allowances are set to fall roughly 18.5 percent short of covering the full cost of lodging and utilities.

NO RENT CHECKS JUST YET

Rent checks won't be required any time soon, because the report was delivered to the Senate Armed Services personnel subcommittee just weeks before Congress was scheduled to adjourn.

But the recommendations will play a part in the debate next year over both the planned overhaul of the military housing allowances and the Pentagon's continued push to improve housing conditions, both on and off base.

In recommending the on-base rents, auditors from the bipartisan congressional office said it isn't fair that people living off base must pay out of their own pockets for housing while people in the government quarters live rent-free.

But the real reason the bipartisan office is pushing the idea is the belief that charging even a modest amount for living in military family housing could save money. That's because rent-free living is one of the major attractions of living in government quarters.

If there is no financial difference between living on or off base, the government might be able to reduce its housing inventory. That would save money, the report says, because it costs the government an average of $4,957 more per year for each family living in government quarters than it costs to subsidize families living off base.

DOD SAYS ''NO''

The Defense Department opposes the idea, saying the rent would have ''potentially severe consequences for military retention and readiness, a sit would equate to a reduction in benefits for those personnel.''

In an official response included in the GAO report, defense officials said the ''only viable alternative'' is increasing housing allowances to eliminate unreimbursed expenses for those living off base.

But that is not likely.

It would take about $1.4 billion a year to raise housing allowances by enough to eliminate out-of-pocket costs for people living off base, defense officials said. It would cost $322 million a year to reduce average unreimbursed housing expenses to 15 percent, the goal of the current allowance system.

The point of the GAO report is that the services could and should rely more on the private sector to provide housing and eliminate some family quarters. The one exception, according to the report, is that more on-base housing should be dedicated to junior enlisted members with families, who have the greatest difficulty finding affordable off-base housing.

Defense officials said they will leave decisions about who gets on-base housing to installation commanders. In some cases, junior enlisted personnel get priority. But in most places, career service members whom the services want to retain are given on-base housing ahead of junior members, defense officials said.

There are some locations with more on-base housing than necessary, defense officials said.

Construction plans have been modified to prevent overbuilding, but any existing housing that can be economically maintained will be kept open.

[From the Army Times, Sept. 30, 1996]

MILITARY WON'T PAY FOR YOU TO MOVE OUT OF WAY—YOU'LL PICK UP TAB FOR RELOCATING FOR BASE HOUSING RENOVATIONS

(By Andrew Compart)

The good news: The military is fixing the housing at your base.

The bad news: Although the military is forcing you to move because of renovations or new construction, it cannot pay you a dislocation allowance to cover your expenses, the General Accounting Office ruled Sept. 11.

The dislocation allowance, designed to help military people offset the costs of forced moves, is only intended for use when a move is required because of a permanent change of station or an evacuation, the GAO Comptroller General's Office said in its decision.

The military can use other funds, such as money designated for operations and maintenance, to help people pay for ''mandatory'' items, such as charges for hooking up the telephone and other utilities, the ruling said. But even that money cannot be used to help offset the cost of ''personal'' items, such as drapes or rugs.

COULDN'T AFFORD ''ANYTHING DECENT''

The GAO ruling came in a case involving Air Force SSgt. Daren Pierce at Mountain Home Air Force Base, Idaho, after the financial services officer for the base's 366th Comptroller Squadron asked for a decision on the issue.

Pierce said he was one of many people to complain when they found out they couldn't get the dislocation allowance, which is a lump-sum payment equal to a person's basic allowance for quarters for two months. He spent $150 to $200 for blinds at his previous home, and though he could scarcely afford it, he spent $120 on the cheapest blinds he could find for the new home.

Pierce said he would have been satisfied with a partial dislocation allowance. ''I'm not out there to get a bunch of money. But I feel we should be reimbursed for what our expenses were,'' he said, adding that he believes the housing construction is necessary for people at the base.

Mountain Home is replacing 52 of 612 1950s-era family housing units with two-bedroom homes for junior enlisted people, a project that began in mid-February. Eventually all units will be replaced, said Senior Airman Sonja Whittington, a base spokeswoman.

The base left some homes empty in anticipation of the reconstruction, and it met with the other families in ''town meetings'' to answer questions about their impending moves. The base paid for movers and expenses such as telephone and cable television connections.

Initially the base also paid the dislocation allowance to 12 of the families, Whittington said. But within a week the base was told by the Defense Finance and Accounting Service that it had made a mistake, according to Whittington and the GAO summary of the case, and the base had to ask the families to give the money back.

''It's unfortunate there was an error, but getting brand new housing is a nice thing,'' Whittington said. ''We tried to make it as easy on our people as we could within the guidelines.''

It is not known how often complaints about unreimbursed expenses arise. Richard Hentz, in charge of programming for Army family housing construction projects, said the issue never has been raised with him.

At Fort Knox, Ky., where housing renovations are scheduled to begin Nov. 1, officials stopped moving people into homes that are to be renovated. But even still, more than 400 families are being affected, said Peter Andrysiak, chief of the base's housing division.●

MICHIGAN'S UPPER PENINSULA FIREFIGHTERS

● Mr. ABRAHAM. Mr. President, I would like to take this opportunity to recognize the exceptional dedication of Michigan's Upper Peninsula firefighters. These courageous men and women joined forces with firefighters from across the Nation to battle this summer's rampant fires in the West. Countless acres of this country's precious wilderness, as well as untold millions in public and private property, have been saved due to their selfless efforts. Each of these individuals served their State and country proudly, whether administratively or on the front lines. These brave professionals stand ready to protect this country in times of natural disaster and for this, they have earned our respect and admiration.

I am privileged to recognize the following Upper Peninsula residents for their work fighting fires in the Western United States:

Kevin Doran, Bill Bowman, Sandy Pilon, Orlando Sutton, Mike Miller, Don Howlett, Dave Worel, Jane Wright, Roger Humpula, Duane Puro, Judy Moore, Ed Wenger, Jenny Piggott, Terry Papple, Terry Arnold, Paul Pedersen, Don Mikel, Ralph Colegrove, Jerry Terrain, Chuck Oslund, Phil Kinney, Vern St. John, Kevin Pine, Doug Heym, Ty Teets, Joan Charlobois, Jon Reattoir, Alex Jahn, Nathan McNett, Mary Clement, Les Henry, Ruth Ann Trudell, Tom Vanlerberghe, Kerry Doyle, Jon Luepke, Louise Congdon, Rick Litzner, Todd Scotegraaf,John Pavkovich, John Ochman, Lori Keen, Eric Johnston, Dennis Neitzke, Lee Ann Loupe, Rodney Mobley, Ollie Todd, Sharon Makosky, Ernest Hart, Cecilia Seesholtz, Jim Wethy.

Dave Worel, Karen Waalen, Jeff Stromberg, Allen Duszynski, Mike Lanasa, Brenda Madden, Jim Flores, Al Saberniak, Marvin June, Joe Carrick, John Niskanen, Bret Niemi, John Worden, Nichols Wall, Paul Dashner, Pamela Harmann, Paul Cichy, Brunkdoreen Baron, David Trewartha, Mike Syracuse, Tom Strietzel, Aaron Pouylous, Larry Velmar, Jim Dehut, Eric Green Pete Allen, Jason Allen, Eugene Loonsfood, Charles Gauthier, Nathan Avedisian, Robert Pairolero, John Strasser, Bill Genschow, Allen Mackey, John Holmes, Paul Blettner, E.B. Fitzbatrick, Don Palmer, Cindy Miller.

John Kempson, Ben Mireki, Nathan Lainonen, Loren Kariainen, Joanne Thurber, Bobby Joe, Justin Borseth, Allan Wacker, Dan Ryskey, Greg Dove, Mike Dakota, John Lee, Paul Daniels, Brian Blettner, John Tanner, Dave Pickford, Gerry Gustafson, Mary Rasmussen, Lee Rouse, Dale Gordon, Jake Maki, Matt Lindquist, Deb Korich, Bill Reynolds, Jean Perkins, Wayne Petterson, Kay Gibson, Floyd Meyer, Phil Doepke, Steve Chad, Greg Rozeboom, Rob Smith, Robert Garrison Jr., Heather Wettenkamp, Gayle Sironen, Sharon Brunk, Cliff Johns, Robert Wagner, Del Platzke, Jerry Hoffman, Linda Kramer, Chuck Mowitt, Mark Adamson, Shawn Green,

Mike Jacobson, Clayton Lord, Joe Cronkright, Adam Hickson, Carmen Allen, Mike Jarvi, Daryl Johnson, Jack Applekamp, Gary Dinkel, Rick McVey, Jay Wittak, Robert Garrison Sr., Joel Enking.

Wayne Young, Mark Douglas, Donald Kuhr, Randy Bruntjens, John Mattila, Ellis Sutfin, Pat Halefrisch, Debbie Begalle, Terry Popour, Richard Annen, Gerald Mohlman, Chester Sartori, John Krzycki, Robert Burnham, Craig Farrier, John Johnston, Charles Vallier, Robert Ziel, Beverly Current, Jeffery Stampely, Gary Willman, Daniel Laux, Jeffery West, Otto Jacob, Kay Fisher, Jason Tokar, Paul Pierce, Brad Johnson, Jack Maurer, Jim Haapapuro, Byron Sailor, John Turunen, Scott Seberd, Michael Slade, Daniel McNamee, Patrick Olson, Steve Adkins, Pete Davis, Debra Huff, Richard Berkheiser, Roger Grinsteiner, Russ MacDonald, Amy Dover, Paul Gaberdiel, Jeff Noble, Chuck Lanning, Brian Mulzer. ●

REFORM OF NAFTA CHAPTER 19 DISPUTE PROCESS

● Mr. CRAIG. Mr. President, in preparation for renewed consideration of adding countries to the NAFTA and of fast-track legislation for this purpose, it is imperative, in my view, that action be taken to resolve a serious problem with the NAFTA: The NAFTA Chapter 19 dispute settlement system for antidumping duty and countervailing duty appeals.

In August of last year, nine of my Senate colleagues, including the former majority leader and the chairman of the Trade Subcommittee of the Committee on Finance, expressed serious concerns about Chapter 19 in a letter to then-U.S. Trade Representative Michael Kantor.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. CRAIG. Mr. President, I wish to emphasize that I share the concerns of the authors of this letter and believe that addressing this failed system must be a priority for U.S. trade policy. Under Chapter 19, appeals of determinations that imports are subsidized or dumped into the U.S. market were, for NAFTA countries, transferred from domestic courts to panels of private individuals, which include foreign nationals. The system was introduced in 1988 as a provisional compromise for the United States-Canada Free-Trade Agreement. Although serious reservations were expressed about Chapter 19 at that time, it was accepted on an interim basis with Canada only until disciplines against Canadian subsidies and dumping could be negotiated. Although no such unfair trade disciplines were agreed to, Chapter 19 was, unfortunately, extended to the NAFTA. Its inclusion was a key reason for my vote against that agreement.

Chapter 19's infirmities are several. As the Justice Department indicated in 1988, there are major constitutional problems with giving private panelists—sometimes a majority of whom are foreign nationals—the authority to issue decisions about U.S. domestic law that have the binding force of law. These panelists, coming from different legal and cultural disciplines and serving on an ad hoc basis, do not necessarily have the interest that unbiased U.S. courts do in maintaining the efficacy of the laws as Congress wrote them. Moreover, the ad hoc, fragmented nature of Chapter 19 decisionmaking can lead to contradictory outcomes, even with regard to a single instance of alleged unfair trade.

In practice, Chapter 19 has revealed itself to be unacceptable. A foremost example is the Chapter 19 review of a 1992 United States countervailing duty finding that Canadian lumber imports benefit from enormous subsidies. Three Canadian panelists outvoted two leading United States legal experts to eliminate the countervailing duty based on patently erroneous interpretations of United States law—interpretations that Congress had expressly rejected only months before. Two of the Canadian panelists served despite egregious, undisclosed conflicts of interest. The matter then was argued before a Chapter 19 appeals committee, and the two Canadian committee members outvoted the one United States member to once again insulate the Canadian subsidies from United States law.

The U.S. committee member was Malcolm Wilkey, the former Chief Judge of the Federal Court of Appeals for the D.C. Circuit and one of the United States' most distinguished jurists. In his opinion, Judge Wilkey wrote that the lumber panel decision ''may violate more principles of appellate review of agency action than any opinion by a reviewing body which I have ever read.'' Judge Wilkey and former Judge Charles Renfrew—also a Chapter 19 appeals committee member—have since expressed serious constitutional reservations about the system. While some have claimed that Chapter 19 decides many cases well, its inability to resolve appropriately large disputes, and its constitutional infirmity, demand a remedy.

Like my colleagues who wrote to Ambassador Kantor, I believe that something must be done about Chapter 19. I support returning appellate jurisdiction to the U.S. judiciary where it had long rested and still rests for non-NAFTA countries. Alternatively, Chapter 19 perhaps could be reformed to eliminate its constitutional and practical infirmities. It should, at minimum, be clear to executive branch officials that Chapter 19 cannot be extended to any additional country in its current form, be it Chile or any other NAFTA prospect. I look forward to working diligently in the upcoming Congress to correct this serious problem.

EXHIBIT 1

AUGUST 21, 1995.

Ambassador MICHAEL KANTOR,
Trade Representative, Executive Office of the President, Washington, DC.

DEAR AMBASSADOR KANTOR: In light of the advent of the new trade and dispute settlement rules in the agreements establishing the World Trade Organization (WTO), we are writing to express our concern with the current system for reviewing antidumping and countervailing duty cases under the NAFTA.

As you know, the original intent regarding Chapter 19 was that: 1) it would be limited to Canada and quickly phased out; 2) panelist conflict-of-interest rules would be strictly enforced; and 3) panels reviewing U.S. determinations would be bound, like the U.S. Court of International Trade, by U.S. law and its deferential standard of review.

It is clear that these conditions have not been met. Despite earlier assurances to the contrary, the system was extended to Mexico and effectively made ''permanent'' with respect to Canada and Mexico in the NAFTA. Moreover, the U.S.-Canada softwood lumber case demonstrated serious inadequacies and problems with conflicts of interest and standards of review under the Chapter 19 system.

We believe that because of the intended temporary nature of Chapter 19 and the great controversy it has engendered, the Chapter 19 dispute settlement mechanism should not be extended in future trade agreements to any other country, including the present NAFTA accession negotiations with Chile. This belief is without regard to whether such agreements should be concluded.

Under Chapter 19, ad hoc panels of private individuals rule in place of judges on whether antidumping and countervailing duties have been imposed consistent with the domestic law of the importing country. This requires Chapter 19 panels to interpret and apply national law itself, rather than resolving disputes over the interpretation of international agreements as would normally occur in international dispute settlement like the WTO. These panel decisions are automatically implemented without judicial or political review of accountable government officials.

In light of the WTO's new binding international dispute settlement process, and the Uruguay Round's new agreements on subsidies and dumping, we question the need for a special NAFTA trade remedy. It is our belief, especially in light of past experience, that disputes about U.S. law are best left to the U.S. Court system.

Absent an outright elimination of Chapter 19, which we would certainly consider in a favorable light, substantial attention should be given to reforming Chapter 19 with respect to the current NAFTA. The United States should not agree to extend this fundamentally flawed system to any other country. We trust that you will consider our suggestion in your ongoing negotiations with Chile, and urge increased consultation with the Congress during the process.

We appreciate your consideration of this important matter.

Sincerely,

MAX BAUCUS, DAVID PRYOR, JOHN ROCKEFELLER, JOHN BREAUX, KENT CONRAD, CHUCK GRASSLEY, BOB DOLE, ORRIN HATCH, ALFONSE D'AMATO.●

TRIBUTE TO SHERRY KOHLENBERG

Mr. WARNER. Mr. President, exactly 2 weeks ago on September 16, I was privileged to join with Virginia's First