or the San Antonio Air Logistics Center until the Secretary—

(1) publishes criteria for the evaluation of bids and proposals to perform such workload;

(2) conducts a competition for the workload between public and private entities;

(3) pursuant to the competition, determines in accordance with the criteria published under paragraph (1) that an offer submitted by a private sector source to perform the workload is the best value for the United States; and

(4) submits to Congress the following—

(A) a detailed comparison of the cost of the performance of the workload by civilian employees of the Department of Defense with the cost of the performance of the workload by that source; and

(B) an analysis which demonstrates that the performance of the workload by that source will provide the best value for the United States over the life of the contract.

THE ALTERNATIVE MEANS OF DISPUTE RESOLUTION ACT OF 1996

COHEN AMENDMENT NO. 5421

Mr. GRASSLEY (for Mr. COHEN) proposed an amendment to the bill (H.R. 4194) to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes; as follows:

At the end of the bill insert the following:

SEC. 12. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS AND THE DISTRICT COURTS OF THE UNITED STATES: BID PROTESTS.

(a) BID PROTESTS.—Section 1491 of Title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) in subsection (a) by striking out paragraph (3); and

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

''(b) (1) Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract or any alleged violation of statute or regulation in connection with a procurement or a proposed procurement. Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

''(2) To afford relief in such an action, the courts may award any relief that the court considers proper, including declaratory and injunctive relief except that any monetary relief shall be limited to bid preparation and proposal costs.

''(3) In exercising jurisdiction under this subsection, the courts shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

''(4) In any action under this subsection, the courts shall review the agency's decision pursuant to the standards set forth in section 706 of title 5.''

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on December 31, 1996 and shall apply to all actions filed on or after that date.

(c) STUDY.—No earlier than 2 years after the effective date of this section, the United States General Accounting Office shall undertake a study regarding the concurrent jurisdiction of the district courts of the United States and the Court of Federal Claims over bid protests to determine whether concurrent jurisdiction is necessary. Such a study shall be completed no later than December 31, 1999, and shall specifically consider the effect of any proposed change on the ability of small businesses to challenge violations of federal procurement law.

(d) SUNSET.—The jurisdiction of the district courts of the United States over the actions described in section 1491(b)(1) of title 28, United States Code, (as amended by subsection (a) of this section) shall terminate on January 1, 2001 unless extended by Congress. The savings provisions in subsection (e) shall apply if the bid protest jurisdiction of the district courts of the United States terminates under this subsection.

(e) SAVINGS PROVISIONS.—

(1) ORDERS.—A termination under subsection (d) shall not terminate the effectiveness of orders that have been issued by a court in connection with an action within the jurisdiction of that court on or before December 31, 2000. Such orders shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(2) PROCEEDINGS AND APPLICATIONS.—(A) A termination under subsection (d) shall not affect the jurisdiction of a court of the United States to continue with any proceeding that is pending before the court on December 31, 2000.

(B) Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if such termination had not occurred. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(C) Nothing in this paragraph prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that proceeding could have been discontinued or modified absent such termination.

(f) NONEXCLUSIVITY OF GAO REMEDIES.—In the event that the bid protest jurisdiction of the district courts of the United States is terminated pursuant to subsection (d), then section 3556 of title 31, United States Code, shall be amended by striking ''a court of the United States or'' in the first sentence.

THE PENSION CHOICE AND SECURITY ACT OF 1996

McCAIN AMENDMENTS NOS. 5422–5423

(Ordered to lie on the table)

Mr. McCAIN submitted two amendments intended to be proposed by him to the bill (H.R. 4000) supra; as follows:

AMENDMENT NO. 5422

At the end, add the following:

SEC. 2. LIMITATION ON DEFENSE FUNDING OF THE NATIONAL DRUG INTELLIGENCE CENTER.

(a) LIMITATION ON USE OF FUNDS.—Except as provided in subsection (b), funds appropriated or otherwise made available for the Department of Defense for fiscal year 1997 may not be obligated or expended for the National Drug Intelligence Center, Johnstown, Pennsylvania.

(b) EXCEPTION.—If the Attorney General operates the National Drug Intelligence Center using funds available for the Department of Justice, the Secretary of Defense may continue to provide Department of Defense intelligence personnel to support intelligence activities at the Center. The number of such personnel providing support to the Center after the date of the enactment of this Act may not exceed the number of the Department of Defense intelligence personnel who are supporting intelligence activities at the Center on the day before such date.

SEC. 3. INVESTIGATION OF THE NATIONAL DRUG INTELLIGENCE CENTER.

(a) INVESTIGATION REQUIRED.—The Inspector General of the Department of Defense, the Inspector General of the Department of Justice, the Inspector General of the Central Intelligence Agency, and the Comptroller General of the United States shall—

(1) jointly investigate the operations of the National Drug Intelligence Center, Johnstown, Pennsylvania; and

(2) not later than March 31, 1997, jointly submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the investigation.

(b) CONTENT OF REPORT.—The joint report shall contain a determination regarding whether there is a significant likelihood that the funding of the operation of the National Drug Intelligence Center, a domestic law enforcement program, through an appropriation under the control of the Director of Central Intelligence will result in a violation of the National Security Act of 1947 or Executive Order 12333.

AMENDMENT NO. 5423

At the end of the Act, insert the following:

SEC. . AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE TO FUND ACTIVITIES RELATING TO THE SEARCH FOR INDIVIDUALS MISSING IN ACTION AND BELIEVED TO BE PRISONERS OF WAR.

(A) AUTHORITY TO DISPOSE.—The President may dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b),

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Material for disposal	Quantity
Chrome Metal, Electrolytie	8,471 short tons.
Cobalt	9,902,774 pounds.
Columbium Carbide	21,372 pounds.
Columbium Ferro	249,395 pounds.
Diamond, Bort	91,542 carats.
Diamond, Stone	3,029,413 carats.
Germanium	28,207 kilograms.
Indium	15,205 troy ounces.
Palladium	1,249,601 troy ounces.
Platium	442,641 troy ounces.
Rubber	567 long tons.
Tantalum, Carbide Powder	22,688 pounds contained.
Tantalum, Minerals	1,748,947 pounds contained.
Tantalum, Oxide	123,691 pounds contained.
Titanium Sponge	36,830 short tons.
Tungsten	76,358,235 pounds.
Tungsten, Carbide	2,032,942 pounds.
Tungsten, Metal Powder	1,181,921 pounds.
Tungsten, Ferro	2,024,143 pounds.

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) AVAILABILITY OF RECEIPTS.—(1) Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the

disposal of materials under subsection (a) shall be deposited into the fund established by paragraph (2).

(2)(A) There is established a fund in the Treasury to be known as the ''Missing Persons Activities Fund'' (in this paragraph referred to as the ''Fund'').

(B) There shall be deposited in the Fund amounts received as a result of the disposal of materials under subsection (a).

(C) Sums in the Fund shall be available to the Secretary of Defense to defray the cost to the Department of Defense of activities connected with determining the status and whereabouts of members of the Armed Forces of the United States who are missing in action and believed to be prisoners of war, including the administrative costs and the costs incurred by the Department in connection with judicial review of such activities. Such amounts shall be available for that purpose without fiscal year limitation.

(e) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(f) DEFINITION.—The term ''National Defense Stockpile'' means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, October 2, 1996, beginning at 9:30 a.m. to conduct an oversight hearing on the regulatory activities of the National Indian Gaming Commission [NIGC]. The hearing will be held in room 216 of the Hart Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEE TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Monday, September 30, 1996, at 3 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Monday, September 30, 1996, at 6 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IRS REVENUE PROCEDURE 96–41

● Mr. GRASSLEY. Mr. President, in late July, IRS issued a Revenue Procedure that may cost thousands of State and local governments and their taxpayers as much as $2 billion. The purpose of the IRS action is to recover funds that were diverted from the Treasury when local governments were overcharged by investment firms for securities they purchased in the course of tax-exempt municipal bond refinancings. If these State and local governments had caused the overcharges or if they themselves benefitted then the IRS ruling, even though costly, might be fair.

That, however, is not the case. There has been no suggestion whatsoever that municipal authorities across America acted unlawfully. Instead, as expressed by the president of the League of Cities in a recent letter to Treasury Secretary Rubin, ''it appears that the IRS understands that cities are not at fault, but rather the IRS wants to use cities to go after the underwriters who overcharged us.''

In Iowa alone the IRS ruling could cost taxpayers more than $1.5 million. For other States the totals run even higher. In California, for example, Rev. Proc. 96–41 could require State and local governments to pay as much as $200 million to the IRS.

If, as the IRS suggests, underwriters and investment bankers were responsible for use of ''a valuation method that results in prices * * * that exceed fair market value,'' it is those underwriters and investment bankers who should repay the Treasury, not towns, cities, State universities, school districts, transportation systems and utility authorities. Indeed, by some estimates, according to the New York Times: ''underwriters may have earned some $2 billion to $3 billion of illegal profits.''

Fortunately, under the False Claims Act, the Government has the ability to proceed directly against any party which causes financial loss to the Treasury and recover treble damages plus penalties. The False Claims Act may be helpful in the yield burning context.

Ten years ago, President Reagan signed the 1986 amendments to the False Claims Act into law. As the principal sponsor of the 1986 amendments, my purpose was to strengthen and revitalize the Justice Department's efforts to fight fraud against the Government wherever it occurs. Since then, false claims recoveries to the Treasury have totaled more than $1.3 billion.

While the statute has been applied most often in the context of Federal defense spending and federally funded health insurance programs, with the narrow exception of income tax cases, the act allows the Government to recover treble damages and penalties against anyone who defrauds the Treasury. If the overcharges described by the IRS occurred, the U.S. Treasury may have sustained substantial losses as it essentially paid unlawful profits to those who sold the overpriced securities. If such losses occurred, the False Claims Act offers an ideal remedy.

For these reasons, I intend to write to Attorney General Reno and urge that the Department of Justice investigate the circumstances underlying the IRS action, and that if so warranted, the Department then seek to pursue all remedies against any party which damaged the Government by overpricing securities sold in connection with municipal bond refinancings. I will also write to IRS Commissioner Margaret Richardson to indicate my concern that the IRS is seeking to make local governments the primary target for repayment of any sums that were lost by the Government as a result of overcharges for escrow securities.●

S. 1711, VETERANS' BENEFITS IMPROVEMENTS ACT OF 1996

● Mr. AKAKA. Mr. President, I rise in strong support of S. 1711, the Veterans' Benefits Improvements Act of 1996. I am especially pleased that this measure includes provisions that would improve the Centers for Minority and Women Veterans and allow refinancing under the Veterans' Home Loan Program Amendments of 1992. These provisions are based on measures I introduced earlier in this Congress which were reported by the Senate Veterans' Affairs Committee.

NATIVE AMERICAN HOME LOAN REFINANCING

Mr. President, S. 1711 contains a provision that authorizes the Secretary of Veterans Affairs to refinance direct loans issued to Native American veterans under Native American Home Loan Program, established by Public Law 102–547. This initiative is derived from S. 1342, legislation I introduced with Senators ROCKEFELLER, INOUYE, WELLSTONE, and SIMON. Under this provision, the same credit standards that apply to refinancing of VA guaranteed loans also apply to refinancing of Native American direct loans.

As my colleagues are aware, the Native American Direct Loan Pilot Program was established by Congress to ensure equal access to home loans for those veterans residing on reservations or other trust lands. Because trust lands cannot be used as collateral, commercial lending institutions are unwilling to issue mortgages for housing on such lands. The direct loans authorized under Public Law 102–547 permit Native Americans to purchase, construct, or improve dwellings on trust land despite the absence of commercial financing.

As of May 1996, VA had entered into agreements with 38 tribes and Native Hawaiians to provide direct home loans to tribal members, and negotiations were ongoing to conclude agreements with 21 additional tribes. More than 90 loans had been closed, 42 commitments issued, and 130 applications pending.

Recently, however, VA determined that Native Americans wishing to take advantage of lower interest rates could not refinance under the program. This clearly violated the intent of Congress