facilities and at risk managed care support contractors, meet the peacetime health care needs of Department of Defense beneficiaries. This prohibition on personnel reductions contained in current law significantly and unnecessarily restricts the Secretary's capability to manage the Department's military and civilian personnel strengths as the Department of Defense downsize its manpower inventories.

This provision will not increase the budgetary requirements of the Department of Defense.

Subtitle B—Other Matters

Section 811. Recognition by States of military advance medical directives

Subsection (a) of this section amends title 10 by inserting a new section 1044c in chapter 53. The purpose of the amendment is to ensure that advance medical directives prepared by members of the armed forces, their spouse, or other persons eligible for legal assistance under section 1044 of title 10 are recognized as valid even though a directive might not meet the precise requirements of the state where the member, spouse, or other person is located at the time of incapacitation.

An advance medical directive is a document that indicates a person's desire concerning the medical care to be received if that person becomes incapable of making health care decisions or gives to another person the authority to make those decisions under like circumstances. The Patient Self-Determination Act (42 U.S.C. 1395cc(f)(1)) requires certain medical facilities to have procedures to handle advance medical directives. The Act, however, left the substance of the law concerning the preparation of advance medical directives to the states. The states have adopted different procedures and requirements. Because members of the armed forces and their family members travel so frequently from state to state due to reassignments and duty requirements, it is very difficult to ensure that an advance medical directive they prepared in one state will be honored in another. The American Bar Association has endorsed this proposed legislation.

Subsection (a) of the proposed section 1044c would exempt a military advance medical directive from any state requirement concerning ''form, substance, formality, or recording'' and require that a military advance medical directive be given full legal effect.

Subsection (b) of the proposed section 1044c defines a military advance medical directive.

Subsection (c) of the proposed section 1044c would require a military advance medical directive to include a statement that clearly identifies it as such and, thus, would put health care professionals on notice of the requirement to give the advance medical directive full effect.

Subsection (d) of the proposed section 1044c defines a ''state'' to include the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

Subsection (b) of this section would amend the table of sections at the beginning of chapter 53 of title 10 to reflect a new section 1044c. Subsection (c) of this section would clarify that a military advance medical directive declared prior to enactment of the amendment would be covered under the amendment.

Section 812. Closure of the Uniformed Services University of the Health Sciences

This section requires an orderly phase-out and closure of the Uniformed Services University of the Health Sciences.

Subsection (a) repeals the statutory authority for the University.

Subsection (b) establishes and orderly phase-out process, beginning in fiscal year 1996, and ending with the closure of the University not later than September 30, 1999. Under the phase-out, the Secretary of Defense will have all necessary authorities to operate the University so as to achieve an orderly phase-out. The last student class will enter in fiscal year 1995 and graduate in fiscal year 1999.

Subsection (c) makes clear that the closure of the University will not affect previously established service obligations of University graduates, nor other medical education, research, and related activities of the Department of Defense that are conducted under other authorities under law.

Subsections (d) and (e) sets forth conforming and clerical amendments.

Section 813. Repeal of the statutory restriction on use of funds for abortions

This section repeals section 1093 of title 10, United States Code, which prohibits using funds available to the Department of Defense to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. The provision being repealed is sometimes referred to as the ''Hyde Amendment''.

Title IX—Department of Defense Organization and Management

Subtitle A—Secretarial Matters

Section 901. Additional Assistant Secretary of Defense

This section increases the number of Assistant Secretaries of Defense by one. This increase will allow the Secretary of Defense to change the position of Director of Program Analysis and Evaluation to the Assistant Secretary of Defense for Program Analysis and Evaluation.

Section 902. Change in name of Assistant to the Secretary of Defense for Atomic Energy to Assistant to the Secretary of Defense for Nuclear and Chemical Programs

This section would change the name of the Assistant to the Secretary of Defense for Atomic Energy to the Assistant to the Secretary of Defense for Nuclear and Chemical Programs. Section 142 currently provides a statutory designation for the subject position. The revision is required to reflect more precisely the current functions of the position. Further the term ''atomic energy'' is obsolete with regard to current lexicon. Within the Department of Defense, the Assistant to the Secretary is responsible for advising the Secretary on nuclear energy, nuclear weapons, and chemical and biological defense program matters. The Assistant to the Secretary also serves as the Staff Director for the Nuclear Weapons Council. That

function is reflected in section 179 of title 10. The amendment to title 5 is a conforming amendment necessary to reflect the proposed change in name designation.

Subtitle B—Professional Military Education

Section 911. Inclusion of Information Resources Management College in the National Defense University

The purpose of this legislation is to add the Information Resources Management College (IRMC) to the definition of the National Defense University (NDU) contained in section 1595(d)(2) of title 10 and to add it and the Institute for National Strategic Studies (INSS) to the definition of the National Defense University contained in section 2162(d)(2) of title 10. This legislation would update the statutes to include all of the component parts of the University in both definitions and to eliminate the inconsistency between the two definitions. Further, it would clarify the authority of the Secretary of Defense to hire professors, lecturers, and instructors for the Information Resources Management College under section 1595 just as he does for the other integral components of the National Defense University. It also would update the Institute for National Strategic Studies name from ''Study'' to ''Studies.''

The National Defense University was founded by the Joint Chiefs of Staff in 1976 and initially consisted of the National War College (NWC) and the Industrial College of the Armed Forces (ICAF). The University's mission has grown as joint education and interservice strategic thought have become more dynamic and vastly more significant. Though the passage of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 dramatically highlighted the significance of its joint mission, the National Defense University has been continually evolving to meet its enhanced mission requirements since its inception. In 1981, the Armed Services Staff College (AFSC) joined it. In 1982, what is now the Information Resources Management College was established, and, in 1984, the Institute for National Strategic Studies became the last major component of the National Defense University.

Through this evolution, the statutory definition of the National Defense University has not kept pace with the University's adjustment to its enhanced mission. The existence and mission of the National Defense University were first recognized statutorily in the Goldwater-Nichols Act (e.g., see 10 U.S.C. 663(b)); however, the University was not statutorily defined until the National Defense Authorization Act for Fiscal Year 1990 added section 1595 to title 10 (Public Law 101–189; 103 Stat. 1558). There the University was defined as consisting of the Air War College, the Industrial College of the Armed Forces, and the Armed Services Staff College. The National Defense Authorization Act for the Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1626) enacted the same definition of the National Defense University by adding section 2162(d)(2) to title 10. The Institute for National Strategic Studies was added to the definition in section 1595(d) of title 10 in 1991 by the National Defense Authorization Act for the Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1452). However, that amendment did not add Institute for National Strategic Studies to section 2162(d)(2) of title 10 nor add Information Resources Management College to either sections 2162(d) or 1595(d) of title 10. This legislation will cure that inconsistency.

The proposed legislation also would further clarify the Secretary of Defense's title 10 hiring authority for the faculty of the Information Resources Management College. As with the other components of the National Defense University, the General Service grading system does not meet the needs of the traditional academic ranking system. This legislation would ensure that the Secretary has the same latitude in employing civilian faculty for all components of the National Defense University as the Service Secretaries have for their professional military schools. This is appropriate as the Information Resources Management College's mission is commensurate in importance with those of the other components of the University.

The Information Resources Management College's mission is to provide an intensive graduate level curriculum for senior Department of Defense officials, both civilians and military, in an exponentially expanding field of knowledge crucial to twenty-first century national defense. That field is the joint management of information resources as a component of national power and the integration of those resources into national strategy. The keystone of the curriculum, the Advanced Management Program, is an accredited course of graduate study. The course content includes the latest in information technology, information based warfare, acquisition and functional analysis. It demonstrates the sophistication and complexity of the subject matter as well as the Information Resources Management College's success in addressing it to date. However, Information Resources Management College is also recognized by the Defense Acquisition University to be among its level-3 Acquisition Corps granting consortium. More recently, Information Resources Management College has launched a pilot, 10-month, senior military course in the information component of national power. This course, of equal stature to National War College and Industrial College of the Armed Forces, educates future defense leadership in the art of possible future conflict and operations other than war. These courses underscore the necessity for nationally recognized faculty to maintain the highest level of instruction. To attract and retain such faculty, the Information Resources Management College needs title 10 hiring authority, just as the other components of the University do.

Enactment of the proposed legislation would not result in an increase in the budgetary requirements of the Department of Defense.

Section 912. Employment of civilians at the Asia-Pacific Center for Security Studies

The purpose of this section is to grant the Secretary of the Defense the authority to appoint, administer and compensate the civilian faculty to the Chester W. Nimitz Asia-Pacific Center for Security Studies. The National Defense University (10 U.S.C. 1595), United States Naval Academy (10 U.S.C. 6952), the United States Military Academy (10 U.S.C. 4331), the United States Air Force Academy (10 U.S.C. 9331), the Naval Postgraduate School (10 U.S.C. 7044), the Naval War College (10 U.S.C. 7478), the Army War College (10 U.S.C. 4021), the Air University (10 U.S.C. 9021) and the George C. Marshall European Center for Security Studies (10 U.S.C. 1595) have such authority for their civilian faculty.

The Asia-Pacific Center for Security Studies is a new institution chartered by the Secretary of Defense to be under the authority, direction and control of the Commander in Chief, United States Pacific Command. The center's mission is to facilitate broader understanding of the United States military, diplomatic, and economic roles in the Pacific and its military and economic relations with its allies and adversaries in the region. The center will offer advanced study and training in civil-military relations, democratic institution and nation building, and related courses to members of the United States military and military members of other Pacific nations. The mission of this critically important and innovative center will require first-rate faculty and scholars with international reputations.

Under current authority available to the Commander in Chief, United States Pacific Command, civilian faculty for the Asia-Pacific Center for Security Studies must be appointed, administered and compensated under title 5. The faculty must be classified under the General Schedule (GS) and recruitment and compensation must be limited to GS grade, occupational series and pay rates. However, the GS grading system does not meet the needs of the traditional academic ranking system wherein faculty members earn and hold rank based on educational accomplishment, experience, stature and other related academic and professional endeavors. The GS grading system also will not allow the center to hire non-United States citizen academics from international institutions. Legislation is required for the Commander in Chief, United States Pacific Command to utilize title 10 excepted service authority which will provide greater flexibility to appoint, administer and compensate the center's civilian faculty.

Section 1595 of title 10 provides for employment and compensation of civilian faculty at certain Department of Defense schools. There is no provision for civilian faculty of the Asia-Pacific Center for Security Studies.

The proposed legislation provides excepted service authority for appointing, administering and compensating the civilian faculty of the Asia-Pacific Center for Security Studies.

Subtitle C—Other Matters

Section 921. Reduction of reporting requirements

The purpose of this proposal is to reduce the Department of Defense reporting requirements determined to be unnecessary or incompatible with efficient management.

Subsection (a)—Closure of Military Child Development Centers for Uncorrected Inspection Violations.—Section 1505(f)(3) of the Military Child Care Act of 1989 requires the Secretary of Defense to inspect military child development centers not less than four times a year. All inspections should be unannounced and at least one each should be carried out by an installation representative and a major command representative. If a violation occurs, the centers have 90 days to correct it or be forced to close down. If after 90 days the violation is still not corrected, the Secretary of the military department concerned shall forward a report to both the House and Senate Armed Services committee notifying them of the closure. The report shall include (a) notice of the violation that resulted in the closing and the cost of remedying the violation; and, (b) a statement of the reasons why the violation had not been remedied as of the time of the report.

The Department of Defense has instituted a comprehensive inspection system that mirrors a check and balance system. Unannounced inspections are carried out at least four times a year at each child development center and all levels including the installation, major command, service, and Department of Defense, are inspected in this system. The Department of Defense inspection system is extremely aggressive. Additionally, there is even a multi-disciplinary Department of Defense team in place that inspects random installations each year to check the military services inspection procedures. Based on the provisions now in place the requirement for this report is no longer necessary.

Subsection (b)—Energy Savings at Military Installations.—Section 2865(e) of title 10 authorizes the Secretary of Defense to carry out a military construction project for energy conservation, not previously authorized. It directs the Secretary of Defense to notify in writing the Armed Services and Appropriations Committees in both the House and the Senate of his decision to carry out a project. The project may then only be carried out after a 21 day period after official notification of the committees.

This requirement should be eliminated since it is a notification requirement only. Currently all new military construction project plans incorporate programs to reduce energy usage and procedures to protect our environment.

Subsection (c)—Military Relocation Assistance Programs.—Section 1056 (f) of title 10 requires the Secretary of Defense to submit a report to Congress not later than 1 March of each year outlining assessments on available/affordable private-sector housing available for military members and their families, actual nonreimbursed costs associated with a permanent change of station for military members and their families, numbers of members who live on military installations and those who do not live on military installations, and the effects of the relocation assistance programs on the quality of life for members of the Armed Forces.

The Department has met all requirements outlined in this section of title 10 related to relocation assistance. Recommend termination of this report because it is a more cost-effective use of limited manpower resources of the Armed Forces to provide information when requested. The information outlined in this report could be furnished to Congress or an outside agency as needed in response to requests, saving extremely needed personnel manhours.

Subsection (d)—Limitation on Source of Funds for Nicaraguan Democratic Resistance.—Section 1351 of the National Defense Authorization Act for Fiscal Year 1987 requires the Secretary of Defense not to expend any operations and maintenance or other supplied funds in providing support to the Nicaraguan democratic resistance forces. If funds appropriated or otherwise made available to the Department of Defense are authorized by law to be used for such assistance, such funds may only be derived from amounts appropriated for procurement (other than ammunition). Before such funds are used the Secretary of Defense shall submit a report to Congress describing the specific source of the funds.

The Nicaraguan resistance is no longer in operation, so the requirement for this report is no longer valid.

Subsection (e)—Limitation on Reductions in Medical Personnel.—Section 711 of the National Defense Authorization Act for Fiscal Year 1991 requires that before the Secretary of Defense can reduce the number of medical personnel, he must certify to Congress that the number of personnel being reduced is in excess to the current and projected needs of the military departments and such a reduction will not result in an increase in Civilian Health and Medical Program of the Uniformed Services.

This certification/report was required by Congress to ensure that as the military departments and Department of Defense downsized that the medical personnel were not affected by the drawdown. Congress felt that any drawdown affecting military medical personnel could both jeopardize the care provided to members not affected by the drawdown and also drive up the cost of Civilian Health and Medical Program of the Uniformed Services. During the drawdown both military and civilian medical personnel were prohibited from participating in the reduction of forces thus protecting the medical personnel levels.

As the downsizing nears its completion and the TRICARE implementation program gets underway, the Department of Defense needs to have the flexibility to tailor its medical staff levels to correspond to the needs of the population. This certification limits the Secretary of Defense management authority and should be terminated.

Subsection (f)—Foreign National Employees Salary Increase.—Section 1584(b) of title 10 requires the Secretary of Defense to submit a report to the Appropriations and Armed Services Committees of both the House and the Senate when any salary increase granted to direct and indirect hire foreign national employees, stated as a percentage, is greater than percentage pay authorized for civilian employees of the Department of Defense or when the percentage increase is greater than the salary increase of the national government employees of the host nation.

Due to continuing annual appropriations acts these payments have been limited. The report has never been necessary and the reporting requirement should be deleted.

Subsection (g)—Civilian Positions: Guidelines for Reduction.—Section 1597 (c) and (e) of title 10 outlines the requirements for three reports from the Secretary of Defense. The first report requires the Secretary of Defense to annually submit along with budget requests a report outlining a master plan for civilians. The master plan should include the tracking of accessions and losses of civilian positions, numbers of civilian personnel both stateside and abroad, a breakdown of civilians by service and major commands, a total number of civilian employees, the number of foreign national employees, and various other requirements.

The second report permits the Secretary of Defense to provide a variation from the requirement outlined above if deemed necessary in the interest of national security. If a variation is needed, the Secretary of Defense shall immediately notify the Congress of any such variation and the reasons for such variation.

The third report prohibits the Secretary of Defense from implementing any involuntary reduction or furlough of civilian positions in a military department, Defense Agency, or other component of the Department of Defense until the expiration of a 45-day period beginning on the date which the Secretary submits to Congress a report outlining the reasons for the reduction or furlough and describing any change in workload or position requirements that will result from such reductions or furloughs.

Based on the fact that the civilian force is not as structured as the military force, data to support such a report is quite difficult to obtain. Through the submission of O&M Justification Materials and the Defense Manpower Requirements Report, information required by this report is already accessible. Based on this, the Department of Defense recommends that the first two reporting requirements be deleted.

The third reporting requirement should be deleted based on the fact that the Department of Defense already has in place procedures in DOD Directive 5410.10 to notify Congress of involuntary reductions affecting 50 or more federal civilian employees or 100 or more contractor personnel. Any additional requirements for reporting on such measures causes a significant administrative burden on the entire department including the services.

Subsection (h)—Industrial Fund Management Reports.—Section 342 of the National Defense Authorization Act for Fiscal Year 1993 requires the Secretary of Defense to submit a report at the same time the President submits the budget to Congress outlining the condition and operation of working-capital funds. A report should be furnished for each industrial fund or working capital fund. There are five separate funds, one for each service and one for the Department.

This reporting requirement should be deleted due to the nonexistence of these reports within the Department of Defense.

Subsection (i)—Elimination of Use of Class I Ozone-Depleting Substances in Certain Military Procurement Contracts.—Section 326(a) of the National Defense Authorization Act for Fiscal Year 1993 outlines a reporting requirement of the Secretary of Defense in relation to use of certain class I ozone-depleting substances. The provision noted states that no Department of Defense contract awarded after June 1, 1993, may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard in the contract is approved by the Senior Acquisition Official for the procurement covered by the contract. The Senior Acquisition Official may grant the approval only if the Senior Acquisition Official determines (based upon the certification of an appropriate technical representative of this official) that a suitable substitute for the class I ozone-depleting substance is not currently available. Each official who grants an approval shall submit to the Secretary of Defense a report on that approval or determination. The Secretary of Defense shall promptly transmit to the committees on Armed Services of the Senate and House of Representatives each report submitted to him by the Senior Acquisition Official. The Secretary of Defense shall transmit the report in classified and unclassified forms.

Based on the fact that the production of halons was phased out in January 1994, only recycled/reclaimed products may now be procured. Production class I ozone depleting substances, refrigerants, and solvents will be phased out on January 1, 1996. Report uses a large quantity of Department of Defense resources and provides no useful management tool for Department of Defense or Congress.

Subsection (j)—Kinds of Contracts: Multiyear Contract Certification.—Section 2306(h)(9) of title 10 states that a multiyear contract may not be entered into for any fiscal year for a defense acquisition program that has been specifically authorized by law to be carried out using multiyear contract authority unless each of the following conditions are satisfied: 1) the Secretary of Defense certifies to Congress that the current 5-year defense program fully funds the support costs associated with the multiyear program; and 2) the proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

Currently the Comptroller must provide a justification package with the budget when any multiyear production contracts are requested. Also, multiyear contracts are more difficult to sustain during the current post cold-war defense environment where the major focus now is towards the United States maintaining its technology base capabilities. Outside of the report mentioned from the Comptroller to Congress, all other reports concerning multiyear production contracts should be deleted.

Subsection (k)—Notice to Congress Required for Contracts Performed over Period Exceeding 10 Years.—Section 2352 of title 10 states that the Secretary of a military department shall submit to Congress a notice with respect to a contract of that military department for services for research or development in any case in which—(1) contract is awarded or

modified, and contract is expected, at the time of award or as a result of the modification to be performed over a period exceeding 10 years or (2) the performance of the contract continues for a period exceeding ten years and no other notice has been provided to Congress.

This reporting requirement should be deleted due to the fact there are very few contracts, if any, for services for research and development which extend over a period exceeding 10 years. In addition, internals controls currently exist in regulation (*e.g.* FAR 17.204(e)) that preclude contracts being written for, or being extended to encompass, 10 years or more.

Subsection (l)—Major Defense Acquisition Program Defined.—Section 2430(b) of title 10 defines a ''major defense acquisition program'' as a program of the Department of Defense acquisition program, is not classified, and (1) that is designated by the Secretary of Defense as a major defense acquisition program; or (2) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $300,000,000 (based on fiscal year 1990 constant dollars) or an eventual total expenditure for procurement of more than $1,800,000,000 (based on fiscal year 1990 constant dollars.)

The section states that the Secretary of Defense may adjust the amounts (and the base fiscal year) on the basis of Department of Defense escalation rates. Any adjustment shall be effective after the Secretary transmits a written notification of the adjustment to the Committees on Armed Services on the Senate and House of Representatives.

The adjustments noted above was utilized recently in updating Department of Defense directives which are published in the Federal Register and made available to the public. Annual reports to Congress should be deleted because the information is available to the public.

Subsection (m)—Weapons Development and Procurement Schedules.—Section 2431 of title 10 states that the Secretary of Defense shall submit to Congress each calendar year, at the same time the President submits the budget to Congress under section 1105 of title 31, a written report regarding development and procurement schedules for each weapon system for which fund authorization is required by section 114(a) of title 10, and for which any funds for procurement are requested in that budget.

The reporting requirement should be deleted since any necessary information should be included in the Selected Acquisition Reports. No additional reports should be necessary.

Subsection (n)—Selected Acquisition Reports for Certain Programs.—Section 127 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 requires the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives a selected acquisition report for each of the following programs: (1) the advanced technology bomber program; (2) the advanced cruise missile program; and (3) the advanced tactical aircraft program.

These reports should be deleted. The programs were terminated by the Secretary of Defense and selected acquisition reports are no longer needed for these programs.

Subsection (o)—Core Logistics Functions Waiver.—Section 2464(b) of title 10 states that the Secretary of Defense may waive the requirement that performance of a logistics activity identified by the Secretary and performance of a function of the Department of Defense, may not be contracted for performance by non-Government personnel under the procedures of OMB Circular A–76. This waiver will be in the case of such logistics activity or function and provide that performance of such activity or function shall be considered for conversion to contractor performance in accordance with OMB circular A–76. Any such waiver shall be made under regulations prescribed by the Secretary of Defense and shall be based on a determination by the Secretary that government performance of the activity or function is no longer required for national defense reasons. Such regulations shall include criteria for determining whether government performance of any such activity or function is no longer required for national defense reasons. A waiver may not take effect until the Secretary of Defense submits a report on the waiver to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

This reporting requirement is eight years old—is no longer required and should be deleted. Public Law 100–320 and OMB Circular A–76 provides proper safeguards for contract conversions.

Subsection (p)—Improved National Defense Control of Technology Diversions Overseas.—Section 2537 of title 10 requires the Secretary of Defense and the Secretary of Energy to each collect and maintain a data base containing a list of, and other pertinent information on, all contractors with the Department of Defense and the Department of Energy, respectively, that are controlled by foreign persons. The data base shall contain information on such contractors for 1988 and thereafter in all cases where they are awarded contracts exceeding $100,000 in any single year by the Department of Defense or the Department of Energy. The Secretary of Defense, the Secretary of Energy, and the Secretary of Commerce shall submit to Congress, by March 31 of each year, beginning in 1994, a report containing a summary and analysis of the information collected for the year covered by the report. The report shall include an analysis of accumulated foreign ownership of U.S. firms engaged in the development of defense critical technologies.

Based on the fact that there are currently no existing data bases to identify which contractors are foreign controlled and the amount of additional work this requirement will place on contractors and the Department of Defense, recommend termination of the reporting requirement.

Subsection (g)—Real Property Transactions: Reports to Congressional Committees.—Section 2662 of title 10 covers three reporting requirements for the Secretary of Defense. The first reporting requirement requires that the Secretary of a military department, or his designee, may not enter into any of the following listed transactions by or for the use of that department until after the expiration of 30 days from the date upon which a report of the facts concerning the proposed transaction is submitted to the Committee on Armed Services of the Senate and the House of Representatives: 1) an acquisition of fee title to any real property, if the estimated price is more than $200,000; 2) a lease of any real property to the United States, if the estimated annual rental is more than $200,000; 3) a lease or license of real property owned by the United States, if the estimated annual fair market rental value of the property is more than $200,000; 4) a transfer of real property owned by the United States to another federal agency or another military department or to a state, if the estimated value is more than $200,000; 5) a report of excess real property owned by the United States to a disposal agency, if the estimated value is more than $200,000; and 6) any termination or modification by either the grantor or grantee of an existing license or permit of real property owned by the United States to a military department, under which substantial investments have been or are proposed to be made in connection with the use of the property by the military department.

The second reporting requirement requires that the Secretary of each military department shall report annually to the Committees on Armed Services of the Senate and the House of Representatives on transactions described above that involve an estimated value of more than the small purchaser threshold under section 2304(g) of title 10 but not more than $200,000.

The third and final reporting requirement for this section requires that no element of Department of Defense shall occupy any general purpose space leased for it by the General Services Administration at an annual rental in excess of $200,000 (excluding the cost of utilities and other operation and maintenance services), if the effect of such occupancy is to increase the total amount of such leased space occupied by all elements of Department of Defense until the expiration of 30 days from the date upon which a report of the facts concerning the proposed occupancy is submitted to the Committees on Armed Services of the Senate and the House of Representatives.

All three of these reporting requirements should be deleted based on the fact these reports are incompatible with efficient management (threshold of $200,000 is .00001% of proposed fiscal year 1995 budget) and unnecessary. This section is not an authority for the transaction so, any action must meet another statute's requirements.

Subsection (r)—Acquisition: Interests in Land When Need Is Urgent.—Section 2672a(b) states that the Secretary of a military department may acquire any interest in land that—(1) he or his designee determines is needed in the interest of national defense—(2) is required to maintain the operational integrity of a military installation; and (3) considerations of urgency do not permit delay necessary to include the required acquisition in an annual military construction authorization act. The Secretary of a military department contemplating action under this section shall provide notice in writing to the Committees on Armed Services of the Senate and House of Representatives at least 30 days in advance of any action being taken.

This reporting requirement should be terminated because of the problems the 30-day delay causes. Actions that were needed in an urgent manner during Operations Desert Shield/Storm were hindered by this reporting requirement.

Subsection (s)—Operations of Department of Defense Overseas Military Facility Investments Recovery Account.—Section 2921 of the National Defense Authorization Act for Fiscal Year 1991 requires the Secretary of Defense not later than January 15 of each year, to submit to the Congressional defense committees a report on the operations of the Department of Defense overseas military facility investment recovery account during the preceding fiscal year and proposed uses of funds in the special account during the next fiscal year. This requirement appears in the Base Closure and Realignment Act of 1990, section 2921(f) and appears as other provisions in the committee print for fiscal year 1994.

Should be included in the quarterly report to Congress on the status of residence value negotiations prepared by the Office of the Under Secretary of Defense (Economic Security). The Comptroller would have collateral action and coordination on the report.

Subsection (t)—Environmental Restoration Requirements at Military Installations To Be Closed.—Section 334(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 allows the Secretary of Defense, as

it relates to environmental restoration requirements at military installations to be closed and in consultation with the Environmental Protection Agency, to extend for a 6-month period of time the cleanup process at a facility scheduled for closure. The Secretary of Defense submits to Congress a notification containing a certification that, to the best of the Secretary's knowledge and belief, the requirements cannot be met with respect to the military installation by the applicable deadline because one of the conditions set forth exists; and a period of 30 calendar days after receipt by Congress of such notice has elapsed.

Status of these installations is contained in the DERP annual report to Congress required by Public Law 103–160. The Environmental Protection Agency consultation is obtained by detailed coordination and teamwork between the Environmental Protection Agency, state regulators, and the Department of Defense in the development of each closing installation's BRAC cleanup plan.

Subsection (u)—Environmental Restoration Costs for Installation To Be Closed Under 1990 Base Closure Law.—Section 2827 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 states that each year, at the same time the President submits to Congress the budget for a fiscal year, the Secretary of Defense shall submit to Congress a report on the funding needed for the fiscal year for which the budget is submitted, and for each of the following four fiscal years, for environmental restoration activities at each military installation separately by fiscal year for each military installation.

This requirement is already contained in the defense annual environmental restoration program report to Congress required by PL 103–160. The reporting requirement should be deleted.

Subsection (v)—Fuel Sources for Heating Systems; Prohibition on Converting Certain Heating Facilities.—Section 2690(b) of title 10 states that the Secretary of the military department concerned shall provide that the primary fuel source to be used in any new heating system constructed on lands under the jurisdiction of the military department is the most cost effective fuel for that heating system over the life cycle of that system. The Secretary of a military department may not convert a heating facility at a United States military installation in Europe from a coal-fired facility to an oil-fired facility, or to any other energy source facility, unless the Secretary—(1) determines that the conversion is required by the government of the country in which the facility is located, or is cost effective over the life cycle of the facility; and (2) submits to Congress notification of the proposed conversion and a period of 30 days has elapsed following the date on which Congress receives the notice.

The language directing the use of the least life cycle cost fuel should be retained. Since conversions from coal will be done only if they meet the least life cycle cost requirement, Congressional notification should not be required.

Subsection (w)—Architectural and Engineering Services and Construction Design.—Section 2807 of title 10 states that within amounts appropriated for military construction and military family housing, the Secretary of the service concerned may obtain architectural and engineering services and may carry out construction design in connection with military construction projects and family housing projects. Amount available for such purposes may be used for construction management of projects that are funded by foreign governments directly or through international organizations and for which elements of the Armed Forces of the United States are the primary user. In the case of architectural and engineering services and construction design to be undertaken for which the estimated cost exceeds $300,000, the Secretary concerned shall notify the appropriate Committees of Congress of the scope of the proposed project and the estimated cost of such services not less than 21 days before the initial obligation of fund for such services.

This reporting requirement should be deleted based on the fact that design and project fees have since enactment of this requirement and so the notice is required for too many projects. The notification process delays execution and should be deleted.

Subsection (X)—Construction Projects for Environmental Response Actions.—Section 2810 of title 10 states that the Secretary of Defense may carry out a military construction project not otherwise authorized by law (or may authorize the Secretary of a military department to carry out such a project) if the Secretary of Defense determines that the project is necessary to carry out a response action under the Comprehensive Environmental Response, Compensation, and Liability Act. When a decision is made to carry out a military construction project, the Secretary of Defense shall submit a report, in writing, to the appropriate Committees of Congress on that decision. Each report shall include the justification for the project and the current estimate of the cost of the project; and the justification for carrying out the project.

Environmental cleanup requirements are contained in the annual Department of budget justification material provided with the Department of Defense budget each year. Cleanup requirements are identified in the DERP annual report to Congress required by Public Law 103–160. The reporting requirement should be terminated.

Subsection (y)—Improvements to Family Housing Units.—Section 2825(b)(1) and section 2825(c)(1) of title 10 outlines two reporting requirements. The first requirement states that funds may not be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units that are to be converted into or are to be used as a single family housing unit, if the cost per unit of such improvement will exceed (a) $50,000 multiplied by the area of construction cost index as developed by the Department of Defense for the location concerned at the time of contract award, or (b) in the case of improvements necessary to make the unit suitable for habitation by a handicapped person, $60,000 multiplied by such index. The Secretary concerned may waive the limitations if such Secretary determines that, considering the useful life of the structure to be improved and the useful life of a newly constructed unit the improvement will be cost effective, and a period of 21 days elapses after the date on which the Committees on Appropriations of the Senate and of the House of Representatives receive a notice from the Secretary of the proposed waiver together with the economic analysis demonstrating that the improvement will be cost effective.

The second reporting requirement states that the Secretary concerned may construct replacement military family housing units in lieu of improving existing military family housing units if—(a) the improvement of the existing housing units has been authorized by law; (b) the Secretary determines that the improvement project is no longer cost-effective after review of post-design or bid cost estimates; (c) the Secretary submits to the committees on Armed Services and Appropriations of the Senate and the House of Representatives a notice containing (i) an economic analysis demonstrating that the improvement project would exceed 70 percent of the cost of constructing replacement housing units intended for members of the Armed Forces in the same pay grade or grades as the members who occupy the existing housing units and (ii) the replacement housing units are intended for members of the Armed Forces in a different pay grade or grades, justification of the need for the replacement housing units based upon the long-term requirements of the Armed Forces in the location concerned.

Both reports should be terminated and replaced by internal reports. The Reporting requirements are unnecessary.

Subsection (z)—Relocation of Military Family Housing Units.—Section 2827 of title 10 states that the Secretary concerned may relocate existing military family housing units from any location where such units exceeds requirements for military family housing to any military installation where there is a shortage. A contract to carry out a relocation of military family housing units may not be awarded until (1) the Secretary concerned notifies Congress of the proposed new locations of the housing units to be relocated and the estimated cost of and source of funds for the relocation, and (2) a period of 21 days has elapsed after the notification has been received by the Committees.

The report is unnecessary. It should be terminated and replaced by a Department of Defense report for management if needed for management.

Subsection (aa)—Annual Report to Congress With Respect to Military Construction Activities and Military Family Housing Activities.—Section 2861 of title 10 requires the Secretary of Defense to submit a report to the Appropriate Committees of Congress each year with respect to military construction and military family housing activities. Each report shall be submitted at the same time that the annual request for military construction authorization is submitted for that year. Otherwise, information to be provided in the report shall be provided for the two most recent fiscal years and for the fiscal year for which the budget request is made.

This reporting requirement should be terminated. The data supplied by this report can be furnished by the service concerned on an as needed basis.

Subsection (bb)—Energy Savings at Military Installations.—Section 2865 of title 10 requires the Secretary of Defense to designate an energy performance goal for the Department of Defense for the years 1991 through 2000. To achieve the goal designated, the Secretary of Defense shall develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum of energy conservation measures under the plan shall be limited to those with a positive net present value over a period of 10 years or less. The Secretary of Defense shall provide that ⅔ of the portion of the funds appropriated to Department of Defense for a fiscal year that is equal to the amount of energy cost savings realized by the Department of Defense, including financial benefits resulting from shared energy savings contracts and financial incentives described for any fiscal year beginning after fiscal year 1990 shall, remain available for obligation through the end of fiscal year following the fiscal year for which the funds were appropriated, with additional authorization or appropriation. The Secretary of Defense shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts with respect to military installations and will reduce the administrative effort and cost on the part of Department of Defense as well as the private sector. The Secretary of Defense shall permit and encourage each military department defense agency, and

other instrumentality of Department of Defense to participate in programs conducted by any gas or electric utility for this management of electricity demand or for energy conservation. Not later than, December 31 of each year, the Secretary of Defense shall transmit an annual report to Congress containing a description of the actions taken to carry out energy savings at military installations and the savings realized from such actions during the fiscal year ending in the year in which the report is made.

This reporting requirement has been superseded by the Energy Policy Act of 1992 which established conservation goals for the year 2005 and requires annual agency reports to Congress through the Department of Energy.

Subsection (cc)—Reports on Price and Availability Estimates.—Section 28 of the Arms Export Control Act requires the President to submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, within fifteen days after the end of each calender quarter, a report listing each price and availability estimate provided by the United States Government during such quarter to a foreign country with respect to a possible sale under this chapter of major defense equipment for $7,000,000 or more, of any other defense articles or defense services for $25,000,000 or more, or of any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the possible sale).

This report is redundant. The provision for this report requires reporting of potential foreign military sales which may or may not result in actual sales. Sales offers to foreign purchasers as well as actual sales are being reported in a broader scope at the $1 million threshold on a quarterly basis, as required by section 36(a) of the Arms Export Control Act (22 U.S.C. 2765). The reporting requirement should be deleted.

Subsection (dd)—Annual Report on the Status of the Exercise of the Rights and Responsibilities of the United States Under the Panama Canal Treaty of 1977.—Section 3301 of the Panama Canal Act of 1979 requires the President to submit a report annually on the status of the exercise of the rights and responsibilities of the United States under that treaty and includes the following: (1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce; (2) the effect on canal operations of the military forces under General Noriega; and (3) the commission's evaluation of the effect on canal operations if the Panamanian government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal treaties.

The report has been overtaken by events and should be discontinued. Report requirements are superseded by those of Public Law 103–129.

Subsection (ee)—Monitoring and Research of Ecological Effects of Organotin Antifouling Paint.—Section 7 of the Organotin Antifouling Paint Control of 1988 in regards to estuarine monitoring, states that the Secretary of the Navy, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after the date of the enactment of this act (enacted June 11, 1988). The Administrator shall submit a report annually to the Speaker of the House of Representatives and to the President of the Senate detailing the results of such a monitoring program for the preceding year. As such, the Secretary shall submit a report annually to the Secretary and to the Governor of each state in which a home port for the Navy is monitored detailing the results of such monitoring in the state. Regarding home port monitoring, the Secretary shall provide for periodic monitoring, not less than quarterly, of waters serving as the home port for any navy vessel coated with an antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and organisms of such waters.

The Navy currently has fewer than six ships using organotin coatings. By the end of fiscal year 1994, only two ships with organotin coatings will remain in the fleet. Current Navy policy does not allow use of organotin coatings. By fiscal year 1998 no ships will have organotin coating. With organotin use going to zero, this report should be terminated.

Subsection (ff)—Minority Group Participation in Construction of Tennessee-Tombigbee Waterway Project.—Section 185 of the Water Resources Development Act of 1976 requires the Secretary of the Army, acting through the Chief of Engineers, is directed to make a maximum effort to assure the full participation of members of minority groups, living in the states participating in the Tennessee-Tombigbee Waterway Development Authority, in the construction of the Tennessee-Tombigbee Waterway project, including actions to encourage the use, wherever possible, of minority owned firms. The Chief of Engineers is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendations for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary.

This report should be terminated because this project has been completed.

Subsection (gg)—Presidential Recommendations Concerning Adjustments and Changes in Pay and Allowances.—Section 1008 of title 37 requires the President, after an annual review of the adequacy of the pays and allowances authorized to members of the uniformed services, to submit a report to Congress summarizing the results of such annual review together with any recommendations for adjustments in the rates of pay and allowances.

The pay adequacy report, required on an annual basis by section 1008(a) of title 37, was mandated in an era when there was no regular annual military pay raise. This report would provide information on a number of economic indicators, and when it was determined that an annual pay raise was needed, the raise would be requested. The law on military compensation has changed. Current law (Public Law 101–509) pegs military pay raises to the employment cost index. Pay raises are annual and are based upon changes in private sector wages and salaries for the average worker. The information contained in the pay adequacy report is no longer needed and media coverage of the pay raise system is widespread. The reporting requirement should be deleted.

Subsection (hh)—Adjustments of Compensation.—Section 1009(f) of title 37 outlines a report by the President that is owed with the quadrennial review of military compensation when the President decides not to give equal percentage pay raise to all military members.

This report is due from the quadrennial review group only when there is a reallocation of the basic pay raise. This rarely happens; when it does, it would not appear useful to require that such a fact be reviewed and reported by a quadrennial review group that meets every fourth year. The reporting requirement should be deleted.

Subsection (ii)—Travel and Transportation Allowances: Dependents; Baggage and Household Effects.—Section 406 of title 37 requires the Secretary of Defense to submit to the Committees on Armed Services of the Senate and the House of Representatives a report at the end of each fiscal year stating (1) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were authorized by the Secretary concerned to receive allowances or transportation for dependents; and (2) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were not authorized to receive allowances or transportation.

Neither the Office of the Secretary of Defense nor the services have ever submitted such reports, insofar as we can determine. We are skeptical of the interest this report holds for Congress; therefore, the reporting requirement should be deleted.

Subsection (jj)—Health-Care Sharing Agreements Between Department of Veterans Affairs and Department of Defense.—Section 8111 to title 38 states that for each of fiscal years 1993 through 1996 the Secretary of Defense shall submit a report on opportunities for greater sharing of the health care resources of the Veterans Administration and the Department of Defense which would be beneficial to both veterans and members of the Armed Forces and could result in reduced costs to the government by minimizing duplication and under use of health care resources. The fiscal year 1996 report will also include—(1) an assessment of the effect of agreements entered into on the delivery of health care to eligible veterans, (2) an assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the Armed Forces dependents of members or former members, and beneficiaries, and (3) any plans for administrative action, and any recommendations for legislation, that the Secretary of Defense considers appropriate.

Public Law 97–174 requires the Secretaries of the Departments of Veterans Affairs and Defense to submit a joint annual report to Congress on the status of health care resources sharing. After careful review of the reporting requirements of Congress, recommend combining this report with the report entitled ''Sharing of Department of Defense Health-Care Resources.'' Combining these reports will avoid redundancy and allow for a succinct review of health care resources sharing activity between the departments.

Subsection (kk)—Water Resources Projects.—Section 221(e) of the Flood Control Act of 1970 requires the Secretary of the Army, acting through the Chief of Engineers, shall maintain a continuing inventory of agreements and the status of their performance, and shall report thereon to Congress. This shall not apply to any project the construction of which was commenced before January 1, 1972, or to the assurances for future demands required by the Water Supply Act of 1958, as amended. Following the date of enactment, the construction of any water resources project, or an acceptable separable element thereof, by the Secretary of the Army, Chief of Engineers or by a nonfederal interest where such interest will be reimbursed for such construction under the provisions of the Flood Control Act of 1960 or under any other provision of law, shall not be commenced until each nonfederal interest has entered into a written agreement with

the Secretary of the Army/Chief of Engineers to furnish its required cooperation for the project. The agreement may reflect that it does not obligate future state legislation appropriations for such performance and payment when obligating future appropriations would be inconsistent with state constitutional or statutory limitations.

This annual report contains only the total number of agreements executed (according to six types of agreements) and states whether maintenance of any projects has been found to be deficient. However, the inventory requires substantial effort to track agreements, and report relevant data. When this requirement was new Congress was curious as to its effectiveness. However, over 2,000 agreements have been executed since 1972, and Congress has shown no interest in this report. This reporting requirement should be deleted.

Subsection (ll)—Public Health Service Hospitals.—Section 1252 of the Department of Defense Authorization Act of 1984 states that the Secretary of Defense, in consultation with the Secretary of Health and Human Services, and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy, shall submit annually to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a written report on the result of the studies and projects carried out. The first such report shall be submitted not later than one year after the date of enactment. The last report shall be submitted not later than one year after the completion of all such studies and projects.

This reporting requirement should be terminated. Assessment reports were completed in the 1980s. No such studies and projects are underway or planned.

Subsection (mm)—Review of Contracts.—Section 3(b) of the Act of August 28, 1958 states that all contracts entered into, amended, or modified pursuant to authority contained in this act shall include a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of and involving transactions related to such contracts or subcontracts. If the clause is omitted, after taking into account the price and availability of the property or services from United States sources, that the public interest would be best served, by the omission of the clause, the agency head will submit a report to Congress in writing.

Recommend termination of this report. This report is required when the agency head concerned determines that public interest would best be served by omitting the clause permitting examination of functional and other records as otherwise required for inclusion in contract where relief has been granted.

Subsection (nn)—Special Defense Fund (SDAF) Annual Report.—This provision would repeal section 53 of the Arms Export Control Act (22 U.S.C. 2795b). This is an extensive and time consuming report that provides information readily available through numerous other resources.

Subsection (oo)—Annual Department of Defense Conventional Standoff Weapons Master Plan and Report on Standoff Munitions.—Section 1641 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2431, note) requires the Department to provide to the Congressional defense committees an annual plan on the development of those standoff weapons that can adequately address the needs of more than one of the Armed Forces.

Much staff work is required to generate the report. We believe that the specific report content is dated and no longer useful to the recipients. The specific report contains an accounting of the Department's standoff weapons programs in the budget, which can be found in other documentation supporting the budget. The programs described in the Conventional Munitions Master Plan, submitted to Congress every other year. Request this reporting requirement be deleted.

Subsection (pp)—Special Defense Acquisition Fund (SDAF) Annual Report.—Due to the decapitalization of the Special Defense Acquisition Fund (SDAF), the requirement for a year end report to the Congress pursuant to section 53 of the Arms Export Control Act is not longer necessary. Subsections (a)(1), (a)(4) are no longer applicable since new procurements under the fund have not been authorized since fiscal year 1993. Reports pursuant to subsection (a)(3) are also unnecessary; while ongoing, transfers of Special Defense Acquisition Fund stocks will decrease over time as they are sold off. Further, such transfers are already notified to the Congress pursuant to other applicable reporting requirements in the Arms Export Control Act.

Section 922. Repeal of prohibition of contracting for firefighting and security guard functions at military facilities

This proposed legislation is the result of cumulative recommendations by our military services to remove this prohibition so the installation commanders and facility managers can improve the efficiency and effectiveness of their fire and security guard functions.

Adoption of this proposal will be implemented within existing Department of Defense appropriations. This proposal will permit the Department to become more efficient in the conduct of business directly supporting the installation operations and maintenance resources. Our firefighting and security guard functions will become more effective and efficient through competition.

It is essential that we get our firefighting and security guard functions in the most effective and efficient posture during the dramatic reductions the Administration desires and approved by the Congress. Getting the best value out of smaller budgets demands better performance, not keeping the status quo. We firmly believe that this legislative proposal will allow our military leaders and facility managers to get the job done with less resources.

The purpose of this section is to repeal section 2465 of title 10, United States Code, and thereby authorize the Department of Defense to enter into contracts for firefighting and security guard functions at military installations and facilities. This repeal restores the ability of the Department of Defense to manage the firefighting and security guard functions in an efficient and effective manner.

The Department of Defense has been prohibited from contracting for firefighting and security guard functions since 1983. This broad prohibition has four limited exceptions:

When the contract is to be performed overseas;

When the contract is to be performed on Government-owned but privately operated installations; and

When the contract (or a renewal of the contract) is for the performance of a function under contract on or before September 24, 1983.

When the contract is with a local government, for a closing base, and not earlier than 180 days before base closing (Pub. L. 103–160, Section 2907).

Prior to 1983, firefighting and security guard functions were successfully competed using the OMB Circular A–76 process.

The prohibition against contracting firefighting and security guard functions prevents the Department of Defense from realizing savings in circumstances where private firms or state and local governments could provide the services for lower cost at equal or better performance. It also prohibits commanders from obtaining contract services for temporary requirements at remote locations or at leased facilities outside military installations.

Section 2465 of title 10, United States Code currently provides that Department of Defense funds may not be spent to enter into contracts for the performance of firefighting and security guard functions at any military installation or facility. The prohibition does not apply to contracts for services at locations outside the United States where armed forces members, otherwise involved in unit readiness, would be performing the function. Nor does it apply to contracts for services at GOCO facilities or for contracts extant on September 24, 1983.

This section was first enacted by the Department of Defense Authorization Act for Fiscal Year 1987 (Pub. L. 99–661, Section 1222(a), 100 Stat. 3976). The Senate version of that Bill had contained a provision that would extend for one year a freestanding, public law provision setting forth the same prohibition. The Senate language also contained a reporting requirement to review the performance standards and inherently governmental activities within the firefighting function, and an estimate of cost savings associated with such contracting out over a five year period. The Senate Report indicated that firefighting would continue to be exempted until the congressional report indicated that positions could be contracted out in the future (Senate Report No. 99–331, October 8, 1986, p. 526).

The House version of the Bill proposed codification of a prohibition on firefighting functions currently being performed by Department of Defense civilians, with the exception as currently listed. In conference, the House version was adopted. The conferees also agreed to extend the current prohibition on conversion of security guard functions for one additional year, unless the Secretary of Defense determines that such conversion would not adversely affect installation security, safety and readiness (House Report No. 99–1001, October 14, 1986, p. 526).

The importance of repealing section 2465 is underscored by downsizing of the Defense budget and personnel when the infrastructure is not downsizing proportionately. Commanders need all of their tools to manage reducing operating budgets. One tool is competing commercial activity functions such as firefighting and guard service.

The repeal of section 2465 will not automatically result in the loss of civilian firefighters and security guards from the workforce. Reductions in force may occur as a result of competitions performed under chapter 146 of title 10 and OMB Circular A–76.

(a) Existing Procedures. In accordance with existing procedures, the Department provides Congressional notification of the intent to study specific functions, and will provide the results of the competition if the decision is to convert to contract. Separations from Federal Service may result from the development of the most efficient organization, or a contract with the private sector

when the costs are lower than that estimated for in-house performance. The Department fully supports the basic employee protections requiring contractors to offer displaced Government employees the right of first refusal for comparable employment with the contractor.

(b) Benefits of Contracts with local governments. Many installations adjoin or are surrounded by local municipalities which provide firefighting and security guard services to their communities. Some of these municipalities could provide these services to military commanders at little additional cost or at considerable savings. To engage in a cost comparison under these circumstances would waste government and contractor resources needed to prepare estimates for the cost comparison process. Where local governments can provide security guard and firefighter services at reduced costs, the Secretaries of the military departments should be authorized to contract directly with such governments non-competitively without regard to chapter 146 of title 10 and OMB Circular A–76.

OMB Circular A–76 specifically recognizes that firefighting and security guard functions are commercial activities and can be outsourced if a contractor can provide the service effectively and at a lower cost. Defense Firefighting and security guard functions are no different than other commercial activity functions at our installations and facilities from other Federal agencies. The Department is unaware of any rationale for excluding firefighting and security guard functions from the Government-wide process of determining the least expensive method for performing Government work.

Based on past cost comparisons, competition for the Departments firefighting and security guard functions could potentially generate a 240 million dollar savings while retaining in-house about 50 percent of the firefighting and security guard functions competed.

Section 923. Increase in unspecified minor construction threshold from $1.5 million to $3.0 million and the operation and maintenance threshold from $300 thousand to $1 million

This section amends section 2805 of title 10, United States Code, to change the minor construction thresholds to $1,700,000 and $350,000 respectively. The current law limits minor construction projects to less than $300,000 and unspecified minor construction for a single undertaking to an approved cost equal to or less than $1,500,000. There are no provisions for adjustments caused by high costs encountered in non-Continental United States locations.

The primary factor that creates the problem with the existing $300,000 limit is the large variation in area cost factors. The area cost factors for almost half of the installations in the Continental United States is less than 1.0, while area cost factors for Alaskan and other Pacific overseas installations often exceed 2.75, and go as high as 3.0 which means the cost to construct an item in the Pacific theater is up to 3 times that for a similar item in Continental United States. This severely limits the amount and kinds of work that can be accomplished because of the ever present danger of violating the statutory limits.

Section 924. Annual report on National Guard and Reserve component equipment

Subsection (a) of this section amends section 115b(a) of title 10, United States Code, to extend the submission date of the report from February 15 to March 1. The Department has been aggressively pursuing quality improvements in the report within the time constraints for submission that would significantly increase report usefulness. Currently, the Reserve components must submit data quickly after the end of the fiscal year which begins report data detail. For the Fiscal Year 1996 report due to Congress on February 15, 1995, the data cutoff is September 30, 1994. These data, which were collected before the end of October, must reflect actual deliveries, withdrawals and ending balances that occurred during the fiscal year. An additional two weeks for the Reserve components to collect, edit and verify their data would materially increase accuracy. Understanding the requirement by Congress to have this information at the onset of budget hearings, the March 1 report submission date beginning with the next following report will be very helpful to the Department to improve the quality of the report while at the same time support Congressional needs.

Subsection (b) of this section amends section 115b(b) of title 10, United States Code, to delete all references to ''major items of equipment'' and replace with ''combat essential items of equipment.'' The term ''major items'' is a broadly defined term that embraces thousands of items in each Service. The Department interprets Congressional interest to be focused on ''combat essential items'' of equipment which comprises the several hundred most important equipment in each component. Also, the term ''combat essential'' is clearly defined by the Joint Staff, unlike ''major item.''

Subsection (c) of this section provides that the requested changes to section 115b of title 10, United States Code, shall take effect on October 1, 1995.

Section 925. Revision of date for submittal of joint report on scoring of budget outlays

The current submittal date of 15 December does not allow sufficient time for the Office of Management and Budget and the Congressional Budget Office to meet the requirements of the joint report. For the past two years the submittal date has not been met. The published letter, if sent out on 15 December would be incomplete as budget decisions of the President and the Secretary of Defense have not generally been finalized by this date or in sufficient time for the Office of Management and Budget and the Congressional Budget Office to meet this joint reporting requirement. A report of this magnitude shall reflect all of the scoring agreements and disagreements between the Office of Management and Budget and the Congressional Budget Office, and at the present date, this requirement is not being met. Should this reporting date remain in effect, it is likely that multiple scoring letters would be forwarded to Congress for each legislative session in order to properly document the Office of Management and Budget and the Congressional Budget Office outlay scoring approaches. If the submission date is revised to match the submission of the President's budget, then only one joint letter should be necessary to document the outlay scoring that will be used for Department of Defense appropriations.

Section 926. Repeal of annual report to Congress on contractor reimbursement costs of environmental response actions

Section 2706(c) of title 10, United States Code, is an annual report of the Secretary of Defense to the Congress. It is to be provided to the Congress before 30 days after the President submits the budget for the following fiscal year. The data collected for this report are not necessary for properly determining the allowability of environmental response action costs on Government contracts. Furthermore, the Department does not routinely collect data on any other categories of contractor overhead costs. This reporting requirement needlessly is burdensome on both the Department of Defense and defense contractors. It also diverts limited resources for data collection efforts that do not benefit the procurement process.

Title X—General Provisions

Subtitle A—Financial Matters

Section 1001. Appointment and liability of disbursing and certifying officials

This section provides for the designation and appointment of disbursing officials and certifying officials within the Department of Defense (including the military departments and defense agencies and field activities). In addition, this section defines the responsibilities and liabilities of disbursing and certifying officials as well as provide for their relief from liability in appropriate cases.

Section 1002. Due process exemptions for minor adjustments in indebtedness actions

This section amends section 5514(a) of title 5 to insert a new subparagraph (3). The purpose of this amendment is to exempt from the due process provision routine adjustments of pay that are attributable to clerical or administrative errors or delays in the processing of pay documents that have occurred within four pay periods preceding the recoupment and any adjustment that amounts to fifty dollars or less.

The Debt Collection Act of 1982 provides for due process safeguards prior to involuntary salary offset. Under the provisions of the Act, prior to effecting an offset the indebted party has the right to a minimum of a thirty days written notice, the opportunity to inspect and copy Government records relating to the debt, the opportunity to enter into a written repayment agreement, the right to a hearing by an individual who is not under the supervision or control of the head of the agency, and the right to request a waiver of the debt.

These provisions apply to all indebtedness with the exception of underdeduction of Federal benefit premiums for health and life insurance which accumulated over four pay periods or less. Strict adherence to these provisions subjects all indebtedness to full panoply of due process regardless of the cause or amount.

The proposed legislation exempts from full pre-offset due process those debts resulting from routine adjustments of pay attributable to clerical or administrative errors or delays in the processing of pay documents that have occurred within the four pay periods preceding the adjustment and any adjustment of fifty dollars or less. The legislation also proposes that at the time of the adjustment, or as soon thereafter as practical, the individual be provided written notice of the nature and the amount of the adjustment.

The most common occurrence of this type of routine adjustment would be a corrected time and attendance report submitted by an employee's supervisor that changes the amount of a previously reported pay which has already been disbursed to the individual. One example of this type of adjustment would be the downward correction of the number of hours previously reported as overtime. This downward adjustment would decrease entitlement on the part of the individual and result in an indebtedness, usually of a small dollar amount. Providing the full panoply of due process to these types of adjustments, which most likely has already been discussed by the employee and supervisor, is administratively burdensome and the costs often far outweigh the relatively small dollar amounts recovered.

Federal agencies experience a multitude of these adjustments each pay period due to the rapidly changing nature of entitlements,

benefits, allowances, and the remote location of many personnel. For example, a survey of one large Department of Defense consolidated civilian payroll office revealed approximately five hundred such adjustments were being made each pay period. Proving full due process for these routine adjustments are time consuming and costly and could result in the wholesale writeoff of certain debts as not cost effective to collect.

Passage of the legislation would bring adjustment procedures for clerical and administrative errors in line with those of Federal benefit premiums and greatly benefit all Federal agencies by decreasing the overall cost of administering the debt collection process while still providing the individual with full disclosure of the adjustment.

Section 1003. Amendments to Chapter 131, Title 10, United States Code, and to the National Defense Authorization Act of fiscal year 1991

Subsection (a)(1) amends title 10, United States Code, by adding a new section 2219, ''Authority to incur readiness obligations.'' It would authorize the incurability of readiness obligations during the last half of the fiscal year in excess of contract authority and amount available to the Department of Defense. The authority could only be exercised to the extent provided in an appropriations act and would require approval of the Office of Management and Budget. If the Authority were exercised it could only be for essential readiness obligations; it would be limited in amount to not more than 50 percent of the amount provided to the Department for Operation and Maintenance, Budget Category 1; budget proposals for the liquidation of obligations would have to be accompanied by offsetting rescission proposals, unless the President determined that emergency conditions precluded such rescissions; and the Secretary of Defense would have to notify the Congress promptly of any obligations incurred pursuant to the authority provided by section 2219.

Subsection (a)(1) also amends title 10, United States Code, by adding a new section 2220, ''Closed and expired accounts: procedures.'' New section 2220 contains provisions pertaining to subdivided appropriations of the Department. It defines a current account as being any subdivision of such a legally subdivided appropriation and provides that in calculating the amount that may be charged to a current account the 1% limitation on such charges shall be calculated on the basis of the cumulative total of the amounts appropriated in the subdivisions of the subdivided appropriation.

Subsection (b) amends section 1405 of the National Defense Authorization Act for Fiscal Year 1991 to add provisions pertaining to charging of current appropriations when records of the Department indicate that an expired or closed account may have been over expended or over obligated in violation of the Anti-Deficiency Act. Under the current law, payment cannot be made while the apparent violation is being investigated. In those cases where the investigation reveals that there was an accounting error, and that there are sufficient funds in the account, payment of valid vendor invoices would have been held in time during the period of the investigation. This results in numerous contract payments not being paid in a timely manner and can result in interest payments under the Prompt Payment Act.

The amendment provides that an obligation or an adjustment to an obligation in such an account for a fiscal year before fiscal year 1992 may be charged to any current appropriation of the Department available for the same purpose. Obligations could not be charged in such a circumstance unless the Congress were notified by the Secretary of Defense of the facts and circumstances for the negative balance and that an investigation had been initiated into any possible violation of the ''Anti-Deficiency Act'' that might have occurred; if such a violation occurred, that a report of such a violation would be promptly submitted to the Congress as required by law; and, if such a violation did not occur with respect to an account that is expired but not closed, that any charge to a current account would be reversed and the obligation would be charged to the account that would have been charged but for the need to conduct an investigation to determine whether the Anti-Deficiency Act had been violated.

Section 1004. Claims of personnel for personal property damage or loss

Subsection (a) adds a new paragraph (3) to section 3721(b) of title 31. It provides that the Secretary of Defense, or the Secretary of a military department not part of the Department of Defense, may waive the settlement and payment limitation of paragraph (b) for claims by personnel under the jurisdiction of the concerned Secretary for damage or loss of personal property where the concerned Secretary determines that such claims arose from an emergency evacuation or from extraordinary circumstances that warrant such a waiver. It also provides for the promulgation of regulations and grants delegation authority. Subsection (c) provides that the amendments made by this section shall apply with respect to claims arising on or after June 1, 1991.

Subtitle B—Counter-drug Activities

Section 1011. Clarification and amendment of authority for Federal support of drug interdiction

This section amends section 112 of title 32, United States Code to clarify and amend the authority for Federal support of drug interdiction and counterdrug activities of the National Guard.

Subsection (a) reenacts present subsection 112(f) which provides definition for certain terms used in section 112. Subsection (a)(1) defines the activities for which funding may be provided. Specifically, the term ''drug interdiction and counterdrug activities'' is defined as the use of National Guard personnel, while not in Federal service, in any drug interdiction and counterdrug law enforcement activities authorized by state law and requested by the governor. The use of the term ''authorized by law'' is not intended to imply that the activities in question must be explicitly authorized by statutory law. For purposes of this term, the activities may include any such activities that may lawfully be conducted by the National Guard under the law of the state, whether statutory or not. Subsections (2) and (3) reenact the corresponding subsections of subsection 112(f) without change, except for a minor wording change in subsection (3). Subsection (4) provides a new definition of ''counterdrug duty'' as a special type of full-time National Guard duty.

Subsection (b) reenacts present subsection 112(a), expands it to provide explicit statutory authority for the conduct of drug interdiction and counterdrug activities by members of the National Guard in full-time National Guard duty status, and makes additional minor changes for clarity. Specifically present subsection (1)(B) is renumbered to clarify that funds may be provided for operation and maintenance costs of counterdrug activities as well as for pay and allowances of personnel. This section would be the authority for providing funds to a state for reimbursement of state pay and allowances as well as for operation and maintenance (O&M) costs. Present section 112 was initially interpreted by the National Guard Bureau to permit Federal pay and allowances for members of the National Guard used for counterdrug activities in a full-time National Guard duty status under 32 U.S.C. 502(f), but the present language is not entirely clear on this point. The amendment would explicitly provide authority to the Secretary of Defense to authorize full-time National Guard duty, while still allowing a state at its option to request, and the Secretary in his discretion to provide, Federal funds for the payment of state pay and allowances under state active duty, for all or any part of its counterdrug activities funded under this section. Section 502(f) would be the authority for the use of National Guard personnel in full-time National Guard duty status with Federal pay and allowances for drug interdiction and counterdrug activities.

Specific congressional consent would be granted, pursuant to Article I, section 10 of the Constitution, for up to 4,000 members of the National Guard to be on counterdrug duty on orders for more than 180 days, or on orders for more than 180 days for counterdrug activities with state pay and allowances reimbursed under this section, at the end of any fiscal year. The Secretary of Defense would be authorized to increase this end strength by up to 20% at the end of any fiscal year, in order to accommodate unexpected needs. The fluid nature of the counterdrug program necessitates this flexibility. As of June 1994 there were estimated to be 3100 members of the National Guard on orders for counterdrug duty tours in excess of 180 days. It is not anticipated that the cap of 4,000 will be met or exceeded in the next few years, but substantial leeway for rapid response to new requirements should be provided to avoid delays that would result from need for Congressional action. Tight statutory limits without flexibility for unexpected changes, such as exist for the end strengths for the AGR program, would unduly constrain the ability of the States to respond to changes, and would require excessive control of allocations by the Department of Defense to the States of this end strength. Since these personnel would not be on duty for administering the National Guard, they would not be subject to annual end strengths for AGR personnel, or to the grade strengths in sections 12011 and 12012 of title 10.

Section (c) restates present subsections 112(b) and (c) and expands the requirements for plans submitted by governors. Requirements are included for certification by State civil officials that the activities proposed under a state's plan are authorized by and consistent with state law and that any activities in conjunction with federal agencies serve a state law enforcement purpose. These requirements are included to lessen the likelihood of successful legal challenges to funded operations or to arrests or evidence resulting from National Guard support to civil authorities under funding authorized by this section. New subsection (c)(2) includes a technical change to include reference to ordering personnel to counterdrug duty as well as to providing funds to a governor.

Subsection (d) restates present subsection 112(d) without change.

The proposed amendments will not result in an increase in the budget requirements of the Department of Defense.

Section 1012. Authorization to conduct outreach programs to reduce demand for illegal drugs

This section amends chapter 18 of title 10, United States Code, to add a new section 381, which authorizes the Secretary of Defense to establish outreach programs to reduce the demand for illegal drugs by youths. These

programs are to be directed toward youths in general and at-risk youths in particular.

New section 381 derives from section 1045 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 410 note), which authorized the Secretary of Defense to establish a pilot outreach program to reduce the demand for illegal drugs. Pursuant to the section 1045(e), the Secretary of Defense, on November 2, 1994, provided an assessment of the pilot program to the Congress and recommended that the pilot program be replaced by permanent community outreach programs. He noted that in order to continue the outreach programs beyond the end of Fiscal Year 1995, permanent legislative authority would be required.

The new section 381 converts the pilot program into the permanent outreach programs the Secretary of Defense desires. The proposal deletes any reference to pilot programs and to a termination date for the outreach programs. It instead provides only that the Secretary of Defense may establish outreach programs aimed at reducing the demand for illegal drugs among youth.

The programs to be conducted under the new permanent authority are volunteer-based and require limited funding. Consequently, this proposal will allow expansion of the outreach programs, but the programs will be funded at approximately the same level as is currently budgeted. The programs would continue to be included in the Drug Interdiction and Counterdrug Activities central transfer account.

Subtitle C—Other Matters

Section 1021. Authorization of transportation between residence and place of employment

Subsection (a) of this section amends section 1344 of title 31, United States Code, to redesignate the extension period of transportation for a federal employee or officer from four 90 day extensions to a single extension of one year and to delete the requirement for the written agency requirement to include the name of the affected employee or officer. The purpose of this amendment is to authorize the head of a federal agency to extend the effective date of an agency determination for transportation of an employee or officer between residence and place of employment if a clear and present danger, an emergency, or a compelling operational consideration exists.

Currently, four 90-day extensions are required in order to maintain the home-to-work authorization. However, the overseas billets for which this transportation has been authorized by the Secretary of the Navy typically do not change in each 90-day reporting cycle. To extend the authorizations for up to one year rather than the present 90-day cycle would alleviate a redundant reporting requirement. Since the requirements are long-term, an annual review should ensure high-level oversight of home-to-work requirements.

This proposal would also delete the requirement for the written agency determination to include the name of the officer or employee affected and only require the name of the affected position. This would alleviate additional reporting requirements each time the name of the incumbent changed. In addition, this proposal would permit the delegation of the authority to make determinations from the Secretary of Defense to the Heads of Department of Defense Components and from the Secretary of the Military Departments to an officer at or above the level of Vice Chief of each military service. This delegation of authority would maintain control at a high enough level to ensure full compliance while eliminating the administrative delays associated with the signature of the service secretary.

No additional costs or budget requirements are incurred by the Department of Defense from this proposed legislation.

Section 1022. National Guard Civilian Youth Opportunities Program

This section amends section 1091 of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) to provide permanent authority for the National Guard Civilian Youth Opportunities Program, presently established as the National Guard Civilian Youth Opportunities Pilot Program. The program is now in its third year of operation and has proven successful in meeting the statutory objectives.

This section also provides authority for the United States Property and Fiscal Officer of each state or other jurisdiction to requisition and lease Government Services Administration vehicles to be furnished to the National Guard for use in support of the Civilian Youth Opportunities Program.

Section 1023. Clarification of authority for requisitioning and lease of general services vehicles for the National Guard

This section clarifies the authority for requisitioning and lease of General Services Administration motor vehicles for use in the training and administration of the National Guard. The United States Property and Fiscal Officer for each state or other jurisdiction would be identified as the requisitioning authority for leasing vehicles to be furnished to the state National Guard. Such use of GSA vehicles has been made for many years. This provision would provide a clear statutory basis for this practice.

Section 1024. Armed Forces Historical Preservation Program

This section amends section 2572(b)(1) of title 10 to clarify which historic preservation programs may be authorized by the service secretaries. The current statute authorizes ''restoration services,'' but is ambiguous regarding the scope of that term. The proposed amendment clarifies the statute to include the full range of modern historic preservation activity by inserting additional specific terms.

''Conservation and preservation'' services include treatment of historic books and documents, metal and wooden artifacts to reduce deterioration. ''Restoration'' is often not possible. Most historic documents were not printed on acid free paper and thus deteriorate with the passage of time. This has been described as ''a silent fire'' threatening historic collections. This proposal contemplates both preservation of items and conservation of their contents by microfilm, photographic and digital means.

''Educational programs'', while inherent in the mission of all preservation activity, includes such programs as videotaped tours to provide access by the handicapped to historic ships and aircraft, publications and cooperative programs with universities and other educational institutions.

''Supplies or conservation equipment, facilities and systems'' includes equipment and supplies for conservation laboratories used to treat documents and artifacts, museums with associated storage facilities and equipment and the H.V.A.C. systems necessary to maintain proper temperature, humidity and air quality conditions essential for preservation of historical collections.

Other provisions of the statute would not be changed by this proposal. These ensure administration of historical collections of the armed forces and will remain under the control of the respective service secretaries and subject to their oversight.

No additional cost or budget requirements are incurred by the Department of Defense from this proposed legislation.

Section 1025. Amendments to education loan repayment programs

This section amends sections 2171, 16301, and 16302 of title 10 to include in the existing loan repayment programs authority to repay loans made by borrowers under the William D. Ford Federal Direct Loan Program as authorized by the Student Loan Reform Act of 1993 and codified at section 1087a *et seq.* of title 20. There are no new costs associated with the enactment of this proposal, as loan repayment under the expanded authority would be made within existing program and budget levels for this incentive.

Title XI—Matters Relating to Allies, Other Nations, and International Organizations

Section 1101. Burdensharing contributions: Accounting

This section amends section 2350j of title 10, United States Code, to authorize the United States to accept burdensharing contributions in the currency of the host nation or in dollars, and to manage it as a separate account, available until expended. Current law requires that the money be ''credited to . . . [and] merged with'' existing Department of Defense appropriations.

There are a number of problems which arise because of the requirement to ''credit'' and ''merge.'' In law, the term ''merged'' usually means that when ''A'' is merged with ''B'', ''A'' loses its separate identity and becomes part of ''B.'' Thus, the ''merging'' of host nation funds into our appropriated funds subjects them to the same limitations on use that govern appropriated funds. However, the practical fact cannot be overlooked that the host nation contribution is not United States taxpayers' money, but rather that of the host nation taxpayers. The source of the host nation contribution constrains the United States' authority to treat those funds in the same way that appropriated funds are treated.

Primarily, the following three limitations on use of appropriated funds create problems with burdensharing contributions:

a. The Competition in Contracting Act. For example, the Republic of Korea provides money on the condition that the money go to Republic of Korea contractors and suppliers, where possible. Under the Competition in Contracting Act, we cannot limit competition to Republic of Korea contractors and suppliers when using appropriated funds; applying the same limitation to contracts funded with burdensharing contributions which have merged with appropriated funds results in an inability to meet the condition placed by the Republic of Korea on the money it contributed.

b. The Foreign Currency Fluctuation Account. For example, the United States accepts contributions from the Republic of Korea in won. Since appropriations are in dollars, not in won, in order to be credited to the Department of Defense appropriation, the won provided by the Republic of Korea must be converted to dollars at the market rate. The dollars then are converted to won for expenditures through a formula which, in the case of won, usually results in less won than if the market rate were used. Similarly, where the contributions from the Republic of Korea are accepted in dollars and then credited to the appropriation, applying the Foreign Currency Fluctuation Account conversion rate when expending those dollars usually results in less won than it took the Republic of Korea to obtain the dollars.

c. The Fiscal Year. For example, the question of what happens when money contributed by the Republic of Korea cannot be expended in the United States fiscal year in which we receive it. This can happen since the Republic of Korea is on a calendar year

fiscal year; their supplemental appropriations bill usually passes in July or August with money coming to the Department of Defense in August or September. If the burdensharing contributions cannot be spent for the purpose for which it was provided, it should not expire along with the appropriation to which it is credited. In addition, unobligated appropriations usually revert to the Treasury; this should not happen to unused contributions from the Republic of Korea.

Establishing a separate account which can accept, manage, and disburse in the currency of the host nation and which does not expire at the end of the United States fiscal year solves these problems. The money is not confused with appropriated funds, thus the Competition in Contracting Act and the Foreign Currency Fluctuation Account do not apply; further since it is available until expended, it does not expire and the question of reversion to the United States Treasury General Fund does not arise.

Section 1102. Relocation of United States Armed Forces in Japan and the Republic of Korea

This section adds a new section 2530k to title 10, United States Code, which establishes authority and procedures for the Secretary of Defense to accept contributions from Japan and the Republic of Korea for the purposes of relocating United States armed forces within the host nation when such relocation is being accomplished at the convenience of the host nation and for the purpose of deploying United States troops to the host nation during a contingency deployment. Currently, relocation expenses are not considered burdensharing.

Congress has made it clear that burdensharing consists of our allies sharing a greater portion of the United States forces overseas basing costs. Most relocations of United States forces are done at the convenience of the host nation and are not for any military purposes. It is clear that Congress does not consider the payment of these relocations driven by the host nation's convenience to be burdensharing. Examples of relocations that would fit this category are the relocation of United States forces from Yongsan to the Osan-Camp Humphreys area in Korea, and the relocation of ammunition storage facilities in Okinawa, Japan, for the expansion of the Zukeyama Dam Water Reservoir.

In addition, by having a separate account to be set up in the host nation currency, Fly America Act problems with the use of Korean Airlines (KAL) in a contingency to transport United States troops to the host nation, in particular to the Republic of Korea, could be avoided. As the host nation currency and separate account would not be United States funds, the Competition in Contracting Act and other restrictions would not apply. Liability issues would still exist, but the payment for Korean Airlines flights could be accomplished in a reasonable manner.

This legislation further outlines the types of expenditures authorized, the method of contributions, and annual reporting requirements to Congress.

Enactment of this provision will not increase the budgetary requirements of the Department of Defense.

Section 1103. Rationalization, standardization and interoperability

This section amends section 515(a)(6) of the Foreign Assistance Act of 1961 to remove references to specific countries and organizations where it states military personnel assigned to Security Assistance Officers may promote rationalization, standardization and interoperability. Section 515(a)(6) of the Foreign Assistance Act currently indicates that the President may assign to members of the United States armed forces in a foreign country the function of ''promoting rationalization, standardization, interoperability, and other defense cooperation measures among members of NATO, and the armed forces of Japan, Australia and New Zealand. . . .'' This initiative seeks removal of specific country references.

In the post-Cold War international environment, it is becoming increasingly likely that the forces we fight alongside may be other than those of NATO, Japan, Australia or New Zealand. However, as specified in Section 515 of the Foreign Assistance Act, these are the only countries with which United States military personnel may promote rationalization, standardization and itneroperability.

Especially in the Central Region, this self-imposed limitation in the Foreign Assistance Act precludes the United States from achieving the greatest possible degree of interoperability with out coalition partners. For example, during deployment for Desert Shield, United States forces derived considerable benefit from the commonality of weapon and support systems possessed by several of the Middle Eastern states.

To the extent that interoperability existed, it facilitated the deployment and employment of a multinational force, many parts of which were mutually supporting due to common equipment and training. This interoperability, which was achieved entirely without legal sanction, has only served to emphasize the need to promote rationalization, standardization and interoperability with all our potential allies.

Section 1104. Cost of leased items which have been destroyed by the lessee

Paragraph (1) of this section amends section 61(a)(3) of the Arms Export Control Act to allow leased items, if destroyed, to be priced at less than replacement value if the United States Government does not plan to replace the item.

Current legislation requires the leasing country to pay ''The replacement cost (less any depreciation in the value) of the articles if the articles are lost or destroyed while leased.'' In circumstances in which the leased item is not going to be replaced by the United States Government, the rationale that justified charging the foreign government the full replacement cost is no longer valid or just. Section 21(a)(1)(A) of the Arms Export Control Act contains a provision regarding the pricing of items to be sold that the United States does not intend to replace: ''The President may sell, if such country agrees to pay, in the case of a defense article not intended to be replaced at the time such an agreement is entered into, not less than the actual value thereof.'' This same rationale should be used in the pricing of lost or destroyed leased items.

Paragraph (2) of this section authorizes the Secretaries of the military departments to use amounts paid by the foreign country or international organization to reimburse for defense articles lost or destroyed to replace the items (if the United States intends to replace the item) or to fund upgrades or modifications of similar systems (if the United States does not intend to replace the item). These funds would otherwise go to Miscellaneous Receipts account of the United States Treasury.

Section 1105. Exchange and returns of defense articles previously transferred pursuant to the Arms Export Control Act

This section authorizes repairable exchange programs and permits the Department of Defense to accept for return defense articles sold previously through Foreign Military Sales. This section provides clear statutory authority in both of these areas, increasing the readiness of both the US and its allies and friends, particularly in contingency situations.

Exchange for Repair. Under the present procedure for the repair of items for Foreign Military Sales customers, the item is received into the repair system and tracked through the repair cycle to ensure that the exact same item is returned to the Foreign Military Sales customer. Both the cost and the time taken to repair the item is increased by the requirement to track the item through the process.

For many components and spare parts, the United States Armed Forces use a different system for their own needs. An unserviceable item is returned for repair and the United States unit immediately receives a serviceable replacement from Department of Defense stocks. When the unserviceable item is repaired it is added to Department of Defense stocks for future use. No tracking of individual items is required.

The proposal would simply allow repairs for Foreign Military Sales customers to follow the same procedure as that used for United States forces, reducing the time customers must wait to receive a serviceable item dramatically (often by months) and increasing the readiness of Foreign Military Sales customers.

Repair and exchange would only be allowed for items for which stock levels are sufficiently high that providing this service would not adversely affect United States readiness. The proposal would not place foreign customers ahead of United States forces—it would simply place them on an equal footing in the use of the repair process.

Incoming items would be inspected to ensure that repair is possible and to prevent abuse of the system by foreign customers. The foreign customer would be charged the same price as the Department of Defense customer plus a Foreign Military Sales administrative surcharge.

It is estimated that at least 20,000–25,000 repair and exchange transactions would be requested each year, with a value in the range of $60–$70 Million. Most of the items repaired would be aircraft and electronic components. The service would be especially useful for allies who cannot afford to maintain high inventory levels.

Return. The return proposal would allow the Department of Defense to accept the return of items previously sold to a foreign government when either the United States has a requirement for the item or when another eligible foreign country or international organization wishes to receive the item pursuant to Foreign Military Sales procedures.

For example, United States stocks of helicopter engine blades for T–64 engines became dangerously low during Desert Shield/Desert Storm. The Navy located stocks of these blades which had previously been sold to Germany and which Germany offered to return to the United States. In this instance the United States bought these blades under a slower authority (NATO Mutual Logistics Support Agreement). This authority would have allowed this transaction to occur quickly.

This proposal would not circumvent FAR and DFAR requirements. Materiel previously sold through Foreign Military Sales has already been subjected to these requirements in the process of the original Foreign Military Sales sale. If the materiel had to be bought back through the FAR process, it would be subjected twice to these requirements.

Section 1106. Foreign disaster assistance

A requirement for the President to notify Congress of all foreign disaster assistance financed with Department of Defense funds was added this year to title 10 by section 1412 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2912). The intent of the Senate, who added the requirement, was concern over costly and long duration foreign operations. The Senate cited as examples Bangladesh, the Philippines, northern Iraq, Somalia, and the former Yugoslavia.

Preparation of these reports is a burden and a diversion for Department of Defense personnel when they are expeditiously developing and executing disaster relief missions.

This proposal significantly reduces the burden of reporting by requiring notification only on foreign disaster missions that are not natural disasters and are expected to cost $10 million or more or last longer than three (3) months. Congressional intent, as expressed in Senate Report 103–282, page 221, is preserved.

Section 1107. Humanitarian assistance

This reporting requirement was enacted by section 304 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2361).

In its current form, reports are required twice a year on the use of Humanitarian Assistance (HA) funds. Information is required on total funds obligated, the number of missions and descriptions of cargo, their recipient, and cost. Reports are required sixty days following enactment of a Department of Defense Authorization Act and again on June first of each year.

This initiative reduces reporting to once a year consistent with the principle of reducing the burden of reporting to a level consistent with efficient management by Department of Defense and oversight by Congress. The annual report would accompany the submission of other justification material supporting the annual President's budget request.

To further reduce the burden of reporting, the contents of the report would be reduced by eliminating detailed reporting of the current and acquisition value of cargo delivered by mission. However, the total cost for distributing and transporting the cargo as charged against humanitarian assistance funds would continue to be reported. Further, since ''flights'' are not the only mechanism for transporting relief the language is revised to refer to ''transportation missions''. This recognizes the use of land and sea transportation in addition to air deliveries.

Section 1108. Humanitarian assistance program for clearing landmines

Permanent title 10 authorization language is needed for the Department of Defense humanitarian demining program with extended authorities to permit more efficient application of the program to world-wide needs than currently allowed under section 1413 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2913).

The provisions of this section extend the use of demining funds to the rudimentary construction and repair of facilities supporting the program. This is identical to the existing authority under section 401 of title 10 for the Humanitarian and Civic Assistance program.

The language permits the United Nations and other international organizations to participate in the program.

Lastly, expanded language identifies the uses of funds for cooperative agreements and grants, and permits relevant equipment and technology to be sold or donated to all program participants.

Section 1109. Reimbursements, credits, and limited payments for assessments relating to international peacekeeping and peace enforcement activities

This section amends title 10 by adding a new section 406 which establishes the International Peacekeeping and Peace Enforcement Activities Account and authorizes the use of Department of Defense funds to pay for a share of assessments, the furnishing of personnel, supplies, services, and equipment in support of United Nations peace operations, and the reimbursement to the appropriate department of the Department of Defense for any incremental costs incurred in the provision of such assistance.

The provisions of this section authorizing the use of Department of Defense funds to pay for a share of assessments are designed to ensure that there is adequate funding for United Nations peace operations in which United States combat forces participate. The authority to use Department of Defense funds to pay United Nations peacekeeping assessments applies only to Chapter VI and Chapter VII United Nations peace operations in which United States combat forces participate. The Department of State would continue to have financial responsibility for all other peace operations.

Section 1110. Extension and amendment of counterproliferation authorities

This section would extend through fiscal year 1996 the International Nonproliferation Initiative contained in section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2567; 22 U.S.C. 5859a), as amended by sections 1182(c)(5) and 1602 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1772 & 1843) and by sections 1070(c)(1) and 1501 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2857 & 2914).

In addition, this section would authorize the Department to provide assistance and support in the destruction and elimination of weapons of mass destruction outside the states of the former Soviet Union. Activities of this nature demonstrate United States willingness to assist other nations to dismantle weapons of mass destruction. As new arms control or assistance agreements come into effect, such efforts could increase, especially in the chemical, biological, and ballistic missile weapons arena.

Section 1111. Cooperative research and development agreements with NATO organizations—technical and conforming amendments

This is a technical and conforming amendment to bring section 2350b of title 10 into line with section 2350a of such title. Section 2350a was amended by section 1301 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2888) in a similar manner as the instant proposal. The following section, section 2350b, requires a similar amendment for consistency of treatment.

TITLE XII—ACQUISITION REFORM

Section 1201. Waivers from cancellation of funds

This proposal would provide that, notwithstanding section 1552(a) of title 31, United States Code, funds for satellite incentive fee and shipbuilding contracts shall remain available for obligation and expenditure until the purpose intended to be achieved by the contract is achieved.

The Department believes that these funds, when properly obligated on a contract should remain available for the purpose originally intended, *i.e.*, making payments for the performance of the contract to which they were obligated. Clearly such funds should not be diverted for any new work or other purpose unrelated to performance of that contract. However, with these unique programs, the funds should remain available to pay for completion of uncompleted work, contract price adjustments, close-out costs, settlement of claims, or any other action arising from performance of the work for which the funds were originally obligated.

Section 1202. Amendment to conform procurement notice posting thresholds

This section would conform the defense procurement notice posting threshold (currently $5,000) to the same threshold as exists for the civilian agencies (currently $10,000). There is no logical reason for applying unique notification rules to DOD rather than setting a government-wide standard. This proposal would correct this anomaly.

Section 1203. Competitiveness of United States companies

Section 2761(e) of title 22, United States Code, currently provides for recoupment of non-recurring research and development charges for products sold through the foreign military sales program. Repeal of the provision in 22 U.S.C. 2761(e) concerning recoupment of non-recurring research and development charges would increase United States competitiveness in global markets and enhance the national security and industrial base. This proposal will assist efforts by defense oriented companies to shift toward commercial activities by eliminating a major barrier to the free flow of technology between the commercial and defense sectors of the United States economy. The proposal will also enhance the ability of American firms to compete for billions of dollars of business that they might otherwise lose.

Section 1204. Inapplicability of prohibition on gratuities

This section would amend 2207 of title 10 to provide an exemption for contracts under this simplified acquisition threshold and for contracts for commercial items. This would eliminate a contract clause that is inappropriate for simplified purchases and for commercial item contracts.

Section 1205. Prompt resolution of audit recommendations

This section would delete a requirement that audit recommendations be acted upon within 6 months, as this requirement currently exists in regulation. The requirement can be maintained in regulation without a statutory mandate. Retaining this requirement in statute is excessive oversight and removes managerial flexibility from the Department of Defense.

Section 1206. Repeal of domestic source limitation

This section would repeal 10 U.S.C. 4542, which currently sets forth limits on the technical data packages that may be provided to defense contractors for certain armament production. Only the Secretary of Defense should determine the appropriate balancing of industrial base, technology transfer and defense trade policies. Statutory constraints on that authority hinder effective management of these sometimes-conflicting policies, especially in a time of drawdown.

Section 1207. Extraordinary contractual relief

This proposal would repeal a restriction on the use of extraordinary contractual relief under Public Law 85–804, limiting its applicability to wartime or national emergency. Extraordinary contractual relief should be available during peacetime as well as during wartime or national emergencies. Relief

under Public Law 85–804 is used for many purposes unrelated to the existence of national emergency, *e.g.*, indemnification and recognition of contingent liability. This limitation has not yet had any direct impact because the United States has been under a state of national emergency since the Korean War. However, should this condition be lifted, this authority would immediately be unavailable.

Section 1208. Disposition of naval vessels

This section proposes a technical correction to section 7306(a)(1) of title 10, U.S. Code. The National Defense Authorization Act for Fiscal Year 1994 consolidated several statutes dealing with this subject into a single, consolidated statute. However, the drafting of the consolidated provision did not exactly duplicate the previously existing coverage. Some corrections to reconcile the consolidated provision with previously existing law were made by FASTA, but this correction was omitted. If this proposal is adopted, the consolidated statute will then be identical in scope to the previously existing law, and permit the transfer of vessels in United States territories as well as states.

Section 1209. Test program for negotiation of comprehensive subcontracting plans

This section would amend the Test Program for Negotiation of Comprehensive Subcontracting Plans (Section 834 of Public Law No. 101–189, 15 U.S.C. 637 note). Current statutory language limits purchasing activities allowed to participate in the test to one activity in each of the Military Departments and Defense Agencies. Subsection (a) proposes to remove this limitation. This deletion will enhance the underlying purpose of the law, which is to improve business opportunities for small and disadvantaged businesses as well as small businesses, and to require that efforts be made to include in the program contracting activities purchasing a broad range of the supplies and services acquired by the Department of Defense.

This subsection also proposes a technical correction to a provision of this same law. The proposal would require that contractors' ability to participate in the test to be based on the contracts that they received during the preceding fiscal year rather than the fiscal year ending September 30, 1989, as the current law states. This amendment also reduces the number of contracts and aggregate dollar value of those contracts that are required to establish a condition for a contractor's participation in the test from five contracts worth $25 million to three contracts worth $5 million.

Finally, the proposal would delete paragraph (g) of this public law in its entirety and redesignate paragraph (h) as paragraph (g). Paragraph (g) currently limits participation in the program after fiscal year 1994 to those firms that had participated in the program before October 1, 1993.

All of these amendments would greatly facilitate more meaningful tests. The test as currently established does not result in participation of sufficient number of firms to provide a valid statistical sample of the contractors doing business with the Department of Defense and does not cover a representative sample of the supplies and services that the Department acquires.

For example, the restriction placed upon the conducting of the test, i.e., allowing only one contracting activity in each of the military departments and defense agencies to participate; and limiting contractor participants to those receiving at least five contracts and being paid at least $25 million, has severely limited both the number of contractors that are involved and the types of supplies and services being acquired. As a result of this limitation, of the eight contractors participating in the program, six are in the aerospace industry. One of the remaining firms is involved in shipbuilding and the other is an electronics firm. The participating contractors represent the very largest prime contractors and are involved in the development and manufacture of major weapons systems. Generally, the larger the prime contractor the more likely that there is a need for subcontractors that are manufacturers in the high technology product area. High technology manufacturing is where the least amount of capability exists in the small and small disadvantaged business community. As a result, neither the number of firms involved in the test nor the supplies and services that they are providing is sufficiently representative of the Department's acquisition programs. Therefore, it is not possible to apply the results of the test to date as representative of what could be achieved by all of the 1863 defense prime contractors participating the Department of Defense subcontracting program.

Section 1210. Civil Reserve Air Fleet

This proposal would modify authority newly-enacted by FASTA that permits the DOD to contract with Civil Reserve Air Fleet (CRAF) contractors to grant them limited commercial use of CONUS military airfields. Currently, however, the authority to permit limited commercial use is limited to times of full CRAF activation. Deletion of the word ''full'' before ''CRAF'' as proposed will permit use of this valuable authority during a military operation requiring less than full CRAF activation. This flexibility is important because of the need to mobilize civil and reserve fleets in advance of declaration of war.

Section 1211. Eighteen-month shipbuilding claims

Under section 2403 of title 10 as amended by the FASTA, contractors may bring shipbuilding claims within 6 years of the accrual of the claim, for contracts entered into after the date of enactment of the FASTA. For contracts entered into before date of enactment, the prior, 18 month claims limit period appeals. Under a recent decision of the Federal Circuit Court of Appeals, the statute's limitations period was interpreted to apply only to the secretaries of the military departments, not to the Boards of Contract Appeals or courts. This technical amendment would clarify that the 18 month limit on shipbuilding claims, to the extent that it still exists for contracts entered into before enactment of the Federal Acquisition Streamlining Act, applies to the Boards of Contract Appeals and courts as well as the secretaries of the military departments.

Section 1212. Naval salvage facilities

This proposal would consolidate all statutes pertaining to naval salvage facilities' contracting currently in chapter 637 of title 10. The consolidate includes a deletion of an outdated limit on salvage appropriations. This consolidation would contribute to the streamlining of the acquisition laws.

Section 1213. Factories and arsenals: Manufacture at

This section would consolidate and amend two service specific statutes dealing with manufacture of supplies at inhouse, United States owned arsenals and factories. Currently, the Army authority is mandatory—it must produce supplies inhouse unless the requirement is waived. Conversely, the Air Force authority is discretionary—it may produce supplies inhouse. The consolidation would establish one authority Department of Defense-wide that is clearly discretionary. The discretion to make judgments about inhouse production is critical in this era of downsizing.

Section 1214. Bar on documenting economic impact

This section would repeal a bar on the use of government contract funds to demonstrate the economic impact of a government contract. It is inappropriate to maintain this level of oversight in statute. It is also unnecessary because this bar is currently maintained in regulation.

Section 1215. Fees for samples, drawings

This section would amend a newly-enacted statute, §2539b. This statute was intended to provide, among other things, authority for private sector use of Department of Defense testing facilities. However, commercial use of a certain subset of those test facilities, Major Range Test Facility Bases (MRTFBs), is also authorized by another newly enacted statute, §2681. Both statutes were enacted by the National Defense Authorization Act for FY 1994. However, the two statutes prescribe different rules on government fees for the use of such test facilities. Section 2539b provides that the government can charge only direct costs, thus precluding the government from charging for indirect costs. Conversely, §2681 permits charges for indirect costs as well. This amendment would resolve that discrepancy by requiring, under §2539b, at least the charge of direct costs, but not prohibiting the charge of indirect costs when appropriate.

Section 1216. Contracts: Delegations

This section would repeal 10 U.S.C. 2356. That statute provides authority for a secretary of a military department to delegate specified research contracting authorities to listed officials. It is not considered necessary because it duplicates a secretary's inherent authority to delegate. In addition, the statute is not currently relied upon by any pertinent Department of Defense components.

The proposal would eliminate unnecessary and duplicative authorities, thereby increasing efficiency and streamlining the acquisition process.

Section 1217. Defense acquisition pilot programs

This section would amplify the statutory waivers available to the defense acquisition pilot programs that were authorized by the FASTA.

Section 1218. Testing

Section 2366 of title 10 provides for survivability and lethality testing of major systems with an Office of the Secretary of Defense-level report to Congress. Survivability testing must be on the full-up system as configured for combat unless the Secretary of Defense waives the requirement for full-up testing. This provision would change the requirement to realistic vulnerability or lethality testing rather than require costly testing of actual products. The provision makes other changes to ensure the integrity of the testing process by appropriate contract sources, when necessary.

Section 1219. Coordination and communication of Defense research activities

Currently this section establishes a requirement for the Secretary of Defense to promote, monitor, and evaluate programs for the communication and exchange of technological data among Department of Defense Components. It also requires that technological issues be considered and made part of the record at Milestone O, I, and II decisions.

The proposed technical change to this section deletes the specific references to, and definitions of, the Milestone decisions and substitutes references to acquisition program decisions. This change retains the intent of the statute, but does not tie accomplishment of the requirements to events which may change over time as the acquisition process changes or may be tailored out

of a particular program's acquisition approach. Rather, it provides for the requirement to be satisfied at all decision reviews for the program, whether or not they are milestone decisions.

Section 1220. Undefinitized contract actions

Section 2326(b)(4) of title 10, United States Code, permits the head of an agency to waive the limits on the use of undefinitized contract actions if such waiver is necessary to support contingency operations. This amendment would exclude peacekeeping, humanitarian assistance and disaster relief operations from the scope of these limits on the use of undefinitized contract actions. This amendment is needed to provide the Department's contracting personnel with maximum flexibility during these specialized operations. Contracting personnel supporting these types of operations should be granted the same tools as contracting personnel supporting contingency operations. For example, during disaster relief operations, the Department often needs authority to purchase and take delivery of relief supplies prior to final agreement on price.

Section 1221. Independent cost estimates

This amendment would permit military departments or agencies, independent of their respective Acquisition Executives, to prepare independent cost estimates for acquisition category I C programs (component-overseen major defense acquisition programs). These offices are the Army Directorate of Cost Analysis, Naval Center for Cost Analysis, or Air Force Office of Cost and Economics, all three of which report to the Assistant Secretary for Financial Management in their respective departments. The proposed language would align the responsibility for independent cost estimating with the level of the decision authority.

Section 1222. Unit cost reports

This section would amend the unit cost report requirement at 10 U.S.C. 2433 to (1) delete the reference to ''current fiscal year,'' (2) restore a former provision to report to the appropriate service acquisition executive further unit cost increases of 5 percent or more, and (3) replace the phrase ''contract as of the time the contract was made'' with ''contract cost baseline.''

The current law, as amended by the Federal Acquisition Streamlining Act of 1994, contains reference to ''current fiscal year.'' Use of this phrase will result in the second reporting of the *same* program breach when a new acquisition program baseline is not approved prior to the end of the fiscal year in which the unit cost breach occurred. The references to ''current fiscal year'' were appropriate when the President's budget was used as the unit cost reporting baseline. But it is not appropriate for the acquisition program baseline, which is not automatically revised each new fiscal year. The deletion of these references will eliminate the duplicative reporting of unit cost breaches.

In addition, the newly amended statute does not now require reporting of subsequent increases in unit cost after a unit cost breach occurs and before a new acquisition baseline is approved. Therefore, there is no motivation to have a new acquisition program baseline approved in a timely manner after a unit cost breach. The former provision to report to the appropriate service acquisition executive further unit cost increases of 5 percent or more is thus proposed to be restored, as amended for the use of the acquisition program baseline as the unit cost reporting baseline.

This revision would also replace ''contract as of the time the contract was made'' with ''contract cost baseline.'' This amendment would provide the Department with the flexibility to define the basis for determining contract cost breaches.

Section 1223. Repeal of spare parts quality control

This proposal would repeal 10 U.S.C. 2383, requiring contractors providing critical aircraft or ship spare parts to provide parts that meet specified quality requirements (using quality requirements for original parts unless written determination to the contrary).

DOD must move away from the use of government unique specs and standards that are outdated and do not recognize modern industrial manufacturing methods. Failure to do this may result in the procurement of higher-priced, inferior quality goods. Specifically, qualifications and quality standards should be a matter for engineering and technical judgment based on current needs, technology and experience with the use of the particular item.

Section 1224. Patent and copyright cases

This section proposes a technical amendment to update the statutory terminology. It would amend 10 U.S.C. 2386 to substitute ''designs, processes, technical data and computer software'' for ''designs, processes and manufacturing data'' as ''manufacturing data'' is an outmoded phrase.

Section 1225. Defense Acquisition Workforce Act improvements

This proposal, at subsection (a), would amend section 663 of title 10 to authorize the Secretary of Defense to exclude from the mandatory joint duty requirement for military members of the Acquisition Corps, as defined in section 1731 of title 10, who have graduated from the Senior Acquisition Course at the Industrial College of the Armed Forces. This exemption is permitted if they are assigned to Critical Acquisition Positions, as defined in section 1733 of title 10, upon graduation.

This amendment will allow the Acquisition Corps to exploit the talents of these high-potential officers by assigning them to billets in the correct career field where they can employ the skills developed through attendance at the Senior Acquisition Course. Section 1205(a)(4) of the Defense Acquisition Workforce Improvement Act (Public Law 101–510) directed the Department to create a Senior Acquisition Course as a substitute for and equivalent to, existing senior professional military education school courses, specifically designed for personnel serving in critical acquisition positions. The Industrial College of the Armed Forces (ICAF) was selected as the location for the Senior Acquisition Course because a significant portion of the existing curriculum addressed subjects essential to any advanced program of study in acquisition.

Consequently, the Senior Acquisition Course is composed of the standard ICAF curriculum, augmented by specifically tailored electives, writing projects and additional classes for acquisition students. While the use of ICAF to present the Senior Acquisition Course offered significant benefits derived from the existing curriculum, it also invoked the joint duty assignment requirement established for officers graduating from a Joint Professional Military Education School, as provided in section 663(2)(A) of title 10. This section requires that ''. . . a high proportion (which shall be greater than 50 percent) of the officers graduating from a joint professional military education school who do not have a joint specialty shall receive assignments to a joint duty assignment as their next duty assignment or, to the extent authorized in subparagraph (B), as their second duty assignment after such graduation.''

The problem, however, is that there are generally more acquisition graduates than expected joint billets at the appropriate grade levels. This career field mismatch leaves the Department with three unsatisfactory alternatives: (1) assign officers into acquisition career fields in which they are not certified; (2) assign them to joint billets that do not require acquisition expertise; or (3) require line officers to have an increased requirement disproportionately imposed on them to account for the acquisition personnel not going into joint assignments. The first alternative conflicts with the statutory requirement (section 1723(a)) to apply qualification standards to all acquisition positions. The second alternative is counter to the basic concept for establishing a Senior Acquisition Course, is counter to the concept that the Acquisition Corps officers should serve in critical acquisition positions, and could disadvantage officers competing for promotion. Finally, the third alternative is not feasible due to the existing claims for line officers.

Subsection (b) of this proposal would repeal subsection (a) of §1734 of title 10 and redesignate the remaining sections.

Currently, section 1734(a) of title 10, United States Code, requires individuals assigned to critical acquisition positions (CAP) to serve in that position for a period of time not less than three years. Additionally, it establishes a requirement for individuals entering a CAP to sign a written agreement to remain in that position for at least three years. While these provisions were envisioned to promote stability and professionalism within the acquisition workforce, they are having a direct and detrimental impact on civilian professional development and the implementation of innovative management initiatives to re-engineer the acquisition process.

Specifically, the tenure requirement, with its associated written agreement, adversely affects the acquisition workforce in five areas: (1) civilian promotions are tied directly to changing jobs. Any barrier, such as a three year tenure requirement, serves only to inhibit and discourage individuals from advancement; (2) current management initiatives seek to employ integrated product/process development teams. This concept has been endorsed as an excellent management initiative; however, it requires moving people into different jobs and positions. The process of establishing these teams frequently results in team members moving into positions prior to meeting the three year tenure mark in their former position; (3) cross-functional expertise is another attribute desirable in today's acquisition workforce. Yet in order to develop the requisite skills, individuals must be assigned to a variety of positions to develop the background experience and exposure to multiple functional areas. A three year tenure requirement in each position inhibits the breadth of the developmental events that someone can experience; (4) the realities of today's environment in terms of force reductions, realignments and BRAC all place our acquisition professionals in tenuous positions. The tenure agreement obligates the acquisition professional to remain in Federal service for at least three years. Enforcement of this agreement deprives the individual of taking advantage of the early out and early retirement incentives that accompany the on-going force reductions. Further, with the uncertainties associated with the BRAC process and subsequent relocation of major organizations (*e.g.*, NAVAIR with approximately 4,700 jobs) people are reluctant to sign tenure agreements they probably would not honor because they do not want to move out of their current geographic region; and (5) finally, if rigidly enforced, the tenure

agreements could create the situation where critical acquisition positions are filled by the most available, not the best qualified person, because the best qualified individual for the job has not completed three years in their current position.

The Department is provided the authority to waive these provisions. However, waivers are viewed negatively, especially given the annual GAO audit of all waivers executed under the provisions of Chapter 87. Waivers should be used for exceptional situations, but the requirements of this section generate waivers as a routine and normal event.

Today's acquisition workforce is significantly different from when this provision was enacted. We now have a cadre of trained and experienced acquisition professionals. This provision serves only to constrain viable career paths that contribute to developing cross-functional expertise through career broadening assignments. It stifles the opportunity to assign the best qualified people to critical positions and to employ innovative management practices. Consequently, this provision is counterproductive to good management practices and should be repealed.

Section 1226. Technical amendment to authority to procure for experimental or test purposes

This section would amend a newly codified authority, at 10 U.S.C. 2373, that currently permits a narrow category of noncompetitive procurement of limited quantities for test or experimental purposes, to conform the new codified section to the full scope of the prior, existing service specific statutes.

Section 1227. Repeal of certain depot level maintenance provisions

Section 2466 provides that not more than 40 percent of the funds made available in a Fiscal Year to a military department or a Defense Agency, for depot-level maintenance and repair workload may be used to contract for performance by non-Federal Government personnel of such workload for the military department or the Defense Agency. Repeal of Section 2466 will provide the Department of Defense and the military departments the needed flexibility to accomplish more than 40 percent of their depot maintenance workload by non-Federal Government employees when needed to achieve the best balance between the public and private sectors of the Defense industrial base. The repeal of Section 2466 will not increase the budgetary requirements of the Department of Defense.

Section 2469 prohibits the Secretary of Defense or the Secretary of a Military Department from changing the performance of a depot-level maintenance workload that has value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense unless, prior to any such change, the Secretary uses competitive procedures to make the change. The Department has suspended cost competitions for depot maintenance workloads because of problems with the data and cost accounting systems of the Department. Repeal of Section 2469 will permit the Department of Defense and the military departments to shift workloads from one depot to another or to private industry as required to resize the depot maintenance infrastructure to support a smaller force structure. The repeal of section 2469 will not increase the budgetary requirements of the Department of Defense.

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 728. A bill to authorize certain construction at military installations for fiscal year 1996, and for other purposes; to the Committee on Armed Services.

THE MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, a bill to authorize certain construction at military installations for fiscal year 1996 and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and a section-by-section analysis explaining its purpose be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, April 24, 1995.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The Department of Defense proposes the following draft of legislation that would authorize certain construction at military installations for Fiscal Year 1996, and for other purposes. The bill would be called the ''Military Construction Authorization Act for Fiscal Year 1996.'' This proposal is necessary to execute the President's Fiscal Year 1996 budget plan. It is drafted to be a principal division of the departmental authorization legislation.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to Congress, and that its enactment would be in accord with the program of the President.

This proposal would authorize appropriations in Fiscal Year 1996 for new construction and family housing support for the Active Forces, Defense Agencies, NATO Infrastructure Program, and Guard and Reserve Forces. The proposal establishes the effective dates for the program. The proposal includes construction projects resulting from base realignment and closure actions. Additionally, the Fiscal Year 1996 draft legislation includes General Provisions.

Enactment of this legislation is of great importance to the Department of Defense and the Department urges its favorable consideration.

Sincerely,

JUDITH A. MILLER.

DEPARTMENT OF DEFENSE—FACILITY PROGRAMS LEGISLATIVE SECTIONAL ANALYSIS

SALE AND REPLACEMENT OF EXCESS AND/OR DETERIORATED MILITARY FAMILY HOUSING (SEC. 2801)

This provision authorizes the Secretaries of the Military Departments to sell, at fair market value, military family housing at non-base closure United States or U.S. Overseas installations which has deteriorated beyond economical repair or is no longer required, along with the parcel of land on which the structures are located. The provision also authorizes the Secretary concerned to use the proceeds from the sale of the property to replace or revitalize housing at the existing installation or at another installation with a continuing requirement.

As a result of planned force structure reductions and base closures, the Services are divesting themselves of military family housing deteriorated beyond economical repair or no longer required. Currently there is no statutory authority available to enable the proceeds from the sale of these properties at non-base closure installations to be used specifically for the replacement of revitalization of family housing. The proceeds from the disposal of excess military family housing at non-base closure locations must be deposited in a special account in the Treasury of the United States to be used by DoD for maintenance and repair and for environmental restoration (40 U.S.C. 485(h)). Allowing the military departments to sell and reinvest the proceeds will accelerate the revitalization of military family housing and reduce the requirement for appropriated funds.

WAIVER OF MAXIMUM AMOUNTS FOR FAMILY HOUSING FOREIGN LEASE (SEC. 2802)

Notwithstanding the overseas drawdown, the Department's requirements for overseas high cost leases continues to grow. This increase is attributable to the growth of the Department's presence in overseas cities rather than at U.S. installations or enclaves, particularly in extremely high-cost Asian cities, such as Singapore. In Singapore, the rents range from $25,000 to $44,000 per year, and those rental costs are below market rates, in accordance with an agreement with the government of Singapore. Without the increase in the number of high cost leases allowed to the Department, military members assigned to duties that require them to live on the economy in high cost areas will have to pay the difference out of their own pocket. In some instances, the cost difference will be prohibitive.

INCREASE IN SQUARE FOOTAGE WHEN ACQUIRING EXISTING FAMILY HOUSING (SEC. 2803)

This modification to 10 U.S.C. 2826(e) would make permanent the authority to waive statutory square foot limits established in Fiscal Year 1992. This modification would permit the military departments, in situations where family housing construction has been authorized, to continue to acquire rather than construct existing family housing units that are larger than the current statutory limits, provided the purchase price is within the amount authorized for construction.

EXPANSION OF AUTHORITY FOR LIMITED PARTNERSHIPS (SEC. 2804)

Section 2837 of Title 10, United States Code provides the Department Of the Navy with authority to invest in limited partnerships for developing privately owned family housing near installation if there is a shortage of suitable housing. The rationale that supported the provision for the Navy applies equally as well to the Army and Air Force installations in areas with reasonably large private sector housing markets. The additional housing units this authority would generate would have minimal effect on total local market assets, and if military requirements were reduced in the future, the units would be readily absorbed into the private sector.

MILITARY CONSTRUCTION COST NOTIFICATION REPORTS (SEC. 2805)

The proposed change would modify existing subsection (d) by dropping the requirement for notification to Congress on cost increases which exceed the limitations of subsection (a) when the increase is to settle a court ordered contract claim. This requirement is considered an unnecessary administrative burden as these settlements are pre-existing legal liabilities, their payment is not discretionary to the military departments.

CLARIFICATION OF UNSPECIFIED MINOR CONSTRUCTION AUTHORITY (SEC. 2806)

This clarification provision will make the definition of a minor military construction project in section 2805(a)(1) consistent with the definition for a military construction project in section 2801(b) by removing the portion of section 2805(a)(1) that is inconsistent with section 2801(b). All other provisions,

including the monetary limitation on minor construction, are unaffected.

CLARIFICATION OF FUNDING FOR ENVIRONMENTAL RESTORATION AT INSTALLATIONS TO BE CLOSED OR REALIGNED (SEC. 2807)

Environmental restoration at bases selected for closure or realignment as the result of BRAC 95 is restricted to the Base Realignment and Closure (BRAC) account as the source of funding. Environmental restoration costs for Fiscal Year 1996 at those bases were submitted in the President's budget for Fiscal Year 1996 as part of the Defense Environmental Restoration Account (DERA); the recommendations from the 1995 BRAC Commission will not be final until September 1995 and the Fiscal Year 1996 budget was submitted in February, 1995. This provision permits the environmental cleanup at installations selected for closure pursuant to BRAC 95 to be funded from the DERA account for Fiscal Year 1996 only. After Fiscal Year 1996, environmental restoration must be funded from the BRAC account.

CONTRACTS FOR CERTAIN SERVICES AT INSTALLATIONS BEING CLOSED (SEC. 2808)

P.L. 103–160, Section 2907, authorized the Secretary to obtain certain caretaker services from local governments at installations being closed. As written, however, Section 2907 requires the use of a standard government contract executed in accordance with applicable procurement laws and regulations. Local governments are reluctant, and in some cases have refused, to enter into such standard government contracts.

The proposed legislation authorizes the use of less formal agreements with local governments while still protecting the Government's interests, thereby providing the military departments with the maximum degree of flexibility in obtaining caretaker services at closing installations during the transition from military to civilian use. The primary benefit is the ability to obtain caretaker services by the most practical and cost effective means.

CLARIFICATION OF COVENANTS APPLICABLE TO LEASES (SEC. 2809)

Environmental remedial actions may take several years to complete and to demonstrate their effectiveness. This amendment allows DoD to enter into an agreement with prospective purchasers and the environmental regulator to assure all remedial actions will be undertaken by DoD after a lease transfer. This agreement is similar to purchase agreements private parties can enter into to transfer cleanup liability with the additional protection of regulator concurrence. Without this amendment, interim leases and the associated economic redevelopment at closing military installations are impeded.

CONTENTS OF CERTAIN DEEDS AND LEASES (SEC. 2810)

This provision allows EPA or a state to defer the Superfund (Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended) Section 120(h)(3)(B)(I) determination if an agreement between DoD and the potential buyer has been entered and appropriate measures will be undertaken assuring future remedial action, if necessary. This determination requires the completion of all environmental remedial action before DoD can convey title to property at closing bases.

This amendment allows DoD to enter into long-term leases while any phase of cleanup, which can be a lengthy process, is ongoing. Long-term leases at closing military installations are an important tool for both the government and the community in stimulating the local economic redevelopment following the base closure. However, a recent court decision questioned DoD's ability under CERCLA 120(h)(3)(B) to enter into long term leases before remedial action is complete. Without this amendment, both the Government's ability to enter into such long-term leases at closing bases and the community's ability to begin economic redevelopment as soon as possible are impeded.

UTILITY TRANSFER AT FORT DIX, NEW JERSEY TO BURLINGTON COUNTY, NEW JERSEY (SEC. 2811)

This provision will authorize the Secretary of the Army to transfer the Resource Recovery Facility at Fort Dix, New Jersey, which receives solid waste from the Fort Dix Military Reservation, McGuire Air Force Base, and other operations at Fort Dix, including a federal prison, to Burlington County, New Jersey.

The Fort Dix Resource Recovery Facility has failed to produce the cost savings originally anticipated. Moreover escalating O&M expenses continue to increase solid waste disposal costs beyond projections. With the reduced activities of Fort Dix due to base realignments and closure, the Fort is unable to collect enough solid waste to utilize the facility effectively. In addition the facility is currently in violation of its Air Permit issued by the New Jersey Department of Environment Protection and Energy (NJDEPE).

The transfer of the Resource Recovery Facility to Burlington County will result in present worth savings of approximately $20.6M, which translates into annual savings to the Army of $1.94M, as calculated by a life cycle costs analysis. Further, as the incinerator operator, Burlington County would bear all costs related to operations and maintenance of the facility, including ash testing and disposal, and utilities. This would eliminate O&M costs, including operator, auxiliary fuel and off-site disposal costs associated with incinerator by-products from the Army's annual budget. With Burlington County operating the facility at full design capacity, additional steam would be generated, displacing fuel oil that would otherwise be used to supply steam to the steam loop. The Army would realize fuel savings from increased utilization of the resource recovery facility since the county would credit the installation for steam purchase from the facility. Additionally, conveyance to the county will relieve the Army of safety and environmental compliance requirements associated with the operation of the facility.

UTILITY TRANSFER AT FORT GORDON, GEORGIA, TO THE CITY OF AUGUSTA, GEORGIA (SEC. 2812)

The provision will authorize the Secretary of the Army to transfer a water plant and a wastewater treatment plant and their collection and distribution systems at Fort Gordon, Georgia to the City of Augusta, Georgia. An Army analysis comparing the cost of private ownership of the water distribution and wastewater collection systems to the status-quo of Government-related ownership of the utility systems with constructed operation and maintenance of the systems demonstrates that it is most beneficial to the Army to transfer the systems to the City of Augusta, Georgia.

The transfer of the water and wastewater treatment plants and related collection and distribution systems to the City of Augusta will result in transferring all costs related to operations and maintenance of the facilities, including testing, permitting, and environmental compliance, to the city. This would reduce O&M costs from the post's annual budget. The conveyance also eliminates the Army's funding future major capital system improvements and shifts safety and environmental regulation compliance from the Army to the City of Augusta.

UTILITY TRANSFER AT FORT IRWIN, CALIFORNIA TO THE SOUTHERN CALIFORNIA EDISON COMPANY, CA (SEC. 2813)

This provision will authorize the Secretary of the Army to transfer an electrical distribution system at Fort Irwin, California to the Southern California Edison Company, CA. Fort Irwin, California owns and operates an existing on-post 12-kV electrical distribution system. The Ft. Irwin electrical distribution system is aging and a planned maintenance and replacement program is not included in the Army budget, nor is the inclusion of the cost of such a program in the Army budget practicable.

It is vital to the continued operation of the National Training Center that planned maintenance and a replacement program be in place. The transfer of the electrical distribution system to the Southern California Edison Company will result in Southern California Edison implementing a planned maintenance and replacement program in compliance with the California Public Utility Commission standards, while providing the Army utility credits toward the purchase of electrical power. The Army will also be relieved of the costs of massive capital improvements and of future environmental liability.

SALE OF ELECTRICITY (SEC. 2814)

This provision expands the Department of Defense's authority by providing greater flexibility to allow the military departments to take advantage of changing electric power marketing conditions. This revised authority increases private sector electric generating plant investment opportunities on military installations. This change also increases the ability to outsource for energy, as recommended by the National Performance Review.

The Energy Policy Act of 1992 provisions for increased competition of independent power producers has created considerable private sector interest in locating electric generating facilities on military bases. Current authority permits the military departments to retain revenues from only those facilities that use renewable energy or are cogeneration facilities. The current limitation restricts the potential benefits of making military bases available to improve energy independence, improve efficiency, facilitate private sector investment in energy plants at military bases, and improve electrical reliability.

ENERGY AND WATER CONSERVATION SAVINGS AT MILITARY INSTALLATIONS (SEC. 2815)

This provision specifically includes water conservation in the Department's overall conservation efforts, making the incentives to the Department available for water conservation efforts, in addition to other energy conservation efforts.

CONVEYANCE OF PRIMATE RESEARCH LABORATORY AND AIR FORCE OWNED CHIMPANZEES TO THE COULSTON FOUNDATION (SEC. 2816)

The provision authorizes the Air Force to transfer a new primate research laboratory located at Holloman Air Force Base (AFB) and a colony of Air Force owned chimpanzees to the Coulston Foundation, a not-for-profit corporation engaged in primate research. In 1989, and 1990, New Mexico State University (NMSU) received federal grants totaling ten million dollars for the construction of a new, state-of-the-art primate research laboratory within the boundaries of Holloman AFB. The new building was to replace certain outworn facilities which had been leased to NMSU for primate research. A colony of approximately 150 Air Force owned chimpanzees were used in NMSU's research

program and this colony, along with additional NMSU research animals, was to occupy the new laboratory. The General Services Administration (GSA) was responsible for grant administration and transfer of the completed building. On July 8, 1994, NMSU indicated it no longer wished to conduct a primate research program and would terminate its leases with the Air Force on September 30, 1994. In light of NMSU's termination of its primate research program, GSA deemed it inappropriate and inconsistent with the grant terms to transfer the new building to NMSU. GSA transferred the building to the Air Force since the building is on property under the custody of the Air Force and was intended to house the Air Force chimpanzees.

The Air Force has no further requirement for its chimpanzee colony and desires to divest itself completely of chimpanzee ownership. The Coulston Foundation is a private organization with demonstrated expertise with primate research programs. The Coulston Foundation is familiar with the Holloman chimpanzee research program and, pursuant to an agreement with NMSU, and with the Air Force consent, has been operating the primate research facility on a day-to-day basis since July, 1993. In that time, Coulston has demonstrated its interest, commitment of resources, and expertise in program management. Coulston is therefore a well qualified and appropriate transferee.

The transfer of the laboratory and the Air Force owned chimpanzees will be without consideration in light of the value of Coulston's primate research activities and its caretaking of the chimpanzee population. The Air Force will continue to provide to Coulston, by lease, the underlying land and the security of location of the primate laboratory on a military installation. In the event Coulston declines to accept the facility and the chimpanzee colony at the time of conveyance, the Air Force is authorized to convey the facility and the colony to another not-for-profit entity the Air Force determines capable of caring for the colony and conducting research.

SPECIAL OPERATIONS LAND LEASE AUTHORITY (SEC. 2817)

The amendment making the Special Operations leasing authority permanent. The amendment also makes permanent the reporting requirement of activities carried out under this section.

CONSTRUCTION OF ELEMENTARY AND SECONDARY SCHOOLS ON DOD INSTALLATIONS (SEC. 2818)

Section 2008 of title 10, United States Code, enables DoD to fund repair and maintenance and construction projects on school buildings constructed by Department of Education pursuant to section 10 of the Act of September 23, 1950 (20 U.S.C. 640). Section 10 of P.L. 81–815 was repealed as part of the Improving America's Schools Act of 1994 (P.L. 103–382) as of October 20, 1994. Under section 8008 of the Elementary and Secondary Education Act (ESEA), the Department of Education is now authorized to continue to provide assistance for school facilities that were supported under section 10 prior to its repeal. Section 2008 would be amended in a similar fashion.

By Mr. BAUCUS (for himself and Mr. LOTT):

S. 729. A bill to provide off-budget treatment for the highway trust fund, the airport and airway trust fund, the inland waterways trust fund, and the harbor maintenance trust fund, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one committee reports, then the other committee have 30 days to report or be discharged.

TRUST FUND RESTORATION ACT OF 1995

Mr. BAUCUS. Madam President, I want to thank the majority whip, Senator LOTT, for joining me in the introduction of this bill.

Madam President, today Senator LOTT and I are introducing a bill to take four transportation trust funds off budget, the highway, aviation, inland waterways, and harbor maintenance trust funds. This is a bipartisan effort.

Transportation issues tend to be bipartisan. Members on both sides of the aisle generally support highway construction, bridge repair and airport improvements. This support is there because infrastructure improvements are needed for increased efficiency and mobility across this country.

As the Senator from Mississippi said this bill also provides truth in budgeting. By taking these four trust funds off-budget, revenue generated from fuel and other excise taxes will be available for the intended purpose of infrastructure improvements.

Without the enactment of the principals of this bill, not all of the money paid into these trust funds by American consumers will be available. Right now, excess revenue and the balances of these trust funds is used to mask the size of the Federal deficit. The bill we are introducing today will fix this problem. It will put truth in our budgeting process. We need to give American taxpayers confidence that their taxes do not go down a black hole but that these tax dollars are used for infrastructure improvements.

This act will restore the trust in our transportation and infrastructure trust funds, by taking those trust funds off-budget. Thus, it will make sure we spend the money on the things the American public expects it to buy—better highways, bridges, airports, and waterways.

The act would also end the practice of considering this money—collected by user fees and held for a specific public purpose—as general revenue which can be used to reduce the deficit. That will make sure we have an honest accounting of the size of the deficit.

Specifically, the bill would take the highway, aviation, inland waterways, and harbor maintenance trust funds off-budget. These trust funds now have balances of over $30 billion. But our ability to use the money is restricted because they are counted as part of the general Treasury funds, and thus subject to budget laws.

HIGHWAY TRUST FUND

The highway trust fund is the biggest and most egregious example. This fund was established in 1956, to develop the system of highways on which our economy and millions of jobs depend. It is financed by excise taxes on gasoline, diesel, special fuels, and other items.

The fund now has a cash balance of over $19 billion—over $9 billion in the highway account and $10 billion in the transit account. This money was collected to pay for our Nation's infrastructure.

That is why people are paying these taxes, to pay for our Nation's infrastructure, and that is what I submit we must use those dollars for.

There are unmet needs across the country. The Department of Transportation estimates that we will need to spend $212 billion to eliminate the backlog of highway deficiencies and $78 billion to fix our decaying bridges, and that is without even considering new needs.

Today, 24 percent of Montana's bridges are deficient and in need of repair. There are highway projects that desperately need funding—projects such as the expansion of Highway 93 in the Kalispell-Whitefish area. You can find similar problems across the State—across the West—across the country. And it is galling beyond belief that a lot of money is right there, today, in the highway trust fund waiting for us to spend it.

But it cannot be. Why? Because it is held hostage by arcane, backward budget laws.

A sensible budget policy situation would let us use it for what it is supposed to be used for—highways. That would mean continued growth in travel and tourism. And it would give our businesses increased mobility and efficiency, making us more competitive in this global economy. And it would mean jobs. Remember that $1 billion in transportation spending generates 60,000 direct and indirect jobs.

CONCLUSION

Madam President, it is time to put trust back into these trust funds. Let us use some common sense. Let us take these trust funds off-budget so that the transportation user gets what he or she pays for—a better transportation system, not an accounting gimmick that disguises the size of the deficit.

I look forward very much to working with the Senator from Mississippi and others to pass this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 729

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Trust Fund Restoration Act of 1995''.

SEC. 2. DEFINITIONS.

In this Act:

(1) AIRPORT AND AIRWAY TRUST FUND.—The term ''Airport and Airway Trust Fund'' means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986.

(2) HARBOR MAINTENANCE TRUST FUND.—The term ''Harbor Maintenance Trust Fund'' means the Harbor Maintenance Trust Fund

established by section 9505 of the Internal Revenue Code of 1986.

(3) HIGHWAY TRUST FUND.—The term ''Highway Trust Fund'' means the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986.

(4) INLAND WATERWAYS TRUST FUND.—The term ''Inland Waterways Trust Fund'' means the Inland Waterways Trust Fund established by section 9506 of the Internal Revenue Code of 1986.

SEC. 3. BUDGETARY TREATMENT OF HIGHWAY TRUST FUND, AIRPORT AND AIRWAY TRUST FUND, INLAND WATERWAYS TRUST FUND, AND HARBOR MAINTENANCE TRUST FUND.

(a) IN GENERAL.—The receipts and disbursements of the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund—

(1) shall not be included in the totals of—

(A) the budget of the United States Government as submitted by the President under section 1105 of title 31, United States Code; or

(B) the congressional budget (including allocations of budget authority and outlays provided in the congressional budget);

(2) shall not be—

(A) considered to be part of any category (as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4))) of discretionary appropriations; or

(B) subject to the discretionary spending limits established under section 251(b) of the Act (2 U.S.C. 901(b));

(3) shall not be subject to sequestration under section 251(a) of the Act (2 U.S.C. 901(a)); and

(4) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

(b) DISBURSEMENTS SUBJECT TO APPROPRIATIONS.—The disbursements referred to in subsection (a) shall be subject to appropriations.

SEC. 4. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF AIRPORT AND AIRWAY TRUST FUND.

(a) IN GENERAL.—Chapter 471 of title 49, United States Code, is amended by inserting after section 47129 the following:

''§ 47130. Safeguards against deficit spending

''(a) ESTIMATES OF UNFUNDED AVIATION AUTHORIZATIONS AND NET AVIATION RECEIPTS.—Not later than March 31 of each year, the Secretary, in consultation with the Secretary of the Treasury, shall estimate—

''(1) the amount that would (but for this section) constitute the unfunded aviation authorizations at the termination of the first fiscal year that begins after that March 31; and

''(2) the net aviation receipts at the termination of the fiscal year referred to in paragraph (1).

''(b) PROCEDURE IF EXCESS UNFUNDED AVIATION AUTHORIZATIONS.—If, with respect to a fiscal year, the Secretary determines that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of the excess.

''(c) ADJUSTMENT OF AUTHORIZATIONS IF UNFUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

''(1) DETERMINATION OF PERCENTAGE.—If the Secretary determines, in accordance with subsection (b), that there is an excess amount with respect to a fiscal year, the Secretary shall determine the percentage that the excess amount is of the sum of—

''(A) the amounts authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year; and

''(B) the amounts available for obligation from the Airport and Airway Trust Fund for the next fiscal year.

''(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary determines, in accordance with subsection (b), that there is an excess amount with respect to a fiscal year, each amount authorized to be appropriated or available for obligation from the Airport and Airway Trust Fund for the next fiscal year shall be reduced by the percentage determined in accordance with paragraph (1).

''(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—

''(1) ADJUSTMENT OF AUTHORIZATIONS.—Any amount authorized to be appropriated or available for obligation from the Airport and Airway Trust Fund that is reduced under subsection (c)(2) shall be further adjusted in accordance with paragraph (2) if, after an adjustment has been made under subsection (c)(2) for a fiscal year, the Secretary determines that, with respect to the fiscal year—

''(A) the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2); or

''(B) an excess amount determined under subsection (b) is less than an excess amount determined as a result of a previous determination.

''(2) ADJUSTMENT.—Each amount that is subject to a further adjustment under paragraph (1) shall be increased by an equal percentage determined by the Secretary under paragraph (3).

''(3) PERCENTAGE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the percentage referred to in paragraph (2) shall be the maximum percentage that does not cause the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2).

''(B) LIMITATION.—The amount of any increase determined under this subsection may not exceed the amount of the corresponding reduction under subsection (c)(2).

''(4) APPORTIONMENT.—The total amount of any increases determined for a fiscal year under paragraph (3) shall be made available to the Secretary for apportionment. The Secretary shall apportion the amount in accordance with this subsection.

''(5) PERIOD OF AVAILABILITY.—Any funds apportioned under paragraph (4) shall remain available for the period for which the funds would be available if the apportionment were made under appropriations and obligations for the fiscal year in which the funds are apportioned under paragraph (4).

''(e) REPORTS.—The Secretary shall report to Congress—

''(1) any estimate made under subsection (a); and

''(2) any determination made under subsection (b), (c), or (d).

''(f) DEFINITIONS.—In this section:

''(1) AIRPORT AND AIRWAY TRUST FUND.—The term 'Airport and Airway Trust Fund' means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986.

''(2) NET AVIATION RECEIPTS.—The term 'net aviation receipts' means, with respect to any period, the amount by which—

''(A) the receipts (including interest) of the Airport and Airway Trust Fund during the period; exceeds

''(B) the amounts to be transferred during the period from the Airport and Airway Trust Fund under section 9502(d) of the Internal Revenue Code of 1986 (other than under section 9502(d)(1) of the Code).

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(4) UNFUNDED AVIATION AUTHORIZATIONS.—The term 'unfunded aviation authorization' means, at any time, the amount by which—

''(A) the total amount authorized to be appropriated or available for obligation from the Airport and Airway Trust Fund that has not been appropriated or obligated; exceeds

''(B) the amount available in the Airport and Airway Trust Fund at that time to make the appropriation or to liquidate the obligation (after all other unliquidated obligations at that time that are payable from the Airport and Airway Trust Fund have been liquidated).''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 of title 49, United States Code, is amended by adding at the end of subchapter I the following:

''47130. Safeguards against deficit spending.''.

SEC. 5. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF INLAND WATERWAYS TRUST FUND AND HARBOR MAINTENANCE TRUST FUND.

(a) ESTIMATES OF UNFUNDED INLAND WATERWAYS AUTHORIZATIONS AND NET INLAND WATERWAYS RECEIPTS.—Not later than March 31 of each year, the Secretary, in consultation with the Secretary of the Treasury, shall estimate—

(1) the amount that would (but for this section) constitute the unfunded inland waterways authorizations and unfunded harbor maintenance authorizations at the termination of the first fiscal year that begins after that March 31; and

(2) the net inland waterways receipts and net harbor maintenance receipts at the termination of the fiscal year referred to in paragraph (1).

(b) PROCEDURE IF EXCESS UNFUNDED AUTHORIZATIONS.—If, with respect to a fiscal year, the Secretary determines with respect to a Trust Fund that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of the excess.

(c) ADJUSTMENT OF AUTHORIZATIONS IF UNFUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

(1) DETERMINATION OF PERCENTAGE.—If the Secretary determines, in accordance with subsection (b), that there is an excess amount with respect to a fiscal year, the Secretary shall determine the percentage that the excess amount is of the sum of—

(A) the amounts authorized to be appropriated from the Trust Fund for the next fiscal year; and

(B) the amounts available for obligation from the Trust Fund for the next fiscal year.

(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary determines, in accordance with subsection (b), that there is an excess amount with respect to a fiscal year, each amount authorized to be appropriated or available for obligation from the Trust Fund for the next fiscal year shall be reduced by the percentage determined in accordance with paragraph (1).

(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—

(1) INCREASE OF AUTHORIZATIONS.—Any amount authorized to be appropriated or available for obligation from a Trust Fund that is reduced under subsection (c)(2) shall be further adjusted in accordance with paragraph (2) if, after an adjustment has been made under subsection (c)(2) for a fiscal year with respect to the Trust Fund, the Secretary determines that, with respect to the Trust Fund and the fiscal year—

(A) the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2); or

(B) an excess amount determined under subsection (b) is less than an excess amount determined as a result of a previous determination.

(2) ADJUSTMENT.—Each amount that is subject to a further adjustment under paragraph (1) shall be increased by an equal percentage

determined by the Secretary under paragraph (3).

(3) PERCENTAGE.—

(A) IN GENERAL.—Subject to subparagraph (B), the percentage referred to in paragraph (2) shall be the maximum percentage that does not cause the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2) with respect to the Trust Fund.

(B) LIMITATION.—The amount of any increase determined under this subsection may not exceed the amount of the corresponding reduction under subsection (c)(2).

(e) REPORTS.—The Secretary shall report to Congress—

(1) any estimate made under subsection (a); and

(2) any determination made under subsection (b), (c), or (d).

(f) DEFINITIONS.—In this section:

(1) NET HARBOR MAINTENANCE RECEIPTS.—The term ''net harbor maintenance receipts'' means, with respect to any period, the receipts (including interest) of the Harbor Maintenance Trust Fund during the period.

(2) NET INLAND WATERWAYS RECEIPTS.—The term ''net inland waterways receipts'' means, with respect to any period, the receipts (including interest) of the Inland Waterways Trust Fund during the period.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

(4) TRUST FUND.—The term ''Trust Fund'' means the Inland Waterways Trust Fund or the Harbor Maintenance Trust Fund, as the case may be.

(5) UNFUNDED HARBOR MAINTENANCE AUTHORIZATIONS.—The term ''unfunded harbor maintenance authorizations'' means, at any time, the amount by which—

(A) the total amount authorized to be appropriated or available for obligation from the Harbor Maintenance Trust Fund that has not been appropriated or obligated; exceeds

(B) the amount available in the Harbor Maintenance Trust Fund at that time to make the appropriation.

(6) UNFUNDED INLAND WATERWAYS AUTHORIZATIONS.—The term ''unfunded inland waterways authorizations'' means, at any time, the amount by which—

(A) the total amount authorized to be appropriated or available for obligation from the Inland Waterways Trust Fund that has not been appropriated or obligated; exceeds

(B) the amount available in the Inland Waterways Trust Fund at that time to make the appropriation.

SEC. 6. ENFORCEMENT.

An officer or employee of the United States Government who fails to comply with this Act and the amendments made by this Act shall be subject to the penalties specified in section 1350 of title 31, United States Code.

SEC. 7. APPLICABILITY.

This Act and the amendments made by this Act shall apply to authorizations and obligations made for fiscal years 1996 and thereafter.

Mr. LOTT. Madam President, I have seen a quote, ''As transportation trust funds sit unused, so do Americans sit in traffic jams on beat-up roads or in dingy airport lounges.''

That is a fact. For many years, going back to my years in the House, I always felt as if our transportation trust funds were abused. The American people pay funds through taxes, or fees, if you will, directly into trust funds for highways and for airports, and yet those funds are quite often not used. They are used, I guess, but only to make the deficit look better.

We should have a system where, when the American people pay into a trust fund for a specific purpose, those funds in a logical way would be used so that the people will have the transportation infrastructure they want; so that they will be safer; so that we will not have highways falling apart and bridges collapsing. It is time we do something about it.

What we have now does not make fiscal sense, and it does not make infrastructure sense. So today I am introducing a bill with the distinguished Senator from Montana [Mr. BAUCUS] and it will move to restore the integrity of America's transportation trust funds.

I know the Senator from Montana has worked on this issue for a long time. He is on the committee that has jurisdiction in this area, but I also serve as chairman of the Surface Transportation Subcommittee of the Committee on Commerce, Science, and Transportation, so I am delighted to join with him in this effort.

The bill will require that the funds be used to complete maintenance and expansion of America's infrastructure that is long overdue and is already authorized. I am talking about a procedural budget change for the following funds: highway trust; airport and airway trust; inland waterways trust; and harbor maintenance trust.

The effect of our bill is to remove the transportation trusts from: Calculations of the on-budget deficit; congressional budget resolution's spending allocations; and spending points of order under the Budget Act.

Daily, $80 million pours into these trusts through fuel taxes while $360 billion in documented infrastructure needs are neglected. This has permitted a $33 billion cash balance to build up in these trusts. This balance does not help those Americans who need their transportation infrastructure repaired or upgraded. This balance only helps Federal budgeteers—and I am one of them—who are using these funds to mask the real deficit, while not doing what needs to be done in the infrastructure.

Our legislative proposal offers a simple and direct solution—take these transportation trust funds off budget.

We have proposed a responsible and appropriate legislative solution because the American Government made an implied contract with taxpayers who are paying these user fees. Why collect the fees if it is not really going to be used for the stated purpose? The American people are being deceived by hiding the true size of the Federal deficit. These misleading arguments mask the real intent of the unified budget.

The American people want to get a more accurate and reliable budget. This will not unravel the unified budget process.

Besides, transportation trusts have a unique, special antideficit mechanism unlike other trust funds. Let me tell you why these trust funds are different. They are wholly self-financed by user fees. They must be self-supported because of a pay-as-you-go requirement. They are deficit proof because of spending limits and it only buys capital assets, not operating expenses.

Opponents will say that taking transportation trusts off budget is bad because unified budgets only work if we have everything included and that the off budget status will skew national priorities.

Transportation trusts are neither more special than the other 160 trusts nor will they escape congressional review.

There is a House companion bill, a very good bill. This one is very similar, and I presume will be basically identical, although we are making some improvements in the bill. It was introduced by the chairman of the appropriate committee there, Congressman BUD SHUSTER, of Pennsylvania.

In the House, they already have 147 cosponsors. So I am inviting our colleagues here in the Senate to take a look at this bill and join in cosponsoring it. I think we will have a large majority of our colleagues who will support it.

Let me be very clear; this bill is not about playing budget gimmicks. It is more about trying to do what really needs to be done and what we committed to the American people that we will do.

In fact, this is really truth in budgeting. It is time that we face up to the infrastructure needs of America. There are dangers out there in this country. The money is there and it is not being spent. This would give us a logical, reasonable process in a bipartisan way to get that done.

By Mrs. BOXER:

S. 732. A bill to amend chapter 81 of title 5, United States Code, to prohibit Members of Congress from receiving Federal worker's compensation benefits for injuries caused by stress or any other emotional condition, and for other purposes; to the Committee on Labor and Human Resources.

FEDERAL WORKERS' COMPENSATION BENEFITS LEGISLATION

• Mrs. BOXER. Mr. President, today I am introducing legislation that would prohibit Members of Congress from receiving Federal workers' compensation benefits based on claims of psychological stress. I am sure it would surprise most Americans that Members of Congress are eligible for these benefits, but it is true.

In California, a public official who pled guilty to a felony has been able to collect hundreds of thousands of dollars in stress benefits under the State workers compensation system. This elected official, a former member of the Board of Equalization pled guilty in 1992 to falsifying expense accounts. After being forced to resign in disgrace, he claimed that the stress of political

life, exacerbated by the stress of evading the law, caused him such emotional trauma that he was unable to work. Unbelievably, the State Workers Compensation Board agreed with him, and awarded him $73,788 in workers compensation benefits plus a lifetime disability pension.

Several bills have been introduced in the California Legislature to correct this problem with State law, but until now, no corrective proposal has been introduced at the Federal level. It is important to note that this legislation applies only to stress claims by Members of Congress and does not infringe on the ability of States to set workers compensation law.

Mr. President, being a Member of Congress is a stressful job. I know that and all my colleagues know it. We knew it when we ran for the job and we know it now. There is no reason why we should be able to claim stress and collect a taxpayer-funded lifetime Government entitlement.

I look forward to working with my colleagues on this issue and I hope the Congress will enact this bill when it considers pension reform later this year.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 732

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

SECTION 1. LIMITATION ON WORKERS' COMPENSATION CLAIMS BY MEMBERS OF CONGRESS.

(a) IN GENERAL.—Section 8101(5) of title 5, United States Code, is amended to read as follows:

''(5) 'injury'—

''(A) includes, in addition to injury by accident, a disease proximately caused by the employment, and damage to or destruction of medical braces, artificial limbs, and other prosthetic devices which shall be replaced or repaired, and such time lost while such device or appliance is being replaced or repaired; except that eye-glasses and hearing aides would not be replaced, repaired, or otherwise compensated for, unless the damages or destruction is incident to a personal injury requiring medical services; and

''(B) shall not include, with respect to a Member of Congress, injuries or occupational diseases caused by stress or any mental or emotional condition.''.

(b) EFFECTIVE DATE.—This Act shall take effect 30 days after the date of the enactment of this Act, and shall apply only to claims filed under chapter 81 of title 5, United States Code, on or after such effective date.●

By Mr. ROTH (for himself, Mr. BIDEN, Mr. JEFFORDS, Mr. LEAHY, Mr. MOYNIHAN, Mrs. MURRAY, Mr. CHAFEE, Mrs. BOXER, Mr. COHEN, and Mr. LAUTENBERG):

S. 733. A bill to amend title 23, United States Code, to permit States to use Federal highway funds for capital improvements to, and operating support for, intercity passenger rail service, and for other purposes; to the Committee on Environment and Public Works.

INTERCITY RAIL INVESTMENT ACT

Mr. ROTH. Mr. President, The legislation I am introducing today has a very simple and important purpose: To give States the much needed flexibility to use Federal transportation money for Amtrak passenger rail service.

Since late last year, Amtrak has begun a much needed restructuring. This restructuring has required substantial participation by State governments in determining which rail lines will stay in service. While States currently have wide authority in allocating Federal transportation dollars—whether it be on pedestrian walkways, bikeways, buses, light rail, highway and other intermodal and commuter based transit needs—a damaging double standard exists which by law prevents them from utilizing these funds to improve, expand or simply maintain vital Amtrak service if they so choose.

My legislation would eliminate this double standard and allow States to utilize their Federal transportation dollars for Amtrak passenger rail service.

There are a number of realistic, sensible ways this flexibility can be achieved.

One option is to allow States to use funds available in the Congestion Mitigation and Air Quality Program [CMAQ] for passenger rail service. This program, created in the Intermodal Surface Transportation and Efficiency Act, provides an incentive to focus on transportation alternatives which reduce traffic congestion, improve air quality and lower fuel consumption. Amtrak passenger rail service clearly meets these criteria, potentially better than any other transportation alternative currently available. My bill would allow States to use CMAQ funds for passenger rail service if they so choose.

More rural regions, that are less congested, receive proportionately less CMAQ funds, but also receive additional funds through the Rural Public Transportation Program, known as section 18. These funds can be used for capital costs, and would be particularly appropriate for those more rural areas that depend on passenger rail service. In addition, funds in excess of the annual State allocation can be transferred into this category, so expenditures on passenger rail would not detract from other services being funded through section 18. These services include intercity bus service. My bill would ensure that States—if they choose to do so—could use section 18 funds for Amtrak passenger rail service.

Another important way to achieve flexibility is to designate appropriate Amtrak routes as part of the National Highway System, eligible for National Highway System funding. Many of Amtrak's rail corridors meet the definition of an arterial route serving major national population centers, popular travel destinations and key intermodal transportation facilities and hubs. However, current law prevents States from using their Federal transportation allocation for Amtrak. My legislation would amend the National Highway System map to include the Northeast rail corridor and other high speed routes—giving States the flexibility to use National Highway System funds for Amtrak passenger rail service if they so choose.

Passenger rail plays a critical role in this country's transportation infrastructure. But current law does not take this into account. Most projects that are in the same corridor as, or in proximity to, a National Highway System segment, or that will improve the level of service on an National Highway System segment, are eligible for National Highway System funding. However, passenger rail, which is often in the same corridor as an National Highway System segment, is not eligible to receive National Highway System funding. My legislation would eliminate this contradiction and give States the flexibility they need to use National Highway System funds wisely and productively to encourage passenger rail service.

Congress has recognized the need for States to have flexibility with Federal subsidies in important local transportation decisions. I believe it is time that that recognition be extended to allowing States to go with something that works. This proposal is an optimal mix of alternatives that will support long distance, intercity commuter rail service and the benefits that we know it accrues. Amtrak is safe, fuel efficient, speedy and the best transportation alternative for millions of Americans. It is time for the Federal Government to remove the barriers in place that prevent States from deploying resources in their best interest and allowing Amtrak to reach its potential.

Mr. President, this legislation calls for no new spending. It does not change Federal transportation allocation formulas, nor does it mandate States to spend their Federal transportation dollars on passenger rail service. As I have said, it simply gives States the ability to spend Federal transportation money as they see fit and in ways which have been repeatedly found to be good for them and good for the country.

Mr. JEFFORDS. Mr. President, I would like to commend Senator ROTH for his work on this important legislation.

This Monday, May 1, residents of my State will celebrate the introduction of a revitalized passenger rail link to Vermont. This new service, called the Vermonter, will replace the Montrealer, which previously ran from Washington to Montreal.

As Amtrak moved to restructure America's national passenger rail corporation this past winter, they indicated that train service across the country would be scaled back. The proposal called for the elimination of the

Montrealer, the last passenger rail service to northern New England. In an effort to maintain rail service to our region, Senator LEAHY and I, along with the State of Vermont, held extensive negotiations with Amtrak. The result is the Vermonter. This new train will operate from Springfield, MA, to St. Albans, VT. This daytime service will allow visitors from across the country to conveniently visit our State and allow residents of northern New England to access the national passenger rail system.

Continuation of this rail service would not have been possible without the financial support from the State of Vermont. In fact, the Vermont State Legislature recently agreed to provide over $700,000 to support this service for the year. In addition, the Vermont Legislature has included funding to study yet another passenger rail link to the western side of Vermont. This new route would allow passengers from New York City to reach some of Vermont's most beautiful recreation areas in under 5 hours. I predict that many travelers will choose to take this new train over driving or flying.

Both of these rail lines represent an opportunity to get commuters, tourists, and travelers out of their cars. This will alleviate congestion, reduce air pollution and reduce our reliance on imported oil.

As noted, these rail lines also require State funding. The funding mechanism contained in this legislation will allow States to utilize Federal funding to maintain their rail infrastructure. Such efforts will assist in the establishment of intercity rail travel and the servicing of rail infrastructure for freight and other commercial rail options.

Mr. President, this legislation will allow States to decide how they will best use their Federal transportation dollars. I hope my colleagues will support these efforts.

By Mr. REID (for himself and Mr. BRYAN):

S. 734. A bill to designate the U.S. courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, NV, as the ''Bruce R. Thompson United States Courthouse and Federal Building,'' and for other purposes; to the Committee on Environment and Public Works.

BRUCE R. THOMPSON U.S. COURTHOUSE AND FEDERAL BUILDING

Mr. REID. Mr. President, I rise to offer legislation designating the new Federal building and courthouse in Reno the ''Bruce R. Thompson United States Courthouse and Federal Building.'' After considering the recommendations of many first-rate candidates, I have decided to support the naming of this new Federal building after the late Judge Bruce Thompson.

As a member of the Nevada Bar, I take great pride in our many distinguished members—both past and present—and believe that this selection will enjoy widespread support throughout the State's legal community. Judge Thompson was a honorable jurist whose years of service on the bench contributed greatly to the betterment of the Reno community.

One of the responsibilities I enjoy as a senior Senator is the naming of Federal buildings. This responsibility is an honor requiring that thoughtful deliberation be given to all of the recommendations from the people of Nevada. Other well-qualified names recommended to me for this building included the Laxalt family, Felice Cohn, Sarah Winnemucca, and Alan Bible.

The Laxalt family has contributed greatly to the betterment of the lives of many Nevadans. This family includes a distinguished former Senator, an author, a successful attorney, and a woman who has dedicated her life to the service of others as a Roman Catholic nun.

Felice Cohn is another prominent Nevadan whose name was recommended by a great number of supporters. Felice Cohn was a famous woman's suffrage activist who was admitted to the Nevada Bar in 1902 at the age of 18.

I also received a number of letters recommending a more historic designation honoring the truest native Nevadans, the American Indians. These supporters promoted naming the courthouse in honor of Sarah Winnemucca, a historic American Indian whose name all Nevadans associate with the city of Winnemucca, NV.

Finally, I must mention the tremendous support for naming the courthouse in honor of Senator Alan Bible. Senator Bible's dedicated service to the State of Nevada will always be remembered and honored by the people of Nevada.

The great number of letters and phone calls in support of these names evidences that their significant contributions and accomplishments are also well known and much appreciated throughout Nevada. The abundance of well-deserving nominees made my decision that much more difficult.

In the end, however, I concluded that Judge Thompson merited this honor. By naming the new Federal courthouse in Reno after Judge Thompson, we honor the memory of his exemplary years of service on the bench.

By Mr. HARKIN (for himself and Mr. BOND):

S. 736. A bill to amend title IV of the Social Security Act by reforming the Aid to Families With Dependent Children Program, and for other purposes; to the Committee on Finance.

THE WELFARE TO SELF-SUFFICIENCY ACT OF 1995

Mr. HARKIN. Mr. President, just a short while ago, I spoke in front of the Senate Finance Committee regarding welfare reform. I want to take this time on the floor to outline my thoughts on welfare reform and to announce that Senator BOND from Missouri and I are introducing a bipartisan bill today on the issue of welfare reform.

Mr. President, Franklin Roosevelt sounded the alarm 60 years ago. Listen to what he told Congress in 1935:

> Continued dependence on relief induces a spiritual and moral disintegration, fundamentally destructive to the national fiber. To dole out relief in this way is to administer a narcotic, a subtle destroyer of the human spirit.

Well, the current welfare system stands as a monument to all that Roosevelt warned against. Mr. President, today, Senator BOND and I are introducing a bipartisan plan to cut off that narcotic of dependence and inject a good strong dose of common sense into the welfare system.

It is a responsible, flexible, bipartisan plan that transforms the system from the ground up, moving families off the dead end of welfare and on the road to self-sufficiency.

These days, there are a lot of different approaches to reforming welfare. But there is also a lot of common ground. We all agree that the system is broken. It punishes work, rewards dependence, cripples opportunity and wastes tax dollars.

We all agree that there should be a change. We have heard it on the floor and in the other body. We have heard it from the administration, and we have certainly heard it from our constituents.

But what have we seen? Well, we have seen plans with a lot of tough talk but no real action. We have seen too much partisanship and not enough results. When you get down to the bottom line, what is the ultimate goal in welfare reform? Well, it is simple: To help families achieve self-sufficiency.

I choose my words carefully. I did not say that the goal in welfare reform is helping families move into a job after 2 years. I did not say that the goal of welfare reform was creating Government dead-end, make-work jobs for welfare recipients. I said self-sufficiency, a path to real independence; not simply getting families off of welfare, but keeping them off permanently.

That is the goal. So with any reform plan, let us ask the questions: What does it do to help families achieve self-sufficiency? What about responsibility? What about results?

Let us put the House plan to the test. Now they called it the Personal Responsibility Act. But it is just the opposite; it is totally irresponsible. I will give the plan credit for one thing—it reforms welfare all right; it reforms it from bad to worse.

Well, we do not want to trade one large failed dependency-inducing system for 50 varieties of the same thing.

We also hear a lot about flexibility. But under the House plan, States must cut off benefits for unwed teens. States must cut off benefits after 5 years. States must impose a family cap. And the list goes on.

So the House says they want to give the States flexibility but they take that flexibility right away. So that is not flexibility, it is more micromangement from the Federal Government that we have seen from the House of Representatives. It is not change, it is more of the same.

There are other plans. The administration has one, and others are floating around. There are some good ideas but, in the end, they all fail the test of achieving the basic goal: self-sufficiency and independence.

Some say we should stick a 2-year straitjacket on families on welfare. Two years maximum and you are out. One size fits all. But how responsible is an inflexible time limit? I have said, Mr. President, if you have a 2-year maximum, it will become a 2-year minimum. People will be on it for 2 years, and most people do not need to be on welfare for 2 years. Where are the real incentives for families to escape the welfare trap?

The fact is, as I said, many families do not need it for 2 years. With a hand up, they can start climbing the ladder or ramp of opportunity and move into the job market a lot sooner than that.

The legislation that Senator BOND and I are introducing today passes the test for true welfare reform. It is tough but realistic. It puts people on the path to self-sufficiency on day one, not after year two.

The centerpiece of our plan is the Family Investment Agreement, which requires all families on welfare to enter into an individualized contract with the State in order to receive welfare benefits.

Under our plan, each family would sit down with a case manager and chart a course to self-sufficiency.

How can we help you get back on your feet? Do you have a high school degree? What are your skills? Do you have a disability? Do you need training? Do you need child care? Do you need transportation?

The plan is put on paper. The recipient signs her or his name on the dotted line, and the State signs on the dotted line, and they put that contract to work. The contract spells out not how someone may stay on welfare but how they must get off.

It is based on a simple notion: We, as a society, are willing to help you, but only if you are willing to help yourself.

We can give a person a boost through education, through health care, through child care, or transportation, but the person must use it to lift himself up the ladder of opportunity and become self-sufficient.

If a welfare recipient says, ''I am sick of school. I do not want training. Just give me my check, and you keep the contract,'' what happens then? Simple: Their benefits will be cut and ultimately terminated.

Our plan also rewards work. Instead of keeping incentives for people to stay on welfare, our bill helps people work their way out. If a welfare recipient is working, we will let them keep more of what they earn. If they are investing in themselves—saving to start a business, buy a first home, or pay for education—the Government will no longer hold that against them. Their assets will no longer be a liability.

This plan is about responsibility—for people and for States. The State has a responsibility to help families in need by providing the tools to achieve independence. Families have a responsibility to use those tools to build a path to self-sufficiency.

Our plan is also about real flexibility for people and for States. Instead of taking a cookie-cutter approach, each family investment agreement is tailored to a family's unique needs. And individualized time limits based on those circumstances are then set.

In some cases, benefits will be needed for 6 months. Others may require more time; others less. But we recognize one size does not fit all, whether they are individuals or whether they are States.

We also recognize that the States need more flexibility. What works in Brooklyn, IA, may not work in Brooklyn, NY. Instead of dictating how States must run every aspect of their programs, our plan cuts Federal red-tape and leaves States with the option of choosing policies best for them. We also block grant the funds States use to administer welfare programs.

So our plan is flexible for people on welfare. It is flexible for States, but it is inflexible when it comes to the bottom line—we demand results.

When fully implemented, our plan would require 90 percent of recipients to sign agreements and find work.

We also know that a critical part of welfare reform is to crack down on deadbeat parents who fail to pay child support. At least $5 billion in court-ordered child support goes uncollected every year. There is over $560 million in delinquent child support owed to Iowa children.

Our bill turns the collection of some past due child support over to the IRS—most of these cases involve parents who have crossed State lines. And we provide States with several options for improving paternity establishment, requiring community services, revoking licenses, and publishing the names of deadbeat parents.

So deadbeat parents may try to run, but under our plan, they cannot hide.

Our bill puts States in the driver's seat by giving them the option of requiring minor parents to live with their parents or another responsible adult. Our plan also increases funding for the title X family planning program by $100 million to improve education services.

So our bill is a pragmatic, commonsense bill. It demands responsibility from day one, expands State flexibility, improves child support collection, and addresses the increase in illegitimate births.

One more thing, Mr. President. This plan works. How can I be so sure? Because it is working right now in my home State of Iowa. If people have not heard about it, do not feel bad. Not many people have.

I call the Iowa welfare reform plan the Rodney Dangerfield of welfare reform. It does not get any respect, or at least not enough attention.

Mr. President, several years ago, the State of Iowa embarked upon experimentations on how to best deliver welfare and get people off of welfare. Based upon those experiments, a year and a half ago, Iowa passed a welfare reform bill.

I might point out, Mr. President, that that bill passed the Iowa Legislature with the support of conservative Republicans and liberal Democrats. It was signed—in fact, it only got one dissenting vote—into law by a conservative Republican Governor, Governor Branstad.

What has happened in Iowa since we have put our welfare reform to work? The number of welfare recipients holding jobs has grown by 80 percent. These charts will show that. These are the number of families on welfare who are working. When we started, we had about 6,500, and it has now gone up to 12,000—almost double. We now have the distinction, Mr. President, of having a higher percentage of people on welfare working in Iowa than in any State in the Nation. We are proud of that. So the plan is working. It is getting people to work.

Second, look what has happened to our case load. Now, initially, we knew the case load would go up because we allowed people to work to keep more of their earnings, and people were able to get on, and then the case load started coming down dramatically in the State of Iowa as people became self-sufficient and got off of welfare.

Here is the real icing on the cake. That is the total expenditures on our AFDC grants in Iowa. The yellow line is just for fiscal year 1994; the blue line is fiscal year 1992; the green line is fiscal year 1993; the red line is fiscal year 1995.

We can see since last October what has been happening to the cost in our program. It has dropped precipitously in the State of Iowa. In fact, the average recipient payment has gone from $373 a month to $343 a month.

Therefore, what we have done is we have more people working, we are reducing the case load by getting people off of welfare earlier, and we are reducing the cost. What more could anyone want in a welfare reform program?

It is tough. Sure, it is tough. In fact, Iowa is, I believe, now the only State that has actually cut welfare benefits to people who refused to sign these contracts or who violate their contracts. We have actually stopped cash payments. Other States talk tough, but Iowa has done it. We had the carrot and we have had the stick, and it is working in the State of Iowa. Therefore, Mr. President, we know the right way to go.

Iowa and Missouri have worked together for meaningful welfare reform. I urge my colleagues to examine the Harkin-Bond plan and join us in this commonsense, bipartisan approach to reaching common ground on welfare reform.

Mr. President, I ask unanimous consent that a summary of the legislation appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 736, WELFARE TO SELF-SUFFICIENCY ACT OF 1995—A BIPARTISAN APPROACH TO WELFARE REFORM

The Welfare to Self-Sufficiency Act of 1995 is a common-sense, bipartisan plan that transforms welfare. It changes today's failed dependency-inducing system to one that demands responsibility from day one on the part of welfare recipients and provides them the helping hand they need to get off welfare and become self-sufficient. Unlike other reform plans it does not apply a one-size fits-all two year time limit, but sets individualized time limits (most of which should be well under two years) based on the particular circumstances of each family. It makes work more financially attractive than welfare by expanding work incentives. This plan also emphasizes moving recipients into private sector jobs, not government jobs created solely for placement purposes.

The legislation also provides much greater flexibility to the states so they can design welfare programs to fit their unique characteristics. It eliminates federal bureaucracy and red tape by consolidating the administrative costs of major welfare programs into a block grant, while maintaining uniform federal eligibility criteria for benefits.

In addition, the Welfare to Self-Sufficiency Act combats the unacceptable rise in teenage pregnancy by demanding responsibility from teens and providing them positive incentives, but without measures that primarily punish children who bear no responsibility for the conditions surrounding their birth. It also fundamentally overhauls our failed child support enforcement system, cracking down on deadbeat parents that escape their responsibilities by moving across state lines and failing to fulfill their obligations to their children.

The bill is paid for by reforming and ending the rapid growth in federal payments to states for the administration of welfare programs, requiring sponsors of immigrants to take greater financial responsibility for ensuring that immigrants don't fall onto welfare rolls and through other savings achieved in related welfare programs.

TITLE I—FAMILY INVESTMENT AGREEMENT

The centerpiece of the legislation is the Family Investment Program which requires AFDC families to negotiate and sign individualized Family Investment Agreements in order to receive benefits. This agreement is a contract between the state and family which outlines the steps each individual family must take to become self-sufficient and move off of welfare. The contract would outline activities such as job training, education, job search and work that family would have to participate in. States would have to provide necessary services, including child care, to keep their end of the contract. Unlike other proposals which set a one-size-fits-all two year time limit, this plan provides for time limits that will vary from family to family based on the unique circumstances of each family. In Iowa, where this plan has been put into effect, most contracts contain time limits shorter than two years.

Families who refuse to negotiate and sign a contract or fail at any time during the contract to meet the obligations outlined in the individual agreement would enter a limited benefit plan that leads to the termination of welfare benefits. Under the limited plan, families would continue to receive full benefits for three months, for the next three months benefits would be reduced to the children's portion of their benefits and benefits would be completely cut off at the end of this six month period. These families would be ineligible for AFDC benefits for six additional months.

TITLE II—INCREASING WORK AND SELF-SUFFICIENCY

This bill promotes work in private sector jobs that are needed to enable a family to become self-sufficient. States would be given the option of providing the following incentives that will encourage families to work and save:

The disregard for work expenses could be increased from $90 a month to 20% of gross earnings.

Under current law, an individual has a 12 month work transition period. During the first 4 months, $30 per month plus 1/3 of gross earnings are disregarded. For the following 8 months $30 is disregarded. The bill permits states to disregard 50% of gross earnings until a family has reached self-sufficiency.

The resource limitation for families applying for AFDC could be increased from $1000 to $2000. To encourage saving by AFDC families, the resource limitation for recipients already on public assistance could be increased from $1000 to $5000. In order to assure more reliable transportation to and from work, recipients could be allowed to own a car worth $3,000, rather than the current limit of $1,500.

Families are also encouraged to save and plan for long-term expenses such as starting a small business, buying a first home or for job training or education programs. AFDC families could be allowed to save up to $10,000 for these purposes. Training programs for small business development are also included.

At state option, earnings of teen-age members of the household would no longer be counted in determining a family's eligibility for AFDC.

In order to promote private sector job opportunities for welfare recipients, states would also be given the option to implement wage supplementation programs in which employers could add to value of AFDC and food stamp benefits to the wages earned by AFDC eligible workers.

TITLE III—IMPROVING STATE FLEXIBILITY

To help states implement education and training programs for welfare recipients, the federal contribution for the JOBS program is increased. This enhanced match is provided for funds that a state spends over their 1995 level.

States need more flexibility to design welfare programs that meet the individual characteristics of each state. The waiver authorization of the 1988 Family Support Act was a good start. However, too often the waiver process has been cumbersome and time-consuming.

To provide states with added flexibility, the bill authorizes several policy options which will not require federal waivers. The bill provides these additional state options:

Provides for the equivalent treatment of stepparent and parent income; and

To make children healthier, requiring AFDC parents to have their children receive appropriate preventive health care, including timely immunization.

In addition, considerable federal red tape would be cut by block granting the administrative costs associated with AFDC, Food Stamps and Medicaid. Payments to states would be frozen at the 1995 level. The HHS Inspector General has reported that such an approach would save approximately $8 billion over 5 years.

TITLE IV—COMBATTING TEENAGE PREGNANCY

The rapid increase in out-of-wedlock births to young women must be addressed in a logical manner. We must educate teenagers about the problems of becoming parents at an early age, stabilize young families, and require teen age parents to finish high school. The bill attacks teen pregnancy on a number of fronts.

Continues the state option requiring minor parents to live with their parents or another responsible adult.

Provides a state option that requires teenage parents to stay in school.

Autorizes an additional $100 million for Title X Family Planning Grants targeted at combating teen pregnancy.

TITLE V—IMPROVING CHILD SUPPORT COLLECTION

Many families are forced onto the welfare rolls when an absent parent refuses to meet child support obligations. Only one-third of court ordered child support is paid today. This bill strengthens child support enforcement by referring collection of certain delinquent child support orders to the Internal Revenue Service. Cases in which less than 50% of ordered child support was collected by the state within a year (mostly involving out of state parents) would be referred to the IRS for collection. The IRS would be able to garnish wages of the deadbeat parents to recover ordered payments.

To encourage additional improvements in the collection of child support, the bill provides several new state options.

States may revoke the drivers, professional and occupational licenses of delinquent parents.

States may release the names of delinquent parents to the news media for publication.

Provides several new options to improve the process for establishment of paternity.

TITLE VI—FINANCING

The Welfare to Self Sufficiency Act would be paid for through savings achieved in three major areas:

Welfare payments to immigrants would be reduced by requiring the sponsors of these individuals to take greater responsibility for assuring that they don't become dependent on Federal assistance. The income of sponsors would be counted as available to the immigrant for purposes of determining eligibility for Food Stamps, SSI, AFDC and Medicaid until the immigrant becomes a U.S. citizen. Exceptions are made for non-citizens who are American veterans and those who have paid taxes for five or more years.

Payments to states for the administration of the AFDC, Food Stamps and Medicaid program would be block granted and frozen at 1995 levels.

Payments from the AFDC Emergency Assistance program would be capped. This program has experienced rapid growth and has been used for purposes beyond that originally intended.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

● Mr. BOND. Mr. President, I am pleased to be an original cosponsor of the welfare bill my friend from Iowa has just introduced. Our proposal represents a fundamental change in the

way we would approach public assistance.

Since the creation of aid to families with dependent children, public aid has been regarded as an entitlement. If you meet the requirements for eligibility, you receive the cash, with no strings attached.

The current system has been rightly maligned by persons from all walks of life, including researchers, advocates, pastors, politicians, and even the recipients. The system is impersonal, inefficient and encourages continued dependency. Recipients can continue to receive cash month after month after month without having to think about their futures, and without being given any help in thinking what they might do to become self-sufficient.

Our proposal changes that way of thinking and requires something from the recipients in return for benefits. By the year 2003, 90 percent of recipients would be required to sign a binding contract with the State. The contract would outline the specific steps that each recipient will take to move off of welfare and into self-sufficiency. The contract states clearly when benefits will end. If a recipient fails to live up to the terms of the agreement at any time, benefits will be reduced and ultimately terminated.

I believe a large reason for the malaise and stagnation in today's welfare programs is that we have not required anything in return for benefits. This one way street, this lack of reciprocity, has bred an ethic of dependence rather than a work ethic. The only way we can turn this around is to require something in return for the generosity of the American taxpayer. Most Americans believe our Government has a responsibility to help families in need, but also believe that individuals have a responsibility to help themselves. This plan will help people who want to help themselves to create a better life.

The contractual arrangement between recipients and the State—representing the taxpayer donors—is the only requirement we would impose on the States. I believe it is fundamental to ensuring that we move people from welfare into productive private sector work. The House-passed bill requires States to implement a number of ideas that make good sense, but this notion of a contract is not among them. I am concerned that if we do not require that recipients of public assistance work, or behave responsibly, or take steps to wean themselves from public assistance in every case, then our efforts at reform will result in more of the same. The principle that Senator HARKIN and I have agreed on that should govern welfare reform efforts at every level is this: Public assistance is a two-way street. If you want to receive benefits, you must work and behave responsibly in return.

That said, we have also learned that our Nation's Governors are far ahead of Washington in generating reform ideas and in implementing them. Currently States must undertake a lengthy and cumbersome waiver process in order to obtain permission to implement common sense reforms. States that want to require welfare recipients to obtain preventive health care for their children, or to ensure that their children stay in school, or wish to allow recipients to keep more of their earnings from a part-time job—good ideas all—must now obtain a waiver from HHS. This is costly, time-consuming, and silly. Our bill permits States to implement any one, a combination of, or all of a variety of options to reform welfare without permission from the feds.

The current system penalizes work and saving by placing severe restrictions on outside income and on assets. Our plan permits States, at their discretion, to increase the earnings limits and amounts families can save prior to losing benefits. We also permit States to disregard the income of a teenage worker in the family. The current system encourages a high rate of teenage unemployment among AFDC households. The last thing stressed, low-income neighborhoods need is more unemployed teenagers.

One of the major problems low-income families face today is cycling on and off welfare. Mothers who leave welfare must often return within a matter of months, because their child-care arrangements have fallen through or because they simply cannot make their bills. Our bill would extend transitional child care benefits from 1 year to 2. We permit States to allow families to keep more outside income before losing benefits, and to save more prior to leaving welfare so that the transition from welfare to work runs more smoothly.

We provide a menu of welfare reform options, but leave it up to the States to decide which combination will best suit their needs. I hope the version that is eventually passed by the Senate will expand State flexibility, not restrict it further. We recognize that our plan is not the be all and end all of welfare reform. I will be open to other options that expand State flexibility and innovation. But I believe this bill contains many good ideas which are not being widely discussed and hope to draw the attention of my colleagues to those ideas.

I commend the efforts of my friend from Iowa and urge other Senators to review our bipartisan effort as we begin debating this contentious issue.●

By Mr. DOLE (for himself, Mr. HATCH, Mr. NICKLES, Mr. THURMOND, Mr. SIMPSON, Mr. BROWN, Mr. KYL, and Mr. GRAMM):

S. 735. A bill to prevent and punish acts of terrorism, and for other purposes; read the first time.

ANTITERRORISM LEGISLATION

Mr. DOLE. Mr. President, America will not be intimidated by the madmen who masterminded last week's vicious and cowardly bomb attack in Oklahoma City.

America will not be paralyzed into inaction by those who have committed this evil deed.

And, yes, justice will be rendered. The guilty will be punished. And America—slowly, but with determination—will begin to heal herself.

Our job today is not to dwell on the past, but to look to the future—to lay the foundation for a comprehensive antiterrorism plan for America. We must take every reasonable step, every responsible action, to reduce the chances that other, similar tragedies will occur elsewhere in the United States.

That is why I am pleased today to join with the chairman of the Judiciary Committee, Senator HATCH, and with my distinguished colleague from Oklahoma, Senator NICKLES, in introducing the Comprehensive Terrorism Prevention Act of 1995.

Many of the provisions of this act were contained in S. 3, the anticrime bill introduced by Senate Republicans last January: Increased penalties for those who conspire to commit firearms and explosives offenses; expanded extradition authority for the attorney general; the Alien Terrorist Removal Act, designed to deport alien terrorists in a prompt manner without disclosing vital national security information; and increased funding for Federal law enforcement, including the FBI.

Today's legislation also contains comprehensive habeas corpus reform, which is something the Senator from Utah, the chairman of the committee, has long sought, which should go a long way in preventing violent criminals from gaming the system—with more delays, more unnecessary appeals, and more grief for the victims of crime and their families.

In fact, the President said justice is going to be swift. I am not certain how swift it is going to be if they can appeal and appeal and appeal in the event they are apprehended, tried and convicted—continued appeals for 7, 8, 10, 15 years in some cases.

During a recent television interview, the President did say we needed strong, comprehensive habeas reform so that those who committed this evil deed will get what they deserve—punishment that is swift, certain, and severe. This legislation will help accomplish this goal.

With respect to international efforts to counter terrorism, the legislation expands efforts to isolate the worst of the rogue regimes: State sponsors of terrorism. It would make it easier to support international antiterrorism efforts. We need to send a strong signal to our allies and our adversaries—if you are with us in fighting the scourge of terrorism, we will try to help—but if you are aiding terrorists and terrorist states, it is no more business as usual.

Finally, this legislation contains many of the reforms sought by President Clinton himself—prohibitions on

fundraising for foreign terrorist organizations; the tagging of plastic explosives to make them more detectable; and amendments to the Fair Credit Reporting Act to ease access to financial and credit reports in terrorism cases.

The bottom line is that fighting terrorism is not, and should not be, a partisan issue. America must stand together—Democrats and Republicans, liberals and conservatives—to confront the terrorist threat wherever it may exist.

And, of course, I look forward to working with President Clinton and with my distinguished colleague, Senator DASCHLE, in refining this proposal, and perhaps considering other worthy proposals, to strengthen America's antiterrorism hand. Today's legislation is not the end but the beginning of the process that hopefully will lead to a strong antiterrorism action plan for our country.

And I have been reminded today that we want to look back at the legislation we pass a year from now or 2 years from now and know that it is just as good then as it may appear to be now. In other words, we should not be carried away because of the emotion of the moment. And I know that under the leadership of the distinguished chairman of the Judiciary Committee that will not happen.

But, Mr. President, as we move forward with legislation, let me add a cautionary note: No legislation can make America completely safe. In a free society, there is no such thing as absolute security. We must work to make our country safer from the terrorist threat, but there are no guarantees that every terrorist, every madman, can be stopped. The American people deserve the straight story, and the straight story is that America is not an impregnable fortress.

Let me also say that there has been a great deal of speculation about the so-called Attorney General guidelines. These guidelines are the internal Justice Department policies that govern if, and when, the FBI can monitor and infiltrate domestic organizations suspected of being engaged in terrorist activities. Some say the guidelines are too restrictive and, in fact, hamstring the FBI. Others argue that the guidelines go too far.

This is a complex issue, and one made more complex and more urgent by the fact that our constitutional liberties are at stake. Before rushing to judgment, we should get all the facts out on the table: Have the guidelines been effective? Do they provide adequate authority to the FBI to monitor the activities of domestic terrorist organizations? Have there been any instances when an FBI agent sought authority to initiate an investigation and this authority was denied? And if so, why?

In my view, we should hear from the law enforcement professionals themselves first before drawing any conclusions. And that is why this legislation asks the Director of the FBI to provide Congress with a detailed report on the adequacy of the guidelines and any other laws regulating the surveillance of suspected terrorist groups operating within the United States. In other words, let us get the facts first and then let us make decisions later. Let us not rush to judgment without all the facts.

Let me say that in this bill—and the Senator from Utah may discuss it also—we left out the provision as far as expanding the authority of the military. That was in the President's request. We have not seen the draft language. But I think that is another area where we want to be very, very careful, before we start bringing the military into law enforcement areas. And I believe my colleague from Utah agrees.

It is reported in the paper this morning ''to allow the military to participate in domestic law enforcement.'' That may sound good on the face of it, but I think there are a lot of pitfalls there and a lot of dangers. We better be certain we look at this before we do anything by statute. So hopefully that will be a subject of extensive hearings in the Judiciary Committee.

Finally, I join all of my Senate colleagues in extending our thoughts and prayers to the good people of Oklahoma City. The self-sacrifice and heroism they have displayed in the past week has been an inspiration to us all. They have been doing their duty. It is now our obligation to lay the groundwork for an America that is more secure for all of her citizens.

As I understand, Mr. President, the Senator from Utah will now speak on this issue.

Mr. HATCH. I wish to congratulate the distinguished majority leader for excellent leadership in this area among so many others. Without his leadership and without his prime sponsorship of this bill, I do not think we would be nearly as far along as we are.

We were both down at the White House yesterday with the President, and we both committed to working with the President to making sure that this bill is everything the President would like to have. In addition, we have added some things that we think will strengthen the bill in many ways including the habeas corpus provision.

Mr. President, I rise today to introduce, along with the distinguished majority leader, the Comprehensive Terrorism Prevention Act of 1995. The Nation continues to mourn the tragic loss of life suffered last week in Oklahoma City.

I want to commend all the men and women who have been involved in the rescue effort. Their courage and devotion to duty stands in stark contrast to this cowardly act of terrorism.

I also salute the swift and efficient work of the Federal, State, and local law enforcement officials who are working tirelessly to solve this crime. We must not rest until all the perpetrators are discovered and punished.

President Clinton was right when he called the people who committed this act ''evil cowards.'' According to the twisted set of values of these individuals, they will push their agenda even when it means killing a 6-month-old infant—or nearly killing a 3-year-old boy like Brandon Denny, whose brother held his hand and wished him well after brain surgery last Thursday. There is no room in a free society for individuals who attempt instead to effect change through violence and who are willing to murder innocent people to make a political statement.

For years, I have been fighting for legislation to strengthen our counterterrorism efforts. Last week's heinous attack only underscores the need to give Federal law enforcement officials the tools to prevent and detect future terrorist attempts. Legislation is needed—and needed now. If those responsible for this act thought they could intimidate the United States, they were dead wrong.

Today, we are introducing the Comprehensive Terrorism Prevention Act of 1995. Our legislation adds several crucial provisions to our Nation's antiterrorism laws, and embodies much of the legislative recommendations called for by President Clinton.

First, our bill enhances the penalties for engaging in certain terrorist acts, and extends the crime of conspiracy to certain terrorist crimes, something that has not been done before, and will make it easier for law enforcement to find these terrorists, ferret them out, and get them sent to court.

Second, our bill will give the President greater tools to fight terrorism on an international level, as well as the domestic level. It provides foreign aid to countries that either aid or provide military equipment to terrorist states, eases the restrictions on the provision of antiterroism assistance to foreign nations, and prohibits the transfer to terrorist states of technology or products which the Secretary of State determines can be used to promote or conduct terrorism.

Third, our bill will give our law enforcement officials and courts the tools they need to remove alien terrorists from our midst without jeopardizing national security or the lives of law enforcement personnel. It allows for a special deportation hearing and in camera, ex parte review by a secret panel of Federal judges when the disclosure in open court of Government evidence would pose a threat to national security.

Fourth, it reforms our habeas corpus laws so that we can be sure that President Clinton's promise that punishment be swift is kept.

Fifth, our bill includes provisions making it a crime to knowingly provide material support to the terrorist functions of groups designated by a Presidential finding to be engaged in terrorist activities.

I am sensitive to the concerns, as is the majority leader, of some that this

provision impinges on freedoms protected by the first amendment. And, the first amendment has no greater champion than the distinguished majority leader and certainly myself. I have worked to ensue that this provision will not violate the Constitution or place inappropriate restrictions on cherished first amendment freedoms. Nothing in this provision prohibits the free exercise of religion or speech, or impinges on the freedom of association. Moreover, nothing in the Constitution provides the right to engage in violence against fellow citizens. Aiding and financing terrorist bombings is not constitutionally protected activity. Additionally, I have to believe that honest donors to any organization would want to know if their contributions were being used for such scurrilous purposes.

Our bill provides for numerous other needed improvements in the law to fight the scourge of terrorism, including the authorization of in additional appropriations—nearly $1.6 billion—to Federal law enforcement to beef up counterterrorism efforts and increasing the maximum rewards permitted for information concerning international terrorism.

I would note that many of the provisions in this bill enjoy broad, bipartisan support and, in several cases, have passed the Senate on previous occasions. Indeed, many of the provisions in this bill have the active support of the Clinton administration. And I believe, as the President reads this bill, he will support the whole bill.

The people of the United States and around the world must know that this is an issue that transcends politics and political parties. Our resolve in this matter must be clear: our response to the terrorist threat, and to acts of terrorism, will be certain, swift, and unified.

Mr. President, ours is a free society. Our liberties, the openness of our institutions, and our freedom of movement are what make America a Nation we are willing to defend. These freedoms are cherished by virtually every American.

But this freedom is not without its costs. Because we are so open, we are vulnerable to those who would take advantage of our liberty to inflict terror on us. The horrific events of last week in Oklahoma City tragically demonstrate the price we pay for our liberty. Indeed, anyone who would do such an act, and call it a defense of liberty, mocks that word.

We must now redouble our efforts to combat terrorism and to protect our citizens. A worthy first step in the enactment of these sound provisions to provide law enforcement with the tools to fight terrorism.

Again, I thank our majority leader. Without him, we would not be this far along. Without him, this bill would not be nearly as good. Without his leadership, it probably would have grave difficulties. But with his leadership and with the work that he and his staff have put in, along with staff of other members of the Judiciary Committee, we have a bill that we believe is sound. We believe it is efficient. We believe it is fair. We believe it takes care of constitutional rights and liberties. And we believe that it will solve the problem in the future and give law enforcement the tools and the teeth in order to take the big bite of out of terrorism worldwide, but especially in our country that needs to be taken.

I urge all of our colleagues to support this legislation and again I thank our distinguished majority leader.

ADDITIONAL COSPONSORS

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 240

At the request of Mr. DOMENICI, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Michigan [Mr. ABRAHAM], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 256

At the request of Mr. DOLE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 434

At the request of Mr. KOHL, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 434, a bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal limitations on hours of service.

S. 571

At the request of Mrs. BOXER, the names of the Senator from Washington [Mrs. MURRAY] and the Senator from Maine [Ms. SNOWE] were added as cosponsors of S. 571, a bill to amend title 10, United States Code, to terminate entitlement of pay and allowances for members of the Armed Forces who are sentenced to confinement and a punitive discharge or dismissal, and for other purposes.

S. 726

At the request of Mr. MCCAIN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 726, a bill to amend the Iran-Iraq Arms Non-Proliferation Act of 1992 to revise the sanctions applicable to violations of that act, and for other purposes.

SENATE RESOLUTION 112—COMMENDING THE SENATE ENROLLING CLERK UPON HIS RETIREMENT

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 112

Whereas Brian Hallen will retire from the United States Senate after almost 30 years of Government service;

Whereas he served the United States Senate for over 20 years; the last 9 years as the Enrolling Clerk;

Whereas his dedication to the United States Senate resulted in the computerization of the engrossing and enrolling process;

Whereas he has performed the duties of his office with remarkable diligence, perseverance, efficiency and intelligence;

Whereas he has faithfully performed his duties serving all Members of the Senate and House of Representatives with great professional integrity; and

Whereas Brian Hallen has earned the respect, affection and esteem of the United States Senate: Now, therefore, be it

Resolved, That the United States Senate commends Brian Hallen for his long, faithful and exemplary service to his country and to the Senate.

SEC. 2. The Secretary shall transmit a copy of this resolution to Brian Hallen.

AMENDMENTS SUBMITTED

THE COMMON SENSE LEGAL STANDARDS REFORM ACT OF 1995; COMMON SENSE PRODUCT LIABILITY REFORM ACT OF 1995

MCCONNELL (AND OTHERS) AMENDMENT NO. 603

Mr. MCCONNELL (for himself, Mr. LIEBERMAN, and Mrs. KASSEBAUM) proposed an amendment to amendment No. 596 proposed by Mr. GORTON to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

At the end of the pending amendment, add the following new title:

TITLE ___—HEALTH CARE LIABILITY REFORM

SEC. ___01. SHORT TITLE.

This title may be cited as the "Health Care Liability Reform and Quality Assurance Act of 1995".

Subtitle A—Health Care Liability Reform

SEC. ___11. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—The civil justice system of the United States is a costly and inefficient mechanism for resolving claims of health care liability and compensating injured patients and the problems associated with the current