S. 1058

At the request of Mr. DAYTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1058, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and the producers of biodiesel, and for other purposes.

S. 1083

At the request of Ms. MIKULSKI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1083, a bill to amend title XVIII of the Social Security Act to exclude clinical social worker services from coverage under the medicare skilled nursing facility prospective payment system.

S. 1104

At the request of Mr. GRAHAM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1104, a bill to establish objectives for negotiating, and procedures for, implementing certain trade agreements.

S. 1134

At the request of Mr. LIEBERMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1134, a bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock.

S.J. RES. 7

At the request of Mr. HATCH, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S.J.Res. 7, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S. RES. 71

At the request of Mr. HARKIN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. RES. 109

At the request of Mr. REID, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 109, a resolution designating the second Sunday in the month of December as ''National Children's Memorial Day'' and the last Friday in the month of April as ''Children's Memorial Flag Day.''

S. CON. RES. 45

At the request of Mr. FITZGERALD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

S. CON. RES. 53

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

At the request of Mr. HAGEL, the names of the Senator from Minnesota (Mr. WELLSTONE), the Senator from Michigan (Ms. STABENOW), the Senator from Maryland (Mr. SARBANES) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. Con. Res. 53, supra.

At the request of Mr. HAGEL, the names of the Senator from Minnesota (Mr. WELLSTONE), the Senator from Michigan (Ms. STABENOW), the Senator from Maryland (Mr. SARBANES) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. Con. Res. 53, supra.

AMENDMENT NO. 821

At the request of Mr. ALLARD, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Idaho (Mr. CRAIG) , the Senator from Oklahoma (Mr. NICKLES) , the Senator from Virginia (Mr. ALLEN), the Senator from Oklahoma (Mr. INHOFE), the Senator from New Hampshire (Mr. SMITH), the Senator from Texas (Mr. GRAMM), the Senator from Maine (Ms. COLLINS), the Senator from Alabama (Mr. SESSIONS), the Senator from Wyoming (Mr. ENZI) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of amendment No. 821 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. FEINGOLD, Mr. GRASSLEY, Mr. LEAHY, Mr. WARNER, Mr. BREAUX, Mr. BURNS, Mr. REID, Mr. CRAIG, Mr. TORRICELLI, Mr. BENNETT, Ms. Snowe, Mr. DEWINE, Mr. THOMAS, and Mr. HUTCHINSON):

S. 1140. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce S. 1140, ''The Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001.'' I am pleased to be joined in cosponsorship of this legislation by Senators FEINGOLD, GRASSLEY, LEAHY, WARNER, BREAUX, BURNS, REID, CRAIG, TORRICELLI, BENNETT, SNOWE, DEWINE, THOMAS, and HUTCHINSON. Our bill is intended to allow automobile dealers their day in court when they have disputes with the manufacturers.

As automobile dealers throughout Utah have pointed out to me, the motor vehicle dealer contract often includes mandatory arbitration clauses, and they also point out their unequal bargaining power. This is usually the result of various factors, including the manufacturers' discretion to allocate vehicle inventory and control on the timing of delivery. Manufacturers can, thus, determine the dealer's financial future with the allocation of the best-selling models. Manufacturers can also exercise leverage over the flow of revenue to dealers, such as warranty payments. Manufacturers can limit dealers' rights to transfer ownership or control of the business, even to family members. And manufacturers have tried, arbitrarily, to take businesses away from dealers without cause.

I recognize the efficiencies of mandatory arbitration clauses in general, but the specific circumstances in the manufacturer-dealer relationship justifies this widely-supported bipartisan proposal. It is worthy to note that Congress in 1956 enacted the Automobile Dealer Day in Court Act, which provided a small business dealer in limited circumstances the right to proceed in Federal court when faced with abuses by manufacturers. And State legislatures have enacted significant protections for auto dealers.

S. 1140 amends Title 9 of the U.S. Code and make arbitration of disputes in motor vehicle franchise contracts optional. This would allow dealers to opt voluntarily for arbitration or use procedures and remedies available under State law, such as state-established administrative boards specifically established to resolve dealer/manufacturer disputes.

I must note that this legislation is extremely narrow and affects only the unique relationship between small business auto dealers and motor vehicle manufacturers, which is strictly governed by State law. This legislation is necessary to protect the States' interest in regulating the motor vehicle dealer/manufacturer relationship.

All States, except for Alaska, have enacted laws specifically designed to regulate the economic relationship between motor vehicle dealers and manufacturers to prevent unfair manufacturer contract terms and practices. In most States, including my home State of Utah, effective State administrative forums already exist to handle dealer/manufacturer disputes outside of the court system. Indeed, in the majority of States, a special State agency or forum is charged with administering and enforcing motor vehicle franchise law. These State forums provide an inexpensive, speedy, and non-judicial resolution of disputes.

I urge my colleagues to support this worthwhile legislation.

I ask unanimous consent that the 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. 1140

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 ''Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001''.

SEC. 2. ELECTION OF ARBITRATION.

(a) MOTOR VEHICLE FRANCHISE CONTRACTS.—Chapter 1 of title 9, United States Code, is amended by adding at the end the following:

''§ 17. Motor vehicle franchise contracts

''(a) For purposes of this section, the term—

''(1) 'motor vehicle' has the meaning given such term under section 30102(6) of title 49; and

''(2) 'motor vehicle franchise contract' means a contract under which a motor vehicle manufacturer, importer, or distributor sells motor vehicles to any other person for resale to an ultimate purchaser and authorizes such other person to repair and service the manufacturer's motor vehicles.

''(b) Whenever a motor vehicle franchise contract provides for the use of arbitration to resolve a controversy arising out of or relating to the contract, arbitration may be used to settle such controversy only if after such controversy arises both parties consent in writing to use arbitration to settle such controversy.

''(c) Whenever arbitration is elected to settle a dispute under a motor vehicle franchise contract, the arbitrator shall provide the parties to the contract with a written explanation of the factual and legal basis for the award.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 9, United States Code, is amended by adding at the end the following:

''17. Motor vehicle franchise contracts.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to contracts entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this Act.

Mr. GRASSLEY. Mr. President, over the years, I have been in the forefront of promoting alternative dispute resolution, (ADR), mechanisms to encourage alternatives to litigation when disputes arise. Such legislation includes the permanent use of ADR by Federal agencies. Last Congress, we also passed legislation to authorize Federal court-annexed arbitration. These statutes are based, in part, on the premise that arbitration should be voluntary rather than mandatory.

While arbitration often serves an important function as an efficient alternative to court, some trade offs must be considered by both parties, such a limited judicial review and less formal procedures regarding discovery and rules of evidence. When mandatory binding arbitration is forced upon a party, for example when it is placed in a boiler-plate agreement, it deprives the weaker party the opportunity to elect any other forum. As a proponent of arbitration I believe it is critical to ensure that the selection of arbitration is voluntary and fair.

Unequal bargaining power exists in contracts between automobile and truck dealers and their manufacturers. The manufacturer drafts the contract and presents it to dealers with no opportunist to negotiate. Increasingly, these manufacturers are including compulsory binding arbitration in their agreements, and dealers are finding themselves with no choice but to accept it. If they refuse to sign the contract they have no franchise. This clause then binds the dealer to arbitration as the exclusive procedure for resolving any dispute. The purpose of arbitration is to reduce costly, time-consuming litigation, not to force a party to an adhesion contract to waive access to judicial or administrative forums for the pursuit of rights under State law.

I am extremely concerned with this industry practice that conditions the granting or keeping of motor vehicle franchises on the acceptance of mandatory and binding arbitration. While several States have enacted statutes to protect weaker parties in ''take it or leave it'' contracts and attempted to prevent hits type of inequitable practice, these State laws have been held to conflict with the federal Arbitration Act (FAA).

In 1925, when the FAA was enacted to make arbitration agreements enforceable in Federal courts, it did not expressly provide for preemption of State law. Nor is there any legislative history to indicate Congress intended to occupy the entire field of arbitration. However, in 1984 the Supreme Court interpreted the FAA to preempt state law in Southland Corporation v. Keating. This, State laws that protect weaker parties from being forced to accept arbitration and to waive State rights, such as Iowa's law prohibiting manufacturers from requiring dealers to submit to mandatory binding arbitration, are preempted by the FAA.

With mandatory binding arbitration agreements becoming increasingly common in motor vehicle franchise agreements, now is the time to eliminate the ambiguity in the FAA statute. The purpose of the legislation we are introducing is to ensure that in disputes between manufacturers and dealers, both parties must voluntarily elect binding arbitration. This approach would continue to recognize arbitration as a valuable alternative to court, but would provide an option to pursue other forums such as administrative bodies that have been established in a majority of States, including Iowa, to handle dealer/manufacturer disputes.

This legislation will go a long way toward ensuring that parties will not be forced into binding arbitration and thereby lose important statutory rights. I am confident that given its many advantages arbitration will often be elected. But it is essential for public policy reasons and basic fairness that both parties to this type of contract have the freedom to make their own decisions based on the circumstances of the case.

I urge my colleagues to join me in supporting this legislation to address this unfair franchise practice.

Mr. FEINGOLD. Mr. President, I rise today to introduce, with my distinguished colleague from Utah, Senator HATCH, the Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001. I want to recognize the efforts of the Senator from Iowa, Senator GRASSLEY, in advancing this legislation in the last Congress, and note how pleased I am that the distinguished ranking member and former chairman of the Judiciary Committee has decided to take the lead on this bill this year. By the time the 106th Congress concluded, we had the support of 56 Senators for this bill. So I believe we have an excellent opportunity to pass this bill this year, and I look forward to working with the Senator from Utah to make that happen.

While alternative methods of dispute resolution such as arbitration can serve a useful purpose in resolving disputes between parties, I am extremely concerned about the increasing trend of stronger parties to a contract forcing weaker parties to waive their rights and agree to arbitrate any future disputes that may arise. In every Congress since 1994, I have introduced the Civil Rights Procedures Protection Act, which amends certain civil rights statutes to prevent the involuntary imposition of arbitration to claims that arise from unlawful employment discrimination and sexual harassment.

A few years ago, it came to my attention that the automobile and truck manufacturers, which often present dealers with ''take it or leave it'' contracts, are increasingly including mandatory and binding arbitration clauses as a condition of entering into or maintaining an auto or truck franchise. This practice forces dealers to submit their disputes with manufacturers to arbitration. As a result, dealers are required to waive access to judicial or administrative forums, substantive contract rights, and statutorily provided protection. In short, this practice clearly violates the dealers' fundamental due process rights and runs directly counter to basic principles of fairness.

Franchise agreements for auto and truck dealerships are typically not negotiable between the manufacturer and the dealer. The dealer accepts the terms offered by the manufacturer, or it loses the dealership, plain and simple. Dealers, therefore, have been forced to rely on the States to pass laws designed to balance the manufacturers' far greater bargaining power and to safeguard the rights of dealers. The first State automobile statute was enacted in my home State of Wisconsin in 1937 to protect citizens from injury caused when a manufacturer or distributor induced a Wisconsin citizen to invest considerable sums of money in dealership facilities, and then canceled the dealership without cause. Since then, all States except Alaska have enacted substantive law to balance the enormous bargaining power enjoyed by manufacturers over dealers and to safeguard small business dealers from unfair automobile and truck manufacturer practices.

A little known fact is that under the Federal Arbitration Act, FAA, arbitrators are not required to apply the particular Federal or State law that would be applied by a court. That enables the stronger party, in this case the auto or truck manufacturer, to use arbitration to circumvent laws specifically enacted to regulate the dealer/manufacturer relationship. Not only is the circumvention of these laws inequitable, it also eliminates the deterrent to prohibited acts that State law provides.

The majority of States have created their own alternative dispute resolution mechanisms and forums with access to auto industry expertise that provide inexpensive, efficient, and nonjudicial resolution of disputes. For example, in Wisconsin, mandatory mediation is required before the start of an administrative hearing or court action. Arbitration is also an option if both parties agree. These State dispute resolution forums, with years of experience and precedent, are greatly responsible for the small number of manufacturer-dealer lawsuits. When mandatory binding arbitration is included in dealer agreements, these specific State laws and forums established to resolve auto dealer and manufacturer disputes are effectively rendered null and void with respect to dealer agreements.

Besides losing the protection of Federal and State law and the ability to use State forums, there are numerous reasons why a dealer may not want to agree to binding arbitration. Arbitration lacks some of the important safeguards and due process offered by administrative procedures and the judicial system: 1. arbitration lacks the formal court supervised discovery process often necessary to learn facts and gain documents; 2. an arbitrator need not follow the rules of evidence; 3. arbitrators generally have no obligation to provide factual or legal discussion of the decision in a written opinion; and 4. arbitration often does not allow for judicial review.

The most troubling problem with this sort of mandatory binding arbitration is the absence of judicial review. Take for instance a dispute over a dealership termination. To that dealer, that small business person, this decision is of commercial life or death importance. Even under this scenario, the dealer would not have recourse to substantive judicial review of the arbitrators' ruling. Let me be very clear on this point; in most circumstances an arbitration award cannot be vacated, even if the arbitration panel disregarded state law that likely would have produced a different result.

The use of mandatory binding arbitration is increasing in many industries, but nowhere is it growing more steadily than the auto/truck industry. Currently, at least 11 auto and truck manufacturers require some form of such arbitration in their dealer contracts.

In recognition of this problem, many States have enacted laws to prohibit the inclusion of mandatory binding arbitration clauses in certain agreements. The Supreme Court, however, held in Southland Corp. v. Keating, 104 S. Ct. 852 (1984), that the FAA by implication preempts these State laws. This has the effect of nullifying many State arbitration laws that were designed to protect weaker parties in unequal bargaining positions from involuntarily signing away their rights.

The legislative history of the FAA indicates that Congress never intended to have the Act used by a stronger party to force a weaker party into binding arbitration. Congress certainly did not intend the FAA to be used as a tool to coerce parties to relinquish important protections and rights that would have been afforded them by the judicial system. Unfortunately, this is precisely the current situation.

Although contract law is generally the province of the States, the Supreme Court's decision in Southland Corp. has in effect made any State action on this issue moot. Therefore, along with Senator HATCH, I am introducing this bill today to ensure that dealers are not coerced into waiving their rights. Our bill, the Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001, would simply provide that each party to an auto or truck franchise contract has the option of selecting arbitration, but cannot be forced to do so.

The bill would not prohibit arbitration. On the contrary, the bill would encourage arbitration by making it a fair choice that both parties to a franchise contract may willingly and knowingly select. In short, this bill would ensure that the decision to arbitrate is truly voluntary and that the rights and remedies provided for by our judicial system are not waived under coercion.

In effect, if small business owners today want to obtain or keep their auto or truck franchise, they may be able to do so only by relinquishing their legal rights and foregoing the opportunity to use the courts or administrative forums. I cannot say this more strongly, this is unacceptable; this is wrong. It is at great odds with our tradition of fair play and elementary notions of justice. I therefore urge my colleagues to join in this bipartisan effort to put an end to this invidious practice.

By Mr. LIEBERMAN:

S. 1142. A bill to amend the Internal Revenue Code of 1986 to repeal the minimum tax preference for exclusion for incentive stock options; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, today I am reintroducing a proposal with regard to the perverse impact of the Alternative Minimum Tax, AMT, on Incentive Stock Options, ISOs. I previously introduced this proposal on April 30, 2001, as Section 5 of S. 798, the Productivity, Opportunity, and Prosperity Act of 2001. I am reintroducing this proposal as a separate bill to highlight the importance of this issue.

Incentive stock options and the AMT did not exist when Franz Kafka's ''The Castle'' was published in 1926. The book describes the relentless but futile efforts of the protagonist, K., to gain recognition from the mysterious authorities ruling from their castle a village where K. wants to establish himself. The world he inhabits is both absurd and real. Kafka's characters are trapped, and punished or threatened with punishment before they even have offended the authorities.

The AMT/ISO interaction would be one that Kafka would appreciate. In the case of ISOs an employee who receives ISOs as an incentive can be taxed on the phantom paper gains the tax code deems to exist when he or she exercises an option, and be required to pay the AMT tax on these ''gains'' even if the ''gains'' do not, in fact, exist when the tax is paid. This means the taxpayer may have no gains, no profits or assets, with which to pay the AMT and might even have to borrow funds to pay the tax or even go into default on his or her AMT liability.

This Kafkaesque situation is unfair. It is not fair to impose tax on ''income'' or ''gains'' unless the income or gains exist. With the AMT tax on ISOs, it is not relevant if the ''gains'' exist in a financial sense. That they exist on paper is sufficient to trigger the tax.

This situation is also inconsistent with many well-established Federal Government policies. For example, our country favors stock options as an incentive for hard-working and productive employees of entrepreneurial companies. In most cases, entrepreneurs take enormous risks, receive less compensation than employees working for established companies, and have no company-sponsored pension plan. In addition, our country favors employee-ownership of firms. This ownership gives these employees a huge stake in the success of the company and motivates them to dedicate themselves to the firm's success. Finally, our country also favors long-term investments that generate growth. We know that growth is most likely to arise when entrepreneurs take risks over the long-term and build fundamental value for their companies and shareholders and owners. The policy favoring long-term investments is reflected in the fact that capital gains incentives are available only if an investment is held for at least one year. An investment sold before the end of this ''holding period'' receives no capital gains benefit. The application of the AMT to ISOs is inconsistent with all three of these public policies.

Let me explain the difference between ISOs and NSOs. Incentive stock options are sanctioned by the Internal Revenue code. Under current law the employee pays no tax when he or she exercises the option and buys the company's shares at the stock option price. The company receives no tax deduction

on the spread, the difference between the option price and the market price of the stock. If the employee holds the stock for two years after the grant of the option and one year after the exercise of the option, he or she pays the capital gains tax on the difference between the exercise and sale price on the sale of the stock. The tax payment is deferred until the stock is sold and the tax is paid on the real gains that are realized from the sale.

NSOs are stock options that do not satisfy the tax code requirements for ISOs. They are ''non-qualifying stock options'' or NSOs. With NSOs the employee is taxed immediately when the option is exercised on the spread between the grant and exercised price. This forces an employee to sell stock as soon as he or she exercise their options so that they can pay the tax on the spread. This is a zero sum game for the employee, selling the stock he or she has just bought to pay a tax on the spread. Even worse, because the stock is not ''held'' for one year, this tax is paid at the ordinary income tax rates, not the preferential capital gains tax rates. The company receives a business expense deduction on the spread.

If this were the whole story, it is clear that companies would tend to offer ISOs rather than NSOs to their employees. Employees would be encouraged to hold their shares for at least a year after the option is exercised, which helps to bind them to the company. They would then qualify for capital gains tax rates on the realized gains.

The problem is that ISOs come with a major liability, the application of the Alternative Minimum Tax, AMT, to the spread at the time of exercise. This tax is due to be paid even if the stock is held for the required period and even if the stock is eventually sold at a fraction of its value at the time the option is exercised. This tax at the time of exercise is inconsistent with the rule that applies to all other capital gains transactions, where the tax is paid when the gains are ''realized,'' when the investment is sold with gains or losses. This tax at the time of exercise defeats the purpose of ISOs, forces employees to sell their stock, to pay the AMT tax, before the end of the holding period, and pay ordinary income tax rates. The difference between ordinary income tax rates and capital gains tax rates can be 15 percent or more.

The AMT tax is imposed on the spread at the time the option is exercised and it is irrelevant if the stock price at the time when the AMT tax is paid or when the stock is sold is a fraction of this price. The ''gains'' at the time of exercise are what count, not real gains in a financial sense when the investment is finally sold.

The application of the AMT at the time of exercise to ISOs is a major disincentive for companies to offer ISOs to their employees. The purpose of the ISO law when it was enacted by Congress back in 1981 was to encourage long-term holdings of the stock. This purpose is defeated by the AMT application at the time of exercise. Even if firms could educate their employees about the AMT liability, the fact that this tax is imposed at the time of exercise on phantom gains would remain a major disincentive for them to offer ISOs. The risks are too great that the employee will have no real gains with which to pay the tax, that employee will have to sell stock immediately at ordinary income tax rates to make sure that funds are available to pay the tax when it is due, or take the risk of holding the stock.

My understanding is that the firms that are most likely to grant ISOs are those firms that have no ability to use the corporate deduction that is available for NSOs. These are small firms with no tax liability for which the deduction is simply a tax loss carryforward with no current year value. With these firms the ISO held out the possibility of the employees receiving capital gains tax treatment of their gains. It is particularly sad that it is these firms and these employees which are feeling the brunt of the AMT/ISO problem.

The application of the AMT to ISOs is strange because long-term holdings of stock, as required by the ISO law, are classic capital gains transactions and we do not apply the AMT to the tax benefit conferred by the capital gains tax. Under the AMT only ''tax preference items'' enumerated in the AMT are included when the AMT calculation is made. The capital gains differential, the difference between the ordinary tax rate on income and the lower capital gains rate, is a tax benefit but that differential is not included in the AMT. Given all the problems we are now seeing with the AMT the capital gains differential should not be included as a preference item. But, by an accident of history, the AMT is still applied to ISOs. This makes no sense and it is an anomaly in the tax code. When the Congress restored the capital gains differential, and did not include it as an AMT tax preference item, we should have enacted a conforming amendment regarding the AMT and ISOs. We didn't, and we should do so now.

With the AMT applied to ISOs, taxpayers are caught in a Catch-22 situation. If they hold the stock for the required year, they can qualify for capital gains treatment on the eventual sale of the stock. But, in doing so they are taking a huge risk that the AMT tax bill will exceed the value of the stock when the AMT is paid. If the tax is too large, they may have to sell their stock before the capital gains holding period has run and pay ordinary income tax rates on any gains. This is a form of lottery that serves no public policy.

The AMT was created to ensure the rich cannot use tax shelters to avoid paying their ''fair share.'' Taxpayers are supposed to calculate both their regular tax and the AMT bill, then pay whichever is higher. The AMT is likely to snare 1.5 million taxpayers this year and nearly 36 million by 2010. But the case with ISOs is one where the taxpayers may never see the ''gains,'' and noneless owe a tax on them. Whatever the merits might be for the AMT for taxpayers with real gains, they have no bearing on taxpayers who may never see the gains. It is simply unfair to impose a tax on gains that exist only on paper. If the employee does realize gains, they should and will pay tax on them, but only if and when the gains are realized.

Of course, with the recent huge drop in values for some stocks, many entrepreneurs are now being hit with immense AMT tax bills on the paper gains on stocks that are now worth a fraction of the price at the time of exercise. At a townhall meeting held in California by Representative LOFGREN and Representative BOB MATSUI, Kathy Swartz, a Mountain View woman, six months pregnant and soon to sell her ''dream house'' because she and her husband Karl owe $2.4 million in AMT, asked, ''How many victims do you need before you say it's horrible?'' We are talking about taxpayers who in fact owe five- to seven-figure tax bills on gains they never realized.

My bill would change those tax rules so that the AMT no longer applies to ISOs and no tax is owed at the time when the entrepreneur exercises the option. This change would eliminate the unfair taxation of paper gains on ISOs. This would encourage long-term holdings of stock, not immediate sale of the stock as a hedge against AMT tax liability. It would do nothing to exempt entrepreneurs from paying tax on their real gains when they eventually sell the stock.

My bill would solve this problem going forward. It would not, as drafted, provide relief to the taxpayers who already have been hit with AMT taxes on phantom gains. There is a bipartisan group in the House and Senate focusing on this group of taxpayers. This group has a strong claim for relief based on the inherent unfairness of the AMT as applied to ISOs. The unfairness of this law leads me to call for reform going forward should be remedied for current, as well as future taxpayers.

Let me be clear about the cost and budget implications of my bill. The Joint Tax Committee on Taxation has found that my proposal would reduce government tax revenues by $12.412 billion over ten years. I am puzzled by this estimate, but there is no way for me to appeal it. The JTC does not provide explanations for its estimates, but I would assume that this estimate is based on the likelihood that there would be fewer tax payments at the time options are exercised as firms move from NSOs to ISOs, those employees with ISOs would not be paying the AMT, and there will be more employees who hold the stock and pay capital gains tax rates. Offsetting this,

there will be fewer companies taking the deduction for NSOs. The revenue loss year-by-year is as follows: —$1.821 billion (2002), —$1.126 (2003), —$858 (2004), —$825 (2005), —$941 (2006), —$1.106 (2007), —$1.341 (2009), —$1.620 (2010), and $1.910 (2011). The loss during the 2002–2006 period is —$5.494 billion. I will not propose to enact my bill unless this sum is financed and will have no impact on the Federal budget.

I am pleased that Rep. ZOE LOFGREN (D–CA) has introduced legislation on AMT/ISO in the other body (H.R. 1487). Her bill has attracted a bipartisan group of cosponsors. I look forward to working with her and other Members to remedy this inequity in the tax code and to do so with regard to current as well as future taxpayers.

Let me note that I have proposed in S. 798 to provide a special capital gains tax rate, in fact to set a zero tax rate, for stock purchased by employees in stock option plans, by investors in Initial Public Offerings, and similar purchases of company treasury stock. This zero rate would be effective, however, only if the shares are held for at least three years, so the AMT gamble would be even more dramatic. During the first year of that holding period, the AMT would have to be paid and during the remaining period the value of the stock could well dive from the exercise price creating an even more invidious trap.

Kafka ''The Castle'' should remain as magnificent fiction. We have no place for taxes on phantom income and paper gains. Our taxpayers should be able to communicate effectively with the castle, not be caught in a bureaucratic nightmare that makes no sense and serves no policy.

By Mr. CAMPBELL:

S. 1143. A bill to require the Secretary of the Treasury to mint coins in commemoration of former President Ronald Reagan; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CAMPBELL. Mr. President, today I introduce the ''Ronald Reagan Commemorative Coin Act of 2001.''

The bill I am introducing today would accomplish two worthy goals. First, it would help honor Ronald Reagan, the 40th President of the United States. Second, it would also help raise much needed resources to help families across the United States provide care for their loved ones who have been stricken by Alzheimer's disease.

I believe that a commemorative coin program would honor Ronald Reagan's life and contributions to our Nation, while also raising funds to help American families in their day to day struggle against this terrible disease.

This legislation's worthiness and timeliness were underscored just last night when ABC televised a powerful program in which Diane Sawyer interviewed Nancy Reagan. Watching Mrs. Reagan as she so openly and eloquently shared touching insights about their ongoing struggle with Alzheimer's disease was moving. There is no doubt about the truly deep bonds that unite Ronald and Nancy Reagan and that we need to do what we can to fight the disease that has slowly taken its terrible toll on the Reagans and so many other American families.

Ronald Reagan has worn many hats in his life, including endeavors as a sports announcer, actor, governor and President of the United States. He was first elected president in 1980 and served two terms, becoming the first president to serve two full terms since Dwight Eisenhower.

Ronald Reagan's boundless optimism and deep-seated belief in the people of the United States and the American Dream helped restore our Nation's pride in itself and brought about a new ''Morning in America.'' His challenge to Gorbachev to ''tear down this wall,'' his successful revival of our economic power, his determination to rebuild our armed forces in order to contain the spread of communism, and his international summitry skills as seen at Reykjavik, Iceland, combined to help bring an end to the Cold War. Ronald Reagan left our Nation in much better shape than it was when he took office.

As Alzheimer's sets in, brain cells gradually deteriorate and die. People afflicted by the disease gradually lose their cognitive ability. Patients eventually become completely helpless and dependent on those around them for even the most basic daily needs. Each of the millions of Americans who is now affected will eventually, barring new discoveries in treatment, lose their ability to remember recent and past events, family and friends, even simple things like how to take a bath or turn on lights. Ronald Reagan, one of the most courageous and optimistic Presidents in American history, is no exception.

Shortly after being shot in an assassination attempt, Ronald Reagan's courage and good humor in the face of a life threatening situation were evident when he famously apologized to his wife Nancy saying ''Sorry honey. I forgot to duck.'' Unfortunately, once Alzheimer's disease takes hold, it delivers a slow mind destroying bullet that none of us can duck to avoid. As Ronald Reagan wrote shortly after learning of his diagnosis ''I only wish there was some way I could spare Nancy from this painful experience.'' From the moment of diagnosis, it's ''a truly long, long, goodbye,'' Nancy Reagan said.

Fortunately for all of us, when Ronald Reagan courageously announced in such an honest and public manner that he had Alzheimer's, rather than covering it up, he did a great deal to help alleviate the negative stigma that has long faced those suffering from this terrible disease. Much of the shame and pity traditionally associated with Alzheimer's was transformed almost overnight into sympathy and understanding as public awareness suddenly shot up and those suffering from Alzheimer's, and their families, knew that they were not alone.

While Ronald Reagan's health didn't deteriorate right away, according to Mrs. Reagan, he had his good days and bad days, ''just like everybody else.'' In recent years, however, Reagan's condition has completely deteriorated. ''It's frightening and it's cruel,'' Nancy said, speaking of the disease and what it has done to her husband and family. ''It's sad to see somebody you love and have been married to for so long, with Alzheimer's, and you can't share memories,'' Mrs. Reagan said.

In the introduction to a recently released book based on the touching love letters exchanged between herself and Reagan, Nancy elaborated on her sense of loss when she wrote, ''You know that it's a progressive disease and that there's no place to go but down, no light at the end of the tunnel. You get tired and frustrated, because you have no control and you feel helpless.'' She also said, ''There are so many memories that I can no longer share, which makes it very difficult.''

Nancy Reagan has earned our Nation's admiration for her steadfast and loving dedication to her husband as she has watched her beloved husband slowly fade away. Likewise, families all across our Nation, day in and day out, choose to personally provide care for their loved ones suffering from Alzheimer's, rather than putting them in institutions. They deserve our respect and support.

Fortunately, Nancy Reagan has had access to vital resources that help her care for her husband. This is how it should be. Unfortunately, there are many American families out there who do not have access to these resources. This bill will help alleviate that by raising money to help American families who are struggling while providing care for their loved ones.

Fortunately, funding for Alzheimer's research has increased significantly over the past several years. Ronald Reagan's courage in coming forward and publically announcing his condition played an important role in raising public awareness of Alzheimer's and paved the way for the recent increases in research funding. This bill would complement these efforts.

Once again, the legislation I am introducing today authorizes the U.S. Mint to produce commemorative coins honoring Ronald Reagan while raising funds to help families care for their family members suffering from Alzheimer's disease. I urge my colleagues to support passage of this legislation.

Ronald Reagan's eternal optimism and deep seated belief in an even better future for our Nation was underscored when he said, ''I know that for America, there will always be a bright future ahead.'' This bill, in keeping with this quote's spirit, will help provide for a better future for many American families.

I ask unanimous consent that the 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. 1143

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 ''Ronald Reagan Commemorative Coin Act of 2001''.

SEC. 2. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue the following coins:

(1) $5 GOLD COINS.—Not more than 100,000 $5 coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 500,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) BIMETALLIC COINS.—The Secretary may mint and issue not more than 200,000 $10 bimetallic coins of gold and platinum instead of the gold coins required under subsection (a)(1), in accordance with such specifications as the Secretary determines to be appropriate.

(c) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) PLATINUM AND GOLD.—The Secretary shall obtain platinum and gold for minting coins under this Act from available sources.

(b) SILVER.—The Secretary may obtain silver for minting coins under this Act from stockpiles established under the Strategic and Critical Materials Stock Piling Act and from other available sources.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall—

(A) be emblematic of the presidency and life of former President Ronald Reagan;

(B) bear the likeness of former President Ronald Reagan on the obverse side; and

(C) bear a design on the reverse side that is similar to the depiction of an American eagle carrying an olive branch, flying above a nest containing another eagle and hatchlings, as depicted on the 2001 American Eagle Gold Proof coins.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2005''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) DESIGN SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only one facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on January 1, 2005 and ending on December 31, 2005.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins issued under this Act shall include a surcharge established by the Secretary, in an amount equal to not more than—

(1) $50 per coin for the $10 coin or $35 per coin for the $5 coin; and

(2) $10 per coin for the $1 coin.

SEC. 7. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—Subject to section 5134(f) of title 31, United States Code, the proceeds from the surcharges received by the Secretary from the sale of coins issued under this Act shall be paid promptly by the Secretary to the Department of Health and Human Services to be used by the Secretary of Health and Human Services for the purposes of—

(1) providing grants to charitable organizations that assist families in their efforts to provide care at home to a family member with Alzheimer's disease; and

(2) increasing awareness and educational outreach regarding Alzheimer's disease.

(b) AUDITS.—Any organization or entity that receives funds from the Secretary of Health and Human Services under subsection (a) shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to such funds.

SEC. 8. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. LEVIN, Mr. DURBIN, and Mr. AKAKA):

S. 1144. A bill to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 ed seq.) to reauthorize the Federal Emergency Management Food and Shelter Program, and for other purposes; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise to introduce a bill that will re-authorize a small but highly effective program, the Emergency Food and Shelter Program, or EFS for short. The EFS program, which is administered by the Federal Emergency Management Agency, supplements community efforts to meet the needs of the homeless and hungry in all fifty States. I am very pleased that my colleagues on the Committee on Governmental Affairs, Senators COLLINS, LEVIN, DURBIN, and AKAKA, are joining me as original cosponsors of this legislation. Our committee has jurisdiction over the EFS program, and it is my hope that together we can generate even more bipartisan support for a program that makes a real difference with its tiny budget. The EFS program is a great help not only to the Nation's homeless population but also to working people who are trying to feed and shelter their families at entry-level wages. Services supplemented by the EFS funding, such as food banks and emergency rent/utility assistance programs, are especially helpful to families with big responsibilities but small paychecks.

One of the things that distinguishes the EFS program is the extent to which it relies on non-profit organizations. Local boards in counties, parishes, and municipalities across the country advertise the availability of funds, decide on non-profit and local government agencies to be funded, and monitor the recipient agencies. The local boards, like the program's National Board, are made up of charitable organizations including the National Council of Churches, the United Jewish Communities, Catholic Charities, USA, the Salvation Army, and the American Red Cross. By relying on community participation, the program keeps administrative overhead to an unusually low amount, less than 3 percent.

The EFS program has operated without authorization since 1994 but has been sustained by annual appropriations. The proposed bill will re-authorize the program for the next three years. It will also authorize modest funding increases over the amounts appropriated in recent years. A similar bill introduced by Senator THOMPSON and me in the last Congress, S. 1516, passed the Senate by Unanimous Consent.

In summary, FEMA's Emergency Food and Shelter Program is a highly efficient example of the government relying on the country's non-profit organizations to help people in innovative ways. The EFS program aids the homeless and the hungry in a majority of the Nation's counties and in all fifty States, and I ask my colleagues to support this program and our re-authorizing legislation.

I ask unanimous consent that the 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. 1144

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

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

''SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $150,000,000 for fiscal year 2002, $160,000,000 for fiscal year 2003, and $170,000,000 for fiscal year 2004.''.

SEC. 2. NAME CHANGE TO NOMINATING ORGANIZATION.

Section 301(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331(b)) is amended by striking paragraph (5) and inserting the following:

''(5) United Jewish Communities.''.

SEC. 3. PARTICIPATION OF HOMELESS INDIVIDUALS ON LOCAL BOARDS.

Section 316(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346(a)) is amended by striking paragraph (6) and inserting the following:

''(6) guidelines requiring each local board to include in their membership not less than 1 homeless individual, former homeless individual, homeless advocate, or recipient of food or shelter services, except that such guidelines may waive such requirement for any board unable to meet such requirement if the board otherwise consults with homeless individuals, former homeless individuals, homeless advocates, or recipients of food or shelter services.''.

By Mrs. BOXER:

S. 1145. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to encourage the hiring of certain veterans, and for other purposes; to the Committee on Finance.

Mrs. BOXER. Mr. President, I am introducing legislation to help the estimated 1.5 million veterans who are now living in poverty by giving a tax credit to those employers who hire them and put them on the road to financial independence. This idea was proposed and is supported by the National Coalition for Homeless Veterans and the Non-Commissioned Officers Association.

This legislation is based upon the current tax credit offered for employers who hire those coming off welfare. Veterans groups tell me that the current tax credit is underutilized by veterans because many are not receiving food stamps or are not on welfare. Because the bill I am introducing today bases eligibility on the poverty level, more veterans will be able to benefit from this credit.

My bill would allow employers to receive a hiring tax credit of 50 percent of the veteran's first year wages and a retention credit of 25 percent of the veteran's second year wages. Only the first $20,000 of wages per year will count toward the credit.

I offered this legislation as an amendment to the tax bill. While my amendment failed on a procedural vote, 49–50, opponents indicated that enacting this legislation would be a good thing to do. This being the case, I am hopeful that the Senate will take up and pass the bill I am introducing today in a bipartisan manner. It is the least we can do for our veterans who so bravely served our Nation and deserve our help.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1145

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 ''Veterans Opportunity to Work Act.''

SEC. 2. EXPANSION OF WORK OPPORTUNITY TAX CREDIT.

(a) IN GENERAL.—Section 51(d)(1) of the Internal Revenue Code of 1986 (relating to members of targeted groups) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following:

''(I) a qualified low-income veteran.''

(b) QUALIFIED LOW-INCOME VETERAN.—Section 51(d) of the Internal Revenue Code of 1986 (relating to members of targeted groups) is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following:

''(10) QUALIFIED LOW-INCOME VETERAN.—

''(A) IN GENERAL.—The term 'qualified low-income veteran' means any veteran whose gross income for the taxable year preceding the taxable year including the hiring date, was below the poverty line (as defined by the Office of Management and Budget) for such preceding taxable year.

''(B) VETERAN.—The term 'veteran' has the meaning given such term by paragraph (3)(B).

''(C) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified low-income veteran—

''(i) subsection (a) shall be applied by substituting '50 percent of the qualified first-year wages and 25 percent of the qualified second-year wages' for '40 percent of the qualified first year wages', and

''(ii) in lieu of paragraphs (2) and (3) of subsection (b), the following definitions and special rule shall apply:

''(I) QUALIFIED FIRST-YEAR WAGES.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer.

''(II) QUALIFIED SECOND-YEAR WAGES.—The term 'qualified second-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subclause (I).

''(III) ONLY FIRST $20,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified first and second year wages which may be taken into account with respect to any individual shall not exceed $20,000 per year.''.

(c) PERMANENCE OF CREDIT.—Section 51(c)(4) of the Internal Revenue Code of 1986 (relating to termination) is amended by inserting ''(except for wages paid to a qualified low-income veteran)'' after ''individual''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

By Mr. ALLARD:

S. 1146. A bill to amend the Act of March 3, 1875, to permit the State of Colorado to use land held in trust by the State as open space; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, today I am introducing legislation to fulfill the wishes of my fellow Coloradans to allow the State to protect 300,000 acres of State land as open space.

The origins of this issue date back to 1875 when Congress passed the legislation which authorized the Territory of Colorado to form a constitution, State government and be admitted into the Union. The 1875 Enabling Act established that Sections 16 and 36 of each township in the new State would be ''granted to said State for the support of common schools.'' The Federal directive to the State was clear: provide a sound financial basis for the long-term benefit of public schools. The Colorado State Constitution further strengthened this position and required that the new State Board of Land Commissioners manage its land holdings ''in such a matter as will secure the maximum possible amount'' for the public school fund.

Today, there are some three million surface acres of State trust lands which are leased for ranching, farming, oil and gas production and other uses. Some of these lands are the most beautiful parcels in the state and offer a tremendous natural resource.

Through the years, the lands have been a reliable, but a dwindling source of funds to the overall education budget. Currently, the State of Colorado spends approximately $3.5 billion annually on public schools, of this amount revenues from State trust lands account for about $22 million.

Now, however, Coloradans priorities have changed, including a strong desire to protect open space and the environment. These changes became evident in a 1996 voter approved State Constitutional Amendment which gave more flexibility in the management of the trust lands. Among other things, the Amendment established a 300,000 acre Stewardship Trust. The voters recognized that certain State trust lands may be more valuable in the future if they are kept in the trust land portfolio rather than disposed of for a short term financial gains. The lands in the new Stewardship Trust will be managed ''to maximize options for continued stewardship, public use or future disposition'' by protecting and enhancing the ''beauty, natural values, open space and wildlife habitat'' on these parcels. Further, it struck the provision requiring ''maximizing revenue'' and replaced it with a requirement that the land board to manage its land holdings ''in order to produce reasonable and consistent income over time.''

While the Amendment has withstood court challenges, it still remains that the Stewardship Trust could, in the future, cause a breach of the Enabling Act. In order to correct this potential breach, I am introducing this legislation with the full support of the State of Colorado to ensure that the wishes of the voters are upheld and the Stewardship Trust is fully implemented. There are two key points of the legislation. First, the bill allows 300,000 acres of state trust lands to be used for open space, wildlife habitat, scenic value or other natural value. Second, it exempts these lands from the requirement that they generate income for the common schools.

The Colorado State Land Board has a clear mission for implementing the Stewardship Trust: to protect the crown jewels of the state trust lands and ensure that these lands receive special protection from sale or development.

It is also clear that Colorado voters wanted to set aside 300,000 acres from potential development. I want to help the State fulfill these goals.

This is a unique bill and ensures the state's flexibility in managing the trust lands. It does not change the intent of the Stewardship Trust, just ensures that the Enabling Act and the State Constitution are consistent.

Mr. President, I ask unanimous consent that the 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. 1146

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

SECTION 1. COLORADO TRUST LAND.

Section 7 of the Act of March 3, 1875 (18 Stat. 475, chapter 139) (commonly known as the ''Colorado Enabling Act''), is amended by inserting before the period at the end the following: ''and for use for open space, wildlife habitat, scenic value, or other natural value, regardless of whether the land generates income for the common schools as described under section 14, except that the amount of land used for natural value shall not exceed 300,000 acres''.

By Mr. NICKLES:

S. 1147. A bill to amend title X and title XI of the Energy Policy Act of 1992; to the Committee on Energy and Natural Resources.

Mr. NICKLES. Mr. President, I rise today to introduce legislation, the Thorium Remediation Reauthorization Act of 2001. This bill will provide authorization for the Federal Government to pay its share of decommissioning and remediation costs for a thorium facility in West Chicago, Illinois. In a DOE proceeding, it was determined that the government is responsible for 55.2 percent of all West Chicago cleanup costs because 55.2 percent of West Chicago tailings resulted from Federal contracts. Under Title X of the Energy Policy Act of 1992 (''EPACT''), the thorium licensee pays for all West Chicago cleanup costs, and is then reimbursed, though annual appropriations, the government's share of those costs.

There is already more than a $60 million shortage in authorized funding for the Federal share of West Chicago cleanup costs. Despite that, the thorium licensee has continued to pay all decommissioning costs at the West Chicago factory site, as well as remediation costs at vicinity properties known as Reed-Keppler Park, Residential Properties, and Kress Creek. Remediation of Reed-Keppler Park was finished late last year and remediation of more than 600 Residential Properties is expected to be substantially complete by the end of this year. Decommissioning of the factory site, with the exception of groundwater, is expected to conclude in 2004. Cleanup requirements at Kress Creek have not been determined, and until those are established, the costs associated with the cleanup of that vicinity property cannot be accurately projected.

The significant costs associated with the West Chicago cleanup are a result, in large part, of extensive government use of the facility during the development of our country's nuclear defense program, including the Manhattan project. With the exception of Kress Creek and groundwater, total cleanup costs at the factory site and all vicinity properties can now be estimated with reasonable certainty. The $123 million authorized by this bill will permit the government to begin reimbursing the amount it is already in arrears to the thorium licensee. It also will provide the authorization necessary for the government to pay its share of costs, excluding costs for Kress Creek and for groundwater, that will be incurred by the licensee through completion of West Chicago cleanup.

Funding for this reauthorization would come from the General Treasury. Thus, this legislation will not diminish the availability of funds in the DOE's Decontamination and Decommissioning Fund, from which both Title X uranium licensees and the DOE's gaseous diffusion plants receive funding.

I ask unanimous consent that the 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. 1147

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

SECTION 1. REAUTHORIZATION OF THORIUM REIMBURSEMENT.

(a) Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended by striking ''$140,000,000'' and inserting ''$263,000,000''.

(b) Section 1003(a) of such Act (42 U.S.C. 2296a–2) is amended by striking ''$490,000,000'' and inserting ''$613,000,000''.

(c) Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–1) is amended by striking ''$488,333,333'' and inserting ''$508,833,333''.

By Mr. BURNS:

S. 1148. A bill to convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the appurtenant irrigation districts; to the Committee on Energy and Natural Resources.

Mr. BURNS. Mr. President, I rise today to introduce a piece of legislation that helps a large number of family farmers on the border of Montana and North Dakota. The Lower Yellowstone Irrigation Projects Title Transfer moves ownership of these irrigation projects from Federal control to local control. Both the Bureau of Reclamation and those relying on the projects for their livelihood agree there is little value in having the Federal Government retain ownership.

I introduced this legislation in the last Congress, and continue to believe it helps us to achieve the long term goals of Montana irrigators, and the mission of the Bureau of Reclamation. Just this week I attended the confirmation hearing of John W. Keys, III, who is the designate for Commissioner of the Bureau of Reclamation. I asked his position on title transfers of irrigation projects like the Lower Yellowstone, where local irrigation districts have successfully managed the Federal properties, and where the Bureau has encouraged the transfer of title to the Districts. His response to me was very encouraging. He stated this type of title transfer ''makes sense and is an opportunity to move facilities from Federal ownership to more appropriate control.'' He has promised to work with me and the Irrigation District to make this a reality, and I look forward to it.

The history of these projects dates to the early 1900's with the original Lower Yellowstone project being built by the Bureau of Reclamation between 1906 and 1910. The Savage Unit was added in 1947–48. The end result was the creation of fertile, irrigated land to help spur economic development in the area. To this day, agriculture is the number one industry in the area.

The local impact of the projects is measurable in numbers, but the greatest impacts can only be seen by visiting the area. About 500 family farms rely on these projects for economic substance, and the entire area relies on them to create stability in the local economy. In an area that has seen booms and busts in oil, gas, and other commodities, these irrigated lands continued producing and offering a foundation for the businesses in the area.

As we all know, the agricultural economy is not as strong as we'd like it to be, but these irrigated lands offer a reasonable return over time and are the foundation for strong communities based upon the ideals that have made this country successful. The 500 families impacted are hard working, honest producers, and I can think of no better people to manage their own irrigation projects.

Every day, we see an example of where the Federal Government is taking on a new task. We can debate the merits of these efforts on an individual basis, but I think we can all agree that while the government gets involved in new projects there are many that we can safely pass on to state or local control. The Lower Yellowstone Projects are a prime example of such an opportunity, and I ask my colleagues to join me in seeing this legislation passed as quickly as possible.

By Mr. SMITH of New Hampshire:

S. 1150. A bill to waive tolls on the Interstate System during peak holiday travel periods; to the Committee on Environment and Public Works.

Mr. SMITH of New Hampshire. Mr. President, I rise to introduce the Interstate Highway System Toll-Free Holiday Act.

As we move into this Fourth of July holiday to celebrate our nation's 225th birthday, many will do so in true American fashion by loading up the kids and the dog in the family car and heading out for a fun holiday vacation. Unfortunately, many of those family trips will quickly turn into frustration. Just as you get on the road and begin that family outing, you are greeted by a screeching halt, faced with what seems to be an endless line that is not moving. Soon, the kids will grow restless and angry. You've just reached the end of the line of the first toll booth and the delay and frustration begins. Of course, when you do finally make it to the booth, they take your money. Every holiday, no exception. I want to help make those holiday driving vacations more enjoyable by removing that toll booth frustration. My legislation will provide the much deserved relief from all of that holiday grief.

The Interstate Highway System Toll-Free Holiday Act provides that no tolls will be collected and no vehicles will be stopped at toll booths on the Interstate System during peak holiday travel periods. The exact duration of the toll waivers will be left to the States to determine, but will include, at a minimum, the entire 24 hour period of each legal Federal holiday. The bill will also authorize the Secretary of Transportation to reimburse the State, at the State's request, for lost toll revenues out of the Highway Trust Fund, which is funded by the tax that we all pay when we purchase gas for our cars. I want to keep the State highway funds whole, and, at the same time, provide relief to all those who simply want a hassle-free holiday trip.

There are currently some 2,200 miles of toll facilities on the 42,800 mile Interstate System. On peak holiday travel days, traffic increases up to 50 percent over a typical weekday. In New Hampshire last year, the I–95 Hampton toll booth had a 10 percent average increase in traffic over the four-day Fourth of July weekend compared to the previous weekend. That is equivalent to an additional 8,000 vehicles passing through this one toll booth every day. That increase in volume at the toll sites is not only an inconvenience in time and money, but also adds to safety concerns and, because vehicle emissions are higher when idling, air quality suffers. I am pleased that this bill will alleviate the headaches and problems associated with increased toll booth traffic on holidays.

This is just one of what will be a series of bills that I will be introducing, as the Ranking Member of the Environment and Public Works Committee, to address transportation needs in New Hampshire and across the Nation, as we prepare for the reauthorization of the next major comprehensive highway bill in 2003.

I ask unanimous consent that the 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. 1150

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 ''Interstate Highway System Toll-Free Holiday Act''.

SEC. 2. WAIVER OF TOLLS ON THE INTERSTATE SYSTEM DURING PEAK HOLIDAY TRAVEL PERIODS.

(a) DEFINITIONS.—In this section, the terms ''Interstate System'', ''public authority'', ''Secretary'', ''State'', and ''State transportation department'' have the meanings given the terms in section 101(a) of title 23, United States Code.

(b) WAIVER.—

(1) IN GENERAL.—No tolls shall be collected, and no vehicle shall be required to stop at a toll booth, for any toll highway, bridge, or tunnel on the Interstate System during any peak holiday travel period determined under paragraph (2).

(2) PEAK HOLIDAY TRAVEL PERIODS.—For the purposes of paragraph (1), the State transportation department or the public authority having jurisdiction over the toll highway, bridge, or tunnel shall determine the number and duration of peak holiday travel periods, which shall include, at a minimum, the 24-hour period of each legal public holiday specified in section 6103(a) of title 5, United States Code.

(c) FEDERAL REIMBURSEMENT.—

(1) IN GENERAL.—For each fiscal year, upon request by a State or public authority and approval by the Secretary, the Secretary shall reimburse the State or public authority for the amount of toll revenue not collected by reason of subsection (b).

(2) REQUESTS FOR REIMBURSEMENT.—On or before September 30 of a fiscal year, each State or public authority that desires a refund described in paragraph (1) shall submit to the Secretary a request for reimbursement, based on actual traffic data, for the amount of toll revenue not collected by reason of subsection (b) during the fiscal year.

(3) USE OF REIMBURSED FUNDS.—A request for reimbursement under paragraph (2) shall include a certification by the State or public authority that the amount of the reimbursement will be used only for debt service or for operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this subsection.

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

S. 1151. A bill to amend the method for achieving quiet technology specified in the National Parks Air Tour Management Act of 2000; to the Committee on Commerce, Science, and Transportation.

Mr. REID. Mr. President, I rise today along with my good friend and colleague from Nevada, Senator ENSIGN because I am deeply concerned that the Federal Aviation Administration has failed to develop the incentives for quiet technology aircraft.

The bill we are introducing today, the ''Grand Canyon Quiet Technology Implementation Act,'' completes the Congressional mandates contained in the National Park Air Tour Management Act of 2000 which called for the implementation of ''reasonably achievable'' quiet technology standards for the Grand Canyon air tour operators.

Key provisions of the Act called for the Federal Aviation Administration, by April 5th of this year, to: 1. Designate reasonably achievable requirements for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as employing quiet aircraft technology; and 2. establish corridors for commercial air tour operations by fixed-wing and helicopter aircraft that employ quiet aircraft technology, or explain to Congress why they can't. The agency has failed to comply with any of these provisions.

The Act also provides that operators employing quiet technology shall be exempted from operational flight caps. This relief is essential to the very survival of many of these air tour companies. By not complying with these Congressional mandates, the Federal Aviation Administration places the viability of the Grand Canyon air tour industry in jeopardy.

While Senator ENSIGN and I along with the air tour community have sought to work with the Federal agencies in a cooperative manner, our repeated overtures have been summarily ignored, which forces us to take further legislative action.

Our bill simply requires the Federal Aviation Administration to do its job. It identifies ''reasonably achievable'' quiet technology standards and provides relief for air tour operators who have spent many years and millions of dollars of their money voluntarily transitioning to quieter aircraft to help restore natural quiet to the Grand Canyon.

I would like to compliment my good friend from Arizona, Senator JOHN MCCAIN for his vision and leadership in the Senate in recognizing that quieter aircraft was the key to restoring natural quiet to the Grand Canyon. During his tenure as chairman of the Senate Commerce Committee, it was Senator MCCAIN who insisted on the quiet technology provisions contained in the National Park Air Tour Management Act

of 2000. It was Senator MCCAIN who wanted to ensure that those air tour companies which already have made huge investments in current technology quiet aircraft modifications were rewarded for their initiative. It was Senator MCCAIN, an advocate for restoring natural quiet to the Grand Canyon, who took the lead in seeking to ensure that the elderly, disabled and time-constrained visitor still would be able to enjoy the magnificence of the Grand Canyon by air. The legislation we are introducing today, supports Senator MCCAIN's vision.

The National Park Air Tour Management Act of 2000 is clear. It calls for the implementation of ''reasonably achievable'' quiet technology incentives. Our Grand Canyon Quiet Technology Implementation legislation is based on today's best aircraft technology.

Some may ask what is ''reasonably achievable?'' It constitutes the following: replacing smaller aircraft with larger and quieter aircraft with more seating capacity reducing the number of flights needed to carry the same number of passengers; adding propellers on turbine-powered airplanes or main rotor blades on helicopters which reduces prop tip speeds by reducing engine RPMs; modifying engine exhaust systems with high-tech mufflers to absorb engine noise; modifying helicopter tail rotors with high-tech components for quieter operation.

These modifications typically reduce the sound generated by these aircraft by more than 50 percent.

This is what is ''reasonably achievable'' in aviation technology. In the year 2001, this is essentially all that can be done to make aircraft quieter. Operators which have spent millions of dollars to make these modifications, in our view, have complied with the intent of the law and deserve relief.

Let us not forget the original intent of this legislation to help restore natural quiet to the Grand Canyon and, as the 1916 Organic Act directs, to provide for the enjoyment of our national parks ''in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.''

Air touring is consistent with the Park Service mission.

Based on current air tour restrictions, more than 1.7 million tourists will be denied access to the Grand Canyon during the next decade at a cost to air tour operators conservatively estimated at $250 million.

Senator ENSIGN and I agree that, to the extent possible and practical, that the quieter these air tour aircraft can be made to be, the better for everyone. That's why it is so important that the Grand Canyon Quiet Technology Implementation Act become the law.

I ask unanimous consent that the text of the Grand Canyon Quiet Technology Implementation Act be printed in the RECORD.

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

S. 1151

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 referred to as the ''Grand Canyon Quiet Technology Implementation Act''.

SEC. 2. AMENDMENTS TO QUIET AIRCRAFT TECHNOLOGY.

(a) IN GENERAL.—Section 804 of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is amended by adding at the end the following new subsection:

''(f) ALTERNATIVE QUIET AIRCRAFT TECHNOLOGY.—

''(1) GENERAL RULE.—Notwithstanding any other provision of law, an air tour operator based in Clark County, Nevada or at the Grand Canyon National Park Airport shall be treated as having met the requirements for quiet aircraft technology that apply with respect to commercial air tour operations for tours described in subsection (b), if the air tour operator has met the following requirements:

''(A) The aircraft used by the air tour operator for such tours—

''(i) meet the requirements designated under subsection (a); or

''(ii) if not previously powered by turbine engines, have been modified to be powered by turbine engines and, after the conversion—

''(I) have a higher number of propellers (in the case of fixed-wing aircraft) or main rotor blades (in the case of helicopters) than the aircraft had before the conversion, thereby resulting in a reduction in prop or blade tip speeds and engine revolutions per minute;

''(II) have current technology engine exhaust mufflers;

''(III) in the case of helicopters, have current technology quieter tail rotors; or

''(IV) have any other modifications, approved by the Federal Aviation Administration, that significantly reduce the aircraft's sound.

''(B) The air tour operator has replaced, for use for the tours, smaller aircraft with larger aircraft that have more seating capacity, thereby reducing the number of flights needed to transport the same number of passengers.

''(C) The air tour operator can safely demonstrate, through flight testing administered by the Federal Aviation Administration that applies a sound measurement methodology accepted as standard, that the tour operator can fly existing aircraft in a manner that achieves a sound signature in the same noise range or having the same or similar sound effect as the aircraft that satisfy the requirements of subparagraph (A) or (B).

''(2) EXEMPTION FROM FLIGHT CAPS.—Any air tour operator that meets the requirements described in paragraph (1), shall be—

''(A) exempt from the operational flight allocations referred to in subsection (c) and from flight curfews and any other requirement not imposed solely for reasons of aviation safety; and

''(B) granted air tour routes that are preferred for the quality of the scenic views for—

''(i) tours from Clark County, Nevada to the Grand Canyon National Park Airport; and

''(ii) 'local loop' tours referred to in subsection (b)(2).''.

(b) REINSTATEMENT OF CERTAIN AIR TOUR ROUTES.—Any air tour route from Clark County, Nevada, to the Grand Canyon National Park Airport, Tusayan, Arizona, that was eliminated, or altered in any way, by regulation or by action by the Federal Aviation Administration, on or after January 1, 2001, and before the date of enactment of this Act shall be reinstated effective as of such date of enactment and no further changes, modifications, or elimination of any other air tour route flown by an air tour company based in Clark County, Nevada or at the Grand Canyon National Park Airport, Tusayan, Arizona may be made after such date of enactment without the approval of Congress.

By Mr. CRAIG (for himself and Mrs. FEINSTEIN):

S. 1153. A bill to amend the Food Security Act of 1985 to establish a grassland reserve program to assist owners in restoring and protecting grassland; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CRAIG. Mr. President, I rise today to introduce the ''Grassland Reserve Act'', a bill to authorize a voluntary program to purchase permanent or 30 year easement from willing producers in exchange for protection of ranches, grasslands, and lands of high resource value. I am pleased that Senators FEINGOLD, and THOMAS, have joined as original cosponsors.

Grasslands provided critical habitat for complex plant and animal communities throughout much of North America. However, many of these lands have been, and are under pressure to be, converted to other uses, threatening and eliminating plant and animal communities unique to this continent. A significant portion of the remaining grasslands occur on working ranches. Ranchland provides important open-space buffers for animal and plant habitat. Moreover, ranching forms the economic backbone for much of rural western United States. Loss of this economic activity will invariably lead to the loss of the open space that is indispensable for plant and animal communities and for citizens who love the western style of life.

As a rancher from a rural community in Idaho, I have noticed the changes taking place in some parts of my State where, for a number of reasons, working ranchers have been sold into ranchetts leaving the landscape divided by fences and homes where cattle and wildlife once roamed. Currently, no Federal programs exist to conserve grasslands, ranches, and other lands of high resource values, other than wetlands, on a national scale. I believe the United States needs a voluntary program to conserve these lands, and the Grasslands Reserve Act does just that.

Specifically, this bill establishes the Grasslands Reserve program through the Natural Resources Conservation Service to assist owners in restoring and conserving eligible land. To be eligible to participate in the program an owner must enroll 100 contiguous acres of land west of the 90th meridian or 50 contiguous acres of land east of the 90th meridian. A maximum of 1,000,000 acres may be enrolled in the program in the form of a permanent or a 30-year easement. Land eligible for the program includes: native grasslands,

working ranches, other areas that contain animal or plant populations of significant ecological value, and land that is necessary for the efficient administration of the easement.

The terms of the easements allow for grazing in a manner consistent with maintaining the viability of native grass species. All uses other than grazing, such as hay production, may be implemented according to the terms of a written agreement between the landowner and easement holder. Easements prohibit the production of row crops, and other activities that disturb the surface of the land covered by the easement. The Secretary will work with the State technical committees to establish criteria to evaluate and rank applications for easements which will emphasize support for grazing operations, plant and animal biodiversity, and native grass and shrubland under the greatest threat of conversion. The Secretary may prescribe terms to the easement outlining how the land shall be restored including duties of the land owner and the Secretary. If the easement is violated, the Secretary may require the owner to refund all or part of the payments including interest. The Secretary may also conduct periodic inspections, after providing notice to the owner, to determine that the landowner is in compliance with the terms of the easement. The easement may be held and enforced by a private conservation, land trust organization, or a State agency in lieu of the Secretary, if the Secretary determines that granting such permission will promote grassland protection and the landowner agrees.

This legislation requires the Secretary to make payments for permanent easements based on the fair market value of the land less the grazing value of the land encumbered by the easement, and for 30 year easements the payment will be 30 percent of the fair market value of the land less the grazing value of the land encumbered by the easement. Payments may be made in one lump sum or over a 10 year period. Landowners may also choose to enroll their land in a 30-year rental agreement instead of a 30-year easement where the Secretary would make thirty annual payments which approximate the value of a lump sum payment the owner would receive under a 30-year easement. The Secretary is required to assess the payment schedule every five years to make sure that the payments do approximate the value of a 30-year easement. USDA is also required to cover up to 75 percent of the cost of restoration and provide owners with technical assistance to execute the easement and restore the land.

I believe this legislation fills a need we have in our agriculture policy and I look forward to working with other members to include the Grasslands Reserve program in a responsible and balanced farm bill.

Mrs. FEINSTEIN. Mr. President, today I am pleased to join my colleague from Idaho to introduce legislation that provides fair compensation to producers and other landowners who maintain open spaces for plants and animals to thrive.

This bill creates a voluntary program authorizing the United States Department of Agriculture, USDA, to obtain either 30-year or permanent easements from landowners in exchange for a cash payment. Easements allow for grazing while maintaining the viability of native grass species. Moreover, these uses must only occur upon the conclusion of the local bird nesting season.

Vast amounts of grassland are being lost to urban development every year in large part because of economic pressures faced by ranchers, livestock producers, and other grassland owners.

Currently, there are no long-term programs to protect grasslands on a national scale. The Grassland Reserve Act provides real options to financially-strapped land owners of grasslands who wish to keep their lands in a natural state. There is a need for this bill because existing programs to protect lands, such as the Forest Legacy program, target forested lands only.

This legislation represents a win-win situation for both the environment and people who make their livelihood on grasslands. The loss of grassland is a serious problem for preserving wildlife habitat and a rural way of life. This bill is a step in the right direction to protect these lands from future development.

I have always felt that protecting our Nation's unique natural areas, including grasslands, should be one of our highest priorities. I invite my colleagues to join Senator CRAIG and me in supporting this legislation.

By Mr. LEVIN (for himself and Mr. WARNER) (by request):

S. 1155. A bill to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2002, and for other purposes; to the Committee on Armed Services.

Mr. LEVIN. Mr. President, I ask unanimous consent that the text of the President's request for Defense and the text of the bill be printed in the RECORD, including the section-by-section analysis.

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

S. 1155

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 ''National Defense Authorization Act for Fiscal Year 2002''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Army as follows:

(1) For aircraft, $1,925,491,000.

(2) For missiles, $1,859,634,000.

(3) For weapons and tracked combat vehicles, $2,276,746,000.

(4) For ammunition, $1,193,365,000.

(5) For other procurement, $3,961,737,000.

(6) For chemical agents and munitions destruction, $1,153,557,000 for—

(A) the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) and

(B) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds axe hereby authorized to be appropriated for fiscal year 2002 for procurement for the Navy as follows:

(1) For aircraft, $8,252,543,000.

(2) For weapons, including missiles and torpedoes, $1,433,475,000.

(3) For shipbuilding and conversion, $9,344,121,000.

(4) For other procurement, $4,097,576,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Marine Corps in the amount of $981,724,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement of ammunition for the Navy and Marine Corps in the amount of $457,099,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Air Force as follows:

(1) For aircraft, $10,744,458,000.

(2) For missiles, $3,233,536,000.

(3) For procurement of ammunition, $865,344,000.

(4) For other procurement, $8,158,521,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2002 for defense-wide procurement in the amount of $1,603,927,000.

SEC. 105. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Defense Inspector General in the amount of $1,800,000.

SEC. 106. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $267,915,000.

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the use of the Armed Forces for research, development, test, and evaluation, as follows:

(1) For the Army, $6,693,920,000.

(2) For the Navy, $11,123,389,000.

(3) For the Air Force, $14,343,982,000.

(4) For Defense-wide research, development, test, and evaluation, $15,268,142,000, of which $217,355,000 is authorized for the Director of Operational Test and Evaluation.

(5) For the Defense Health Program, $65,304,000.

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense, for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $21,191,680,000.

(2) For the Navy, $26,961,382,000.

(3) For the Marine Corps, $2,892,314,000.

(4) For the Air Force, $26,146,770,000.

(5) For the Defense-wide activities, $12,518,631,000.

(6) For the Army Reserve, $1,787,246,000.

(7) For the Naval Reserve, $1,003,690,000.

(8) For the Marine Corps Reserve, $144,023,000.

(9) For the Air Force Reserve, $2,029,866,000.

(10) For the Army National Guard, $3,677,359,000.

(11) For the Air National Guard, $3,867,361,000.

(12) For the Defense Inspector General, $150,221,000.

(13) For the United States Court of Appeals for the Armed Forces, $9,096,000.

(14) For Environmental Restoration, Army, $389,800,000.

(15) For Environmental Restoration, Navy, $257,517,000.

(16) For Environmental Restoration, Air Force, $385,437,000.

(17) For Environmental Restoration, Defense-wide, $23,492,000.

(18) For Environmental Restoration, Formerly Used Defense Sites, $190,255,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $49,700,000.

(20) For Drug Interdiction and Counterdrug Activities, Defense-wide, $820,381,000.

(21) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, $25,000,000.

(22) For the Defense Health Program, $17,565,750,000.

(23) For Cooperative Threat Reduction programs, $403,000,000.

(24) For Overseas Contingency Operations Transfer Fund, $2,844,226,000.

(25) For Support for International Sporting Competitions, Defense, $15,800,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $1,951,986,000.

(2) For the National Defense Sealift Fund, $506,408,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2002 from the Armed Forces Retirement Home Trust Fund the sum of $71,440,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. ACQUISITION OF LOGISTICAL SUPPORT FOR SECURITY FORCES.

Section 5 of the Multinational Force and Observers Participation Resolution (Public Law 97–132; 95 Stat. 1695; 22 U.S.C. 3424) is amended by adding at the end the following new subsection:

''(d) The United States may use contractors or other means to provide logistical support to the Multinational Force and Observers under this section in lieu of providing such support through a logistical support unit comprised of members of the armed forces. Notwithstanding subsections (a) and (b) and section 7(b), support by a contractor or other means under this subsection may be provided without reimbursement, whenever the President determines that such action enhances or supports the national security interests of the United States.''.

SEC. 305. CONTRACT AUTHORITY FOR DEFENSE WORKING CAPITAL FUNDS.

Contract authority in the amount of $427,100,000, to remain available until September 30, 2002, is hereby authorized and appropriated to the Defense Working Capital Fund for the procurement, lease-purchase with substantial private sector risk, capital or operating multiple-year lease, of a capital asset, multiple-year time charter of a commercial craft or vessel and associated services.

SEC. 310. REIMBURSE EPA FOR CERTAIN COSTS IN CONNECTION WITH HOOPER SANDS SITE, IN SOUTH BERWICK, MAINE.

(a) AUTHORITY TO REIMBURSE EPA.—Using funds described in subsection (b), the Secretary of the Navy may pay $1,005,478.00 to the Hooper Sands Special Account within the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) to reimburse the Environmental Protection Agency in full for the Remaining Past Response Costs incurred by the agency for actions taken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601, et seq.) at the Hooper Sands site in South Berwick, Maine, pursuant to an Interagency Agreement entered into by the Department of the Navy and the Enviromental Protection Agency in January 2001.

(b) SOURCE OF FUNDS.—Any payment under subsection (a) shall be made using the amounts authorized to be appropriated by paragraph (15) of section 301 to the Enviromental Restoration, Navy account, established by section 2703(a)(3) of title 10, United States Code.

SEC. 311. EXTENSION OF PILOT PROGRAM FOR THE SALE OF AIR POLLUTION EMISSION REDUCTION INCENTIVES

Section 351(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law. 105–85; 111 Stat. 1629, 1692) is amended to read as follows:

''(2) The Secretary may carry out the pilot program during the period beginning on the date of enactment of this Act through September 30, 2003.''.

SEC. 312. ELIMINATION OF REPORT ON CONTRACTOR REIMBURSEMENT COSTS.

Section 2706 of title 10, United States Code, is amended by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

SEC. 315. COSTS PAYABLE TO THE DEPARTMENT OF DEFENSE AND OTHER FEDERAL AGENCIES FOR SERVICES PROVIDED TO THE DEFENSE COMMISSARY AGENCY.

Section 2482(b)(1) of title 10, United States Code, is amended by striking ''However, the Defense Commissary Agency may not pay for any such service provided by the United States Transportation Command any amount that exceeds the price at which the service could be procured through full and open competition, as such term is defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).'' and inserting ''The Defense Commissary Agency may not pay for any service provided by a Defense working capital fund activity which exceeds the price at which the service could be procured through full and open competition by the Defense Commissary Agency, as such term is defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)). In determining the cost for providing such service the Defense Commissary Agency may pay a Defense working capital fund activity those administrative and handling costs it would be required to pay for the provision of such services had the Defense Commissary Agency acquired them under full and open competition. Under no circumstances will any costs associated with mobilization requirements, maintenance of readiness, or establishment or maintenance of infrastructure to support such mobilization or readiness requirements, be included in rates charged the Defense Commissary Agency.''.

SEC. 316. REIMBURSEMENT FOR NON-COMMISSARY USE OF COMMISSARY FACILITIES.

(a) IN GENERAL.—Chapter 147 of title 10, United States Code, is amended by inserting at the beginning of the chapter the following new section:

''§ 2481. Reimbursement for non-commissary use of commissary facilities

''If a commissary facility acquired, constructed or improved (in whole or in part) with commissary surcharge revenues is used for non-commissary purposes, the Secretary of the military department concerned shall reimburse the commissary surcharge revenues for the commissary's share of the depreciated value of the facility.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 147 is amended by inserting before the item relating to section 2482 the following new item:

''2481. Reimbursement for non-commissary use of commissary facilities.''.

SEC. 317. COMMISSARY CONTRACTS AND OTHER AGENCIES AND INSTRUMENTALITIES.

Section 2482(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2) Where the Secretary of Defense authorizes the Defense Commissary Agency to sell limited exchange merchandise as commissary store inventory under section 2486(b)(11) of this title, the Defense Commissary Agency shall enter into a contract or other agreement to obtain such merchandise available from the Armed Service Exchanges, provided that such merchandise shall be obtained at a cost of no more than the exchange retail price less the amount of commissary surcharge authorized to be collected by section 2486 of this title. If such merchandise is procured by the Defense Commissary Agency from other than the Armed Service Exchanges, the limitations provided in section 2486(e) of this title apply.''.

SEC. 318. OPERATION OF COMMISSARY STORES.

Section 2482(a) of title 10, United States Code, is amended by striking ''A contract with a private person'' and all that remains to the end of the subsection.

Subtitle D—Other Matters

SEC. 320. REIMBURSEMENT FOR RESERVE INTELLIGENCE SUPPORT.

(a) Appropriations available to the Department of Defense for operations and maintenance may be used to reimburse National Guard and Reserve units or organizations for the pay, allowances and other expenses which are incurred by such National Guard and Reserve units or organizations when members of the National Guard or Reserve provide intelligence, including counterintelligence, support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program, the Joint Military Intelligence Program, and the Tactical Intelligence and Related Activities aggregate.

(b) Nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 321. DISPOSAL OF OBSOLETE AND EXCESS MATERIALS CONTAINED IN THE NATIONAL DEFENSE STOCKPILE.

Subject to the conditions specified in section 10(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. §98h-1(c)), the President may dispose of the following obsolete and excess materials contained in the National Defense Stockpile in the following quantities:

Bauxite, Refractory, 40,000 short tons.
Chromium Metal, 3,512 short tons.
Iridium, 25,140 troy ounces.
Jewel Bearings, 30,273,221 pieces.
Manganese, Ferro HC, 209,074 short tons.
Palladium, 11 troy ounces.
Quartz Crystal, 216,648 pounds.
Tantalum Metal Ingot, 120,228 pounds contained tantalum.
Tantalum Metal Powder, 36,020 pounds contained tantalum.
Thorium Nitrate, 600,000 pounds.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2002, as follows:

(1) The Army, 480,000.
(2) The Navy, 376,000.
(3) The Marine Corps, 172,600.
(4) The Air Force, 358,800.

Subtitle B—Reserve Forces

SEC. 405. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2002, as follows:

(1) The Army National Guard of the United States, 350,000.
(2) The Army Reserve, 205,000.
(3) The Naval Reserve, 87,000.
(4) The Marine Corps Reserve, 39,558.
(5) The Air National Guard of the United States, 108,400.
(6) The Air Force Reserve, 74,700.
(7) The Coast Guard Reserve, 8,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 406. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2002, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 22,974.

(2) The Army Reserve, 13,108.

(3) The Naval Reserve, 14,811.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 11,591.

(6) The Air Force Reserve, 1,437.

SEC. 407. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The Reserve Components of the Army and the Air Force are authorized strengths for military technicians (dual status) as of September 30, 2002, as follows:

(1) For the Army Reserve, 5,999.

(2) For the Army National Guard of the United States, 23,128.

(3) For the Air Force Reserve, 9,818.

(4) For the Air National Guard of the United States, 22,422.

SEC. 408. FISCAL YEAR 2002 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

The number of civilian employees who are non-dual status technicians of a reserve component of the Army or Air Force as of September 30, 2002, may not exceed the following:

(1) For the Army Reserve, 1,095.

(2) For the Army National Guard of the United States, 1,600.

(3) For the Air Force Reserve, 0.

(4) For the Air National Guard of the United States, 350.

SEC. 409. AUTHORIZED STRENGTHS: RESERVE OFFICERS AND SENIOR ENLISTED MEMBERS ON ACTIVE DUTY OR FULL-TIME NATIONAL GUARD DUTY FOR ADMINISTRATION OF THE RESERVES OR NATIONAL GUARD.

(a) IN GENERAL.—Section 12011 of title 10, United States Code, is amended by amending the body of the section to read as follows:

''(a) CEILINGS FOR FULL-TIME RESERVE COMPONENT FIELD GRADE OFFICERS.—The number of reserve officers of the reserve components of the Army, Navy, Air Force, and Marine Corps who may be on active duty in the pay grades of O–4, O–5, O–6 for duty described in sections 10211, 10302 through 10305, 123 10, or 12402 of this title, or full-time National Guard duty (other than for training) under section 502(f) of title 32, or section 708 of title 32, may not, at the end of any fiscal year, exceed a number for that grade and reserve component in accordance with the following tables:

''Army National Guard

AGR Population	O–4 (MAJ)	O–5 (LTC)	O–6 (COL)
20,000	1,500	850	325
22,000	1,650	930	350
24,000	1,790	1,010	370
26,000	1,930	1,085	385
28,000	2,070	1,160	400
30,000	2,200	1,235	405
32,000	2,330	1,305	408
34,000	2,450	1,375	411
36,000	2,570	1,445	411
38,000	2,670	1,515	411
40,000	2,770	1,580	411
42,000	2,837	1,644	411

''U.S. Army Reserve

AGR Population	O–4 (MAJ)	O–5 (LTC)	O–6 (COL)
10,000	1,390	740	230
11,000	1,529	803	242
12,000	1,668	864	252
13,000	1,804	924	262
14,000	1,940	984	272
15,000	2,075	1,044	282
16,000	2,210	1,104	291
17,000	2,345	1,164	300
18,000	2,479	1,223	309
19,000	2,613	1,282	318
20,000	2,747	1,341	327
21,000	2,877	1,400	336

''U.S. Naval Reserve

AGR Population	O–4 (MAJ)	O–5 (LTC)	O–6 (COL)
10,000	807	447	141
11,000	867	467	153
12,000	924	485	163
13,000	980	503	173
14,000	1,035	521	183
15,000	1,088	538	193
16,000	1,142	555	203
17,000	1,195	565	213
18,000	1,246	575	223
19,000	1,291	585	233
20,000	1,334	595	242
21,000	1,364	603	250
22,000	1,384	610	258
23,000	1,400	615	265
24,000	1,410	620	270

''U.S. Marine Corps Reserve

AGR Population	O–4 (MAJ)	O–5 (LTC)	O–6 (COL)
1,100	106	56	20
1,200	110	60	21
1,300	114	63	22
1,400	118	66	23
1,500	121	69	24
1,600	124	72	25
1,700	127	75	26
1,800	130	78	27
1,900	133	81	28
2,000	136	84	29
2,100	139	87	30
2,200	141	90	31
2,300	143	92	32
2,400	145	94	33
2,500	147	96	34
2,600	149	98	35

''Air National Guard

AGR Population	O–4 (MAJ)	O–5 (LTC)	O–6 (COL)
5,000	333	335	251
6,000	403	394	260
7,000	472	453	269
8,000	539	512	278
9,000	606	571	287
10,000	673	630	296
11,000	740	688	305
12,000	807	742	314
13,000	873	795	323
14,000	939	848	332
15,000	1,005	898	341
16,000	1,067	948	350
17,000	1,126	998	359
18,000	1,185	1,048	368
19,000	1,235	1,098	377
20,000	1,283	1,148	380

''U.S. Air Force Reserve

AGR Population	O–4 (MAJ)	O–5 (LTC)	O–6 (COL)
500	83	85	50
1,000	155	165	95
1,500	220	240	135
2,000	285	310	170
2,500	350	369	203
3,000	413	420	220
3,500	473	464	230

''U.S. Air Force Reserve—Continued

AGR Population	O–4 (MAJ)	O–5 (LTC)	O–6 (COL)
4,000	530	500	240
4,500	585	529	247
5,000	638	550	254
5,500	688	565	261
6,000	735	575	268
7,000	770	595	280
8,000	805	615	290
10,000	835	635	300

''(b) GRADE SUBSTITUTIONS FOR LOWER GRADE CEILINGS.—Whenever the number of officers serving in any grade for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for any lower grade.

''(c) DETERMINATION OF AUTHORIZED CEILINGS.—If the total number of members serving in the grades prescribed in the above tables is between any two consecutive numbers in the first column of the appropriate table, the corresponding authorized strengths for each of the grades shown in that table, for that component, are determined by mathematical interpolation between the respective numbers of the two strengths. If the total numbers of members serving on AGR duty in the first column are greater or less than the figures listed in the first column of the appropriate table, the Secretary concerned shall fix the corresponding strengths for the grades shown in that table at the same proportion as reflected in the nearest limit shown in the table.

''(d) SECRETARIAL WAIVER.—Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may increase the number of reserve officers that may be on active duty or full-time National Guard duty in a controlled grade authorized pursuant to subsection (a) for the current fiscal year for any of the Reserve components by a number equal to not more than 5% of the authorized strength in that controlled grade.''.

(b) IN GENERAL.—Section 12012 of title 10, United States Code, is amended by amending the body of the section to read as follows:

C4 (a) CEILINGS FOR FULL-TIME RESERVE COMPONENT SENIOR ENLISTED MEMBERS.—The number of enlisted members in pay grades of E–8 and E–9 for who may be on active duty under section 10211 or 12310, or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not, at the end of any fiscal year, exceed a number determined in accordance with the following tables:

''Army National Guard

AGR Population	E–8 (MSG)	E–9 (SGM)
20,000	1,650	550
22,000	1,775	615
24,000	1,900	645
26,000	1,945	675
28,000	1,945	705
30,000	1,945	725
32,000	1,945	730
34,000	1,945	735
36,000	1,945	738
38,000	1,945	741
40,000	1,945	743
42,000	1,945	743

''U.S. Army Reserve

AGR Population	E–8 (MSG)	E–9 (SGM)
10,000	1,052	154
11,000	1,126	168
12,000	1,195	180

"U.S. Army Reserve—Continued

AGR Population	E–8 (MSG)	E–9 (SGM)
13,000	1,261	191
14,000	1,327	202
15,000	1,391	213
16,000	1,455	224
17,000	1,519	235
18,000	1,583	246
19,000	1,647	257
20,000	1,711	268
21,000	1,775	278

"U.S. Naval Reserve

AGR Population	E–8 (SCPO)	E–9 (MCPO)
10,000	340	143
11,000	364	156
12,000	386	169
13,000	407	182
14,000	423	195
15,000	435	208
16,000	447	221
17,000	459	234
18,000	471	247
19,000	483	260
20,000	495	273
21,000	507	286
22,000	519	299
23,000	531	312
24,000	540	325

"U.S. Marine Corps Reserve

AGR Population	E–8 (IST SGT)	E–9 (SGTMAJ)
1,100	50	11
1,200	55	12
1,300	60	13
1,400	65	14
1,500	70	15
1,600	75	16
1,700	80	17
1,800	85	18
1,900	89	19
2,000	93	20
2,100	96	21
2,200	99	22
2,300	101	23
2,400	103	24
2,500	105	25
2,600	107	26

"Air National Guard

AGR Population	E–8 (SMSGT)	E–9 (CMSGT)
5,000	1,020	405
6,000	1,070	435
7,000	1,120	465
8,000	1,170	490,
9,000	1,220	510
10,000	1,270	530
11,000	1,320	550
12,000	1,370	570
13,000	1,420	589
14,000	1,470	608
15,000	1,520	626
16,000	1,570	644
17,000	1,620	661
18,000	1,670	678
19,000	1,720	695
20,000	1,770	712

"U.S. Air Force Reserve

AGR Population	E–8 (SMSGT)	F–9 (CMSGT)
500	75	40
1,000	145	75
1,500	105	
2,000	270	130
2,500	325	150
3,000	375	170
3,500	420	190
4,000	460	210
4,500	495	230
5,000	530	250
05,500	565	270
6,000	600	290
7,000	670	330
8,000	740	370
10,000	800	400

''(b) GRADE SUBSTITUTION FOR LOWER GRADE CEILINGS.—Whenever the number of members serving in pay grade E–9 for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for pay grade E–8.

''(c) DETERMINATION OF AUTHORIZED CEILINGS.—If the total number of members serving in the grades prescribed in the above tables is between, any two consecutive numbers in the first column of the appropriate table, the corresponding authorized strengths for each of the grades shown in that table, for that component, are determined by mathematical interpolation between the respective numbers of the two strengths. If the total numbers of members serving on AGR duty in the first column are greater or less than the figures listed in the first column of the appropriate table, the Secretary concerned shall fix the corresponding strengths for the grades shown in that table at the same proportion as reflected in the nearest limit shown in the table.

''(d) SECRETARIAL WAIVER.—Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may increase the number of senior reserve enlisted members that may be on active duty or full-time National Guard duty in a controlled grade authorized pursuant to subsection (a) for the current fiscal year for any of the Reserve components by a number equal to not more than 5% of the authorized strength in that controlled grade.''.

SEC. 410. INCREASE IN AUTHORIZED STRENGTHS FOR AIR FORCE OFFICERS ON ACTIVE DUTY IN THE GRADE OF MAJOR.

The table in section 523(a)(1) of title 10, United States Code, is amended by striking the figures under the heading ''Major'' relating to the Air Force and inserting the following:

''9,861
''10,727
''11,593
''12,460
''13,326
''14,192
''15,058
''15,925
''16,792
''17,657
''18,524
''19,389
''20,256
''21,123
''21,989
''22,855
''23,721
''24,588
''25,454.''.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. ELIMINATION OF CERTAIN MEDICAL AND DENTAL REQUIREMENTS FOR ARMY EARLY-DEPLOYERS.

Section 1074a of title 10, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 502. MEDICAL DEFERMENT OF MANDATORY RETIREMENT OR SEPARATION.

Section 640 of title 10, United States Code, is amended——

(1) by inserting ''(a)'' at the beginning of the paragraph;

(2) by striking ''cannot'' and inserting ''may not''; and

(3) by adding at the end the following new subparagraph (b):

''(b) An officer whose mandatory retirement or separation under this chapter or chapter 63 of this title is subject to deferral under this section, may be extended for a period not to exceed 30 days following completion of the evaluation requiring hospitalization or medical observation.''.

SEC. 503. OFFICER IN CHARGE; UNITED STATES NAVY BAND.

(a) DETAIL AND GRADE.—Chapter 565 of title 10, United States Code, is amended by inserting after section 6221 the following new section:

§ 6221a. United States Navy Band: officer in charge

''An officer serving in a grade not below lieutenant commander may be detailed as Officer in Charge of the United States Navy Band. While so serving, an officer who holds a grade lower than captain shall hold the grade of captain if he is appointed to that grade by the President, by and with the advice and consent of the Senate. Such appointment may occur notwithstanding the limitation of subsection 5596(d) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 565 is amended by inserting after the item referring to section 6221 the following new item:

''6221a. United States Navy Band: officer in charge.''.

SEC. 504. REMOVAL OF REQUIREMENT FOR CERTIFICATION FOR CERTAIN FLAG OFFICERS TO RETIRE IN THEIR HIGHEST GRADE.

Section 1370(c)(1) of title 10, United States Code, is amended——

(1) by striking ''certifies in writing to the President and Congress'' and inserting ''determines in writing''; and

(2) by adding at the end of the paragraph the following new sentence:

''The Secretary of Defense shall issue regulations to implement this paragraph.''.

SEC. 505. THREE-YEAR EXTENSION OF CERTAIN FORCE DRAWDOWN TRANSITION AUTHORITIES RELATING TO PERSONNEL MANAGEMENT AND BENEFITS.

(a) EXTENSION OF EARLY RETIREMENT AUTHORITY FOR ACTIVE DUTY MEMBERS.—Section 4403(i) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1293 note) is amended by striking ''October 1, 2001 ''and inserting ''October 1, 2004''.

(b) EXTENSION OF AUTHORITY FOR SPECIAL SEPARATION BENEFIT AND VOLUNTARY EARLY SEPARATION INCENTIVE.—(I) Section 1174a(h)(1) of title 10, United States Code, is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(2) Section 1175(d)(3) of such title is amended by striking ''December 31, 2001 and inserting ''September 30, 2004''.

(c) EXTENSION OF AUTHORITY FOR SELECTIVE EARLY RETIREMENT BOARDS.—Section 63 8a(a) of such title is amended by striking ''December 31, 2001 '' and inserting ''September 30, 2004''.

(d) TIME-IN-GRADE REQUIREMENT FOR RETENTION OF GRADE UPON VOLUNTARY RETIREMENT.—(I) Section 1370(a)(2)(A) of such title is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(2) Section 1370(d)(5) of such title is amended by striking ''December 31, 2001 and inserting ''September 30, 2004''.

(e) MINIMUM COMMISSIONED SERVICE FOR VOLUNTARY RETIREMENT AS AN OFFICER.—

(1) ARMY.—Section 3911(b) of such title is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(2) NAVY.—Section 6323(a)(2) of such title is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(3) AIR FORCE.—Section 8911(b) of such title is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(f) TRAVEL, TRANSPORTATION, AND STORAGE BENEFITS.—(1) Section 404(c)(1)(C) of title 37, United States Code, is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(2) Section 404(f)(2)(B)(v) of such title is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(3) Section 406(a)(2)(B)(v) of such title is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(4) Section 406(g)(1)(C) of such title is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(5) Section 503(c)(1) of the National Defense Authorization Act for Fiscal Year 1991 (37 U.S.C. 406 note) is amended by striking ''December 31, 2001 ''and inserting ''September 30, 2004''.

(g) EDUCATIONAL LEAVE FOR PUBLIC AND COMMUNITY SERVICE.—Section 4463(f) of the National Defense Authorization Art for Fiscal Year 1993 (10 U.S.C. 1143a note) is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(h) TRANSITIONAL HEALTH BENEFITS.—Section 1145 of title 10, United States Code, is amended—

(1) in subsection (a)(i), by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(2) in subsection (c)(1), by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(3) in subsection (e), by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(i) TRANSITIONAL COMMISSARY AND EXCHANGE BENEFITS.—Section 1146 of such title is amended by striking ''December 31, 2001'' both places it appears and inserting ''September 30, 2004''.

(j) TRANSITIONAL USE OF MILITARY HOUSING.—Section 1147(a) of such title is amended—

(1) in paragraph (1), by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(2) in paragraph (2), by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(k) CONTINUED ENROLLMENT OF DEPENDENTS IN DEFENSE DEPENDENTS EDUCATION SYSTEM.—Section 1407(c)(1) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(c)(1)) is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(l) FORCE REDUCTION TRANSITION PERIOD DEFINITION.—Section 4411 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(m) TEMPORARY SPECIAL AUTHORITY FOR FORCE REDUCTION PERIOD RETIREMENTS.—Section 4416(b)(1) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended by striking ''October 1, 2001'' and inserting ''October 1, 2004''.

(n) RETIRED PAY FOR NON-REGULAR SERVICE.—(1) Section 12731(f) of title 10, United States Code, is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

(2) Section 12731a of such title is amended—

(A) in subsection (a)(1)(B), by striking ''the end of the period described in subsection (b)'' and inserting ''October 1, 2004''.

(B) in subsection (b), by striking ''December 31, 2001'' and inserting ''October 1, 2004''.

(o) AFFILIATION WITH GUARD AND RESERVE UNITS; WAIVER OF CERTAIN LIMITATIONS.—Section 1150(a) of such title is amended by striking ''December 31, 2001'' and inserting '''September 30, 2004''.

(p) RESERVE MONTGOMERY GI BILL.—Section 16133(b)(1)(B) of such title is amended by striking ''December 31, 2001'' and inserting ''September 30, 2004''.

SEC. 506. REVIEW OF ACTIONS OF SELECTION BOARDS.

(a) IN GENERAL.—Chapter 79 of title 10, United States Code, is amended by adding at the end the following:

''§ 1558. Exclusive remedies in cases involving selection boards

''(a) CORRECTION OF MILITARY RECORDS.—The Secretary concerned may correct a person's military records in accordance with a recommendation made by a special board. Any such correction shall be effective, retroactively, as of the effective date of the action taken on a report of a previous selection board that resulted in the action corrected in the person's military records.

''(b) RELIEF ASSOCIATED WITH CORRECTIONS OF CERTAIN ACTIONS.—(1) The Secretary concerned shall ensure that a person receives relief under paragraph (2) or (3), as the person may elect, if the person—

''(A) was separated or retired from an armed force, or transferred to the retired reserve or to inactive status in a reserve component, as a result of a recommendation of a selection board; and

''(B) becomes entitled to retention on or restoration to active duty or active status in a reserve component as a result of a correction of the person's military records under subsection (a).

''(2)(A) With the consent of a person referred to in paragraph (1), the person shall be retroactively and prospectively restored to the same status, rights, and entitlements (less appropriate offsets against back pay and allowances) in the person's armed force as the person would have had if the person had not been selected to be separated, retired, or transferred to the retired reserve or to inactive status in a reserve component, as the case may be, as a result of an action corrected under subsection (a). An action under this subparagraph is subject to subparagraph (B).

''(B) Nothing in subparagraph (A) shall be construed to permit a person to be on active duty or in an active status in a reserve component after the date on which the person would have been separated, retired, or transferred to the retired reserve or to inactive status in a reserve component if the person had not been selected to be separated, retired, or transferred to the retired reserve or to inactive status in a reserve component, as the case may be, in an action of a selection board that is corrected under subsection (a).

''(3) If the person does not consent to a restoration of status, rights, and entitlements under paragraph (2), the person shall receive back pay and allowances (less appropriate offsets) and service credit for the period beginning on the date of the person's separation, retirement, or transfer to the retired reserve or to inactive status in a reserve component, as the case may be, and ending on the earlier of—

''(A) the date on which the person would have been so restored under paragraph (2), as determined by the Secretary concerned; or

''(B) the date on which the person would otherwise have been separated, retired, or transferred to the retired reserve or to inactive status in a reserve component, as the case may be.

''(c) FINALITY OF UNFAVORABLE ACTION.—If a special board makes a recommendation not to correct the military records of a person regarding action taken in the case of that person on the basis of a previous report of a selection board, the action previously taken on that report shall be considered as final as of the date of the action taken on that report.

''(d) REGULATIONS.—(1) The Secretary concerned may prescribe regulations to carry out this section (other than subsection (e)) with respect to the armed force or armed forces under the jurisdiction of the Secretary.

''(2) The Secretary may prescribe in the regulations the circumstances under which consideration by a special board may be provided for under this section, including the following:

''(A) The circumstances under which consideration of a person's case by a special board is contingent upon application by or for that person.

''(B) Any time limits applicable to the filing of an application for consideration.

''(3) Regulations prescribed by the Secretary of a military department under this subsection shall be subject to the approval of the Secretary of Defense.

''(e) JUDICIAL REVIEW.—(1) A person challenging for any reason the action or recommendation of a selection board, or the action taken by the Secretary concerned on the report of a selection board, is not entitled to relief in any judicial proceeding unless the person has first been considered by a special board under this section or the Secretary concerned has denied such consideration.

''(2) A court of the United States may review a determination by the Secretary concerned under this section not to convene a special board. A court may set aside such determination only if it finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law. If a court sets aside a determination not to convene a special board, it shall remand the case to the Secretary concerned, who shall provide for consideration of the person by a special board under this section.

''(3) A court of the United States may review the recommendation of a special board convened under this section and any action taken by the Secretary concerned on the report of such special board. A court may set aside such recommendation or action, as the case may be, only if it finds that the recommendation or action was contrary to law or involved a material error of fact or a material administrative error. If a court sets aside the recommendation of a special board, it shall remand the case to the Secretary concerned, who shall provide for reconsideration of the person by another special board. If a court sets aside the action of the Secretary concerned on the report of a special board, it shall remand the case to the Secretary concerned for a new action on the report of the special board.

''(f) EXCLUSIVITY OF REMEDIES.—Notwithstanding any other provision of law, but subject to subsection (g), the remedies provided under this section are the only remedies available to a person for correcting an action or recommendation of a selection board regarding that person or an action taken on the report of a selection board regarding that person.

''(g) EXISTING JURISDICTION.—(1) Nothing in this section limits the jurisdiction of any court of the United States under any provision of law to determine the validity of any statute, regulation, or policy relating to selection boards, except that, in the event that any such statute, regulation, or policy is held invalid, the remedies prescribed in this section shall be the sole and exclusive remedies available to any person challenging the recommendation of a special board on the basis of the invalidity.

''(2) Nothing in this section limits authority to correct a military record under section 1552 of this title.

''(h) TIMELINESS OF ACTION.—(1) For the purposes of subsection (e)—

''(A) If, not later than six months after receipt of a complete application for consideration by a special board, the Secretary concerned shall have neither convened a special board nor denied consideration by a special board, the Secretary shall be deemed to have been denied such consideration.

''(B) If, not later than one year after the convening of a special board, the Secretary concerned shall not have taken final action on the report of such board, the Secretary shall be deemed to have denied relief to the person applying for consideration by the board.

''(2) Under regulations prescribed in accordance with subsection (d), the Secretary concerned may exclude an individual application from the time limits prescribed in this subsection if the Secretary determines that the application warrants a longer period of consideration. The authority of the Secretary of a military department under this paragraph may not be delegated.

''(i) INAPPLICABILITY TO COAST GUARD.—This section does not apply to the Coast Guard when it is not operating as a service in the Navy.

''(j) DEFINITIONS.—In this section:

''(1) The term 'special board'—

''(A) means a board that the Secretary concerned convenes under any authority to consider whether to recommend a person for appointment, enlistment, reenlistment, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component instead of referring the records of that person for consideration by a previously convened selection board which considered or should have considered that person;

''(B) includes a board for the correction of military or naval records convened under section 1552 of this title, if designated as a special board by the Secretary concerned; and

''(C) does not include a promotion special selection board convened under section 628 or 14502 of this title.

''(2) The term 'selection board'—

''(A) means a selection board convened under section 573(c), 580, 580a, 581, 611(b), 637, 638, 638a, 14101(b), 14701, 14704, or 14705 of this title, and any other board convened by the Secretary concerned under any authority to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, or retention in the armed forces or for separation, retirement, or transfer to inactive status in a reserve component for the purpose of reducing the number of persons serving in the armed forces; and

''(B) does not include—

''(i) a promotion board convened under section 573(a), 611(a), or 14101(a) of this title;

''(ii) a special board;

''(iii) a special selection board convened under section 628 of this title; or

''(iv) a board for the correction of military records convened under section 1552 of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 79 is amended by adding at the end the following:

''1558. Exclusive remedies in cases involving selection boards.''.

(c) SPECIAL SELECTION BOARDS.—Section 628 of such title is amended—

(1) by redesignating subsection (g) as subsection (j); and

(2) by inserting after subsection (f) the following new subsections:

''(g) LIMITATIONS OF OTHER JURISDICTION.—No official or court of the United States may—

''(1) consider any claim based to any extent on the failure of an officer or former officer of the armed forces to be selected for promotion by a promotion board until—

''(A) the claim has been referred by the Secretary concerned to a special selection board convened under this section and acted upon by that board and the report of the board has been approved by the President; or

''(B) the claim has been rejected by the Secretary concerned without consideration by a special selection board; or

''(2) except as provided in subsection (h), grant any relief on such a claim unless the officer or former officer has been selected for promotion by a special selection board convened under this section to consider the officer's claim and the report of the board has been approved by the President.

''(h) JUDICIAL REVIEW.—(1) A court of the United States may review a determination by the Secretary concerned under subsection (a)(1) or (b)(1) not to convene a special selection board. If a court finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law, it shall remand the case to the Secretary concerned, who shall provide for consideration of the officer or former officer by a special selection board under this section.

''(2) A court of the United States may review the action of a special selection board convened under this section on a claim of an officer or former officer and any action taken by the President on the report of the board. If a court finds that the action was contrary to law or involved a material error of fact or a material administrative error, it shall remand the case to the Secretary concerned, who shall provide for reconsideration of the officer or former officer by another special selection board.

''(i) EXISTING JURISDICTION.—(1) Nothing in this section limits the jurisdiction of any court of the United States under any provision of law to determine the validity of any statute, regulation, or policy relating to selection boards, except that, in the event that any such statute, regulation, or policy is held invalid, the remedies prescribed in this section shall be the sole and exclusive remedies available to any person challenging the recommendation of a selection board on the basis of the invalidity.

''(2) Nothing in this section limits the authority of the Secretary of a military department to correct a military record under section 1552 of this title.''.

(c) EFFECTIVE DATE AND APPLICABILITY.—(1) The amendments made by this section shall take effect on the date of the enactment of this Act and, except as provided in paragraph (2), shall apply with respect to any proceeding pending on or after that date without regard to whether a challenge to an action of a selection board of any of the Armed Forces being considered in such proceeding was initiated before, on, or after that date.

(2) The amendments made by this section shall not apply with respect to any action commenced in a court of the United States before the date of the enactment of this Act.

Subtitle B—Reserve Component Personnel Policy

SEC. 511. RETIREMENT OF RESERVE PERSONNEL.

(a) RETIRED RESERVE.—Section 10154(2) of title 10, United States Code, is amended by striking ''upon their request''.

(b) RETIREMENT FOR FAILURE OF SELECTION OF PROMOTION.—(1) Section 14513 of such title 10 is amended—

(A) in the heading, by inserting ''or retirement'' after ''Separation''; and

(B) in paragraph (2), by striking '''and applies'' and inserting ''unless the officer requests not to be transferred to the Retired Reserve'' before the semicolon.

(2) The table of sections at the beginning of chapter 1407 of such title 10 is amended by striking the item relating to section 14513 and inserting the following new item:

''14513. Separation or retirement for failure of selection for promotion.''.

(c) RETIREMENT FOR YEARS OF SERVICE OR AFTER SELECTION FOR EARLY REMOVAL.—Section 14514 of such title 10 is amended—

(1) in paragraph (1), by striking ''and applies'' and inserting '' unless the officer requests not to be transferred to the Retired Reserve'' before the semicolon; and

(2) in paragraph (2), by striking ''does not apply for such transfer'' and inserting ''has requested not to be transferred to the Retired Reserve'' after ''is not qualified or''.

(d) RETIREMENT FOR AGE.—Section 14515 of such title 10 is amended—

(1) in paragraph (1), by striking ''and applies'' and inserting ''unless the officer requests not to be transferred to the Retired Reserve'' before the semicolon; and

(2) in paragraph (2), by striking ''does not apply for transfer'' and inserting ''has requested not to be transferred'' following ''is riot qualified or''.

(e) DISCHARGE OR RETIREMENT OF WARRANT OFFICERS FOR YEARS OF SERVICE OR AGE.—(1) Chapter 1207 of such title 10 is amended by adding at the end the following new section:

''12244. Warrant officers: discharge or retirement for years of service or for age

''Each reserve warrant officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

''(1) be transferred to the Retired Reserve, if the warrant officer is so qualified for such transfer, unless the warrant officer requests not to be transferred to the Retired Reserve; or

''(2) if the warrant officer is not qualified for such transfer or requests not to be 42 transferred to the Retired Reserve, be discharged.''.

(2) The table of sections at the beginning of such chapter 1207 of title 10 is amended by adding at the end the following new item:

''12244. Warrant officers: discharge or retirement for years of service or for age.''.

(f) DISCHARGE, OR RETIREMENT OF ENLISTED MEMBERS FOR YEARS OF SERVICE OR AGE.—(1) Chapter 1203 of such title 10 is amended by addinc, at the end the following new section:

''12108. Enlisted members: discharge or retirement for years of service or for age

''Each reserve enlisted member of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretarv concerned shall—

''(1) be transferred to the Retired Reserve, if the member is so qualified for such transfer, unless the member requests not to be transferred to the Retired Reserve; or

''(2) if the member is not qualified for such transfer or requests not to be transferred to the Retired Reserve, be discharged.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''12108. Enlisted members: discharge or retirement for years of service or for age.''.

SEC. 512. AMENDMENT TO RESERVE PERSTEMPO DEFINITION.

Section 991(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting ''active'' before ''service'' and adding at the end the following new sentence:

''For the purpose of this definition, the housing in which a member of a reserve component resides is either the housing the member normally occupies when on garrison duty or the member's permanent civilian residence.'';

(2) by striking paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3) respectively; and

(4) in paragraph (3) (as redesignated), by striking ''in paragraphs (1) and (2).'' and inserting ''in paragraph (1).''.

SEC. 513. INDIVIDUAL READY RESERVE PHYSICAL EXAMINATION REQUIREMENT.

Section 10206 of title 10, United States Code, is amended—

(1) in subsection (a), by striking ''Ready Reserve'' and inserting ''Selected Reserve'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection:

''(b) As determined by the Secretary concerned, each member of the Individual Ready Reserve or Inactive National Guard shall be provided a physical examination, if required—

''(1) to determine the member's fitness for military duty; or

''(2) for promotion, attendance at a military school or other career progression requirements.''.

SEC. 514. BENEFITS AND PROTECTIONS FOR MEMBERS IN A FUNERAL HONORS DUTY STATUS.

(a) PERSONS SUBJECT TO THE UNIFORMED CODE OF MILITARY JUSTICE.—Section 802 of title 10, United States Code, is amended—

(1) in subsection (a)(3), by inserting ''or in a funeral honors duty status'' after ''on inactive-duty training''; and

(2) in subsection (d)(2)(B), by inserting ''or in a funeral honors duty status'' after ''on inactive-duty training''.

(b) BENEFITS FOR DEPENDENTS OF A DECEASED RESERVE COMPONENT MEMBER.—Section 1061 of such title 10 is amended—

(1) in subsection (b)(1), by striking ''or'' the first time it appears and inserting '', or funeral honors duty'' before the semicolon; and

(2) in subsection (b)(2), by striking ''or'' the first time it appears and inserting '', or funeral honors duty'' before the period.

(c) PAYMENT OF A DEATH GRATUITY.—(1) Section 1475(a) of such title 10 is amended—

(A) by redesignating paragraphs (3), (4) and (5) as paragraphs (4), (5) and (6), respectively;

(B) by inserting after paragraph (2) the following new paragraph:

''(3) a Reserve of an armed force who dies while performing funeral honors duty;''; and

(C) in paragraph (4) (as redesignated in subsection (c)(1)) by—

(i) striking ''or'' both time it appears;

(ii) inserting ''or funeral honors duty'' after ''Public Health Service),'';

(iii) inserting a comma before and after ''inactive duty training'' the second time it appears in the sentence; and

(iv) inserting ''or funeral honors duty'' before the semicolon.

(2) Section 1476(a) of such title 10 is amended—

(A) in paragraph (1)(A), by striking ''or'';

(B) in paragraph (1)(B), by striking the period and inserting ''; or'';

(C) by adding at the end of paragraph (1) the following new subparagraph:

''(C) funeral honors duty.''; and

(D) in paragraph (2)(A), by striking ''or'' the first time it appears and inserting '', or funeral honors duty'' after ''inactive-duty training''.

(d) MILITARY AUTHORITY FOR MEMBERS OF THE COAST GUARD RESERVE.—Section 704 of title 14, United States Code, is amended by—

(1) striking ''or'' the first time it appears in the second sentence; and

(2) inserting '', or funeral honors duty'' after ''inactive-duty training''.

(E) BENEFITS FOR MEMBERS OF THE COAST GUARD RESERVE.—Section 705(a) of such title 14 is amended by inserting ''on funeral honors duty,'' after ''on inactive-duty training,''.

(f) DEFINITIONS.—Section 101 of title 38, United States Code, is amended—(1) in paragraph (24), by striking ''and'' following ''aggravated in the line of duty,'' and inserting '', and any period of funeral honors duty during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty'' before the period; and

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

''(34) The term ''Funeral Honors Duty'' means—

''(A) duty prescribed for Reserves by the Secretary concerned under section 12503 of title 10 to prepare for or perform funeral honors functions at the funeral of a veteran;

'' (B) in the case of members of the Army National Guard or Air National Guard of any State, duty under section 115 of title 32 to prepare for or perform funeral honors functions at the funeral of a veteran; and

''(C) Authorized travel to and from such duty.''.

SEC. 515. FUNERAL HONORS DUTY PERFORMED BY MEMBERS OF THE NATIONAL GUARD.

Section 1491 (b) of title 10, United States Code, is amended by inserting after paragraph (2) the following new paragraph:

''(3) A member of the Army National Guard of the United States or Air National Guard of the United States who serves as a member of a funeral honors detail while serving in a duty status authorized under state law shall be considered to be a member of the armed forces for the purpose of fulfilling the two member funeral honors detail requirement in paragraph (2).''.

SEC. 516. STRENGTH AND GRADE CEILING ACCOUNTING FOR RESERVE COMPONENT MEMBERS ON ACTIVE DUTY IN SUPPORT OF A CONTINGENCY OPERATION.

(a) ACTIVE DUTY STRENGTH ACCOUNTING—Section 11 5(c) of title 10, United States Code is amended—

(1) in subparagraph (1), by striking ''and'' at the end of the subparagraph;

(2) in subparagraph (2), by striking the period and adding ''; and'' at the end of the subparagraph; and

(3) by adding the following new subparagraph:

''(3) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to the number of members of the reserve components on active duty under section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.''.

(b) INCREASE IN AUTHORIZED DAILY AVERAGE FOR MEMBERS IN PAY GRADES E–8 AND E–9 ON ACTIVE DUTY UNDER CERTAIN CIRCUMSTANCES.—Section 517 of such title 10 is amended at the end by adding the following new paragraph:

''(d) The Secretary of Defense may increase the authorized daily average number of enlisted members on active duty in an armed force in pay grades E–8 and E–9 in a fiscal year pursuant to subsection (a) by the number of enlisted members of a reserve component in that armed force in the pay grades of E–8 and E–9 on active duty under section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title,''.

(c) INCREASE IN AUTHORIZED STRENGTHS FOR COMMISSIONED OFFICERS IN PAY GRADES O–4, O–5 AND O–6 ON ACTIVE DUTY UNDER CERTAIN CIRCUMSTANCES.—Section 523 of such title 10 is amended——

(1) in paragraphs (a)(1) and (a)(2), by striking ''subsection (c)'' and inserting subsections (c) and (e)''; and

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

''(e) The Secretary of Defense may increase the authorized total number of commissioned officers serving on active duty at the end of any fiscal year pursuant to subsection (a) by the number of commissioned officers of a reserve component of the Army, Navy, Air Force, or Marine Corps on active duty under section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.''.

(d) INCREASE, IN AUTHORIZED STRENGTHS FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY UNDER CERTAIN CIRCUMSTANCES.—Section 526(a) of such title 10 is amended by——

(1) striking ''the'' the first time it appears;

(2) inserting ''(1) Except as provided in paragraph (2), the'' following ''Limitations.——'';

(3) redesignating paragraphs (1), (2), (3) and (4) as subparagraphs (A), (B), (C) and (D), respectively; and

(4) inserting after subparagraph (D) (as redesignated by section (d)(3)) the following new paragraph:

''(2) The Secretary of Defense may increase the number of general and flag officers on active duty pursuant to paragraph (1) by the number of reserve component general and flag officers on active duty under section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.''.

SEC. 517. RESERVE HEALTH PROFESSIONALS STIPEND PROGRAM EXPANSION.

(a) PURPOSE OF PROGRAM.—Section 16201(a) of title 10, United States Code, is amended to read as follows:

''(a) ESTABLISHMENT OF PROGRAM.—For the purposes of obtaining adequate numbers of

commissioned officers in the reserve components who are qualified in health professions, the Secretary of each military department may establish and maintain a program to provide financial assistance under this chapter to persons engaged in training that leads to a degree in medicine or dentistry, and to a health professions specialty critically needed in wartime. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in health care education and training in return for a commitment to subsequent service in the Ready Reserve.''

(b) MEDICAL AND DENTAL STUDENT STIPEND.—Section 16201 of such title 10 is amended by——

(1) redesignating subsections (b), (c), (d) and (e) as subsections (c), (d), (e) and (f);

(2) inserting the following new subsection:

''(b) MEDICAL AND DENTAL SCHOOL STUDENTS.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who——

''(A) is eligible to be appointed as an officer in a Reserve component;

''(B) is enrolled or has been accepted for enrollment in an institution in a course of study that results in a degree in medicine or dentistry;

''(C) signs an agreement that, unless sooner separated, the person will——

''(i) complete the educational phase of the program;

''(ii) accept a reappointment or redesignation within his reserve component, if tendered, based upon his health profession, following satisfactory completion of the educational and intern programs; and

''(iii) participate in a residency program; and

(D) if required by regulations prescribed by the Secretary of Defense, agrees to apply for, if eligible, and accept, if offered, residency training in a health profession skill which has been designated by the Secretary of Defense as a critically needed wartime skill.

''(2) Under the agreement——

''(A) the Secretary of the military department concerned shall agree to pay the participant a stipend, in the amount determined under subsection (f), for the period or the remainder of the period the student is satisfactorily progressing toward a degree in medicine or dentistry while enrolled in an accredited medical or dental school;

''(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as an officer for service in the Ready Reserve;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

''(D) the participant shall agree to serve, upon successful completion of the program, one year in the Selected Reserve for each six months, or part thereof, for which the stipend is provided. In the case of a participant who enters into a subsequent agreement under subsection (c) and successfully completes residency training in a specialty designated by the Secretary of Defense as a specialty critically needed by the military department in wartime, the requirement to serve in the Selected Reserve may be reduced to one year for each year, or part thereof, for which the stipend was provided while enrolled in medical or dental school.''

(c) WARTIME CRITICAL SKILLS.—Section 16201(c), (as redesignated by section (b)), is amended——

(1) by inserting ''WARTIME'' following ''CRITICAL'' in the heading; and

(2) in paragraph (1)(B) by inserting ''or has been appointed as a medical or dental officer in the Reserve of the armed force concerned'' before the semicolon at the end of the paragraph.

(d) SERVICE OBLIGATION REQUIREMENT.—Subparagraph (2)(D) of subsection (c), (as redesignated by section (b)), and subparagraph (2)(D) of subsection (d), (as redesignated by section (b)), are amended by striking ''two years in the Ready Reserve for each year,'' and inserting ''one year in the Ready Reserve for each six months,''.

(e) CLERICAL AMENDMENTS.—Subparagraphs (2)(A) of subsection (c), (as redesignated by section (b)), and subparagraph (2)(A) of subsection (d), (as redesignated by section (b)), are amended by striking ''subsection (e)'' and inserting ''subsection (f)''.

SEC. 518. RESERVE OFFICERS ON ACTIVE DUTY FOR A PERIOD OF THREE YEARS OR LESS.

(a) CLARIFICATION OF EXEMPTION.—Section 641(l)(D) of title 10, United States Code, is amended to read as follows:

''(D) on active duty under section 12301(d) of this title, other than as provided under subparagraph (C), provided the call or order to active duty, as prescribed in regulations of the Secretary concerned, specifies a period of three years or less and continued placement on the reserve active-status list;''.

(b) RETROACTIVE APPLICATION.—(1) Officers who were placed on the reserve active status list under section 641(1)(D), as amended by section 521 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654A–108), may be considered, as determined by the Secretary concerned, to have been on the active-duty list during the period beginning on the date of enactment of Public Law 106–398 through the date of enactment of this Act.

(2) Officers who were placed on the active duty list on or after October 30, 1997, may, at the discretion of the Secretary concerned, be placed on the reserve active-status list upon enactment of this Act, provided they otherwise meet the conditions specified in section 641(1)(D) as amended by this Act.

SEC. 519. ACTIVE DUTY END STRENGTH EXEMPTION FOR NATIONAL GUARD AND RESERVE PERSONNEL PERFORMING FUNERAL HONORS FUNCTIONS.

Section 115(d) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

''(10) Members of reserve components on active duty to prepare for and to perform funeral honors functions for funerals of veterans in accordance with section 1491 of this title.

''(11) Members on full-time National Guard duty to prepare for and to perform funeral honors functions for funerals of veterans in accordance with section 1491 of this title.''.

SEC. 520. CLARIFICATION OF FUNCTIONS THAT MAY BE ASSIGNED TO ACTIVE GUARD AND RESERVE PERSONNEL ON FULL-TIME NATIONAL GUARD DUTY.

Section 12310(b) of title 10, United States Code, is amended by inserting '', or a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32 in connection with functions referred to in subsection (a),'' after ''on active duty as described in subsection (a)''.

SEC. 521. AUTHORITY FOR TEMPORARY WAIVER OF THE REQUIREMENT FOR A BACCALAUREATE DEGREE FOR PROMOTION OF CERTAIN RESERVE OFFICERS OF THE ARMY.

Section 516 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1920, 2008) is amended——

(1) in subsection (a), by striking ''(a) WAIVER AUTHORITY FOR ARMY OCS GRADUATES.—'' and ''before the date of the enactment of this Act''; and

(2) in subsection (b), by striking ''2000'' and inserting ''2003''.

SEC. 522. AUTHORITY OF THE PRESIDENT TO SUSPEND CERTAIN LAWS RELATING TO PROMOTION, RETIREMENT AND SEPARATION; DUTIES.

Section 12305 of title 10, United States Code, is amended by adding at the end the following new subsection (c):

''(c) Active duty members whose mandatory separations or retirements incident to section 1251 or sections 632–637 of this title are delayed pursuant to invocation of this section, will be afforded up to 90 days following termination of the suspension before being separated of retired.''.

Subtitle C—Education and Training

SEC.531. AUTHORITY FOR THE MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF STRATEGIC STUDIES.

(a) AUTHORITY TO CONFER DEGREE.—Upon the recommendation of the Director and faculty of the Marine Corps War College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of strategic studies upon graduates of the college who fulfill the requirements for the degree.

(b) REGULATION.—The Secretary of the Navy shall promulgate regulations under which the Director of the faculty of the Marine Corps War College of the Marine Corps University shall administer the authority in subsection (a).

(e) EFFECTIVE DATE.—The authority to award degrees provided by subsection (a) shall become effective on the date on which the Secretary of Education determines that the requirements established by the Marine Corps War College of the Marine Corps University for the degree of master of strategic studies are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 532. RESERVE COMPONENT DISTRIBUTED LEARNING.

(a) COMPENSATION FOR DISTRIBUTED LEARNING.—Section 206(d) of title 37, United States Code, is amended to read as follows:

''(d) A member of a Reserve Component may be paid compensation under this section for the successful completion of courses of instruction undertaken by electronic, paper-based, or other distributed learning. Distributed Leaming is structured leaming that takes place without 55 requiring the physical presence of an instructor. To be compensable, the instruction must be required by law, Department of Defense policy, or service regulation and may be accomplished either independently or as part of a group.''.

(b) DEFINITION OF INACTIVE-DUTY TRAINING.—Section 101(22) of title 37, United States Code, is amended by striking '', but does not include work or study in connection with a correspondence course of a uniformed service''.

SEC. 533. REPEAL OF LIMITATION ON NUMBER OF JUNIOR RESERVE OFFICERS' TRAINING CORPS (JROTC) UNITS.

Section 2031(a)(1) of title 10, United States Code, is amended by striking the second sentence.

SEC. 534. MODIFICATION OF THE NURSE OFFICER CANDIDATE ACCESSION PROGRAM RESTRICTION ON STUDENTS ATTENDING CIVILIAN EDUCATIONAL INSTITUTIONS WITH SENIOR RESERVE OFFICERS' TRAINING PROGRAMS.

Section 2130a of title 10, United States Code, is amended—

(1) in paragraph (a)(2), by striking ''that does not have a Senior Reserve Officers'' Training Program established under section 2102 of this title;'' and

(2) in paragraph (b)(1), by adding at the end ''or that has a Senior Reserve Officers'' Training Program for which the student is ineligible.''.

SEC. 535. DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER.

(a) Subject to subsection (b), the Commandant of the Defense Language Institute Foreign Language Center (Institute) may confer an Associate of Arts degree in Foreign Language upon graduates of the Institute who fulfill the requirements for the degree.

(b) No degree may be conferred upon any student under this section unless the Provost certifies to the Commandant of the Institute that the student has satisfied all the requirements prescribed for such degree.

(c) The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of Defense.

Subtitle D—Decorations, Awards, and Commendations

SEC. 541. AUTHORITY FOR AWARD OF THE MEDAL OF HONOR TO HUMBERT R. VERSACE FOR VALOR DURING THE VIETNAM WAR.

(a) WAIVER OF TIME LIMITATIONS.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the military service, the President may award the Medal of Honor under section 3741 of that title to Humbert R. Versace for the acts of valor referred to in subsection (b).

(b) ACTION DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of Humbert R. Versace between October 29, 1963, and September 26, 1965, while interned as a prisoner of war by the Vietnamese Communist National Liberation Front (Viet Cong) in the Republic of Vietnam.

SEC. 542. ISSUANCE OF DUPLICATE MEDAL OF HONOR.

(a) Section 3747 of title 10, United States Code, is amended—

(1) in the section heading, by adding at the end''; issuance of duplicate medal of honor'';

(2) by striking ''Any medal of honor'' and inserting ''(a) REPLACEMENT OF MEDALS.—Any medal of honor'';

(3) by inserting ''stolen,'' before ''lost or destroyed,''; and

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

''(b) ISSUANCE OF DUPLICATE MEDAL OF HONOR.—Upon written application by a person to whom a medal of honor has been awarded under this chapter, the Secretary of the Army may issue such person, without charge, one duplicate medal of honor, with ribbons and appurtenances. Such duplicate shall be marked, in a manner the Secretary may determine, as a duplicate or for display purposes only. The issuance of a duplicate medal of honor under the authority of this subsection shall not constitute the award of more than one medal of honor within the meaning of section 3744(a) of this title.''.

(b) Section 6253 of such title is amended—

(1) in the section heading, by adding at the end ''; issuance of duplicate medal of honor'';

(2) by striking ''The Secretary of the Navy may replace'' and inserting ''(a) REPLACEMENT OF MEDALS.—The Secretary of the Navy may replace'';

(3) by inserting ''stolen,'' before ''lost or destroyed''; and

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

''(b) ISSUANCE OF DUPLICATE MEDAL OF HONOR.—Upon written application by a person to whom a medal of honor has been awarded under this chapter, the Secretary of the Navy may issue such person, without charge, one duplicate medal of honor, with ribbons and appurtenances. Such duplicate shall be marked, in a manner the Secretary may determine, as a duplicate or for display purposes only. The issuance of a duplicate medal of honor under the authority of this subsection shall not constitute the award of more than one medal of honor within the meaning of section 6247 of this title.''.

(c) Section 8747 of such title is amended—

(1) in the section heading, by adding at the end''; issuance of duplicate medal of honor'';

(2) by striking ''Any medal of honor'' and inserting ''(a) REPLACEMENT OF MEDALS.—Any medal of honor'';

(3) by inserting ''stolen,'' before ''lost or destroyed,''; and

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

''(b) ISSUANCE OF DUPLICATE MEDAL OF HONOR.—Upon written application by a person to whom a medal of honor has been awarded under this chapter, the Secretary of the Air Force may issue such person, without charge, one duplicate medal of honor, with ribbons and appurtenances. Such duplicate shall be marked, in a manner the Secretary may determine, as a duplicate or for display purposes only. The issuance of a duplicate medal of honor under the authority of this subsection shall not constitute the award of more than one medal of honor within the meaning of section 8744(a) of this title.''.

(d) CLERICAL AMENDMENTS.—(1) The item relating to section 3747 of such title in the table of sections at the beginning of chapter 357 of such title is amended to read as follows:

''3747. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: replacement; issuance of duplicate medal of honor.'';

(2) The item relating to section 6253 of such title in the table of sections at the beginning of chapter 567 of such title is amended to read as follows:

''6253. Replacement; issuance of duplicate medal of honor.''; and

(3) The item relating to section 8747 of such title in the table of sections at the beginning of chapter 857 of such title is amended to read as follows:

''8747. Medal of honor; Air Force cross; distinguished-service cross; distinguished-service medal; silver star: replacement; issuance of duplicate medal of honor.''.

SEC. 543. REPEAL OF LIMITATION ON AWARD OF BRONZE STAR TO MEMBERS IN RECEIPT OF SPECIAL PAY.

Section 1133 of title 10, United States Code, is repealed.

Subtitle E—Uniform Code of Military Justice

SEC. 551. REVISION OF PUNITIVE UCMJ ARTICLE REGARDING DRUNKEN OPERATION OF VEHICLE, AIRCRAFT, OR VESSEL.

(a) STANDARD FOR DRUNKEN OPERATION OF VEHICLE, AIRCRAFT, OR VESSEL.—Paragraph (2) of section 911 of title 10, United States Code (article III of the Uniform Code of Military Justice), is amended by striking ''0.10 grams or more of alcohol'' and inserting ''0.08 grams or more of alcohol'' both places such term appears.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to offenses committed on or after that date.

TITLE V1—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2002.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2002 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2002, the rates of monthly basic pay for members of the uniformed services shall be as follows:

MONTHLY BASIC PAY*,**,***

PAY GRADE	YEARS OF SERVICE (COMPUTED UNDER 37 U.S.C. 205)														
	<2	2	3	4	6	8	10	12	14	16	18	20	22	24	26
COMMISSIONED OFFICERS															
0–10	0	0	0	0	0	0	0	0	0	0	0	11601.90	11659.20	11901.30	12324.00
0–9	0	0	0	0	0	0	0	0	0	0	0	10147.50	10293.60	10504.80	10873.80
0–8	7180.20	7415.40	7571.10	7614.90	7809.30	8135.10	8210.70	8519.70	8608.50	8874.30	9259.50	9614.70	9852.00	9852.00	9852.00
0–7	5966.40	6371.70	6371.70	6418.20	6657.90	6840.30	7051.20	7261.80	7472.70	8135.10	8694.90	8694.90	8694.90	8694.90	8738.70
0–6	4422.00	4857.90	5176.80	5176.80	5196.60	5418.90	5448.60	5448.60	5628.60	6305.70	6627.00	6948.30	7131.00	7316.10	7675.20
0–5	3537.00	4152.60	4440.30	4494.30	4673.10	4673.10	4813.50	5073.30	5413.50	5755.80	5919.00	6079.80	6262.80	6262.80	6262.80
0–4	3023.70	3681.90	3927.60	3982.50	4210.50	4395.90	4696.20	4930.20	5092.50	5255.70	5310.60	5310.60	5310.60	5310.60	5310.60
0–3	2796.60	3170.40	3421.80	3698.70	3875.70	4070.10	4232.40	4441.20	4549.50	4549.50	4549.50	4549.50	4549.50	4549.50	4549.50
0–2	2416.20	2751.90	3169.50	3276.30	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10
0–1	2097.60	2183.10	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50
COMMISSIONED OFFICERS WITH OVER 4 YEARS ACTIVE DUTY SERVICE															
	<2	2	3	4	6	8	10	12	14	16	18	20	22	24	26
AS AN ENLISTED MEMBER OR WARRANT OFFICER															
0–3E	0.00	0.00	0.00	3698.70	3875.70	4070.10	4232.40	4441.20	4617.00	4717.50	4855.20	4855.20	4855.20	4855.20	4855.20
0–2E	0.00	0.00	0.00	3276.30	3344.10	3450.30	3630.00	3768.90	3872.40	3872.40	3872.40	3872.40	3872.40	3872.40	3872.40
0–IE	0.00	0.00	0.00	2638.50	2818.20	2922.30	3028.50	3133.20	3276.30	3276.30	3276.30	3276.30	3276.30	3276.30	3276.30
WARRANT OFFICERS															
	<2	2	3	4	6	8	10	12	14	16	18	20	22	24	26
W–5	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4965.60	5136.00	5307.00	5478.60
W–4	2889.60	3108.60	3198.00	3285.90	3437.10	3586.50	3737.70	3885.30	4038.00	4184.40	4334.40	4480.80	4632.60	4782.00	4935.30
W–3	2638.80	2862.00	2862.00	2898.90	3017.40	3152.40	3330.90	3439.50	3558.30	3693.90	3828.60	3963.60	4098.30	4233.30	4368.90
W–2	2321.40	2454.00	2569.80	2654.10	2726.40	2875.20	2984.40	3093.90	3200.40	3318.00	3438.90	3559.80	3680.10	3801.30	3801.30
W–1	2049.90	2217.60	2330.10	2402.70	2511.90	2624.70	2737.80	2850.00	2963.70	3077.10	3189.90	3275.10	3275.10	3275.10	3275.10
ENLISTED MEMBERS															
	<2	2	3	4	6	8	10	12	14	16	18	20	22	24	26
E–9	0.00	0.00	0.00	0.00	0.00	0.00	3423.90	3501.30	3599.40	3714.60	3830.40	3944.10	4098.30	4251.30	4467.00
E–8	0.00	0.00	0.00	0.00	0.00	2858.10	2940.60	3017.70	3110.10	3210.30	3314.70	3420.30	3573.00	3724.80	3937.80
E–7	1986.90	2169.00	2251.50	2332.50	2417.40	2562.90	2645.10	2726.40	2808.00	2892.60	2975.10	3057.30	3200.40	3292.80	3526.80
E–6	1701.00	1870,80	1953.60	2033.70	2117.40	2254.50	2337.30	2417.40	2499.30	2558.10	2602.80	2602.80	2602.80	2602.80	2602.80
E–5	1561.50	1665,30	1745.70	1828.50	1912.80	2030.10	2110.20	12193.30	2193.30	2193.30	2193.30	2193.30	2193.30	2193.30	2193.30
E–4	1443.60	1517.70	1599.60	1680.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30
E–3	1303.50	1385.40	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50
E–2	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30
E–1 >4+	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50
E–1 <4++	1022.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

*Basic pay for 0–7 to 0–10 is limited to the rate of basic pay for level III of the Executive Schedule. Basic pay for 0–6 and below is limited to level V of the Executive Schedule.

**While serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, basic pay for this grade is $13,598. 10, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

***While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $5,382.90, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

+Applies to personnel who have served 4 months or more on active duty.

++Applies to personnel who have served less than 4 months on active duty.

SEC. 602. PARTIAL DISLOCATION ALLOWANCE AUTHORIZED UNDER CERTAIN CIRCUMSTANCES.

(a) AUTHORIZATION OF PARTIAL DISLOCATION ALLOWANCE.—Section 407 of title 37, United States Code is amended——

(1) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(2) in subsections (a)(1) and (b)(1), by striking ''subsection (c)'' and inserting ''subsection (d)'';

(3) by inserting after subsection (b) the following new subsection:

''(c) PARTIAL DISLOCATION ALLOWANCE.—(1) Under regulations prescribed by the Secretary concerned, a member ordered to occupy or to vacate Government family housing for the convenience of the Government (including pursuant to the privatization or renovation of housing), and not pursuant to a permanent change of station, may be paid a partial dislocation allowance of $500.

''(2) Effective on the same date that the monthly rates of basic pay for members are increased for a subsequent calendar year, the Secretary of Defense shall adjust the rate for the partial dislocation allowance for that calendar year by the percentage equal to the percentage increase in the rate of basic pay for that calendar year.

''(3) Payments made under this subsection are not subject to the fiscal year limitations in subsection (e).''; and

(4) in subsection (d)(1) as redesignated by paragraph (1), by striking at the beginning ''The amount'' and inserting ''Except as provided in subsection (c), the amount''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2001.

SEC. 603. FUNERAL HONORS DUTY ALLOWANCE FOR RETIREES.

Section 435 of title 37, United States Code, is amended——

(1) in subsection (a), by inserting before the period at the end ''or a retired member of the armed forces who performs at least two hours of duty preparing for or performing honors at the funeral of a veteran''; and

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

''(d) CONCURRENT PAYMENT.—Notwithstanding any other provision of law, the allowance paid to a retired member of the armed forces under subsection (a) shall be in addition to any other compensation authorized under title 10, title 37, and title 38 to which the retired member may be entitled.''.

SEC. 604. BASIC PAY RATE FOR CERTAIN RESERVE COMMISSIONED OFFICERS WITH PRIOR SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER.

Section 203(d) of title 37, United States Code, is amended by inserting '', or who earns a total of more than 1,460 points credited under section 12732(a)(2) of title 10 while serving as a warrant officer or as a warrant officer and enlisted member'' following ''or as a warrant officer and enlisted member''.

SEC. 605. FAMILY SEPARATION ALLOWANCE.

Section 427(c) of title 37, United States Code, is amended by amending the first sentence to read as follows:

''A member who elects to serve an unaccompanied tour of duty because dependent movement to the permanent station is denied for certified medical reasons is entitled to an allowance under subsection (a)(1)(A). In all other cases, a member who elects to serve a tour unaccompanied by his dependents at a permanent station to which movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under subsection (a)(1)(A).''.

SEC. 606. HOUSING ALLOWANCE FOR THE CHAPLAIN FOR THE CORPS OF CADETS, UNITED STATES MILITARY ACADEMY.

Section 4337 of title 10, United States Code, is amended by striking the second sentence and inserting ''Notwithstanding any other provision of law, the chaplain is entitled to the same basic allowance for housing allowed to a lieutenant colonel, and to fuel and light for quarters in kind.''.

SEC. 607. CLARIFYING AMENDMENT THAT SPACE-REQUIRED TRAVEL FOR ANNUAL TRAINING RESERVE DUTY DOES NOT OBVIATE TRANSPORTATION ALLOWANCES.

Section 18505(a) of title 10, United States Code, is amended by striking ''annual training duty or'' each time such term appears.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. AUTHORIZE THE SECRETARY OF THE NAVY TO PRESCRIBE SUBMARINE DUTY INCENTIVE PAY RATES.

(a) IN GENERAL.—Section 301c of title 37, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) A member who meets the requirements prescribed in subsection (a) is entitled to monthly submarine duty incentive pay in an amount prescribed by the Secretary of the Navy, but not more than $1,000 per month.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 612. EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking ''December 31, 2001'' and inserting ''September 30, 2003''.

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title 37 is amended by striking ''December 31, 2001'' and inserting ''September 30, 2003''.

(c) ENLISTMENT BONUS.—Section 309(e) of such title 37 is amended by striking ''December 31, 2001'' and inserting ''September 30, 2003''.

(d) RETENTION BONUS FOR MEMBERS QUALIFIED IN A CRITICAL MILITARY SKILL.—Section 323(i) of such title 37 is amended by striking ''December 31, 2001'' and inserting ''September 30, 2003''.

SEC. 613. EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, NURSE ANESTHETISTS, AND DENTAL OFFICERS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking ''December 31, 2001'' and inserting ''September 30, 2003''.

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking ''December 31, 2001'' and inserting ''September 30, 2003''.

(C) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title 37 is amended by striking ''December 31, 2001'' and inserting ''September 30, 2003''.

(d) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title 37 is amended by striking ''September 30, 2002'' and inserting ''September 30, 2003''.

SEC. 614. EXTENSION OF AUTHORITIES RELATING TO NUCLEAR OFFICER SPECIAL PAYS.

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking ''December 31, 2001'' and inserting ''December 31, 2003''.

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title 37 is amended by striking ''December 31, 2001'' and inserting ''December 31, 2003''.

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title 37 is amended by striking ''December 31, 2001'' and inserting ''December 31, 2003''.

SEC. 615. EXTENSION OF SPECIAL AND INCENTIVE PAYS.

(a) SPECIAL PAY FOR RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of title 37, United States Code, is amended by striking ''December 31, 2001'' and inserting ''December 31, 2002''.

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of such title is amended by striking ''December 31, 2001'' and inserting ''December 31, 2002''.

(C) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of such title is amended by striking ''December 31, 2001'' and inserting ''December 31, 2002''.

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking ''December 31, 2001'' and inserting ''December 31, 2002''.

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of such title is amended by striking ''December 31, 2001'' and inserting ''December 31, 2002''.

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section of 308h(g) of such title is amended by striking ''December 31, 2001'' and inserting ''December 31, 2002''.

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of such title is amended by striking ''December 31, 2001'' and inserting ''December 31, 2002''.

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking ''January 1, 2002'' and inserting ''January 1, 2003''.

SEC. 616. ACCESSION BONUS FOR OFFICERS IN CRITICAL SKILLS.

(a) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by inserting after section 323 the following new section:

''§ 324. Special Pay: officer critical skills accession bonus

''(a) ACCESSION BONUS AUTHORIZED.—Under regulations prescribed by the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operated as a service in the Navy, and subject to the limitations in subsection (b), an individual who executes a written agreement to accept a commission as an officer of an armed force and serve on active duty in an officer critical skill for the period specified in the agreement may be paid an accession bonus not to exceed $20,000 upon acceptance of the written agreement by the Secretary concerned.

''(b) LIMITATION ON ELIGIBILITY FOR BONUS.—An individual may not be paid a bonus under subsection (a) if the individual has received, or is receiving, an accession bonus for the same period of service under subsections 302d, 302h, or 312b.

''(C) PRORATION.—The term of an agreement and the amount of the payment under subsection (a) may be prorated.

''(d) PAYMENT METHOD.—Upon acceptance of the written agreement by the Secretary concerned, the total amount payable pursuant to the agreement under subsection (a) becomes fixed and may be paid by the Secretary in either a lump sum or installments.

''(e) REPAYMENT.—(1) If an individual who has entered into an agreement under subsection (a) has received all or part of a bonus under this section fails to accept an appointment or to commence or complete the total period of active duty in the designated critical skill specified in the agreement, the Secretary concerned may require the individual to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, any or all sums paid to the individual under this section.

''(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

''(3) A discharge in bankruptcy under title II that is entered less than five years after the termination of a written agreement entered into. under subsection (a) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

''(f) DEFINITION.—In this section, the term ''officer critical skill'' means a skill designated as critical with respect to accession of officers to the skill by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

''(g) TERMINATION OF BONUS AUTHORITY.—No bonus may be paid under this section with respect to any agreement to continue on active duty in the armed forces entered into after September 30, 2003, and no agreement under this section may be entered into after that date.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title 37 is amended by inserting after the item relating to section 323 the following new item:

''324. Special Pay: officer critical skills accession bonus.''

SEC. 617. CRITICAL WARTIME SKILL REQUIREMENT FOR ELIGIBILITY FOR THE INDIVIDUAL READY RESERVE BONUS.

Section 308h(a)(1) of title 37, United States Code, is amended—

(1) by striking ''a combat or combat support skill of''; and

(2) by inserting ''is qualified in a skill or specialty designated by the Secretary concerned as critically short to meet wartime requirements and'' after ''and who''.

SEC. 618. HAZARDOUS DUTY INCENTIVE PAY: MARITIME BOARD AND SEARCH.

Section 301(a) of title 37, United States Code, is amended by inserting after paragraph (11) the following new paragraph:

''(12) involving regular participation as a member of a team conducting visit, board, search, and seizure operations as defined by the Secretary concerned, aboard vessels in support of maritime interdiction operations as designated by such Secretary.

Subtitle C—Travel and Transportation Allowances

SEC. 621. FUNDED STUDENT TRAVEL: EXCHANGE PROGRAMS.

Section 430 of title 37, United States Code, is amended—

(1) in subsection (a)(3), by inserting ''(or a school outside the United States if the dependent is attending that school for less than one year under a program approved by the school in the continental United States at which the dependent is enrolled)'' after ''United States''; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''(or a school outside the United States if the dependent is attending that school for less than one year under a program approved by the school in the continental United States at which the dependent is enrolled)'' after ''United States'' the first place it appears; and

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

''(3) The transportation allowance under paragraph (1) for a dependent child who is attending a school outside the United States for less than one year under a program approved by the school in the continental United States at which the dependent is enrolled shall not exceed the allowance the member would be paid for a trip between the school in the continental United States and the member's duty station outside the continental United States and return.''.

SEC. 622. PAYMENT OF VEHICLE STORAGE COSTS IN ADVANCE.

Section 2634(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(4) Storage costs payable under this subsection may be paid in advance.''.

SEC. 623. TRAVEL AND TRANSPORTATION ALLOWANCES FOR FAMILY MEMBERS TO ATTEND THE BURIAL OF A DECEASED MEMBER OF THE ARMED FORCES.

(a) CONSOLIDATION OF AUTHORITIES.—Section 411f of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''ALLOWANCES AUTHORIZED.—(1)'' after ''(a)''; and

(B) by inserting at the end following new paragraph:

''(2) If a dependent of a deceased member who is authorized travel and transportation allowances under this section is unable to travel unattended to the burial ceremonies of the deceased member—

''(A) because of—

''(i) age;

''(ii) physical condition; or

''(iii) other justifiable reason, as determined under uniform regulations prescribed by the Secretaries concerned; and

''(B) there is no other dependent qualified for travel and transportation allowances under this section available and qualified to serve as an attendant for the dependent while traveling to and attending the burial ceremonies, an attendant may be paid roundtrip travel and transportation allowances under this section.'';

(2) in subsection (b)(1)—

(A) by striking ''(b)(1) Except as provided in paragraph (2)'' and inserting

''(b) LIMITATION ON ALLOWANCES.—(1) Except as provided in paragraphs (2) and (3)''; and

(B) by inserting before the period at the end, the following: ''and the time necessary for such travel''; and

(3) in subsection (b)(2), by striking ''be extended to accommodate'' and inserting ''not exceed the rates for 2 days and'';

(4) by adding at the end of subsection (b) the following new paragraph:

''(3) If a deceased member is interred in a cemetery maintained by the American Battle Monuments Commission, the allowances authorized under this section may be provided to and from such cemetery and may not exceed the rates for 2 days and time necessary for such travel.''; and

(5) by amending subsection (c) to read as follows:

''(c) DEFINITIONS.—(1) In this section, the term ''dependents'' means—

''(A) the surviving spouse (including a remarried surviving spouse) of the deceased member and any child of the deceased member as defined in section 401(a)(2);

''(B) if no person described in subparagraph (A) is paid travel and transportation allowances under this section, the parents (as defined in section 401(b)(2)) of the deceased member; or

''(C) if no person described in subparagraphs (A) or (B) is paid travel and transportation allowances under this section, then—

''(i) the person who directs the disposition of the remains of the deceased member under section 1482(c) of 74 title 10, United States Code, and two additional persons selected by that person who are closely related to the deceased member; or

''(ii) in the case of a deceased member whose remains are commingled and buried in a common grave in a national cemetery, the person who would have been designated under section 1482(c) of such title to direct the disposition of the remains if individual identification had been made and two additional persons selected by that person who are closely related to the deceased member.

''(2) In this section, the term ''burial ceremonies'' includes—

''(A) an interment of casketed or cremated remains;

''(B) a placement of cremated remains in a columbarium;

''(C) a memorial service for which reimbursement is authorized under section 1482(e)(2) of title 10; and

''(D) a burial of commingled remains that cannot be individually identified in a common grave in a national cemetery.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1482 of title 10, United States Code, is amended by striking subsection (d) and redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) The Funeral Transportation and Living Expense Benefits Act of 1974 (37 U.S.C. 406 note; Public Law 93–257) is repealed.

SEC. 624. SHIPMENT OF PRIVATELY OWNED VEHICLES WHEN EXECUTING CONUS PERMANENT CHANGE OF STATION MOVES.

Section 2634(h)(1) of title 10, United States Code, is amended by inserting before the period at the end '', or when the Secretary concerned determines that the transport of a vehicle upon transfer is advantageous and cost-effective to the government''.

Subtitle D—Other

SEC. 631. MONTGOMERY GI BILL—SELECTED RESERVE ELIGIBILITY PERIOD.

Section 16133(a) of title 10, United States Code, is amended by striking '' 10-year'' and inserting ''14-year''.

SEC. 632. IMPROVED DISABILITY BENEFITS FOR CERTAIN RESERVE COMPONENT MEMBERS.

(a) MEDICAL AND DENTAL CARE FOR MEMBERS.—Section 1074a(a)(3) of title 10, United States Code, is amended by inserting before the period: '', or if otherwise authorized under applicable regulations''.

(b) MEDICAL AND DENTAL CARE FOR DEPENDENTS.—Section 1076(a)(2)(C) of such title 10 is amended by inserting before the period: '', or if otherwise authorized under applicable regulations''.

(c) ELIGILITY FOR DISABILITY RETIREMENT OR SEPARATION.—(1) Section 1204(2)(B)(iii) of such title 10 is amended by inserting before the semicolon: '', or if otherwise authorized under applicable regulations''.

(2) Section 1206(2)(C) of such title 10 is amended by inserting before the semicolon: '', or if otherwise authorized under applicable regulations''.

(d) RECOVERY, CARE, AND DISPOSITION OF REMAINS.—Section 1481(a)(2)(D) of such title 10 is amended by inserting before the semicolon: '', or if otherwise authorized under applicable regulations''.

(e) ENTITLEMENT TO BASIC PAY.—(1) Section 204(g)(1)(D) of title 37, United States Code, is amended by inserting before the period: '', or if otherwise authorized under applicable regulations''.

(2) Section 204(h)(1)(D) of title such 37 is amended by inserting before the period: '', or if otherwise authorized under applicable regulations''.

(f) COMPENSATION FOR INACTIVE-DUTY TRAINING.—Section 206(a)(3)(C) of such title 37 is amended by inserting before the period: '', or if otherwise authorized under applicable regulations''.

SEC. 633. ACCEPTANCE OF SCHOLARSHIPS BY OFFICERS PARTICIPATING IN THE FUNDED LEGAL EDUCATION PROGRAM.

(a) ACCEPTANCE OF SCHOLARSHIP.—Section 2004 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(g) An officer detailed at a law school under this section also may accept a fellowship, scholarship, or grant under section 2603 of this title. Any service obligation incurred under section 2603 shall be served consecutively with the service obligation incurred under subsection (b)(2)(C).''.

(b) CONFORMING AMENDMENT.—Section 2603 of such title 10 is amended by adding at the end the following new subsection:

''(c) A member who accepts a fellowship, scholarship, or grant in accordance with subsection (a) also may be detailed at a law school under section 2004 of this title. Any service obligation incurred under section 2004 shall be served consecutively with the service obligation incurred under subsection (b).''.

TITLE VII—ACQUISITION POLICY AND ACQUISITION MANAGEMENT

Subtitle A—Acquisition Policy

SEC. 701. ACQUISITION MILESTONE CHANGES.

(a) SYSTEM DEVELOPMENT AND DEMONSTRATION.—Section 2366(c) of title 10, United States Code, is amended—

(1) in paragraph (1) by striking ''engineering and manufacturing development'' and inserting ''system development and demonstration''; and

(2) in paragraph (2) by striking ''engineering and manufacturing development'' and inserting ''system development and demonstration''.

(b) MILESTONE B.—Section 2400 of title 10, United States Code, is amended—

(1) in subsections (a)(1)(A), (a)(2), (a)(4) and (a)(5), by striking ''milestone II'' each place it appears and inserting ''milestone B.''.

(2) in subsection (a)(2), by striking ''engineering and manufacturing development'' and inserting ''system development and demonstration.''.

(c) SYSTEM DEVELOPMENT AND DEMONSTRATION.—Section 2432 of title 10, United States Code, is amended in subsections (b)(3)(A), (c)(3)(A) and (h)(1), by striking ''engineering and manufacturing development'' each place it appears and inserting ''system development and demonstration.''.

(d) Section 2434 of title 10, United States Code, is amended in subsection (a), by striking ''engineering and manufacturing development'' and inserting ''system development and demonstration.''.

(e) SYSTEM DEVELOPMENT AND DEMONSTRATION AND FULL RATE PRODUCTION.—Section 2435 of Title 10, United States Code, is amended—

(1) in subsection (b) by striking ''engineering and manufacturing development'' and inserting ''system development and demonstration.''

(2) in subsection (c)(1), by striking ''demonstration and validation'' and inserting ''system development and demonstration.''

(3) in subsection (c)(2) by striking ''engineering and manufacturing development'' and inserting ''production and deployment.''

(4) in subsection (c)(3) by striking ''production and deployment '' and inserting ''full rate production.''—

(f) MILESTONE DESIGNATORS.—Section 8102(b) of Public Law 106–259 is amended—

(1) by striking ''milestone I'' and inserting ''milestone B.''

(2) by striking ''milestone II'' and inserting ''milestone C.''

(3) by striking ''milestone III'' and inserting ''full rate production.''.

(g) MILESTONE DESIGNATORS.—Section 81*l*(c) of Public Law 106–398, is amended—

(1) by striking ''Milestone I'' and inserting ''Milestone B.''

(2) by striking ''Milestone II'' and inserting ''Milestone C.''

(3) by striking ''Milestone III'' and inserting ''full rate production''.

SEC. 702. CLARIFICATION OF INAPPLICABILITY OF THE REQUIREMENT FOR CORE LOGISTICS CAPABILITIES STANDARDS TO THE NUCLEAR REFUELING OF AN AIRCRAFT CARRIER.

Section 2464(a)(3) of title 10, United States Code, is amended—

(1) by striking ''nuclear aircraft carriers,''; and

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

''Core logistics capabilities identified under paragraphs (1) and (2) shall not include nuclear refueling of an aircraft carrier.''.

SEC. 703. DEPOT MAINTENANCE UTILIZATION WAIVER.

Section 2466(c) of title 10, United States Code, is amended by striking ''the waiver is'' and inserting ''a depot is fully utilized within existing resources and, where multiple depots are capable of performing the same maintenance activities that the utilization of another such depot is uneconomical, or that the waiver is otherwise''.

Subtitle B—Acquisition Workforce

SEC. 705. ACQUISITION WORKFORCE QUALIFICATIONS.

(a) AMENDMENTS TO AUTHORITY.—Section 1724 of title 10, United States Code, is Amnended—

(1) in subsection (a)—

(A) by striking ''(a) CONTRACTING OFFICERS.—The Secretary of Defense shall require that in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 2304(g) of this title, a person must (except as provided in subsections (e) and (d))—'' and inserting ''(a) CONTRACTING OFFICERS.—The Secretary of Defense shall require that, with the exception of the Contingency Contracting Force identified in paragraph (c), in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 2304(g) of this title, a person must (except as provided in subsections (e) and (f))—''; and

(B) in paragraph (3)(A), by inserting a comma between ''business'' and ''finance'';

(2) by striking subsections (c) and (d); and

(3) by inserting after subsection (b) the following new subsections:

''(c) CONTINGENCY CONTRACTING FORCE.—(1) Notwithstanding subsections (a) and (b), the Secretary of Defense may establish a Contingency Contracting Force consisting of employees and members of the armed forces whose mission, as determined by the Secretary, is to deploy in support of contingency operations and other Department of Defense operations.

''(2) The Secretary of Defense shall establish qualification requirements for such Contingency Contracting Force, to include—

''(A) completion of at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education, or similar educational institution as determined by the Secretary, in any of the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management;

''(B) passing an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study in any of the disciplines listed in subparagraph (A); or

''(C) any combination of (A) and (B) equaling 24 semester hours or the equivalent as determined by the Secretary; and

''(D) such additional education and experience requirements as the Secretary may prescribe.

''(d) DEVELOPNENTAL OPPORTUNITIES.—Not withstanding other provisions of law, the Secretary of Defense may establish one or more programs for the purpose of recruiting, selecting, appointing, educating, qualifing, and developing the careers of personnel to meet the requirements in subparagraphs (A) and (B) of subsection (a)(3) above for contracting positions in the Department of Defense covered by this section; may appoint individuals to developmental positions in those programs; and may separate from the civil service any person appointed under this subsection who, as determined by the Secretary, fails to complete satisfactorily any program developed pursuant to this subsection. To qualify for any developmental program under this subsection, an individual must have met one of the following requirements:

''(1) Been awarded a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees.

''(2) Completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the disciplines of accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management.

''(e) EXCEPTION.—(1) The requirements imposed under subsection (a) or (b) shall not apply to an employee or member who—

''(A) served as a contracting officer with authority to award or administer contracts in excess of the simplified acquisition threshold in the Executive agency on or before September 30, 2000;

''(B) served, on or before September 30, 2000, in a position in an Executive agency either as an employee in the GS–1102 series or as a member of the armed force in similar occupational specialty; or

''(C) is determined by the Secretary of Defense to be a member of the Contingency Contracting Force.

''(2) The requirements imposed under subsection (a) or (b) of this section shall not apply to an employee for purposes of qualifying to serve in the position in which the employee was serving on October 1, 1993, or any other position in the same or lower grade and involving the same or lower level of responsibilities as the position in which the employee was serving on such date.

''(3) To qualify for the exceptions in subparagraphs (A) or (B) of paragraph (1) of this subsection, a civilian employee must have met one of the following requirements, or have been granted a waiver under subsection (f), on or before September 30, 2000—

''(A) received a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees;

''(B) completed at least 24 semester credit hours. (or the equivalent) of study from an accredited institution of higher education in any of the following disciplines: accounting, business finance, law, contracts, purchasing,

economics, industrial management, marketing, quantitative methods, and organization and management;

''(C) passed an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study in any of the disciplines listed in subparagraph (B); or

''(D) on October 1, 1991, had at least 10 years of experience in acquisition positions, in comparable positions in other government agencies or the private sector, or in similar positions in which an individual obtains experience directly relevant to the field of contracting.

''(f) WAIVER.—The acquisition career program board concerned may waive any or all of the requirements of subsections (a) and (b) with respect to an individual if the board certifies that the individual possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. With respect to each waiver granted under this subsection, the board shall set forth in a written document the rationale for its decision to waive such requirements. The document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.''.

(b) CLERICAL AMENDMENT.—Section 1732(c)(2) of such title 10 is amended by inserting a comma between ''business'' and ''finance''.

SEC. 706. TENURE REQUIREMENT FOR CRITICAL ACQUISITION POSITIONS.

Section 1734 of title 10, United States Code, is amended—

(1) in paragraph (a)(1), by inserting ''as a program manager, deputy program manager, or senior contracting official of a major system, as that term is defined in section 23 02(5) of this title, and any person assigned to such other critical acquisition position as the Secretary of Defense may prescribe by regulation,'' after ''critical acquisition position''.

(2) in paragraph (a)(2), by inserting ''as a program manager, deputy program manager, or senior contracting official of a major system, as that term is defined in section 2302(5) of this title, and any person assigned to such other critical acquisition position as the Secretary of Defense may prescribe by regulation,'' after ''critical acquisition position''.

Subtitle C—General Contracting Procedures and Limitations

SEC. 710. AMENDMENT OF LAW APPLICABLE TO CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.

Section 2855 of title 10, United States Code, is amended—

(1) in subsection (a) by striking the subsection designator ''(a)''; and

(2) by striking subsection (b).

SEC. 711. STREAMLINING PROCEDURES FOR THE PURCHASE OF CERTAIN GOODS.

Section 2534(g)(2) of title 10, United States Code, is amended by inserting before the period at the end: ''unless the head of a contracting activity determines—

''(A) that the amount of the purchase is $25,000 or less;

''(B) the precision level of the ball or roller bearings is rated lower than Annual Bearing Engineering Committee (ABEC) 5 or Roller Bearing Engineering Committee (RBEC) 5, or their equivalent;

''(C) at least two manufacturers in the national technology and industrial base capable of producing the ball or roller bearings decline to respond to a request for quotation for the required items; and

''(D) the bearings are neither miniature nor instrument ball bearings, i.e. rolling contact ball bearings with a basic outside diameter (exclusive of flange diameters) of 30 millimeters or less.''.

SEC. 712. REPEAL OF THE REQUIREMENT FOR LIMITATIONS ON THE USE OF AIR FORCE CIVIL ENGINEERING SUPPLY FUNCTION CONTRACTS.

Section 345 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261, 112 Stat. 1978) is repealed.

SEC. 713. ONE-YEAR EXTENSION OF COMMERCIAL ITEMS TEST PROGRAM.

Section 4202(e) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 184, 652 is amended by striking ''January 1, 2002'' and inserting ''January 1, 2003.''.

SEC. 714. MODIFICATION OF LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

Section 1302(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1948), as amended by section 1501 (a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 806), is further amended by striking paragraph (1)(D).

Subtitle D—Military Construction General Provisions

SEC. 715. EXCLUSION OF UNFORESEEN ENVIRONMENTAL HAZARD REMEDIATION FROM THE LIMITATION ON COST INCREASES FOR MILITARY CONSTRUCTION AND FAMILY HOUSING CONSTRUCTION PROJECTS.

Subsection 2853(d) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' immediately following ''apply to''; and

(2) by inserting immediately before the period at the end ''; or (2) the costs associated with environmental hazard remediation such as asbestos removal, radon abatement, lead-based paint removal or abatement, and any other legally required environmental hazard remediation, provided that such remediation requirements could not be reasonably anticipated at the time of budget submission''.

SEC. 716. INCREASE OF OVERSEAS MINOR CONSTRUCTION THRESHOLD USING OPERATIONS AND MAINTENANCE FUNDS.

Section 2805 of title 10, United States Code, amended—

(1) in subsection (b)(1), by striking ''$500,000'' and inserting ''$750,000'';

(2) in subsection (c)(1)(A), by striking ''$1,000,000'' and inserting ''$1,500,000''; and

(3) in subsection (c)(1)(B), by striking ''$500,000'' and inserting ''$750,000''.

SEC. 717. LEASEBACKS OF BASE CLOSURE PROPERTY.

(a) 1990 LAW.—Section 2905(b)(4)(E) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended as follows:

(1) in clause (iii), by striking ''A'' and inserting ''Except as provided in clause (v) below, a''

(2) by adding at the end the following new clause (v):

''(v) Notwithstanding clause (iii) or chapter 137 of title 10, United States Code, where the department or agency concerned leases a substantial portion of the installation, the department or agency may obtain, at a rate no higher than that charged to non-Federal tenants, facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of a lease under clause (i). Facility services and common area maintenance shall not include municipal services that the state or local government is required by law to provide to all landowners in its jurisdiction without direct charge, or firefighting or security-guard functions.''.

(b) 1988 LAW.—Section 204(b)(4) of the Defense Authorization Amendments and Base Closure and Realignment Act of (Public Law 100–526; 10 U.S.C. 2687 note) is amended by adding at the end the following new subparagraph (J):

''(J)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this title (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

''(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.

''(iii) Except as provided in clause (v) below, a lease under clause (i) may not require rental payments by the United States.

''(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.

''(v) Notwithstanding clause (iii) or chapter 137 of title 10, United States Code, where the department or agency concerned leases a substantial portion of the installation, the department or agency may obtain, at a rate no higher than that charged to non-Federal tenants, facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of a lease under clause (i). Facility services and common area maintenance shall not include

municipal services that the state or local government is required by law to provide to all landowners in its jurisdiction without direct charge, or firefighting or security-guard functions.''.

SEC. 718. ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) IN GENERAL.—Subchapter IV of Chapter 169 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2886. Reimbursement of funds related to the execution of military family housing privatization projects

''The Secretary of Defense may, during the first year of an initiative under this Subchapter, transfer funds from appropriations available for the operation and maintenance of family housing to appropriations available for the pay of military personnel in such amounts as are necessary to offset additional housing allowance costs incurred as a result of such initiative.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter IV of chapter 169 of title 10 is amended by inserting after the item relating to section 2885 the following:

''2886. Reimbursement of funds related to the execution of military family housing privatization projects.''.

SEC. 719. ANNUAL REPORT TO CONGRESS ON DESIGN AND CONSTRUCTION.

(a) IN GENERAL.—Section 2861 of title 10, United States Code is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter III of chapter 169 of such title 10 is amended by striking the item referring to section 2861.

TITLE VIII—DEPARTMENT OF DEFENSE ORGANIZATION AND POSITIONS

Subtitle A—Department of Defense Organizations and Positions

SEC. 801. ORGANIZATIONAL ALIGNMENT CHANGE FOR DIRECTOR FOR EXPEDITIONARY WARFARE.

Section 5038(a) of title 10, United States Code, is amended by striking ''Office of the Deputy Chief of Naval Operations for Resources, Warfare Requirements, and Assessments'' and inserting ''Office of the Deputy Chief of Naval Operations for Warfare Requirements and Programs''.

SEC. 802. CONSOLIDATION OF AUTHORITIES RELATING TO DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.

(a) IN GENERAL.—Chapter 6 of title 10, United States Code, is amended, by adding at the end the following new section:

''§ 169. Regional centers for security studies

''(a) AUTHORITY TO ESTABLISH, OPERATE AND TERMINATE REGIONAL CENTERS.—The Secretary of Defense may establish, operate and terminate regional centers for security studies to serve as forums for bilateral and multilateral communication and military and civilian exchanges. Such regional centers shall use professional military education, civilian defense education, and related academic and other activities, as the Secretary deems appropriate, to pursue such communication and exchanges. The Secretary of Defense annually, in writing, shall evaluate the performance and value to the United States of each such regional center and determine whether to continue to operate such regional center.

''(b) ACCEPTANCE OF GIFTS AND CONTRIBUTIONS.—The Secretary may accept, hold, administer, and use gifts and contributions of money, personal property (including loans of property), and services for the purpose of defraying the costs or enhancing the operations of one or more of the Regional Centers, and may pay all reasonable expenses in connection with the conveyance or transfer of any such gifts. Contributions of money and proceeds from the sale of property accepted by the Secretary under this subsection shall be credited to funds available for the operation or support of the Center or Centers intended to benefit from such contribution and shall remain available until expended. No gift or contribution may be accepted under this subsection from a foreign state, or instrumentality or national thereof, or organization domiciled therein, nor anyone acting on behalf of any of them.

''(c) LIMITATION.—The Secretary may not accept a gift or donation under subsection (b) if the acceptance of the gift or donation would compromise or appear to compromise—

''(1) the ability of the Department of Defense, any employee of the Department or members of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

''(2) the integrity of any program of the Department of Defense or any person involved in such a program.

''(d) ADMINISTRATION.—The Secretary may take the following actions in furtherance of the mission of Regional Centers operated under this section:

''(1) EMPLOYMENT AND COMPENSATION OF FACULTY AND STAFF.—Notwithstanding the provisions of title 5, United States Code, regarding appointment, pay and classification, the Secretary may employ such civilian directors, faculty and staff members for Regional Centers operated under this section as the Secretary determines necessary.

''(2) WAIVER OF COSTS.—The Secretary may waive reimbursement of the cost of conferences, seminars, courses of instruction or similar educational activities of such Regional Centers for foreign participants if the Secretary determines that attendance of such personnel without reimbursement is in the national security interests of the United States.

''(3) PAYMENT OF EXPENSES.—In addition to waiver of reimbursement of costs described in paragraph (2), the Secretary of Defense may pay the travel, subsistence, and similar personal expenses of foreign participants in connection with the attendance of such personnel at conferences, seminars, courses of instruction, or similar educational activities of such Regional Centers if the Secretary determines that payment of such expenses is in the national security interest of the United States.

''(e) REPORT TO CONGRESS.—The Secretary shall report annually to the appropriate committees of Congress on the status, objectives, operations and foreign participation of the Regional Centers.

''(f) DEFINITIONS.—In this section:

''(1) The term 'Appropriate committees of Congress' means the Committees on Armed Services of the Senate and of the House of Representatives.

''(2) The term 'Contribution' means a contribution, gift or donation of funds, materials (including research materials), property or services (including lecture services and faculty services), but does not include a contribution made pursuant to chapter 138 of this title.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1306 of the National Defense Authorization Act for Fiscal Year 1995, (Public Law 103–337; 108 Stat. 2892) is repealed.

(2) Section 1065 of the National Defense Authorization Act for Fiscal Year 1997, (Public Law 104–201; 110 Stat. 2653) is amended as follows—

(A) by striking subsections (a) and (b); and

(B) by striking the subsection designator ''(c)''.

(3) Section 1595 of title 10, United States Code, is amended as follows—

(A) in subsection (c), by striking paragraphs (3) and (5);

(B) by redesignating subparagraph (c)(4) as subparagraph (c)(3); and

(C) by striking subsection (e).

(4) Section 2611 of title 10, United States Code, is repealed.

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 155 of such title 10 is amended by striking the item relating to section 2611; and

(2) The table of sections at the beginning of chapter 6 of such title 10 is amended, by adding at the end the following new item:

''169. Regional Centers for Security Studies''.

SEC. 803. CHANGE OF NAME FOR AIR MOBILITY COMMAND.

(a) Section 2544(d) of title 10, United States Code, is amended by striking ''Military Airlift Command'' and inserting ''Air Mobility Command''.

(b) Section 2545(a) of such title 10 is amended by striking ''Military Airlift Command'' and inserting ''Air Mobility Command''.

(c) Section 8074 of such title 10 is amended by striking subsection (c).

(d) Section 430(c) of title 37, United States Code, is amended by striking ''Military Airlift Command'' and inserting ''Air Mobility Command''.

(e) Section 432(b) of such title 37 is amended by striking ''Military Airlift Command'' and inserting ''Air Mobility Command''.

SEC. 804. TRANSFER OF INTELLIGENCE POSITIONS IN SUPPORT OF THE NATIONAL IMAGERY AND MAPPING AGENCY.

Section 1606 of title 10, United States Code, is amended by striking ''517'' and inserting ''544''.

Subtitle B—Reports

SEC. 811. AMENDMENT TO NATIONAL GUARD AND RESERVE COMPONENT EQUIPMENT: ANNUAL REPORT TO CONGRESS.

Section 10541 of title 10, United States Code, is amended to read as follows:

''(a) The Secretary of Defense shall submit to the Congress each year, not later than March 1, a written report concerning the equipment of the National Guard and the Reserve components of the armed forces, to include the U.S. Coast Guard Reserve. This report shall cover the current fiscal year and three succeeding years. The focus should be on major items of equipment which address large dollar-value requirements, critical Reserve component shortages and major procurement items. Specific major items of equipment shall include ships, aircraft, combat vehicles and key combat support equipment.

''(b) Each annual report under this section should include the following:

''(1) Major items of equipment required and on-hand in the inventories of each Reserve component.

''(2) Major items of equipment which are expected to be procured from commercial sources or transferred from the Active component to the Reserve components of each Service.

''(3) Major items of equipment in the inventories of each Reserve component which are substitutes for a required major item of equipment.

''(4) A narrative explanation of the plan of the Secretary concerned to equip each Reserve component, including an explanation of the plan to equip units of the Reserve components that are short major items of equipment at the outset of war or a contingency operation.

''(5) A narrative discussing the current status of the compatibility and interoperability of equipment between the Reserve components and the active forces, the effect of that level of compatibility or interoperability on combat effectiveness, and a plan to achieve full equipment compatibility and interoperability.

''(6) A narrative discussing modernization shortfalls and maintenance backlogs within the Reserve components and the effect of those shortfalls on combat effectiveness.

''(7) A narrative discussing the overall age and condition of equipment currently in the inventory of each Reserve component.

''(c) Each report under this section shall be expressed in the same format and with the same level of detail as the information presented in the Future Years Defense Program Procurement Annex prepared by the Department of Defense.''.

SEC. 812. ELIMINATION OF TRIENNIAL REPORT ON THE ROLES AND MISSIONS OF THE ARMED FORCES.

(a) REPEAL OF REQUIREMENT FOR REPORT ON ASSIGNMENT OF ROLES AND MISSIONS.—Section 153 of title 10, United States Code, is amended—

(1) in subsection (a), by striking the catchline and section designator ''(a) PLANNING; ADVICE; POLICY FORMULATION.—''; and

(2) by striking subsection (b).

(b) ROLES AND MISSIONS AS PART OF DEFENSE QUADRENNIAL REVIEW.—Subsection 118(e) of such title 10 is amended by inserting after the first sentence the following two new sentences: ''The Chairman shall also include his assessment of the assignment of functions (or roles and missions) to the Armed Forces and recommendations for change the Chairman considers necessary to achieve the maximum efficiency of the Armed Forces. This roles and missions assessment should consider the unnecessary duplication of effort among the armed forces and changes in technology that can be applied effectively to warfare.''.

SEC. 813. CHANGE IN DUE DATE OF COMMERCIAL ACTIVITIES REPORT.

Section 2461(g), title 10, United States Code is amended by striking ''February 1'' and inserting ''June 30''.

Subtitle C—Other Matters

SEC. 821. DOCUMENTS, HISTORICAL ARTIFACTS, AND OBSOLETE OR SURPLUS MATERIEL: LOAN, DONATION, OR EXCHANGE.

(a) IN GENERAL.—Section 2572 of title 10, United States Code, is amended—

(1) in subsection (a), by striking ''subsection (c)'' and inserting ''subsection (c)(1)'';

(2) in subsection (b), by striking ''subsection (c)'' and inserting ''subsection (c)(2)''; and

(3) in subsection (c)—

(A) by striking ''(c) This section'' and inserting ''(c)(1) Subsection (a)''; and

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

''(2) Subsection (b) applies to the following types of property held by a military department or the Coast Guard: books, manuscripts, works of art, historical artifacts, drawings, plans, models, and obsolete or surplus materiel.''.

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking ''condemned or obsolete combat'' and inserting ''obsolete or surplus''.

SEC. 822. CHARTER AIR TRANSPORTATION OF MEMEBERS OF THE ARMED FORCES.

Section 2640 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking ''an'' after ''contract with'' and inserting ''a domestic or foreign'';

(2) in subsection (b)(5), by striking ''checkrides'' and inserting ''cockpit safety observations'';

(3) in subsection (e), by striking ''Military Airlift Command'' and inserting ''Air Mobility Command'';

(4) in subsection (g), by striking ''in an emergency''; and

(5) in subsection (j)(1), by striking ''air carrier,''

TITLE IX—GENERAL PROVISIONS

Subtitle A—Matters Relating to Other Nations

SEC. 901. TESTS AND EVALUATION INITIATIVES.

(a) AUTHORITY TO ENGAGE IN COOPERATIVE TESTS AND EVALUATION AT U.S. AND FOREIGN RANGES AND OTHER FACILITIES WHERE TESTING MAY BE CONDUCTED.—Chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 23501. Agreements for the cooperative use of ranges and other facilities where testing may be conducted

''(a) AUTHORITY TO ENTER INTO INTERNATIONAL AGREEMENTS.—The Secretary of Defense, with the concurrence of the Secretary of State, may enter into a memorandum of understanding (or other formal agreement) with an eligible country or international organization for the purpose of reciprocal use of ranges and other facilities where testing of defense equipment may be conducted.

''(b) GENERAL NATURE OF AGREEMENT.—Formal agreements reached under subsection (a) shall require reciprocal use of test ranges and other facilities where testing may be conducted in the United States and at such ranges and facilities operated by an eligible country or international organization.

''(c) PAYMENT OF COSTS.—Any agreement for the reciprocal use of ranges and other facilities where testing may be conducted shall contain the following pricing principles for reciprocal application:

''(1) The price charged a recipient country for test and evaluation services furnished by the officers, employees, or governmental agencies of the supplying country or international organization, shall be the direct costs to the supplying country or international organization that are incurred as a result of the test and evaluation services acquired by the recipient country or international organization.

''(2) The recipient country or international organization may be charged for indirect costs related to the use of the range or other facility where testing may be conducted only as specified in the memorandum of understanding or other formal agreement.

''(d) RETENTION OF FUNDS COLLECTED FROM ELIGIBLE COUNTRIES AND INTERNATIONAL ORGANIZATIONS.—Amounts collected under subsection (c) from an eligible country or international organization shall be credited to the appropriation accounts under which such costs were incurred.

''(e) DEFINITIONS.—In this section:

''(1) Direct cost means any item of cost that is easily and readily identified to a specific unit of work or output within the range or facility where such testing and evaluation occurred, that would not have been incurred if such testing and evaluation had not taken place. Direct cost may include labor, materials, facilities, utilities, equipment, supplies, and any other resources of the range or facility where such test and evaluation occurred, that is consumed or damaged during such test and evaluation, or maintained for the recipient country or international organization.

''(2) Indirect costs means any item of cost that cannot readily, or directly, be identified to a specific unit of work or output. Indirect cost may include general and administrative expenses for the supporting base operations, manufacturing expenses, supervision, office supplies, utility, costs, etc. Such costs are accumulated in a cost pool and allocated to customers appropriately.

''(f) DELEGATION OF AUTHORITY.—The Secretary may delegate to the Deputy Secretary of Defense and to the head of one designated office of his choosing the authority to determine the appropriateness of the amount of indirect costs included in such charges.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''23501. Agreements for the cooperative use of ranges and other facilities where testing may be conducted.''.

(c) AUTHORITY TO USE MAJOR RANGE AND TEST FACILITY INSTALLATIONS OF THE MILITARY DEPARTMENTS UNDER THE DEPARTMENT OF DEFENSE CONTRACT.—Section 2681(c) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' after ''(c)''; and

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

''(2) Notwithstanding the requirement for reimbursement of all direct costs under subparagraph (1), a contractor, using a Major Range and Test Facility Base installation in support of a Department of Defense requirement, may be provided access to and use of the Major Range and Test Facility Base Installations and charged for services for purposes of the contract utilizing the same criteria as would be applied to use of a Major Range and Test Facility Base Installation by an activity or agency of the Department of Defense. A contractor of a Department or agency of the Federal Government other than the Department of Defense shall be provided access to and use of a Major Range and Test Facility Base Installation and services in support of such contract at the discretion of the Secretary of Defense, and may be charged for access, use and services on the same basis as the Federal government Department or agency funding the contract.''.

SEC. ___.COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS: ALLIED COUNTRIES.

Section 2350a of title 10, United States Code, is amended as follows:

(1) In the title for Section 2350a—by striking out ''allied'' and inserting ''NATO ally,

major non-NATO ally, other friendly foreign country, or NATO organization''.

(2) Paragraph (a) is amended by striking ''one or more major allies of the United States or NATO organizations'' and inserting ''the North Atlantic Treaty Organization (NATO) or with one or more member countries of that Organization, or with any major non-NATO ally or other friendly foreign country or NATO organization''.

(3) Paragraph (b)(1) is amended—

(A) by striking ''(1)'';

(B) by striking ''the North Atlantic Treaty Organization (NATO)'' and inserting ''NATO'';

(C) by striking ''its major non-NATO allies.'' and inserting ''a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization.''.

(4) Paragraph (b)(2) is amended by striking ''The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition and Technology.'' and inserting ''The authority of the Secretary to make a determination under paragraph (1) may be delegated only to the Deputy Secretary of Defense and to one other official the Secretary so determines.''.

(5) Paragraph (d)(1) is amended by striking ''the major allies of the United States'' and inserting ''a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization''.

(6) Paragraph (d)(2) is amended by striking ''major ally of the United States'' and inserting ''a NATO ally, a major non-NATO ally or other fdendly foreign country or NATO organization''.

(7) Paragraph (e)(1)(B)(2)(A) is amended by striking ''one or more of the major allies of the United States.'' and inserting ''a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization.''.

(8) Paragraph (e)(1)(B)(2)(B) in amended by striking ''one or more major allies of the United States or NATO organizations'' and inserting ''a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization''.

(9) Paragraph (e)(1)(B)(2)(C) is amended by striking ''one or more major allies of the United States'' and inserting ''a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization''.

(10) Paragraph (e)(1)(B)(2)(D) in amended by striking ''one or more major allies of the United States'' and inserting ''a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization''.

(11) Paragraph (f)(B)(1) is amended by striking ''(1)''.

(12) Paragraph (f)(B)(2) is amended by striking ''The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives a report—(A) enumerating those countries to be added to or deleted from the existing designation of countries designated as major non-NATO allies for purposes of this section; and (B) specifying the criteria used in determining the eligibility of a country to be designated as a major non-NATO ally for purposes of this section.''.

(13) Paragraph (g)(1)(A) is amended by striking ''major allies of the United States and other friendly foreign countries.'' and inserting ''a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization''.

(14) Paragraph (i) is amended by striking ''(2) The term ''major ally of the United States'' means—(A) a member nation of the North Atlantic Treaty Organization (other than the United States); or (B) a major non-NATO ally.''.

(15) Paragraph (i)(1) is amended by striking ''one or more major allies of the United States or NATO organizations'' and inserting ''a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization''.

SEC. 903. RECOGNITION OF ASSISTANCE FROM FOREIGN NATIONALS.

(a) IN GENERAL.—Chapter 57 of title 10, United States Code, is amended by inserting after section 1133 the following:

''§ 1134. Recognition of assistance from foreign nationals

''The Secretary of Defense may issue regulations, with the concurrence of the Secretary of State, authorizing members of the armed forces or civilian officers or employees of the Department of Defense to present to foreign nationals plaques, trophies, noncurrency coins, certificates, and other suitable commemorative items or mementos to recognize achievements or performance, not involving combat, that assists the armed forces of the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1133 the following new item:

''1134. Recognition of assistance from foreign nationals.''.

SEC. 904. PERSONAL SERVICE CONTRACTS IN FOREIGN AREAS.

Under such regulations as the Secretary of State, with the concurrence of the Secretary of Defense, may prescribe, the Department of State shall use authority available to the Department of State to enter into personal services contracts with individuals to perform services in support of the Department of Defense in foreign countries.

Subtitle B—Department of Defense Civilian Personnel

SEC. 911. REMOVAL OF LIMITS ON THE USE OF VOLUNTARY EARLY RETIREMENT AUTHORITY AND VOLUNTARY SEPARATION INCENTIVE PAY FOR FISCAL YEARS 2002 AND 2003.

Section 1153(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398, 114 Stat. 1654A–323) is amended—

(1) in paragraph (1), by striking ''(1) Subject to paragraph (2), the'' and inserting ''The'';

(2) by striking paragraph (2); and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2).

SEC. 912. AUTHORITY FOR DESIGNATED CIVILIAN EMPLOYEES ABROAD TO ACT AS A NOTARY.

(a) CLARIFICATION OF STATUS OF CIVILIAN ATTORNEYS ACTING AS A NOTARY.—Section 1044a(b)(2) of title 10, United States Code, is amended by striking ''legal assistance officers'' and inserting ''legal assistance attorneys''.

(b) AUTHORITY FOR DESIGNATED CIVILIAN EMPLOYEES ABROAD TO ACT AS A NOTARY.—Subsection (b)(4) of such section 1044a is amended by inserting ''and, when outside the United States, all civilian employees of the armed forces of suitable training,'' after ''duty status''.

SEC. 913. INAPPLICABILITY OF REQUIREMENT FOR STUDIES AND REPORTS WHEN ALL DIRECTLY AFFECTED DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES ARE REASSIGNED TO COMPARABLE FEDERAL POSITIONS.

Section 2461 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(i) INAPPLICABILITY WHEN ALL DIRECTLY AFFECTED DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES ARE REASSIGNED TO COMPARABLE FEDERAL POSITIONS.—The provisions of this section shall not apply when all directly affected Department of Defense civilian employees serving on permanent appointments are reassigned to comparable Federal positions for which they are qualified.''.

SEC. 914. PRESERVATION OF CIVIL SERVICE RIGHTS FOR EMPLOYEES OF THE FORMER DEFENSE MAPPING AGENCY.

Notwithstanding section 1612 of title 10, United States Code, the provisions of subchapters II and IV (sections 7511 through 7514 and sections 7531 through 7533, respectively) of chapter 75 of title 5, United States Code, continue to apply, for as long as the employee continues to serve as a Department of Defense employee in the National Imagery and Mapping Agency without a break in service, to each of those former Defense Mapping Agency employees who occupied positions established under title 5, United States Code, and who on October 1, 1996, became employees of the National Imagery and Mapping Agency under paragraph 1601 (a)(1) of title 10, United States Code pursuant to Title XI of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–20 1; 110 Stat. 2675, et seq.) and for whom the provisions of chapter 75 of title 5, United States Code, applied before October 1, 1996. Each such employee, at any time, may elect in writing to waive the provisions of this section, in which case such waiver shall be permanent as to that employee.

SEC. 915. FINANCIAL ASSISTANCE TO CERTAIN EMPLOYEES IN ACQUISITION OF CRITICAL SKILLS.

The Secretary of Defense may provide the Director, National Imagery and Mapping Agency, the authority to establish an undergraduate training program with respect to civilian employees of the National Imagery and Mapping Agency that is similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish for civilian employees of the National Security Agency under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

SEC. 916. PILOT PROGRAM FOR PAYMENT OF RETRAINING EXPENSES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2410o. Pilot program for payment of retraining expenses

''(a) AUTHORITY.—The Secretary of Defense may establish a pilot program for the payment of retraining expenses in accordance

with this section to facilitate the reemployment of eligible employees of the Department of Defense who are being involuntarily separated due to a reduction-in-force or due to relocation resulting from transfer of function, realignment, or change of duty station. Under the pilot program, the Secretary may pay retraining incentives to encourage non-Federal employers to hire and retain such employees.

''(b) ELIGIBLE EMPLOYEES.—For purposes of this section, an eligible employee is an employee of the Department of Defense, serving under an appointment without time limitation, who has been employed by the Department of Defense for a continuous period of at least 12 months and who has been given notice of separation pursuant to a reduction in force, except that such term does not include—

''(1) a re-employed annuitant under subchapter III of chapter 83 of title 5, United States Code, chapter 84 of such title, or another retirement system for employees of the Government;

''(2) an employee who, upon separation from Federal service, is eligible for an immediate annuity under subchapter III of chapter 83 of title 5, United States Code, or subchapter II of chapter 84 of such title; or

''(3) an employee who is eligible for disability retirement under any of the retirement systems referred to in paragraph (1).

''(c) RETRAINING INCENTIVE.—(1) Under the pilot program, the Secretary may enter into an agreement with a non-Federal employer under which the non-Federal employer agees—

''(A) to employ an eligible person referred to in subsection (a) for at least 12 months for a salary that is mutually agreeable to the employer and such person; and

''(B) to certify to the Secretary the cost incurred by the employer for any necessary training, as defined by the Secretary, provided to such eligible employee in connection with the employment by that employer.

''(2) The Secretary may pay a retraining incentive to the non-Federal employer upon the employee's completion of 12 months of continuous employment with that employer. Subject to this section, the Secretary shall prescribe the amount of the incentive.

''(3) The Secretary may pay a prorated amount of the full retraining incentive to the non-Federal employer for an employee who does not remain employed by the non-Federal employer for at least 12 months.

''(4) In no event may the amount of retraining incentive paid for the training of any one person under the pilot program exceed the amount certified for that person under paragraph (1) or $10,000, whichever is greater.

''(d) DURATION.—No incentive may be paid under the pilot program for training commenced after September 30, 2005.

''(e) DEFINITIONS.—The following definitions apply in this section:

''(1) The term ''non-Federal employer'' means an employer that is not an Executive Agency, as defined in section 105 of title 5, United States Code, or the legislative or judicial branch of the Federal Government.

''(2) ''Reduction-in-force'' and ''transfer of function'' shall have the same meaning as in chapter 35 of title 5, United States Code.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such Chapter 141 is amended by adding at the end the following new item:

''2410o. Pilot program for payment of retraining expenses.''.

Subtitle C—Other Matters

SEC. 921. AUTHORITY TO ENSURE DEMILITARIZATION OF SIGNIFICANT MILITARY EQUIPMENT FORMERLY OWNED BY THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Chapter 153 of title 10, United States Code, is amended by inserting after section 2572 the following new section:

''§ 2573. Continued authority to require demilitarization of significant military equipment after disposal

''(a) AUTHORITY TO REQUIRE DEMILITARIZATION.—The Secretary of Defense may require any person in possession of significant military equipment formerly owned by the Department of Defense—

''(1) to demilitarize the equipment:

''(2) to have the equipment demilitarized by a third party; or

''(3) to return the equipment to the Government for demilitarization.

''(b) COST AND VALIDATION OF DEMILITARIZATION.—When the demilitarization of significant military equipment is carried out by the person in possession of the equipment pursuant to paragraph (1) or (2) of subsection (a), the person shall be solely responsible for all demilitarization costs, and the United States shall have the right to validate that the equipment has been demilitarized.

''(c) RETURN OF EQUIPMENT TO GOVERNMENT.—When the Secretary of Defense requires the return of significant military equipment for demilitarization by the Government, the Secretary shall bear all costs to transport and demilitarize the equipment. If the person in possession of the significant military equipment obtained the property in the manner authorized by law or regulation and the Secretary determines that the cost to demilitarize and return the property to the person is prohibitive, the Secretary shall reimburse the person for the purchase cost of the property and for the reasonable transportation costs incurred by the person to purchase the equipment.

''(d) ESTABLISHMENT OF DEMILITARIZATION STANDARDS.—The Secretary shall issue regulations to prescribe what constitutes demilitarization for each type of significant military equipment, with the objective of ensuring that the equipment does not pose a significant risk to public safety and does not provide a significant weapon capability or military-unique capability and ensure that any person from whom private property is taken for public use under this section receives just compensation.

''(e) EXCEPTIONS.—This section does not apply—

''(1) when a person is in possession of significant military equipment formerly owned by the Department of Defense for the purpose of demilitarizing the equipment pursuant to a Government contract.

''(2) to small arms weapons issued under the Defense Civilian Marksmanship Program established in Title 36, United States Code.

''(3) to issues by the Department of Defense to museums where modified demilitarization has been performed in accordance with the Department of Defense Demilitarization Manual, DoD 4160.21–M–1; or

''(4) to other issues and un-demilitarized significant military equipment under the provisions of the provisions of the Department of Defense Demilitarization Manual, DoD 4160.21–M–1.

''(f) DEFINITION OF SIGNIFICANT MILITARY EQUIPMENT.—In this section, the term ''significant military equipment'' means—

''(1) an article for which special export controls are warranted under the Arms Export Control Act (22 U.S.C. 2751 et seq.) because of its capacity for substantial military utility or capability, as identified on the United States Munitions List maintained under section 121.1 of title 22, Code of Federal Regulations; and 46

(2) any other article designated by the Department of Defense as requiring demilitarization before its disposal.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2572 the following new item:

''2573. Continued authority to require demilitarization of significant military equipment after disposal.''.

SEC. 922. MOTOR VEHICLES: DOCUMENTARY REQUIREMENTS FOR TRANSPORTATION FOR MILITARY PERSONNEL AND FEDERAL EMPLOYEES ON CHANGE OF PERMANENT STATION.

(a) MILITARY PERSONNEL.—Section 2634 of title 10, United States Code, is amended as follows:

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

(2) by inserting after subsection (e) the following new subsection;

''(f) Motor vehicles transported under this section are not subject to the provisions of the Anti Car Theft Act of 1992, as amended, or any implementing regulations. The Secretary of Defense (and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a Service in the Navy) will prescribe regulations designed to ensure members do not present for shipment stolen vehicles.''.

(b) CIVILIAN EMPLOYEES.—Section 5727 of title 5, United States Code, is amended as follows:

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f) Motor vehicles transported under this section are not subject to the provisions of the Anti Car Theft Act of 1992, as amended, or any implementing regulations. Regulations prescribed under section 5738 of this title will include provisions designed to ensure employees do not present for shipment stolen motor vehicles under subsection (b) of this section.''.

SEC. 923. DEPARTMENT OF DEFENSE GIFT INITIATIVES.

(a) LOAN OR GIFT OF OBSOLETE MATERIAL AND ARTICLES OF HISTORICAL INTEREST.—Section 7545 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting the following catchline after the subsection designator: ''ADDITIONAL ITEMS TO BE DONATED BY THE SECRETARY OF THE NAVY.'';

(B) by striking ''books, manuscripts, works of art, drawings,'' and all that follows to the dash and inserting ''obsolete combat or shipboard material not needed by the Department of the Navy, to'';

(C) in paragraph (5), by striking ''World War I or World War 11'' and inserting ''a foreign war.'';

(D) in paragraph (6), by striking ''soldiers'' and inserting ''servicemen's''; and

(E) in paragraph (8), by inserting ''or memorial'' after ''a museum''; and

(2) in subsection (b), by inserting the following catchline after the subsection designator: ''MAINTENANCE OF THE RECORDS OF THE GOVERNMENT.—'';

(3) in subsection (c), by inserting the following catchline after the subsection designator: ''SECRETARIAL AUTHORITY TO MAKE GIFTS OR LOANS.—''; and

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

''(d) AUTHORITY TO TRANSFER A PORTION OF A VESSEL.—The Secretary may lend, give or otherwise transfer any portion of the hull or superstructure of a vessel stricken from the Naval Vessel Register and designated for scrapping to a qualified organization listed under subsection (a). The terms and conditions of any agreement for the transfer of a portion of a vessel under this section shall include a requirement that the transferee will maintain the material conveyed in a condition that will not diminish the historical value of the material or bring discredit upon the Navy.''.

(b) LOAN, GIFT, OR EXCHANGE OF DOCUMENTS, HISTORICAL ARTIFACTS, AND CONDEMNED OR OBSOLETE, COMBAT MATERIAL.—Section 2572(a)(1) of such title 10 is amended by striking the period after ''A municipal corporation'' and inserting county or other political subdivision of a state.''.

SEC. 924. REPEAL OF THE JOINT REQUIREMENTS OVERSIGHT COUNCIL SEMI-ANNUAL REPORT.

Section 916 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654) is repealed.

SEC. 925. ACCESS TO SENSITIVE UNCLASSIFIED INFORMATION.

(a) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

§ ''2332. Limited access to sensitive unclassified information by administrative support contractors

''(a) AUTHORITY.—-Notwithstanding sections 552a of title 5, 2320 of title 10, and 1905 of title 18, United States Code, the Secretary of Defense may provide administrative support contractors with limited access to, and use of, sensitive unclassified information, provided that—

''(1) such disclosure is not otherwise prohibited by law;

''(2) access shall be limited to sensitive unclassified information that is necessary for the administrative support contractor to perform contractual duties;

''(3) administrative support contractors shall be subject to the same restrictions on using, reproducing, modifying, performing, displaying, releasing or disclosing such sensitive unclassified information as are applicable to employees of the United States; and

''(4) administrative support contractors shall be subject to the same civil and criminal penalties for unauthorized disclosure or use of such sensitive unclassified information as are applicable to employees of the United States.

''(b) DEFINITIONS.—The following definitions apply to this section:

''(1) The term ''sensitive unclassified information'' means all unclassified information for which disclosure to an administrative support contractor is prohibited by the Privacy Act (5 U.S.C. §552a); section 2320 of this title; or the Trade Secrets Act (18 U.S.C. §1905).

''(2) The term ''administrative support contractor'' means any officer or employee of a contractor or subcontractor who performs any of the following for or on behalf of the Department of Defense: secretarial or clerical support; provisioning or logistics support; data entry; document reproduction, scanning, or imaging; operation, management, or maintenance of paper-based or electronic mail rooms, file rooms, or libraries; installation, operation, management, or maintenance of internet or intranet systems, networks, or computer systems; and facilities or information security.''.

(b) CLERICAL AMENDNENT.—The table of sections at the beginning of such chapter 137 is amended by adding at the end the following new item:

''2332. Limited access to sensitive unclassified information by administrative support contractors.''.

SEC. 926. WATER RIGHTS CONVEYANCE, ANDERSEN AIR FORCE BASE, GUAM.

(a) AUTHORITY TO CONVEY.—In conjunction with the conveyance of a utility system under the authority of section 2688 of title 10, United States Code, and in accordance with all the requirements of that section, the Secretary of the Air Force may convey all right, title, and interest of the United States, or such lesser estate as the Secretary considers appropriate to serve the interests of the United States, in the water rights related to Andy South (also known as the Andersen Administrative Annex, MARBO (Marianas Bonins Base Command), and the Andersen Water Supply Annex (also known as the Tumon Water Well or the Tumon Maui Well), Air Force properties located on Guam.

(b) ADDITIONAL REQUIREMENTS.—The Secretary may exercise the authority contained in subsection (a) only if—

(1) the Secretary has determined that there exists adequate supplies of potable groundwater under Andersen Air Force Base that are sufficient to meet the current and long-term requirements of the installation for water;

(2) the Secretary has determined that such supplies of groundwater are economically obtainable; and,

(3) the Secretary requires the conveyee to provide a water system capable of meeting the water supply needs of Anderson Air Force Base, as determined by the Secretary.

(c) INTERIM WATER SUPPLIES.—If the Secretary determines that it is in the best interests of the United States to transfer title to the water rights and utility systems at Andy South and Andersen Water Supply Annex prior to placing into service a new replacement water system and well field on Andersen Air Force Base, the Secretary may require that the United States have the primary right to all water produced from Andy South and Andersen Water Supply Annex until such new replacement water system and well field is placed into service and operates to the satisfaction of the Secretary. In exercising the authority of this subsection, the Secretary may retain a reversionary interest in the water rights and utility systems at Andy South and Andersen Water Supply Annex until such time as the new replacement water system and well field is placed into service and operates to the satisfaction of the Secretary.

(d) SALE OF EXCESS WATER AUTHORIZED.—(1) If the Secretary exercises the authority contained in subsection (a), he may provide in any such conveyance that the conveyee of the water system may sell to public or private entities such water from Andersen Air Force Base as the Secretary determines to be excess to the needs of the United States. In the event the Secretary authorizes the conveyee to resell water, the Secretary shall negotiate a reasonable return to the United States of the value of such excess water sold by the conveyee, which return the Secretary may receive in the form of reduced charges for utility services provided by the conveyee.

(2) If the Secretary cannot meet the requirements of subsection (c), and the Secretary determines to proceed with a water utility system conveyance under section 2688 of title 10, United States Code, without the conveyance of water rights, the Secretary may provide in any such conveyance that the conveyee of the water system may sell to public or private entities such water from Andy South and Andersen Water Supply Annex as the Secretary determines to be excess to the needs of the United States. The Secretary will negotiate a reasonable return to the United States of the value of such excess water sold by the conveyee, which return the Secretary may receive in the form of reduced charges for utility services provided by the conveyee.

(e) DEFINITIONS.—(1) For purposes of this section, ''Andersen Air Force Base'' means the Main Base and Northwest Field.

(2) The water rights referred to in subsection (a) shall be considered as part of a ''utility system'' as that term is defined in section 2688(g)(2) of title 10, United States Code.

(f) APPLICATION OF THE OTHER LAND DISPOSAL ACTS.—The water rights related to Andy South and Andersen Water Supply Annex shall not be considered as real property for purposes of the Act of November 13, 2000, to amend the Organic Act of Guam, and for other purposes (Public Law 106–504; 114 Stat. 2309) and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471, et seq.).

SEC. 927. REPEAL OF REQUIREMENT FOR SEPARATE BUDGET REQUEST FOR PROCUREMENT OF RESERVE EQUIPMENT.

Section 114(e) of title 10, United States Code, is repealed.

SEC. 928. REPEAL OF REQUIREMENT FOR TWO-YEAR BUDGET CYCLE FOR THE DEPARTMENT OF DEFENSE.

Section 1405 of the Department of Defense Authorization Act, 1986 (31 U.S.C. 1105 note) is repealed.

SECTIONAL ANALYSIS

Sections 101 through 106 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 year 2002.

Section 201 provides for the authorization of each of the research, development, test, and evaluation appropriations for the Military Departments and the Defense Agencies in amounts equal to the budget authority included in the President's Budget for fiscal year 2002.

Section 301 provides for authorization of the operation and maintenance appropriations of the Military Departments and Defense-wide activities in amounts equal to the budget authority included in the President's Budget for fiscal year 2002.

Section 302 authorizes appropriations for the Working Capital Funds and the National Defense Sealift Fund in amounts equal to the budget authority included in the President's Budget for fiscal year 2002.

Section 303 authorizes appropriations for fiscal year 2002 for the Armed Forces Retirement Home Trust Fund for the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the United States Naval Home in amounts equal to the budget authority included in the President's Budget for fiscal year 2002.

Section 304 would amend section 5(a) of the Multinational Force and Observers (MFO) Participation Resolution, to authorize the President to approve contracting out logistical support functions in support of the MFO that are currently performed by U.S. military personnel and equipment. The resolution was enacted in December 1981, in order to authorize the United States to deploy peacekeepers and observers to Sinai, Egypt to assist in the fulfillment of the Camp David Accords. In this regard, it should be noted that section 5(a) authorizes any agency of the United States to provide administrative and technical support and services to the MFO without reimbursement when the provision of such support or services would not result in significant incremental costs to the United States.

Administrative and technical support is provided under section 5(a) by the U.S. Army's 1st Support Battalion pursuant to international agreements with the Arab Republic of Egypt, the State of Israel, and the MFO. These agreements stipulate the types of unit functions required to be performed by the MFO in order for it to comply with its treaty verification mission. The two primary support functions currently provided by the United States to the MFO, are aviation and logistics support. Aviation support is provided to the MFO by ninety-nine soldiers and ten U.S. Army UH–1H helicopters. General logistical support to the MFO is provided by one hundred and fifty soldiers assigned to the U.S. Logistical Support Unit.

Section 305 would authorize the Secretary of Defense or designee to enter into multiple-year operating contracts or leases or charters of commercial craft, where economically feasible, in advance of the availability of funds in the working capital fund. The contract authority is available for obligation for one year and cannot exceed in its entirely $427,100,000. In subsequent years, the Department may submit requests for additional contract authority. This authority is appropriate for working capital funds where a history of use indicates an annual utilization of these items by DoD customers will be more than sufficient to pay for the annual costs. The use of annual leases, charters or contracts is not cost effective in obtaining capital items, or the use of commercial craft. To reduce the overall costs for DoD, authority to enter into multiple-year leases and charters is needed. Additional annual appropriated funds, however, are not needed, since the revenues generated from the use of these items to fill customer orders will cover these costs.

Section 1301 of title 31, United States Code, discusses the application of appropriations and requires, in subsection (d), that to authorize making a contract for the payment of money in excess of an appropriation a new law must specifically state that such a contract may be made. As the change specifically addresses only multiple-year leases, charters or contracts by working capital funds, the contract authority granted by this proposal would not impact other programs.

Similar authority, successfully utilized by the Navy Industrial Fund in connection with the long term vessel charters of T–5 tankers, was approved by Congress as part of the Supplemental Appropriations Act of 1983. That program and the use of contract authority was favorably reviewed by the Comptroller General in B–174839, March 20, 1984. As indicated in the opinion, working capital funds are precluded from negotiating cost effective multiple-year contracts for capital items or associated services without posting obligations for the entire amount, even though no appropriations are likely to ever be needed.

The Military Sealift Command (MSC) provides world-wide capability for sealift, prepositioning assets, and a wide arrange of oceanographic services. They operate approximately 125 ships worldwide with civilian mariners. Because the Military Sealift Command is a Working Capital Fund activity, their funding is provided through customer orders for sealift services, generally on an annual basis. Contract authority is required to allow MSC to enter into multiple year leases in advance of appropriations. The legislative proposal provides that authority.

It is advantageous for the Government to have MSC enter into multiple year leases for these charter and associated services for a number of reasons, including:

The 29 prepositioned ships carry a variety of items., including ammunition, fuel, medical supplies, and heavy armored equipment. The offload and onload of this cargo requires significant logistics infrastructure and is a costly undertaking. The DoD infrastructure is sized for that operation to take place concurrent with the required maintenance schedule for the ships, which ranges from two to five years depending on the type of ship and type of cargo. The contract period is established to coincide with this schedule. If these contracts were required to be annual contracts, there could be significant operational degradation and excessive demand on the DoD infrastructure due to offload and onload requirements at potentially annual periods.

The commercial market standard is for multiple year charters. There are savings to DoD by negotiating multiple year leases, consistent with commercial practices. In addition, DoD would not be able to effectively compete for annual contracts because foreign flag carriers are not interested in competing for short-term contracts due to the costs they incur to re-flag the vessels and to prepare or modify ships to meet DoD needs. Past experience indicates that the costs to DoD would be significantly higher if competition were limited to currently U.S.-flag vessels on an annual basis.

If the legislation is not enacted, MSC will be required to negotiate the contracts on an annual basis, resulting in increased costs and potential disruptions to military operations.

Section 310. The Navy and the U.S. Environmental Protection Agency (EPA) entered into an agreement in January 2001 for payment of EPA response costs at the Hooper Sands Site, South Berwick, Maine for EPA's remaining past response costs incurred by the agency for the period from May 12, 1992 through July 31, 2000. Activities of the Navy are liable under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as generators who arranged for disposal of the hazardous substances that ended up at the site, and there are no other viable responsible parties. Under the agreement, the Navy would pay for EPA's final response actions that were undertaken to protect human health and the environment at this site. The agreement also stipulated that the Navy would seek authorization from Congress in the FY02 legislative program for payment of costs previously incurred by EPA at the site. Should Congress approve this legislative proposal, the Navy would pay EPA with funds from the Navy's ''Environmental Restoration Account, Navy'' in an amount equal to the principle ($809,078.00) and interest ($196,400.00), or a total of $1,005,478.00.

Section 311 would extend the authority to conduct the pilot program from September 30, 2001 to September 30, 2003. The original legislation authorized the pilot program to run for two years from the date of enactment on November 18, 1997. Section 325 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 512) extended that two-year deadline an additional two years.

The initial extension was requested because the Department of Defense implementation guidance, required by the statute, had not been completed as of the fall of 1998. In order to fulfill the purpose of the legislation and adequately assess the feasibility and advisability of the sale of economic incentives, the pilot program was extended another two years from its original deadline. We are requesting an additional two-year extension to allow further opportunity for the Department to assess the feasibility of the program. States have been slower to develop emission-trading programs than initially anticipated and more time is desired to allow military installations to become familiar with the benefits of economic incentive programs.

Section 351 also provides authority to the Department of Defense (DoD) to retain proceeds from the sale of Clean Air Act emission reduction credits, allowances, offsets, or comparable economic incentives. Federal fiscal law and regulations generally require proceeds from the sale of government property to be deposited in the U.S. Treasury. These authorities preclude an agency from keeping the funds generated by reducing air emissions and selling the credits as does private industry. This inhibits the reinvestment of those funds to purchase air credits needed in other areas and eliminates any incentive for installations to spend the money required to generate the credits in order to sell them.

The Clean Air Act (CAA) mandates that states establish state implementation plans (SIPS) to attain and maintain the national ambient air quality standards (NAAQs), which are health based standards established for certain criteria air pollutants, e.g., ozone, particulate matter, carbon monoxide. To further this mandate, the 1990 Clean Air Act Amendments provided language encouraging the states to include ''economic incentive'' programs in their SIPs. Such programs encourage industry to reduce air pollution by offering monetary incentives for the reduction of emissions of criteria air pollutants.

A significant and growing number of state and local air quality districts have established various types of emission trading systems. Absent the proposed legislation, the military services would be required to remit any proceeds from the sale of economic incentives to the U.S. Treasury. The proposed legislation grants military installations authority to sell the economic incentives and to retain the proceeds in order to create a local economic incentive to reduce air pollution above and beyond legal requirements. Retention and use of proceeds at the installation level is a key component of the pilot program.

Section 312 would remove the requirement for the Department of Defense to submit an annual report to Congress on its reimbursement of environmental response action costs for the top 20 defense contractors, as well as on the amount and status of any pending requests for such reimbursement by those same firms. This reporting requirement was slated to end in December 1999 pursuant to section 3003(a) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104–66; however, it was reinstated by section 1031 of the National Defense Authorization Act for Fiscal Year 2000, Pub. L. 106–65.

The Department strongly recommends removal of this statutory reporting requirement because the data collected are not necessary, or even helpful, for properly determining allowable environmental response action costs on Government contracts. Moreover, the Department does not routinely collect data on any other categories of contractor overhead costs.

This reporting requirement is very burdensome on both the Department and contractors, diverting limited resources for data collection efforts that do not benefit the procurement process. Not only are there 20 different firms involved, but for most of these contractors, data must be collected for multiple locations in order to get an accurate company-wide total. In many cases the data must be derived from company records because it is not normally maintained in contractor accounting systems. After the data is collected, Department contracting officers must review, assemble, and forward the data through their respective chains of command to the Defense Contract Audit Agency for validation. After validation, the data is provided to the Secretary of Defense's staff for consolidation into the summary report provided to Congress.

In addition, the summary data provided to Congress in this annual report have shown that the Department is not expending large sums of money to reimburse contractors for such costs. The Department's share of such costs in FY99 was approximately $11 million. In the preceding years the costs were, $13 million in FY98, $17 million for FY97, and $4 million for FY96.

Section 315 would amend section 2482(b)(1) of title 10, to extend its reach to all Defense working capital fund activities that provide the Defense Commissary Agency services, and allow them to recover those administrative and handling costs the Defense Commissary Agency would be required to pay for acquiring such services.

Currently, section 2482(b)(1) restricts the amount that the United States Transportation Command could charge to the Defense Commissary Agency for such services to the price at which the service could be obtained through full and open competition, as section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)) defines such terms. These same restrictions, however, do not apply to other Defense working capital fund activities and preclude the United States Transportation Command from recovering ''freight forwarding'' costs that the Defense Commissary Agency would ordinarily have had to pay a commercial contractor.

If enacted, the proposed amendment would end this inequity, by applying a single cost-effective guideline for such charges to all Defense working capital fund activities. It should also be noted that the last sentence of the proposed amendment continues the current policy of insuring that costs associated with mobilization requirements, maintenance of readiness, or establishment or maintenance of the infrastructure to support mobilization or readiness requirements, are not passed on to the customers of the Defense Commissary Agency.

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

Section 316 requires that the Defense Commissary Agency surcharge account be reimbursed for the commissary's share of the depreciated value of its stores when a Military Department allows the occupation of a facility—previously acquired, constructed or improved with commissary surcharge funds—to be used for non-commissary related purposes.

Section 317 would permit the Defense Commissary Agency (DECA) to sell limited exchange merchandise at locations where no exchange facility is operated by an Armed Service Exchange. Under Section 2486(b) of title 10, United States Code, the Secretary of Defense may authorize DeCA to purchase and sell as commissary store inventory a limited line of exchange merchandise. This amendment is required to obtain the necessary authority for DeCA to procure the exchange merchandise items from the Armed Service Exchange. The Armed Service Exchange selling price to DeCA for such items would not exceed the normal exchange retail cost less the amount of the commissary surcharge, so that the amount paid by the patron would be the same. If the Exchange cannot supply the items authorized to be sold by DeCA, DeCA may procure them from any authorized source subject to the limitations of section 2486(e) of title 10 (i.e., that such items are only exempt from competitive procurement if they comply with the brand name sale requirements of being sold in the commercial stores). Regardless from whom such items are procured, they must be sold in commissaries at cost plus the amount of the surcharge.

Section 318 would amend a portion of section 2482 (a) of title 10 that is entitled ''Private Operation'' to delete overly restrictive language. The current section authorizes Commissary stores to be operated by private persons under a contract, but prohibits the contractor from carrying out functions for the procurement of products to be sold in the Commissary or from engaging in functions related to the actual management of the stores. Consequently, the Department is precluded from realizing the potential benefits that can be derived from contracting out the operation and management of the stores. By deleting this language a private contractor selected to operate Commissary stores would be allowed to apply best commercial practices in both store operations and supply chain management, and to achieve economy of scale savings in procurement, distribution, and transportation of products to be sold in the Commissary stores. This change will allow the Department to initiate pilot programs to test these potential benefits at selected Commissary stores.

Section 320 would establish permanent authority for active Department of Defense units and organizations to reimburse National Guard and Reserve units and organizations for the expenses incurred when Guard and Reserve personnel provide them intelligence and counterintelligence support. For the last five years, Congress has authorized such reimbursement in each year's defense appropriations act. See e.g., section 8059 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 656, 687). For the past several years the language of these annual provisions has remained unchanged, and the Department proposes to establish authority for such reimbursement on a permanent basis.

Such reimbursement constitutes an exception to the general principle that funds for active DoD organizations may not be expended to pay the expenses of Guard and Reserve units, and vice versa. By their training and experience, reserve intelligence personnel make unique contributions to the intelligence and counterintelligence programs of active DoD units and organizations. They also provide invaluable surge capability to help respond to unforeseen contingencies. Guard and Reserve units do not program funds for such support of active DoD units and organizations, which makes it essential that the supported active units and organizations have the authority to reimburse the affected Guard and Reserve units and organizations for the expenses they occur in providing personnel to perform such support. The practical effect of this reimbursement authority is in fact to further implement the principle that active units and organizations should pay for the expenses of their own programs and activities, while Guard and Reserve units and organizations should do the same.

A January 5, 1995 Deputy Secretary of Defense memorandum, ''Peacetime Use of Reserve Component Intelligence Elements'' approved a DoD ''Implementing Plan for Improving the Utilization of the Reserve Military Intelligence Force'' dated December 21, 1994. This plan explicitly recognized the requirement for an arrangement under which active units and organizations receiving reserve intelligence support would reimburse the affected reserve units for their expenses in providing such support.

This memo was superseded by DoD Directive 3305.7, ''Joint Reserve Intelligence Program (JRIP),'' February 29, 2000. Under section 3.1 of this Directive, ''The JRIP engages [reserve component] intelligence assets during periods of active and inactive duty to support validated DoD intelligence requirements across the entire engagement spectrum from peacetime through full mobilization, coincident with wartime readiness training.'' Reimbursement of the affected reserve units is a cornerstone of this arrangement, and such reimbursement is absolutely essential to success of the JRIP. Five years of experience with this arrangement have made it a mature program that should be permanently authorized.

Section 321 will authorize for sale the remaining materials in the National Defense Stockpile for which there is no Department of Defense requirement and which have not yet been authorized for sale.

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 year 2002.

Section 405 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 year 2002.

Section 406 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 for fiscal year 2002.

Section 407 prescribes the minimum end strengths for the reserve components of the Army and Air Force for dual status military technicians for fiscal year 2002.

Section 408 prescribes the maximum end strengths for the reserve components of the Army and Air Force for non-dual status military technicians for fiscal year 2002.

Section 409 would replace the current sections 12011 and 12012 of title 10, United States Code, with new sections 12011 and 12012, which would accommodate both senior grade officers (0–4, 0–5, 0–6) and senior grade enlisted members (E–8, E–9) of the Active Guard and Reserve force. These new sections would include tables for each Reserve component, vice each Service, for senior grade officer (12011) and enlisted member (12012) ceilings. This proposed amendment would provide for a non-static method of authorizing senior grade Active Guard and Reserve members, thus eliminating the requirement to request changes in legislation when the size of the Active Guard and Reserve force changes. The methodology would be consistent with that used for Active component senior grade officers, and tie the number of senior grade authorizations to the size of the Active Guard and Reserve force.

Section 410. The proposed amendment to section 523 of title 10, United States Code, increases Defense Officer Personnel Management Act-authorized end strength limitations for active duty Air Force officers in the grade of major. This would continue progress toward achieving an appropriate distribution of officers within the Air Force. An appropriate distribution may be achieved by increasing the authorized strengths of commissioned officers in the grade of major by seven

percent starting in fiscal year 2002. This proposed amendment would not increase the total number of commissioned officers authorized for the Air Force and would not affect the officer-to-enlisted ratio.

The budgetary impact of this proposal on Air Force Military Personnel appropriation budget requirements would be a net increase of $10 million in FY 2002, as the grade relief is phased in, and a net increase of approximately $20 million per year thereafter.

Section 501 would repeal subsection 1074a(d) of title 10, United States Code, which requires certain health care for Selected Reserve members of the Army assigned to units scheduled to deploy within 75 days after mobilization. Since this provision was enacted, the Department has implemented several programs to ensure Reserve component members are medically ready.

The Army has implemented a program called FEDS–HEAL, which is an alliance with the Department of Veterans Affairs (DVA) and the Department of Health and Human Services (DHHS) that allows Army Reserve and National Guard members to complete physical examinations, receive inoculations and complete other medical requirements in DVA and DHHS healthcare facilities across the country. This significantly enhances access for Reserve component members of the Army to meet medical and dental readiness requirements.

DoD policy now requires an annual dental examination. To track Reserve component dental readiness, the Department has developed a standard dental examination form that can be completed by a member's personal civilian dentist. Moreover, the recently expanded TRICARE Dental Program provides Reserve component members with an affordable means of completing dental examinations and receiving dental care through a much larger provider network. The cost to the member to participate in this insurance program is only $7.63 per month with the Department paying the remaining 60 percent of the premium share.

The current statutory requirement to conduct a full physical examination every two years for members over the age of 40 and dental care identified during the annual dental screening is difficult to implement for a select population that is very fluid with a relatively high turnover of individuals each year. Those Reserve Component units and individual Reserve Component members identified as early-deploying change frequently. The annual cost to the Department to meet this over–40 physical examination requirement for early deploying unit members every two years is $3.8 million, or over four times the annual cost if an exam were provided every five years as required for other members of the Reserve force. Additionally, requiring a complete medical examination every two years exceeds the recommendations of the U.S. Preventive Services Task Force, a 20–member non-federal panel commissioned by the Public Health Service in 1984 to develop recommendations for clinicians on the appropriate use of preventive measures. The Task Force does not consider such frequency of examinations cost effective in terms of identifying disease or determining deployability. The use of yearly health assessment questionnaires and appropriate age specific tests during the five-year periodic medical examination provide sufficient medical screening of the population over age 40. Finally, providing medical and dental services for a specific population in only two of the seven Reserve Components creates an inequity among members of the Selected Reserve and among Reserve Components.

This recommendation was contained in the Secretary of Defense report to Congress on the means of improving medical and dental care for Reserve Component members, which Secretary Cohen sent to Congress on November 5, 1999.

Section 502 would amend section 640 of title 10, United States Code, to afford members whose mandatory dates of separation or retirement were delayed due to medical deferment, a period of time to transition to civilian life following termination of medical deferment. It would afford active duty members whose mandatory separations or retirements incident to Chapter 36 or Chapter 63 of this title, a period of time, not to exceed 30 days, following termination of suspensions made under section 640, to transition to civilian life.

As currently written, section 640 requires immediate separation or retirement of those medically deferred members who would have been subject to mandatory separation or retirement under this title for age (section 1251), length of service (sections 633–636), promotion (sections 632, 637) or selective early retirement (section 638). An abrupt termination, especially of a medical deferment, could cause undue hardship on those whose planned departure to civilian life was unexpectedly interrupted and now must be resumed posthaste. Depending upon the nature of the medical deferment, there may be some problems with employment opportunities should the member be thrust back into civilian life without a reasonable preparation time. The 30–day period would allow individuals sufficient time to transition to civilian life, without the distractions of the circumstances of their deferments. This leeway must be provided for these members to reschedule the many details incident to final departure from military life.

Section 503 would add a new section to title 10, United States Code, to provide for the detail of an officer in a grade not below lieutenant commander to serve as Officer-in-Charge of the United States Navy Band. While so serving, an officer who holds a grade lower than captain (0–6) would have the grade of captain. The officer's permanent status as a commissioned officer would not be changed by his detail under this section.

Navy has one Limited Duty Officer captain (0–6) Bandmaster (6430) billet—the position of Officer in Charge/Leader, U.S. Navy Band. The United States Navy Band, Washington, D.C. is the Navy's premier musical representative. As such, Navy established this prestigious position at the captain level because of its extremely high visibility; its importance to Navy representation; the enormous demands of command as well as the technical skill required of the incumbent; to provide proper recognition and compensation for the officer serving as the Band's leader; and to elevate and maintain this organization's status at an appropriate level.

Army, Marine Corps, and Air Force premier Service-band Commanding Officers/Commanders are also 0–6 billets and selection for those positions is accomplished in a manner similar to that used by the U.S. Navy Band. Upon assignment to these positions, leaders of the Army, Marine Corps, and Air Force bands are specifically ''selected'' for promotion to 0–6. That is not the case with the Officer-in-Charge/Leader of the U.S. Navy Band because selection for and appointment to this position is limited to the Limited Duty Officer community. As such, those selected for this special appointment are generally officers with 28–32 years of total active service at the time of selection and appointment as Officer-in-Charge/Leader, U.S. Navy Band. However, the established career path of Limited Duty Officers typically results in selection for this position while serving in the grade of lieutenant commander (0–4) or commander (0–5) and flow points normally do not provide an opportunity for promotion to 0–6 prior to statutory retirement.

Section 504. General/flag officers serving above the grade of 0–8 serve in a temporary grade that is authorized by the position. Such officers generally hold a permanent grade of 0–8. Under current law, for the officer to retire in a grade above 0–8, the Secretary of Defense must determine and then certify to the President and the Congress that such officer served satisfactorily on active duty in the higher grade. Most officers who serve in grades above 0–8 are approved for retirement in the highest grade held. Section 504 would retain the requirement for the Secretary of Defense to certify that the service of an officer on active duty in a grade above 0–8 was satisfactory in order for the officer to be retired in the grade above 0–8, but would do away with the requirement for the Secretary of Defense to provide that certification in writing to the President and the Congress. Further, Section 504 would require the Secretary of Defense to issue written regulations to implement these procedures.

Section 505 would modify sections of titles 10, 37, and 20 of the United States Code to extend temporary military drawdown authorities through Fiscal Year (FY) 2004. Most of these authorities were initially established in the FY 1991 through FY 1993 National Defense Authorization Acts (NDAA). They were designed to enable the Services to reduce their military forces through a variety of voluntary and involuntary programs and to provide benefits to assist departing members in their transition to civilian life. The FY 1994 NDAA extended these authorities through FY 1999. The Department later requested a further extension through FY 2003, but the FY 1999 NDAA only extended them through FY 2001.

Section 505 would add no new or changed programs. Rather, it would extend the expiration date by three years for existing programs. Programs affected include: early retirement authority, enabling Services to offer retirement to members with 15 through 19 years of service; voluntary separation incentive or special separation benefit (VSI/SSB), which offers an annuity or lump sum payment to members separating with between 6 and 19 years of service; waivers of time-in-grade and commissioned service time requirements for officers; and relaxation of certain selective early retirement and reduction-in-force restrictions. Separate, but similar, provisions are included for Reserve and Guard forces. These programs are discretionary and Service Secretaries, when authorized by the Secretary of Defense, may determine whether or not to use the programs.

Transition benefits are otherwise not discretionary. Some apply either to individuals involuntarily separated during the drawdown period or to those accepting VSI or SSB. These include a transition period in which the member and family members continue to receive health care, commissary and exchange benefits, use of military housing, extension of separation or retirement travel, transportation, and storage benefits for up to one year, and extension of the time limitations on the Reserve Montgomery GI Bill. Others provide transition benefits to all departing members during the drawdown period, educational leave to prepare for post-military community and public service, and continued enrollment of dependents for up to one year to graduate from Department of Defense Dependent Schools.

These programs have helped the Services take large reductions in a short time. Although reductions have stabilized and drawdown tools are not currently needed to achieve overall end-strength, they may be

necessary to accomplish force-shaping reductions. In FY 1999 and 2000, the Air Force used early retirement, time in grade, commissioned service time waivers, and VSI/SSB to accomplish medical right-sizing and to alleviate a significant field grade imbalance in the chaplain corps. In FY 2001 and beyond, the Air Force anticipates a continued need for drawdown tools (with associated benefit programs) to stabilize non-line end-strengths. Future force-shaping initiatives could also require limited use of drawdown tools.

Section 506. Subsection (a) adds a new section 1558 at the end of chapter 79 of title 10:

Section 1558(a) authorizes the Secretary of the military department concerned to correct the military records of a person to reflect the favorable outcome of a special board, retroactive to the date of the original board.

Section 1558(b) provides that, in the case of a person who was separated, retired or transferred to an inactive status as a result of the recommendation of a selection board and later becomes entitled to retention on or restoration to active duty or active status as a result of a records correction under section 1558(a), the person shall be restored to the same status, rights and entitlements in his or her armed force as he or she would have had but for the selection board recommendation. If the member does not consent to such restoration, he or she will be entitled to appropriate back pay and allowances.

Section 1558(c) provides that a special board outcome unfavorable to the person considered confirms the action of the original board, retroactive to the date of the original board.

Section 1558(d) authorizes the Secretary concerned to prescribe regulations to implement section 1558, including prescribing the circumstances under which special board consideration is available, when it is contingent on application by the person seeking consideration, and time limits for making such application. Such regulations, issued by the Secretary of a military department, must be approved by the Secretary of Defense.

Section 1558(e) provides that a person challenging the action or recommendation of a selection board is not entitled to judicial relief unless he or she has been considered by a special board under section 1558, or has been denied such consideration by the Secretary concerned. Denial of consideration by a special board is made subject to judicial review only on the basis that it is arbitrary, capricious, not based on substantial evidence, or otherwise contrary to law. If a court sets aside the Secretary's decision to deny such consideration, it shall remand the matter to the Secretary for consideration by a special board. The recommendation of a special board, or a decision resulting from that recommendation, is made subject to judicial review only on the basis that it is contrary to law or involved a material error of fact or a material administrative error. If a court sets aside such a recommendation or decision, it shall remand to the Secretary for new special board consideration, or a new action on the special board's recommendation, as the case may be. These limitations on reviewability and remedies parallel those applicable to reserve component selection boards under 10 U.S.C. 14502 and are in accord with current Federal Circuit law regarding review of military personnel decisions. Murphy v. U.S., 993 F.2d 871 (Fed. Cir. 1993). The term ''contrary to law'' is intended to encompass constitutional as well as statutory violations.

Section 1558(f) provides that the remedies prescribed in section 1558 are the exclusive remedies available to a person challenging the action or recommendation of a selection board, as that term is defined in section 1558(j).

Section 1558(g) provides that section 1558 does not limit the existing jurisdiction of any federal court to determine the validity of any statute, regulation or policy relating to selection boards, but limits relief in such cases to that provided for in section 1558.

Section 1558(h) contains time limits for action by the Secretary concerned on a request for consideration by a special board (six months) and on the recommendation of a special board (one year after convening the board). Failure to act within these time limits will be deemed a denial of the requested relief The Secretary, acting personally, may extend these time limits in appropriate cases, but may not delegate the authority to do so.

Section 1558(i) provides that section 1558 does not apply to the Coast Guard when it is not operating as a service in the Navy.

Section 1558(j)(1) defines ''special board'' to encompass any board, other than a special selection board convened under section 628 or 14502 of title 10, convened by the Secretary concerned to consider a person for appointment, enlistment, reenlistment, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component, in place of consideration by a prior selection board that considered or should have considered the person. A board for correction of military or naval records under section 1552 of title 10 may be a special board if so designated by the Secretary concerned.

Section 1558(j)(2) defines ''selection board,'' for the purposes of section 1558, as encompassing existing statutorily established selection boards, (except a promotion selection board convened under section 573(a), 611 (a) or 14101 (a) of title 10), and any other board convened by the Secretary concerned to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, or retention in the armed forces, or for separation, retirement, or transfer to inactive status in a reserve component for the purpose of reducing the number of persons serving in the armed forces.

Subsection (b) adds new subsections (g), (h) and (i) to section 628 of title 10, the section authorizing special selection boards for promotion of active duty list commissioned and warrant officers (redesignating existing subsection (g) as subsection (j). New subsections (g) and (h) correspond exactly to subsections (g) and (h) of section 14502 of title 10, the ROPMA provision authorizing special selection boards for promotion of reserve active status list commissioned officers.

New subsection (g) provides that no court or official of the United States shall have power or jurisdiction over any claim by an officer or former officer based on his or her failure to be selected for promotion unless the officer has first been considered by a special selection board, or his claim has been rejected by the Secretary concerned without consideration by a special selection board. In addition, this subsection precludes any official or court from granting relief on a claim for promotion unless the officer has been selected for promotion by a special selection board.

Subsection (h) permits judicial review of a decision to deny special selection board consideration. A court may overturn such a decision and remand to the Secretary concerned to convene a special selection board if it finds the decision to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law. The term ''contrary to law'' is intended to encompass constitutional as well as statutory violations. Subsection (i) also provides that if a court finds that the action of a special selection board was contrary to law or involved material error of fact or material administrative error, it shall remand to the Secretary concerned for a new special selection board. No other form of judicial relief is authorized.

Subsection (i) provides (1) that nothing in this legislation limits the existing jurisdiction of any court to determine the validity of any statute, regulation or policy relating to selection boards, but limits relief in such cases to that provided for in this legislation, and (2) that nothing in this legislation limits the existing authority of the Secretary of a military department to correct a military record under section 1552 of title 10.

Subsection (c) provides that the amendments made by this legislation are retroactive in effect, except that they do not apply to any judicial proceeding commenced in a federal court before the date of enactment.

Section 511 would allow the Service Secretaries to routinely transfer Reserve officers to the Retired Reserve—without requiring that the officer request such a transfer—for those officers who are required by statute to be removed from the reserve active status list because of failure of selection for promotion, length of service, or age. This section would add a similar authority with respect to warrant officers and enlisted members who have reached the maximum age or years of service as prescribed by the Secretary concerned. However, this section would allow these members to request discharge or, in some cases, transfer to an inactive status list in lieu of transfer to the Retired Reserve. Giving the Service Secretaries this authority would also help protect those members who entered military service after September 7, 1980. Members who entered military service after that date and are discharged after qualifying for a non-regular retirement (former members) remain eligible to receive retired pay, but that pay is calculated on the pay scale in effect when discharged, rather than the pay scale in effect when they request retired pay. This is significant since the retired pay for a former member in most cases will be significantly less then that of a member of the Retired Reserve because of the pay scale used to determine the amount of retired pay. This amendment would require reservists to make a positive election to be discharged with the full understanding of the possible economic consequences of that decision.

Section 512. A specific definition with respect to Reserve component members was added as section 991(b)(2) of title 10, United States Code, by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398). The purpose of this definition was to ensure consistent treatment of Active and Reserve component members serving under comparable circumstances and preclude Reserve component members from being credited with deployed days when they could spend off-duty time in their home.

As provided in the National Defense Authorization Act for Fiscal Year 2001, the Active component will count ''home station training'' for deployment purposes whenever the member is unable to spend off-duty hours in the housing in which he or she resides when on garrison duty at his or her permanent duty station or homeport. To maintain consistency between Active and Reserve component members, the definition of deployment with respect to Reserve component members must be amended.

Absent the proposed change in Section 512, an active duty member who is not able to spend off-duty time in the housing in which the member resides when on garrison duty at the member's permanent duty station or

homeport, because the member is performing home station training, will be credited with a day of deployment, while a Reserve component member serving under comparable circumstances will not because they will be within the 100-mile or three-hour limit. Section 512 would ensure consistency between Active and Reserve component members with respect to the PERSTEMPO definition.

Section 513 would eliminate the periodic physical examination requirement for members of the Individual Ready Reserve (IRR), which is required once every five years. In lieu of conducting a physical examination every five years, these members would receive a physical examination upon a call to active duty, if they have not had a physical examination within the previous five years. However, the Secretary concerned would have the authority to provide a physical examination when necessary to meet military requirements. There is little return on investment for any program to conduct physical exams for the more than 450,000 members of the IRR. The annual cost of ensuring that IRR members are examined as to physical condition at least every five years is approximately $2.3 million. This cost reflects approximately 10 percent of what the Department should be spending annually on physical exams for this population. However, the Department is able to provide only about 11,000 of the more than 90,000 required physical exams for IRR members each year. In this period of constrained resources, it would be far more cost-effective to conduct physical exams on these Reserve members at the time they are ordered to active duty. This recommendation was contained in the Secretary of Defense's report to Congress on the means of improving medical and dental care for Reserve Component members, which was sent to Congress on November 5, 1999.

Section 514 would amend titles 10, 14 and 38, United States Code (U.S.C.), to provide the same benefits and protections for Reserve Component (RC) members while in a funeral honors duty status as provided when RC members perform inactive duty training (IDT) or traveling to or from IDT. Sections to be amended are:

(1) 10 U.S.C. 802—persons subject to the Uniformed Code of Military Justice. Section 514 would specify that members of a Reserve Component are subject to the Uniform Code of Military Justice while performing funeral honors duty under 10 U.S.C. 12503.

(2) 10 U.S.C. 1061—eligibility for commissary and exchange benefits for dependents of a deceased Reserve Component member. Section 514 would specify that the dependents of a Reserve Component member who died while in a funeral honor duty status, or while traveling to or from such duty would be eligible for commissary and exchange benefits on the same basis as the surviving dependents of an active duty member.

(3) 10 U.S.C. 1475 and 1476—payment of a death gratuity. Section 514 would authorize payment of a death gratuity upon the death of a Reserve Component member who died while in a funeral honor duty status, or while traveling to or from such duty.

(4) 14 U.S.C. 704—military authority of members of the Coast Guard Reserve. Section 514 would specify that a member of the Coast Guard Reserve would have the same authority, rights and privileges as a member of the Regular Coast Guard of a corresponding grade or rating when the member is in a funeral honors duty status.

(5) 14 U.S.C. 705—benefits for members of the Coast Guard Reserve. Section 514 would specify that a member of the Coast Guard Reserve would have the same benefits as a member of the Naval Reserve of corresponding grade, rating and length of service when the member is in a funeral honors duty status.

(6) 38 U.S.C. 101—definitions. Section 514 would add the term ''funeral honors duty'' and define that term, and then include that term in the definition of ''active military, naval, or air service.'' Including the definition of funeral honors duty in the term active military, naval and air service, would entitle a Reserve Component to healthcare and disability compensation from the Department of Veterans Affairs for a service-connected disability incurred or aggravated while in a funeral honors duty status or traveling to or from such duty.

Amending the various statutes to add funeral honors duty as a duty status in which these benefits are provided is important to ensure a viable program of rendering honors at the funerals of our veterans.

Section 515 would specify that the performance of funeral honors by members of the Army National Guard of the United States or Air National Guard of the United States, while in a state status, satisfies the two-person funeral honors detail requirement. While members of the National Guard would meet this requirement when called to duty under a provision of title 10 or title 32, United States Code (U.S.C.), they are not in a federal status when performing duty in a state military duty status, and therefore would not fulfill the two-person requirement for performing funeral honors when in a state status. Amending 10 U.S.C. 1491 to permit National Guard members to fulfill this requirement when performing duty in a state status would help ensure this important mission is accomplished.

Section 516 would authorize Reserve Component members who have been ordered to active duty under section 12301(d) of title 10, United States Code (U.S.C.), to serve in support of a contingency operation (as defined in 10 U.S.C. 101(a)(13)), to be added to the authorized active duty end strength. It would also authorize the ceiling for general and flag officers and officers in the grades of O–6, O–5 and O–4 serving on active duty in those grades to be increased by a number equal to the number of officers in each pay grade serving on active duty in support of a contingency operation. Lastly, it would authorize the ceiling for enlisted members in the grades of E–9 and E–8 serving on active duty in those grades to be increased by a number equal to the number of enlisted members in each pay grade serving on active duty in support of a contingency operation.

Currently, Reserve Component members who are involuntarily called to active duty are exempt from the strength limitations in sections 115, 517 and 523 of title 10. Just as the Services involuntarily call Reserve Component personnel to active duty under section 10 U.S.C. 12304, to meet the operational requirements to support a contingency, the Services also use volunteers from their Reserve Components to meet the operational requirements of a contingency operation. These volunteers are called to active duty under 10 U.S.C. 12301(d). Regardless of the authority used, a voluntary call to active duty or an involuntary call to active duty, the additional manpower represents an unprogrammed expansion of the force to meet operational requirements. The authority to increase the end strength limits and grade ceilings would permit the Services to meet contingency operation requirements without adversely affecting the manpower programmed for other national security objectives. Finally, absent such an authority, the Services have an incentive to use non-volunteers to support these operations to avoid adversely affecting their end strength. This authority to expand the force by the number of Reserve Component members serving on active duty to support the contingency would encourage the Services to use volunteers to meet these mission requirements.

Section 517 would authorize payment of the financial assistance provided under 10 U.S.C. 16201 to a student who has been accepted into an accredited medical or dental school. Section 517 would further amend section 16201 to authorize payment of subsequent financial assistance to an officer who received financial assistance under this section while a student enrolled in medical or dental school and has now graduated and enters residency training in a healthcare professions wartime skill designated by the Secretary of Defense as critically short. When such a student agrees to financial assistance for residency training, the two-for-one service commitment previously incurred for financial assistance while attending medical or dental school may be reduced to one year for each year, or part thereof, of financial assistance previously provided. However, the service obligation incurred for residency training would remain at two-for-one. Finally, Section 517 would authorize the service obligation incurred for financial assistance for a partial year to be incurred in six-month increments for those agreements that require a two-for-one pay back. Thus, for every six months, or part thereof, of benefits paid under this program the recipient would be obligated for one year of service in the Selected Reserve. Currently, two years of service obligation is incurred for each partial year of financial assistance provided, regardless of the number of months in that partial year.

These amendments would provide a more robust incentive program that recruiters could offer students in the healthcare professions in order to entice them into joining the Guard or Reserve. The current medical recruiting incentives, which originated in the early to mid 1980s, must be updated to enable reserve recruiters to compete with hospitals, HMOs and communities who offer financial incentives to medical and dental students in return for a commitment to work for them once they become a qualified physician or dentist. As an example, both the Army Reserve and the Army National Guard, which account for 65 percent of Army medical requirements, have not been able to achieve medical recruiting goals and are experiencing serious medical end strength shortfalls.

In summary, Section 517 would enhance the recruiting incentives targeted at students entering the health care profession in four ways: (1) allow medical and dental school students to receive a stipend, (2) allow subsequent financial assistance for officers who have completed medical or dental school and enter residence training in a critically short wartime skill, (3) allow the service obligation to be reduced to one-for-one when a physician or dentist accepts additional financial assistance for residency training, and (4) allow those service obligations which require a two-for-one pay back to be incurred in six-month increments.

Section 518. Section 521 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) amended section 641(1) of title 10, United States Code (U.S.C.), to exclude certain reserve component officers serving on active duty for periods of three years or less from the active duty list for promotion purposes. The amendment inadvertently excluded a number of reserve officers on active duty for three years or less who should properly be considered on the active duty list. For example, Senior Reserve Officers' Training Corps non-scholarship graduates who attend law school in an educational delay status are ordered to active duty for a period of three years and, as a result of the recent amendment, are placed on the reserve active-status

list, rather than on the active duty list. These officers, however, should compete for selection for promotion with their contemporaries on the active duty list, e.g., officers who are ordered to active duty for a period of four years as a consequence of their participation in the Senior Reserve Officers' Training Corps scholarship program.

Section 518 would amend section 641 to provide that reserve officers ordered to active duty for three years or less would be placed on the reserve active-status list only if their placement was required by regulations prescribed by the Secretary concerned and only if ordered to active duty for three years or less with placement on the reserve active-status list specified in their orders,. This amendment would provide the Secretaries of the military departments with the authority to prevent an inappropriate application of section 641(1)(D).

However, Section 518 would allow Reserve officers who are called to active duty to meet mission requirements of the active forces to be released to resume a reserve career following a limited period of active duty (three years or less) and to be considered for promotion by a reserve promotion selection board and managed under the provisions of subtitle E of title 10, U.S.C., in the same manner as their contemporaries not serving on active duty. Reserve component general/flag officers would, under service regulations, be retained on the reserve active-status list while serving on active duty for a period of three years or less under the provisions of 10 U.S.C. 526(b)(2).

Finally, Section 518 would allow the service secretary to return a Reserve officer to the reserve active status list who otherwise met the criteria of this exemption, but for the fact that the officer was on active duty and had already been placed on the active duty list at the time section 641(1)(D), as amended by Public Law 106–398, was enacted.

Section 519 would permit Reserve component members on active duty and members of the National Guard on full-time National Guard duty to prepare for and perform funeral honors for veterans as required by section 1491 of title 10, United States Code, without counting against active duty end strength. The delivery of funeral honors to veterans is a continuous peacetime mission that has escalated from its recent inception and mandate in Public Law 105–261. Further, funeral honors mission requirements are projected to continue their expansive growth in the out years. Section 519 would allow the Services to fulfill the funeral honors mission without adversely impacting readiness and affecting the end strength needed to meet their wartime missions. For the Department to meet the requirements of the law regarding the provision of funeral honors for veterans, it is critical to have Reserve component participation in this Total Force mission. This end strength exemption would remove an impediment to greater Reserve component participation in funeral honors, provide greater latitude in manpower application, and greatly assist the Department in meeting the expanding requirements of the veterans' funeral honors law.

Section 520. Section 555 of the National Defense Authorization Act for Fiscal Year 2000 amended section 12310(b) of title 10, United States Code, to expand the duties that may be assigned to Reserves, who are on active duty, in connection with organizing, administering, recruiting, instructing, or training the reserve components. While the apparent intent of the amendment was to expand the permissible activities of all Active Guard and Reserve (AGR) personnel, practically, the amendment applies only to AGR personnel performing active duty under section 12301(d) of title 10 and does not include AGR personnel performing full-time National Guard duty under title 32 of the United States Code. Therefore, Section 520 seeks to clarify the current law, aligning the current practices in these missions with the legislative authority governing them. This change is necessary because, effectively, there are few distinctions between the roles of AGR personnel serving on active duty and the roles of reservists performing full-time National Guard duty, outside of the different chains of command that each respective group must report to.

This section would amend section 12310(b) by inserting language that clearly would make the section applicable to Reserves who are members of the National Guard serving on fulltime National Guard duty under section 502(f) of title 32 in connection with organizing, administering, recruiting, instructing, or training the reserve components. It would ensure that National Guard AGR personnel are treated in the same manner as AGR personnel of the other reserve components when determining the scope of permissible duties and functions that they may perform. Section 520 would clarify the authority for AGR personnel on full-time National Guard duty to support an increasing number of operations and missions being assigned in whole or in part to the National Guard. Such duties include operational airlift support activities, standby air defense operations, anticipated ballistic missile defense operations, land information warfare activities, and the use of National Guard instructors to train both active component and reserve component personnel. Thus, this section is important because, while some of these duties have been periodically performed by AGR personnel on full-time duty, there has been no explicit, binding, legal authority which would outline the limits governing their actions.

Section 521 would amend section 516 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) to extend the time during which the Secretary of the Army may waive the applicability of section 12205(a) of title 10, United States Code, to reserve officers commissioned through the Army Officer Candidate School.

Section 12205(a) provides that no person may be appointed to a grade above the grade of first lieutenant in the Army Reserve, Air Force Reserve, or Marine Corps Reserve or to a grade above the grade of lieutenant (junior grade) in the Naval Reserve, or be federally recognized in a grade above the grade of lieutenant as a member of the Army National Guard or Air National Guard, unless that person has been awarded a baccalaureate degree by a qualifying educational institution.

Section 516 authorized the Secretary of the Army to waive the applicability of section 12205(a) to any officer who before the enactment of Public Law 105–261 was commissioned through the Army's Officer Candidate School. The waiver may continue in effect for no more than two years. A waiver under the section may not be granted after September 30, 2000.

Section 521 would amend section 516 to permit the Secretary to waive the applicability of section 12205(a) to any officer who was commissioned through the Army's Officer Candidate School without regard to the date of commissioning and would extend the Secretary's authority under the section to September 30, 2003.

This additional period would enable the Army to determine how to alleviate the problems experienced by some officers commissioned through the Army Officer Candidate School in obtaining a baccalaureate degree during the relatively short period before they are eligible for promotion to captain and during times when they may be engaged either in intense training or deployments for long periods.

Section 522 would amend section 12305 of title 10, United States Code, to afford members whose mandatory dates of separation or retirement were delayed due to stop loss action, a period of time to transition to civilian life following termination of stop loss. Specifically, Section 522 would add subsection (c) to afford active duty members whose mandatory separations or retirements incident to sections 1251 or 632–637 are delayed pursuant to invocation of section 12305, a period of time—not to exceed 90 days following termination of suspensions made under section 12305—to transition to civilian life.

As currently written, section 12305 requires immediate separation or retirement of those affected by stop loss, who, without stop loss, would have been subject to mandatory separation or retirement under this title for age (section 1251), length of service (sections 633–636), or promotion (sections 632, 637). An abrupt termination of stop loss could cause undue hardship on those whose planned departure to civilian life was unexpectedly interrupted and now must be resumed posthaste. For example, the Air Force invoked stop loss in support of Operation Allied Force in 1998. Following the termination of stop loss on 22 June 1998, eight officers with a mandatory (by law) date of separation were required to retire upon their original date of separation (1 July 1998); another three officers were required to separate/retire by 1 August 1998. On the other hand, members with a date of separation set by policy were given the option of either extending their dates of separation up to 6 months or withdrawing them. Some leeway must also be provided for members with dates of separation established by law to reschedule the many details incident to final departure from military life.

Section 531. The Marine Corps War College seeks Congressional authority and regional accreditation to issue a master's degree in Strategic Studies. The authority to begin this process is vested in the Commanding General of the Marine Corps Combat Developments Command and was authorized on 1 June 2000. In December 1999, the Marine Corps University achieved a seven-year goal by becoming accredited by the Southern Association of Colleges and schools to award a master's degree in Military Studies. While this accreditation was awarded to the Marine Corps University, it specifically addressed only the degree awarded by the Command and Staff College. The Marine Corps War College now seeks similar authority.

The uniqueness of the Marine Corps War College's curriculum and program of study is unparalleled by other civilian universities or Federal War Colleges. Most of the Marine graduates of the Marine Corps War College become faculty members of the Command and Staff College and, since the Command and Staff College already awards a master's degree, it would be very beneficial for these future faculty members to possess the required academic credentials when arriving at their new positions at the Command and Staff College.

A master's degree program would enhance the professional reputation and prestige of the Marine Corps War College. This would facilitate the Marine Corps War College's efforts to sustain and recruit a world class faculty and demonstrate a high level of faculty competence as first rate scholars and speakers. Section 531 is intended only as a technical amendment to the existing legislation. Enactment of this section would not result in an increase in the budgetary requirements of the Marine Corps.

Section 532. Section 206(d) of title 37, United States Code, states that ''[t]his section does not authorize compensation for work or study by a member of a reserve component in connection with correspondence courses of an armed force.'' This is similar to the limitation in the definition of ''inactive-duty training'' found in 37 U.S.C. 101(22), which states inactive-duty training ''does not include work or study in connection with a correspondence course of a uniformed service.''

Since the correspondence course restrictions were enacted more than 50 years ago, technological advances affecting instructional methodology have made these restrictions outdated. The law, as currently written, also contradicts recent Congressional directions to maximize the use of technologies such as telecommuting for the federal sector and the National Guard's Distributed Technology Training Project (DTTP).

The Secretary of Defense's training technology vision is to ''ensure that DoD personnel have access to the highest quality education and training that can be tailored to their needs and delivered cost effectively, anytime and anywhere.'' The future learning environment created by the application of new technology will extend learning opportunities for Service members, active and reserve, around the globe. This technology will be available at work (whether at a military base or in the civilian sector), at home, and at individual workstations provided for public use at libraries and military classrooms. Distributed Learning is defined as structured learning that takes place without requiring the physical presence of an instructor. Distributed learning is synchronous and/or asynchronous learning mediated with technology and may use one or more of the following media: audio/videotapes, CD-ROMs, audio/video teletraining, correspondence courses, interactive television, and video conferencing. Advanced Distributed Learning is an evolution of distributed, or distance, learning that emphasizes collaboration on standards-based versions of reusable objects, networks, and learning management systems, yet may include some legacy methods and media.

The awarding of compensation and/or credit involving innovative learning technologies should be for the successful independent completion of the required learning based on Service standards. It is the Service Secretary's responsibility to establish what is ''required'' learning for the purposes of compensating and/or awarding credit to Reserve component personnel. In this context, ''required'' learning means education/training that is necessary for individual and/or unit readiness as called for by law, DoD policy, or Service regulation. Required distance/distributed learning and/or advanced distributed learning courses may have some paper-based phases or modules and can be compensated. In addition, it is the Service secretary's responsibility to develop the policies and procedures to ensure successful and accountable implementation of their Reserve component's Distributed Learning programs. Such policies and procedures should include, but not be limited to, such topics as tracking members' participation at a distance, measuring successful performance/participation, failure policies, telecommuting policies, equipment funding and availability, equipment liability, personal liability, virtual training, virtual drilling, scheduling, documentation, accountability, and implementation guidance.

Section 532 would make no change in resource requirements because budgetary decisions associated with the compensation and/or credit for Reserve component members for work performed through non-traditional methods is left up to the discretion of the Service Secretaries.

Section 533 would modify section 2031 of title 10, United States Code, to strike the second sentence in paragraph (a)(1) which reads as follows: ''The total number of units which may be established and maintained by all of the military departments under authority of this section, including those units already established on October 13, 1964, may not exceed 3,500.''

JROTC is DoD's largest youth program with over 450,000 students enrolled in more than 2,900 secondary schools. The statutory mission for JROTC is to instill in students the value of citizenship, service to the United States, personal responsibility, and a sense of accomplishment. Surveys of JROTC cadets indicate that about 40 percent of the graduating high school seniors with more than two years participation in the JROTC program are interested in some type of military affiliation (active duty enlistment, officer program participation, or service in the Reserve or Guard). Translating this to hard recruiting numbers, in Fiscal Years (FY) 1996–2000, about 9,000 new recruits per year entered active duty after completing two years of JROTC. The proportion of JROTC graduates who enter the military following completion of high school is roughly five times greater that the proportion of non-JROTC students. Therefore, the program pays off in citizenship as well as recruiting.

Recognizing the merits of the JROTC program, the Military Services have undertaken an aggressive expansion program and are committed to reach the statutory maximum of 3,500 by FY 2006. As a result of this planned growth, the Military Services have witnessed a marked increase in the number of schools seeking establishment of JROTC units. We now face the real potential that DoD and a waiting school might both wish to proceed with an activation, yet face a legislative cap that prevents execution of such a mutually-desirable course of action. Enactment of Section 533 would permit DoD to be responsive to mutually agreeable school needs which might exceed the present 3,500–unit cap set in law.

Section 534 would extend eligibility for the Nurse Officer Candidate Accession Program to students enrolled at civilian educational institutions with a Senior Reserve Officers' Training Program (SROTP) who are not eligible for Senior Reserve Officers' Training Programs.

The Nurse Officer Candidate Accession Program (NCP) is a primary accession source of new nurse officers and provides a hedge against difficulty in the direct procurement market. It provides financial assistance to students enrolled in a baccalaureate nursing program in exchange for an active duty commitment upon graduation.

Market projections indicate increasing difficulty in recruiting students for the NCP due to an increase in civilian career opportunities and declining nursing school enrollment. Evidence from nursing journals and employment industry statistics confirm that a tightening job market for nurses is expected over the next few years.

Section 213Oa of title 10, United States Code, currently restricts eligibility for the NCP to students enrolled in a nursing program at a civilian educational institution ''that does not have a Senior Reserve Officers' Training Program.''

Eligibility requirements for the SROTP limit age to 27 years. SROTP scholarships for junior or senior level students are limited to a few quotas each year only to replace students lost through attrition. The NCP age limit is up to 34 years and only bars those within six months of graduation. Recruiters report considerable interest in the NCP program by SROTP-ineligible students.

Extending NCP eligibility to SROTP-ineligible students would expand the potential applicant pool and demonstrate strong Congressional support and commitment to providing future nurse officers with the necessary skills to meet our healthcare mission around the world.

Section 535. The Defense Language Institute Foreign Language Center serves as the Defense Department's primary foreign language teaching and resource center. The Institute has been accredited by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (Commission) since 1979. The Commission has recommended that the Institute obtain degree-granting status to maintain its accreditation. The Secretary of Education has endorsed that recommendation. Section 535 would provide the authority for the Institute to grant an Associate of Arts degree. There are no resource implications other than the routine administrative requirements to produce a diploma suitable for presentation upon graduation.

Section 541 is pursuant to the provisions and procedures of section 1130 of title 10, United States Code. The Honorable Sherrod Brown of the House of Representatives requested the Secretary of the Army, the appropriate official under section 1130, to review the circumstance of this case. Section 541 follows the determination made under section 1130(b)(2) that the award of the decoration warrants approval. It further recommends a waiver of the specified time restrictions prescribed by law. The Secretary of the Army and the Chairman of the Joint Chiefs of Staff both agree and recommend that Humbert R. Versace be awarded the Medal of Honor. Section 541 would waive the period of time limitations under Section 3744 of title 10 to authorize the President to award Humbert R. Versace the Medal of Honor.

Section 541 would authorize the President to award the Medal of Honor to Humbert R. Versace, who served in the United States Army during the Vietnam War and who was assigned as a Captain with A Detachment, 5th Special Forces Group. It would waive the specific provisions of section 3744 of title 10 that the award be made within three years of the date of the act upon which the award is based. The acts of then-Captain Humbert R. Versace clearly distinguish him conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty, as required by section 3741 of title 10 to merit this legislation and the award.

Section 542 would amend sections 3747, 6253 and 8747 of title 10, United States Code, to provide clear authority for the Secretaries of the military departments to replace certain medals if stolen and to issue medal of honor recipients one duplicate medal of honor, with ribbons and appurtenances.

Sections 3747, 6253 and 8747 currently authorize free replacement of any medal of honor, distinguished service cross, distinguished service medal, silver star, Navy cross, Navy and Marine Corps medal, or Air Force cross that is lost or destroyed or becomes unfit for use without the fault or neglect of the recipient. Enactment of Section 542 would also clarify the intent of these sections to authorize specifically the replacement of medals that are stolen, subject to the limitation that the theft was without the fault or neglect of the recipient.

If enacted, Section 542 would also authorize the Service Secretaries to issue each medal of honor recipient one duplicate medal free of charge. There is no provision in title 10 that authorizes issuance of a duplicate medal of honor so that the recipient can donate the original medal or otherwise safeguard it and wear the duplicate to functions

and events. In fact, sections 3747, 6253 and 8747 of title 10, in conjunction with sections 3744(a), 6247 and 8744(a) of such title, may be construed to prohibit the issuance of a duplicate medal of honor.

If Section 542 is enacted, medal of honor recipients would have to make written application to the Secretary concerned for the issuance of a duplicate medal, which would be marked, as determined by the Secretary concerned, as a duplicate or for display purposes only. The issuance of a duplicate medal under this new authority would not constitute the award of ''more than one'' medal of honor to the same person. Sections 3744(a), 6247 and 8744(a) of title 10 prohibit the award of ''more than one'' medal of honor to a person.

Issuance of a duplicate medal of honor for display purposes would allow recipients to place their original medals in safekeeping or donate them to institutions for permanent display while retaining the duplicate to wear at events. Medal of honor recipients are expected to wear their medals at many of the events to which they are invited. According to the Congressional Medal of Honor Society, many of the 152 living recipients would like to donate or otherwise safeguard their original medals because the value of the medals on the ''black market'' has made them an attractive target for theft. Medals marked as duplicates, by contrast, would presumably have little or no ''black market'' value and would be less attractive targets for theft.

The cost of issuing duplicate medals of honor would be minimal. The current cost of a medal of honor is approximately eighty-five dollars. If every living recipient requested a duplicate, the cost would not exceed $15,000, including shipping.

Section 543. Section 541 of the Floyd D. Spence National Defense Authorization Act for FY 2001 (114 Stat. 1654A–114) enacted section 1133 of title 10, United States Code (U.S.C.), that restricts eligibility for the Bronze Star Medal to members of the Armed Forces who are in receipt of special pay under section 310 of title 37, U.S.C., at the time of the events for which the decoration is to be awarded or who receive such pay as a result of those events. ''Special pay'' under section 310 includes both hostile fire pay (HFP) and imminent danger pay (IDP). The reason for the change stemmed from the belief that someone whose duties never took them away from home did not perform the same kind of service as someone who was in the combat zone. The perception was that most people who received IDP or HFP served in a combat zone.

Currently, military personnel serve in 43 areas which qualify for IDP or HFP, but only two areas are further designated ''combat zones''—Yugoslavia (Serbia, Kosovo, Albania, the Adriatic Sea, the Ionian Sea above the 39th parallel, and the airspace above these areas) and the Persian Gulf. Service members qualify for IDP not only in wartime conditions, but also if they are subject to physical harm or imminent danger due to terrorism, civil insurrection, or civil war. HFP is awarded when a service member is subject to hostile fire or explosion of hostile mines; on duty in an area in which he is in imminent danger of being exposed to hostile fire or explosion of hostile mines; or is killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action. The decision to declare an area eligible for receipt of IDP or HFP is not immediate. A recommendation is made by the regional commander in chief, endorsed by the Joint Chiefs of Staff, and then approved by DoD Force Management Policy.

No other higher-level valor award, e.g., the Medal of Honor, Service Cross, Silver Star, or Distinguished Flying Cross, has similar eligibility criteria. Historically, the Bronze Star Medal has been awarded outside of combat areas, such as during the Korean conflict when it was approved for personnel stationed in Okinawa for meritorious service in connection with military operations against Northern Korea. Therefore, limiting eligibility for the Bronze Star Medal to only those members serving in an area where imminent danger pay is authorized or to those receiving hostile fire pay would exclude many deserving members of the Armed Forces.

Awarding of the Bronze Star Medal should be disassociated with any requirement for IDP or HFP and should instead stand alone. The revolution in military warfare has changed the way the U.S. has traditionally viewed force application and the decorations, many of whose origins recognized traditional ground combat operations, must also keep up and recognize the changes in the way the U.S. conducts warfare.

Section 551 would amend the Uniform Code of Military Justice to lower the blood alcohol concentration (BAC) necessary to establish drunken operation of a motor vehicle from 0. 1 to 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams per 210 liters of breath. This change would bring military practice in line with the recently enacted nationwide drunk driving standard found in section 351 of the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 2001, Public Law 106–346, 114 Stat. 1356A–34.

On March 3, 1998, President Clinton directed the Secretary of Transportation to develop a plan to promote a .08 BAC legal limit, which would include ''setting a. 08 BAC standard on Federal property, including. . . on Department of Defense installations, and ensuring strong enforcement and publicity of this standard. . . .''

Consistent with this planning effort, DoD legislation was proposed in its omnibus legislative package in the spring of 1999 to amend the Uniform Code of Military Justice to reduce the blood and breath alcohol levels for the offense of drunken operation of a vehicle, aircraft, or vessel from 0.10 to 0.08 grams. The U.S. Senate adopted section 562 of S. 974 to make corresponding changes to the United States Code. H.R. 1401, as adopted by the U.S. House of Representatives, contained no similar provision. The Senate receded in Conference on this provision. S. 1059 was then substituted and enacted, signed by the President, and became Public Law 106–65.

The Conference Committee Report to S. 1059, National Defense Authorization Act for Fiscal Year 2000, requested the Secretary of Defense to submit a report to the Armed Services Committees ''on the Department's efforts to reduce alcohol-related disciplinary infractions, traffic accidents, and other such incidents. The report should include the Secretary's recommendations for any appropriate changes.'' The Conference Report noted that a recent General Accounting Office (GAO) study concluded that statutory reductions, by themselves, did not appear sufficient to reduce the number and severity of alcohol-related accidents.

The GAO study cited by the Conference Report is entitled ''Highway Safety: Effectiveness of State .08 Blood Alcohol Laws'' (June 1999). This GAO report concludes that ''.08 BAC laws in combination with other drunk driving laws as well as sustained public education and information efforts and strong enforcement can be effective, [but] the evidence does not conclusively establish that .08 BAC laws by themselves result in reductions in the number and severity of crashes involving alcohol.'' GAO Report at 22–23.

The GAO report further found that ''it is difficult to accurately predict how many lives would be saved if all states passed .08 BAC laws. The effect of a .08 BAC law depends on a number of factors, including the degree to which the law is publicized; how well it is enforced; other drunk driving laws in effect; and the unique culture of each state, particularly public attitudes concerning alcohol.'' GAO Report at 23. ''A .08 BAC law can be an important component of a state's overall highway safety program, but a .08 BAC law is not a 'silver bullet'. Highway safety research shows that the best countermeasure against drunk driving is a combination of laws, sustained public education, and vigorous enforcement.'' GAO Report at 23.

Since 1983, DoD has pursued a ''comprehensive approach'' to reduce drunk driving, believing that the best countermeasure against drunk driving is a combination of laws, public education, and enforcement. This comprehensive range of programs currently include: a 0.10 blood alcohol concentration (BAC) statute enforceable by court-martial; strong policies to achieve a reduction in impaired driving; a system for preliminary and mandatory suspension of licenses in cases of impaired driving; innovative education and training programs; a screening program for identifying alcohol dependent individuals; a process to notify State driver's license agencies regarding licenses suspended for impaired driving; a local awards program for successful impaired driving programs; and a system to monitor and ensure quality control for impaired driving programs.

Together, these programs have resulted in a reduction in alcohol-related traffic accidents for DoD personnel which compares favorably to analogous statistics of the National Highway Traffic Safety Administration (NHTSA) for the 50 states and the District of Columbia.

DoD recommends that the effectiveness of the existing DoD programs be further enhanced through the amendment of Article 111(2) of the Uniform Code of Military Justice, 10 U.S.C. §911(2), to reduce the enforceable BAC level to 0.08.

Reducing the BAC level to 0.08 would be consistent with statutes or administrative policies already in effect in 19 States, the District of Columbia, and Puerto Rico. Six additional States currently have under consideration legislation to change to the 0.08 BAC level. If enacted, DoD believes the 0.08 BAC limit would be an important component of our overall traffic safety program and support a significant reduction in the annual number of alcohol-related fatal and non-fatal crashes involving DoD personnel, with corresponding human and economic savings.

Section 601 The primary purpose of military compensation is to provide a force structure that can support defense manpower requirements and policies. To ensure that the uniformed services can recruit and retain a force of sufficient numbers and quality to support the military, strategic and operational plans of this nation, military compensation must be adequate. Comparison of the earnings of military members with their civilian counterparts suggests that without some adjustment to both the level and structure of basic pay, the military will continue to face serious difficulties in both recruiting and retention.

The results of the military and civilian earnings profile comparisons and the life-cycle earnings analysis conducted by the 9th Quadrennial Review of Military Compensation (9th QRMC) lead to several recommendations that both raise the level of pay and alter the structure of the pay table as well. The structural modifications include targeting pay raises to the enlisted mid-grade ranks that will better match their earnings profile, over a career, with that of

comparably-educated civilian counterparts and provide a sufficient incentive for these members to complete a military career. Recommended adjustments:

Target large basic pay increases for enlisted members serving in the E–5 to E–7 grades with 6–20 years of service. This would alter the pay structure and thus the shape of the earnings profile, increasing the slope of the earnings profile for midgrade enlisted members to partially achieve the levels suggested by the 9th QRMC.

Raise basic pay for grades E–8 and E–9, to maintain incentives throughout the enlisted career and prevent pay inversion.

Provide a modest increase in basic pay for junior enlisted members. This increase reflects the importance of preventing further deterioration in the percentage of high quality recruits.

Provide for structural changes in selected pay cells for E3, E4, and E5 to motivate members to seek early promotion in the junior grades.

Raise basic pay for grades O–3 and O–4 to provide increased retention incentives.

Provide a modest increase for other officers to recognize their contribution to the defense effort.

Subsection (a) waives the adjustment in basic pay that is prescribed in section 1009 of title 37, United States Code. Subsection (b) provides a pay table describing the changes in basic pay. These increases are summarized in the table on the following page:

Grade	Percentage increase	Grade	Percentage increase
E–1	6.0	W–1	8.5*
E–2	6.0	W–2	8.5*
E–3	6.0*	W–3	8.0
E–4	6.6*	W–4	7.5
E–5	7.5*	W–5	7.0
E–6	7.5*	O–3	6.0
E–7	8.5	O–4	6.5
E–8	9.0	others	5.0
E–9	9.5*	.....	.....

*The following pay cells are increased by a different percentage for structural purposes:
E–3 <2: 7.3
E–4 <2: 12.0; E–4 >6 (through >26): 6.0
E–5 <2: 13.0
E–6 <2: 8.0
E–9 >26: 10.0; M/S: 10.0
W–1 <2: 15.0; W–1 >3: 14.0
W–2 >2: 6.0; W–2 >3: 11.0; W–2 >4: 11.0

Section 602 would amend section 407 of title 37, United States Code, to authorize payment of a partial dislocation allowance of $500 to members who are ordered, for the convenience of the Government (including pursuant to the privatization or renovation of housing), to move into or out of military family housing. Section 601 would allow members to receive a partial dislocation allowance for a government-directed move at the current permanent duty station.

Currently, a member directed to move due to privatization or renovation of government housing does so at the member's personnel expense. In line with the current dislocation allowance authority, the member is making an authorized move; however, there is no authority to provide the member a dislocation allowance to set-up the new home. Section 601 would provide a partial dislocation allowance to help members defer moving expenses caused by the government's housing decisions. Section 601 would limit payment in these circumstances to $500 initially. Adjustments would be made annually in a manner consistent with the full dislocation allowance. Section 601 also would specify that payments made under new subsection 407(c) shall not be subject to a fiscal year limitation like other DLA payments.

Section 603 would provide the Service Secretaries with the discretionary authority to pay the funeral honors duty allowance to military retirees who volunteer to perform honors at the funeral of a veteran. If authorized by the Secretary concerned, the retiree would receive this allowance without forfeiting any retired or retainer pay, disability compensation, or any other compensation provided under titles 10, 37 and 38. This recognizes that military retirees are a valuable personnel resource that can be employed to meet the funeral honors mission. By using retirees to perform this mission, it would allow active duty and reserve personnel to continue to train for and perform other vital military missions. It also recognizes that this minimal level of compensation could be used to encourage retirees to volunteer to perform this mission. Finally, by not requiring any offset of their retired or retainer pay, or any other compensation, Section 602 not only would reduce the administrative burden placed on the Defense Finance and Accounting Service, but it also would provide an incentive to retirees who, in the vast majority of cases, would otherwise actually receive less compensation than that provided by their retired or retainer pay if they had to forfeit that pay in order to receive the funeral honors duty allowance.

Section 604 would authorize Reserve Component commissioned officers in the pay grade of O–1, O–2 or O–3 who are not on active duty, but have accumulated a minimum of 1460 points (the equivalent of four years of active duty) as a warrant officer or enlisted member, to be paid at the O–1E, O–2E or O–3E rate. Currently, a company grade officer with at least four years of prior active duty service as a warrant officer or as an enlisted member is entitled to be paid at a slightly higher rate. The increase in pay recognizes the additional experience these officers have gained while serving as a warrant officer or an enlisted member and rewards them accordingly. A Reserve commissioned officer who has accumulated at least 1,460 points-the equivalent of four years of active duty-has gained significant military experience similar to that of a member who qualifies for this increase in pay because of prior active duty service. Moreover, because of the part-time nature of their service, these officers have gained that experience over a longer period of time and are generally more mature. Allowing these officers to receive this increase in pay recognizes and rewards that experience on the same basis as officers who gained their experience purely through active duty service.

Section 605 would modify section 427 of title 37, United States Code, to authorize the payment of a Family Separation Allowance to those members who elect to serve an unaccompanied—versus accompanied—tour because the member is denied travel of the member's dependents due to certified medical reasons. Currently, the law prescribes that a member who elects to serve a tour of duty unaccompanied by his or her dependents, at a permanent station to which the movement of dependents is authorized, is not entitled to a Family Separation Allowance. The law provides, however, that the Secretary concerned may grant a waiver to that prohibition when it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances. Under existing waiver authority, the Services approve waivers when a member chooses to serve an unaccompanied tour because travel of the individual's dependents to the new station is denied due to medical reasons. This change would remove the statutory requirement for the Secretary concerned to issue a waiver in these circumstances before the Family Separation Allowance is payable. This program efficiency would ease the administration of the Family Separation Allowance program. In addition, adoption of Section 604 would have no effect on expenditures for the Family Separation Allowance program.

Section 606 would amend section 4337 of title 10, United States Code, to authorize a housing allowance for the chaplain for the Corps of Cadets at the United States Military Academy. The chaplain, who is a civilian employee of the Academy, would receive the same allowance for housing as is allowed to a lieutenant colonel. The chaplain would also receive fuel and light for quarters in kind.

Currently, section 4337 reads as follows: ''There shall be a chaplain at the Academy, who must be a clergyman, appointed by the President for a term of four years. The chaplain is entitled to the same allowances for public quarters as are allowed to a captain, and to fuel and light for quarters in kind. The chaplain may be reappointed.'' Although section 4337, read literally, authorizes a quarters allowance for the chaplain at the Academy with fuel and light in kind, the Comptroller General has determined that this part of the section has been effectively repealed.

The source statute for section 4337 was enacted in 1896 and codified as part of title 10 on 10 August 1956. The Comptroller General issued an opinion on August 28, 1959, which held that Congress intended the Classification Act of 1949 to supersede the source statute for section 4337. The purpose of the Classification Act was to ensure that Federal employees in like positions received equal pay. The Comptroller General concluded that the provisions relating to a quarters allowance for the academy chaplain were closely related to compensation and, therefore, the reenactment of the quarters provision as part of title 10 in 1956 was ''erroneous. Ms. Comp Gen. B–140003. Consequently, the military academy chaplain, although charged rent for quarters, has not received a quarters allowance, despite the plain language of section 4337.

This situation has, over time, undermined the Army's ability to attract, hire and retain appointees for the position of chaplain at the Academy, a position mandated by section 4331(b)(5) of title 10. Enactment of Section 605 would ameliorate this problem by providing clear authority to update and restore the academy chaplain's housing allowance, at a reasonable and appropriate pay grade level.

The cost to implement Section 605 is estimated at $14,000 per year, although a portion of that expenditure would be recouped as rent paid by the academy chaplain.

Section 607 would amend section 18505(a) of title 10, United States Code, by removing the language relating to space-required travel on military aircraft by Reserve component members when the purpose of that travel is to perform ''annual training duty.'' A statutory authority for Reserve component members to travel in a space required status when performing active duty for training (including annual training duty) is not necessary since these members are already authorized by DoD regulation to travel in a space-required status. Of particular concern with the addition of annual training duty to section 18505 is the applicability of section 18505(b) to members performing such duty. Section 18505(b) prohibits a member from receiving travel, transportation and per them allowances associated with space-required travel—allowances to which the member was previously entitled before section 18505 was amended by section 384 of Public Law 106–398 (the National Defense Authorization Act for Fiscal Year 2001) to add ''annual training duty.''

Since annual training is a requirement for satisfactory participation in the Selected

Reserve, the Services budget for those training tours—this includes travel, transportation and per diem allowances. While section 12305 of title 10 allows Reserve component members to consent to perform active duty and active duty for training without pay, it is not appropriate to use this authority in conjunction with annual training. If this authority is being used in conjunction with annual training duty for Reserve component members who do not have an annual training requirement, the Department can address this issue through policy guidance.

If enacted, this proposal would have no cost or budgetary effect.

Section 611 would amend section 301c of title 37, United States Code, to remove submarine duty incentive pay (SUBPAY) rates from law, enabling the Secretary of the Navy to adjust SUBPAY rates when changes are needed to support submarine accession and retention requirements. Section 611 also would establish a maximum monthly SUBPAY rate of $1,000. The effective date for these changes would be 1 October 2002.

Enlisted submarine Sailors receive SUBPAY while on shore duty if they incur at least 14 months of obligated service beyond their shore duty Projected Rotation Date, ensuring they are assignable to future submarine sea duty. SUBPAY, unlike Career Sea Pay or any other enlisted incentive or special pay program, is a direct indicator of how well submarines will be manned with experienced sea returnees as much as three years into the future. Additionally, getting experienced Sailors back to a submarine for 14 months actually encourages experienced Sailors to stay past the 14-month minimum requirement: of those Sailors with between 10 and 14 years of service, who are currently serving on board a submarine and who went back to sea for at least 14 months, 79 percent obligated themselves for at least a two-year minimum activity tour on that submarine.

In 1999, the decline in the propensity of enlisted submarine personnel to incur additional obligated service (and future sea duty service) equated to 776 lost man-years of at-sea submarine service—enough manpower to operate 5 submarines for one year. Higher SUBPAY rates could be used to stem this decline and entice undecided submarine Sailors at the critical 10- to 12-year decision point to choose a 20-year or greater Navy career. In addition, higher SUBPAY rates could help Navy meet submarine non-nuclear enlisted recruiting goals, which have not been met in the last decade.

The current statutory SUBPAY rate tables have been duplicated in SECNAVINST 7220.80E, as well as in Tables 23–3 through 23–5 of Volume 7A, Chapter 23 of the Department of Defense Financial Management Regulations. Thus, removing the SUBPAY rates from law would provide the service secretary with a timely, flexible and pay grade-targeted method to address the looming personnel-related issues that are probable given the uncertain future Submarine Force of Record, which could add as many as 13 submarine crews by FY2004 and 19 crews by FY2015.

SUBPAY was last increased in 1988, when it was raised to restore the approximate value that it had for submarine Sailors when the SUBPAY program was previously revised in 1981. Since 1988, the value of SUBPAY has eroded by approximately 47 percent (based on the Consumer Price Index—Urban Direct Index from 1988 to 1999 and projected to 2001). If granted this new discretionary authority, Navy intends to target first the most critically manned pay grades—mid grade enlisted Sailors and junior to mid grade officers. This would increase the maximum enlisted payment rate from $355 to $425, but would maintain the maximum officer payment rate at $595. Therefore, the budgetary impact of Section 611 would be a net increase of $15.0 million in FY 2003 and a net increase of approximately $14.5 million per year thereafter through FY 2007.

Section 612 would extend the authority to employ accession and retention bonuses for enlisted personnel, and continuation pay for aviators, ensuring that adequate staffing is provided for hard-to-retain and critical skills, including occupations that are arduous or that feature extremely high training and replacement costs. Experience shows that retention in those skills would be unacceptably low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing a replacement. The Department and the Congress have long recognized the cost-effectiveness of financial incentives in supporting effective staffing in critical military skills.

Section 613 would extend the authority to employ accession and retention incentives to support staffing for nurse and dentist billets which have been chronically undersubscribed. Experience shows that manning levels in the nursing and dental fields would be unacceptably low without these incentives, which in turn would generate substantially greater costs associated with recruiting and developing a replacement. The Department and Congress have long recognized the cost-effectiveness of these incentives in supporting effective personnel levels within these fields.

Section 614 would extend the authority to employ accession and retention incentives, ensuring adequate manning is provided for hard-to-retain skills, including occupations that are arduous or feature extremely high training costs. Experience shows retention in those skills would be unacceptably low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing a replacement. The Department and the Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning in these occupations. In the case of the Nuclear Officer Incentive Pay Program, a two-year extension demonstrates support to career-oriented officers.

Nuclear officer accessions and retention continue to fall below that required to safely sustain the post-drawdown force structure. Fiscal Year (FY) 1999 retention for submarine officers was 30 percent (required 29 percent); for nuclear-trained Surface Warfare Officers (SWO(N)s) it was 20 percent (required 21 percent). FY 2000 retention for submarine officers was 28 percent (required 34 percent); for SWO(N)s it was 21 percent (required 21 percent). Although adequate for now, nominal retention rates must improve by FY 2001 to 38 percent for submarine officers and 24 percent for SWO(N)s to adequately meet growing manning requirements. Likewise, current accession production must improve. Although nuclear accession goals were met for FY 2000 (the first time meeting submarine officer accessions since FY 1991), FY 2001 nuclear officer accession goals have increased to meet the manning requirements for an increased force size.

Inadequate accessions in previous years and continued poor retention only compound the sacrifices incurred by those officers remaining, as demanding and stressful sea tours are lengthened to meet safety and readiness requirements. If the shortfall of officers due to both effects is sufficiently severe, the entire sea/shore rotation plan becomes unbalanced, and officers eventually must rotate directly from one sea tour to the next. This was the case in the 1960s and 1970s when many officers spent as many as 16 or more of their first 20 years in sea duty and nuclear or warfare-related training and supervisory assignments. Eventually, many of these remaining officers find the sacrifices too great and resign from the service. History has shown retention erodes further, requiring even more accessions, and the ''vicious cycle'' repeats. The success of the Naval Nuclear Propulsion Program is a direct result of quality personnel, rigorous selection and training, and high standards that exceed those of any other nuclear program in the world. Maintaining this unparalleled record of safe and successful operations depends on attracting and retaining the right quantity and highest quality of officers in the Naval Nuclear Propulsion Program.

Representing nearly half the Navy's major combatants and 60 percent of combat tonnage, nuclear-powered warships are repeatedly called upon to protect our vital interests and respond to crises around the world. They represent the cornerstones of our continued maritime supremacy and are an integral part of our national security posture. Adequate manning with top quality individuals is key to the continued safe operation of the program.

The attraction of the civilian job market for nuclear-trained officers remains strong. These officers possess special skills as a result of expensive and lengthy Navy training. They also come predominantly from the very top of their classes at some of the nation's best colleges and universities. As a result, these officers are highly sought for positions in career fields, both within and outside of the nuclear power industry, due to their educational background and management experience. The competition for well-qualified, experienced technical personnel coupled with the lowest unemployment rate in over two decades, indicate that the marketability of nuclear-trained officers will likely increase. Officers leaving the Navy after five years of service can expect to transition to the civilian workforce at about the same level of compensation, but with greatly increased potential earnings and without the arduous schedules and family separation.

The Nuclear Officer Incentive Pay program, in its current structure, remains the surest and most cost-effective means of meeting current and future manning requirements. Long-term program support through a four-year program extension is strongly encouraged. The two-year extension would demonstrate Congressional commitment commensurate with that made by Naval officers who have chosen to reap the rewards and endure the sacrifices of a career in the Nuclear Propulsion Program.

Section 615 would extend the authorization for critical recruiting and retention Reserve component incentive programs. Recruiting has become increasingly more challenging and the incentives provided by the Selected Reserve affiliation and enlistment bonuses are a valuable part of the overall recruiting effort. Absent these incentives, the Reserve components may experience difficulty in meeting skilled manning and strength requirements. Moreover, the Reserve components rely heavily on being able to recruit individuals with prior military service. The prior service market is a high priority for the Reserve components since assessing individuals with prior military experience reduces training costs and retains a valuable, trained military asset in the Total Force. The prior service enlistment bonus offers an incentive to those individuals with prior military service to transition to the Selected Reserve.

Equally important to the recruiting effort is retaining members of the Selected Reserve. The Selected Reserve reenlistment bonus, which was increased last year from

$5,000 to $8,000, is necessary to ensure the Reserve components maintain the required manning levels by retaining members who are already serving in the Selected Reserve. Moreover, the special pay for enlisted members assigned to certain high priority units provides the Services with an incentive designed to reduce manning shortfalls in critical undermanned units.

The Reserve components have historically found it challenging to meet the required manning in the health care professions. The incentive that targets those healthcare professionals who possess a skill that has been identified as critically short is essential if the Reserve components are to meet required manning levels in these skill areas.

The expanded role of the Reserve components requires not only a robust Selected Reserve force, but also a robust manpower pools—the Individual Ready Reserve. Extending the Individual Ready Reserve bonus authority would allow the Reserve components to target this bonus at individuals who possess skills that are under-subscribed, but are critical in the event of mobilization.

Combined, the Reserve component bonuses and special pays provide a robust array of incentives that are necessary if the Reserve components are to meet manning requirements. Extending these authorities would ensure continuity of these programs. Since these incentive programs are recurring Service budget items, there is no additional cost for extending these authorities.

Section 616 would amend title 37, United States Code, by establishing a broad authority for an Officer Critical Skill Accession Bonus to provide needed flexibility for Service Secretaries to recruit officers with critical skills. This is intended to preclude the need to add future individual statutory bonus provisions for specific officer career categories experiencing an accession shortfall.

Over the past several years, officers with certain critical skills have separated from service at higher than historical rates, and recruitment of officers into these critical specialties has declined. This is, in large measure, likely a result of higher compensation and benefits being offered for these skills in the private sector. Recruitment shortages among officer skills can be expected to further erode absent enactment of statutory authority for monetary incentives that can be utilized to offset the pull on these critical specialties from the civilian marketplace. Examples of specialties currently short (and which have no, or inadequate, statutory bonus authority for use to target the shortages) include the Air Force's declining cumulative continuation rates among officers in communications-information systems (CIS) (35 percent in 1999), some electrical engineers (39 percent in 1999 for developmental engineers, and 31 percent for civil engineers in 1999), scientific (53 percent in 1999), and acquisitions (averaged 38 percent from 1997–1999). Shortfalls in retention in these skills are occurring while Air Force accession rates have also continued to fall below the Air Force goal. As of June 30, 2000, the Air Force accessed 74 percent of its goal for weather officers, 69 percent for developmental engineers, 83 percent for air traffic control and combat operations, and 90 percent for CIS. Authority for the Air Force to offer a financial incentive to boost manning in the Engineering and Scientific career and CIS specialties is particularly critical.

Further, the Navy is experiencing shortages in their Civil Engineer Corps (CEC) career field. The Navy has failed to recruit the required number of CEC officers in the past three fiscal years (1998 through 2000). In Fiscal Year 2000, the Navy only accessed 54 percent of the CEC accession goal; it projects to meet only 67 percent of the Fiscal Year 2001 CEC accession goal, and projects to remain short in the out-years. Shortages of that magnitude translate to undersupervision in an unusually sensitive mission area. Authority to offer CEC officer-recruits an accession bonus is critical if the Navy is to have the compensation tools it needs to increase the number of CEC officer-recruits to levels needed to man future CEC force structure requirements. An accession bonus authority would give Navy the competitive edge it needs to attract the most qualified candidates to the Navy CEC.

Rather than seeking additional individual statutory authorities for these critical officer specialties, and any others that may emerge in the future, this proposal seeks a broad accession pay authority. Under such statutory authority, the Departments would establish program parameters and implementation strategies to ensure the Service Secretaries are provided the flexibility they need to address officer critical specialty shortfalls in a timely manner.

Based on current projections, the net effect of adoption of Section 616 would be an increase of $18.05M in Fiscal Year 2002 ($.05M for Navy and $18M for Air Force), Army and Marine Corps do not anticipate they would utilize this authority in Fiscal Year 2002.

Section 617 would allow the Secretary concerned to target this incentive to individuals who possess a skill that is critically short to meet wartime requirements and who agree to enlist, reenlist or voluntarily extend an enlistment in the Individual Ready Reserve. The current statute authorizes payment of this bonus to individuals who possess a skill that is critically short in a combat or combat support mission. However, this bonus is not authorized for individuals who possess a critically short skill in a combat service support mission. As a result of the drawdown and restructuring of the force over the past decade, the Reserve components have assumed a variety of new missions across the full range of mission areas. Of particular concern is the ability to meet the expanded combat service support mission requirements in the Army Reserve. To meet manpower requirements in its expanded combat support and combat service support role, the Army Reserve must rely heavily on members of the Individual Ready Reserve. Expanding this authority to allow the Secretary concerned to target this bonus in those skill areas that are critically short, regardless of the type of mission, would help reduce critical mobilization manning shortages. This proposed change is consistent with other active duty and Selected Reserve bonus authorities, which provide the Service Secretary with the authority to identify those skill areas that are critically short and require added incentives to achieve the necessary manning level to meet mission requirements.

Section 618 would amend section 301 of title 37, United States Code, to authorize payment of hazardous duty incentive pay for members of Visit Board Search and Seizure teams conducting operations in support of maritime interdiction operations.

Boarding crews participating in these operations face several hazards inherent to the duty involved. These include the hazards of physically boarding a vessel at sea from a small boat while carrying weapons, inspection gear, and protective clothing. Further hazards exist in the actual conduct of the inspections, such as hazards connected with crew hostilities, pest infestations, and numerous unseen dangers. For example, containers must be accessed, which often requires climbing considerable distances above the deck, balancing in precarious positions while opening the container, and facing the risk the container contents may have shifted during the transit. In addition, cargo may have mixed, causing a hazard (for example, bulk cargo such as fertilizer, when mixed with salt water or oil, can emit hazardous fumes). Hazardous Duty Incentive Pay would provide a financial recognition to personnel participating in these operations for this unusually hazardous duty.

The net effect of adoption would be an increase of $0.2 million for the Navy.

Section 621 would amend section 430 of title 37, United States Code, to extend the entitlement to funded student dependent travel to members stationed outside the continental United States with dependents under the age of 23 who are enrolled in a school in the continental United States but are attending a school outside the United States as part of a school-sponsored exchange program. At present, members stationed overseas are entitled to funding for this program, but only if the student is physically located in the United States. This creates an inequity for those members whose dependents attend a school in the United States, but are part of a temporary exchange program located outside the United States. Both sets of members deserve equal treatment.

Section 621 would reimburse travel expenses for student dependents under the age of 23 of a member stationed outside the continental United States when the dependents are enrolled in a school in the continental United States but are attending a school outside the United States as part of a school sponsored-exchange program for less than a year. Section 621 would further limit reimbursement in these cases to the cost of travel between the school in the continental United States where the student dependent is enrolled and the member's overseas duty station.

Section 622 would amend section 2634 of title 10, United States Code, by adding a new subsection 2634(b)(4) authorizing payment of vehicle storage costs in advance. Section 2634 authorizes the Secretary concerned to store a member's vehicle at government expense under certain circumstances, but does not provide for advance payment of these costs. Vehicle storage costs at a commercial facility can range from $100 to $300 per month, and many of these facilities require deposits equal to two or three times the monthly storage rate. The Military Traffic Management Command estimates there are approximately 20,000 vehicles that are stored in commercial facilities annually.

Having to pay for these advance payments out of pocket comes at the worst possible time for the military member—during a permanent change of station move. The variety of expenses associated with a move put a significant strain on the financial condition of members, often requiring them to acquire significant debt while they wait for government reimbursement to catch up. At no additional cost to the Government, Section 622 would eliminate one portion of this burden, reducing to some degree the hardship associated with a military life that requires frequent moves.

Section 623 would amend section 411f of title 37, United States Code; strike subsection (d) of section 1482 of title 10, United States Code; and repeal the Funeral Transportation and Living Expense Benefits Act of 1974 (Public Law 93–257).

Currently, the three statutes cited above authorize allowances for family members and others to attend burial ceremonies of deceased members of the armed forces. The statutes differ in scope and application. For example, section 1482(d) prohibits the payment of per diem, while per diem may be

paid under the other two sections. The purpose of Section 622 is to establish uniform authority.

Section 411f of title 37 authorizes round trip travel and transportation allowances for ''dependents of a member who dies while on active duty or inactive duty in order that such dependents may attend the burial ceremonies of the deceased member.'' Allowances under the section, including per diem, are limited to travel and transportation to a location in the United States, Puerto Rico, or United States possessions and ''may not exceed the rates for two days.'' If a deceased member was ordered to active duty from a place outside the United States, allowances may be provided for travel and transportation to and from such place and may be extended to account for the time necessary for such travel. Dependents include the surviving spouse, unmarried children under 21 years of age, unmarried children incapable of self-support, and unmarried children enrolled in school and under 23 years of age. Section 411f(c) provides that if no person qualifies as a surviving spouse or unmarried child, the parents of a member may be paid the travel and transportation allowances authorized under the section.

Section 1482(d) of title 10 applies when, as a result of a disaster involving multiple deaths of members of the armed forces, the Secretary of the military department has possession of commingled remains that cannot be individually identified and must be buried in a common grave in a national cemetery. Under section 1482(d), the Secretary may pay the expenses of round trip transportation to the cemetery for a person who would have been authorized under section 1482(c) to direct the disposition of the remains of the member if individual identification had been made. Also, the Secretary may pay the expenses of transportation for two additional persons closely related to the decedent who are selected by the person who would have been designated under section 1482(c). No per diem may be paid.

The Funeral Transportation and Living Expense Benefits Act of 1974 applies only to families of deceased members of the armed forces who died while classified as a prisoner of war or as missing in action during the Vietnam conflict and whose remains are returned to the United States after January 27, 1973. Family members may be provided ''funeral transportation and living expenses benefits.'' Benefits include round trip transportation from the family member's residence to the place of burial, ''living expenses, and other such allowances as the Secretary shall deem appropriate.'' Eligible family members include ''the deceased's widow, children, stepchildren, mother, father, stepfather and stepmother.'' If none of the family members in the preceding sentence ''desire to be granted such benefits,'' then the benefits may be granted to the deceased's brothers, sisters, half-brother, and half sisters.

For members of the armed forces during World War II and the Korean War whose remains have recently been recovered and identified, there may be no family members who can be provided travel and transportation allowances to attend the burial. As noted above, under section 411f, dependents who may receive travel and transportation allowances include a surviving spouse, certain ummarried children, primarily those under 21 years of age, and parents if there is no surviving spouse or qualifying child. However, in these cases, the surviving spouse and parents may be deceased and no child may qualify because of their age. Section 623 would amend section 411f and add a new provision similar to the provision in section 1482(d) of title 10, concerning the burial of remains that are commingled and cannot be identified. Under Section 623, if there is no surviving spouse, no qualified child, and no parent, then the person designated to direct disposition of the remains could receive travel and transportation allowances along with two additional persons closely related to the deceased member selected by the person who directs disposition of the remains. In many cases, this would likely include an adult child or children of the deceased member.

Section 623 would also amend section 411f to authorize the payment of travel and transportation allowances for a person to accompany a family member who qualifies for travel and transportation allowances but who is unable to travel alone to the burial ceremonies because of age, physical condition, or other justifiable reason as determined under uniform regulations prescribed by the Secretaries concerned. Allowances would be payable under these circumstances only if there is no other person qualified for allowances available to assist the family member.

Section 623 would also amend section 411f to provide a new basis for authorizing travel and transportation allowances outside the United States, Puerto Rico, and United States possessions. Currently, the only exception is when the member was ordered to active duty from a place other than in the United States, Puerto Rico, or the United States possessions. Section 623 would amend section 411f(b) to authorize the payment of travel and transportation allowances to a cemetery maintained by the American Battle Monuments Commission outside the United States.

Section 623 would amend section 411f(b) to make uniform the rule concerning the time period for which allowances may be paid. Currently, section 411f(b) restricts the period to two days for travel within the United States, Puerto Rico, and United States possessions. For travel outside these areas, the two-day period may be extended ''to accommodate the time necessary for such travel.'' Under Section 623, all travel and transportation allowances, regardless of where the travel occurs, would be limited to two days and the time necessary for travel.

Section 623 would also strike subsection (d) from section 1482 of title 10, relating to the burial of commingled remains in a common grave. Section 411f would be amended by adding a new subsection (d) to define burial ceremonies as including ''a burial of commingled remains that cannot be individually identified in a common grave in a national cemetery.'' Thus, the authority in section 411f would provide the basis for travel and transportation allowances under these circumstances. Unlike section 1482(d), this authority would include the payment of per diem.

Finally, Section 623 would repeal the Funeral Transportation and Living Expense Benefits Act of 1974. The Act, enacted in 1974, authorizes travel and transportation allowances for the family of any deceased member of the armed forces who died while classified as a prisoner of war or missing in action during the Vietnam conflict. Section 411f was enacted in 1985. Both statutes provide similar authority. The Act's authority is somewhat broader because eligible family members include the surviving spouse, all children (regardless of age), parents, and siblings. The Act would be repealed to provide uniform treatment among all family members of persons who die while on active duty or inactive duty.

Section 624 would modify section 2634 of title 10, United States Code, to authorize service members to ship a privately-owned vehicle (POV) from the old Continental United States (CONUS) duty station to the new CONUS duty station when the cost of shipment and commercial transportation would not exceed the cost of driving the POV to the new station as is currently authorized.

Currently, when executing a permanent change of station move in CONUS, service members are allowed to ship POVs between CONUS duty stations only when physically incapable of driving, there is a change of a ship's homeport, or there is insufficient time to drive. Members with dependents who possess two POVs would be authorized to ship one POV and drive the other if the cost of driving one POV and shipping the other did not exceed the cost driving two POVs. Cost comparisons would take into account mileage rates by the most direct regularly traveled route, per diem, cost of commercial transportation and the cost of shipping the car by commercial car carrier. Section 624 would be cost-neutral, and enhance force protection by minimizing the number of miles driven by members making permanent changes of station, thereby limiting exposure to accidents. Civilian employees of DoD are currently authorized to ship POVs in CONUS when it is determined to be more advantageous and cost-effective to the Government.

Section 631 would extend the maximum period that a member of the Selected Reserve would be authorized to use the educational benefits provided under the Montgomery GI Bill for the Selected Reserve (MGIB–SR) from the current 10-year limit to 14 years. With the increased use of the Reserve components, members of the Selected Reserve are spending more time performing military duties. The additional time spent performing military service reduces the amount of time they have available for other activities—be it a civilian job, time with the family, other leisure activities, or civilian education. Balancing a full-time civilian career and a military career is becoming increasingly more challenging. One area that is likely to suffer is the pursuit of civilian education. Increasing the number of years that a member of the Selected Reserve has to use this benefit would recognize their increased commitment to military service and provide them with an extended opportunity to use this benefit. Additionally, since membership in the Selected Reserve is required in order to use the MGIB–SR educational benefit, it would also serve as a retention incentive for those who have not been able to use the benefit by the current 10-year limiting period.

Section 632 would add overnight health care coverage when authorized by regulations for Reserve Component members who, although they may reside within a reasonable commuting distance of their inactive duty training site, are required to remain overnight between successive drills at that training site because of mission requirements. Some Reserve Component members are required to remain overnight in the field when performing inactive duty training. Others may be training late into the evening or performing duty early in the morning, which could make commuting to and from their residence impractical. On those occasions when it is not feasible for members who live in the area to return to their residence between successive drills because of mission requirements, they are currently not protected should they become injured or ill during that overnight stay. The Secretary of Defense report to Congress on the means of improving medical and dental care for Reserve Component members, which was sent to Congress on November 5, 1999, recognized this shortcoming and recommended that the law be amended to provide medical coverage when the member remains overnight between successive training periods, even if they reside within reasonable commuting distance.

Section 633. Section 2004 of title 10, United States Code, authorizes the Secretary of a Military Department to detail selected commissioned officers at accredited law schools for training leading to the degree of bachelor of laws or juris doctor. No more than 25 officers from each Military Department may commence such training in any single year. Officers detailed for legal training must agree to serve on active duty following completion of the training for a period of two years for each year of legal training. This service obligation is in addition to any service obligation incurred by the officer under any other provision of law or agreement.

Section 2603 of title 10 authorizes any member of the Armed Forces to accept a scholarship in recognition of outstanding performance in the member's field, to undertake a project that may be of value to the United States, or for development of the member's recognized potential for future career service. Section 2603(b) requires a member of the Armed Forces who accepts a scholarship under section 2603 to serve on active duty for a period at least three times the length of the period of the education or training.

Section 2004 does not specifically authorize an officer attending law school under the Funded Legal Education Program to accept a scholarship from the law school or other entity. Also, section 2603 does not indicate that the authority to accept a scholarship to obtain education or training under the section can be used in conjunction with the authority in another section authorizing education or training, such as section 2004. Moreover, if the authority in section 2004 for a funded legal education can be used in conjunction with the authority in section 2603 to obtain training or education through a scholarship, the resulting service obligation for an officer participating in the Funded Legal Education Program who accepts a scholarship is unclear. The statutes could be interpreted to require consecutive service obligations in excess of twelve years or concurrent service obligations of much less.

An officer who accepts a scholarship would reduce the expenditure of appropriated funds of the military department concerned. Obtaining a scholarship may also benefit an officer participating in the funded legal education program. For example, in the Army, to minimize the costs associated with the funded legal education program, an officer must attend a law school in the officer's state of legal residency that will permit the Army to pay in-state tuition rates or a law school that will grant in-state tuition rates to out-of-state students. This effectively prohibits officers from seeking admission into many of the most highly rated law schools in the United States. If an officer could accept a scholarship to cover all or part of the costs of attending law school, it may be unnecessary to require the officer to attend a school at which the officer qualifies for in-state tuition rates.

Section 633 would amend sections 2004 and 2603 to authorize an officer detailed to law school for legal training under section 2004 to accept a scholarship from the school or other entity under section 2603, with the service obligations incurred under both sections to be served consecutively.

Section 701. As a result of studies done in response to direction in Section 912 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85), Defense Science Board reports, and General Accounting Office reports, as well as a desire to implement best commercial practices, the Department rewrote its acquisition policy documents. The purpose of the rewrite was to focus on providing proven technology to the warfighter faster, reducing total ownership cost, and emphasizing affordability, supportability, and interoperability. As part of the rewrite, the Department created a new model of the acquisition process that separates technology development from system integration, allows multiple entry points into the acquisition process, and requires demonstration of utility, supportability, and interoperability prior to making a commitment to production. As part of the model, milestone names were changed to Milestone A (approval to begin analysis of alternatives), Milestone B (approval to begin integrated system development and demonstration), and Milestone C (approval to begin low-rate production). The phases of acquisition were changed to Concept and Technology Development (in which alternative concepts are considered and technology development is completed), System Development and Demonstration (in which components are integrated into a system and the system is demonstrated), and Production and Deployment (in which the system is produced at a low-rate to allow for initial operational test and evaluation, creation of a production base, efficient ramp-up of production to full-rate, and deployment). Within the Production and Deployment phase is the Full-Rate Production Decision Review at which the results of operational test and evaluation and live-fire test are considered.

The purpose of this proposed legislation is to make changes in current statutes, which was based on the old milestone 0/I/II/III model, so that they correspond to similar events based on the new milestone A/B/C model. There is no intent to diminish congressional oversight or to change the content or amount of reporting requirements to the Congress, although the timing of some reports will change.

Under the new milestone A/B/C model, program initiation begins later than under the old milestone 0/I/II/III model. The reason for this is that the new model anticipates more extensive technology development before committing to a new program using those technologies, while the old model completed technology development after program initiation. Approval to begin analysis of alternatives that previously occurred at Milestone 0 (that now corresponds to Milestone A) will continue to be done in Concept and Technology Development. Work that was previously done in Demonstration and Validation (or Program Development and Risk Reduction) is split around Milestone B with the technology development work being done in Concept and Technology Development (before Milestone B) and the system prototyping and engineering and manufacturing development being done in System Development and Demonstration (after Milestone B).

Requirements identified in law for Milestone I or prior to Demonstration and Validation phase, intended to apply to an initiated program, are changed to be required at Milestone B or prior to System Development and Demonstration. Likewise, requirements identified in law for Milestone II or prior to Engineering and Manufacturing Development, intended to apply to system engineering work, are changed to be required at Milestone B or prior to System Development and Demonstration, both of which encompass this work effort. All requirements identified in the law for Milestone III or prior to production would be required at the full rate production decision.

Sections 2366, 2400, 2432 and 2434, are essentially unchanged in reporting requirements.

Section 2435 of Title 10 requires an acquisition program baseline be developed prior to entering work following each of the milestone I, II, and III decisions. In the case of the acquisition program baseline, a new baseline description will be generated at program initiation, and at each major transition point (from system development and demonstration to low-rate production, and from low-rate production to full-rate production). The first and second program baselines will be completed later than baselines generated under current statute. The first baseline will continue to describe the system concept at program initiation and will also serve to describe the program through engineering development. The second baseline will describe the system as engineered prior to beginning production. There will be no change in the description for the third baseline.

Section 8102(b) of Public Law 106–259 and Section 811 (c) of Public Law 106–398 require Information Technology certification at each major decision point (i.e., milestone). These requirements have been translated from the milestones I/II/III of the old model to milestones A/B/C of the new model.

Section 702 conforms the nuclear aircraft carrier exclusion from the statute to actual practice by specifying that the exclusion from maintaining core logistics capabilities, with respect to nuclear aircraft carriers under section 2464 of title 10, United States Code, applies only to the nuclear refueling of an aircraft carrier. The term ''core logistics capabilities'' is used to define those maintenance and repair standards which should be continually met by the Armed Forces so that it will be able to maintain and repair, on its own, a variety of military equipment. These requirements are adhered to as an assurance that, in times of emergency, the military can meet mobilization, training and operation requirements without requiring outside (contractor) intervention or hindrance.

While the current law reads to exclude a nuclear aircraft carrier, in its entirety (including all maintenance processes), from a requirement to maintain a core logistics capability, this revision intends to apply this exclusion solely to the process of refueling. Nuclear aircraft carrier work, other than nuclear refueling, is currently—and will continue to be—a core logistics capability that is maintained in accordance with the provisions of 10 U.S.C. §2464. Furthermore, every other type of naval surface combatant currently utilized is required to maintain core logistics capabilities. To completely exclude these carriers from the requirement to maintain these capabilities would be to set the carrier apart from other naval surface combatants, which was not the intention of the Navy in formulating its original legislation.

Therefore, this amendment is meant to both clarify the original intent of the drafters for 10 U.S.C. §2464 and to discourage situations which could result in future problems, such as the privatization of unique carrier items which were not meant to be excluded from the requirement for maintaining core logistics capabilities.

Section 703. The Department is committed to fully utilizing its organic depots in order to maintain a core logistics capability. There are circumstances, however, when a depot is utilized to its maximum capability and, because of the limitations imposed by 10 U.S.C. §2466, the Department is prohibited from contracting out the work. The work must still be performed by in-house depots, resulting in delays and excess costs. This provision would expand the waiver authority, permitting the Secretaries to waive the limitation once a depot has achieved full utilization. This will result in savings to the customers and in more timely accomplishment of the work. In situations where multiple depots can perform the same type of maintenance activity, it may not be economical to transfer the work from a fully-utilized depot to one that is operating at less than maximum capacity but in a different

geographic region. The Secretary may waive the limitations if he makes a determination that it would be uneconomical, due to reasons such as cost or logistical constraints, to transfer such workload.

Section 705 would clarify the intent of amendments to section 1724 of title 10, United States Code, that were made by Section 808 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654A–208). It would also establish a Contingency Contracting Force, and authorizes the Secretary of Defense to establish one or more developmental programs for contracting officers, employees and applicants for the GS–1102 series, and recruits and military personnel in similar occupational specialties.

Section 808 established strict minimum qualification requirements for contracting officers and civilian employees in GS–1102 positions. It also made these requirements applicable to military members in similar occupational specialties. Section 808 also amended the exception provision in section 1724 of title 10, United States Code, to except from the new requirements persons ''for the purpose of qualifying to serve in a position in which the person is serving on September 30, 2000.'' The legislative history accompanying this change stated that the new requirements were intended to apply only to new entrants into the GS–1102 occupational series in the Department of Defense and to contracting officers with authority above the simplified acquisition threshold, but not to current employees. This proposal would make clear this intent by excluding from the new requirements military and civilian personnel who were serving, or had served, as contracting officers, employees in the GS–1102 series, or military personnel in similar occupational specialties on or before September 30, 2000. This proposal would also reinstate the qualifications requirements that were previously contained in section 1724 for current employees that are excluded from the new qualifications requirements.

This proposal would also provide the Secretary with flexibility to establish one or more developmental programs, which would educate people to meet the statutory minimum qualification requirements of a degree and 24 credit hours in business. Their purpose would be to enable personnel to obtain the education necessary to meet the performance requirements of the future acquisition workforce. A significant number of the Department's current, seasoned acquisition workforce personnel will be eligible to retire within five years. This makes it imperative that the Department have access to the maximum number of superior applicants. We anticipate that the Office of the Secretary of Defense would establish one or more programs in which candidates that meet some, but not all, of the minimum requirements could be educated to meet the remaining requirements within a specified period of time. For example, a candidate may have a four-year degree, but not the twenty-four credit hours in business-related courses. Another candidate may be close to a degree, including 24 credit hours in business. Each would be provided a specified period of time (in no case more than three years) to meet all of the statutory requirements. We would anticipate that any person who failed to meet all of the statutory requirements within the time specified would be subject to separation from federal service. This flexibility will give the Department the necessary mechanisms for accessing the greatest number of superior applicants, while retaining its goal of maintaining a high-quality, professional contracting workforce.

This proposal would also addresses the need to recognize a contracting force whose mission is to deploy in support of contingency operations and other Department of Defense operations. This force, which consists primarily of enlisted personnel, but which includes both military officers and civilian employees, meets a unique need within the Department and has unique training and qualification requirements.

This proposal would maintain the requirement for 24 semesters hours of business-related course work or the equivalent and give the Secretary flexibility to establish other minimum requirements to meet the unique needs of persons performing contracting in support of contingency and other Department operations.

Section 706. The current language in section 1734(a) of title 10, United States Code, applies to the tenure requirement of over 13,500 critical acquisition positions (caps). This proposal would retain the qualifications to occupy a CAP. The proposed change would require tenure only for personnel in those critical acquisition positions where continuity is especially important to the success of DoD's acquisition programs. Ensuring the tenure of these individuals assigned to program offices and the associated system acquisition functions like systems engineering, logistics, contracting, etc., therein provides the stability originally sought by section 1734. This change would allow more flexibility to meet organizational mission priorities; enhance career development programs for those holding the remaining critical acquisition positions who perform either functions outside of a program office or functions not related to systems acquisitions (such as procuring spare parts or policy formulation); and would ensure DoD develops the best-qualified individuals for CAPS in program offices and systems acquisition functions.

The current section 1734 undertakes to improve the quality and professionalism of the DoD acquisition workforce in part through a career development program for acquisition professionals. This proposal would retain that intent, while emphasizing the importance of specific job experience and program continuity, responsibility, and accountability for acquisition personnel working in program offices or supporting system acquisition programs who are performing critical acquisition functions. This proposal also would expand career-broadening opportunities for personnel in other CAPS and would result in a reduction of waiver reporting requirements. The proposal balances the needs for program continuity, responsibility, accountability, and career development, while eliminating an unnecessary administrative burden, increasing productivity, and allowing the workforce to be responsive to changing organizational needs.

Section 710 would amend section 2855 of title 10, United States Code, to repeal a provision of law that prevents the Department of Defense (DOD) from achieving its goal of 40 percent of the dollar value of architectural & engineering (A&E) service contracts awarded to small businesses. This goal was established by section 712(a) the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 Note).

The Small Business Competitiveness Demonstration Program was established to see if small business concerns could maintain a reasonable percentage of dollars awarded in four Designated Industry Groups (digs) in an unrestricted competitive environment. A&E services is one of the DIGS. The Program establishes a small business participation goal of 40 percent of the dollars awarded in each of the aforementioned DIGS. The statute further states that if small business concerns fail to achieve the 40 percent goal during a twelve month period, the agency shall re-establish set-aside procedures to the extent necessary to achieve the 40 percent goal (Section 712(a) of Pub. L. 100–656).

Notwithstanding the authority of the Demonstration Program, section 2855(b) generally prohibits DOD from using small business set-aside procedures in the awarding of A&E service contracts when the estimated award price is greater than $85,000. Section 2855(b)(2) provides for revision of the $85,000 threshold if the Secretary of Defense determines that it is necessary to ensure that small business concerns receive a reasonable share of A&E contracts. DOD estimates that they would need to increase the threshold to over $1 million to accomplish this end. This would be so disproportionate to the $85,000 statutory threshold that it is more appropriate to seek a legislative change.

Further, DOD would need to continually readjust the threshold over time to reflect changes in small business participation. For example, in fiscal year 1999, DOD achieved a small business A&E participation rate of 16.4 percent, significantly below the 40 percent goal established by the Demonstration Program. Historically, approximately 30 percent of A&E awards were made to small businesses. Continual adjustments to the threshold to reflect such changes in small business participation would be impractical and confusing to both contracting officials and small businesses.

Repealing section 2855(b) will eliminate the $85,000 threshold. As a result, A&E contracts for military construction and military family housing projects could be set aside exclusively for small businesses to achieve the small business competitiveness demonstration A&E goal mandated by 15 U.S.C. 644. Accordingly, this proposal would eliminate conflicting statutory provisions that currently are making it unnecessarily difficult for DOD to achieve the small business goal for A&E contracts.

Section 711. Section 2534 of title 10, United States Code provides that ball and roller bearings must be acquired from domestic sources even when such a restriction is not in the Government's interest. This amendment would provide an exception to this restriction if a determination is made that the purchase amount is $25,000 or less; the precision level of the ball or roller bearings is lower than Annual Bearing Engineering Committee (ABC) 5 or Roller Bearing Engineering Committee (RBC) 5, or their equivalent; at least two manufacturers in the national technology and industrial base capable of producing the required ball or roller bearings decline to respond to a request for quotation for the required items and the bearings are neither miniature or instrument ball bearings as defined in section 252.225.7016 of title 48 of the Code of Federal Regulations. This exception was developed in conjunction with the Department of Commerce, the agency with primary oversight for this area.

If enacted, this amendment would significantly reduce the burdensome administrative process Department of Defense purchasers must follow for small procurement that do not impact the industrial base. It would also provide needed flexibility for readiness concerns. The large procurement that will have an impact on the industrial base remain reserved for domestic suppliers.

Section 712 relates to congressional interest in the Air Force Contractor Operated Civil Engineering Supply Store (CACAOS) program. This proposal would remove constraints on the Air Force's ability to combine CACAOS with A–76 cost comparisons.

FY 98 & 97 Defense Authorization Acts, (Committee Reports 105 H Rpt. 132, 104 H. Rpt. 563)

In the Committee Report to the 1998 Defense Authorization Act, the House Committee on National Security specifically directed the Secretary of the Air Force not to combine CACAOS functions with other service functions when considering multi-function service contracts until a thorough analysis is conducted. Such analysis would include an economic analysis that would assess the merits of combining these services to increase efficiencies at Air Force installations. The committee also directed the Secretary of the Air Force not to change the current operation of any CACAOS, or to permit any combinations of supply and services functions in upcoming procurement, that would violate or circumvent the tenets of any current CACAOS contractual agreement. The Committee had similar language in its report on the 1997 Defense Authorization Act (and also directed the Secretary of the Army and the Secretary of the Navy to consider the application of the CACAOS program as a means to further reduce the cost of essentially non-governmental functions).

FY 99 Defense Authorization Act

Congressional concerns over CACAOS made its way into section 345 of Public Law 10526 1, which, in addition to extolling the virtues of CACAOS, established two requirements if the Air Force wishes to combine a CACAOS with an A–76 study. First, the Secretary of Defense has to notify Congress of the proposed combined competition or contract, the agency has to explain why a combined competition or contract is the best method by which to achieve cost savings and efficiencies to the Government. The Act also established a mandatory GAO Review of the Secretary of Defense's explanation of the projected cost savings and efficiencies. The Comptroller General reviews the report and submits to Congress a briefing regarding whether the cost savings and efficiencies identified in the report are achievable.

The CACAOS law was based upon the assumption that the government would be running an inefficient supply operation for materials to be used in Government operations. The environment today is entirely different. Due to A–76 emphasis, Civil Engineering (CE) is being competitively source; hardware super stores and the International Merchant Purchase Authorization Card (IMPACT) make it unnecessary to maintain supply inventories; and greater competition is obtained when the supply function is included in the CE effort. CACAOS was designed to replace inefficient government management of commercial supply inventories. As we contract out CE and other base support functions, the users of these supplies will be contractors instead of government organizations. The Department will end up creating situations where the CE contractor, or the Most Efficient Organization (MFO), will be required to obtain supplies from the CACAOS contractor in order to do their work. These common commercial items would become Government Furnished Property (HFP) under the contract and the CE contractor cannot be held fully responsible for all aspects of project completion. If CACAOS fails to provide suitable materials on schedule, the CE contractor could be entitled to an equitable adjustment for late or defective HFP.

As a general rule, the Department should only provide HFP when the government owns or has available unique or specialized materials that the contractor would not be able to obtain. CACAOS materials are common commercial items readily available through multiple sources. The requirement to provide these materials should be made a part of the CE contract to keep the government out of the middle of two separate contracts and avert the transfer of performance risk to the government. Also, with the advent of today's hardware super stores (Home Depot, HQ, etc.) with their large inventories and low prices, it doesn't make sense to establish a CACAOS-style operation. With the speed and convenience of the IMPACT, even the MFO would not choose to establish a large supply infrastructure for the common commercial items.

Section 345(b)(6) states that ''Ninety-five percent of the cost savings realized through the use of contractor-operated civil engineering supply stores is due to savings in the actual cost of procuring supplies.'' This statement is no longer accurate and seems to apply to Form 9 processing costs, not IMPACT card costs.

Section 713. The National Defense Authorization Act for Fiscal Year 1996, included the Federal Acquisition Reform Act of 1996 (FAR) and the Information Technology Management Reform Act of 1996 (ITMRA). FARA and ITMRA were subsequently renamed the Clinger-Cohen Act of 1996. This proposal would modify section 4202 of the Clinger-Cohen Act to extend the test program for certain commercial items.

Section 2304(g) of title 10, United States Code, and sections 253(g) and 427 of title 41, United States Code, permit the use of special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold (SAT). Section 4202 of the Clinger-Cohen Act, Application of Simplified Procedures to Certain Commercial Items, extended the authority to use special simplified procedures to purchases for amounts greater than the SAT but not greater than $5 million if the contracting officer reasonably expects, based on the nature of the supplies or services, and on market research, that offers will include only commercial items. The purpose of this test program is to vest contracting officers with additional procedural discretion and flexibility, so that commercial item acquisitions in this dollar range may be solicited, offered, evaluated, and awarded in a simplified manner that maximizes efficiency and economy and minimizes burden and administration costs for both Government and industry.

The test program was enacted into law on February 10, 1996. Final changes to the Federal Acquisition Regulation (FAR) to implement the test program were issued on the statutory deadline of January 1, 1997. The due date for the Comptroller General report does not provide sufficient time to process a legislative proposal that would prevent the test program from expiring once the Comptroller General has submitted the report. This proposal would extend the test program authority to January 1, 2003, to provide sufficient time to assess this potentially valuable acquisition reform authority based on the GAO's findings and, if warranted, seek to make this authority permanent.

Section 714 eliminates the prohibition on using funds to retire or dismantle Peacekeeper intercontinental ballistic missiles below certain levels. This provision is in specific support of the amended budget and will result in considerable savings.

Section 715. The proposed change would provide the Services the flexibility to proceed with construction contracts without disruption or delay by excluding the cost associated with unforeseen environmental hazard remediation from the limitation on cost increases. Unforeseen environmental hazard remediation refers to asbestos removal, radon abatement, lead-based paint removal or abatement, and any other legislated environmental hazard remediation that could not be reasonably anticipated at the time of budget submission.

Currently, section 2853 of title 10, United States Code only excludes the settlement of a contractor claim from the limitation on cost increases. The Senate Appropriations Committee Report (106–290) which accompanied the Military Construction Appropriation Bill for Fiscal Year 2001 (S. 2521) allows the Services to exclude unforeseen environmental remediation costs from the application of reprogramming criteria for military construction and family housing construction projects. However, this report language presents a conflict with the unqualified language of the statute. A reprogramming action is required when the cost increase for a military construction or military family housing project will exceed 25 percent of the amount appropriated for the project or 200 percent of the minor construction project ceiling specified in Section 2805 (a)(1), Title 10, United States Code, whichever is less. A reprogramming action refers to the requirement to provide an advance congressional report and seek congressional approval before proceeding with the work.

Section 716. The revised language raises the threshold on unspecified minor construction projects performed with operations and maintenance funding. Thresholds are increased to $750,000 for general projects (from $500,000) and to $1,500,000 for projects involving life safety issues (from $1,000,000). The O&M unspecified minor construction thresholds were last raised in 1997.

The current thresholds limit the Services' ability to complete projects in areas with high costs of construction, such as overseas and in Alaska and Hawaii. The reality is $500,000 does not buy much construction, even in ''normal'' cost areas, at a time when the average regular military construction (MilCon) project costs $12 million. On these small construction projects, labor costs cut heavily into the amount of tangible ''brick and mortar'' which any project must deliver to make a facility usable to its customer. Without this relief, there may be a two or three year delay in completing needed small construction projects if MilCon appropriations must be used, as unspecified minor construction funds within this appropriation are very limited and regular MilCon projects must be individually authorized and appropriated in advance.

Section 717. The proposed legislation seeks authority for Federal tenants to obtain facility services and common area maintenance directly from the local redevelopment authority (LRA) or the LRA's assignee as part of the leaseback arrangement rather than procure such services competitively in compliance with Federal procurement laws and regulations. This authority to pay the LRA or LRA's assignee for such services under this authority would be allowed only when the Federal tenant leases a substantial portion of the installation; only so long as the facility services or the specific type of common area maintenance are not of the type that a state or local government is obligated by state law to provide to all landowners in its jurisdiction for no individual cost; and only when the rate charged to the Federal tenant is no higher than that charged to non-Federal entities. The proposed legislation also expands the availability of using leaseback authority for property on bases approved for closure in BRAC 1988.

A leaseback is when the Department of Defense transfers nonsurplus base closure (BRAC) property by deed or through a lease in furtherance of conveyance to an LRA. The transfer requires the LRA to lease the property back to the Federal Department or Agency (Federal tenant) for no rent to satisfy a Federal need for the property.

Current leaseback legislation does not exempt Federal tenants from Federal procurement laws and regulations when they attempt to obtain facility services and common area maintenance, such as janitorial, grounds keeping, utilities, capital maintenance, and other services that are normally provided by a landlord. Compliance with the procurement laws and regulations may result in a third party contractor providing such services for facilities leased from the LRA and for common areas shared by other tenants of the LRA. In many cases, this may conflict with the LRA's or its assignee's arrangements for providing such services to the various tenants on property owned or held by the LRA. The LRA usually prefers that its contractor perform such services on behalf of the LRA's tenants. LRAs have been hesitant in using leaseback arrangements due to the Federal tenants' inability to obtain these services directly from the LRAs or share the common area maintenance costs with other tenants of the LRAs.

Under current law, only property at BRAC '91, '93, and '95 closure installations can be transferred under the leaseback authority. To help minimize small Federal land holdings within larger parcels transferred to the LRA on BRAC '88 bases, the leaseback authority should be expanded to apply to BRAC '88 installations.

Section 718. The proposed change would allow the Military Departments to reimburse the Military Personnel appropriations from Military Construction, Family housing appropriations during the first year of execution of a military family housing privatization project. Members occupying privatized housing are entitled to, and receive, housing allowances. Since housing allowances are paid from the Military Personnel appropriations, the Military Department needs to reimburse these appropriations for the increased housing allowance bill caused by privatization from the funds previously programmed and budgeted in the Military Construction, Family Housing appropriations. Providing the flexibility to reimburse these funds at the time of execution will enable the Services to accurately determine how much should be reimbursed to meet housing allowance requirements.

It is extremely difficult to predict when the project will be awarded and therefore to program the correct amount of funds at the correct time. Transferring funds into military personnel appropriations early has proven to be premature and led to shortfalls in the Family Housing appropriation. For example, the Army estimates that Family Housing, Army will lose approximately $100 million from FY98 through FY01 due to the premature transfer of funds to Military Pay and subsequent slippage in privatization awards. Such losses cannot be reversed since there is no mechanism to reprogram from Military Personnel appropriations back into Family Housing following the passage of the respective appropriation bills into law. This proposal precludes unnecessary shortfalls in the family housing appropriations created when premature transfers leave the Military Departments without the resources to continue funding installations experiencing privatization slippage.

Section 719. The report requires an extensive manpower effort. The Department's budget submission, budget testimony and responses to other report and statutory requirements, etc., provide Congress with much of the same information as required in this report. The Services can provide specific data more efficiently on an as-needed basis.

In addition, this report was recommended for termination in 1995 based on survey data collected in response to the Paperwork Reduction Act, with estimated cost savings of at least $50,000 per year.

Section 801 amends section 5038(a) of title 10, United States Code, which requires that there be a Director for Expeditionary Warfare within the Office of the Deputy Chief of Naval Operations for Resources, Warfare Requirements and Assessments.

A recent organizational alignment split the functions of the Deputy Chief of Naval Operations for Resources, Warfare Requirements, and Assessments into two distinct Deputy Chiefs of Naval Operations. In this alignment, the Director for Expeditionary Warfare maintains the same role and responsibilities but now falls under the Deputy Chief of Naval Operations for Warfare Requirements and Programs.

This proposal reflects that organizational change.

Section 802 amends chapter 6 of title 10, United States Code, by adding a new section 169 to consolidate the various existing legal authorities governing the DoD Regional Centers to ensure each of the Regional Centers can operate under the same set of authorities, which will ensure they can operate effectively.

The Department of Defense Regional Centers for Security Studies are an important national security initiative developed by Secretary Cohen and his predecessor, William Perry. These Centers, which serve as essential institutions for bilateral and multilateral communication and military and civilian exchanges, now exist for each major region—Europe, Asia, Latin America, Africa and most recently for the Middle East.

The Regional Centers are very important tools for achieving U.S. foreign and security policy objectives, both for the Secretary of Defense and for the regional CINCS. The Centers allow the Secretary and the CINCs to reach out actively and comprehensively to militaries and defense establishments around the world to lower regional tensions, strengthen civil-military relations in developing nations and address critical regional challenges. The Department has had extremely good results with the Centers in each region. For example, more than twenty Marshall Center graduates are now ambassadors or defense attaches for their countries and another twenty serve as service chiefs or in other similarly influential positions.

Currently the five Regional Centers operate under a patchwork of existing legal authorities. As each new center was established, new legislation was passed to govern each center. As a result, no single center has the same set of legal rules guiding how it can operate. The patchwork of authorities hinders effective management and oversight of the Centers, and provides broad authority for some Centers but only limited authority for other Centers.

A central component of the department's proposal would ensure that all DoD Regional Centers are able to waive reimbursement of the costs of conferences, seminars courses of instruction and other activities associated with the Centers. The proposal also would ensure that all Centers could accept foreign and domestic gifts, hire faculty and staff, including directors and deputy directors, and invite a range of participants to the Centers. Without these authorities, the Regional Centers will not be able to operate at maximum effectiveness.

Both the Marshall Center and the Asia-Pacific Center for Security Studies, the oldest of the five Centers, have specific authority to waive reimbursement of costs associated with participating in center activities. The Center for Hemispheric Defense Studies also has authority to waive costs, but its authority falls under a different provision of title 10, United States Code, than the similar authorities for the Marshall Center and the Asia-Pacific Center. The Africa Center for Strategic Studies and the Near East-South Asia Center can waive some costs under section 1051 of title 10, but this authority is more limited than the authorities under which the other three Centers operate.

The ability to waive reimbursement of certain costs associated with participating in center activities is absolutely critical to the effectiveness of the Regional Centers as engagement tools for both the Secretary of Defense and the regional CINCS. Many participants in center activities are from developing countries that cannot afford to send personnel to institutions like the regional Centers. Without the authority to waive reimbursement of certain costs, most participants from developing countries would not attend the Centers. In contrast, consistent with existing authorities, most participants from developed nations, whose contributions provide balance, shared regional leadership and non-U.S. perspectives, pay for their own travel, lodging, meals and expenses in connection with Center courses.

Section 802 would provide the authority to waive reimbursement of certain costs associated with the Centers to all of the Regional Centers by repeating the diverse set of existing authorities concerning cost issues and instead providing a single legal provision concerning cost waivers for all of the Centers.

In addition to providing a single authority for the Centers to waive reimbursement of costs, the proposal also ensures that other existing authorities governing the Regional Centers apply to all of the Centers. By ensuring that all of the Centers can accept foreign and domestic gifts, hire faculty and staff, and invite participants from defense-related government agencies and non-governmental organizations, the proposal will improve the Centers in several ways. First, by gaining the authority to accept gifts, all Centers will be able to cover a greater percentage of their operating costs using funds from outside the Department budget. Allowing both public and private foreign institutions to contribute to regional Centers operations also will enhance the involvement of those donor countries in the Centers and strengthen their commitment to the missions of the Centers. In terms of participation, the Centers in many cases are unique in their ability to bring together participants from across the spectrum of the national security establishment in their respective countries. Broadening this pool to include participants from non-governmental organizations and legislative institutions will further strengthen the quality of discussion at the Centers and help establish additional important professional relationships among participants from the various regions.

Finally, enactment of section 802 would confirm the authority of the Secretary of Defense to manage all the Centers effectively. The combination of diverse legal authorities and unique organizational structures has made effective management and oversight of the Centers quite challenging. To address this management challenge, the Department created a Management Review Board last year (2000). The MRB is comprised of the Assistant Secretary of Defense (International Security Affairs) and the Director of the Joint Staff, or their designees, and members from the Comptroller, Program Analysis and Evaluation, General Counsel, Joint Staff and the Services. The DoD proposal to consolidate existing, legal authorities concerning the Regional Centers and apply them to all of the Centers will further improve the ability of the MRB to ensure that the Regional Centers are thoroughly incorporated into the Department's broader engagement strategy and funded appropriately.

This proposal provides no new spending authority. No additional resources are needed to implement these changes and as the existing departmental management structure matures, the Department expects to realize greater efficiencies in the management of the Regional Centers.

Section 803 would amend all references to the former ''Military Airlift Command'' contained in title 10 and title 37 to refer to the command by its current designation as the ''Air Mobility Command.'' By Special Order AMC GA–1, 1 June 1992, Air Mobility Command replaced the Military Airlift Command as a United States Air Force Major Command. This change was previously recognized to a certain extent in title 10, United States Code 130a (Management headquarters and headquarters support activities personnel; limitation), subparagraph (d) (Limitation on Management Headquarters and Headquarters Support Personnel Assigned to United States Transportation Command), which specifically identified Air Mobility Command as a component command of United States Transportation Command. That provision in section 130a was deleted by section 921 of Public Law 106–65, 5 October 1999. As Military Airlift Command no longer exists and Air Mobility Command is not referenced in any statute, updating the listed provisions of the United States Code is appropriate.

Section 804 would amend section 1606 of title 10, United States Code, to increase the number of Defense Intelligence Senior Executive Service (DISES) positions authorized within the Defense Civilian Intelligence Personnel System (DCIPS) from 517 to 544. Enactment of the proposed amendment would enable the Secretary of Defense to allocate the 27 additional DISES positions to the National Imagery and Mapping Agency (NIMA), as the Director of Central Intelligence (DCI) simultaneously cuts 27 Senior Intelligence Service (SIS) positions from the Central Intelligence Agency (CIA).

When section 1606 was inserted into title 10, United States Code, by section 1632(b) of the Department of Defense Intelligence Personnel Policy Act of 1996 (Public Law 104–201; 110 Stat. 2745, 2747) the number of DISES positions was set at 492. This ceiling, however, was raised to 517 positions by section 1142 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654).

The conference report accompanying the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, however, states that these ''25 additional positions are authorized for the entire defense intelligence community and are not intended to be allocated to any single agency within the defense intelligence community.'' See H.R. Rep. No. 106–945 at 865 (2000). The report also directed ''the Secretary of Defense to report to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 15, 2001, on how the additional senior executive service positions are allocated within the defense intelligence community.'' H.R. Rep. No. 106–945 at 865 (2000).

Based on this guidance, the 25 new DISES positions are being reviewed for use and distribution within the DCIPS community as a whole. This expansion of DISES positions within the general DCIPS community, however, does not address a pressing need to allocate an additional 27 DISES positions to NIMA as part of a Congressionally mandated administrative transfer intelligence positions from CIA to NIMA.

Since DCIPS and NIMA were created in 1996, NIMA has been staffed at senior levels by DISES personnel, Defense Intelligence Senior Level (DISL) personnel, and SIS personnel. It should be noted in this regard, however, that when the initial DCIPS cap was set at 492, the 27 positions that CIA filled with SIS personnel on temporary detail were not included in the 492 figure.

One of the complex aspects of the establishment of NIMA, was the commingling of intelligence officials from the Department and other federal agencies that was needed to staff the new agency. But, in establishing NIMA the Congress made it clear that this unique staffing arraignment would be temporary. In section 1113 of the National Imagery and Mapping Agency Act of 1996 (Public Law 104–201, 110 Stat. 2675, 2684) the Congress expressly provided that: ''Not earlier than two years after the effective date of this subtitle, the Secretary of Defense and the Director of Central Intelligence shall determine which, if any, positions and personnel of the Central Intelligence Agency are to be transferred to the National Imagery and Mapping Agency. The positions to be transferred, and the employees serving in such positions, shall be transferred to the National Imagery and Mapping Agency under the terms and conditions prescribed by the Secretary of Defense and the Director of Central Intelligence.''

In keeping with this congressional mandate, the Secretary and the DCI signed a Memorandum of Agreement (MOA) in February 2000 that set the total number of positions to be transferred from CIA to NIMA. Under the agreement, CIA personnel that are currently temporarily detailed to NIMA would be permanently detailed to NIMA; These employees, however, would remain as CIA employees. Budget agreements implementing the MOA also provide that the previously discussed 27 SIS positions would be included in the total number of 56 positions to be transferred from CIA to NIMA. These agreements also provide that in conjunction with the transfer of these 27 senior level positions to NIMA, CIA would cut 27 SIS positions. Consequently, the enactment of the proposed amendment would have no budgetary impact, because the increase of the DISES ceiling is offset by the corresponding reduction of SIS positions at CIA.

Section 811 would amend section 10541 of title 10 concerning the annual report to Congress on National Guard and Reserve Component equipment. During the preparation of the budget year 2000 National Guard and Reserve Component Equipment Report, it became clear that changes were needed to both the report and process in order to make the report more relevant to Congress. As a result, a joint working group was commissioned from the Office of the Assistant Secretary of Defense for Reserve Affairs to analyze the report and process. Key changes were coordinated with all Services and are included in the legislative proposal above.

Specifically, subsection (a) would adjust the date of the report from February 15th to March 1st of each year. This would allow time to incorporate the President's budget projections into the report, thus making the report a more meaningful and up-to-date report during the Congressional legislative process. It would also officially require data from the U.S. Coast Guard Reserve, which has been provided in past years but is not required by law.

Subsection (b) would eliminate the requirement for data that is no longer viable, such as the full wartime requirement of equipment over successive 30-day periods and non-deployable substitute equipment. It would also expand the requirement for the current status of equipment compatibility to all Reserve Components, instead of just for the Army. Overall, the revised subsection (b) is written to expand the scope and remove the restrictive nature of the language. This would provide the Reserve Components the ability to present a clearer and more complete picture of the Reserve Component equipment needs.

Section 812 would repeal subsection 153(b) of title 10 and amend section 118(e) to consolidate redundant reporting requirements related to the assessment of service roles and missions. Subsection 153(b) requires the Chairman to submit to the Secretary of Defense, a review of the assignment of roles and missions to the armed forces. The review must address changes in the nature of threats faced by the United States, unnecessary duplication of effort among the armed forces, and changes in technology that can be applied effectively to warfare. The report must be prepared once every three years, or upon the request of the President or the Secretary.

Section 118 of title 10 established a permanent requirement for the Secretary to conduct a Quadrennial Defense Review (QDR) in conjunction with the Chairman. The Department of Defense has designed the QDR to be a fundamental and comprehensive examination of America's defense needs from 1997–2015; to include assessments of potential threats, strategy, force structure, readiness posture, military modernization programs, defense infrastructure, and other elements of the defense program. Amending subsection 118(e) would explicitly require the Chairman's review of the QDR to include an assessment of service roles and missions and recommendations for change that would maximize force efficiency and resources.

Simultaneously preparing the QDR and the roles and missions study requires the concentrated efforts of many Joint Staff action officers for a period of more than eighteen months. Eliminating this duplication of effort, however, will significantly enhance the Joint Staff's ability to meet an expanding list of congressionally or Department of Defense mandated reporting requirements on a wide variety of sensitive defense topics. These topics include joint experimentation, training, and integration of the armed forces, examination of new force structures, operational concepts, and joint doctrine; global information operations; and homeland defense, particularly with regard to managing the consequences of the use of weapons of mass destruction within the United States, its territories and possessions.

Section 813 would change the due date for the Commercial Activities Report to Congress, required by section 12461(g), title 10, United States Code, from February 1st of each fiscal year to June 30th of each fiscal year. The Commercial Activities Report is developed using the same in-house inventory database as the Department's Federal Activities Inventory Reform Act (FAIR Act) submission. Under the FAIR Act, the Department is required to submit an inventory of commercial functions each Fiscal Year. That inventory is subject to challenges by interested parties. In order to ensure that the Commercial Activities Report is as accurate as possible and consistent with other reports submitted to Congress covering the same Fiscal Year, it is necessary to consider the FAIR inventory challenges when compiling it. This process is normally not complete until April or May of each year. In past years, the Department has submitted an interim response to Congress regarding the Commercial Activities Report indicating that the report would not be submitted until June.

Section 821 would amend section 2572 of title 10. Section 2572(a) authorizes the Secretary of a military department to lend or give certain types of property described in section 2572(c) that are not needed by the department to specified entities, such as municipal corporations, museums, and recognized war veterans' associations. Section

2572(b) authorizes the Secretary of a military department to exchange the items described in section 2572(c) with any individual, organization, institution, agency, or nation if the exchange will directly benefit the historical collection of the armed forces.

Section 821 would expand the categories of property that the military departments may exchange under section 2572(b). Currently, the military departments may exchange books, manuscripts, drawings, plans, models, works of art, historical artifacts and obsolete or condemned combat materiel for similar items. Property may also be exchanged for conservation supplies, equipment, facilities, or systems; search, salvage, and transportation services; restoration, conservation, and preservation systems; and educational programs. The amendment would expand the current authority to exchange ''condemned or obsolete combat material'' and authorize the military departments to exchange any ''obsolete or surplus material'' of a military department for ''similar items'' and for the enumerated services if the items or services will directly benefit the historical collection of the armed forces.

Section 822 would amend section 2640 of title 10, United States Code. This section requires the Department of Defense to meet safety standards established by the Secretary of Transportation under section 44701 of title 49, United States Code and requires air carriers to allow the Department of Defense to perform technical safety evaluation inspections of a representative number of their aircraft. This amendment would require the same safety standards be applied to foreign air carriers as to the domestic air carriers in an effort to provide better protection to members of the armed forces.

Section 822(2) would require ''check-rides'' to be accomplished on carriers. As DOD personnel conducting the inspection are usually not qualified pilots in all the various types of aircraft they are required to inspect, the term ''cockpit safety observations'' more accurately describe the process involved.

Section 822(3) of the proposal would designate authority within the Department of Defense to delegate a representative to make determinations to leave unsafe aircraft. This change is a technical change to update the command name from ''Military Airlift Command'' to its successor ''Air Mobility Command''.

Section 822(4) of the proposal would authorize the Secretary of Defense to waive the requirements of the statute in an emergency, based on the recommendation of the Commercial Airlift Review Board. As paragraph (1) would extend the inspection requirements to foreign air carriers, there may be instances that do not constitute an emergency but because of operational necessity a waiver may be appropriate. An example would be where there is only one carrier available in a foreign country but the host government will not allow an inspection on sovereignty principals. If all other information available to the Commercial Airlift Review Board indicate a safe air carrier, a waiver may be appropriate.

Section 822(5) would amend subsection (j) of section 2640 title 10 United States Code that states certain terms listed therein have the same meanings as given by section 40102(a) of title 49 of the United States Code. ''Air Carrier'' is listed in subsection (j) and is defined in title 49 as a ''citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.'' Deleting ''air carrier'' from the definition section in addition to the changed in paragraph (1) will allow the safety standards to be applied equally to foreign and domestic carriers.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense.

Section 901 would amend title 10 by adding a new section 23501 to authorize the Secretary of Defense, with the concurrence of the Secretary of State, to enter agreements, at reasonable cost, with eligible countries and international organizations, for the reciprocal use of ranges and other facilities where testing may be conducted. As military equipment becomes more complex, so does the need for more advanced, complex, and costly test and evaluation capabilities. In this environment, it is increasingly difficult and expensive for one nation to fulfill all of its legitimate research, development, test and evaluation (RDT&E) requirements at ranges and facilities under its control.

One way to reduce the cost of developing the next generation of U.S. weapons, and those of our friends and allies, is to take full advantage of the unique test capabilities available here and abroad. For example, the United Kingdom has a unique Artillery Recovery Range in Shoeburyness where we may recover rounds undamaged after firing for engineering evaluation. This uniqueness of the range comes from its geography. Shoeburyness lies on a gently sloping shoreline that extends for several miles before terminating in a large tidal basin from which undamaged spent rounds may be recovered with ease. No other facility in the world provides this capability. Similarly, the United States has unique test capabilities not available in other countries. The 8+ Mach test track at Holloman Air Force Base in N.M. is unequaled anywhere in the world. Unfortunately, under current authority, it is often cost-prohibitive for the United States and the United Kingdom, for example, to reach an agreement that would allow each country to use the other's facilities to develop superior weapons to meet 21st Century challenges.

To obtain access to foreign ranges and facilities at reasonable rates, the Department needs new authority to provide eligible countries or international organizations reciprocal access, at reasonable rates, to U. S. facilities; and the enactment of this proposal would provide that new authority.

As the Secretary of Defense observed in a memorandum dated March 23, 1997: ''International Armaments Cooperation is a key component of the Department of Defense Bridge to the 21st Century. We already do a good job of international cooperation at the technology end of the spectrum; we need to extend this track record of success across the remainder of the spectrum.''

Reciprocal use of test and evaluation ranges and facilities is the next step in this process, and one that will expand long-standing international partnerships the United States has enjoyed in the equipment acquisition process. In this regard, the Department notes that the Congress ''has supported a number of [Department of Defense] initiatives to help offset the growing burden of [RDT&E] infrastructure support cost.'' See S. Rep. No. 104–12, at 176–77 (1995). It is also worthy of note that the Congress has encouraged the Department to engage in such cooperative ventures by stating in the same report: ''our allies are showing a much greater interest in using U.S. test ranges and facilities because of encroachment problems overseas, and the Department should be more aggressive in encouraging and facilitating such request.'' See S. Rep. No. 104–12, at 177 (1995).

Enactment of the authority granted in subsection (a) of this proposal would also enhance interoperability at all weapon system and force levels; and interoperability is the cornerstone of Joint Vision 2020. It is axiomatic, that interoperability between U.S. forces, and coalition or allied forces, enhances the effectiveness of the combined force to act in concert to deter or defeat aggression. Accordingly, continued success in regional conflicts depends on continuous improvement of U.S. interoperability with our friends and allies around the globe.

No additional funds are required to implement the authority granted in subsection (a) of this proposal. Testing services will be paid for by customers according to the principles and provisions prescribed in the proposal and negotiated in a Memorandum of Understanding. Pricing principles call for reasonable and equitable charges between partner countries. Matters concerning security, liability and similar issues will be fully addressed in Memorandums of Understanding (or other formal agreements) entered based on this proposal.

Section 901(c) would amend Section 2681 of title 10, United States Code, ''Use of Test and Evaluation Installations by Commercial Entities.'' Section 2681 was enacted in 1994 to provide greater access for commercial users to the Major Range and Test Facility Base Installations. The section requires a commercial entity to reimburse the Department of Defense for all direct costs associated with the test and evaluation activities. In addition, commercial entities can be charged indirect costs related to the use of the installation, as deemed appropriate.

The Major Range and Test Facility Base (MRTFB) is a set of installations and organizations operated by the Military Departments principally to provide T&E support to defense acquisition programs. Historically, defense acquisition programs used the MRTFB for testing, with the Department of Defense component serving as the actual customer. The acquisition program approved the work statement and provided funding through a funding document issued directly to the test organization. In response to acquisition reform initiatives, most program managers now leave the decision of where to perform (developmental) testing to the contractor. Nonetheless, many contractors choose to test at MRTFB activities because of the facilities and expertise available. In other cases, technical requirements drive them to the MRTFB as the only source of adequate T&E support. Under section 2681, defense contractors are charged as commercial entities, even though the use of the range is in direct support of the Department of Defense component.

In the past, MRTFB Installations did not charge defense contractors a fully burdened rate to use their facilities when conducting test in association with a defense contract. A Service audit finding opined that the MRTFB installations had misapplied the law and determined defense contractors to be commercial users, thereby requiring them to be charged the fully burdened rate. However, weapons programs have prepared their budgets under the assumption that the fully burden rate would not be charged to the defense contractors acting on their program's behalf. The amendment proposed in subsection (c) of this proposal would make MRTFB test and evaluation services available to defense contractors under the same access and user charge policies as applied to the sponsoring Department of Defense component. This would assure that the MRTFB is able to perform its fundamental role of support to defense acquisition programs under the same policies as existed prior to section 2681, while continuing to leave the choice of ''where to test'' to the defense contractor. In addition, the amendment proposed in subsection (c) of this proposal would extend this concept to the contractors of other U.S. government agencies. If section 901(c) is not enacted, there may be a cost increase to specific research and development programs.

Section 902 would amend 10 U.S.C. §2350a to improve the Department's ability to enter

into cooperative research and development projects with other countries. This amendment would incorporate references to the term: ''Major non-NATO ally'' to allow countries like Australia, South Korea or Japan to be recognized, not just as other friendly foreign countries, but as major allies.

Section 903 would amend chapter 53 of title 10, United States Code, to provide the Secretary of Department the authority to recognize superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals that significantly enhance or support the National Security Strategy of the United States.

Currently, the Department's authority to recognize superior achievements and performance by foreign nationals is limited to awarding military decorations to military attaches and other foreign nationals for individual acts of heroism, extraordinary achievement or meritorious achievement, when such acts have been of significant benefit to the United States or materially contributed to the successful prosecution of a military campaign of the Armed Forces of the United States. See sections 1121, 3742, 3746, 3749, 6244–46, 8746, and 8749–50, of title 10, United States Code, and Executive Orders 11046 and 11448.

The vast majority of engagement programs conducted by the Department of Defense, in support of the national Security Strategy, however, do not involve diplomatic contacts, or heroic acts, but unit-level engagement and cooperation between U.S. servicemembers and foreign nationals, in a variety of training, exercise, and peacetime operational settings. In these instances, many of these expenses that would be authorized by this proposal are currently being paid out of the pockets of soldiers, sailors, airmen, Marines, and members of the Coast Guard.

One of many examples of how this gap in legislative authority adversely impacts on American servicemembers is the experience of the United States Army Special Forces Command (Airborne). Since the first Special Forces unit was activated on June 19, 1952, Special Forces personnel have routinely deployed overseas to: train U.S. allies to defend themselves and counter the threat of dangerous insurgents, in so doing, Special Forces personnel often serve as teachers and ambassadors. As a result, the Special Forces Command is often called upon by regional combatant commanders, American Ambassadors, and other agencies to participate in a wide variety of peacetime engagement events, because of its global reach, regional focus, cultural awareness, language skills and military expertise.

During Fiscal Year 2000, the command had 2,102 personnel deployed on 81 missions in 51 countries. The activities conducted during these deployments included peace operations in the Balkans, humanitarian demining operations worldwide, deployments in support of the Department of State, African Crisis Response Initiative, joint and combined exercise training, counterdrug operations, and mobile training team deployments. In addition, elements of the command host annual marksmanship and other international competitions involving military skills.

During this period of time members of the Special Forces Command participated in 328 deployments that required the purchase or production of plaques, trophies, coins, certificates of appreciation or commendation and other suitable mementos for presentation to foreign nationals. These items were used to recognize achievements such as placing first, second or third in competitions, graduating at the top of formal training courses, and other acts meriting recognition by U.S. officials. Since the authority to present military awards for valor, heroism or meritorious service as outlined above generally does not apply to such expenses, the men and women of the command have a long tradition of paying such expenses out of their own pockets, or from funds received from private organizations such as the Special Forces Association.

Assuming that the expenditures for such items during the 328 deployments conducted by the Special Forces Command in fiscal year 2000, averaged $260.00 per deployment (the current ''minimal value'' threshold set by section 7342(a)(5) of title 5, United States Code), the men and women of that command would have spent $85,280.00 out of their own pockets, or obtained donations from private organizations such as the Special Forces Association, in order to carry out these missions.

Enactment of this proposal would enhance the execution of Department engagement programs, by providing another means of establishing goodwill today that will contribute to improved security relationships tomorrow. But most importantly, it would relieve servicemembers from the need to pay such expenses out of pocket, by authorizing commanders to pay for these expenses from the budgets allocated to them to conduct these critical missions.

Section 904 would give the Department of Defense (DoD) the personal service contract authority currently exercised by other agencies with overseas activities, It would allow DoD to hire the in-country support personnel necessary to carry out its national security mission, particularly in the newly independent states.

In those countries where the DoD does not have a Status of Forces Agreement or does not have a major military presence including a program for civilian personnel administration of local national employees, that service has traditionally been performed on a reimbursable basis by the Department of State (DOS). DOS has used its personal service contract authority to provide workers for DoD units such as Defense Attache Offices, Security Assistance Offices, and Military Liaison Teams, that are frequently co-located with the U.S. Embassy and may come under Chief of Mission authority. DoD does not have personal service contract authority and DOS counsel recently determined DOS is prohibited from using its personal service contract authority to provide workers for an agency that does not have such authority.

DOS has begun terminating personnel service contracts that support DoD requirements. DoD units have been faced with the need to either use a non-personal service contract or obtain Full-Time Equivalent (FTE) authority. Use of non-personal service contracts may be inappropriate for the type of work performed, cause security and access problems at the Embassy, and be in violation of local labor law. FTE has not been readily available to support time-limited programs such as the Partnership for Peace and Military Liaison Teams. FTE has been particularly difficult to obtain for overseas units that are under headquarters constraints such as for the OUSD (Policy) office that supports arms control delegations in Geneva.

Section 911 would amend section 1153 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (NDAA) to limits on the use of voluntary early retirement authority and voluntary separation incentive pay for fiscal years 2002 and 2003. Section 1153 authorized the Department to use Voluntary Separation Incentive Pay (VSIP) and Voluntary Early Retirement Authority (VERA) for workforce restructuring for three years. In the past, VERA and VSIP could only be used in conjunction with reduction in force. Under this new authority, it is no longer necessary to abolish a position in order to grant early retirement or pay the incentive. The vacant position may be refilled with an employee with skills critical to the Department. This is necessary to shape the Defense workforce of the future.

Section 1153 authorized these programs to be carried out for workforce restructuring in FY 2002 and FY 2003 ''only to the extent provided in a law enacted by the One Hundred Seventh Congress.'' This provision would satisfy that requirement.

Section 912 would amend section 1044a title 10 to clarify the status of civilian attorneys to act as notaries. Section 1044a(b)(2) authorizes ''civilian attorneys serving as legal assistance officers'' to perform notarial services. Civilian attorneys have no designation under Office of Personnel Management position descriptions as legal assistance ''officers.'' Within Department of Defense documents, civilian attorneys providing legal assistance services are referred to as legal assistance attorneys. For this and other reasons related to the efficient management of legal assistance offices, subsection (b) would amend section 1044a(b)(2) to refer to legal assistance attorneys.

Section 912(b) would amend section 1044a(b)(4) of title 10 to expand a category of persons who may perform notarial acts under the section. Section 1044a(b)(4) authorizes members of the armed forces who are designated by regulation to perform notarial acts. As amended, subsection (b)(4) would authorize civilian employees of the armed forces to perform notarial acts if they are designated by regulations of the armed forces to have notarial powers. This would alleviate a particular problem overseas, where military notaries are not always available. The change would allow the Service Secretaries, and the Secretary of Transportation with respect to the Coast Guard, to extend notary authority to civilian nonlawyer assistants, e.g., 64 paralegals and legal assistance office in-take personnel.

Section 913 would amend section 2461 of title 10 concerning the conversion of commercial or industrial type functions to contractor performance. Federal agencies may convert commercial activities to contract or interservice support agreement without cost comparison under Office of Management and Budget Circular A–76 (A–76) when all directly affected Federal employees serving on permanent appointments are reassigned to other comparable Federal positions for which they are qualified. This revision would make the statutory requirements inapplicable under these same circumstances.

The analysis requirements of section 2461 of title 10, United States Code, are met using the commercial activities study procedures of A–76 and the Revised Supplemental Handbook, Such studies typically take two to four years to reach an initial decision. When the result of the study is a conversion of a function to contract performance, affected Federal employees may be subject to reduction-in-force procedures. The proposed statutory revision would permit Department of Defense activities to convert a function to contract performance without incurring the potential length and cost of an A–76 study. This revision would not alter the requirements of section 2641 where an A–76 study is undertaken. It would not alter the rights of employees who are sub9ect to an A–76 study.

Section 914 clarifies that former Defense Mapping Agency personnel transferred into the National Imagery and Mapping Agency pursuant to the National Defense Authorization Act for Fiscal Year 1997, Public Law 104–201, retain third party appeal rights under chapter 75 for such time as they remain Department of Defense employees employed without a break in service in the National

Imagery and Mapping Agency. The section also permits the employees so affected to waive the provisions of this section. However, by doing so, the employee forfeits his or her rights under this section. Personnel who have those rights and who are assigned or detailed by NIMA to positions of the CIA or other agencies would retain those rights vis-a-vis NIMA while assigned or detailed to those positions.

Section 915 would allow the Secretary of Defense to provide the Director, NIMA the authority to set up a critical skills undergraduate training program parallel to those authorized to NSA, DIA, CIA, and the military departments. These programs are intended to further the goal of enhanced recruitment of minorities for careers in the Intelligence and Defense Communities. Under these programs agencies recruit high school graduates who otherwise would not qualify for employment and then send them to obtain undergraduate degrees in critical skills areas such as computer science. These employees are required to commit to remaining in the Government for specified payback periods. No costs are anticipated in fiscal year 2002. Fiscal year 2003 costs are currently estimated at less than $1,000,000. This proposal imposes no costs on other organizations.

Section 916 would add a new section to title 10, United States Code, and would establish a three-year pilot program permitting payment of retraining expenses for DoD employees scheduled to be involuntarily separated from DoD due to reductions-in-force or transfers of function. In the National Defense Authorization Act for Fiscal Year 1995, a pilot program of this nature was established for employees affected by BRAC. (See Public Law 103–337, Section 348.)

The program, which may be created at the discretion of the Secretary of Defense, focuses on permitting a company to recoup the costs it incurs in training an employee for a job with that company. The purpose of this incentive is to encourage non-Federal employers to hire and retain individuals whose employment with DoD is terminated. To be eligible for the reimbursement, a company must have employed the former DoD employee for at least 12 months. In short, this proposal allows payment for training for a specific job; it is not designed towards generic, non-job specific training.

Expanded use of incentives such as contained in this proposal would provide DoD with an enhanced management tool to reduce adverse impacts on employees. Availability of this option would also reduce costs associated with VSIP payments and the placement of employees through the DoD Priority Placement Program.

Section 921 responds to section 1051 of the Strom Thurmond National Defense Authorization Act for Fiscal year 1999 (Public Law 105–261), which identified the need for improved procedures for demilitarizing excess and surplus defense property. The proposal would amend Title 10, United States Code, to permit the United States to recover Significant Military Equipment (SME) that has been released by the Government without proper demilitarization. In recent years, the possession of improperly demilitarized Department of Defense property by individuals and business entities has caused grave concern both in the media and in Congress and has been a topic of study for the Defense Science Board.

Questions on the amount of compensation due a possessor of these materials have arisen in those cases where confiscation has been permitted. This proposal, if enacted, would provide needed clarification on several issues. First, it would codify in law the type of material subject to recovery by specifically adopting the definition of SME as is contained in the Code of Federal Regulations. Second, it would permit a possessor to be compensated in an amount covering purchase cost, if any, and reasonable administrative costs, such as transportation and storage costs, assuming the possessor obtained the property through legitimate channels. Note that exceptions are provided for certain categories, including museums and the Civilian Marksmanship program.

Section 922 would revise section 2634 of title 10, and section 5727 of title 5, United States Code, by exempting motor vehicles shipped by members of the armed forces and federal employees from the provisions of the Anti Car Theft Act of 1992, as amended. The Anti Car Theft Act of 1992, (the ''Act''), codified at Sections 1646b and 1646c of title 19, United States Code, requires customs officers to conduct random inspections of automobiles and shipping containers that may contain automobiles that are being exported, for the purpose of determining 66 whether such automobiles are stolen. In addition, the Act requires that all persons or entities exporting used automobiles, including those exported for personal use, provide the vehicle identification number (V.I.N.) and proof of ownership information to the Customs Service at least 72 hours before the automobile is exported. The Customs Service is also required, consistent with the risk of stolen automobiles being exported, to randomly select used automobiles scheduled for export and check the V.I.N. against information in the National Crime Information Center to determine if the automobile has been reported stolen. Customs Service regulations implementing the Act are at Section 192.2 of title 19 of the Code of Federal Regulations.

Motor vehicles shipped under the authority of section 2634 of title 10 and section 5727 of title 5 are owned or leased by members of the armed forces or federal employees and are being transported out of the country pursuant to the member's or employee's change of permanent station orders. The vast majority of motor vehicles shipped under these two provisions of law belong to Department of Defense personnel, and are for personal use while the member or employee is abroad. In most cases, these motor vehicles are returned to the United States along with the member or employee upon completion of duty overseas. These motor vehicles are not being exported for the purpose of entering into the commerce of a foreign country and normally may not be sold to foreign nationals in the country to which the military member or employee is assigned. Their shipment is arranged and normally paid for by the United States government. In addition, in the case of military members and Department of Defense civilian employees, regulations promulgated by the Department of Defense pursuant to authority granted in Section 2634 of title 10, require that the member produce adequate proof of ownership prior to shipment and, in the case of leased vehicles, proof that the lease has at least 12 months remaining. Under the circumstances, the chance that any such motor vehicle may be stolen is extremely remote. In over fifty years of shipping such motor vehicles overseas, there have been few, if any, documented cases in which a stolen vehicle has been shipped overseas by a military member or federal employee.

Application of the Act to motor vehicles transported under these sections has had an adverse impact on shipment times and has resulted in additional expense to the U.S. government in the form of delayed shipments and costs associated with random inspections. In addition, it has imposed a burden on military members and federal employees by requiring unnecessary and duplicative documentation, and delaying the transit times of their motor vehicles. Although these costs and burdens are not extraordinary on an individual basis, they are unwarranted and wasteful in light of the extremely remote chance that stolen vehicles may be shipped.

This proposal would exempt shipments of motor vehicles under these sections from the Act, and provide the authority to continue to regulate such shipments in a manner that is consistent with the needs of the various agencies affected. The revision would also eliminate an ambiguity caused by section 2634(b) and the new Customs Service regulations. The refusal to ship a member's vehicle because of the Customs regulation would entitle the member to government paid storage for the duration of the overseas tour.

With regard to section 2634 of title 10, Subsection (1) would delete the word ''surface'' as a limiting factor in allowing shipment of vehicles by the cheapest form of transportation if US owned or US flag vessels are not reasonably available. This deletion will also align section 2634 of title 10 closer to the provisions of section 5727 of title 5, which does not have such a limitation. Transportation provided to military members would still be limited to a cost no higher than the cost of surface transportation.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense or other federal agencies, and may result in savings from not having to store the vehicles at government expense.

Section 923 concerns Department of Defense gift initiatives. The amendments would clarify items which may be loaned or given under section 7545 of title 10, United States Code, and give the Secretary express authority to donate portions of the hull or superstructure of a vessel stricken from the Naval Vessel Register to a qualified organization. Amendments to section 7545(a) of title 10 would clarify that the Secretary may donate either obsolete ordinance material or obsolete combat material under this section. The proposed new language is consistent with the Secretary's existing authority to lend, give or exchange ''obsolete combat materiel'' to qualified organizations under section 10 U.S.C. 2572, a statute which is similar, but not identical, to section 7545. Addition of the term ''obsolete shipboard material''covers items such as anchors and ship propellers, which are frequently sought from the Navy for use as display items.

The deletion of ''World War I or World War II'' and replacement with ''a foreign war'' would allow coverage of other wars, such as the Korean, Vietnam, and Persian Gulf wars as well as any future war. The deletion of ''soldiers'' and replacement with ''servicemen's'' would clarify that associations related to any branch of military service are qualified organizations.

A new subsection (d) is added because currently no federal statute expressly addresses the loan or gift of a major portion of the hull or superstructure of a Navy submarine or surface combatant. The Navy has received two requests for large portions of vessels currently slated for scrapping. These requests pertain to the sail of a Navy submarine (the uppermost part of a submarine), and the island of the USS *America* (the uppermost part of this decommissioned aircraft carrier). The *America's* island stands several stories above its flight deck. The Navy anticipates receiving more requests, particularly for submarine sails because the Los Angeles class nuclear submarines, all but one of which are named after particular American cities, are now being decommissioned and scrapped. If a vessel can be donated in its entirety, the Navy should have the authority to donate a portion of the vessel for use solely as a permanent memorial. Also, if there is

a reason that a vessel cannot be donated in its entirety (e.g., removal of a reactor compartment), this new subsection would authorize the Secretary to donate any part of the remainder of the vessel to a qualified organization.

The Secretary of the Navy has existing authority under 10 U.S.C. §7306 to donate 68 vessels stricken from the Naval Vessel Register. The Secretary also has existing authority to donate material and historical artifacts described in 10 U.S.C. 2572 and 7545. A large portion of a vessel does not fall squarely within the parameters of any of these three statutes, and thus the new subsection (d) authorizes the Secretary to lend, give or otherwise transfer portions of a vessel stricken from the Naval Vessel Register to an organization listed under subsection (a). Terms and conditions of any agreement for the transfer of a portion of a vessel shall include a requirement that the transferee maintain the material in a condition that will not diminish the historical value of the material or bring discredit upon the Navy. Any donation authorized pursuant to this subsection remains subject to all applicable environmental laws and regulations. In accordance with section 7545(a), no expense would be incurred by the United States in carrying out this section.

The amendments to section 2572 of title 10 would clarify the eligibility requirements for political subdivisions of a state to reccive condemned or obsolete combat material for static display purposes. The operating instruction for the Aircraft Management and Regeneration Center (AMARC) notes that aircraft for display purposes cannot ordinarily be given or loaned to a county without further administrative paperwork. Since many airports are operated by counties and other state political subdivisions that are not municipal corporations, the law as currently written presents a substantial limitation on the Air Force's ability to provide aircraft and other historical material for static display at such county entities.

AMARC's role in donating or loaning military property for static displays is to be transitioned to the United States Air Force Museum. Clarifying section 2572(a)(1) to include counties and other political subdivisions of a state as permissible recipients of loans and donations would expand the Museum's ability to foster good will and civic pride in the United States Air Force and its history through static displays.

There are several statutes which do treat counties differently from municipal corporations, particularly with regard to taxes and services. Section 5520 of title 10 does list separate definitions for cities and counties for the purpose of withholding income or employment taxes. The proposed legislation would not affect these other statutes nor the distinctions they draw between governmental entities.

Section 924 would repeal section 916 to resolve an incongruous and burdensome reporting requirement for the Chairman of the Joint Chiefs of Staff. The reporting requirements demanded by this language-particularly subsection (c)(3), which the Department is unable to comply with-runs counter to the responsibilities of the CJCS as the Chairman of the JROC, and will prove to be overly burdensome without necessarily producing a positive or desired result.

Section 153 of title 10 establishes the CJCS responsibility to advise the Secretary of Defense on requirements, programs, and budgets. The JROC, established in section 181 of title 10, assists the CJCS in fulfilling these advisory responsibilities and this section further establishes that ''the functions of the CJCS, as chairman of the Council, may only be delegated to the Vice Chairman of the Joint Chiefs of Staff.'' Other members of the JROC provide inputs to the JROC Chairman in the form of opinions, advice, and recommendations, which represent extremely useful information. However, having received the JROC member's inputs (including those from the combatant commanders-in-chief) the CJCS is singularly accountable to provide the best military advice on joint requirements to the Secretary.

Appearing before the SASC Subcommittee on Emerging Threats and Capabilities on April 4, 2000, the Commander-in-Chief of U.S. Joint Forces Command amplified the point that the JROC is an advisory body. He provided explicit testimony that his input to the JROC and attendance at selected JROC meeting is what matters—not his vote—since the JROC is not a voting body. Additionally, since JROC deliberations are characteristically conducted in executive session, there is no mechanism to collect the specific advice by individual members.

The CJCS has directed the JROC to refocus on examination of a broader spectrum of future joint warfighting requirements and fully to integrate joint experimentation activities into the requirements, capabilities, and acquisition process. The raw facts required in the semi-annual report that document a brief series of today's decisions will not capture the profound implications of framing operational architectures and operational concepts on which future decisions will be judged. Furthermore, in an era in which the Department is seeking opportunities to reduce the size of management headquarters, the significant workloads driven by these reporting requirements will drive workforce requirements in the wrong direction—and for little return on the investment. In sum, the reporting requirements will likely prove to be overly burdensome without meeting Congressional intent. The intent of this reporting requirement may be met through CJCS, VCJCS, and others' annual or special testimony, and occasional specific reports to Congress.

Section 925 would authorize limited access of sensitive unclassified information for administrative support contractors. Pursuant to the authority granted in section 129a of title 10, United States Code, the Secretary of Defense has promulgated personnel policies that promote the downsizing and outsourcing of administrative support (e.g., secretarial or clerical services, mail room operation, and management of computer or network resources). By employing such measures, the Department has realized substantial savings, as often contracting out these services is the least costly way to perform them consistent with military requirements and the needs of the Department. In many cases, however, additional savings must be forgone, because such duties may require contractors to be exposed to, or require substantive access to, sensitive unclassified information such as third party trade secrets, proprietary information, and personal information protected by the Privacy Act.

Section 926 will allow Andersen AFB to use the sale of water rights located off the main installation as an incentive to pay for a new water system located on Andersen AFB. The authority this proposal would provide to the Air Force could only be used in conjunction with existing utility privatization authority under 10 U.S.C. 2688. Subject to the specific provisions of this proposal, the rules governing a conveyance under 10 U.S.C. 2688 would apply to the transaction, including those for competition, fair market value, and reporting to Congress. The Air Force desires to obtain offers to replace the current well system with new wells located on Andersen AFB (the Main Base or Northwest Field). But this is contingent on there being adequate potable groundwater on Andersen AFB (Main Base or Northwest Field). If there is not sufficient groundwater on Andersen AFB (Main Base or Northwest Field) to allow use of this authority, subsection (d) authorizes the Secretary to allow sale of excess water from the existing wells to help pay for modernization and operation of a new water system.

Andersen AFB's Main Base and Northwest Field properties cover an area roughly 8 miles wide and 2–4 miles long (24.5 square miles). Andersen AFB currently also includes several noncontiguous properties: The two largest are the Harmon Annex, which cover 2.8 square miles and is located along the west side of the Island about 4 miles south of Northwest Field; and Andy South, which includes the Andersen South housing area and dormitories, covers 3.8 square miles, and is located about 8 miles south of the Main Base. The water system at Andersen AFB is currently owned, operated, and maintained by the Air Force. Andersen AFB wells satisfy the base's total water requirements. Andersen's water utility system includes 9 ground water wells (identified as Tumon Maui Well and Wells # 1, 2, 3, 5, 6, 7, 8, and 9), chlorination and fluoridation equipment, air strippers, several ground level storage tanks, several booster pump stations, approximately 481,000 linear feet of piping ranging in size from less than 2-inches to 30-inches in diameter, 353 building services, 48 air relief valves, 717 main valves, 11 post indicator valves, 439 fire hydrants, and 13 meters.

Andersen AFB's nine wells (and associated system components) are located several miles off the Main Base. There is one well at ''Tumon'' (900 gallons per minute (gpm)) and eight wells at the ''Andy South'' area (149–440 gpm each, 2090 gpm total). The water is pumped from the wells to the Main Base several miles away crossing non-federal properties. The Air Force's Andy South property is in the process of being declared excess property pursuant to the Federal Property Act, but neither the water rights nor the wells are part of that action.

A new water system needs to be built due to the advancing age (35–50+ years) and corrosive environment that has deteriorated the system components. The logistics involved in performing the maintenance and repair work off-base make it difficult for the mechanics to control the deterioration. As a result, more pipes, valves and pumps are failing. In 1999, the 16'' main to the base leaked at a rate of 200–250 gallons per minute and was repaired under pressure. The tank isolation valves are so old they are not used because of fear the valves might break. A major failure to the transmission line or the 50+ year old Santa Rosa Tank could leave the Main Base with only 250,000 gallons of available water (less than 15% of the average daily demand.) This amount is insufficient for fire protection and normal operations.

The base estimates it costs about $800,000 per year for electricity just to produce and transmit water to the Main Base from the off-base wells. Savings of 20–40% are expected if wells on the Main Base or the contiguous Northwest Field are constructed.

Anti-Terrorism and Force Protection would improve if wells were located on the Main Base or Northwest Field. Well House No. 3 already experienced a break-in and theft of electrical parts. Furthermore, there is no control over groundwater contamination from non-Air Force sources. The Tumon Maui well and Well No. 2 are currently not in operation due to groundwater contamination. Current requirements are about 55 million gallons per month. In the past two years, Andersen used up to 100 million gallons per month.

This provision further will provide an opportunity to meet long term water needs with no USAF capital investment, reduce short range modernization/rehabilitation costs for the aged and reconfigured off-base water supply system (Tumon Maui well and Wells 1–3 were originally built to support off-base sites, for example the old Andy South), eliminate the need to retain real property in Andy South, greatly enhance force protection needs for vital water resources, and increase system reliability and redundancy. Guam is chronically short of potable water supplies. The water from Andy South and Andersen Water Supply Annex, if available for commercial sale, would be of substantial value. The Air Force believes that value would be more than sufficient to pay the cost of installation of a new series of wells on Andersen AFB, either the Main Base or Northwest Field, and repair the existing system on the base.

Section 927 would repeal the requirement for a separate budget request for procurement of reserve equipment by repealing section 114(e) of title 10, United States Code.

Section 928 would repeal the requirement for a two-year budget cycle for the department of defense by repealing section 1405 of the department of defense authorization act, 1986 (31 U.S.C. 1105 note).

By Mr. SMITH of Oregon:

S. 1156. A bill to amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH of Oregon. Mr. President, today I rise to introduce the Electric Bike Safety Act of 2001. This bill will encourage and provide more opportunities for Americans to enjoy the leisure and healthful benefits of riding bicycles. This legislation would amend the Consumer Product Safety Act CPSA, to provide that low-speed electric bicycles are consumer products subject to such Act. As the CPSA is now written, low-speed electric bicycles are not considered consumer products, but rather a motorized vehicle subject to all regulations set by the National Transportation Safety Administration, NTSA, which regulates automobiles and motorcycles.

As a result of low-speed electric bicycles being treated as motorcycles, they are required to meet burdensome and unnecessary standards, making low-speed electric bicycles much more costly than they need to be. Subjecting electric bicycles to motor vehicle requirements would mean the addition of a large array of costly and unnecessary equipment, brake lights, turn signals, automotive grade headlights, and rear-view mirrors.

Making electric bicycles accessible for more Americans will benefit the lives of thousands of Americans. Electric bicycles provide disabled riders the freedom of mobility without the cost or stigma of an electric wheelchair. Electric bicycles provide older riders with increased lifestyle flexibility due to increased mobility that electric bicycles allow them. Electric bicycles provide law enforcement officers a practical way to patrol neighborhoods and towns in a manner consistent with the highly successful emphasis on ''Community Policing''. Electric bicycles provide short and medium distance commuters an environmentally friendly and healthy way to get to work. In short, this bill is pro-Americans with disabilities, pro-elderly, pro-safety, and pro-environment. Electric bicycles will prove beneficial to many more Americans if we in Congress do our part to make electric bicycles affordable.

In my home State of Oregon, there are thousands of people who ride bicycles each day, whether as a means of transportation, exercise, or recreation. The City of Corvallis, OR, has 63 miles of bike lanes and paths and as a result has a very high number of people who commute to work on their bicycles. Area companies such as Hewlett-Packard and CH2M-Hill even offer changing areas and showers as a way to encourage their employees to ride bicycles to work. The Corvallis Police Department is also able to utilize electric bikes as a community friendly way to patrol the city.

I believe that placing electric bicycles under the regulation of the Consumer Product Safety Commission will be only ensure the safety of electric bicycles, but will promote their use by making electric bicycles an affordable alternative form of transportation to millions of Americans.

By Mr. SPECTER (for himself, Ms. LANDRIEU, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. LEAHY, Mr. COCHRAN, Mr. BREAUX, Mr. ALLEN, Mr. BIDEN, Mr. BOND, Mrs. CARNAHAN, Mr. CARPER, Mr. CHAFEE, Mr. CLELAND, Mrs. CLINTON, Mr. DODD, Mr. EDWARDS, Mr. FRIST, Mr. GREGG, Mr. HELMS, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MILLER, Mr. REED, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, AND Mr. WARNER):

S. 1157. A bill to reauthorize the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact, a Pacific Northwest Dairy Compact, and an Intermountain Dairy Compact; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I join today with thirty-eight of my colleagues to introduce legislation authorizing interstate dairy compacts. Members of the U.S. House of Representatives have introduced similar legislation with 162 cosponsors, including 17 members of the Pennsylvania delegation.

This legislation will create a much needed safety net for dairy farmers in the Northeast and other regions and will bring greater stability to the prices paid to farmers. The bill authorizes an Interstate Compact Commission to take such steps as necessary to assure consumers of an adequate local supply of fresh fluid milk and to assure the continued viability of dairy farming within the compact region. Specifically, states that choose to join a compact would enter into a voluntary agreement to create a minimum farm-price for milk within the compact region to form a safety net for dairy farmers when farm milk prices fall below the established compact price. This price would take into account the regional differences in the costs of production for milk, thereby providing dairy farmers with a fair and equitable price for their product.

Specifically, the bill would authorize Pennsylvania, New Jersey, Delaware, New York, Maryland, and Ohio to join the existing Northeast Interstate Dairy Compact, which has been in operation since July 1997. Most of these States have already agreed to join the Compact with strong support from their governors and legislatures. In the Commonwealth of Pennsylvania, Governor Ridge has been a very strong supporter and advocate of the Compact. The Pennsylvania Senate and House of Representatives have sent a clear signal to Congress by voting with overwhelming majorities of 44 to 6 and 181 to 20, respectively, to authorize the Commonwealth's participation in the Northeast Dairy Compact.

In addition to expanding the current Northeast Interstate Dairy Compact, the bill would authorize southern States to form a similar compact to provide price stability in their region. I am pleased to join so many of my colleagues from the South in introducing this legislation. Finally, the legislation would allow formation of other compacts in the Pacific Northwest and Intermountain region within three years. We have included language in this bill to recognize the efforts in these States to support dairy compacts and to avoid their exclusion if these efforts lead to passage of compact legislation by their State governments.

In total, twenty-five States have already approved dairy compact legislation. This is a broad mandate from States that are attempting to meet the needs of dairy farmers, producers, consumers and other citizens concerned with the future of their milk supply. These States recognize the many positive aspects of dairy compacts. The benefits include providing dairy farmers with a fairer and more stable price structure; providing consumers with price stability and a steady, reliable source of local milk for their consumption; enhancement of conservation efforts in areas threatened by sprawl; and maintenance of rural economies that have been suffering for quite some time from the loss of income-generating farmers.

Over the past several years, I have worked closely with my colleagues in the Senate in order to provide a more equitable price for our nation's milk

producers. I supported amendments to the Farm Bills of 1981 and 1985, the Emergency Supplemental Appropriations Bill of 1991, the Budget Resolution of 1995 and the most recent Farm Bill in 1996 in an effort to insure that dairy farmers receive a fair price. As a member of the U.S. Senate Agriculture Appropriations Subcommittee, I have worked to ensure that dairy programs have received the maximum possible funding, including high quality dairy research conducted at Penn State University. I have also been a leading supporter of the Dairy Export Incentive Program which facilitates the development of an international market for United States dairy products.

In recent years, however, dairy farmers have faced low prices for dairy products. Prices have fluctuated greatly over the past several years, thereby making any long-term planning impossible for farmers. These economic conditions have placed our Nation's dairy farmers in an all but impossible position and this is borne out in dairy farmers' declining ranks.

Our Nation's farmers are some of the hardest working and most dedicated individuals in America. During my tenure as a United States Senator, I have visited numerous small dairy farms in Pennsylvania. I have seen these hard working men and women who have dedicated their lives to their farms. The downward trend in dairy prices is an issue that directly affects all of us. We have a duty to ensure that our Nation's dairy farmers receive a fair price for their milk. If we do nothing, many small dairy farmers will be forced to sell their farms and leave the agriculture industry. This will not only impact the lives of these farmers, but will also have a significant negative impact on the rural economies that depend on the dairy industry for support. Further, the large-scale departure of small dairy farmers from agriculture could place our nation's steady supply of fresh fluid milk in jeopardy, thereby affecting every American.

We must recognize the importance of this problem and take prompt action. Twenty-five States have asked us to pass this legislation and provide a necessary tool for their dairy farmers. I urge my colleagues to cosponsor and support this legislation as we continue to work in Congress to bring greater stability to our Nation's dairy industry.

I ask unanimous consent that the 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. 1157

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 ''Dairy Consumers and Producers Protection Act of 2001''.

SEC. 2. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by striking ''States'' and all that follows through ''Vermont'' and inserting ''States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont'';

(2) by striking paragraphs (1), (3), and (7);

(3) in paragraph (2), by striking ''Class III-A'' and inserting ''Class IV'';

(4) by striking paragraph (4) and inserting the following:

''(4) ADDITIONAL STATE.—Ohio is the only additional State that may join the Northeast Interstate Dairy Compact.'';

(5) in paragraph (5), by striking ''the projected rate of increase'' and all that follows through ''Secretary'' and inserting ''the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code''; and

(6) by redesignating paragraphs (2), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively.

SEC. 3. SOUTHERN DAIRY COMPACT.

(a) IN GENERAL.—Congress consents to the Southern Dairy Compact entered into among the States of Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia, subject to the following conditions:

(1) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Southern Dairy Compact Commission may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as a ''Federal milk marketing order'') unless Congress has first consented to and approved such authority by a law enacted after the date of enactment of this joint resolution.

(2) ADDITIONAL STATES.—Florida, Nebraska, and Texas are the only additional States that may join the Southern Dairy Compact, individually or otherwise.

(3) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a Compact price regulation is in effect, the Southern Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(4) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Southern Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(b) COMPACT.—The Southern Dairy Compact is substantially as follows:

''ARTICLE I. STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY

''§ 1. Statement of purpose, findings and declaration of policy

''The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the commission is to take such steps as are necessary to assure the continued viability of dairy farming in the south, and to assure consumers of an adequate, local supply of pure and wholesome milk.

''The participating states find and declare that the dairy industry is an essential agricultural activity of the south. Dairy farms, and associated suppliers, marketers, processors and retailers are an integral component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

''The participating states further find that dairy farms are essential and they are an integral part of the region's rural communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

''In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the federal order system nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

''Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the federal order system be discontinued. In that event, the interstate commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the order system.

''By entering into this compact, the participating states affirm that their ability to regulate the price which southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

''Recent, dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Historically, individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels so established.

''In today's regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

''ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION

''§ 2. Definitions

''For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

''(1) 'Class I milk' means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with

the principles expressed in subdivision (b) of section three.

''(2) 'Commission' means the Southern Dairy Compact Commission established by this compact.

''(3) 'Commission marketing order' means regulations adopted by the commission pursuant to sections nine and ten of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission. Such order may establish minimum prices for any or all classes of milk.

''(4) 'Compact' means this interstate compact.

''(5) 'Compact over-order price' means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to sections nine and ten of this compact, which is above the price established in federal marketing orders or by state farm price regulations in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

''(6) 'Milk' means the lacteral secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the commission for regulatory purposes.

''(7) 'Partially regulated plant' means a milk plant not located in a regulated area but having Class I distribution within such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

''(8) 'Participating state' means a state which has become a party to this compact by the enactment of concurring legislation.

''(9) 'Pool plant' means any milk plant located in a regulated area.

''(10) 'Region' means the territorial limits of the states which are parties to this compact.

''(11) 'Regulated area' means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

''(12) 'State dairy regulation' means any state regulation of dairy prices, and associated assessments, whether by statute, marketing order or otherwise.

''§ 3. Rules of construction

''(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the commission the option to replace them with one or more commission marketing orders pursuant to this compact.

''(b) The compact shall be construed liberally in order to achieve the purposes and intent enunciated in section one. It is the intent of this compact to establish a basic structure by which the commission may achieve those purposes through the application, adaptation and development of the regulatory techniques historically associated with milk marketing and to afford the commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

''ARTICLE III. COMMISSION ESTABLISHED

''§ 4. Commission established

''There is hereby created a commission to administer the compact, composed of delegations from each state in the region. The commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four years, and be subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the commission.

''§ 5. Voting requirements

''All actions taken by the commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment or rescission of the commission's by-laws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to one vote in the conduct of the commission's affairs. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds vote of the delegations present. The establishment of a regulated area which covers all or part of a participating state shall require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the commission's business.

''§ 6. Administration and management

''(a) The commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the commission, and together with the treasurer, shall be bonded in an amount determined by the commission. The commission may establish through its by-laws an executive committee composed of one member elected by each delegation.

''(b) The commission shall adopt by-laws for the conduct of its business by a two-thirds vote, and shall have the power by the same vote to amend and rescind these by-laws. The commission shall publish its by-laws in convenient form with the appropriate agency or officer in each of the participating states. The by-laws shall provide for appropriate notice to the delegations of all commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

''(c) The commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

''(d) In addition to the powers and duties elsewhere prescribed in this compact, the commission shall have the power:

''(1) To sue and be sued in any state or federal court;

''(2) To have a seal and alter the same at pleasure;

''(3) To acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes;

''(4) To borrow money and issue notes, to provide for the rights of the holders thereof and to pledge the revenue of the commission as security therefor, subject to the provisions of section eighteen of this compact;

''(5) To appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties and qualifications; and

''(6) To create and abolish such offices, employments and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees. The commission may also retain personal services on a contract basis.

''§ 7. Rulemaking power

''In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

''ARTICLE IV. POWERS OF THE COMMISSION

''§ 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation

''The commission is hereby empowered to:

''(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

''(2) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy marketing laws and regulations and to prepare estimates of cost savings and benefits of such programs.

''(3) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposia or conferences designed to improve industry relations, or a better understanding of problems.

''(4) Prepare and release periodic reports on activities and results of the commission's efforts to the participating states.

''(5) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve or promote more efficient assembly and distribution of milk.

''(6) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling and for all other services performed with respect to milk.

''(7) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

''§ 9. Equitable farm prices

''(a) The powers granted in this section and section ten shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this article

shall authorize the commission to establish one or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

''(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such compact over-order price shall not exceed one dollar and fifty cents per gallon at Atlanta, Ga., however, this compact over-order price shall be adjusted upward or downward at other locations in the region to reflect differences in minimum federal order prices. Beginning in nineteen hundred ninety, and using that year as a base, the foregoing one dollar fifty cents per gallon maximum shall be adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the commission may prescribe in regulations.

''(c) A commission marketing order shall apply to all classes and uses of milk.

''(d) The commission is hereby empowered to establish a compact over-order price for milk to be paid by pool plants and partially regulated plants. The commission is also empowered to establish a compact over-order price to be paid by all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a compact over-order price. The commission shall provide for similar treatment of producer-handlers under commission marketing orders.

''(e) In determining the price, the commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense, and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public and the price necessary to yield a reasonable return to the producer and distributor.

''(f) When establishing a compact over-order price, the commission shall take such other action as is necessary and feasible to help ensure that the over-order price does not cause or compensate producers so as to generate local production of milk in excess of those quantities necessary to assure consumers of an adequate supply for fluid purposes.

''(g) The commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The commission may reimburse other agencies for the reasonable cost of providing these services.

''§ 10. Optional provisions for pricing order

''Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to any of the following:

''(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

''(2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the commission, or a single minimum price for milk purchased from producers or associations of producers.

''(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

''(4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustments, zone differentials and for competitive credits with respect to regulated handlers who market outside the regulated area.

''(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

''(A) With respect to regulations establishing a compact over-order price, the commission may establish one equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

''(B) With respect to any commission marketing order, as defined in section two, subdivision three, which replaces one or more terminated federal orders or state dairy regulations, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

''(6) Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.

''(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

''(8) Provisions requiring that the account of any person regulated under the compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

''(9) Provision requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to Article VII, Section 18(a).

''(10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

''(11) Other provisions and requirements as the commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

''ARTICLE V. RULEMAKING PROCEDURE

''§ 11. Rulemaking procedure

''Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection 9(f), or amendment thereof, as provided in Article IV, the commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553). In addition, the commission shall, to the extent practicable, publish notice of rulemaking proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the commission shall hold a public hearing. The commission may commence a rulemaking proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

''§ 12. Findings and referendum

''(a) In addition to the concise general statement of basis and purpose required by section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553(c)), the commission shall make findings of fact with respect to:

''(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.

''(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

''(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

''(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in section thirteen.

''§ 13. Producer referendum

''(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection 9(f), is approved by producers, the commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the commission. The terms and conditions of the proposed order or amendment shall be described by the commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

''(b) An order or amendment shall be deemed approved by producers if the commission determines that it is approved by at least two-thirds of the voting producers who,

during a representative period determined by the commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

''(c) For purposes of any referendum, the commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper–Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) hereof and subject to the provisions of subdivision (2) through (5) hereof.

''(1) No cooperative which has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

''(2) Any cooperative which is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the commission.

''(3) Any producer may obtain a ballot from the commission in order to register approval or disapproval of the proposed order.

''(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses his approval or disapproval of the proposed order, shall notify the commission as to the name of the cooperative of which he or she is a member, and the commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

''(5) In order to insure that all milk producers are informed regarding the proposed order, the commission shall notify all milk producers that an order is being considered and that each producer may register his approval or disapproval with the commission either directly or through his or her cooperative.

''§ 14. Termination of over-order price or marketing order

''(a) The commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

''(b) The commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

''(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this article and shall require no hearing, but shall comply with the requirements for informal rulemaking prescribed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553).

''ARTICLE VI. ENFORCEMENT

''§ 15. Records; reports; access to premises

''(a) The commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the commission is authorized to examine the books and records of any regulated person relating to his or her milk business and for that purpose, the commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

''(b) Information furnished to or acquired by the commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the commission. The commission may promulgate regulations further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the commission of the name of any person violating any regulation of the commission, together with a statement of the particular provisions violated by such person.

''(c) No officer, employee, or agent of the commission shall intentionally disclose information, by inference or otherwise, which is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars or to imprisonment for not more than one year, or to both, and shall be removed from office. The commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

''§ 16. Subpoena; hearings and judicial review

''(a) The commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

''(b) Any handler subject to an order may file a written petition with the commission stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

''(c) The district courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within thirty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the commission by delivering to it a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the commission with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the commission from obtaining relief pursuant to section seventeen. Any proceedings brought pursuant to section seventeen, except where brought by way of counterclaim in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

''§ 17. Enforcement with respect to handlers

''(a) Any violation by a handler of the provisions of regulations establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

''(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

''(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

''(b) With respect to handlers, the commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order or other regulations adopted hereunder by:

''(1) Commencing an action for legal or equitable relief brought in the name of the commission of any state or federal court of competent jurisdiction; or

''(2) Referral to the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

''(c) With respect to handlers, the commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

''ARTICLE VII. FINANCE

''§ 18. Finance of start-up and regular costs

''(a) To provide for its start-up costs, the commission may borrow money pursuant to its general power under section six, subdivision (d), paragraph four. In order to finance the costs of administration and enforcement of this compact, including payback of start-up costs, the commission is hereby empowered to collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the commission convenes, in an amount not to exceed $.015 per hundredweight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two-month period following the date the commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the commission's ongoing operating expenses.

''(b) The commission shall not pledge the credit of any participating state or of the United States. Notes issued by the commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

''§ 19. Audit and accounts

''(a) The commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

''(b) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the commission.

''(c) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

''ARTICLE VIII. ENTRY INTO FORCE; ADDITIONAL MEMBERS AND WITHDRAWAL

''§ 20. Entry into force; additional members

''The compact shall enter into force effective when enacted into law by any three states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia and when the consent of Congress has been obtained.

''§ 21. Withdrawal from compact

''Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the commission and the governors of all other participating states. No withdrawal shall affect any liability already incurred by or chargeable to a participating state prior to the time of such withdrawal.

''§ 22. Severability

''If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact. In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three or more compacting states. A compacting state may accept the conditions of Congress by implementation of this compact.''.

SEC. 4. PACIFIC NORTHWEST DAIRY COMPACT.

Congress consents to a Pacific Northwest Dairy Compact proposed for the States of California, Oregon, and Washington, subject to the following conditions:

(1) TEXT.—The text of the Pacific Northwest Dairy Compact shall be identical to the text of the Southern Dairy Compact, except as follows:

(A) References to ''south'', ''southern'', and ''Southern'' shall be changed to ''Pacific Northwest''.

(B) In section 9(b), the reference to ''Atlanta, Georgia'' shall be changed to ''Seattle, Washington''.

(C) In section 20, the reference to ''any three'' and all that follows shall be changed to ''California, Oregon, and Washington.''.

(2) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Dairy Compact Commission established to administer the Pacific Northwest Dairy Compact (referred to in this section as the ''Commission'') may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as a ''Federal milk marketing order'').

(3) EFFECTIVE DATE.—Congressional consent under this section takes effect on the date (not later than 3 year after the date of enactment of this Act) on which the Pacific Northwest Dairy Compact is entered into by the second of the 3 States specified in the matter preceding paragraph (1).

(4) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a price regulation is in effect under the Pacific Northwest Dairy Compact, the Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(5) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Commission and be compensated for that assistance.

SEC. 5. INTERMOUNTAIN DAIRY COMPACT.

Congress consents to an Intermountain Dairy Compact proposed for the States of Colorado, Nevada, and Utah, subject to the following conditions:

(1) TEXT.—The text of the Intermountain Dairy Compact shall be identical to the text of the Southern Dairy Compact, except as follows:

(A) In section 1, the references to ''southern'' and ''south'' shall be changed to ''Intermountain'' and ''Intermountain region'', respectively.

(B) References to ''Southern'' shall be changed to ''Intermountain ''.

(C) In section 9(b), the reference to ''Atlanta, Georgia'' shall be changed to ''Salt Lake City, Utah''.

(D) In section 20, the reference to ''any three'' and all that follows shall be changed to ''Colorado, Nevada, and Utah.''.

(2) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Dairy Compact Commission established to administer the Intermountain Dairy Compact (referred to in this section as the ''Commission'') may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as a ''Federal milk marketing order'').

(3) EFFECTIVE DATE.—Congressional consent under this section takes effect on the date (not later than 3 year after the date of enactment of this Act) on which the Intermountain Dairy Compact is entered into by the second of the 3 States specified in the matter preceding paragraph (1).

(4) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a price regulation is in effect under the Intermountain Dairy Compact, the Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(5) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Commission and be compensated for that assistance.

Ms. LANDRIEU. Mr. President, today I rise, along with thirty-eight of my colleagues, to introduce legislation which would reauthorize the Northwest Dairy Compact and establish the Southern, Pacific and Inter-mountain Compacts.

State officials and dairy producers across the country are concerned that the current Federal milk marketing order pricing system does not fully account for regional differences in the costs of producing milk. As a result, 25 States, including my State of Louisiana, have passed legislation requesting that Congress approve their right to form regional compacts. The compact, when ratified by Congress, authorizes creation of an interstate compact commission which would guide the pricing of fluid milk sold in the region. Consumers, processors, producers, State officials and the public all participate in determining Class I fluid milk prices.

The Northeast Dairy Compact, enacted in 1996, and due to expire this year, has proven extremely successful in balancing the interests of consumers, dairy farmers, processors and retailers by maintaining milk price stability and doing so at no cost to taxpayers.

By ratifying the Southern Dairy Compact we have the opportunity to assure consumers an adequate, affordable and fresh milk supply while preserving the health of farms, whose social and economic contributions remain so critical to the vitality of our country's rural communities.

In my State of Louisiana, over four hundred dairy farms help maintain economic stability in one of our Nation's poorest regions. In the past ten years, nearly a quarter of the dairy farms in my State have gone out of business, and many more are in danger of shutting down unless we authorize the return of milk pricing power back to the States. Had Louisiana been a member of a Southern Dairy Compact last year, its 468 dairy farms would have received $11.9 million in compact payments, increasing income for the average Louisiana dairy farmer by nearly thirteen percent. This, at a time when dairy farmers are faced with depressed prices not seen in the last 25 years.

There are those in Congress who have opposed dairy compacts since the day the idea was introduced. However, dairy compacts are not antitrade, do not increase milk production and milk from outside the compact region is not excluded from sale in the compact region. Over the past five years, New England's dairy farmers have put into practice the compact's promise of providing stable prices for farmers and

consumers, strengthening rural communities and preserving our environment. It is time to allow the States the opportunity to provide their farmers the stability they so desperately need.

Ms. COLLINS. Mr. President, I rise with my colleagues today to introduce the Dairy Consumers and Producers Protection Act. Our legislation reauthorizes the Northeast Interstate Diary Compact and allows other regions of the country to form compacts as well. In doing so, our bill extends to additional consumers and producers the benefits we enjoy in the Northeast.

The Northeast Dairy Compact has proven successful in balancing the interests of processors, retailers, consumers and dairy farmers by maintaining milk price stability. Last year, 458 dairy farmers in Maine received payments under the compact totaling $4.8 million. The payments averaged approximately $10,500 per farmer, or enough to help farmers maintain viable operations, sustain rural communities, and ensure a reliable supply of wholesome dairy products for consumers.

The Northeast Dairy Compact is an innovative approach to promoting stability in the New England dairy industry. The Compact provides for a commission, comprised of delegates from each State, which is granted the authority to set a minimum farm price for Class I (fluid) milk. The difference between the compact price and the Federal milk order price, or the ''over-order obligation,'' is paid to the commission by the processors. The commission then redistributes these funds to compact producers based on the volume of milk sold by the farmer within the region.

The success of the Northeast Dairy Compact in promoting the viability of dairy farming and sustaining rural communities in New England has not gone unnoticed. Nineteen additional State legislatures have overwhelmingly passed compact legislation. Our legislation recognizes this strong support for compacts on the state level and provides Congressional consent for these States to join the Northeast compact or form compacts of their own.

For all that the Compact accomplishes for farmers in the Northeast, one might think that it puts farmers from other parts of the country at a competitive disadvantage. However, this is not the case. The Compact Commission has instituted safeguards, as required by the authorizing legislation, that prevents the overproduction of milk. Incentive payments are provided to farmers who do not increase production and have actually led to a decrease of 0.6 percent in the amount of milk produced in the region. Consequently, we can be sure that surplus milk from the Northeast is not impacting milk markets in other regions of the country. It is important to note that our legislation includes the overproduction protections included in the original Dairy Compact legislation.

The Northeast Dairy Compact is set to expire on September 30, 2001. While the saying goes that all good things must come to an end, I do not believe that ought to be the case with the Compact. Dairy farmers in my State agree and have written, e-mailed, and called to express to me their hope that Congress will extend the authorization of the Northeast Dairy Compact. I have appreciated hearing just how important the Compact is to my constituents, and I look forward to working with my colleagues in the Senate to see that the Diary Consumers and Producers Protection Act is enacted.

Mr. JOHNSON. Mr. President, I rise today to strongly support the extension and the expansion of the Northeast Dairy Compact as a reasonable and proven way to help dairy farmers in New England and beyond.

Dairy farms are truly the agricultural heart of New York State. Their survival is vital to the economic, social, and cultural well-being of the State. I am such an enthusiastic advocate for the Compact because, it offers the means to maintain not only healthy dairy farms in my State, but the rural settings and communities upon which so much of New York and the rest of the country depend.

Historically, dairy prices have been subject to unpredictable and unacceptable fluctuations in prices. In the face of such uncertainty, the current Federal price support system was designed to provide basic levels of assistance to dairy producers. Unfortunately, the support provided, while helpful, is often inadequate. Many dairy farmers in New York and elsewhere are unable to operate at a profit. As a remedy, the Dairy Compact was designed to provide producers with supplemental support, through assessments to processors, when the Marketing Order price is low. Most importantly, the price stability afforded by the Compact is especially important to farmers as a planning tool.

As originally implemented, the Dairy Compact did not include New York. The Bill that has been introduced would allow New York State and other States in the Northeast, Southeast and elsewhere to join the Compact. The New York Legislature, like 25 other State Legislatures, has voted to join the Compact. Why? Because over the 4 years that the Compact has been in existence it has made the difference for many family farmers between surviving as a dairy producer or selling their land for development which is slowly decimating our rural landscape. It has helped us maintain a local supply of affordable milk for consumers including women and children throughout the Compact region at no cost to the government and without placing an undue burden on consumers.

New York is an important dairy producing and consuming State. As of the year 2000, we had about 7,200 dairy herds and produced 11.9 billion pounds of milk. That year, New York ranked third behind California and Wisconsin in both the number of milk cows and total milk produced. The viability of dairy farms is very, very important to my State. If New York had been a member of compact that year when dairy prices were at rock bottom, they would have received an average payment per farm of $18,200. While that size payment will not lead to prosperity, it will help keep the farm going. Several New York dairy farms sell milk to the Compact, and thus receive some of these benefits. I want to ensure that all dairy farms are in the State can participate, and the only way to do that is to expand the Compact.

Opponents of the Compact claim that if it were to be expanded, farmers in the Compact region would overproduce fluid milk thus driving prices down in other parts of the country. This is not the case. The Compact legislation that we propose today specifically acts to prevent such an over production through a supply management feature that rewards dairy producers in the Compact who maintain relatively stable levels of production. If needed, this tool could be used to control over-production from an expanded Compact and thus minimize negative impacts elsewhere.

Other important features of the Compact that are important to remember include the following: It has been fully reviewed and found to be legal. It includes a feature to protect disadvantaged women, infant and children, and in fact, in the year 2000, the Compact paid the WIC program close to $1.8 million to reimburse WIC for any extra expense the program incurred under the Compact. Approximately 1 percent of Compact payments are similarly set aside to reimburse school lunch programs.

I am concerned about the move towards consolidation in the dairy industry. While some concentration is to be expected, recent trends indicate that a few very large dairy operations and processing plants are grabbing up more and more. Many dairy operations are also succumbing to unplanned sprawl. By helping small at-risk farms stay afloat, the Compact is a hedge against unhealthy amounts of consolidation. It also helps to preserve the rural life style, the countryside settings with open spaces, and the economic core of communities that are so important to my New York and so many others.

In sum, the Dairy Compact is an effective way for States, New York and others, to obtain from Congress the regulatory authority over the region's interstate markets for milk. It offers a price stability that is incredibly helpful, and it helps to slow the demise of a tradition that our country holds dear, the family farm.

Ms. SNOWE. Mr. President, I rise today to join Senator SPECTER of Pennsylvania in support of the Dairy Consumers and Producers Protection Act of 2001. We are joined by 37 of our colleagues from New England and throughout the Mid-Atlantic and the Southeast.

This legislation reauthorizes the very successful Northeast Interstate Dairy Compact which allows the producers of milk to, as a dairy farmer from York Country, ME, recently said, set a little higher bottom for the price of locally produced fresh milk. The current Compact only adds a small incremental cost to the current Federal milk marketing order system that already sets a floor price for fluid milk in New England. The bill also gives approval for States contiguous to the participating New England States to join, in this case, Pennsylvania, New York, New Jersey, Delaware, and Maryland.

The legislation also grants Congressional approval for a new Southern Dairy Compact, made up of 14 States: Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia.

This issue is really a State rights issue more than anything else, Mr. President, as the only action the Senate needs to take is to give its congressional consent under the Compact Clause of the United States Constitution, Article I, section 10, clause 3, to allow the 25 States to proceed with their two independent compacts.

All of the legislatures in these twenty-five States have ratified legislation that allows their individual States to join a Compact, and the Governor of every State has signed a compact bill into law. Half of the States in this country, await our Congressional approval to address farm insecurity by stabilizing the price of fresh fluid milk on grocery shelves and to protect consumers against volatile price swings.

All of the Northeast and Southern Compact States together make up about 28 percent of the Nation's fluid milk market—New England production is only about 3½ percent of this. This is somewhat comparable to Minnesota and Wisconsin which together make up to 24 percent of the fluid milk market. California makes up another 20 percent.

Over ninety-seven percent of the fluid milk market in New England is contained within the area, and fluid milk markets are local due to the demand for freshness and because of high transportation costs, so any complaints raised in other areas about unfair competition simply does not hold water. The existence of the Northeast Dairy Compact does not threaten or financially harm any other dairy farmer in the country. Nor is there one penny of Federal funds involved—not one cent.

Only the consumers and the processors in the New England region pay to support the minimum price to provide for a fairer return to the area's family dairy farmers and to protect a way of life important to the people of the Northeast. Importantly, under the Compact, New England retail milk prices have been among the lowest and the most stable in the country. No wonder other States want to follow our lead.

When Congress wants to try something new, it often sets up a pilot program to test out an idea in a particular locality or region, and then appraises the outcome to see if the project was successful. This is how the Northeast Dairy Compact originated as it was included in the 1996 Farm bill as a three year pilot program—to sunset on April 4, 1999—at the same time as the adoption of the required consolidation of Federal milk marketing orders. The milk marketing orders were extended until October 1, 1999 in the Omnibus Appropriations of FY 1999, which also automatically extended the Compact until October 1, 1999.

Because of efforts by myself and other Compact supporters, we fought to receive a two-year extension of the Northeast Compact, which was incorporated in the Omnibus spending bill funding several government agencies for FY 2000. The Compact will expire on September 30 of this year if no further action is taken by this body.

I want to make it clear to my colleagues how important the continuation of the Northeast Dairy Compact is to me and the dairy farmers and consumers in Maine. I stand here not with my hand outstretched for federal farm dollars for Maine—of all income received by farmers in my State, only about 9 percent comes from Federal funding, unlike other States whose income received through Federal dollars is well over 75 percent—rather to urge you to support a very successful program that does not cost the federal government one penny—not one cent, and is supported by the very people who are affected by it.

I plan to use every avenue open to me to make sure the Compact continues to operate as, once the Compact Commission is shut down even temporarily, it cannot magically be brought back to life again. It would take many months if not a year to restore the successful process that is now in place. I will not gamble with the livelihoods of the dairy farmers of Maine in that irresponsible fashion.

All during the time of the Northeast Compact, fluid milk prices in New England have been among the lowest and have reflected great price stability. The consumers of New England have been spending a few extra pennies for fresh fluid milk—a recent University of Connecticut report recently estimated no more than 4.5 cents a gallon—to ensure a safety net for dairy farmers so that they can continue a historic way of life that is helpful to the regional economy.

I have been pleasantly surprised that, while my mail certainly reflects discontent when gasoline prices rise by pennies, I have not received any swell of outrage of consumer complaints about milk prices over the last 3½ years that the Compact has been in place. The reality is that the initial pilot Compact project we so thoughtfully created has been a huge success.

In 2000, dairy farmers in Maine received on average, $10,500 per dairy farm from the Compact Commission, the governing body set up to keep overproduction of fluid milk in check, and among other duties, ensure that the Federal nutrition programs, such as the Women, Infants, and Children Program, or WIC, are held harmless under the Compact. In fact, the advocates of these federal nutrition programs support the Compact and serve on its commission.

The Northeast Interstate Dairy Compact has provided the very safety net that we had hoped for when the Compact passed as part of the omnibus farm bill of 1996. The Dairy Compact has helped farmers maintain a stable price for fluid milk during times of volatile swings in farm milk prices.

Also, consider what has happened to the number of dairy farms staying in business since the formation of the Dairy Compact. It is now known that, throughout New England, there has been a decline in the number of dairy farmers going out of business. In Maine, for instance, the loss of dairy farms was 16 percent from 1993 to 1997. The Compact then went into effect and from that time until now, the loss of dairy farms has dropped to 9 percent.

The Compact has given dairy farmers a measure of confidence in the near term for the price of their milk so they have been willing to reinvest in their operations by upgrading and modernizing facilities, acquiring more efficient equipment, purchasing additional cropland and improving the genetic base of their herds. Without the Compact, farmers would not have had the courage to do these things and their lenders would not have had the willingness to meet their capital needs.

The Compact has also protected future generations by helping local milk remain in the region and preventing dependence on milk a single source of milk that can lead to higher milk prices through increased transportation costs and increased vulnerability to natural catastrophes.

The bottom line is, the Compact has helped the economies of the New England States. The presence of farms are protecting open spaces critical to every State's recreational, environmental and conservation interests. These open spaces also serve as a buffer to urban sprawl and boost tourism so important to my home state of Maine.

Through its bylaws, the Compact has also preserved State sovereignty by adopting the principle of ''one state—one vote,'' requiring that any pricing change be approved by two-thirds of the participating states in the Compact.

There are compensation procedures that are implemented by the New England Dairy Commission specifically to protect against increased production of fresh milk. The Compact requires that the Compact Commission take such action as necessary to ensure that a minimum price set by the commission for

the region over the Federal milk marketing order floor price does not create an incentive for producers to generate additional supplies of milk. When there has been a rise in the Federal floor price for Class I fluid milk, the Compact has automatically shut itself off from the pricing process. Since there is no incentive to overproduce, there has been no rush to increase milk production in the Northeast as was feared by Compact opponents. No other region should feel threatened by a dairy compact for fluid milk produced and sold mainly at home.

The consumers in the Northeast Compact area, the now in the Mid-Atlantic area and the Southeast area, have shown their willingness to pay a few pennies more for their milk if the additional money is going directly to the dairy farmer. Environmental organizations have also supported dairy compacting as Compacts help to preserve dwindling agricultural land and open spaces.

I urge my colleague not to look success in the face and turn the other way, but to support us in passing this legislation that half of our states have requested.

Mrs. CLINTON. Mr. President. I am pleased to join with my colleagues today as an original cosponsor of the Dairy Consumers and Producers Protection Act of 2001. This legislation is vitally important to New York dairy farmers, New York's economy, and rural communities around the country.

From Watertown and Glen Falls to Ithaca and Jamestown, NY farmers and New York farms are an invaluable part of our State's economy and its landscape. Agriculture is one of New York's top industries. What is grown in our State makes its way to homes and kitchen tables across the country, and around the world.

In particular, the dairy industry is a pillar of New York's economy. Milk is New York's leading agricultural product, creating almost $2 billion in receipts. And New York ranks third in the country in terms of the value of dairy products sold, surpassed only by California and Wisconsin.

Yet, as I travel throughout New York State, I meet dairy farmers who are working harder, but still struggling to make ends meet. Volatile milk prices make it very difficult for New York dairy farmers to negotiate loans, to invest in expansion, and to plan for the future.

That is why it is so important that we join with our colleagues from other States to expand the Northeast Dairy Compact to include New York. If New York had been a member of the Northeast Dairy Compact last year, the over 7,000 dairy farms in New York would have received an estimated $132.6 million in payments, an average of $18,200 for each farm, thereby increasing income for the average New York dairy farm by approximately eight percent.

In addition, New York farmland and farms have become prime land for development and sprawl. We must make sure that farmers all across New York and around the country get the help that they need to hold onto their farms, and to preserve our fields and open spaces. They are an important part of what makes New York so unique and so beautiful.

Helping to preserve New York's dairy farms by expanding the Northeast Diary Compact is the right thing to do. Not only does it ensure the security of our dairy farmers in New York and in other parts of the country, it guarantees an adequate supply of fresh milk at reasonable prices and helps to preserve precious open space.

Mr. JEFFORDS. Mr. President, today, I rise today to express my support for the Dairy Consumers and Producers Protection Act of 2001, important legislation that would re-authorized and expand the Northeast Dairy Compact, and ratify a Southern Compact. Growing support and recognition of the effectiveness and ingenuity of the Northeast Dairy Compact has led twenty-five States to enact compact legislation. These States now look to Congress to grant them the right to join the Northeast Compact, or to form a Southern Compact.

It is critical that we keep pace with the demands of State governments, and provide them with the authority to develop a regional pricing mechanism for Class I (fluid) milk. Farmers across our Nation face radically different conditions and factors of production. Differences in climate, transportation, feed, energy and land value validate the need for regional pricing. Compacts allow States to address these differences and create a price level that is appropriate for producers, processors, retailers, and consumers.

The Northeast Dairy Compact was originally authorized as a three-year pilot program in the 1996 Farm Bill. Sine July of 1997, when the Compact Commission first set the Class I over-order price at $16.94, the Northeast Dairy Compact has proven to be a great success, providing farmers with a fair price for their milk, protecting consumers from price spikes, reducing market dependency upon milk from a single source, controlling excess supply, and helping to preserve rural landscapes by strengthening farm communities. And, unlike so many of our country's agricultural programs, the benefits of the dairy compact are realized at no cost to the Federal Government.

The Northeast Dairy Compact is managed by the Compact Commission. The Commission, comprised of 26 delegates from the six New England member States, includes producers, processors, retailers and consumer representatives. Each State governor appoints three or five delegates to represent their State's vote on the Commission. The Commission meets monthly to evaluate and establish the current Compact over-order price for Class I (fluid) milk. Using a formal rule-making process, the Commission hears testimony to establish a price that takes into account the purchasing power of the public, and the price necessary to yield a reasonable return to producers and distributors. Any price change proposed by the Commission is subject to a two-thirds vote by the State delegations as well as a producer referendum.

The Compact Commission's price regulation works in conjunction with the Federal Government's pricing program, which establishes minimum prices paid to dairy farmers for their raw milk. Under the Compact, processors pay the difference between the Compact over-order price for fluid milk, currently $16,94, and the price established monthly by federal regulation for the same milk. The over-order premium is paid on class I (fluid) milk, and is only paid when the Compact over-order price is higher than the price set by the Federal milk marketing orders. Processors purchasing milk for other dairy products such as cheese or ice cream are not subject to the Compact's pricing regulations, although all farmers producing milk in the region, for any purpose, share equally in the Compact's benefits.

In order to protect low-income consumers from any increases in cost caused by the Compact, the Compact legislation imposes regulations on the Commission requiring that the Women, Infants and Children, WIC program, as well as School Lunch Programs, must be reimbursed for any additional costs they may incur as a result of compact activity. Three percent of the pooled proceeds are set aside to fulfill these obligations.

Compact legislation also contains a clause that holds the Commission responsible for any purchases of milk or milk products by the Commodity Credit Corporation, CCC, that result from the operation of the Compact. The Secretary of Agriculture has the authority to determine those costs and ensure that the Commission honors its obligations.

After money is withheld for the WIC and School Lunch programs, as well the CCC, the Compact Commission makes disbursements to farmer cooperatives and milk handlers. These entities then make payments to individual farmers based on their level of production. These payments are only made when the Federal market order price falls below the price set by the Compact Commission, effectively creating a floor for milk prices. This, in turn, decreases price volatility in the region.

The stability created by the Compact pricing mechanism is important for several reasons. It guarantees farmers a fair price for their product and allows them to plan for the future. Farmers, knowing that they can count on a fair price, can allocate money to purchase and repair machinery, improve farming practices, and above all, stay in business.

Throughout our great Nation, the family farm continues to be a vital part of our rural community and agricultural infrastructure. In New England, and across our country, farms continue to support our rural economies. Farms create economic stability by supporting local businesses such as feed stores, farm equipment suppliers and local banks. The continuing disappearance of small farms is making life very difficult for agri-businesses and disrupting the overall rural economic infrastructure.

The importance of the family farm extends well beyond the rural economy, however. Preservation of the family farm has important environmental consequences as well. Numerous environmental organizations have expressed their support for dairy compacts. They recognize the ability of compacts to protect our farms and preserve our dairy industry. These organizations include the Sierra Club, the Conservation Law Foundation and the National Trust for Historic Preservation. These groups, as well as numerous other environmentally conscious organizations, recognize farmers as good stewards of the land, and value the ability of farms to sustain productive use of the land, while preserving open space.

Even though compacts enjoy widespread support across much of our country, opponents have worked tirelessly to discredit the merits of dairy compacts. These critics, however, must contend with the strong record of success that the Northeast Dairy Compact has put forth.

During its first four years, the Northeast Compact has stood up to numerous legal challenges. Courts have ruled in favor of the Compact on every level, including the U.S. Supreme Court. The courts have recognized the Compact as a proper and constitutional grant of congressional authority, permitted under the Commerce and Compact clauses of the U.S. Constitution. These decisions have upheld the Commission's authority to regulate milk within the region, as well as milk produced outside of the region.

Concerns have also been raised about the Compact's effect on interstate trade. Opponents of the Northeast Compact argue that compacts restrict the movement of milk between States that are in the Compact, and States that lie outside the Compact. Compacts, however, do not restrict the movement of milk into the region. For example, producers in eastern New York State benefit from the Northeast Compact. By shipping their milk in the region, farmers are eligible to receive the Compact price for their products.

Another common misconception is that the Compact leads to overproduction. The Northeast Dairy Compact, however, has not led to overproduction during its first four years. In fact, during 2000, the Northeast Dairy Compact states produced 4.7 billion pounds of milk, a 0.6 percent reduction from 1999. Since the Northeast Dairy Compact has been in effect, milk production in the region has risen by just 2.2 percent. Nationally, milk production rose 7.4 percent from 1997 to 2000. Over this same period, California, the largest milk producing Sate in the country, increased its milk production by 16.9 percent.

To protect against overproduction, the Compact Commission has developed a supply management program that rewards farmers who do not increase production. Under the program, 7.5 cents per hundred-weight is withheld by the Commission. This money is refunded to producers that have not increased their production by more than 1 percent during the given year. While this program has only been in place since 2000, we believe that it will be a useful tool in preventing overproduction.

Finally, opponents argue that compacts are harmful to consumers, especially low-income consumers. The facts show that this not the case. On May 2, 2001, an independent study out of the University of Connecticut's Food Marketing Policy Center offers new evidence regarding the impact of the Northeast Dairy Compact on consumer prices. The Food Marketing Policy Center performed a four-year analysis of retail milk prices using supermarket scanner data from 18 months prior to Compact implementation, up through July of 2000. This period of time captured the volatile prices preceding Compact implementation, as well as the pricing behavior that followed. The study found that the Northeast Dairy Compact was responsible for only 4.5 cents of the 29-cent increase in retail prices following Compact implementation. The study concludes that wider profit margins by processors and retailers account for 11 cents of the 29-cent increase. Since the Compact went into effect, these wider profit margins have drawn nearly $50 million out of the pockets of New England consumers.

The study suggests that retail stores and processors have used price gouging and ''tacitly collusive price conduct'' to lock in wider profit margins. The study states: ''Leading firms in the supermarket-marketing channel have used their dominant market positions to elevate retail prices in the Northeast Compact Region.'' In conclusion, the study contends: ''The major policy now facing New England consumers of fluid milk is not the Northeast Dairy Compact. It is the exercise of market power by the region's leading retailers and milk processor.'' While this study raises some serious concerns regarding the New England dairy industry, it illustrates that the effects of the Compact on consumers have been benign.

A May 11, 2001 article in Cheese Market News written by Jim Tillison, Chairman of the Alliance of Western Producers, further addresses the consumer issue. Mr. Tillison writes:

''Now, unless I am wrong, in every dairy state there are many times more consumers than dairy farmers. It would seem that it would be very difficult to get compact legislation passed if consumers were strongly opposed to it. That must not have been the case if some 25 state legislatures have passed compact legislation. What's more, 25 governors who have had the power to veto state compact legislation haven't. (Cheese Market News, May 11, 2001)

Tillison continues by examining the reasons why consumers support the Compact. These include decreases in retail price volatility and the need for a fresh supply of milk. Tillison states, ''Consumers like the idea of milk for their kids being produced locally. Even though the milkman delivering ''fresh'' milk to the consumer's doorstep is a thing of the past, that doesn't mean that consumers don't want fresh milk.'' At this time, I would ask unanimous consent that Jim Tillison's article, ''Let's Talk About Compacts'' be submitted for the RECORD.

Under our legal system, individual states have the authority to establish their own dairy pricing mechanism. Because of the nature and size of the dairy industries in the Northeast and South, states in these regions are better served by coming together to form a unified pricing mechanism. By supporting the rights of states to form dairy compacts, we maintain the safety and continuity of our milk supply, protect consumers from volatile milk prices, and conserve open land.

Originally created as a three-year pilot program, the Northeast Dairy Compact has been extremely successful in demonstrating the merits of compacts. We no longer need to speculate about the potential effects of compacts. We now have the hard evidence, they are good for farmers, good for consumers, and good for the environment. I ask that the Senate recognize this by extending and expanding the Northeast Dairy Compact, and ratifying a Southern Compact.

In closing, I urge the Senate to support this important legislation. Our States have come to us, and asked us to grant them the right to regulate the minimum farm price of milk, the right to save their family farms. We must grant them that right.

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

[From the Cheese Market News, May 11, 2001]

LET'S TALK ABOUT COMPACTS

(By Jim Tillison)

Here we go again. The issue of dairy compacts is ''heating up'' once again. Studies have been done and to now one's surprise they are biased depending on which aide you are on. Let's try to look past all the rhetoric to what is causing all the stir and discuss the stir that is being caused.

First, let us review the process involved in putting a dairy compact in place.

Essentially, the compact process result in negating interstate commerce laws. In other words, it allows the dairy producers in a number of states to regulate the price of milk paid by fluid processors in those states. Any milk brought into the state for fluid purposes is subject to the compact.

The process starts with the state legislatures in each state in which interested producers reside passing legislation supporting

putting a compact in place. Now, unless I am wrong, in every dairy state there are many times more consumers than dairy farmers. It would seem that it would be very difficult to get compact legislation passed if consumers were strongly opposed to it. That must not be the case if some 25 state legislatures have passed compact legislation. What's more, 25 governors who have had the power to veto state compact legislation haven't.

Arguably, this is proof that consumers are not opposed to dairy compacts even though it can result in higher milk prices. One reason could be that the extra revenue the compact price generates over and above the federal order price (when, and only when, it is higher than the set compact price) goes directly to the dairy farmers.

Another reason could be that a compact minimum Class I price removes much of the volatility from consumer prices. Just as there was a lot less volatility in milk prices when the support price was $13.10, there is a lot less volatility when Class I has a minimum price, too.

Still another reason could be that consumers like the idea of milk for their kids being produced ''locally.'' Milk isn't orange juice. It has a different mystique. Even though the milkman delivering ''fresh'' milk to the consumer's doorstep is a thing of the past, that doesn't mean that consumers don't want fresh milk. The lack of success that UHT milk and powdered milks have had here as compared to Europe, one could argue, is because of consumers' desire for (and the availability of) fresh milk.

One can sort of understand fluid processors opposing dairy compacts. It certainly can result in higher average milk costs for processors. Fortunately for the processor, the consumer is apparently willing to accept the slight increase. And, if one study reported on is correct, processors and retailers are taking advantage of the consumer's willingness as well.

What is difficult to understand is the opposition to compacts by some producers. This opposition seems to be based on the fear that it will negatively affect them. This fear appears to have been generated more by economic theory than fact.

The theory was based on a single premise—money makes milk, more money makes more milk. A dairy compact will give producers in compact states more money. This will result in them producing more milk. This additional milk will go into manufactured products which will hurt producers in states where the majority of milk goes into cheese. At least that's the theory.

The fact is that more money hasn't brought on more milk in the one compact area currently in existence. Only one of the Northeast compact states, Vermont, is in the top 20 milk-producing states. And, the total area has not seen milk production rise faster there than the national average.

Has the Northeast Compact hurt producers in other areas of the country? The answer is no. Will a Southeast Compact bring on a surge of milk production? Again, the answer is no. Just take a look at what happened after Class I differentials were raised $1.00 per hundred weight in the Southeast in 1986. Did milk production boom? Did it outstrip demand? Did cheese plants spring up from Arkansas to Florida? No, no, no.

Finally, the argument that really makes me knuckle is that the Northeast Compact passage and implementation was political. It wasn't mandated by Congress. It didn't stand on its own two feet. Congress never got to vote on the compact on its own. It was only supposed to be a transition program while federal order reform was taking place. Secretary of Agriculture Dan Glickman didn't have to implement it.

Don't ask me to respond to those kind of comments. What hearing was ever held or separate vote taken on forward contracting? I don't recall any serious discussion of the portion of a recent budget bill that exempted one county in Nevada from federal order Class I differentials. Of course Glickman had to implement it . . . the pet project of a Vermont Democratic senior senator in an election year. Think about it.

The dairy industry has many more important issues to spend political capital on. Issues that really are having, or will have, an impact on it. Instead of fighting over compacts, it should be working together to improve our potential for growth in world markets by really pushing for fair trade, dealing with environmental and food safety issues and developing programs that will allow all segments of the industry to continue to flourish in the 21st century.

The views expressed by CMN's guest columnists are their own opinions and do not necessarily reflect those of Cheese Market News.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 118—TO DESIGNATE THE MONTH OF NOVEMBER 2001 AS ''NATIONAL AMERICAN INDIAN HERITAGE MONTH''

Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. AKAKA, Mr. STEVENS, Mr. CORZINE, Mr. BROWNBACK, Mr. MCCAIN, Mr. DASCHLE, Mr. JOHNSON, Mr. COCHRAN, Mr. BAUCUS, Mr. CONRAD, Mr. DOMENICI, Ms. STABENOW, Mr. BINGAMAN, Mr. CRAPO, Mrs. MURRAY, Ms. CANTWELL, Mr. WELLSTONE, Mr. THOMAS, Mrs. BOXER, Mr. KENNEDY, Mr. DAYTON, Mr. CRAIG, Mr. REID, Mr. SMITH of Oregon, Mr. KERRY, Mr. ALLARD, Mr. DORGAN, Mr. SCHUMER, and Mr. BREAUX) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 118

Whereas American Indians, Alaska Natives, and Native Hawaiians were the original inhabitants of the land that now constitutes the United States;

Whereas American Indian tribal governments developed the fundamental principles of freedom of speech and separation of powers that form the foundation of the United States Government;

Whereas American Indians, Alaska Natives, and Native Hawaiians have traditionally exhibited a respect for the finiteness of natural resources through a reverence for the earth;

Whereas American Indians, Alaska Natives, and Native Hawaiians have served with valor in all of America's wars beginning with the Revolutionary War through the conflict in the Persian Gulf, and often the percentage of American Indians who served exceeded significantly the percentage of American Indians in the population of the United States as a whole;

Whereas American Indians, Alaska Natives, and Native Hawaiians have made distinct and important contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas American Indians, Alaska Natives, and Native Hawaiians deserve to be recognized for their individual contributions to the United States as local and national leaders, artists, athletes, and scholars;

Whereas this recognition will encourage self-esteem, pride, and self-awareness in American Indians, Alaska Natives, and Native Hawaiians of all ages; and

Whereas November is a time when many Americans commemorate a special time in the history of the United States when American Indians and English settlers celebrated the bounty of their harvest and the promise of new kinships: Now, therefore, be it

Resolved, That the Senate designates November 2001 as ''National American Indian Heritage Month'' and requests that the President issue a proclamation calling on the Federal Government and State and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Mr. CAMPBELL. Mr. President, along with thirty of my colleagues today I am pleased to introduce a resolution to recount the many contributions American Indians and Alaska Natives have made to this great Nation and to designate November, 2001, as ''National American Indian Heritage Month'' as Congress has done for nearly a decade.

American Indians and Alaska Natives have left an indelible imprint on many aspects of our everyday life that most Americans often take for granted. The arts, education, science, the armed forces, medicine, industry, and government are a few of the areas that have been influenced by American Indian and Alaska Native people over the last 500 years. In the medical field, many of the healing remedies that we use today were obtained from practices already in use by Indian people and are still utilized today in conjunction with western medicine.

Many of the basic principles of democracy in our Constitution can be traced to practices and customs already in use by American Indian tribal governments including the doctrines of freedom of speech and separation of powers.

The respect of Native people for the preservation of natural resources, reverence for elders, and adherence to tradition, mirrors our own values which we developed in part, through the contact with American Indians and Alaska Natives. These values and customs are deeply rooted, strongly embraced and thrive with generation after generation of Native people.

From the difficult days of Valley Forge through our peace keeping efforts around the world today, American Indian and Alaska Native people have proudly served and dedicated their lives in the military readiness and defense of our country in wartime and in peace.

It is a fact that on a per capita basis, Native participation rate in the Armed Forces outstrips the rates of all other groups in this Nation. Many American Indian men made the ultimate sacrifice in the defense of this Nation, some even before they were granted citizenship in 1924.

Many of the words in our language have been borrowed from Native languages, including many of the names of